



AGENDA

CITY OF SEASIDE
CITY COUNCIL

REGULAR MEETING
HYBRID (IN PERSON & VIRTUAL)
Thursday, November 18, 2021
5:00 PM

MASKS ARE REQUIRED FOR IN PERSON PARTICIPATION.

This meeting is compliant with Governor Newsom's Executive Order N-29-20 which allows local legislative bodies to hold public meetings electronically only, without a physical location for public participation, accessible only telephonically or otherwise electronically (video conferencing) to all members of the public seeking to observe and address the local legislative body, in order to avoid public gatherings, and until further notice. This meeting will be held in a hybrid format providing a physical location at 440 Harcourt Avenue, Council Chamber, Seaside, CA 93955.

DETAILS FOR PUBLIC PARTICIPATION IN THIS COUNCIL MEETING:

IN PERSON PARTICIPATION: Protective face coverings required at all times, including when speaking.

REMOTE PUBLIC COMMENTS To make a public comment, the following options are available:

- Before the Meeting via Email: Written comments can be emailed to CityClerk@ci.seaside.ca.us Include the following subject line: "Public Comment Item # (insert the agenda item number relevant to your comment). Written comments must be received by 4:00 p.m. on the day of the meeting. All submitted comments will be provided to the City Council or the Board for consideration and compiled as part of the record.
- During the Meeting via Oral Comments: When the Mayor calls for public comment, attendees can queue to speak with the "Raise Hand" feature. On the Zoom application, click the "Raise Hand" button. On the phone, press *9. The Clerk will call speaker names and unmute speaker microphones (on the phone, press *6). You will have up to 3 minutes to provide your comments, with time set by the discretion of the Mayor. ***Please note, written comments will not be read but will be included in the final record.***

VIRTUAL MEETING ACCESS

This meeting can be watched via the City of Seaside You Tube channel

https://www.youtube.com/channel/UC1Cu7854Ohtjpr_XV1tDvRg

Or by joining the Zoom webinar link: <https://ci-seaside-ca-us.zoom.us/j/81936832059>

Or call in phone number: 669-900-9128

Webinar ID: 819 3683 2059

1. CALL TO ORDER

2. ROLL CALL – ESTABLISHMENT OF QUORUM

Ian N. Oglesby	Mayor
David R. Pacheco	Mayor Pro Tem
Jason Campbell	Council Member
Jon Wizard	Council Member
Alexis Garcia-Arrazola	Council Member

3. INVOCATION AND PLEDGE OF ALLEGIANCE

4. REVIEW OF AGENDA

If there are any items that arose after the 72-hour posting deadline, this is the point in the meeting where a vote may be taken to add the item to the agenda. (A 2/3-majority vote is required).

5. PUBLIC COMMENT

Members of the public wishing to address the City Council on matters within the jurisdiction of the City of Seaside, but not on this agenda, may do so during the Public Comment period for up to three (3) minutes. Public Comments for "Presentations" on this agenda are also taken at this time; comments on specific agenda items are heard under that item. For the public record, please state your name.

6. PUBLIC AGENCY COMMUNICATIONS

This is a time specifically set aside for representatives of public agencies to make brief comments of general interest to the City Council and the community.

A. REVIEW OF UPCOMING CITYWIDE EVENTS (ERNESTO ALTAMIRANO, COMMUNICATIONS & COMMUNITY ENGAGEMENT SPECIALIST)

7. PRESENTATIONS

A. VACCINATION UPDATE (FIRE CHIEF MARY GUTIERREZ)

B. QUARTERLY ECONOMIC DEVELOPMENT REPORT (TREVIN BARBER, ASSISTANT CITY MANAGER)

C. ANNUAL CANNABIS REPORT (TREVIN BARBER, ASSISTANT CITY MANAGER)

8. CONSENT AGENDA

A. APPROVE MINUTES FROM NOVEMBER 4, 2021

RECOMMENDATION: Approve minutes as presented in the agenda packet.

B. APPROVE AND FILE CITY CHECKS

RECOMMENDATION: Approve and file the accounts payable and wired payments made during the period of October 9, 2021, through October 22, 2021, including the payroll and benefits checks, direct deposits and wired payments related to the pay period ending October 21, 2021. Total Accounts Payable and Payroll for the above referenced period is \$1,970,100.21.

C. ADOPT A RESOLUTION APPROVING THE PURCHASE OF PORTABLE AND MOBILE MOTOROLA RADIOS, THE REPLACEMENT OF HARRIS RADIOS, FOR A COST OF \$399,920.60 AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT

RECOMMENDATION: Adopt a resolution authorizing the purchase and approving the agreement with Motorola, and authorizing the City Manager to sign the agreement.

D. ADOPT A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE LAGUNA GRANDE PARK IMPROVEMENTS PROJECT, INCLUDING ALL INCLUSIVE PLAYGROUND EQUIPMENT, APPROPRIATING \$55,100.00 FROM THE GENERAL FUND TO THE PROJECT, AND AWARDING A CONSTRUCTION CONTRACT TO MONTEREY PENINSULA ENGINEERING FOR AN AMOUNT NOT TO EXCEED \$134,435.00 AND TOTAL PROJECT CONSTRUCTION COST INCLUDING CONTINGENCY OF \$154,600.00

RECOMMENDATION: Adopt a resolution approving the plans and specifications for the Laguna Grande Park Improvements Project; appropriating \$55,100.00 from the General Fund to the project budget; awarding a construction agreement to Monterey Peninsula Engineering for an amount not to exceed \$134,435.00; establishing a 15% construction contingency for a total project construction amount not to exceed \$154,600.00; and authorizing the City Manager to execute the construction agreement, and approve any amendments, extensions, and change orders until completion of the project in accordance with the plans and specifications up to the total project construction amount.

E. ADOPT A RESOLUTION ADOPTING AN UPDATED SALARY SCHEDULE FOR PART-TIME EMPLOYEES THAT REFLECTS THE NEW STATE MINIMUM WAGE THAT TAKES EFFECT JANUARY 1, 2022

RECOMMENDATION: Adopt a resolution updating the City's salary schedule for part-time employees in order to comply with the new state minimum wage that takes effect January 1, 2022.

F. ADOPT A RESOLUTION AUTHORIZING AN AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT WITH CSG CONSULTANTS INC IN THE AMOUNT OF \$26,000.00 FOR DEVELOPMENT REVIEW SERVICES FOR

PHASE 2A & 2B OF THE ENCLAVE TO BE REIMBURSED BY THE DEVELOPER

RECOMMENDATION: Adopt a resolution authorizing the City Manager to execute an amendment to the professional services agreement with CSG Consultants Inc. in the amount of \$26,000.00 for development review services for the Enclave by Shea Homes.

G. ADOPT A RESOLUTION AUTHORIZING AMENDMENT NO. 7 TO THE PROFESSIONAL SERVICE AGREEMENT WITH HARRIS & ASSOCIATES FOR THE PAVEMENT REHABILITATION PROJECT FOR AN AMOUNT NOT TO EXCEED \$34,960.00

RECOMMENDATION: Adopt a resolution authorizing the City Manager to execute Contract Amendment No. 7 to the professional services agreement with Harris & Associates to incorporate additional pavement striping bid documents for striping throughout the entire City in the FY 2021/22 Pavement Rehabilitation Project for an amount not to exceed \$34,960.00.

H. APPROVE AN AMENDMENT TO A LEASE AGREEMENT WITH THE FORT ORD HOSTEL SOCIETY FOR THE DEVELOPMENT OF A SEASIDE ECO-HOSTEL IN CAMPUS TOWN

RECOMMENDATION: Authorize the Acting City Manager to execute an amendment to a lease agreement with the Fort Ord Hostel Society and any related documents.

9. PUBLIC HEARING

A. INTRODUCTION OF AN ORDINANCE REPEALING AND AMENDING TITLE 8, CHAPTER 8.28, SECTION 8.28.110 (RECYCLABLES AND ORGANICS DIVERSION REQUIREMENTS) OF THE SEASIDE MUNICIPAL CODE TO MANDATORY ORGANIC WASTE DISPOSAL REDUCTION (FIRST READING - ROLL CALL VOTE)

RECOMMENDATION: Introduce and pass to print the draft ordinance in compliance with SB 1383 regarding organic waste collection, edible food recovery, inspection and enforcement.

10. BUSINESS ITEMS

A. COMMUNITY SOCIAL SERVICES GRANT FUNDING RECOMMENDATIONS

RECOMMENDATION: Review committee recommendations and provide direction.

B. ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE

AN AMENDMENT TO THE FRANCHISE AGREEMENT WITH GREENWASTE RECOVERY, INC. (GWR) AND INCREASING THE GARBAGE COLLECTION RATES BY 5.2% EFFECTIVE JANUARY 1, 2022, TO REFLECT INCREASED COSTS ASSOCIATED WITH SB1383

RECOMMENDATION: Adopt the resolution authorizing the City Manager to sign the amendment to the franchise agreement that includes the following provisions:

- Bringing the City and Contractor into compliance with the requirements of SB 1383;
- Settling Green Waste Recovery's claims for extraordinary rate adjustment related to unanticipated events that impacted the franchise agreement;
- Clarifying the process and results of the cost-based rate adjustment; and
- Approving an assignment of the franchise agreement resulting from a change in ownership of Green Waste Recovery.

The resolution also authorizes a 5.2% increase in collection rates beginning January 1, 2022, due to increased costs related to SB 1383.

11. COUNCIL MEMBER REQUESTS

A. NEW COUNCIL MEMBER REQUESTS

B. REPORTS ON REQUESTS FROM PRIOR MEETINGS

1. Estimate cost for basketball courts at Lincoln Cunningham Park (Pacheco)
2. Portable restrooms in public spaces (Campbell)
3. Gas powered leaf blower ordinance (Campbell)
4. Amending Seaside Municipal Code to include flavored tobacco products (Wizard)
5. Report on cost of improving crosswalks (Wizard)

12. CITY ATTORNEY, CITY MANAGER, MAYOR AND CITY COUNCIL COMMENTS AND REPORTS ON COMMITTEE ASSIGNMENTS

This is a time specifically set aside for the City Attorney, City Manager and members of the City Council to make brief comments of general interest to the community and report on committee assignments.

13. CLOSED SESSION

Pursuant to Government Code Section 54956 et seq., the City Council may adjourn to a Closed Session to consider specific matters dealing with litigation, certain personnel matters, property negotiations or to confer with the City Attorney. Public comments on these items are taken after being read by the City Attorney. For the public record, please state your name.

A. CONFERENCE WITH LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE SECTION 54956.9: EXISTING LITIGATION

People v. Arzadon, Monterey County Superior
Court case: 20CV003118

B. CONFERENCE WITH LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE SECTION 54956.9: POTENTIAL LITIGATION (3 MATTERS)

Potential Litigation (3 Matters)

C. CONFERENCE WITH LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE SECTION 54956.9: EXISTING LITIGATION

Petrovich Development Company, LLC v. City of Seaside, et al.
United States District Court, Northern District, San Jose Division
Case No. 21-CV-07797-NC

D. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8:

Property: "Surplus II" and "26-Acre parcels"
Negotiators for City: City Manager, Et Al.
Negotiators for KBB: Danny Bakewell, Jr., Et Al.
Under Negotiation: Price, Terms of Payment or Both

E. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8:

Property: Broadway and Fremont APNs: 011-544-003;004
City Negotiators: City Manager, Et Al.
Negotiating Party: Union Bank
Under Negotiation: Price, terms of payment or both

F. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8:

Property: 550 Monterey Road (APN 031-141-00)
Negotiators for City: City Manager, Et Al.
Negotiators for Seaside Senior Living: Ricardo De La Cruz, Et Al.
Under Negotiation: Price, Terms of Payment or Both

G. EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957:

Public Employee: City Attorney

14. ADJOURNMENT

Next Regularly Scheduled Meeting:
December 2, 2021
5:00 PM

The City of Seaside is committed to providing accessible facilities and accommodating people with disabilities in all of its services programs and activities. If special considerations are needed by any person to fully participate in this meeting, contact the City Clerk at 899-6707 no fewer than two business days prior to the meeting to allow reasonable arrangements. Agendas are posted at:
<http://www.ci.seaside.ca.us/129/City-Council-Committee-Agendas>

Agenda-related writings or documents provided during public meetings are available for public inspection during the meeting or from the office of the City Clerk. This agenda is posted in compliance with California Governor Newsom's Executive Orders N-29-20 and N-33-20.



DRAFT MINUTES

CITY OF SEASIDE
CITY COUNCIL/SUCCESSOR
AGENCY OF THE
REDEVELOPMENT AGENCY

CONCURRENT MEETING
HYBRID (IN PERSON & VIRTUAL)
Thursday, November 4, 2021
5:00 PM

1. CALL TO ORDER

Mayor/Chair Oglesby called the meeting to order at 5:00 p.m.

2. ROLL CALL – ESTABLISHMENT OF QUORUM

PRESENT: Campbell, Garcia-Arrazola, Oglesby, Pacheco, Wizard
ABSENT: None

3. INVOCATION AND PLEDGE OF ALLEGIANCE

Invocation was led by Rev. Kenneth Murray (Ocean View Baptist Church) and; the pledge was led by City Clerk Dominique Davis.

4. REVIEW OF AGENDA

No changes.

5. PUBLIC COMMENT

Humberto Marin, Bobby Maxwell, Miriam Smith, Peter Kaiser, Andy Offenbacher, Pastor Kenneth Murray, Annalisa Mitchell, Mel Mason, Wes Lee, Regina Mason, Sarah Haller, Linda Cunningham, Karla Lobo

6. PUBLIC AGENCY COMMUNICATIONS

A. REVIEW OF UPCOMING CITYWIDE EVENTS (ERNESTO ALTAMIRANO, COMMUNICATIONS AND COMMUNITY ENGAGEMENT SPECIALIST)

Mr. Altamirano provided a presentation.

7. PRESENTATIONS

Mayor/Chair Oglesby took the Chair's privilege to proceed with the presentation of the Proclamations. A vote for item 8F passed successfully as detailed under that item.

A. VACCINATION UPDATE (FIRE CHIEF MARY GUTIERREZ)

Acting City Manager Roberta Greathouse provided the presentation and responded to questions from the Council.

**B. PRESENTATION ON THE CITY'S ACCESSORY DWELLING UNIT PROGRAM
(BEN NURSE, HOUSING PROGRAM MANAGER)**

Mr. Nurse provided a presentation and responded to questions from the Council.

8. CONSENT AGENDA

Mayor/Chair Oglesby read the consent agenda items. There were no comments from the public.

On motion by Council/Agency Member Campbell and second by Council/Agency Member Garcia-Arrazola and carried by the following roll call vote, the City Council/Successor Agency moved to approve the consent agenda as presented except for item 8F.

RESULT: 4-1-0-0

AYES: Campbell, Garcia-Arrazola, Oglesby, Pacheco

NOES: Wizard

ABSTAIN: None

ABSENT: None

A. APPROVE MINUTES FROM OCTOBER 21, 2021

ACTION: APPROVED

B. APPROVE AND FILE CITY CHECKS

ACTION: APPROVED & FILED

C. APPROVE AND FILE SUCCESSOR AGENCY CHECKS

ACTION: APPROVED & FILED

**D. ACCEPT APPOINTMENTS TO COMMUNITY SAFETY ADVISORY
COMMISSION**

ACTION: APPROVED

**E. APPROVE THE RESOLUTION TO ACCEPT A BID TO PURCHASE A
PARKING COMPLIANCE ELECTRIC THREE-WHEELED UTILITY VEHICLE
FOR PROACTIVE CITYWIDE PARKING ENFORCEMENT FOR AN AMOUNT
NOT TO EXCEED \$80,525.67 WHICH INCLUDES A \$35,500.00 LICENSE
PLATE RECOGNITION SYSTEM**

ACTION: ADOPTED RESO #21-106

F. APPROVE PROCLAMATION HONORING MEL AND REGINA MASON FOR

**THEIR OUTSTANDING WORK IN THE COMMUNITY AND RECEIVING THE
"DISTINGUISHED TRUSTEE AWARD" FROM THE COMMUNITY
FOUNDATION FOR MONTEREY COUNTY**

Mayor/Chair Oglesby read and presented proclamations for Mel and Regina Mason. Mr. & Mrs. Mason had expressions.

On motion by Council/Agency Member Campbell and second by Council/Agency Member Wizard and carried by the following vote, the City Council/Successor Agency moved to approve a proclamation honoring Mel and Regina Mason.

RESULT: 5-0-0-0

AYES: Campbell, Garcia-Arrazola, Oglesby, Pacheco, Wizard

NOES: None

ABSTAIN: None

ABSENT: None

ACTION: APPROVED

**G. ADOPT A RESOLUTION MAKING FINDINGS IN ACCORDANCE WITH
AB361 AND GOVERNMENT CODE SECTION 54953(E) AUTHORIZING
REMOTE TELECONFERENCE MEETINGS**

ACTION: ADOPTED RESO #21-107

**H. REVIEW AND ADOPT A RESOLUTION APPROVING THE 2021-2022
INVESTMENT POLICY FOR THE CITY OF SEASIDE AND THE CITY OF
SEASIDE SUCCESSOR AGENCY**

ACTION: ADOPTED RESO #21-108

9. BUSINESS ITEMS

**A. CONSIDER REVISIONS TO SEASIDE HOUSING COLLABORATIVE
FORMATION DOCUMENTS**

City Attorney Sheri Damon presented the item and responded to questions from the Council.

PUBLIC COMMENT: Bobby Maxwell, Sarah Haller, Wes Lee

On motion by Council/Agency Member Campbell and second by Mayor Pro Tem/Vice Chair Pacheco and carried by the following roll call vote, the City Council/Successor Agency moved to approve revisions to the formation documents for the Seaside Housing Collaborative Articles of Incorporation and Bylaws.

RESULT: 5-0-0-0

AYES: Campbell, Garcia-Arrazola, Oglesby, Pacheco, Wizard

NOES: None

ABSTAIN: None

ABSENT: None

ACTION: APPROVED

B. CONSIDER RESOLUTION ESTABLISHING FINDINGS OF DENIAL FOR NEW RESIDENTIAL CREATION AND PRECLUDING URBAN LOT SPLITS PURSUANT TO SB9 AND CREATING A MORATORIUM ON NEW WATER CONNECTIONS AND SERVICE WITHIN THE SEASIDE MUNICIPAL WATER SYSTEM

City Attorney Sheri Damon presented the item and responded to questions from the Council.

PUBLIC COMMENT: Kevin Dayton, Susan Schiavone, Sarah Haller

On motion by Mayor Pro Tem/Vice Chair Pacheco and second by Council/Agency Member Campbell and carried by the following roll call vote, the City Council/Successor Agency moved to adopt a resolution establishing the findings of denial for the creation of new residences and urban lot splits pursuant to the provisions of SB9 and create a moratorium on new water connections within the Seaside Municipal Water System.

RESULT: 4-1-0-0

AYES: Campbell, Garcia-Arrazola, Oglesby, Pacheco

NOES: Wizard

ABSTAIN: None

ABSENT: None

ACTION: APPROVED

10. COUNCIL MEMBER REQUESTS

A. NEW COUNCIL MEMBER REQUESTS

1. Estimate cost for basketball courts at Lincoln Cunningham Park (Pacheco)
2. Portable restrooms in public spaces (Campbell)
3. Gas powered leaf blower ordinance (Campbell)
4. Amending Seaside Municipal Code to include flavored tobacco products (Wizard)
5. Report on cost of improving crosswalks (Wizard)

B. REPORTS ON REQUESTS FROM PRIOR MEETINGS

Acting City Manager Greathouse provided updates on the request and responded to questions from the Council.

11. CITY MANAGER, CITY ATTORNEY, MAYOR AND CITY COUNCIL, COMMENTS AND REPORTS ON COMMITTEE ASSIGNMENTS

Reports provided.

12. CLOSED SESSION

Ms. Damon read the closed session and did not anticipate any announcements. There were no comments from the public.

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8:

Property: 962 Hilby Ave (APNs: 012-371-005)
City Negotiators: City Manager and City Attorney
Under Negotiation: price, terms of payment or both

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8:

Property: 1567 Contra Costa (APNs: 011-302-003)
City Negotiators: City Manager and City Attorney
Under Negotiation: price, terms of payment or both

C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8:

Property: Broadway and Fremont APNs: 011-544-003;004
City Negotiators: City Manager and City Attorney
Under Negotiation: price, terms of payment or both

D. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8:

Property: Hillsdale and Olympia APNs: 011-556-001;003:005
City Negotiators: City Manager and City Attorney
Under Negotiation: price, terms of payment or both

E. CONFERENCE WITH LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE SECTION 54956.9:

People of the State of California v. Estate of Arzadon, et al.
Monterey County Superior Court Case No. 20CV003118

F. CONFERENCE WITH LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE SECTION 54956.9:

Petrovich Development Company, LLC v. City of Seaside, et al.

G. CONFERENCE WITH LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE SECTION 54956.9 EXISTING LITIGATION:

Committee for Sound Water and Land Development of Fort Ord v. City of Seaside, et al.
6th District Court of Appeal Case No. H049081

13. ADJOURNMENT

With no further business, the meeting adjourned at 9:29 p.m.

Respectfully submitted,

Dominique L. Davis, City/Agency Clerk

Ian N. Oglesby, Mayor/Chair



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.B.

TO: City Council

FROM: Roberta Greathouse, Acting City Manager

BY: Loreene Bermudez-Onate, Accountant II

DATE: November 18, 2021

SUBJECT: APPROVE AND FILE CITY CHECKS

RECOMMENDATION

Approve and file the accounts payable and wired payments made during the period of October 9, 2021, through October 22, 2021, including the payroll and benefits checks, direct deposits and wired payments related to the pay period ending October 21, 2021. Total Accounts Payable and Payroll for the above referenced period is \$1,970,100.21.

BACKGROUND

In accordance with Government Code Section 37208, at each City Council meeting, the Council is provided a listing of the payroll and general checks issued since the last report so that the checks can be inspected and confirmed. Each purchase has been reviewed and approved by the department making the purchase at the time of procurement. The invoices have been reviewed by the Finance Department prior to payment to ensure that they conform to the approved budget.

Therefore, in accordance with Government Code Section 37208, the above referenced and linked list of checks conforms to the approved budget and has been paid. These checks are submitted to the City Council for inspection and confirmation.

A description of the checks and wires exceeding \$10,000.00 are as follows:

- \$12,750.27 to Disaster Kleenup Specialists for On-call for 2699 Col Durham St; Comp for June 22, 2021; On-call for multiple locations through the period of September 4, 2021.
- \$34,530.30 to Dude Solutions, Inc. for Annual Smartgov software and user licenses (16) for the period ending November 30, 2022. Software includes Bluebeam connector, financial connector, GIS connector, Merchant connector, &

public portal.

- \$52,703.29 to John C. Gemma for Hpe Servers 2nd installment.
- \$47,490.98 to L.N. Curtis & Sons for Fire Hoses for Seaside Fire Department for fiscal year 2020-2021.
- \$28,600.00 to Monterey Bay Military Housing LLC for United Way rental assistance for Andrew Lindsey for fiscal year 2021 & fiscal year 2022 portions.
- \$39,000.00 to Monterey Co. Convention & Visitor's Bureau for TID (Tourism Improvement District) remittance for the reporting period of July through December 2021 from the 13 City of Seaside Motels/Hotels.
- \$22,438.75 to Parisi Transportation Consulting Inc. for Engineering & Traffic Survey for the period of August 2021.
- \$12,008.60 to San Diego Police Equipment Co., Inc. for Ammunition order for Seaside Police Department.
- \$12,204.15 to Seaside Housing LP for United Way rental assistance for Lilia Hernandez, Valencia Richardson and Prem & Rjni Singh for fiscal year 2021.
- \$10,759.30 to Seaside Housing LP for United Way rental assistance for Patricia Valencia, Kartari Singh and Isidro & Agripina Munoz for fiscal year 2021 & fiscal year 2022 portions.
- \$19,009.13 to Silver & Wright LLP for Legal services for 1661 Mescal Ct, 1495 Ancon St and General Code Enforcement Services for the period of September 2021.
- \$28,399.75 to The Sohagi Law Group for Petrovich PRA Legal Services for the period of August 2021.
- \$10,500.00 to TNT Painting & Decorating Inc. for Phase 1 - Interior painting at Seaside Fire Department.
- \$49,294.19 to U.S. Bank-Calcard for City of Seaside purchase card transactions for the billing period of 8/22/2021 - 9/22/2021.
- \$18,152.25 to Wallace Group for SCSD professional services for July 2021 for the Campus Town Water Feasibility Study, Highland Park & Ellis Park CDBG Project Management Services.
- \$21,455.10 to Zumar Industries, Inc. for City of Seaside 240 street signs.

The remaining checks, totaling \$465,724.93, include payments to vendors for operating expenditures.

The check's report is available on the City's website here:

<https://www.ci.seaside.ca.us/194/Check-Draft-Register>

FISCAL IMPACT

There are no additional fiscal impacts.

ATTACHMENTS

None



CITY OF SEASIDE STAFF REPORT

Item No.: 8.C.

TO: City Council

FROM: Roberta Greathouse, Acting City Manager

BY: Nick Borges, Acting Police Chief

DATE: November 18, 2021

SUBJECT: ADOPT A RESOLUTION APPROVING THE PURCHASE OF PORTABLE AND MOBILE MOTOROLA RADIOS, THE REPLACEMENT OF HARRIS RADIOS, FOR A COST OF \$399,920.60 AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT

RECOMMENDATION

Adopt a resolution authorizing the purchase and approving the agreement with Motorola, and authorizing the City Manager to sign the agreement.

BACKGROUND

The Seaside Police Department, along with the majority of local law enforcement agencies, switched to the Harris Unity radio about nine years ago as a result of the required government switch to digital band radios. At that time, Harris made a proposal to Monterey County and ultimately was selected during the bid process. The Seaside Police Department was one of the many agencies that participated in the countywide switch. As the system was installed, the transition from the analog radio system to the digital radio system took place in late 2016 to early 2017. As part of the radio system transition, there have been various problems with the radios not interfacing correctly and a series of firmware updates were required. Each firmware update required every radio owned by the Seaside Police Department to be reprogrammed and updated. The Seaside Police Department has undergone around six such firmware updates which cost a vast amount of time and resources.

The radio system was scheduled to transition to digital encryption over a year ago. The Harris brand radio has failed each launch and has never fully activated the digital encryption capability. Harris continues to navigate through technological challenges and there is no end in sight. The only radio brand that has proven its compatibility with our

needs is Motorola. Motorola is considered the "gold standard" of radio technology and Monterey County has contracted with them to rectify the ongoing obstacles presented by Harris.

The Motorola Radio is compatible and has extensive testing to support its functionality. The Motorola radio outperforms the Harris radio and meets the demands of our current technological needs. The Harris radio model we own became obsolete at the end of 2020, requiring us to either upgrade to newer Harris radios with the same challenges or move to Motorola. Our current process when a radio goes down is to request a repair by Harris. The average turn around time is about two months. Motorola, on the other hand, has a guaranteed seventy-two hour turn around on repairs once they receive it or they will ship us a new radio. Most Monterey County law enforcement agencies have already moved back to Motorola and away from the Harris brand.

The necessity to effectively communicate is an essential function for our police department. Purchasing Motorola radios will minimize delays in equipping our staff, increase our ability to communicate and, ultimately, provide better services to our community with our overall response.

FISCAL IMPACT

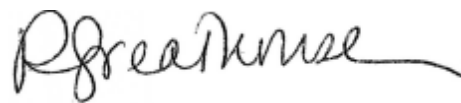
The purchase price for 48 Portable Motorola Radios (Hand-Held Radios), 2 Mobile Radios (new Police Vehicles in need of new radios), various aftermarket items and WiFi technology: **\$399,920.60 (FY 20/21)**

The cost is included in the FY 20/21 budget.

ATTACHMENTS

1. Resolution
2. Communications Products Agreement
3. APX 8000 Data Sheet
4. APX8500 Data Sheet
5. APX All-Band Console Data Sheet
6. Seaside PD APX Migration

Reviewed for Submission to the City Council by:



Roberta Greathouse, Acting City Manager

RESOLUTION NO. 21-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**TO APPROVE AND ACCEPT A BID NOT TO EXCEED \$399,920.60 TO
PURCHASE PORTABLE AND MOBILE MOTOROLA RADIOS; AND AUTHORIZE
THE CITY MANAGER TO SIGN THE AGREEMENT**

WHEREAS, the City of Seaside approves the purchase of portable and mobile radios not to exceed \$399,920.60 and authorize the City Manager to sign the agreement.

WHEREAS, the City Council provided conceptual approval and funding for the vehicle purchase with the approval of the 2021/2022 Fiscal Year Budget;

WHEREAS, the radios will be used by Seaside police staff in their day-to-day communications needs and requirements governed by the Seaside Police Department;

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby approve the purchase of a portable and mobile Motorola radios not to exceed \$399,920.60

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 18th day of November by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

Ian N. Oglesby, Mayor

ATTEST:

Dominique L. Davis, City Clerk

Communications Products Agreement

Motorola Solutions, Inc. ("Motorola"), and City of Seaside Police ("Customer") enter into this "Agreement," pursuant to which Customer will purchase and Motorola will sell the Products, as described below. Motorola and Customer may be referred to individually as a "Party" and collectively as the "Parties." For good and valuable consideration, the Parties agree as follows:

Section 1 EXHIBITS

The exhibits listed below are incorporated into and made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement takes precedence over the exhibits and any inconsistency between the exhibits will be resolved in their listed order.

Exhibit A Motorola "Software License Agreement"

Exhibit B "List of Equipment from Motorola quote DWS0404-101821-001V8 for subscriber purchase only of Motorola APX8000 portable radios, APX8500 Mobile radios, a Console, Motorola Desksets and accessories. No Installation Services are included"

Section 2 DEFINITIONS

Capitalized terms used in this Agreement have the following meanings:

2.1. "Confidential Information" means all information consistent with the fulfillment of this agreement that is (i) disclosed under this agreement in oral, written, graphic, machine recognizable, and/or sample form, being clearly designated, labeled or marked as confidential or its equivalent or (ii) obtained by examination, testing or analysis of any hardware, software or any component part thereof provided by discloser to recipient. The nature and existence of this agreement are considered Confidential Information. Confidential information that is disclosed orally must be identified as confidential at the time of disclosure and confirmed by the discloser by submitting a written document to the recipient within thirty (30) days after such disclosure. The written document must contain a summary of the Confidential Information disclosed with enough specificity for identification purpose and must be labeled or marked as confidential or its equivalent.

2.2. "Contract Price" means the price for the Products, excluding applicable sales or similar taxes and freight charges.

2.3. "Effective Date" means that date upon which the last Party executes this Agreement.

2.4. "Equipment" means the equipment listed in the List of Products that Customer purchases from Motorola under this Agreement.

2.5. "Force Majeure" means an event, circumstance, or act of a third party that is beyond a Party's reasonable control (e.g., an act of God, an act of the public enemy, an act of a government entity, strikes or other labor disturbances, hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, and riots).

2.6. "Infringement Claim" means a third party claim alleging that the Equipment manufactured by Motorola or the Motorola Software directly infringes a United States patent or copyright.

2.7. "Motorola Software" means Software that Motorola or its affiliated company owns.

2.8. "Non-Motorola Software" means Software that another party owns.

2.9. "Open Source Software" (also called "freeware" or "shareware") software with either freely obtainable source code, license for modification, or permission for free distribution.

2.10. "Products" mean the Equipment and Software provided by Motorola under this Agreement.

2.11. "Proprietary Rights" means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, and other intellectual property rights in and to the Equipment and Software, including those created or produced by Motorola under this Agreement and any corrections, bug fixes, enhancements, updates or modifications to or derivative works from the Software whether made by Motorola or another party.

2.12. "Software" means the Motorola Software and Non-Motorola Software in object code format that is furnished with the Products.

2.13. "Warranty Period" means one (1) year from the date of shipment of the Products.

Section 3 SCOPE OF AGREEMENT AND TERM

3.1. **SCOPE OF WORK.** Motorola will provide and install (if applicable) the Products, and perform its other contractual responsibilities, all in accordance with this Agreement. Customer will perform its contractual responsibilities in accordance with this Agreement.

3.2. **CHANGE ORDERS.** Either Party may request changes within the general scope of this Agreement. Neither Party is obligated to perform requested changes unless both Parties execute a written change order.

3.3. **TERM.** Unless terminated in accordance with other provisions of this Agreement or extended by mutual agreement of the Parties, the term of this Agreement begins on the Effective Date and continues until the expiration of the Warranty Period or three (3) years from the Effective Date, whichever occurs last.

3.4. **ADDITIONAL EQUIPMENT OR SOFTWARE.** During the Term of this Agreement, Customer may order additional Equipment or Software if it is then available. Each order must refer to this Agreement and must specify the pricing and delivery terms. Notwithstanding any additional or contrary terms in the order, the applicable provisions of this Agreement (except for pricing, delivery, and payment terms) will govern the purchase and sale of the additional Equipment or Software. Payment is due within twenty (20) days after the invoice date, and Motorola will send Customer an invoice as the additional Equipment is shipped or Software is licensed. Alternatively, Customer may register with and place orders through Motorola Online ("MOL"), and this Agreement will be the "Underlying Agreement" for those MOL transactions rather than the MOL On-Line Terms and Conditions of Sale. MOL registration and other information may be found at <https://businessonline.motorola.com> and the MOL telephone number is (800) 814-0601.

3.5. **MAINTENANCE SERVICE.** This Agreement does not cover maintenance or support of the Products except as provided under the warranty. If Customer wishes to purchase maintenance or support, Motorola will provide a separate maintenance and support proposal upon request.

3.6. **MOTOROLA SOFTWARE.** Any Motorola Software, including subsequent releases, is licensed to Customer solely in accordance with the Software License Agreement. Customer hereby accepts and agrees to abide by all of the terms and restrictions of the Software License Agreement.

3.7. **NON-MOTOROLA SOFTWARE.** Any Non-Motorola Software is licensed to Customer in accordance with the standard license, terms, and restrictions of the copyright owner on the Effective Date unless the copyright owner has granted to Motorola the right to sublicense the Non-Motorola Software pursuant to the Software License Agreement, in which case it applies and the copyright owner will have all of Licensor's rights and protections under the Software License Agreement. Motorola makes no representations or warranties of any kind regarding Non-Motorola Software. Non-Motorola Software may include Open Source Software. All Open Source Software is licensed to Customer in accordance with, and Customer agrees to abide by, the provisions of the standard license of the copyright owner and not

the Software License Agreement. Upon request by Customer, Motorola will use commercially reasonable efforts to determine whether any Open Source Software will be provided under this Agreement; and if so, identify the Open Source Software and provide to Customer a copy of the applicable standard license (or specify where that license may be found); and provide to Customer a copy of the Open Source Software source code if it is publicly available without charge (although a distribution fee or a charge for related services may be applicable).

3.8. **OPTIONAL EQUIPMENT OR SOFTWARE.** This paragraph applies only if a "Priced Options" exhibit is shown in Section 1, or if the parties amend this Agreement to add a Priced Options exhibit. During the term of the option as stated in the Priced Options exhibit (or if no term is stated, then for one (1) year after the Effective Date), Customer has the right and option to purchase the equipment, software, and related services that are described in the Priced Options exhibit. Customer may exercise this option by giving written notice to Motorola which must designate what equipment, software, and related services Customer is selecting (including quantities, if applicable). To the extent they apply, the terms and conditions of this Agreement will govern the transaction; however, the parties acknowledge that certain provisions must be agreed upon, and they agree to negotiate those in good faith promptly after Customer delivers the option exercise notice. Examples of provisions that may need to be negotiated are: specific lists of deliverables, statements of work, acceptance test plans, delivery and implementation schedules, payment terms, maintenance and support provisions, additions to or modifications of the Software License Agreement, hosting terms, and modifications to the acceptance and warranty provisions.

Section 4 PERFORMANCE SCHEDULE

If this Agreement includes the performance of services, the Statement of Work will describe the performance schedule.

Section 5 CONTRACT PRICE, PAYMENT, AND INVOICING

5.1. **CONTRACT PRICE.** The Contract Price in U.S. dollars is \$_399,920.60_____.

5.2. **INVOICING AND PAYMENT.** Motorola will submit invoices to Customer for Products when they are shipped and for services, if applicable, when they are performed. Customer will make payments to Motorola within twenty (20) days after the date of each invoice. Customer will make payments when due in the form of a wire transfer, check, or cashier's check from a U.S. financial institution. Overdue invoices will bear simple interest at the maximum allowable rate. For Customer's reference, the Federal Tax Identification Number for Motorola Solutions, Inc. is 36-1115800.

5.3. **FREIGHT, TITLE, AND RISK OF LOSS.** Motorola will pre-pay and add all freight charges to the invoices. Title and risk of loss to the Equipment will pass to Customer upon shipment. Title to Software will not pass to Customer at any time. Motorola will pack and ship all Equipment in accordance with good commercial practices.

5.4. **INVOICING AND SHIPPING ADDRESSES.** Invoices will be sent to the Customer at the following address: 440 Harcourt Ave Seaside CA 93955_____

The address which is the ultimate destination where the Equipment will be delivered to Customer is:
_____SAME_____

The Equipment will be shipped to the Customer at the following address (insert if this information is known):
_____SAME_____

Customer may change this information by giving written notice to Motorola.

Section 6 SITES AND SITE CONDITIONS

6.1. **ACCESS TO SITES.** If Motorola is providing installation or other services, Customer will provide all necessary construction and building permits, licenses, and the like; and access to the work sites or vehicles identified in the Technical and Implementation Documents as reasonably requested by Motorola so that it may perform its contractual duties.

6.2. **SITE CONDITIONS.** If Motorola is providing installation or other services at Customer's sites, Customer will ensure that these work sites be safe, secure, and in compliance with all applicable industry and OSHA standards. To the extent applicable and unless the Statement of Work states to the contrary, Customer will ensure that these work sites have adequate: physical space, air conditioning and other environmental conditions; adequate and appropriate electrical power outlets, distribution, equipment and connections; and adequate telephone or other communication lines (including modem access and adequate interfacing networking capabilities), all for the installation, use and maintenance of the Products.

Section 7 ACCEPTANCE

Acceptance of the Products will occur upon delivery to Customer unless the Statement of Work provides for acceptance verification or testing, in which case acceptance of the Products will occur upon successful completion of the acceptance verification or testing. Notwithstanding the preceding sentence, Customer's use of the Products for their operational purposes will constitute acceptance.

Section 8 REPRESENTATIONS AND WARRANTIES

8.1. **EQUIPMENT WARRANTY.** During the Warranty Period, Motorola warrants that the Equipment under normal use and service will be free from material defects in materials and workmanship.

8.2. **MOTOROLA SOFTWARE WARRANTY.** Unless otherwise stated in the Software License Agreement, during the Warranty Period, Motorola warrants the Motorola Software in accordance with the terms of the Software License Agreement and the provisions of this Section that are applicable to the Motorola Software. **TO THE EXTENT, IF ANY, THAT THERE IS A SEPARATE LICENSE AGREEMENT PACKAGED WITH, OR PROVIDED ELECTRONICALLY WITH, A PARTICULAR PRODUCT THAT BECOMES EFFECTIVE ON AN ACT OF ACCEPTANCE BY THE END USER, THEN THAT AGREEMENT SUPERCEDES THIS SOFTWARE LICENSE AGREEMENT AS TO THE END USER OF EACH SUCH PRODUCT.**

8.3. **EXCLUSIONS TO EQUIPMENT AND MOTOROLA SOFTWARE WARRANTIES.** These warranties do not apply to: (i) defects or damage resulting from: use of the Equipment or Motorola Software in other than its normal, customary, and authorized manner; accident, liquids, neglect, or acts of God; testing, maintenance, disassembly, repair, installation, alteration, modification, or adjustment not provided or authorized in writing by Motorola; Customer's failure to comply with all applicable industry and OSHA standards; (ii) breakage of or damage to antennas unless caused directly by defects in material or workmanship; (iii) Equipment that has had the serial number removed or made illegible; (iv) batteries (because they carry their own separate limited warranty) or consumables; (v) freight costs to ship Equipment to the repair depot; (vi) scratches or other cosmetic damage to Equipment surfaces that does not affect the operation of the Equipment; and (vii) normal or customary wear and tear.

8.4. **WARRANTY CLAIMS.** To assert a warranty claim, Customer must notify Motorola in writing of the claim before the expiration of the Warranty Period. Upon receipt of this notice, Motorola will investigate the warranty claim. If this investigation confirms a valid warranty claim, Motorola will (at its option and at no additional charge to Customer) repair the defective Equipment or Motorola Software, replace it with the same or equivalent product, or refund the price of the defective Equipment or Motorola Software. That action will be the full extent of Motorola's liability for the warranty claim. If this investigation indicates the warranty claim is not valid, then Motorola may invoice Customer for responding to the claim on a time and materials basis using Motorola's then current labor rates. Repaired or replaced

product is warranted for the balance of the original applicable Warranty Period. All replaced products or parts will become the property of Motorola.

8.5. ORIGINAL END USER IS COVERED. These express limited warranties are extended by Motorola to the original user purchasing the Products for commercial, industrial, or governmental use only, and are not assignable or transferable.

8.6. DISCLAIMER OF OTHER WARRANTIES. THESE WARRANTIES ARE THE COMPLETE WARRANTIES FOR THE EQUIPMENT AND MOTOROLA SOFTWARE PROVIDED UNDER THIS AGREEMENT AND ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Section 9 DELAYS

Neither Party will be liable for its non-performance or delayed performance if caused by a Force Majeure. A Party that becomes aware of a Force Majeure that will significantly delay performance will notify the other Party promptly (but in no event later than fifteen days) after it discovers the Force Majeure. If a Force Majeure occurs, the Parties will execute a change order to extend the performance schedule for a time period that is reasonable under the circumstances.

Section 10 DISPUTES

The Parties will use the following procedure to address any dispute arising under this Agreement (a "Dispute").

10.1. GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the State in which the Products are delivered.

10.2. NEGOTIATION. Either Party may initiate the Dispute resolution procedures by sending a notice of Dispute ("Notice of Dispute"). The Parties will attempt to resolve the Dispute promptly through good faith negotiations including 1) timely escalation of the Dispute to executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the matter and 2) direct communication between the executives. If the Dispute has not been resolved within ten (10) days from the Notice of Dispute, the Parties will proceed to mediation.

10.3. MEDIATION. The Parties will choose an independent mediator within thirty (30) days of a notice to mediate from either Party ("Notice of Mediation"). Neither Party may unreasonably withhold consent to the selection of a mediator. If the Parties are unable to agree upon a mediator, either Party may request that American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the mediation in good faith and will be represented at the mediation by a business executive with authority to settle the Dispute.

10.4. LITIGATION, VENUE and JURISDICTION. If a Dispute remains unresolved for sixty (60) days after receipt of the Notice of Mediation, either Party may then submit the Dispute to a court of competent jurisdiction in the state in which the Products are delivered. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts in such state over any claim or matter arising under or in connection with this Agreement.

10.5. CONFIDENTIALITY. All communications pursuant to subsections 10.2 and 10.3 will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and any additional confidentiality protections provided by applicable law. The use of these Dispute resolution procedures will not be construed under the doctrines of laches, waiver or estoppel to affect adversely the rights of either Party.

Section 11 DEFAULT AND TERMINATION

If either Party fails to perform a material obligation under this Agreement, the other Party may consider the non-performing Party to be in default (unless a Force Majeure causes the failure) and may assert a default claim by giving the non-performing Party a written and detailed notice of the default. Except for a default by Customer for failing to pay any amount when due under this Agreement which must be cured immediately, the defaulting Party will have thirty (30) days after receipt of the notice of default to either cure the default or, if the default is not curable within thirty (30) days, provide a written cure plan. The defaulting Party will begin implementing the cure plan immediately after receipt of notice by the other Party that it approves the plan. If Customer is the defaulting Party, Motorola may stop work on the project until it approves the Customer's cure plan. If the non-performing Party fails to cure the default, the performing Party may terminate any unfulfilled portion of this Agreement and recover damages as permitted by law and this Agreement.

Section 12 PATENT AND COPYRIGHT INFRINGEMENT INDEMNIFICATION

12.1. Motorola will defend at its expense any suit brought against Customer to the extent it is based on a third-party claim alleging that the Equipment manufactured by Motorola or the Motorola Software ("Motorola Product") directly infringes a United States patent or copyright ("Infringement Claim"). Motorola's duties to defend and indemnify are conditioned upon: Customer promptly notifying Motorola in writing of the Infringement Claim; Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and Customer providing to Motorola cooperation and, if requested by Motorola, reasonable assistance in the defense of the Infringement Claim. In addition to Motorola's obligation to defend, and subject to the same conditions, Motorola will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim or agreed to, in writing, by Motorola in settlement of an Infringement Claim.

12.2. If an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option and expense: (a) procure for Customer the right to continue using the Motorola Product; (b) replace or modify the Motorola Product so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the Motorola Product and grant Customer a credit for the Motorola Product, less a reasonable charge for depreciation. The depreciation amount will be calculated based upon generally accepted accounting standards.

12.3. Motorola will have no duty to defend or indemnify for any Infringement Claim that is based upon: (a) the combination of the Motorola Product with any software, apparatus or device not furnished by Motorola; (b) the use of ancillary equipment or software not furnished by Motorola and that is attached to or used in connection with the Motorola Product; (c) Motorola Product designed or manufactured in accordance with Customer's designs, specifications, guidelines or instructions, if the alleged infringement would not have occurred without such designs, specifications, guidelines or instructions; (d) a modification of the Motorola Product by a party other than Motorola; (e) use of the Motorola Product in a manner for which the Motorola Product was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to install an enhancement release to the Motorola Software that is intended to correct the claimed infringement. In no event will Motorola's liability resulting from its indemnity obligation to Customer extend in any way to royalties payable on a per use basis or the Customer's revenues, or any royalty basis other than a reasonable royalty based upon revenue derived by Motorola from Customer from sales or license of the infringing Motorola Product.

12.4. This Section 12 provides Customer's sole and exclusive remedies and Motorola's entire liability in the event of an Infringement Claim. Customer has no right to recover and Motorola has no obligation to provide any other or further remedies, whether under another provision of this Agreement or any other legal theory or principle, in connection with an Infringement Claim. In addition, the rights and remedies provided in this Section 12 are subject to and limited by the restrictions set forth in Section 13.

Section 13 LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of the Equipment, Software, or services with respect to which losses or damages are claimed. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. This limitation of liability provision survives the expiration or termination of the Agreement and applies notwithstanding any contrary provision. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account.

Section 14 CONFIDENTIALITY AND PROPRIETARY RIGHTS

14.1. CONFIDENTIAL INFORMATION.

14.1.1. Each party is a disclosing party ("Discloser") and a receiving party ("Recipient") under this agreement. All Deliverables will be deemed to be Motorola's Confidential Information. During the term of this agreement and for a period of three (3) years from the expiration or termination of this agreement, Recipient will (i) not disclose Confidential Information to any third party; (ii) restrict disclosure of Confidential Information to only those employees (including, but not limited to, employees of any wholly owned subsidiary, a parent company, any other wholly owned subsidiaries of the same parent company), agents or consultants who must be directly involved with the Confidential Information for the purpose and who are bound by confidentiality terms substantially similar to those in this agreement; (iii) not copy, reproduce, reverse engineer, de-compile or disassemble any Confidential Information; (iv) use the same degree of care as for its own information of like importance, but at least use reasonable care, in safeguarding against disclosure of Confidential Information; (v) promptly notify Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this agreement; and (vi) only use the Confidential Information as needed to fulfill this agreement.

14.1.2. Recipient is not obligated to maintain as confidential, Confidential Information that Recipient can demonstrate by documentation (i) is now available or becomes available to the public without breach of this agreement; (ii) is explicitly approved for release by written authorization of Discloser; (iii) is lawfully obtained from a third party or parties without a duty of confidentiality; (iv) is known to the Recipient prior to such disclosure; or (v) is independently developed by Recipient without the use of any of Discloser's Confidential Information or any breach of this agreement.

14.1.3. All Confidential Information remains the property of the discloser and will not be copied or reproduced without the express written permission of the Discloser, except for copies that are absolutely necessary in order to fulfill this Agreement. Within ten (10) days of receipt of Discloser's written request, Recipient will return all Confidential Information to Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed. However, Recipient may retain one (1) archival copy of the Confidential Information that it may use only in case of a dispute concerning this Agreement. No license, express or implied, in the Confidential Information is granted other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. The Discloser warrants that it is authorized to disclose any Confidential Information it discloses pursuant to this Agreement.

14.2. PRESERVATION OF MOTOROLA'S PROPRIETARY RIGHTS.

Motorola, the third party manufacturer of any Equipment, and the copyright owner of any Non-Motorola Software own and retain all of their respective Proprietary Rights in the Equipment and Software, and nothing in this Agreement is intended to restrict their Proprietary Rights. All intellectual property developed, originated, or prepared by Motorola in connection with providing to Customer the Equipment, Software, or related services remain vested exclusively in Motorola, and this Agreement does not grant to Customer any shared development rights of intellectual property. Except as explicitly provided in the Software License Agreement, Motorola does not grant to Customer, either directly or by implication, estoppel, or otherwise, any right, title or interest in Motorola's Proprietary Rights. Customer will not modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software, reproduce, or export the Software, or permit or encourage any third party to do so. The preceding sentence does not apply to Open Source Software which is governed by the standard license of the copyright owner.

Section 15 GENERAL

15.1. TAXES. The Contract Price does not include excise, sales, lease, use, property, or other taxes, assessments or duties, all of which will be paid by Customer except as exempt by law. If Motorola is required to pay any of these taxes, Motorola will send an invoice to Customer and Customer will pay to Motorola the amount of the taxes (including any interest and penalties) within twenty (20) days after the date of the invoice. Customer will be solely responsible for reporting the Equipment for personal property tax purposes, and Motorola will be solely responsible for reporting taxes on its income or net worth.

15.2. ASSIGNABILITY AND SUBCONTRACTING. Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

15.3 WAIVER. Failure or delay by either Party to exercise any right or power under this Agreement will not be a waiver of the right or power. For a waiver of a right or power to be effective, it must be in a writing signed by the waiving Party. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

15.4. SEVERABILITY. If a court of competent jurisdiction renders any part of this Agreement invalid or unenforceable, that part will be severed and the remainder of this Agreement will continue in full force and effect.

15.5. INDEPENDENT CONTRACTORS. Each Party will perform its duties under this Agreement only as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership or formal business organization of any kind.

15.6. HEADINGS AND SECTION REFERENCES; CONSTRUCTION. The section headings in this Agreement are inserted only for convenience and are not to be construed as part of this Agreement or as

a limitation of the scope of the particular section to which the heading refers. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.

15.7. ENTIRE AGREEMENT. This Agreement, including all Exhibits, constitutes the entire agreement of the Parties regarding the subject matter of the Agreement and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be executed in multiple counterparts, and shall have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing, or by electronic signature, including by email. An electronic signature, or a facsimile copy or computer image, such as a PDF or tiff image, of a signature, shall be treated as and shall have the same effect as an original signature. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase order, acknowledgment or other form will not be considered an amendment or modification of this Agreement, even if a representative of each Party signs that document.

15.8. NOTICES. Notices required under this Agreement to be given by one Party to the other must be in writing and either delivered personally or sent to the address shown below by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as Federal Express, UPS, or DHL), or by facsimile with correct answerback received, and will be effective upon receipt:

Customer	Motorola Solutions, Inc.
Attn: ____Acting Chief Nick Borges	Attn: ____Jim Trevino
_____	_____
fax: ____831-899-6748	fax: ____707-746-5924

15.9. COMPLIANCE WITH APPLICABLE LAWS. Each Party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Agreement or use of the System. Customer will obtain and comply with all Federal Communications Commission ("FCC") licenses and authorizations required for the installation, operation and use of the System before the scheduled installation of the Equipment. Although Motorola might assist Customer in the preparation of its FCC license applications, neither Motorola nor any of its employees is an agent or representative of Customer in FCC or other matters.

15.10. AUTHORITY TO EXECUTE AGREEMENT. Each Party represents that it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under this Agreement; the person executing this Agreement on its behalf has the authority to do so; upon execution and delivery of this Agreement by the Parties, it is a valid and binding contract, enforceable in accordance with its terms; and the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of the Party.

15.11. SURVIVAL OF TERMS. The following provisions will survive the expiration or termination of this Agreement for any reason: Section 3.6 (Motorola Software), Section 3.7 (Non-Motorola Software); if any payment obligations exist, Sections 5.1 and 5.2 (Contract Price and Invoicing and Payment); Subsection 9.7 (Disclaimer of Implied Warranties); Section 10 (Disputes); Section 13 (Limitation of Liability); Section 14 (Confidentiality and Proprietary Rights; and all of the General terms in this Section 15.

The Parties hereby enter into this Agreement as of the Effective Date.

Motorola Solutions, Inc.

Customer

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A

SOFTWARE LICENSE AGREEMENT

This Exhibit A Software License Agreement ("Agreement") is between Motorola Solutions, Inc., ("Motorola"), and City of Seaside Police ("Licensee").

For good and valuable consideration, the parties agree as follows:

Section 1 DEFINITIONS

1.1 "Designated Products" means products provided by Motorola to Licensee with which or for which the Software and Documentation is licensed for use.

1.2 "Documentation" means product and software documentation that specifies technical and performance features and capabilities, and the user, operation and training manuals for the Software (including all physical or electronic media upon which such information is provided).

1.3 "Open Source Software" means software with either freely obtainable source code, license for modification, or permission for free distribution.

1.4 "Open Source Software License" means the terms or conditions under which the Open Source Software is licensed.

1.5 "Primary Agreement" means the agreement to which this exhibit is attached.

1.6 "Security Vulnerability" means a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach such that data is compromised, manipulated or stolen or the system damaged.

1.7 "Software" (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

Section 2 SCOPE

Motorola and Licensee enter into this Agreement in connection with Motorola's delivery of certain proprietary Software or products containing embedded or pre-loaded proprietary Software, or both. This Agreement contains the terms and conditions of the license Motorola is providing to Licensee, and Licensee's use of the Software and Documentation.

Section 3 GRANT OF LICENSE

3.1. Subject to the provisions of this Agreement and the payment of applicable license fees, Motorola grants to Licensee a personal, limited, non-transferable (except as permitted in Section 7) and non-exclusive license under Motorola's copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee's use of the Designated Products. This Agreement does not grant any rights to source code.

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security regulations. Motorola is responsible for the payment of all expenses and costs of the Auditor. Any information obtained by Motorola and the Auditor will be kept in strict confidence by Motorola and the Auditor and used solely for the purpose of verifying Licensee's compliance with the terms of this Agreement.

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Section 10 CONFIDENTIALITY

Licensee acknowledges that the Software and Documentation contain Motorola's valuable proprietary and Confidential Information and are Motorola's trade secrets, and that the provisions in the Primary Agreement concerning Confidential Information apply.

Section 11 LIMITATION OF LIABILITY

The Limitation of Liability provision is described in the Primary Agreement.

Section 12 NOTICES

Notices are described in the Primary Agreement.

Section 13 GENERAL

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13.6. **SURVIVAL.** Sections 4, 5, 6.3, 7, 8, 9, 10, 11 and 13 survive the termination of this Agreement.

13.7. **ORDER OF PRECEDENCE.** In the event of inconsistencies between this Exhibit and the Primary Agreement, the parties agree that this Exhibit prevails, only with respect to the specific subject matter of this Exhibit, and not the Primary Agreement or any other exhibit as it applies to any other subject matter.

13.8. **SECURITY.** Motorola uses reasonable means in the design and writing of its own Software and the acquisition of third party Software to limit Security Vulnerabilities. While no software can be guaranteed to be free from Security Vulnerabilities, if a Security Vulnerability is discovered, Motorola will take the steps set forth in Section 6 of this Agreement.



APX™ 8000 ALL-BAND P25 PORTABLE RADIO

UNLIMITED MOBILITY. UNCOMPROMISING PERFORMANCE.

Take command with a 4-in-1 radio that offers limitless interoperability, the clearest, loudest audio and seamless Wi-Fi® connectivity. The compact, rugged and secure APX 8000 redefines mission critical communications.

ALL BANDS, NO BOUNDARIES

With four RF bands and multi-mode system access, the APX 8000 knows no limits when it comes to interoperability. Communicate across borders using a single device. Use analog MDC 1200 or digital P25 mode, conventional or trunked operation, SmartNet or SmartZone legacy systems, clear or secure - all across 7/800MHz, VHF and UHF Range 1 & 2 bands.

HEAR AND BE HEARD MORE CLEARLY

Whether it's loud or windy, whether you whisper or yell, the APX 8000 adaptive audio engine and ultra-loud speaker brings clarity into every conversation. The radio dynamically changes the level of noise suppression, microphone gain, windporting and speaker equalization on the fly to consistently produce the loudest, clearest audio in any environment.

VOICE AND DATA, ALL AT ONCE

With Wi-Fi access, the APX 8000 can quickly receive new codeplugs, firmware and software features in order to redeploy the radio fleet with ease as users keep talking without interruption. Mission Critical Wireless Bluetooth® connects quickly and securely with remote speaker microphones, surveillance kits and the LEX L10 Mission Critical LTE Handheld for radio remote control.

FIT FOR THE MISSION

Intuitively designed with a familiar look and feel, the compact APX 8000 is always comfortable to use, from your holster to your grip. It contains 4 radio bands packaged into the award-winning design of the APX 6000. The all-band antenna is flexible so it doesn't get in the way.

RUGGED, ROBUST & RELIABLE

With a water-tight seal, drop-resistant dual battery latch, pressure-tested tempered glass display and a shock-absorbing aluminum alloy endoskeleton, the APX 8000 is ready for unpredictable environments. It can survive 2 meter water submersion for 2 hours, MIL-STD 810 C, D, E, F, G procedures and Motorola's renowned Accelerated Life Test.

DESIGNED TO SECURE & PROTECT

The APX 8000's voice and data is secured by multiple hardware encryption algorithms (AES, DES, ADP), up to 128 keys and the ability to re-key over the air so that sensitive information stays protected from scanners and eavesdroppers. P25 Radio Authentication ensures only valid users can access the system while two-factor authentication allows users to securely log in to databases.



PRODUCT DATA SHEET
APX™ 8000



RF BANDS:

700/800 MHz, VHF, UHF Range 1 & 2

OPERATION MODES:

9600 Baud Digital APCO P25 Phase 1 FDMA and Phase 2 TDMA Trunking

3600 Baud SmartNet®, SmartZone®, SmartZone, Omnilink Trunking

Digital APCO 25, Conventional, Analog MDC 1200, Quick Call II System Configurations

Narrow and wide bandwidth digital receiver (6.25 kHz equivalent/25/20/12.5 KHz)

STANDARD FEATURES:

Mission Critical Wireless Bluetooth*

Radio Packet Data (Integrated Voice & Data)

Text-Messaging

Voice Announcements

ISSI 8000 Roaming

Radio Profiles, Dynamic Zone

Intelligent Lighting

Single-key ADP Encryption

IP67 1 meter, 30 minute submersion

IMPRES Battery

ADAPTIVE AUDIO ENGINE:

1 Watt Speaker with Adaptive Equalization

Adaptive Dual-sided Operation

Adaptive Noise Suppression Intensity

Adaptive Gain Control

Adaptive Windporting

PROGRAMMING:

Utilizes Windows 7 & 8

Customer Programming Software (CPS) with Radio Management

OPTIONAL FEATURES:

WiFi 802.11 b/g/n

GPS for Outdoor Location Tracking

RFID Volume Knob

Multi-key for 128 keys and multi-algorithm

Programming Over Project 25 (OTAP)

Over the Air Rekey (OTAR)

Digital Tone Signaling

LEX L10 Collaboration

P25 Authentication

Man Down Sensor

Delta-T submersible housing (2 meters, 2 hours)

* Compatible with BT 2.1, HSP and PAN Profiles found in off-the-shelf BT accessories

TRANSMITTER - TYPICAL PERFORMANCE SPECIFICATIONS

	700/800	VHF	UHF Range 1	UHF Range 2
Frequency Range/Bandsplits	764-776, 794-806 MHz 806-825, 851-870 MHz	136-174 MHz	380-470 MHz	450-520 MHz
Channel Spacing	25/20/12.5 kHz	25/20/12.5 kHz	25/20/12.5 kHz	25/20/12.5 kHz
Maximum Frequency Separation	Full Bandsplit	Full Bandsplit	Full Bandsplit	Full Bandsplit
Rated RF Output Power Adj ¹	700 MHz: 1-2.5 Watts 800 MHz: 1-3 Watts	1-6 Watts	1-5 Watts	1-5 Watts
Frequency Stability ¹ (-30°C to +60°C; +25°C Ref.)	±0.00010 %	±0.00010 %	±0.00010 %	±0.00010 %
Modulation Limiting ¹	±5 kHz / ±4 kHz / ±2.5 kHz	±5 kHz / ±4 kHz / ±2.5 kHz	±5 kHz / ±4 kHz / ±2.5 kHz	±5 kHz / ±4 kHz / ±2.5 kHz
Emissions (Conducted and Radiated) ¹	-75 dBc	-75 dBc	-75 dBc	-75 dBc
Audio Response ¹	+1, -3 dB	+1, -3 dB	+1, -3 dB	+1, -3 dB
FM Hum & Noise (25kHz / 12.5kHz) ¹	700 MHz: -48 dB/-47 dB 800 MHz: -46 dB/-45 dB	-47 dB/-45 dB	-47 dB/-45 dB	-47 dB/-45 dB
Audio Distortion ¹	700 MHz: 0.60 % 800 MHz: 1 %	0.50 %	0.50 %	0.50 %

BATTERIES FOR APX 8000

Battery Capacity / Type	Dimensions (HxWxD)	Weight	Battery Part Number	Battery Capacity
Li-Ion IMPRES 2150 mAh IP67	3.39" x 2.34" x 1.45"	5.07 oz	PMNN4403	2150 mAh
Li-Ion IMPRES 2900 mAh IP67**	3.39" x 2.34" x 1.65"	6.61 oz	NNTN7038	2900 mAh
Li-Ion IMPRES 4200 mAh IP67	5.12" x 2.34" x 1.65"	11.43 oz	NNTN7034	4200 mAh

KEY AUDIO ACCESSORIES

Name	Type	Part Number	Features
Extreme Policing (XP) RSM	Wired	NMN6271	Dual-Mic Noise Suppression, Emergency, Volume Control, Prog Button, IP68
Mission Critical Wireless (MCW) RSM	Bluetooth	RLN6554	Windporting, Audio Jack, Emergency, Volume Control, Task Light, IP55, 12 hour 5/35/60 Duty Cycle

**Standard shipping battery



RADIO MODELS			
	MODEL 1.5	MODEL 2.5	MODEL 3.5
Display	Full bitmap monochromatic LCD top display 1 line text x 8 characters 1 line of icons No menu support Multi-color backlight	Top display plus: Full bitmap color LCD display 4 lines of text x 14 characters 2 lines of icons 1 menu line x 3 menus White backlight	Top display plus: Full bitmap color LCD display 4 lines of text x 14 characters 2 lines of icons 1 menu line x 3 menus White backlight
Keypad	none	Backlit keypad 3 soft keys 4 direction Navigation key Home and Data buttons	Backlit keypad 3 soft keys 4 direction navigation key 4x3 keypad Home and Data buttons
Channel Capacity	1200	3000	3000
FLASHport Memory	2 GB	2 GB	2 GB
700/800 MHz (764-870 MHz)	H91TGD9PW5AN	H91TGD9PW6AN	H91TGD9PW7AN
VHF (136-174 MHz)			
UHF Range 1 (380-470 MHz)			
UHF Range 2 (450-520 MHz)			

Buttons & Switches Large PTT button ■ Angled On/Off volume control ■ Orange emergency button ■ 16 position top-mounted rotary switch
■ 2-position concentric switch ■ Multi-color backlight ■ 3-position toggle switch ■ 3 programmable side buttons

Regulatory Information	
FCC ID	AZ489FT7061
Industry Canada ID	109U-89FT7061
FCC Emission Designators	8K10F1D, 8K10F1E, 8K10F1W, 11K0F3E, 16K0F3E**, 20K0F1E**
Power Supply	
Power Supply	One rechargeable 2900 mAh Li-Ion Battery Standard (NNTN7038), with alternate battery options available.

** Per the FCC Narrow banding rules (part 90), 25kHz channel spacing is not allowed for operation in the United States - State & Local Markets only.

RECEIVER - TYPICAL PERFORMANCE SPECIFICATIONS					
		700	800	VHF	UHF
Frequency Range/Bandsplits		764-776 MHz	851-870 MHz	136-174 MHz	380-520 MHz
Channel Spacing		25/20/12.5 kHz	25/20/12.5 kHz	25/20/12.5 kHz	25/20/12.5 kHz
Maximum Frequency Separation		Full Bandsplit	Full Bandsplit	Full Bandsplit	Full Bandsplit
Audio Output Power at Rated ¹		1 Watt	1 Watt	1 Watt	1 Watt
Frequency Stability ¹ (−30°C to +60°C; +25°C Ref.)		+/-0.00010%	+/-0.00010%	+/-0.00010%	+/-0.00010%
Analog Sensitivity ¹	12 dB SINAD	0.236 μV	0.236 μV	0.200 μV	0.224 μV
Digital Sensitivity ²	1% BER	0.211 μV	0.211 μV	0.149 μV	0.188 μV
	5% BER	0.178 μV	0.178 μV	0.141 μV	0.159 μV
Selectivity (25 kHz / 12.5 kHz) ¹		80 dB / 74 dB	79 dB / 73 dB	83 dB / 77 dB	81 dB / 75 dB
Intermodulation Rejection ¹		82 dB	81 dB	84 dB	81 dB
Spurious Rejection ¹		98 dB	98 dB	92 dB	98 dB
FM Hum and Noise (25 kHz / 12.5 kHz) ¹		-54 dB / -51 dB	-54 dB / -51 dB	-54 dB / -51 dB	-54 dB / -51 dB
Audio Distortion ¹		0.9 %	0.9 %	0.9 %	0.9 %

PORTABLE MILITARY STANDARDS 810 C, D, E, F & G

	MIL-STD 810C		MIL-STD 810D		MIL-STD 810E		MIL-STD 810F		MIL-STD 810G	
	Method	Proc./Cat.	Method	Proc./Cat.	Method	Proc./Cat.	Method	Proc./Cat.	Method	Proc./Cat.
Low Pressure	500.1	I	500.2	II	500.3	II	500.4	II	500.5	II
High Temperature	501.1	I, II	501.2	I/A1, II/A1	501.3	I/A1, II/A1	501.4	I/Hot, II/Basic Hot	501.5	I/A1, II/A2
Low Temperature	502.1	I	502.2	I/C3, II/C1	502.3	I/C3, II/C1	502.4	I/C3, II/C1	502.5	I/C3, II/C1
Temperature Shock	503.1	I	503.2	I/A1C3	503.3	I/A1C3	503.4	I	503.5	I/C
Solar Radiation	505.1	II	505.2	I	505.3	I	505.4	I	505.5	I/A1
Rain	506.1	I, II	506.2	I, II	506.3	I, II	506.4	I, III	506.5	I, III
Humidity	507.1	II	507.2	II	507.3	II	507.4	1 Proc	507.5	II/Aggravated
Salt Fog	509.1	I	509.2	I	509.3	I	509.4	1 Proc	509.5	1 Proc
Blowing Dust	510.1	I	510.2	I	510.3	I	510.4	I	510.5	I
Blowing Sand	1 Proc	1 Proc	510.2	II	510.3	II	510.4	II	510.5	II
Immersion	512.1	I	512.2	I	512.3	I	512.4	I	512.5	I
Vibration	514.2	VIII/F, Curve-W	514.3	I/10, II/3	514.4	I/10, II/3	514.5	I/24	514.6	I/24
Shock	516.2	I, III, V	516.3	I, V, VI	516.4	I, V, VI	516.5	I, V, VI	516.6	I, V, VI
Shock (Drop)	516.2	II	516.2	IV	516.4	IV	516.5	IV	516.6	IV

DIMENSIONS OF THE RADIOS WITHOUT BATTERY

	Inches	Millimeters
Length	5.47	139
Width Push-To-Talk button	2.39	60.7
Depth Push-To-Talk button	1.40	35.6
Width Top	2.98	75.7
Depth Top	1.58	40.1
Depth Bottom of Battery	1.24	31.5
Weight of the radios without battery	11.25 oz	319 g

ENCRYPTION

Supported Encryption Algorithms	ADP, AES, DES, DES-XL, DES-OFB, DVP-XL, Localized Algorithm
Encryption Algorithm Capacity	8
Encryption Keys per Radio	Module capable of storing 1024 keys. Programmable for 128 Common Key Reference (CKR) or 16 Physical Identifier (PID)
Encryption Frame Re-sync Interval	P25 CAI 360 mSec
Encryption Keying	Key Loader and Over the Air Rekeying (OTAR)
Synchronization	XL – Counter Addressing OFB – Output Feedback
Vector Generator	National Institute of Standards and Technology (NIST) approved random number generator
Encryption Type	Digital and SecureNet
Key Storage	Tamper protected volatile or non-volatile memory
Key Erasure	Keyboard command and tamper detection
Standards	FIPS 140-2 Level 3 FIPS 197

WIRELESS CONNECTIVITY & SECURITY

WiFi 802.11 b/g/n supports WPA-2, WPA, WEP security protocols; radio can be pre-provisioned with up to 20 SSIDs

Mission Critical Wireless Bluetooth 2.1 uses 96 bit encryption for pairing & 128 bit encryption for voice, signaling and data. The radio BT supports up to 6 data connections and 1 audio connection.

GPS/GNSS SPECIFICATIONS

Constellations	GPS & GLONASS
Tracking Sensitivity	-164 dBm
Accuracy ³	<5 meters (95%)
Cold Start ³	<60 seconds (95%)
Hot Start ³	<5 seconds (95%)
Mode of Operation	Autonomous (Non-Assisted)

RUGGED OPTION SPECIFICATIONS

Leakage (immersion)	MIL-STD-810 C, D, E, F and G Method 512.X Procedure I
Housing Color	Black (Standard), Public Safety Yellow and High Impact Green

ENVIRONMENTAL SPECIFICATIONS

Operating Temperature ⁴	-30°C / +60°C
Storage Temperature ⁴	-40°C / +85°C
Humidity	Per MIL-STD
ESD	IEC 801-2 KV
Water and Dust Intrusion	IP67, MIL-STD
Immersion	MIL-STD 512.X/I

¹ Measured conductively in analog mode per TIA / EIA 603 under nominal conditions.

² Measured conductively in digital mode per TIA / EIA IS 102.CAAA under nominal conditions.

³ Measured conductively with >6 satellites visible at a nominal -130 dBm signal strength.

Specs provided are 95th percentile values.

⁴ Temperatures listed are for radio specifications. Battery storage is recommended at 25°C, ±5°C to ensure best performance.

Specifications subject to change without notice. All specifications shown are typical. Radio meets applicable regulatory requirements.

Motorola Solutions, Inc. 1301 East Algonquin Road Schaumburg, Illinois 60196, U.S.A. 800-367-2346 www.motorolasolutions.com/APX8000

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MOTOROLA SOLUTIONS

APX™ 8500

ALL-BAND P25 MOBILE RADIO

**UNLIMITED MOBILITY.
MAXIMUM CONNECTIVITY.**



**FIRST RESPONDERS
MUST BE READY
TO COMMUNICATE
AT A MOMENT'S
NOTICE IN ANY
SITUATION**



APX 8500

**UNLIMITED MOBILITY.
MAXIMUM CONNECTIVITY.**

During an emergency - a highspeed chase, massive traffic accident, or natural disaster - public safety officials from different agencies must be able to effectively communicate with each other to coordinate personnel and improve response time.



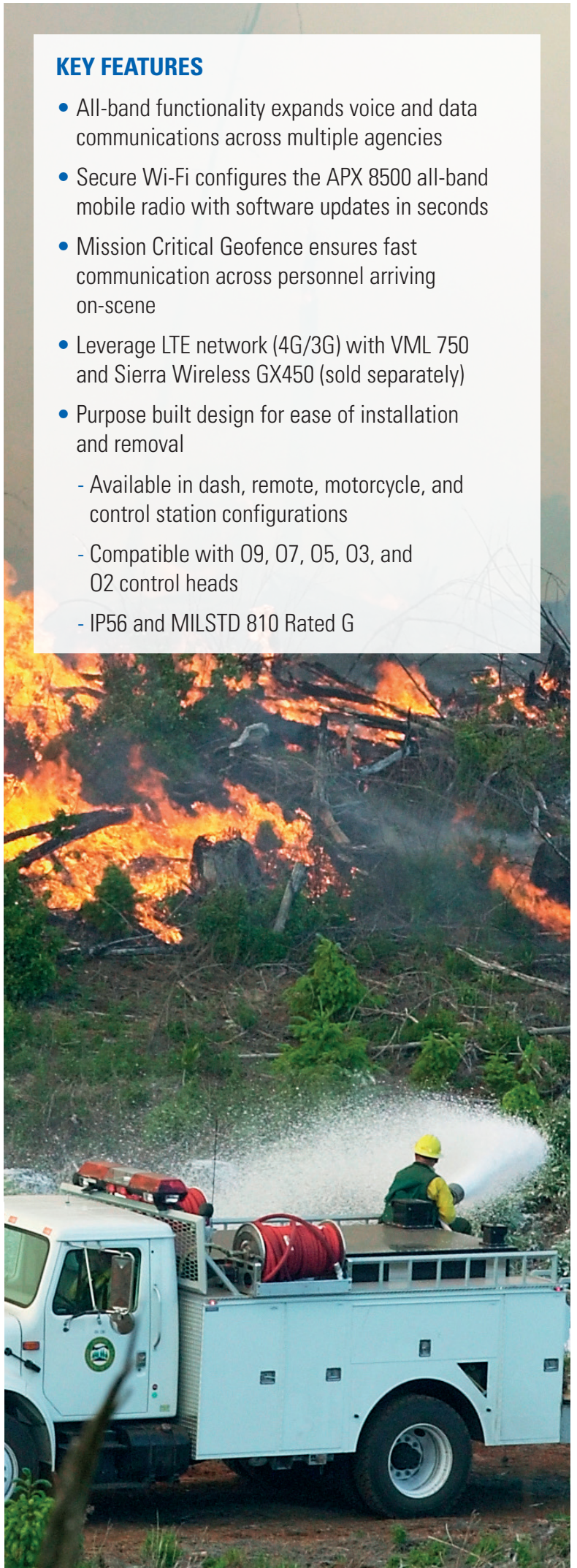


The APX 8500 all-band mobile radio enables first responders to use a single mobile radio to exchange critical voice and data communications seamlessly with multiple agencies and jurisdictions operating on different radio bands.

The APX 8500 combines unlimited interoperability, secure Wi-Fi® connectivity and purpose-built design enabling ease of installation and removal. It can easily connect to the VML750 LTE vehicle modem via micro USB interface and utilize the (4G/3G) commercial network to create an in-vehicle ecosystem for offloading data applications in the field increasing the safety and efficiency of public safety users in and around the vehicle.

KEY FEATURES

- All-band functionality expands voice and data communications across multiple agencies
- Secure Wi-Fi configures the APX 8500 all-band mobile radio with software updates in seconds
- Mission Critical Geofence ensures fast communication across personnel arriving on-scene
- Leverage LTE network (4G/3G) with VML 750 and Sierra Wireless GX450 (sold separately)
- Purpose built design for ease of installation and removal
 - Available in dash, remote, motorcycle, and control station configurations
 - Compatible with 09, 07, 05, 03, and 02 control heads
 - IP56 and MILSTD 810 Rated G





IMPROVE RESPONSE TIMES WITH THE APX 8500 ALL-BAND RADIO



ALL-BAND

Unlimited Mobility

With a 4-in-1 mobile radio and an all-band antenna, you now have the ability to stay connected and expand voice and data communications across multiple agencies with one device. Improve response time by instantly operating on digital or analog networks, in 7/800, VHF, UHF Range 1 and UHF Range 2 bands at any given time.



SECURE Wi-Fi

Voice and Data, All at Once

Update your radio fleet without interrupting voice communications with secure Wi-Fi. This dramatically improves the speed of configuring new codeplugs, firmware and software features over-the-air via Radio Management¹. Agencies can pre-provision up to 20 secure Wi-Fi hotspots so personnel can easily access updates at the facility or in the field.

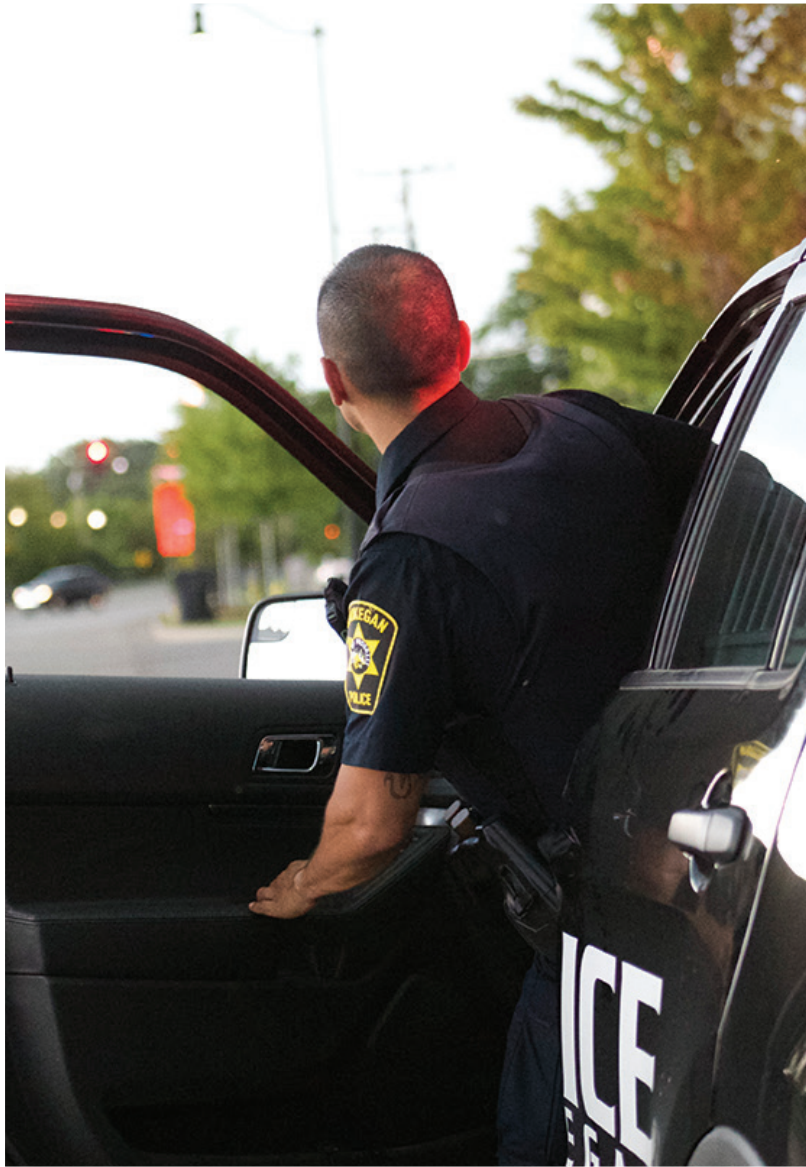


MISSION CRITICAL GEOFENCE

Seamless On-scene Communication

Ensure fast and seamless communication and collaboration across all responders arriving on a scene. Mission Critical Geofence (also referred to as Enhanced Geoselect) automatically changes a radio's active talkgroup based on its GPS location and an agency-defined virtual barrier. For example, an incident commander can create a geofence around the 3-block radius of a burning building so that all arriving first responders are automatically placed in the same talkgroup.

¹Radio Management application simplifies APX radio configuration and management by programming up to 16 radios at one time and tracking which radios have been successfully programmed, providing a clear view of the entire radio fleet and a codeplug history for each radio.



APX 8500 All-Band Mobile Radio



VML750 LTE Vehicle Modem



DATA MODEM CONNECTION

Leverage LTE network

The APX 8500 can easily connect to the VML750 LTE vehicle modem via micro USB interface. The VML750 provides cellular carrier network (4G/3G) access so personnel have the flexibility to instantly offload/update the APX 8500 with radio data software applications such as: GPS, OTAR (over-the-air-rekeying), advanced messaging solution (text message), firmware refreshes, flashport, etc. without voice interruption. Fall back on Integrated Voice and Data (IV&D) when the cellular network is unavailable.



PURPOSE-BUILT DESIGN

Ease of Installation and Removal

Since vehicle space is limited for communication equipment, we designed the APX 8500 to allow for all cables to be wired on one side of the mobile, providing additional flexibility for installation. Agencies can also reuse the existing mounting holes, cables and install space of an APX 7500 mobile for easier access, installation and removal. The mid-power trunking was completely redesigned to provide better engagement into the tray and secure grip. The APX 8500 supports dash, remote, motorcycle, and control station configurations.

APX 8500 ALL-BAND P25 MOBILE RADIO CONTROL HEAD PORTFOLIO



02 RUGGED CONTROL HEAD	03 HAND HELD CONTROL HEAD	05 STANDARD CONTROL HEAD	07 ENHANCED CONTROL HEAD	09 INTEGRATED CONTROL HEAD
Large color display with intelligent lighting	Large color display with intelligent lighting	Tri-color display with intelligent lighting	Large color display with intelligent lighting	Extra-large full color display with intelligent lighting
3 lines of text 14 characters max / 1 line of icons / 1 line of menus	2 lines of text 14 characters max / 1 line of icons / 1 line of menus	2 lines of text 14 characters max / 1 line of icons / 1 line of menus	3 lines of text 14 characters max / 1 line of icons / 1 line of menus	2 lines of text 14 characters max / 1 line of icons / 1 line of menus
Built in 7.5 watt speaker	Integrated full size DTMF keypad	Available with keypad microphone	Available with lighting & siren controls or DTMF keypad	Integrated full size DTMF keypad
Multiple control head configuration (up to 4)	Hand-held control head with intuitive user interface	Multiple control head configuration (up to 4)	Multiple control head configuration (up to 4)	Large programmable one-touch buttons
Motorcycle configuration available	Two quick-access side buttons	Motorcycle configuration available	Configuration available	Dedicated siren controls
Multi-function volume/channel knob	Display contrast selector	Display contrast selector	Multi-function volume/channel knob	Integrated response selector
Night/day mode button			Night/day mode button	Night/day mode button

APX 8500 ALL-BAND P25 MOBILE RADIO SPECIFICATIONS

RF BANDS

700/800 MHz, VHF, UHF Range 1 & UHF Range 2

9600 Baud Digital APCO P25 Phase 1 FDMA
and Phase 2 TDMA Trunking

3600 Baud SmartZone®, Omnilink Trunking

Digital APCO 25, Conventional,
Analog MDC 1200, Quick Call II
System Configurations

Narrow and Wide Bandwidth

Digital Receiver

(6.25 kHz equivalent/25/20/12.5 KHz)¹

STANDARD FEATURES

All-Band Antenna

Up to 3000 Channels

Text Messaging

ASTRO 25 Integrated Voice & Data

Dynamic Zone

Integrated GPS/GLONASS for Outdoor Location
Tracking

Single-key ADP Encryption

Software Key

Radio Profiles

Unified Call List

Expansion Slot Standard

Meets Applicable MIL-specs 810C, D, E, F and G

IP56

Reuse of Most XTL/APX™ Accessories

PROGRAMMING

Utilizes Windows 7, 8 and 10 Customer Programming
Software (CPS) with Radio Management²

OPTIONAL FEATURES

Wi-Fi 802.11 b/g/n

Data Modem Connection

Mission Critical Geofence

12 Character RF ID Asset Tracking

Multi-key for 128 Keys and MultiAlgorithm

Programming Over Project 25 (OTAP)

Over the Air Rekey (OTAR)

Digital Tone Signaling

Siren and Light Interface Module

¹ Per the FCC Narrowbanding rules, new products (APX6000
UHFR1, UHFR2) submitted for FCC certification after January 1,
2011 are restricted from being granted certification at 25KHz for
United States - State & Local Markets only.

² CPS version R12.00.00 and greater ordered after June 2014 will
only support Windows 7 and 8.



APX 8500 ALL-BAND P25 MOBILE RADIO SPECIFICATIONS

SIGNALLING (ASTRO MODE)

Signalling Rate	9.6 kbps
Digital ID Capacity	10,000,000 Conventional / 48,000 Trunking
Digital Network Access Codes	4,096 network site addresses
ASTRO Digital User Group Addresses	4,096 network site addresses
Project 25 – CAI Digital User Group Addresses	65,000 Conventional / 4,094 Trunking
Error Correction Techniques	Golay, BCH, Reed-Solomon codes
Data Access Control	Slotted CSMA: Utilizes infrastructure-sourced data status bits embedded in both voice and data transmissions.

MOBILE APX 8500

	Inches	Millimeters
Mid Power Radio Transceiver	2 x 7 x 8.4	50.8 x 178 x 213
O5 Control Head	2 x 7 x 2.93	50.8 x 178 x 74.4
O2 Control Head	2.7 x 8.1 x 3.8	68.4 x 206.3 x 96.4
O7 Control Head	2 x 7 x 3.2	50.8 x 178 x 81.4
Mid Power Radio Transceiver and O5 Control Head - Dash Mount	2 x 7 x 9.8	50.8 x 178 x 250
Mid Power Radio Transceiver and O2 Control Head - Dash Mount	2.7 x 8.1 x 10.7	68.4 x 206.3 x 270.6
Mid Power Radio Transceiver and O7 Control Head - Dash Mount	2 x 7 x 10.1	50.8 x 178 x 255.5
Mid Power Radio Transceiver and Remote Mount	2.0 x 7 x 9.1	50.8 x 178 x 231.5
	lbs	kg
Mid Power Radio Transceiver and O5 Control Head Weight	6.8 lbs	3.1 kg
Mid Power Radio Transceiver and O2 Control Head Weight	7.23 lbs	3.28 kg
Mid Power Radio Transceiver and O7 Control Head Weight	6.8 lbs	3.1 kg

TRANSMITTER - TYPICAL PERFORMANCE SPECIFICATIONS

	700 MHz		800 MHz		VHF		UHF Range 1		UHF Range 2	
Frequency Range/Bandsplits	764-776, 794-806 MHz 806-825, 851-870 MHz		764-776, 794-806 MHz 806-825, 851-870 MHz		136-174 MHz		380-470 MHz		450-520 MHz	
Channel Spacing	25/20/12.5 kHz		25/20/12.5 kHz		30/25/12.5 kHz		25/20/12.5 kHz		25/20/12.5 kHz	
Maximum Frequency Separation	Full Bandsplit		Full Bandsplit		Full Bandsplit		Full Bandsplit		Full Bandsplit	
Rated RF Output Power Adj ¹	1-30 Watts		1-35 Watts		1-50 Watts		1-40 Watts		1-45 Watts (450-485 MHz) 1-40 Watts (485-512 MHz) 1-25 Watts (512-520 MHz)	
Frequency Stability ¹ (−30°C to +85°C; +25°C Ref.)	±0.8 PPM		±0.8 PPM		±0.8 PPM		±0.8 PPM		±0.8 PPM	
Modulation Limiting ¹	±5 kHz / ±2.5 kHz		±5 kHz/±4 kHz (NPSPAC) /±2.5 kHz		±5 kHz / ±2.5 kHz		±5 kHz / ±2.5 kHz		±5 kHz / ±2.5 kHz	
Modulation Fidelity (C4FM) 12.5kHz Digital Channel	1.10%		1.10%		1.10%		1.10%		1.10%	
Emissions ¹	Conducted −75/−85 dBc	Radiated −20/−40 dBm	Conducted −75 dBc	Radiated −20 dBm	Conducted −85 dBc	Radiated −20 dBm	Conducted −85 dBc	Radiated −20 dBm	Conducted −85 dBc	Radiated −20 dBm
Audio Response ¹	+1, −3 dB (EIA)		+1, −3 dB (EIA)		+1, −3 dB (EIA)		+1, −3 dB (EIA)		+1, −3 dB (EIA)	
FM Hum & Noise ¹	25 kHz 12.5 kHz	50 dB 48 dB	50 dB 48 dB		53 dB 52 dB		53 dB 50 dB		53 dB 50 dB	
Audio Distortion ¹	25 & 20 kHz 12.5 kHz	0.50% 0.50%	0.50% 0.50%		0.50% 0.50%		0.50% 0.50%		0.50% 0.50%	

APX 8500 ALL-BAND P25 MOBILE RADIO

SPECIFICATIONS

RECEIVER – TYPICAL PERFORMANCE SPECIFICATIONS									
	700 MHz		800 MHz	VHF	UHF Range 1		UHF Range 2		
Frequency Range/Bandsplits	764-776 MHz		851-870 MHz	136-174 MHz	380-470 MHz		450-520 MHz		
Channel Spacing	25/20/12.5 kHz		25/20/12.5 kHz	30/25/12.5 kHz	25/20/12.5 kHz		25/20/12.5 kHz		
Maximum Frequency Separation	Full Bandsplit		Full Bandsplit	Full Bandsplit	Full Bandsplit		Full Bandsplit		
Audio Output Power at 3% distortion ¹	7.5 W or 15 W ⁴		7.5 W or 15 W ⁴	7.5 W or 15 W ⁴	7.5 W or 15 W ⁴		7.5 W or 15 W ⁴		
Frequency Stability ¹ (–30°C to +85°C; +25°C Ref.)	±0.8 PPM		±0.8 PPM	±0.8 PPM	±0.8 PPM		±0.8 PPM		
Analog Sensitivity ¹ 12 dB SINAD	-121 dBm		-121 dBm	Pre-Amp -123 dBm	Standard -119 dBm	Pre-Amp -123 dBm	Standard -119 dBm	Pre-Amp -123 dBm	Standard -119 dBm
Digital Sensitivity 5% BER	-121.5 dBm		-121.5 dBm	-123 dBm	-119 dBm	-123 dBm	-119 dBm	-123 dBm	-119 dBm
Intermodulation	25 kHz	85 dB	85 dB	84 dB	86 dB	82 dB	86 dB	82 dB	86 dB
	12.5 kHz	85 dB	85 dB	85 dB	86 dB	83 dB	86 dB	83 dB	86 dB
Spurious Rejection	100 dB		100 dB	90 dB	90 dB		90 dB		
Audio Response ¹	+1, –3 dB (EIA)		+1, –3 dB (EIA)	+1, –3 dB (EIA)	+1, –3 dB (EIA)		+1, –3 dB (EIA)		
Audio Distortion at rated ¹	1.20%		1.20%	1.20%	1.20%		1.20%		
Selectivity ¹	25 kHz	85 dB	85 dB	87 dB	82 dB		82 dB		
	12.5 kHz	72 dB	72 dB	76 dB	76 dB		76 dB		
	30 kHz	—	—	90 dB	—		—		

POWER AND BATTERY DRAIN						
Model Type	136-174 MHz, 380-470 MHz, 450-520 MHz, 764-870 MHz					
Minimum RF Power Output	1-35 Watt (764-870 MHz), 1-50 Watts 10-40W, 1-45Watts (450-485 MHz), 1-40Watts (485-512 MHz), 1-25Watts (512-520 MHz)					
Operation	13.8V DC ±20% Negative Ground					
Standby at 13.8V	1.4A (764-870 MHz), 1.4A (136-174 MHz), 1.4A (380-470 MHz), 1.4A (450-520 MHz)					
Receive Current at Rated Audio at 13.8V	3.2A (764-870 MHz), 3.2A (136-174 MHz), 3.2A (380-470 MHz), 3.2A (450-520 MHz)					
Transmit Current (A) at Rated Power	136-174 MHz (1-50 Watt) 380-470 MHz (1-40 Watt) 450-520 MHz (1-45 Watt)	15A (50W) 15A (40W) 13A (45W)	8A (15W) 8A (15W) 8A (15W)	764-870 MHz (1-35 Watt)	13A (50W)	8A (15W)

GPS SPECIFICATIONS	
Channels	12
Tracking Sensitivity	-164 dBm
Accuracy ²	<5 meters (95%)
Cold Start	<60 seconds (95%)
Hot Start	<5 seconds (95%)
Mode of Operation	Autonomous (Non-Assisted) GNSS or SBAS

APX 8500 ALL-BAND P25 MOBILE RADIO SPECIFICATIONS

MOBILE MILITARY STANDARDS 810 C, D, E, F & G

	MIL-STD 810C		MIL-STD 810D		MIL-STD 810E		MIL-STD 810F		MIL-STD 810G	
	Method	Proc./Cat.	Method	Proc./Cat.	Method	Proc./Cat.	Method	Proc./Cat.	Method	Proc./Cat.
Low Pressure	500.1	I	500.2	II	500.3	II	500.4	II	500.5	II
High Temperature	501.1	I, II	501.2	I/A1, II/A1	501.3	I/A1, II/A1	501.4	I/Hot, II/ Hot	501.5	I/A1, II/A1
Low Temperature	502.1	I	502.2	I/C3, II/C1	502.3	I/C3, II/C1	502.4	I/C3, II/C1	502.5	I/C3, II/C1
Temperature Shock	503.1	1 Proc	503.2	I/A1C3	503.3	I/A1C3	503.4	I	503.5	I/C
Solar Radiation	505.1	II	505.2	I	505.3	I	505.4	I	505.5	I/A1
Rain	506.1	I, II	506.2	I, II	506.3	I, II	506.4	I, III	506.5	I, III
Humidity	507.1	II	507.2	II	507.3	II	507.4	1 Proc	507.5	II/Aggravated
Salt Fog	509.1	1 Proc	509.2	1 Proc	509.3	1 Proc	509.4	1 Proc	509.5	1 Proc
Blowing Dust	510.1	I	510.2	I, II	510.3	I, II	510.4	I, II	510.5	I, II
Vibration	514.2	VIII/F, Curve-W	514.3	I/10, II/3	514.4	I/10, II/3	514.5	I/24	514.6	I/24
Shock	516.2	I, III, V	516.3	I, V, VI	516.4	I, V, VI	516.5	I, V, VI	516.6	I, V, VI

ENCRYPTION

Supported Encryption Algorithms	ADP, AES, DES, DES-XL, DES-OFB, DVP-XL
Encryption Algorithm Capacity	8
Encryption Keys per Radio	Module capable of storing 1024 keys. Programmable for 128 Common Key Reference (CKR) or 16 Physical Identifier (PID)
Encryption Frame Re-sync Interval	P25 CAI 300 mSec
Encryption Keying	Key Loader
Synchronization	XL – Counter Addressing OFB – Output Feedback
Vector Generator	National Institute of Standards and Technology (NIST) approved random number generator
Encryption Type	Digital
Key Storage	Tamper protected volatile or non-volatile memory
Key Erasure	Keyboard command and tamper detection
Standards	FIPS 140-2 Level 3 FIPS 197

ENVIRONMENTAL SPECIFICATIONS

Operating Temperature	-30°C / +60°C
Storage Temperature	-40°C / +85°C
Humidity	Per MIL-STD
ESD	IEC 801-2 KV

FCC/IC TYPE ACCEPTANCE ID

FCC/IC ID	BAND AND POWER LEVEL
FCC ID: AZ492FT7089	764-776 MHz (10-30 Watts)
IC ID: 109U-92FT7089	794-806 MHz (10-30 Watts)
	806-824 MHz (10-35 Watts)
	851-870 MHz (10-35 Watts)
	136-174 MHz (10-50 Watts and 25-110 Watts)
	380-470 MHz (10-40 Watts and 25-110 Watts)
	450-485 MHz (10-45 Watts)
	485-512 MHz (10-40 Watts)
	512-520 MHz (10-25 Watts)

¹ Measured in the analog mode per TIA / EIA 603 single-tone method under nominal conditions

² Measured conductivity with > 6 satellites visible at a nominal -130 dBm signal strength. Specs provided are 95th percentile values.

³ Specs includes performance for the non-GNSS/GNSS bands

⁴ Output power in to 8 and 3.2 Ohm external speakers respectively

Specifications subject to change without notice. All specifications shown are typical.

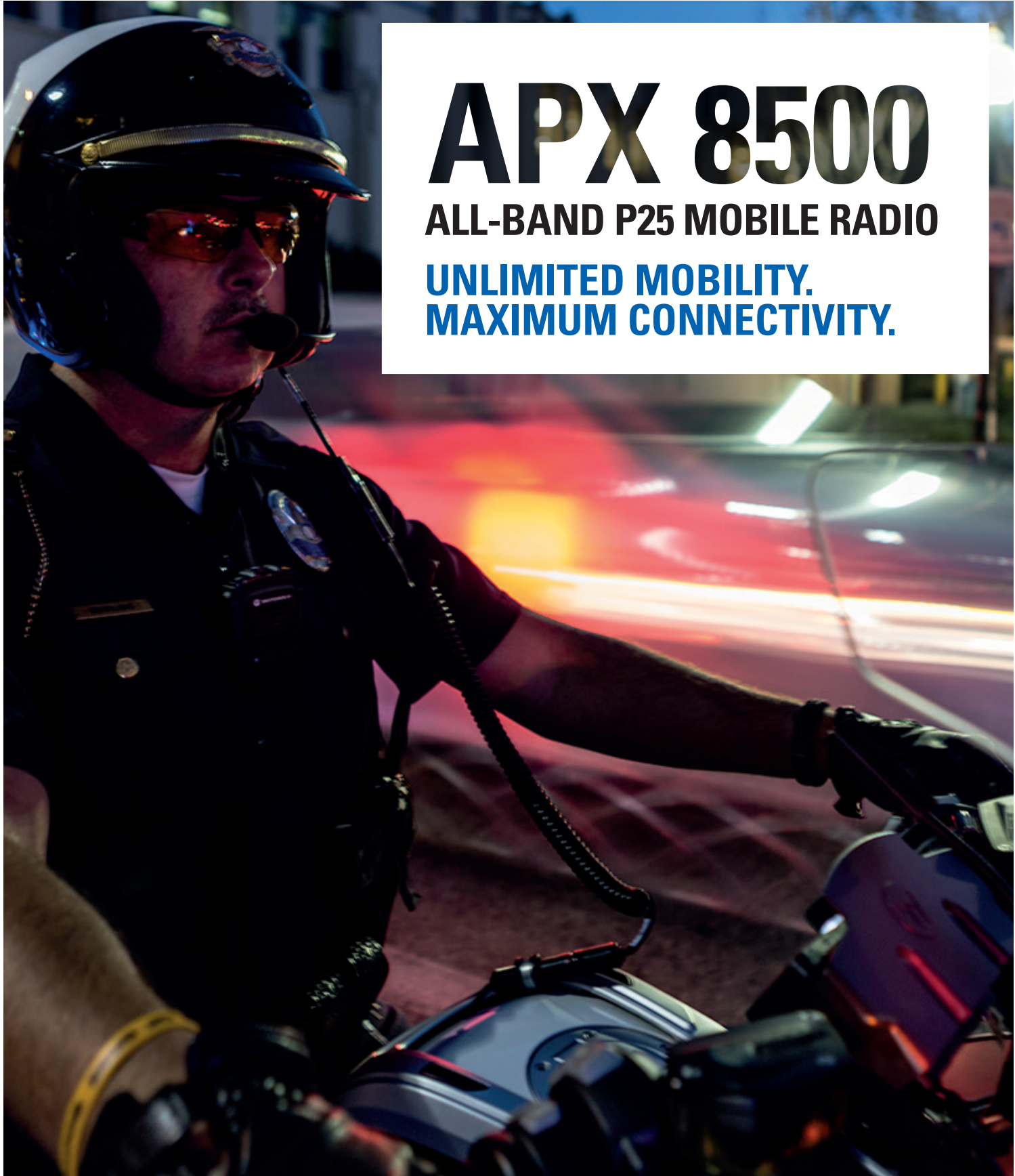
Radio meets applicable regulatory requirements.



APX 8500

UNLIMITED MOBILITY.
MAXIMUM CONNECTIVITY.





APX 8500

ALL-BAND P25 MOBILE RADIO

**UNLIMITED MOBILITY.
MAXIMUM CONNECTIVITY.**

For more information, please visit: www.motorolasolutions.com/APX8500

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APX® ALL-BAND CONSOLETTTE

Racing to an emergency or repairing a power outage, every moment matters as you mount a response. The right control station can make all the difference in making sure communications are clear, continuous and coordinated – across multiple users, agencies and miles.

The APX All-Band Consolette is the ideal complement to your dispatch console. It's the low cost, mid-power wireless control station for an ASTRO® 25 system. You can use it as an emergency backup station when infrastructure is off-line, or for wireless access to different system types for increased interoperability between agencies.

CONNECT WITH CONFIDENCE

Designed around proven APX technology, the Consolette combines forward-thinking technology with time-tested functionality. Project 25 Phase 2 technology delivers twice the voice capacity so you can add more users without adding more frequencies or infrastructure. Talk with confidence to a squad car or desk station, a job site across town or an incident in the next county.

MIGRATE AT YOUR OWN PACE

The APX All-Band Consolette is backwards and forwards compatible, developed to meet current P25 standards and future-ready to support new technology and data applications. Now you can achieve your interoperability objectives—whether upgrading an existing system or designing a new one—based on your dollars and deadlines.

BUILT FOR THE TOUGHEST TASKS

Innovative design and skillful engineering make the APX All-Band Consolette a tireless performer. The robust metal housing assures extra durability, but allows for easy servicing and programming without removing the lid. An integrated front panel numeric keypad gives you fast access to radio controls. And it meets stringent FCC and UL certifications for exceptional safety.

ROBUST AND MISSION-READY

When you lose power, count on the automatic battery revert feature to keep your people connected. All you need is a DC source, such as a marine battery, and the Consolette will switch over automatically to keep communications strong.

Rich in features, the APX All-Band Consolette gives you the largest number of interface connections to a wide variety of consoles and desk sets, and easy access to contact information with one unified call list. What's more, an ACIM wireless interface provides back-up dispatch if your console's link to the ASTRO 25 trunked system is ever lost.

APX ALL-BAND CONSOLETTTE

STANDARD FEATURES

Available in 700/800 MHz, VHF or UHF (R1/R2) bands

Optional multiband operation

2000 Channels

Trunking Standards supported:

- Clear or digitally encrypted ASTRO® 25 Trunked Operation
- Capable of SmartZone®, SmartZone Omnilink, SmartNet®

Analog MDC-1200 and Digital APCO P25

Conventional System Configurations

Narrow and wide bandwidth digital receiver

(6.25 kHz equivalent/12.5 kHz/30 kHz/25 kHz)*

Embedded digital signaling (ASTRO and ASTRO 25)

Integrated Encryption Hardware

Seamless Wideband Scan

Intelligent Priority Scan

Intelligent Lighting

Radio Profiles

Unified Call List

Tone remote control

Tactical Inhibit

Instant Recall

ACIM/CCGW interface including:

- ID decode
- Call alert encode

Interfaces supported:

- Recorder
- Wireline
- Vehicle Interface Port
- Crosspatch
- Headsets (2)**

110/220 VAC operation with battery revert capability

VU Meter and Clock

Expansion Slot Standard

2 configurations available:

- Full featured front panel
- Limited front panel

OPTIONAL FEATURES:

Enhanced Encryption Software Options

Programming over Project 25 (POP25)

Text Messaging

Over the Air Rekeying (OTAR)

Extended Dispatch Operation including:

Emergency Alarm ACK Encode

Radio Inhibit/Uninhibit Encode

Radio Monitor Encode

Radio Check Encode

Status Query Encode

Status Query Response Decode

Status Update Decode

Message Update Decode

* Per the FCC Narrowbanding rules, new products submitted for FCC certification after January 1, 2011 are restricted from being granted certification at 25KHz for United States – State & Local Markets only.

** Available on full featured models only.



05 CONTROL HEAD FEATURES

Tri-color LCD display

- 4 lines: 2 lines text (14 characters), 1 line icons, 1 line soft menu keys
- 3 x 6 keypad microphone accessory with 3 programmable soft keys
- 5 programmable soft key buttons and 5 scroll-through menus with up to 24 programmable soft keys



AUXILIARY DISPLAY FEATURES

LCD display

3 soft menu buttons to activate or control the following Consolette features:

- Clock
- Volume Units Meter (VU)
- Crosspatch Linking
- Auxiliary Controls/VIP Activation
- Over-the-air Audible TX Alert Tones

PRODUCT DATA SHEET
APX® ALL-BAND CONSOLETTTE

SIGNALING (ASTRO MODE)

Signaling Rate	9.6 kbps
Digital ID Capacity	10,000,000 Conventional / 48,000 Trunking
Digital Network Access Codes	4,096 network site addresses
ASTRO Digital User Group Addresses	4,096 network site addresses
Project 25 – CAI Digital User Group Addresses	65,000 Conventional / 4,094 Trunking
Error Correction Techniques	Golay, BCH, Reed-Solomon codes
Data Access Control	Slotted CSMA: Utilizes infrastructure-sourced data status bits embedded in both voice and data transmissions.

DIMENSIONS

W x D x H	Limited Front Panel Configuration 16" x 18" x 4.2" (406 x 457 x 107mm) Full Featured Front Panel Configuration 16" x 18.75" x 4.2" (406 x 476 x 107mm)
Weight	Limited Front Panel Configuration 18.5 lbs (8.4 kg) Full Featured Front Panel Configuration 19.5 lbs (8.9 kg)

TRANSMITTER - TYPICAL PERFORMANCE SPECIFICATIONS

	700 MHz		800 MHz		VHF		UHF Range 1		UHF Range 2	
Frequency Range/Bandsplits	764-776 MHz, 794-806 MHz		806-825 MHz, 851-870 MHz		136-174 MHz		380-470 MHz		450-520 MHz	
Channel Spacing	25/20/12.5 kHz		25/20/12.5 kHz		30/25/12.5 kHz		25/20/12.5 kHz		25/20/12.5 kHz	
Maximum Frequency Separation	Full Bandsplit		Full Bandsplit		Full Bandsplit		Full Bandsplit		Full Bandsplit	
Rated RF Output Power ¹ (Adjustable)	1-30 Watts		1-35 Watts		1-50 Watts		1-40 Watts (380-470 MHz) 1-45 Watts (450-485 MHz) 1-40 Watts (485-512 MHz) 1-25 Watts (512-520 MHz)		1-45 Watts (450-485 MHz) 1-40 Watts (485-512 MHz) 1-25 Watts (512-520 MHz)	
Frequency Stability ¹ (−30°C to +85°C; +25°C Ref.)	±0.8 PPM		±0.8 PPM		±0.8 PPM		±0.8 PPM		±0.8 PPM	
Modulation Limiting ¹	±5/±2.5 kHz		±5/±4 kHz (NPSPEC) /±2.5 kHz		±5/±2.5 kHz		±5/±2.5 kHz		±5/±2.5 kHz	
Modulation Fidelity (C4FM) 12.5kHz Digital Channel	1.10%		1.10%		1.10%		1.10%		1.10%	
Emissions ¹	Conducted −75/−85 dBc	Radiated −20/−40 dBm	Conducted −75 dBc	Radiated −20 dBm	Conducted −85 dBc	Radiated −20 dBm	Conducted −85 dBc	Radiated −20 dBm	Conducted −85 dBc	Radiated −20 dBm
Audio Response ¹	+1, −3 dB (EIA)		+1, −3 dB (EIA)		+1, −3 dB (EIA)		+1, −3 dB (EIA)		+1, −3 dB (EIA)	
FM Hum & Noise ¹	25 kHz 12.5 kHz	50 dB 48 dB	50 dB 48 dB		53 dB 52 dB		53 dB 50 dB		53 dB 50 dB	
Audio Distortion ¹	20 & 25 kHz 12.5 kHz	0.50 % 0.50 %	0.50 % 0.50 %		0.50 % 0.50 %		0.50 % 0.50 %		0.50 % 0.50 %	

RECEIVER – TYPICAL PERFORMANCE SPECIFICATIONS

	700 MHz	800 MHz	VHF	UHF Range 1	UHF Range 2
Frequency Range/Bandsplits	764-776 MHz	851-870 MHz	136-174 MHz	380-470 MHz	450-520 MHz
Channel Spacing	25/20/12.5 kHz	25/20/12.5 kHz	30/25/12.5 kHz	25/20/12.5 kHz	25/20/12.5 kHz
Maximum Frequency Separation	Full Bandsplit	Full Bandsplit	Full Bandsplit	Full Bandsplit	Full Bandsplit
Audio Output Power (Speaker) at 3% distortion	2.5 W (20 Ω internal) 7.5 W (7.5 Ω) 15 W (2.3 Ω)	2.5 W (20 Ω internal) 7.5 W (7.5 Ω) 15 W (2.3 Ω)	2.5 W (20 Ω internal) 7.5 W (7.5 Ω) 15 W (2.3 Ω)	2.5 W (20 Ω internal) 7.5 W (7.5 Ω) 15 W (2.3 Ω)	2.5 W (20 Ω internal) 7.5 W (7.5 Ω) 15 W (2.3 Ω)
Frequency Stability ¹ (-30°C to +85°C; +25°C Ref.)	±0.8 PPM	±0.8 PPM	±0.8 PPM	±0.8 PPM	±0.8 PPM
Analog Sensitivity ¹	12 dB SINAD	-121 dBm	-120 dBm	-121 dBm	-121.5 dBm
Digital Sensitivity	5% BER	-121.5 dBm	-120 dBm	-121.5 dBm	-123 dBm
Intermodulation	25 kHz 12.5 kHz	85 dB 85 dB	85 dB 85 dB	84 dB 85 dB	86 dB 86 dB
Spurious Rejection	100 dB	100 dB	90 dB	90 dB	90 dB
Audio Response ¹	+1, -3 dB (EIA)	+1, -3 dB (EIA)	+1, -3 dB (EIA)	+1, -3 dB (EIA)	+1, -3 dB (EIA)
Audio Distortion at rated ¹	1.20 %	1.20 %	1.20 %	1.20 %	1.20 %
Selectivity ¹	25 kHz 12.5 kHz 30 kHz	82.5 dB 72 dB —	82.5 dB 72 dB —	87 dB 76 dB 90 dB	82 dB 76dB —

PRODUCT DATA SHEET
APX® ALL-BAND CONSOLETTTE

POWER AND BATTERY DRAIN

Model Type	136-174 MHz, 380-470 MHz, 450-520 MHz, 764-870 MHz					
Minimum RF Power Output	1-35W (764-870 MHz), 1-50W (136-174MHz), 1-40W (380-470 MHz), 1-45W (450-485 MHz), 1-40W (485-512 MHz), 1-25 (512-520 MHz)					
AC Operation	110 to 220VAC 50-60Hz					
AC Current	110VAC: 0.85A (Idle/Rx) 1.7A (Tx) 220VAC: 0.42A (Idle/Rx) 0.85A (Tx)					
AC Surge Spec	EN6100-4-5 Level 5					
DC Operation	13.8V DC ±20% Negative Ground					
Standby at 13.8V	1.4A (764-870 MHz), 1.4A (136-174 MHz), 1.4A (380-470 MHz), 1.4A (450-520 MHz)					
Receive Current at Rated Audio at 13.8V	3.2A (764-870 MHz), 3.2A (136-174 MHz), 3.2A (380-470 MHz), 3.2A (450-520 MHz)					
Transmit Current (A) at Rated Power	136-174 MHz (1-50 W) 380-470 MHz (1-40 W) 450-520 MHz (1-45 W)	15A (50W) 15A (40W) 13A (45W)	8A (15W) 8A (15W) 8A (15W)	764-870 MHz (1-35 Watt)	13A (50W)	8A (15W)

¹ Measured in the analog mode per TIA/EIA 603 under nominal conditions

Specifications subject to change without notice. All specifications shown are typical.

Radio meets applicable regulatory requirements.

The All Band Consolette is J/F 12 11207 and SPS 22237 certified.

ENCRYPTION

Supported Encryption Algorithms	ADP, AES, DES, DES-XL, DES-OFB, DVP-XL
Encryption Algorithm Capacity	8
Encryption Keys per Radio	Module capable of storing 1024 keys. Programmable for 128 Common Key Reference (CKR) or 16 Physical Identifier (PID)
Encryption Frame Re-sync Interval	P25 CAI 300 mSec
Encryption Keying	Key Loader
Synchronization	XL – Counter Addressing OFB – Output Feedback
Vector Generator	National Institute of Standards and Technology (NIST) approved random number generator
Encryption Type	Digital
Key Storage	Tamper protected volatile or non-volatile memory
Key Erasure	Keyboard command and tamper detection
Standards	FIPS 140-2 Level 3 FIPS 197

ENVIRONMENTAL SPECIFICATIONS

Operating Temperature	-30°C / +60°C
Storage Temperature	-40°C / +85°C
Humidity	95% relative humidity
ESD	IEC 61000-4-2
Duty Cycle	EIA/TIA Intermittent Duty Cycle

FCC/IC TYPE ACCEPTANCE ID

FCC/IC ID	BAND AND POWER LEVEL
FCC ID: AZ492FT7089	764-776 MHz (10-30 W)
IC ID: 109U-92FT7089	794-806 MHz (10-30 W)
	806-824 MHz (10-35 W)
	851-870 MHz (10-35 W)
	136-174 MHz (10-50 W and 25-110 W)
	380-470 MHz (10-40 W and 25-110 W)
	450-485 MHz (10-45 W)
	485-512 MHz (10-40 W)
	512-520 MHz (10-25 W)

For more information, visit motorolasolutions.com/apx



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QUOTE # DWS0404-101821-001 V8

Seaside Police Department
ATTN: Dep Chief Nick Borges
APX8000 Portable and APX8500 Mobile Radios

10/18/2021

COST AND EQUIPMENT REQUIREMENTS

ITEM	QTY	Nom.	DESCRIPTION	NUP	Monterey County Qty Incentive (28%)	Additional Incentive for purchase by 9-15-21	EXTD.
APX8000 ALL BAND (VHF & 700/800 Enabled) P25 Trunked Portable							
1	48	H91TGD9PW6 N	APX 8000 ALL BAND PORTABLE MODEL 2.5	\$6,462.00	\$4,652.64	\$4,406.01	\$211,488.48
a	48	Q806	ADD: CAI DIGITAL OPERATION	\$515.00	\$370.80	\$352.26	\$16,908.48
b	48	H38	ADD: SMARTZONE OPERATION	\$1,500.00	\$1,080.00	\$1,026.00	\$49,248.00
c	48	Q361	ADD: P25 9600 BAUD TRUNKING	\$300.00	\$216.00	\$205.20	\$9,849.60
d	48	G996	ADD: PROGRAMMING OVER P25 (OTAP)	\$100.00	\$72.00	\$68.40	\$3,283.20
e	48	Q629	ENH: AES ENCRYPTION	\$475.00	\$342.00	\$324.90	\$15,595.20
f	48	H869	ADD: MULTI KEY	\$330.00	\$237.60	\$225.72	\$10,834.56
g	48	Q887AY	ADD: 5 YEAR ESSENTIAL SERVICE	\$224.00	\$224.00	\$224.00	\$10,752.00
h	48	QA05509	DEL: DELETE UHF BAND	(\$800.00)	(\$800.00)	(\$800.00)	-\$38,400.00
I	48	QA00580	ADD: TDMA OPERATION	\$450.00	\$324.00	\$307.80	\$14,774.40
j	48	Q387	ADD: MULTICAST VOTING SCAN	\$200.00	\$144.00	\$136.80	\$6,566.40
k	48	QA09001	ADD: WIFI CAPABILITY	\$300.00	\$216.00	\$205.20	\$9,849.60
l	48	QA09007	ADD: OUT OF THE BOX WIFI PROVISIONING	\$0.00	\$0.00	\$0.00	\$0.00
RADIO ACCESSORIES							
2	48	PMLN7904A	LEATHER CARRY CASE WITH SWIVEL	\$79.00	\$56.88	\$54.04	\$2,593.73
3	16	NNTN8860A	CHARGER, SINGLE-UNIT, IMPRES 2, 3A, 115VAC, US/NA	\$157.00	\$113.04	\$107.39	\$1,718.21
4	8	NNTN8844A	CHARGER, MULTI-UNIT, IMPRES 2, 3A, 115VAC, US/NA 6 SLOT	\$1,315.00	\$946.80	\$899.46	\$7,195.68
5	48	PMMN4099B	IP68 REMOTE SPEAKER MICROPHONE, 3.5MM, UL	\$145.00	\$104.40	\$99.18	\$4,760.64
6	48	RLN4941	RECEIVE ONLY SURV KIT	\$71.07	\$51.17	\$48.61	\$2,333.37
7	48	PMNN4486	BATT IMPRES 2 LIION R IP68 3400T	\$163.00	\$117.36	\$111.49	\$5,351.62
APX ALL BAND CONSOLETTTE for VHF and 700/800MHz Encrypted Operation							
8	1	L37TSS9PW1	APX ALL BAND CONSOLETTTE	\$8,683.00	\$6,251.76	\$5,939.17	\$5,939.17
a	1	G806	ENH: ASTRO DIGITAL CAI OP APEX	\$515.00	\$370.80	\$352.26	\$352.26
b	1	G51	ENH: SMARTZONE OPERATION APX	\$1,500.00	\$1,080.00	\$1,026.00	\$1,026.00
c	1	G361	ADD: P25 TRUNKING SOFTWARE	\$300.00	\$216.00	\$205.20	\$205.20
d	1	GA05509	DEL: DELETE UHF BAND	\$800.00	(\$800.00)	(\$800.00)	-\$800.00
e	1	GA00580	ADD: TDMA OPERATION	\$450.00	\$324.00	\$307.80	\$307.80
f	1	L999	ADD: FULL FP W/E5/KEYPAD/CLOCK/VU	\$789.00	\$568.08	\$539.68	\$539.68
g	1	GA00318	ADD: 5 YR ESSENTIAL SERVICES	\$335.00	\$335.00	\$335.00	\$335.00
h	1	CA01598	ADD: AC LINE CORD US	\$0.00	\$0.00	\$0.00	\$0.00
i	1	G996	ENH: OVER THE AIR PROVISIONING	\$100.00	\$72.00	\$68.40	\$68.40
j	1	G843	ADD: AES ENCRYPTION APX	\$475.00	\$342.00	\$324.90	\$324.90
k	1	W969	ADD: MULTI KEY CAPABILITY	\$330.00	\$237.60	\$225.72	\$225.72
l	1	W382	ADD: CONTROL STATION DESK GCAI MIC	\$169.00	\$121.68	\$115.60	\$115.60
m	1	GA09001	ADD: WIFI CAPABILITY	\$300.00	\$216.00	\$205.20	\$205.20
n	1	GA09007	ADD: OUT OF THE BOX WIFI PROVISIONING	\$0.00	\$0.00	\$0.00	\$0.00
o	1	G387	ADD: MULTICAST VOTESCAN	\$200.00	\$144.00	\$136.80	\$136.80
9	1	HKN6233C	ADD: RACK MOUNT KIT	\$200.00	\$144.00	\$136.80	\$136.80
MCD5000 Deskset with Radio Gateway Units							
10	7	F2380	MCD 5000 DESKSET	\$1,800.00	\$1,296.00	\$1,231.20	\$8,618.40
11	1	HKVN4865	LICENSE, CD, MCD 5000 DOCUMENTATION	\$0.00	\$0.00	\$0.00	\$0.00
12	1	F7879B	MCD 5000 DESKSET RADIO GATEWAY UNIT (RGU)	\$1,800.00	\$1,296.00	\$1,231.20	\$1,231.20
13	1	HKVN4861	MCD 5000 DESKSET SYSTEM CONFIG TOOL - SYS	\$250.00	\$180.00	\$171.00	\$171.00
14	9	FKN8695	ETHERNET CABLE 10' WITH RED & BLACK LABE	\$47.00	\$33.84	\$32.15	\$289.33
15	8	FHN7469AS	MCD 5000 DESKSET / RGU POWER SUPPLY WITH	\$100.00	\$72.00	\$68.40	\$547.20

APX8500 ALL BAND P25 TRUNKED MOBILE RADIO (VHF & 700/800)SINGLE HEAD CONFIG Remote Mount							
16	2	M37TSS9PW1 N	APX8500 ALL BAND MP MOBILE	\$5,152.00	\$3,709.44	\$3,523.97	\$7,047.94
a	2	G806	ENH: ASTRO DIGITAL CAI OP APEX	\$515.00	\$370.80	\$352.26	\$704.52
b	2	G51	ENH: SMARTZONE OPERATION APX	\$1,500.00	\$1,080.00	\$1,026.00	\$2,052.00
c	2	G361	ADD: P25 TRUNKING SOFTWARE	\$300.00	\$216.00	\$205.20	\$410.40
d	2	GA01670	ADD: E5 CONTROL HEAD	\$572.00	\$411.84	\$391.25	\$782.50
e	2	G444	ADD: APX CONTROL HEAD SOFTWARE	\$0.00	\$0.00	\$0.00	\$0.00
f	2	G67	ADD: REMOTE MOUNT MID POWER	\$297.00	\$213.84	\$203.15	\$406.30
g	2	W22	ADD: STD PALM MICROPHONE APEX	\$72.00	\$51.84	\$49.25	\$98.50
h	2	B18	ADD: AUXILARY SPKR 7.5 WATT	\$60.00	\$43.20	\$41.04	\$82.08
I	2	GA00318	ADD: 5 YEAR ESSENTIAL SERVICE	\$352.00	\$352.00	\$352.00	\$704.00
j	2	G996	ENH: OVER THE AIR PROVISIONING	\$100.00	\$72.00	\$68.40	\$136.80
k	2	G843	ADD: AES ENCRYPTION APX	\$475.00	\$342.00	\$324.90	\$649.80
l	2	W969	ADD: MULTIKEY ENCRYPTION	\$330.00	\$237.60	\$225.72	\$451.44
m	2	GA01517	NO J600 ADAPTER NEEDED	\$0.00	\$0.00	\$0.00	\$0.00
n	2	GA05509	DEL: DELETE UHF BAND	(\$800.00)	(\$800.00)	(\$800.00)	-\$1,600.00
o	2	GA01513	ADD: ALL BAND MOBILE ANTENNA (7/8/V/U)	\$95.00	\$68.40	\$64.98	\$129.96
p	2	GA00250	ADD: GPS/WIFI ANTENNA	\$100.00	\$72.00	\$68.40	\$136.80
q	2	G387	ADD: MULITCAST VOTING SCAN	\$200.00	\$144.00	\$136.80	\$273.60
r	2	GA00580	ADD: TDMA OPERATION	\$450.00	\$324.00	\$307.80	\$615.60
s	2	GA09001	ADD: WI-FI CAPABILITY	\$300.00	\$216.00	\$205.20	\$410.40
t	2	GA09007	ADD: OUT OF THE BOX WI-FI PROVISIONING	\$0.00	\$0.00	\$0.00	\$0.00

FLASH UPGRADE TO ADD WIFI TO 3 EXISTING APX MOBILES

21	1	T8426	TDMA	\$0.00	\$0.00	\$0.00	\$0.00
a	3	GA09001AB	ADD: WI-FI CAPABILITY	\$345.00	\$276.00	\$262.20	\$786.60
22	3	AN000163A01	WIFI/GPS ANTENNA KIT	\$240.00	\$172.80	\$164.16	\$492.48

ENCRYPTION KEYLOADER- NO CABLES

23	1	T8476B	KVL5000 KEYLOADER	\$6,000.00	\$4,320.00	\$4,104.00	\$4,104.00
a	1	CA00182AW	ADD: AES ENCRYPTION SOFTWARE	\$0.00	\$0.00	\$0.00	\$0.00
b	1	CA03358AW	ADD: ASTRO 25 MODE	\$0.00	\$0.00	\$0.00	\$0.00
c	1	DQUUSBOTG	STARTECH.COM 5IN MICRO USB TO USB OTG HC	\$13.00	\$9.36	\$8.89	\$8.89
24	1	TKN8531C	APX Encryption Cable-Mobiles	\$259.53	\$186.86	\$177.52	\$177.52
25	1	HKN6182	APX encryption cable Adapter	\$163.00	\$117.36	\$111.49	\$111.49
26	1	WPLN6904A	APX Portable Keyload cable	\$110.00	\$79.20	\$75.24	\$75.24

27	1	HKVN4621	APX CPS Software-3 year subscription Mobile and Port	\$299.00	\$299.00	\$299.00	\$299.00
28	1	TRAINING	ONLINE CPS TRAINING CLASS FOR 2 PEOPLE	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00
29	1	DISCOUNT	AES AND MULTIKEY DISCOUNT Discount Valid until 12-15-21	\$19,666.62	(\$19,666.62)	-\$19,666.62	-\$19,666.62

Subtotal	\$366,060.04
Sales Tax 9.25%	\$33,860.55
Freight	\$0.00
Installation Services	
Total	\$399,920.60

Motorola is providing this quotation for budgetary [informational] purposes only and it does not constitute an offer for sale.
If you wish to purchase the quoted products, Motorola will be pleased to provide you with our standard terms and conditions of sale
or alternatively, receive your purchase order, which will be acknowledged with a letter enclosing the Motorola standard terms and conditions.

Programming and Installation
TERMS: No Installation or Programming is included. A separate quote can be issued if desired
VALIDITY: Net 30 days from shipment
SHIPPING: Price valid for 60 days
Prepay & Add, FOB Ship Point *

PHONE: 408-640-9861
ADDRESS: 4728 E. 2nd St. Suite 10 Benicia CA 94510

sent via email
jtrevino@daywireless.com
 Jim Trevino
 10/18/2021
Email
QUOTED BY
DATE:



CITY OF SEASIDE STAFF REPORT

Item No.: 8.D.

TO: City Council

FROM: Roberta Greathouse, Acting City Manager

BY: Nisha Patel, Public Works Director/City Engineer
Leslie Llantero, Assistant Engineer

DATE: November 18, 2021

SUBJECT: **ADOPT A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE LAGUNA GRANDE PARK IMPROVEMENTS PROJECT, INCLUDING ALL INCLUSIVE PLAYGROUND EQUIPMENT, APPROPRIATING \$55,100.00 FROM THE GENERAL FUND TO THE PROJECT, AND AWARDING A CONSTRUCTION CONTRACT TO MONTEREY PENINSULA ENGINEERING FOR AN AMOUNT NOT TO EXCEED \$134,435.00 AND TOTAL PROJECT CONSTRUCTION COST INCLUDING CONTINGENCY OF \$154,600.00**

RECOMMENDATION

Adopt a resolution approving the plans and specifications for the Laguna Grande Park Improvements Project; appropriating \$55,100.00 from the General Fund to the project budget; awarding a construction agreement to Monterey Peninsula Engineering for an amount not to exceed \$134,435.00; establishing a 15% construction contingency for a total project construction amount not to exceed \$154,600.00; and authorizing the City Manager to execute the construction agreement, and approve any amendments, extensions, and change orders until completion of the project in accordance with the plans and specifications up to the total project construction amount.

BACKGROUND

Laguna Grande Park is located at 1249 Canyon Del Rey Boulevard. The Laguna Grande Improvements Project (Project) will install inclusive play equipment and rubber safety surface adjacent to the existing playground, replace existing asphalt pathway with concrete from the accessible parking space to the playground entrance, install a new drinking fountain, and relocate existing benches.

The design was complete and the Project was released for construction bids on September 30, 2021. Bids were opened on October 28, 2021. Identified in the table below are the seven bids received:

Contractors	Bid
Kraemer Engineering	\$109,853.38
Don Chapin	\$128,110.00
Monterey Peninsula Engineering	\$134,435.00
Top Tier	\$142,142.00
Innovate Concrete	\$155,535.00
G&G Builders	\$198,801.90
Jacob Construction	\$207,009.00

Kraemer Engineering was the apparent low bidder. After evaluation of the bids and required documents submitted, it was determined that Kraemer Engineering and Don Chapin did not submit the required documents and therefore rejected their bid as non-responsive (Document 00 2113 Section 3.02A), summary of bids and notes are attached as Attachment 5. Only bidders who the owner otherwise determines are responsive and responsible are eligible to protest a bid; protests from any other party will not be considered (Document 00 2113 Section 4.01E). If the Apparent Low Bidder is determined to be non-responsive or non-responsible, then the owner may proceed to the next Apparent Low Bidder's Bid (Document 00 2113 Section 3.01C. Monterey Peninsula Engineering was the lowest responsive and responsible bidder, with a bid of \$134,435.00. Monterey Peninsula Engineering has satisfactorily constructed similar work projects to Laguna Grande Park Improvements for the City. Staff recommends a construction contract for this project be awarded to Monterey Peninsula Engineering.

ENVIRONMENTAL COMPLIANCE

Pursuant to a preliminary review of the activities associated with this project construction in accordance with Section 15061 of the California Environmental Quality Act (CEQA) Guidelines, this project is Categorically Exempt (Class 1, Existing Facilities). The project repairs and performs minor upgrades to the existing park and involves negligible or no expansion of use. A Notice of Exemption was filed with the County of Monterey on May 26, 2021.

FISCAL IMPACT

The proposed construction agreement with Monterey Peninsula Engineering is a not to exceed amount of \$134,435.00. A construction contingency of 15%, or \$20,165.00, is appropriate for a project of this scope of work.

The adopted fiscal year 2021/2022 budget for the Laguna Grande Park Improvements

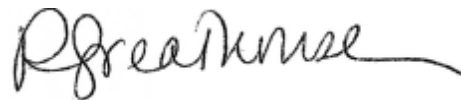
Project is \$120,000.00 (Account No. 342-8910-9569). The project requires materials testing and design support during construction. Based upon the services necessary for the project and the construction contingencies, an additional amount of \$55,100.00 from the General Fund is needed to complete the project, resulting in a revised project budget of \$175,100.00.

Staff recommends adopting a resolution (Attachment 1) approving the plans and specifications (Attachment 3 and 4) for Laguna Grande Park Improvement Project; awarding a construction agreement (Attachment 2) to Monterey Peninsula Engineering for an amount not to exceed \$134,435.00; establishing a 15% construction contingency for a total project construction amount not to exceed of \$154,600.00; authorizing the City Manager to execute the agreement, and approve any amendments, extensions, and change orders until completion of the project in accordance with the plans and specifications up to the total project construction amount; and appropriating \$55,100.00 from the General Fund and amending the fiscal year 2021/22 budget for Laguna Grande Park Improvements Project.

ATTACHMENTS

1. Resolution
2. Construction Agreement
3. Plans
4. Specifications
5. Bid Summary
6. Budget Amendments FY22 as of 11.18.21

Reviewed for Submission to the City Council by:



Roberta Greathouse, Acting City Manager

RESOLUTION NO. 21-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

APPROVING THE PLANS AND SPECIFICATIONS FOR THE LAGUNA GRANDE PARK IMPROVEMENTS PROJECT, APPROPRIATING \$55,100.00 FROM THE GENERAL FUND TO THE PROJECT, AND AWARDING A CONSTRUCTION AGREEMENT TO MONTEREY PENINSULA ENGINEERING FOR AN AMOUNT NOT TO EXCEED \$134,435.00 AND TOTAL PROJECT CONSTRUCTION COST INCLUDING A 15% CONTINGENCY OF \$154,600.00.

WHEREAS, the Laguna Grande Park Improvements Project (Project) is an approved City Capital Improvement Project identified in the fiscal year 2021-2022 annual budget; and

WHEREAS, Whitson Engineers completed design of the project in September 2021; and

WHEREAS, the proposed improvements include the demolition of concrete curb, concrete pavement, and asphalt walks; clearing and grubbing; excavation of turf for the installation of a new inclusive play equipment, rubber safety surface play area, and site furnishings; relocation of a bench; installation of a drinking fountain, walkways, pavement, and curbs; and replacement of detectable warning surface on a curb ramp; and

WHEREAS, on September 30, 2021 the project was released for construction bids, and on October 28, 2021 seven bids were received; and

WHEREAS, Monterey Peninsula Engineering was determined to be the lowest responsive and responsible bidder in the amount of \$134,435.00; and

WHEREAS, an amount of \$20,165.00 contingency, approximately 15% of the contract value, should be authorized on an as required basis; and

WHEREAS, Monterey Peninsula Engineering has successfully completed similar park projects for the City; and

WHEREAS, the City has determined that the project budget (Account No. 342-8920-9569) including construction contingency, material testing and design support during construction, is \$175,100.00 requiring an additional \$55,100.00 to complete the project; and

WHEREAS, there is sufficient General Fund balance to fund the additional budget request; and

WHEREAS, the project is categorically exempt per Article 19, section 15301 and 15304 of CEQA. A Notice of Exemption was filed with the County on May 26, 2021.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Seaside approves the plans and specifications for the Laguna Grande Park Improvements Project dated September 30, 2021; and

BE IT FURTHER RESOLVED, that the City Council of the City of Seaside approves a fiscal year 2021/2022 budget appropriation in the amount of \$55,100.00 from the General Fund to the Laguna Grande Improvements Project (342-8910-9569), such that the revised Project budget is \$175,100.00, and directs the Finance Director to make appropriate budget adjustments; and

BE IT FURTHER RESOLVED that the City of Seaside City Council authorizes the City Manager to execute a construction agreement with Monterey Peninsula Engineering for an amount not to exceed \$134,435.00; and

BE IT FURTHER RESOLVED that the City Council of the City of Seaside authorizes the City Manager to execute up to an additional 15% contingency for written amendments, extensions, and change orders to the construction agreement outlined above such that the full value may not exceed \$154,600.00.

PASSED AND ADOPTED at a regular City Council meeting of the City of Seaside duly held on the 18th day of November, 2021 by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

Ian N. Oglesby, Mayor

ATTEST:

Dominique L. Davis, City Clerk

DOCUMENT 00 5200

AGREEMENT

THIS AGREEMENT, dated this ____ day of _____, 20_____, by and between **Monterey Peninsula Engineering** whose place of business is located at **192 Healy Avenue, Marina CA 93933** ("Contractor"), and the City of Seaside ("Owner"), acting under and by virtue of the authority vested in Owner by the laws of the State of California.

WHEREAS, Owner, by its Resolution No. _____ adopted on the **18th day of November 2021**, awarded to Contractor the following Contract:

PROJECT NUMBER
342-8910-9569

Laguna Grande Park Improvements
located at
Canyon Del Rey Boulevard at Hilby Avenue, Seaside, California, 93955

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

ARTICLE 1 - SCOPE OF WORK OF THE CONTRACT

1.01 Work of the Contract

- A. Contractor shall complete all Work specified in the Contract Documents, in accordance with the Specifications, Drawings, and all other terms and conditions of the Contract Documents (Work).

1.02 Price for Completion of the Work

- A. Owner shall pay Contractor the following Contract Sum One Hundred Thirty Four Thousand Four Hundred Thirty Five Dollars (\$134,435.00) for completion of Work in accordance with Contract Documents as set forth in Contractor's Bid, attached hereto.

ARTICLE 2 - COMMENCEMENT AND COMPLETION OF WORK

2.01 Commencement of Work

- A. Contractor shall commence Work on the date established in the Notice to Proceed.
- B. Owner reserves the right to modify or alter the Commencement Date.

2.02 Completion of Work

- A. Contractor shall achieve Substantial Completion of the entire Work within **30 Working** Days from the Commencement Date and **15 Working** Days following substantial completion to achieve Final Completion.

ARTICLE 3 - PROJECT REPRESENTATIVES

3.01 Owner's Project Manager

- A. Owner has designated Leslie Llantero as its Project Manager to act as Owner's Representative in all matters relating to the Project.
- B. City Manager shall have final authority over all matters pertaining to the Contract Documents and shall have sole authority to modify the Contract Documents on behalf of Owner, to accept work, and to make decisions or actions binding on Owner, and shall have sole signature authority on behalf of Owner.
- C. Owner may assign all or part of the Project Manager's rights, responsibilities and duties to a Construction Manager, or other Owner Representative.

3.02 Architect/Engineer

- A. **Whitson Engineers** furnished the Plans and Specifications and shall have the rights assigned to Architect/Engineer in the Contract Documents.

ARTICLE 4 - LIQUIDATED DAMAGES FOR DELAY IN COMPLETION OF WORK

4.01 Liquidated Damage Amounts

- A. As liquidated damages for delay Contractor shall pay Owner **Three Hundred Dollars (\$300)** for each Day that expires after the time specified herein for Contractor to achieve Substantial Completion of the entire Work, until achieved.
- B. As liquidated damages for delay Contractor shall pay Owner **Three Hundred Dollars (\$300)** for each Day that expires after the time specified herein for Contractor to achieve Final Completion of the entire Work, until achieved.

4.02 Scope of Liquidated Damages

- A. Measures of liquidated damages shall apply cumulatively.
- B. Limitations and stipulations regarding liquidated damages are set forth in Document 00 7200 (General Conditions).

ARTICLE 5 - CONTRACT DOCUMENTS

- 5.01 Contract Documents consist of the following documents, including all changes, Addenda, and Modifications thereto:

Document 00 0115	List of Drawings
Document 00 3132	Geotechnical & Existing Conditions
Document 00 5200	Agreement
Document 00 5500	Notice to Proceed
Document 00 6113.13	Construction Performance Bond
Document 00 6113.16	Construction Labor and Material Payment Bond
Document 00 6290	Escrow Agreement for Security Deposits
Document 00 6325	Substitution Request Form
Document 00 6530	Release of Claims
Document 00 6536	Guaranty
Document 00 7200	General Conditions
Document 00 7316	Supplementary Conditions – Insurance & Indemnification
Document 00 9113	Addenda
Document 01 1100 through 01 7700	General Requirements
Document 01 7123	General Requirements – Field Engineering
Document 11 6817 through 32 1314	Technical Specifications

- 5.02 There are no Contract Documents other than those listed above. The Contract Documents may only be amended, modified or supplemented as provided in Document 00 7200 (General Conditions).

ARTICLE 6 - MISCELLANEOUS

- 6.01 Terms and abbreviations used in this Agreement are defined in Document 00 7200 (General Conditions) and Section 01 4200 (References and Definitions) and will have the meaning indicated therein.
- 6.02 It is understood and agreed that in no instance are the persons signing this Agreement for or on behalf of Owner or acting as an employee, agent, or representative of Owner, liable on this Agreement or any of the Contract Documents, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of Owner is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.

- 6.03** In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, Contractor or Subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. §15) or under the Cartwright Act (Chapter 2 (commencing with §16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time Owner tenders final payment to Contractor, without further acknowledgment by the parties.
- 6.04** Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Documents and on file at Owner's Office, and shall be made available to any interested party on request. Pursuant to California Labor Code §§ 1860 and 1861, in accordance with the provisions of Section 3700 of the Labor Code, every contractor will be required to secure the payment of compensation to his/her employees. Contractor represents that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor shall comply with such provisions before commencing the performance of the Work of the Contract Documents.
- 6.05** During the term of this Agreement, Contractor warrants that it is currently registered with the Department of Industrial Relations and qualified to perform public work consistent with Labor Code section 1725.5. Contractor further warrants that any subcontractors who are subject to Public Contract code section 4104, are registered and qualified to perform public work consistent with Labor Code section 1725.5.
- 6.06** This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- 6.07** This Agreement and the Contract Documents shall be deemed to have been entered into in the County of Monterey, State of California, and governed in all respects by California law (excluding choice of law rules). The exclusive venue for all disputes or litigation hereunder shall be in the Superior Court for the County of Monterey. IN WITNESS WHEREOF the parties have executed this Agreement in quadruplicate the day and year first above written.

CONTRACTOR: [CONTRACTOR'S NAME]

OWNER: The City of Seaside

By: _____
(Signature)

By: _____
(Signature)

(Print Name)

Roberta Greathouse
(Print Name)

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

Acting City Manager
(Title)

Attest: _____
City Clerk Signature

Dominique L. Davis
(Print Name)

END OF DOCUMENT

DOCUMENT 00 4113

BID FORM

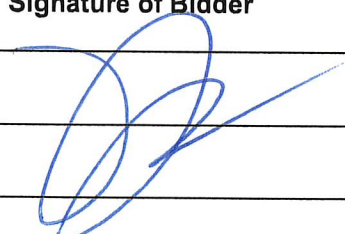
TO CITY OF SEASIDE

THIS BID IS SUBMITTED BY:

Monterey Peninsula Engineering
(Firm/Company Name)

Re: **Laguna Grande Park Improvements** located on **Canyon Del Rey Boulevard at Hilby Avenue** in Seaside, California 93955.

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with the City of Seaside in the form included in the Contract Documents, Document 00 5200 (Agreement), to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Sum and within the Contract Time indicated in this Bid and in accordance with all other terms and conditions of the Contract Documents.
2. Bidder accepts all of the terms and conditions of the Contract Documents, Document 00 1000 (Notice Inviting Bids), and Document 00 2113 (Instructions to Bidders), including, without limitation, those dealing with the disposition of Bid Security. This Bid will remain subject to acceptance for 90 Days after the day of Bid opening, unless there is a bid protest, then 120 days after the day of bid opening.
3. In submitting this Bid, Bidder represents that Bidder has examined all of the Contract Documents, performed all necessary Pre-Bid investigations, received the Pre-Bid conference minutes (if any), and received the following Addenda:

Addendum Number	<u>ADDENDUM DATE</u>	Signature of Bidder
1	10/21/2021	

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

SCHEDULE OF BID PRICES

All Bid items, including lump sums and unit prices, must be filled in completely. Bid items are described in Section 01 1100 (Summary of Work). Quote in figures only, unless words are specifically requested.

ITEM #	BID ITEM	EST. QTY.	UNIT	UNIT PRICE	TOTAL
1	Mobilization and Demobilization	1	LS	17,000	17,000
2	Storm Water Compliance	1	LS	4,500	4,500
3	Construction Surveying	1	LS	5,100	5,100
4	Demolition Work	1	LS	7,250	7,250
5	Pedestrian Concrete Pavement	1550	SF	19.50	30,225
6	AC Conform Paving	140	SF	35	4,900
7	Concrete Curb Transition	6	LF	110	660
8	Furnish and Install Play Equipment, Rubber Play Surface, Flush Concrete Curb	1	LS	44,000	44,000
9	Remove & Relocate Bench	4	EA	2,100	8,400
10	Salvage and Furnish Drinking Fountain	1	LS	10,500	10,500
11	Reconstruct Detectable Warning Surface and Concrete	1	LS	1,300	1,300
12	Record Drawings	1	LS	600	600
TOTAL					134,435
The TOTAL BASE BID AMOUNT described in words is:					
<u>one hundred and thirty four thousand,</u> <u>four hundred thirty five</u> thirty five ^{thirty five} and <u>0</u> /100 DOLLARS)					

5. Subcontractors for work included in all Bid items are listed on Document 00 4330 (Subcontractors List) submitted herewith.
6. The undersigned Bidder understands that Owner reserves the right to reject this Bid.
7. If written notice of the acceptance of this Bid, hereinafter referred to as Notice of Award, is mailed or delivered to the undersigned Bidder within the time described in Paragraph 2 of this Document 00 4113 or at any other time thereafter before it is withdrawn, the undersigned Bidder will execute and deliver the documents required by Document 00 2113 (Instructions to Bidders) within the times specified therein.
8. Notice of Award or request for additional information may be addressed to the undersigned Bidder at the address set forth below.

9. The undersigned Bidder herewith encloses cash, a cashier's check, or certified check of or on a responsible bank in the United States, or a corporate surety bond furnished by a surety authorized to do a surety business in the State of California, in form specified in Document 00 2113 (Instructions to Bidders), in the amount of ten percent (10%) of the Total Bid Price and made payable to the City of Seaside.
10. The undersigned Bidder agrees to commence Work under the Contract Documents on the date established in Document 00 7200 (General Conditions) and to complete all Work within the time specified in Document 00 5200 (Agreement).
11. The undersigned Bidder agrees that, in accordance with Document 00 7200 (General Conditions), liquidated damages for failure to complete all Work in the Contract within the time specified in Document 00 5200 (Agreement) shall be as set forth in Document 00 5200.
12. The names of all persons interested in the foregoing Bid as principals are:

IMPORTANT NOTICE:

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

NAME OF BIDDER: Monterey Peninsula Engineering

licensed in accordance with an act for the registration of Contractors, and with license

number: 972425 Expiration: 04/30/2022.

(Place of Incorporation, if Applicable)

(Principal)

(Principal)

(Principal)

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(Signature of Bidder)

Peter J. Taormina, Manager

NOTE: If Bidder is a corporation, set forth the legal name of the corporation together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation. If Bidder is a partnership, set forth the name of the firm together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership. **SEE ATTACHED**

Business Address:

192 Healy Avenue

Marina, CA 93933

Contractor's Representative(s):

Peter J. Taormina, Manager

(Name/Title)

(Name/Title)

(Name/Title)

Officers Authorized to Sign Contracts

SEE ATTACHED

(Name/Title)

(Name/Title)

(Name/Title)

Telephone Number(s):

831.384.4081

(Area Code)

(Number)

(Area Code)

(Number)

Fax Number(s):

831.384.5078

(Area Code)

(Number)

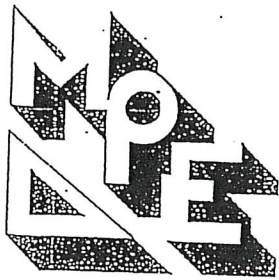
(Area Code)

(Number)

Date of Bid:

10/28/2021

END OF DOCUMENT



MONTEREY PENINSULA ENGINEERING

CONTRACTORS & ENGINEERS
P.O. BOX 2317
MONTEREY, CA 93942
(831) 384-4081

SIGNATURE AUTHORITY for PARTNERSHIP

Monterey Peninsula Engineering, a California general partnership, CSLB #972425, is comprised of two partners - Monterey Peninsula Engineering, Inc., a California Corporation, and MPE Management Group, a California Corporation.

Section 6, Other Matters, of the Statement of Partnership Authority filed with the California Secretary of State provides that:

"Any officer of either general partner, Monterey Peninsula Engineering, Inc, and MPE Management Group, Inc., may execute contracts on behalf of the Partnership in order to the conduct business and affairs of Monterey Peninsula Engineering, a general partnership."

The Officers of the two partner corporations are as follows –

Monterey Peninsula Engineering Inc.

Bart J. Bruno	President
James B. Bruno	Vice President
Peter J. Taormina	Vice President
Paul B. Bruno	Secretary/Treasurer

MPE Management Group, Inc

Paul B. Bruno	President
James B. Bruno	Vice President
Peter J. Taormina	Secretary/Treasurer

Any Officer listed above of either Partner entity sign on behalf of the Partnership and can act as a Manager of the partnership.

Attachments

- Statement of Partnership Authority filed with Secretary of State, March 21, 2002
- MPE Management Group Corporate Resolution of Signature Authority
- Monterey Peninsula Engineering Corporate Resolution of Signature Authority



State of California

Secretary of State

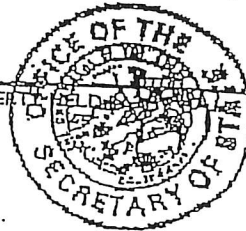
Bill Jones

Form GP-1

STATEMENT OF PARTNERSHIP AUTHORITY

IMPORTANT-- Read instructions on back before completing form.

1. NAME OF PARTNERSHIP MONTEREY PENINSULA ENGINEERING		CITY/STATE/COUNTRY		ZIP CODE
2 STREET ADDRESS OF CHIEF EXECUTIVE OFFICE 192 HEALY AVENUE		MARINA, CA		USA 93933
3. STREET ADDRESS OF A CALIFORNIA OFFICE, IF ANY		CITY		CA ZIP CODE
4. ☒ A. LIST THE FULL NAMES AND MAILING ADDRESSES OF ALL PARTNERS (ATTACH ADDITIONAL PAGES, IF NECESSARY)		OR: ☐ B. STATE THE FULL NAME AND MAILING ADDRESS OF AN AGENT APPOINTED AND MAINTAINED BY THE PARTNERSHIP WHO WILL MAINTAIN A LIST OF THE NAMES AND MAILING ADDRESSES OF ALL PARTNERS.		
NAME: MONTEREY PENINSULA ENGINEERING, INC.		NAME:		
ADDRESS: 192 HEALY AVE		ADDRESS:		
CITY: MARINA STATE/COUNTRY: CA ZIP CODE: 93933		CITY:		
NAME: MPE MANAGEMENT GROUP INC.		STATE/COUNTRY:		
ADDRESS: 192 HEALY AVE		ZIP CODE:		
CITY: MARINA STATE/COUNTRY: CA ZIP CODE: 93933				
5. NAMES OF ALL PARTNERS AUTHORIZED TO EXECUTE INSTRUMENTS TRANSFERRING REAL PROPERTY OF THE PARTNERSHIP (ATTACH ADDITIONAL PAGES, IF NECESSARY)				
PARTNER NAME: MONTEREY PENINSULA ENGINEERING, INC.		PARTNER NAME:		
PARTNER NAME: MPE MANAGEMENT GROUP INC.		PARTNER NAME:		
PARTNER NAME:		PARTNER NAME:		
6. OTHER MATTERS, IF ANY: (ATTACH ADDITIONAL PAGES, IF NECESSARY)				
Any officer of either general partner, Monterey Peninsula Engineering, Inc. and MPE Management Group, Inc., may execute contracts on behalf of the Partnership in order to conduct the business and affairs of Monterey Peninsula Engineering, a general partnership.				
7. NUMBER OF PAGES ATTACHED, IF ANY:		NONE		
8. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.				
SIGNATURE OF PARTNER MONTEREY PENINSULA ENGINEERING, INC. BY BART J BRUNO, PRESIDENT		DATE EXECUTED 3/3/19/02		
TYPE OR PRINT NAME OF PARTNER		MONTEREY COUNTY, CALIFORNIA COUNTY AND STATE EXECUTED		
SIGNATURE OF PARTNER MPE MANAGEMENT GROUP INC. BY PAUL J BRUNO, PRESIDENT		DATE EXECUTED 3/3/19/02		
TYPE OR PRINT NAME OF PARTNER		MONTEREY COUNTY, CALIFORNIA COUNTY AND STATE EXECUTED		
9. RETURN TO:				
NAME: LOMBARDO & GILLES				
ADDRESS: 318 CAYUGA STREET				
CITY: SALINAS STATE/COUNTRY: CA ZIP CODE: 93901				



For Secretary of State Use

802002085012

FILE #

DOCUMENT #

9575

ENDORSED-FILED

In the office of the Secretary of State
of the State of California

MAR 21 2002

BILL JONES, Secretary of State

CORPORATE RESOLUTION OF SIGNATURE AUTHORITY

Whereas MPE Management Group is a California corporation filed with California Secretary of State; and

Whereas, it is in the best interests of the corporation to enter into contracts and other legal documents as part of its regular business activities.

Now, therefore be it resolved, that any one of the following officers

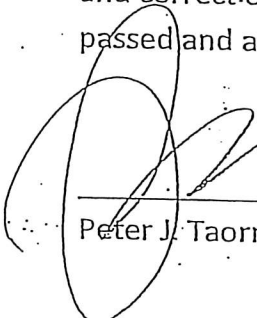
Paul B. Bruno	President
James B. Bruno	Vice President
Peter J. Taormina	Secretary/Treasurer

of the MPE Management Group be, and hereby is authorized, directed, and empowered for, and on behalf of, and in the name of this corporation by their signature to bind the corporation.

Resolved further, that a signature of an above named officer is hereby deemed to be conclusive evidence of such officer's authority to act on behalf of this corporation.

Resolved further, that this corporation hereby ratifies and confirms the acts of its officers, agents and employees in heretofore obligating this corporation.

I, Peter J. Taormina, Secretary of MPE Management Group, a corporation duly organized and existing under the laws of the State of California, do certify that the foregoing is a full, true, and correct copy of certain resolutions of the Board of Directors of said corporation, duly passed and adopted at a special meeting of the Board of Directors on May 22, 2017.



Peter J. Taormina, Secretary

5 / 22 / 17

CORPORATE RESOLUTION OF SIGNATURE AUTHORITY

Whereas Monterey Peninsula Engineering is a California corporation filed with California Secretary of State; and

Whereas, it is in the best interests of the corporation to enter into contracts and other legal documents as part of its regular business activities.

Now, therefore be it resolved, that any one of the following officers

Bart J. Bruno	President
James B. Bruno	Vice President
Peter J. Taormina	Vice President
Paul B. Bruno	Secretary/Treasurer

of the Monterey Peninsula Engineering be, and hereby is authorized, directed, and empowered for, and on behalf of, and in the name of this corporation by their signature to bind the corporation.

Resolved further, that a signature of an above named officer is hereby deemed to be conclusive evidence of such officer's authority to act on behalf of this corporation.

Resolved further, that this corporation hereby ratifies and confirms the acts of its officers, agents and employees in heretofore obligating this corporation.

I, Paul B. Bruno, Secretary of MPE Monterey Peninsula Engineering, a corporation duly organized and existing under the laws of the State of California, do certify that the foregoing is a full, true, and correct copy of certain resolutions of the Board of Directors of said corporation, duly passed and adopted at a special meeting of the Board of Directors on May 22, 2017.

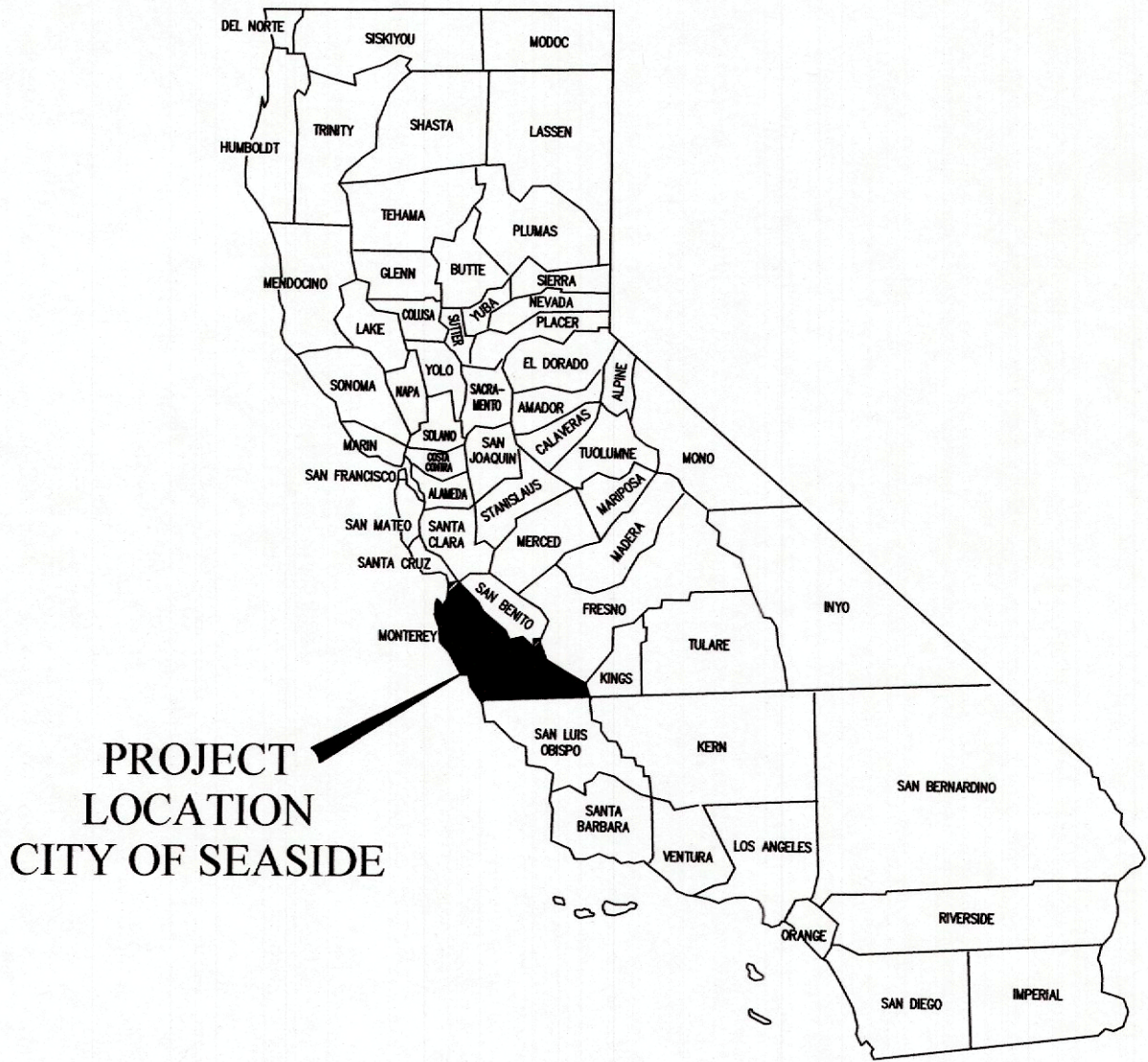


Paul B. Bruno, Secretary

5 / 22 / 17

CITY OF SEASIDE
MONTEREY COUNTY, CALIFORNIA

LAGUNA GRANDE PARK IMPROVEMENTS



SHEET INDEX

C0.1	TITLE SHEET
C0.2	CIVIL DETAIL
C0.3	CITY DETAILS AND CALTRANS STANDARD PLANS
C1.1	SITE DEMOLITION PLAN
C1.2	CONSTRUCTION AND GRADING PLAN
C2.1	EROSION AND SEDIMENT CONTROL PLAN
C2.2	EROSION AND SEDIMENT CONTROL NOTES

SYMBOLS & ABBREVIATIONS

ADD	ADDITIVE
ALT	ALTERNATIVE
BS	BOTTOM OF STEP
BW	BOTTOM OF WALL
CL	CENTERLINE
CLF	CHAIN LINK FENCE
CONST.	CONSTRUCT
EJ	EXPANSION JOINT
EW	EACH WAY
EX.	EXISTING
EG	EXISTING GRADE
FG	FINISHED GRADE
FL	FLOW LINE
FS	FINISHED SURFACE GRADE
GB	GRADE BREAK
GRT	GRATE
MAX	MAXIMUM
MIN	MINIMUM
NIC	NOT IN CONTRACT
OC	ON CENTER
OG	ORIGINAL GROUND
R.C.	RELATIVE COMPACTION
SC	SAWCUT
SD	STORM DRAIN
SM	SCORE MARK
STRP	STRIPE
TBC	TOP BACK OF CURB
TC	TOP OF CURB
TOF	TOP OF FOOTING
TS	TOP OF STEP
TW	TOP OF WALL
TYP	TYPICAL
U.S.O.	UNLESS SHOWN OTHERWISE
WWM	WELDED WIRE MESH

GENERAL NOTES

- CURB DIMENSIONS, RADII AND OFFSETS SHOWN ARE TO FACE OF CURB.
- ALL CONSTRUCTION SHALL CONFORM TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) "STANDARD SPECIFICATIONS" AND "STANDARD PLANS", 2018 EDITION, AND THE CITY OF SEASIDE STANDARD DETAILS HEREON UNLESS OTHERWISE SPECIFIED.
- SIDEWALK WIDTHS SHOWN ARE MEASURED FROM BACK OF CURB TO BACK OF WALK OR FACE OF RETAINING CURB WHERE SHOWN.
- WHERE CURB, GUTTER AND ATTACHED SIDEWALK ARE TO BE CONSTRUCTED, THEY SHALL BE POURED MONOLITHICALLY.
- THE FOLLOWING CALIFORNIA DEPARTMENT OF TRANSPORTATION STANDARD PLANS ARE INCORPORATED INTO THIS PLAN SET BY WAY OF REFERENCE. THESE STANDARD PLANS MAY BE DOWNLOADED FROM THE CALTRANS WEBSITE AT www.dot.ca.gov .

A88A

CURB RAMP DETAILS (2018 EDITION)

A90A

ACCESSIBLE PARKING OFF-STREET (2018 EDITION)
- CONTRACTOR SHALL PROVIDE AND MAINTAIN 6' CHAIN LINK CONSTRUCTION FENCING AROUND PARK TO PROHIBIT PUBLIC ENTRY DURING CONSTRUCTION.

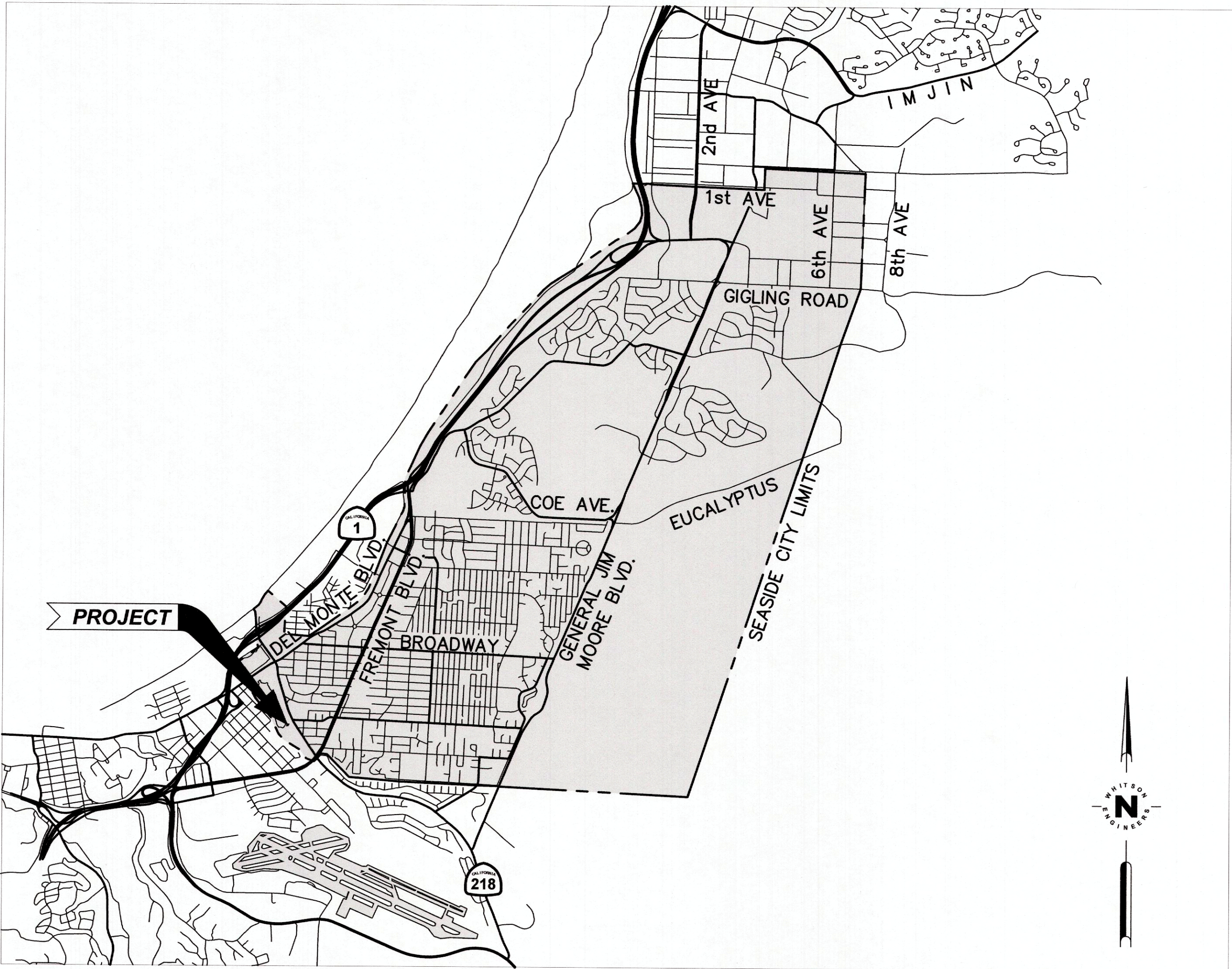
UNDERGROUND SERVICE ALERT:

ATTENTION IS DIRECTED TO THE POSSIBLE EXISTENCE OF UNDERGROUND FACILITIES NOT KNOWN OR IN A LOCATION DIFFERENT FROM THAT WHICH IS SHOWN ON THE PLANS OR IN THE SPECIAL PROVISIONS. THE CONTRACTOR SHALL TAKE STEPS TO ASCERTAIN THE EXACT LOCATION OF ALL UNDERGROUND FACILITIES PRIOR TO DOING WORK THAT MAY DAMAGE SUCH FACILITIES OR INTERFERE WITH THEIR SERVICE.

BEFORE EXCAVATING, THE CONTRACTOR SHALL VERIFY THE LOCATION OF UNDERGROUND UTILITIES BY CONTACTING UNDERGROUND SERVICE ALERT AT 1-800-642-2444 OR 811.

EMERGENCY TELEPHONE NUMBERS

POLICE/FIRE/AMBULANCE	911
MONTEREY COUNTY COMMUNICATIONS CENTER	831-394-6811
MONTEREY SALINAS TRANSIT	831-899-2555
PACIFIC GAS & ELECTRIC (PG&E)	800-743-5000
AT&T (TELEPHONE)	831-754-8026
CALIFORNIA AMERICAN WATER	888-237-1333
COMCAST (CABLE TELEVISION)	800-945-2288



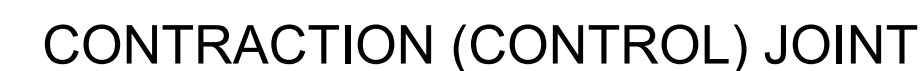
PROJECT LOCATION MAP

SCALE: 1" = 5000'

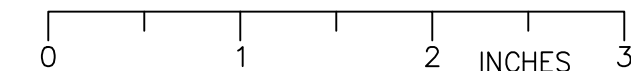
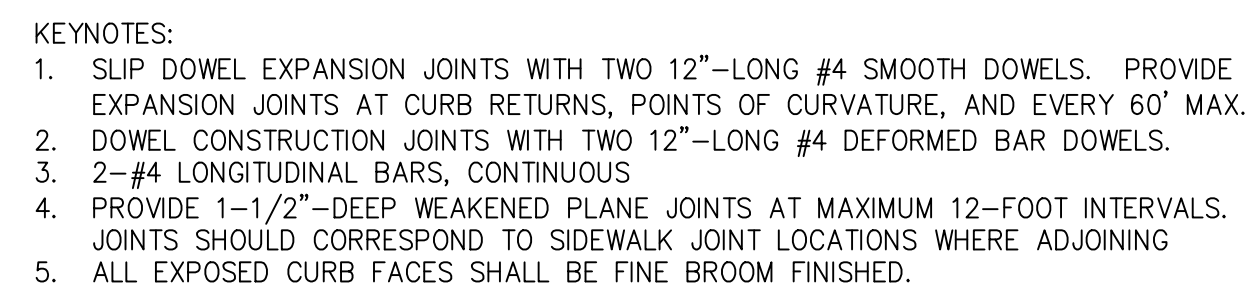
0 1 2 INCHES 3



7/27/21	ISSUED FOR BID	
DATE	REVISIONS	
	PUBLIC WORKS DEPARTMENT - ENGINEERING DIVISION 440 HARCOURT AVE. SEASIDE, CA 93955 (831)-899-6825	
SHEET TITLE:	TITLE SHEET	PROJECT NO. 2071.21
SHEET STATUS: ☐ PRELIMINARY ☐ SEMI-FINAL ☒ FINAL ☐ OTHER	PROJECT TITLE: LAGUNA GRANDE PARK IMPROVEMENTS	SHEET NO. C0.1
SCALE: NONE	APPROVED BY: NISHA PATEL, CITY ENGINEER EXPIRATION DATE: 6-30-22 NO. RCE 72491	DWG FILE NO. 2071.21



- 7 CONCRETE JOINT DETAILS
- SCALE: NONE



9/24/21	ISSUED FOR BID	
DATE	REVISIONS	
	PUBLIC WORKS DEPARTMENT - ENGINEERING DIVISION	
	440 HARCOURT AVE. SEASIDE, CA. 93955 (831)-899-6825	
	SHEET TITLE:	PROJECT NO.
	CIVIL DETAILS	2071.21
	SHEET STATUS: ☐ PRELIMINARY ☐ SEMI-FINAL ☒ FINAL ☐ OTHER	SHEET NO.
SCALE:	LAGUNA GRANDE PARK IMPROVEMENTS	C0.2
NONE		DWG FILE NO. 2071.21

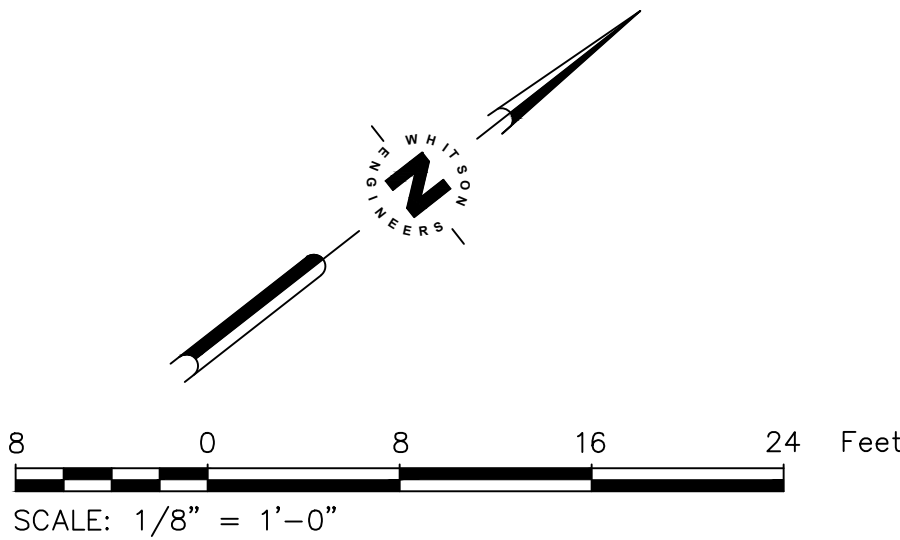


LEGEND

- REMOVE ASPHALT SIDEWALK
- REMOVE CONCRETE CURB
- REMOVE EXISTING DWS AND CONCRETE
- SAWCUT LINE

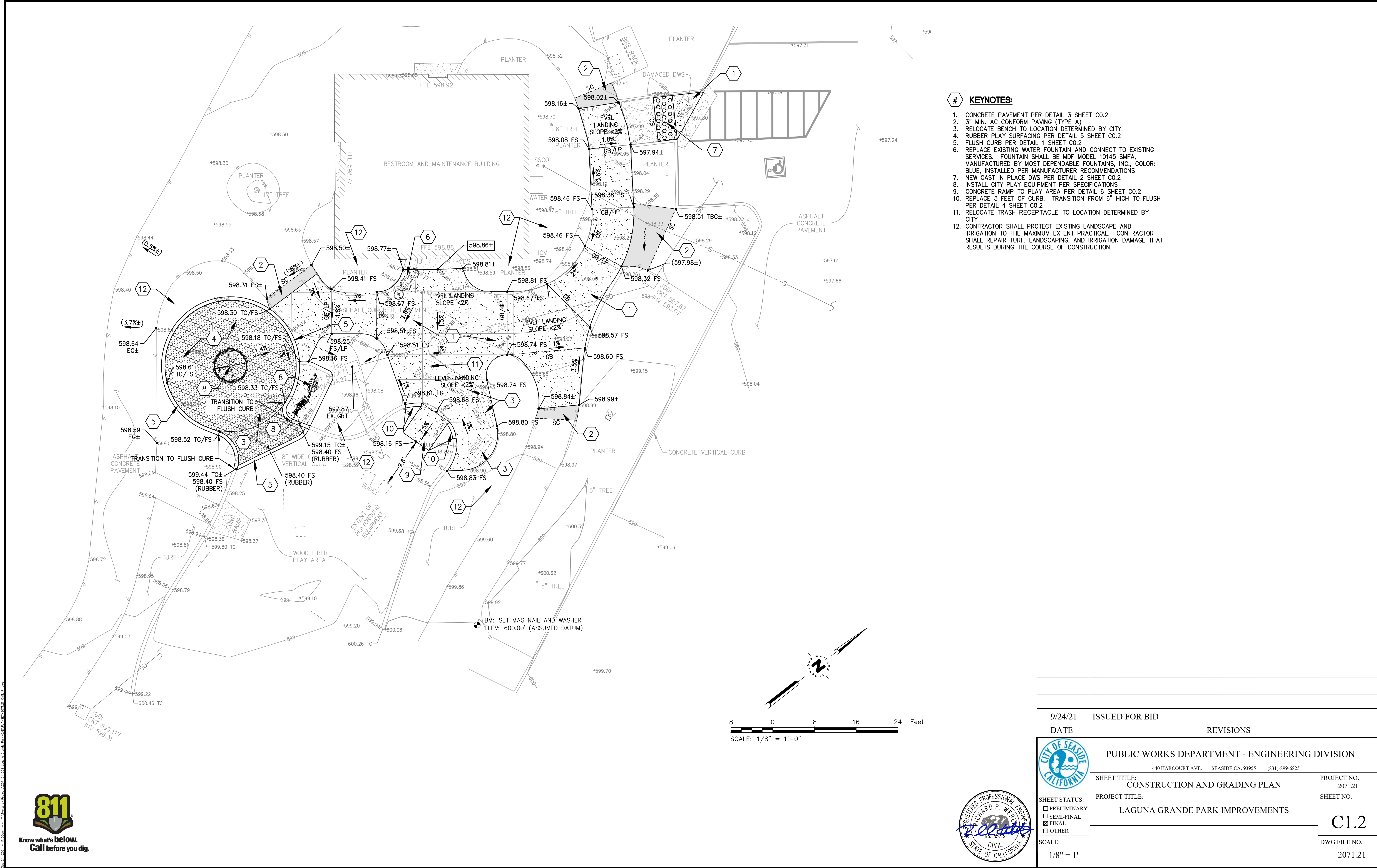
DEMOLITION KEYNOTES

- RELOCATE BENCH TO LOCATION DETERMINED BY CITY; TYP OF 4.
- REMOVE EXISTING CONCRETE WALK AND SALVAGE WATER FOUNTAIN AND RETURN TO CITY; CAP EXISTING SERVICES FOR CONNECTION TO NEW FOUNTAIN.
- RELOCATE TRASH RECEPTACLE TO LOCATION DETERMINED BY CITY.
- TURF AREA TO BE CLEARED AND GRUBBED. TURF AND LANDSCAPE OUTSIDE IMPROVEMENT AREAS SHALL BE PRESERVED TO THE MAXIMUM EXTENT PRACTICAL.
- REMOVE WOOD FIBER AND REPLACE OVER CONCRETE RAMP ONCE CONSTRUCTED.



9/24/21	ISSUED FOR BID	
DATE	REVISIONS	
	PUBLIC WORKS DEPARTMENT - ENGINEERING DIVISION	
	440 HARCOURT AVE. SEASIDE, CA. 93955 (831)-899-6825	
	SHEET TITLE: SITE DEMOLITION PLAN	PROJECT NO. 2071.21
	PROJECT TITLE: LAGUNA GRANDE PARK IMPROVEMENTS	SHEET NO. C1.1
SHEET STATUS: ☐ PRELIMINARY ☐ SEMI-FINAL ☒ FINAL ☐ OTHER		DWG FILE NO. 2071.21
SCALE: 1/8" = 1'		





- # KEYNOTES:
1. CONCRETE PAVEMENT PER DETAIL 3 SHEET C0.2
 2. 3" MIN. AC CONFORM PAVING (TYPE A)
 3. RELOCATE BENCH TO LOCATION DETERMINED BY CITY
 4. RUBBER PLAY SURFACING PER DETAIL 5 SHEET C0.2
 5. FLUSH CURB PER DETAIL 1 SHEET C0.2
 6. REPLACE EXISTING WATER FOUNTAIN AND CONNECT TO EXISTING SERVICES. FOUNTAIN SHALL BE MDF MODEL 10145 SMFA, MANUFACTURED BY MOST DEPENDABLE FOUNTAINS, INC., COLOR: BLUE, INSTALLED PER MANUFACTURER RECOMMENDATIONS
 7. NEW CAST IN PLACE DWS PER DETAIL 2 SHEET C0.2
 8. INSTALL CITY PLAY EQUIPMENT PER SPECIFICATIONS
 9. CONCRETE RAMP TO PLAY AREA PER DETAIL 6 SHEET C0.2
 10. REPLACE 3 FEET OF CURB. TRANSITION FROM 6" HIGH TO FLUSH PER DETAIL 4 SHEET C0.2
 11. RELOCATE TRASH RECEPTACLE TO LOCATION DETERMINED BY CITY
 12. CONTRACTOR SHALL PROTECT EXISTING LANDSCAPE AND IRRIGATION TO THE MAXIMUM EXTENT PRACTICAL. CONTRACTOR SHALL REPAIR TURF, LANDSCAPING, AND IRRIGATION DAMAGE THAT RESULTS DURING THE COURSE OF CONSTRUCTION.

811 Know what's below. Call before you dig.



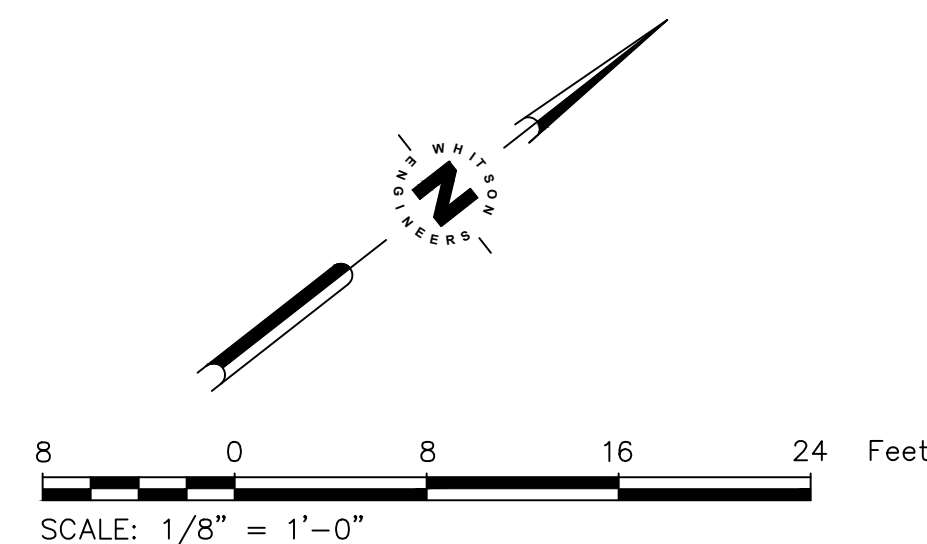
9/24/21	ISSUED FOR BID	
DATE	REVISIONS	
	PUBLIC WORKS DEPARTMENT - ENGINEERING DIVISION	
	440 HARCOURT AVE. SEASIDE, CA. 93955 (831)-899-6825	
SHEET TITLE:	CONSTRUCTION AND GRADING PLAN	PROJECT NO. 2071.21
PROJECT TITLE:	LAGUNA GRANDE PARK IMPROVEMENTS	SHEET NO. C1.2
SHEET STATUS:	☐ PRELIMINARY ☐ SEMI-FINAL ☒ FINAL ☐ OTHER	DWG FILE NO. 2071.21
SCALE:	1/8" = 1'	



	SYMBOL	CALTRANS BMP #	CALTRANS STD. PLAN	DESCRIPTION
(-1/2)		SC-1	T51, T60	LINEAR SEDIMENT BARRIER
	~SC-7~	SC-7	-	STREET SWEEPING
(10/2)		SC-10	-	TYPE 1 INLET PROTECTION AND/OR GRAVEL BAG
(-8/2)		WM-8	T61, T62, T63, T64	CONCRETE WASTE MANAGEMENT (WASHOUT) AREA
		WM-1	-	MATERIAL STORAGE AND WASTE MANAGEMENT AREA
(-3/2)		WM-3	T53	TEMPORARY STOCKPILES
		WM-9	-	SANITARY FACILITIES
		-	-	DIRECTION OF DRAINAGE

NEW IMPERVIOUS AREA:	202 SF
REPLACED IMPERVIOUS AREA:	1,378 SF
TOTAL NEW & REPLACED IMPERVIOUS AREA:	1,580 SF

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. R3-2013-0032 "POST CONSTRUCTION STORMWATER MANAGEMENT REQUIREMENTS FOR DEVELOPMENT PROJECTS IN THE CENTRAL COAST REGION" DOES NOT APPLY.



7/27/21	ISSUED FOR BID	
DATE	REVISIONS	
	PUBLIC WORKS DEPARTMENT - ENGINEERING DIVISION	
	440 HARCOURT AVE. SEASIDE, CA. 93955 (831)-899-6825	
	SHEET TITLE: EROSION AND SEDIMENT CONTROL PLAN	PROJECT NO. 2071.21
	PROJECT TITLE: LAGUNA GRANDE PARK IMPROVEMENTS	SHEET NO. C2.1
SHEET STATUS: ☐ PRELIMINARY ☐ SEMI-FINAL ☒ FINAL ☐ OTHER		
SCALE: 1/8" = 1'	DWG FILE NO. 2071.21	



WATER POLLUTION CONTROL PLAN

1. ESTIMATED TOTAL DISTURBED AREA: 0.05 AC.
2. BEST MANAGEMENT PRACTICES (BMPs) (MATERIALS AND THEIR INSTALLATION) SHALL CONFORM TO ONE OF THE FOLLOWING:
- 2.1. THE 2011 EDITION OF THE CALTRANS STORM WATER QUALITY HANDBOOK / CONSTRUCTION SITE BMP MANUAL. THE HANDBOOK MAY BE DOWNLOADED FOR FREE AT http://www.dot.ca.gov/hq/construc/stormwater/documents/SWPPP_Prep_ManualJune2011.pdf
- 2.2. THE 2011 EDITION OF THE CALIFORNIA STORMWATER BMP HANDBOOK PROMULGATED BY THE CALIFORNIA STORMWATER QUALITY ASSOCIATION (CASQA). THE HANDBOOK MAY BE DOWNLOADED FOR A FEE FROM THE CASQA WEBSITE AT <http://www.cbmrphandbooks.com/>
3. THE BMPs SHOWN ON THIS WATER POLLUTION CONTROL PLAN SHALL BE ADJUSTED OR SUPPLEMENTED AS REQUIRED TO PROTECT WATER QUALITY AND/OR AS DIRECTED BY THE ENGINEER OR JURISDICTION HAVING AUTHORITY.
4. THIS PLAN IS INTENDED TO BE USED FOR INTERIM WATER POLLUTION CONTROL ONLY AND IS NOT TO BE USED FOR FINAL ELEVATIONS OR PERMANENT IMPROVEMENTS.
5. CONTRACTOR SHALL BE RESPONSIBLE FOR MONITORING BMPs PRIOR TO, DURING, AND AFTER STORM EVENTS, AND SHALL PROMPTLY CORRECT ANY DEFICIENCIES NOTED.
6. ALL PAVED AREAS SHALL BE KEPT CLEAN OF SOIL AND DEBRIS. REGULAR STREET SWEEPING IS REQUIRED. ADDITIONAL STREET SWEEPING MAY BE REQUIRED BY THE ARCHITECT/ENGINEER OR JURISDICTION HAVING AUTHORITY.
7. REASONABLE CARE SHALL BE TAKEN WHEN HAULING ANY EARTH, SAND, GRAVEL, STONE, DEBRIS, PAPER OR ANY OTHER SUBSTANCE OVER ANY PUBLIC STREET, ALLEY OR OTHER PUBLIC PLACE. ANY MATERIAL THAT IS TO BE HAULED OFF-SITE SHALL BE COVERED. SHOULD ANY BLOW, SPILL, OR TRACK OVER AND UPON SAID PUBLIC OR ADJACENT PRIVATE PROPERTY, IMMEDIATE REMEDY SHALL OCCUR.
8. KEEP ADDITIONAL EROSION AND SEDIMENT CONTROL SUPPLIES ON SITE IN CASE IMMEDIATE REPAIRS OR MODIFICATIONS ARE REQUIRED. THESE SUPPLIES MAY INCLUDE ADDITIONAL SLIT FENCING, FILTER FABRIC, HAY BALES, JUTE NETTING, BAGS AND TARPS.
9. CONSTRUCTION OPERATIONS SHALL BE CARRIED OUT IN SUCH A MANNER THAT EROSION AND WATER POLLUTION WILL BE MINIMIZED. STATE AND LOCAL LAWS CONCERNING POLLUTION ABATEMENT SHALL BE COMPLIED WITH.
10. CONTRACTOR SHALL PROVIDE DUST CONTROL AS REQUIRED BY FEDERAL, STATE, AND LOCAL AGENCY REQUIREMENTS.
11. PROVIDE TEMPORARY "EFFECTIVE SOIL COVER" ON ALL INACTIVE DISTURBED AREAS (AREAS WHICH HAVE NOT BEEN DISTURBED FOR AT LEAST 14 DAYS) PRIOR TO INSTALLATION OF FINAL LANDSCAPING, IF REQUIRED DUE TO PROJECT SCHEDULING.
12. PROVIDE WIND EROSION CONTROL AT ALL TIMES IN ACCORDANCE WITH BEST MANAGEMENT PRACTICE WE-1.
13. LIMIT THE USE OF PLASTIC MATERIALS WHEN MORE SUSTAINABLE, ENVIRONMENTALLY FRIENDLY ALTERNATIVES EXIST. WHERE PLASTIC MATERIALS ARE DEEMED NECESSARY, CONSIDER THE USE OF PLASTIC MATERIALS RESISTANT TO SOLAR DEGRADATION AND WHICH MAY BE RE-USED.
14. ESTABLISH AND MAINTAIN EFFECTIVE PERIMETER CONTROLS AND STABILIZE ALL CONSTRUCTION ENTRANCES AND EXITS TO SUFFICIENTLY CONTROL EROSION AND SEDIMENT DISCHARGES FROM THE SITE.
- PROVIDE SILT FENCE AT CONSTRUCTION SITE PERIMETER WHERE RUNOFF LEAVES THE CONSTRUCTION SITE.
 - PROVIDE INLET PROTECTION AT ALL DRAIN INLETS.

GENERAL REQUIREMENTS

ACTUAL GRADING SHALL BEGIN WITHIN 30 DAYS OF VEGETATION REMOVAL OR THE AREA SHALL BE PLANTED TO CONTROL EROSION. VEGETATION REMOVAL BETWEEN OCTOBER 15TH AND APRIL 15TH SHALL NOT PRECEDE SUBSEQUENT GRADING OR CONSTRUCTION ACTIVITIES BY MORE THAN 15 DAYS.

1. THE FOLLOWING PROVISIONS SHALL APPLY BETWEEN OCTOBER 1 AND APRIL 30.
- A. DISTURBED SURFACES NOT INVOLVED IN THE IMMEDIATE OPERATIONS MUST BE PROTECTED BY APPLYING STRAW MULCH AT 2000 LBS. PER ACRE AND ANCHORED BY TRACK-WALKING TO PREVENT MOVEMENT DURING WATER FLOW.
- B. RUNOFF FROM THE SITE SHALL BE DETAINED OR FILTERED BY BERMS, VEGETATED FILTER STRIPS AND/OR CATCH BASINS TO PREVENT THE ESCAPE OF SEDIMENT FROM THE SITE. THESE DRAINAGE CONTROLS MUST BE MAINTAINED BY THE CONTRACTOR AS NECESSARY TO ACHIEVE THEIR PURPOSE THROUGHOUT THE LIFE OF THE PROJECT. SEE THIS SHEET FOR EROSION CONTROL PLAN AND EROSION CONTROL DETAILS.
- C. EROSION CONTROL MEASURES SHALL BE IN PLACE AT THE END OF EACH DAY'S WORK.
- D. THE BUILDING INSPECTOR SHALL STOP OPERATIONS DURING PERIODS OF INCLEMENT WEATHER IF HE DETERMINES THAT EROSION PROBLEMS ARE NOT BEING CONTROLLED ADEQUATELY.
2. ALL SURFACES EXPOSED OR EXPECTED TO BE EXPOSED DURING GRADING ACTIVITIES SHALL BE PREPARED AND MAINTAINED THROUGH THE LENGTH OF THE ENTIRE PROJECT TO PROTECT AGAINST EROSION.
3. AT ALL TIMES DURING CONSTRUCTION AND UNTIL FINAL COMPLETION, THE CONTRACTOR, WHEN HE OR HIS SUBCONTRACTORS ARE OPERATING EQUIPMENT ON THE SITE, SHALL PREVENT THE FORMATION OF AN AIRBORNE DUST NUISANCE BY WATERING AND/OR TREATING THE SITE OF THE WORK IN SUCH A MANNER THAT WILL CONFINE DUST PARTICLES TO THE IMMEDIATE SURFACE OF THE WORK. THE CONTRACTOR WILL BE RESPONSIBLE FOR ANY DAMAGE DONE BY DUST FROM HIS OR HER SUBCONTRACTOR.

OBSERVATION AND MAINTENANCE

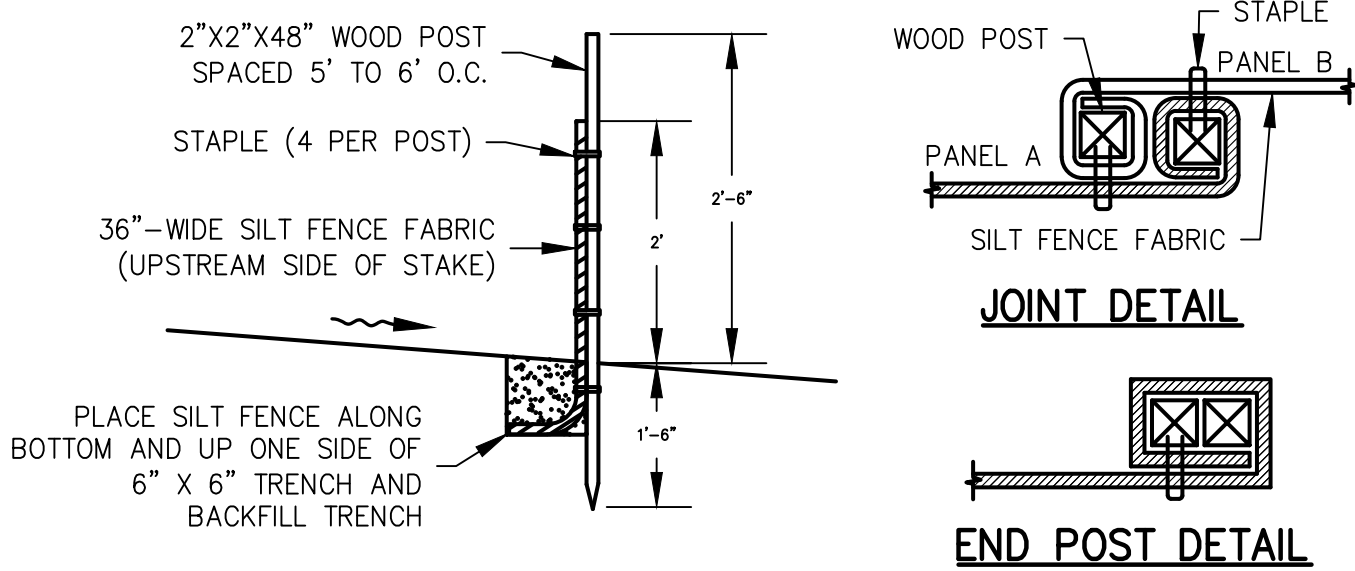
1. VISUALLY OBSERVE AND MAINTAIN BEST MANAGEMENT PRACTICES (BMPs) AS FOLLOWS:
- A. WEEKLY, AND
- B. WITHIN 48 HOURS PRIOR TO EACH STORM EVENT, AND
- C. WITHIN 48 HOURS AFTER EACH STORM EVENT.
- D. DAILY DURING STORM EVENTS
2. REPAIR DAMAGED BMPs WITHIN 48 HOURS OF OBSERVATION.
3. SEDIMENT SHALL BE REMOVED FROM SEDIMENT CONTROL BMPs BEFORE SEDIMENT HAS ACCUMULATED TO A DEPTH OF ONE THIRD THE HEIGHT OF THE SEDIMENT BARRIER OR SUMP, IF NOT OTHERWISE SPECIFIED IN THE SPECIAL PROVISIONS OR BY THE BMP SUPPLIER OR MANUFACTURER.
4. TRASH AND DEBRIS SHALL BE REMOVED FROM BMPs DURING SCHEDULED INSPECTIONS.
5. REMOVED SEDIMENT SHALL BE PLACED AT AN APPROVED LOCATION AND IN SUCH A MANNER THAT IT WILL NOT ERODE, OR SHALL BE DISPOSED OF OFF-SITE.
6. REPAIR RILLS AND GULLIES BY RE-GRADING AND THEN TRACKWALKING PERPENDICULAR TO THE SLOPE. PROVIDE TEMPORARY SOIL COVER IF NECESSARY.

NON-STORM WATER DISCHARGES

1. NON-STORM WATER DISCHARGES INCLUDE A WIDE VARIETY OF SOURCES, INCLUDING IMPROPER DUMPING, SPILLS, OR LEAKAGE FROM STORAGE TANKS OR TRANSFER AREAS. NON-STORM WATER DISCHARGES MAY CONTRIBUTE SIGNIFICANT POLLUTANT LOADS TO RECEIVING WATERS, AND AS SUCH ARE PROHIBITED.
2. MEASURES TO CONTROL SPILLS, LEAKAGE, AND DUMPING, AND TO PREVENT ILLICIT CONNECTIONS DURING CONSTRUCTION, MUST BE TAKEN.
3. HOWEVER, CERTAIN NON-STORM WATER DISCHARGES MAY BE AUTHORIZED FOR THE COMPLETION OF CONSTRUCTION. AUTHORIZED NON-STORM WATER DISCHARGES MAY INCLUDE THOSE FROM DECHLORINATED POTABLE WATER SOURCES SUCH AS:
- FIRE HYDRANT FLUSHING,
 - IRRIGATION OF VEGETATIVE EROSION CONTROL MEASURES,
 - PIPE FLUSHING AND TESTING,
 - WATER TO CONTROL DUST,
 - UNCONTAMINATED GROUND WATER FROM DEWATERING,
 - OTHER DISCHARGES NOT SUBJECT TO A SEPARATE GENERAL NPDES PERMIT ADOPTED BY A REGIONAL WATER BOARD.
4. THE DISCHARGE OF NON-STORM WATER IS AUTHORIZED UNDER THE FOLLOWING CONDITIONS:
- THE DISCHARGE DOES NOT CAUSE OR CONTRIBUTE TO A VIOLATION OF ANY WATER QUALITY STANDARD
 - THE DISCHARGE DOES NOT VIOLATE ANY OTHER PROVISION OF THE GENERAL PERMIT
 - THE DISCHARGE IS NOT PROHIBITED BY THE APPLICABLE BASIN PLAN
 - THE DISCHARGER HAS INCLUDED AND IMPLEMENTED SPECIFIC BMPs REQUIRED BY THE GENERAL PERMIT TO PREVENT OR REDUCE THE CONTACT OF THE NONSTORM WATER DISCHARGE WITH CONSTRUCTION MATERIALS OR EQUIPMENT
 - THE DISCHARGE DOES NOT CONTAIN TOXIC CONSTITUENTS IN TOXIC AMOUNTS OR (OTHER) SIGNIFICANT QUANTITIES OF POLLUTANTS
 - THE DISCHARGE IS MONITORED
5. IF ANY OF THE ABOVE CONDITIONS ARE NOT SATISFIED, THE DISCHARGE IS NOT AUTHORIZED.

EMPLOYEE TRAINING

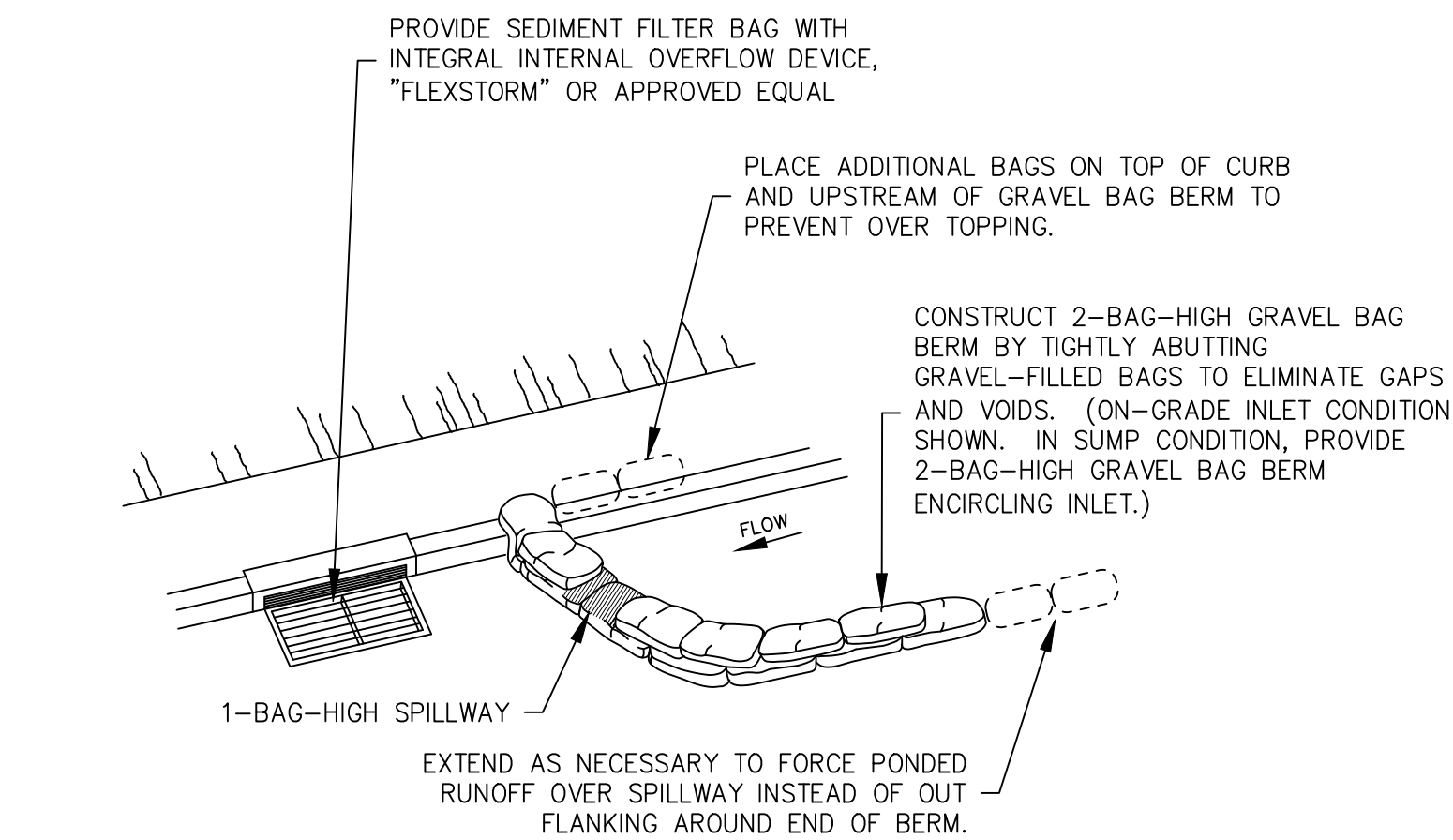
1. STORM WATER POLLUTION PREVENTION TRAINING SHALL BE PROVIDED AT THE BEGINNING OF CONSTRUCTION AND REGULARLY DURING CONSTRUCTION FOR ALL EMPLOYEES WORKING ON THE JOB SITE. TRAINING SHALL BE PROVIDED BY THE CONTRACTOR'S WATER POLLUTION CONTROL MANAGER. TOPICS SHALL INCLUDE, BUT ARE NOT LIMITED TO:
- SPILL PREVENTION AND RESPONSE;
 - LOCATIONS AND FUNCTIONS OF SEDIMENT/EROSION CONTROL DEVICES;
 - GOOD HOUSEKEEPING;
 - FINES AND PENALTIES;
 - MATERIAL MANAGEMENT PRACTICES.



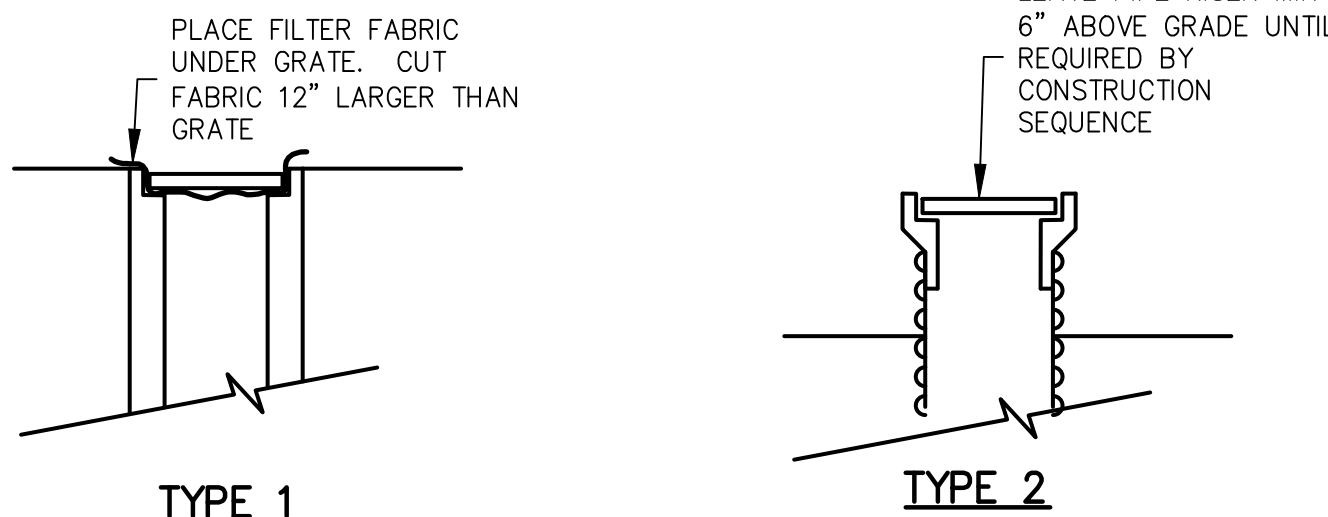
- NOTES:
1. THE DOWNSTREAM END OF THE SILT FENCE SHALL HAVE THE LAST 8' ANGLED UP SLOPE TO PREVENT WATER FROM RUNNING AROUND THE END OF THE SILT FENCE
2. JOINT SECTIONS SHALL NOT BE PLACED AT SUMP LOCATIONS

SE-1 TEMPORARY SILT FENCE

SCALE: NONE



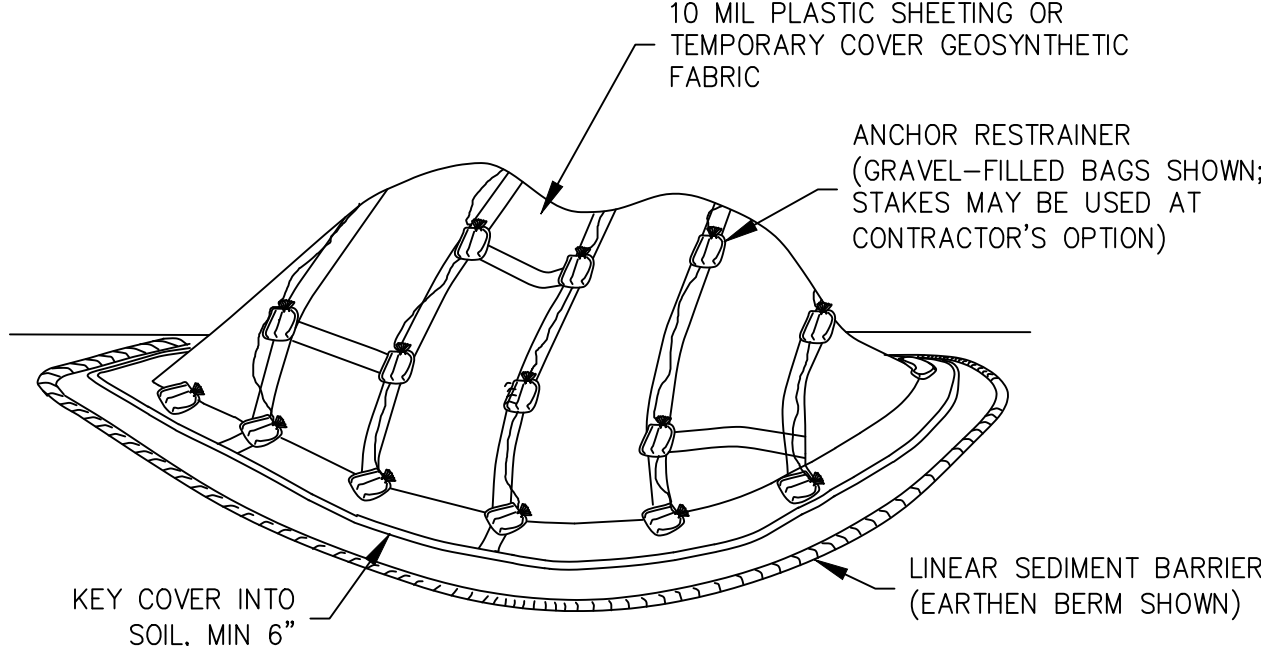
TYPE 3



- NOTES:
1. PROVIDE TYPE 1 INLET PROTECTION AT ALL INLETS IF OTHER TYPE NOT PROVIDED.
2. TYPE 2 INLET PROTECTION MAY BE PROVIDED IN LIEU OF TYPE 1 AT CONTRACTOR'S OPTION.
3. TYPE 3 INLET PROTECTION SHALL BE PROVIDED FOR ALL EXISTING AND PROPOSED PUBLIC STORM DRAIN INLETS, AND ANY PRIVATE INLETS WHICH ARE TO REMAIN IN SERVICE DURING CONSTRUCTION.

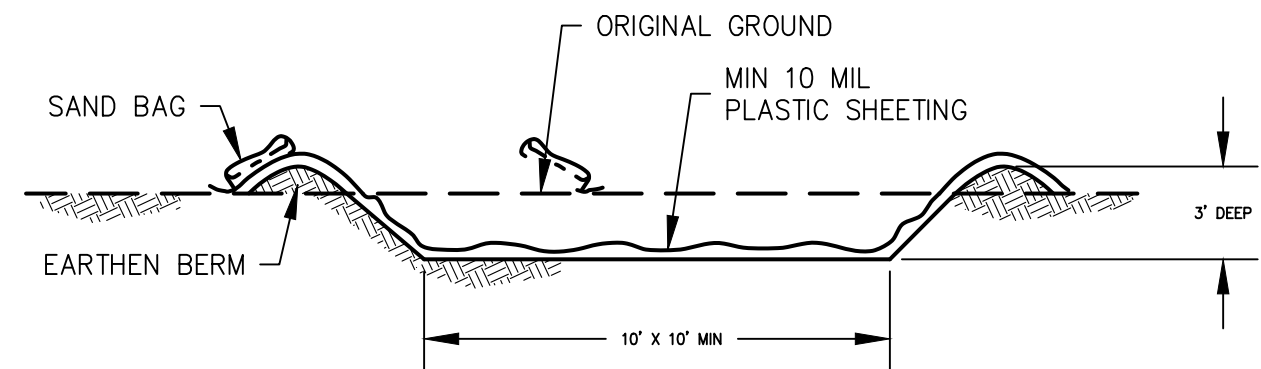
SE-10 STORM DRAIN INLET PROTECTION

SCALE: NONE



WM-3 TEMPORARY COVER ON STOCKPILE

SCALE: NONE



- NOTES:
1. AT CONTRACTOR'S OPTION, AN EQUIVALENT 10' X 10' X 2'-DEEP ABOVE-GRADE WASHOUT MAY BE CONSTRUCTED USING LUMBER OR HAY BALES.

WM-8 TEMPORARY CONCRETE WASHOUT FACILITY

SCALE: NONE

7/27/21	ISSUED FOR BID		
DATE	REVISIONS		
	PUBLIC WORKS DEPARTMENT - ENGINEERING DIVISION		
	440 HARCOURT AVE. SEASIDE, CA. 93955 (831)-899-6825		
	SHEET TITLE: EROSION AND SEDIMENT CONTROL NOTES & DETAILS	PROJECT NO. 2071.21	
	SHEET STATUS: ☐ PRELIMINARY ☐ SEMI-FINAL ☒ FINAL ☐ OTHER	SHEET NO. C2.2	
SCALE: NONE	PROJECT TITLE: LAGUNA GRANDE PARK IMPROVEMENTS		DWG FILE NO. 2071.21





ADDENDUM No.1
For the Construction of
LAGUNA GRANDE PARK IMPROVEMENTS
October 21, 2021

Addendum No. 1 is being issued for revisions to Project Manual and Plans and to provide responses to inquiries and clarifications related to the Laguna Grande Parks Improvements project.

The revisions declared in this addendum are an essential element to the contract documents. The contract documents to be executed will contain a copy of this addendum.

REVISIONS

Make the following revisions to Document **00 0110 Table of Contents**

ADD the following attachments to the Appendices:

Appendix I City of Seaside COVID 19 Vaccination Requirement Policy

Make the following revisions to Document **00 2113 Instruction to Bidders**

ADD the following language to paragraph 5.01:

F. Proof of compliance with the City of Seaside COVID 19 Vaccination Requirement Policy in the form of vaccination record or exemption.

Make the following revisions to Document **00 4513 - 3 Statement of Qualifications for Construction Work**

REMOVE and **REPLACE** ATTACHMENT "A" – Statement of Qualification Questionnaire with the attached REVISED ATTACHMENT "A" – Statement of Qualification Questionnaire

Make the following revisions to Document **00 7200 General Conditions**

ADD the following language to paragraph 6.04:

B. Contractor (including Subcontractors) and their employees working on the project shall comply with the most up to date City of Seaside COVID 19 Vaccination Requirement Policy, and all local, state and federal COVID 19 vaccination policies. In the event that these policies conflict, the more stringent shall govern. The current City of Seaside COVID 19 Vaccination Requirement Policy can be found in the Appendices. Exemption will be on a case by case basis.

If you are a bidder, you must acknowledge receiving this Addendum by completing Document 00 4113 of the bid form. Submit bids for this work with the understanding and

full compensation of this addendum. If there are any questions regarding this addendum, please contact Leslie Llantero at (831) 899 – 6832.

Sincerely,



Nisha Patel
Public Works Director/City Engineer

APPENDIX A

City of Seaside COVID-19 Vaccination Requirement Policy

I. Preamble

To protect City of Seaside (“City”) personnel, the community members with whom City personnel interact, and its residents, the City will require all City of Seaside personnel, including employees, contractors who work at City worksites and facilities or interact with City employees or members of the public in the performance of their duties on behalf of the City, volunteers and interns, to be fully vaccinated subject against SARS-COV-2, the virus that causes COVID-19, to the limited exceptions provided below.

The City adopted this vaccination policy as an emergency public health response to mitigate the negative public health consequences associated with increased incidence and test positivity rates and the prevalence of new virus variants, including increased hospitalizations, intensive care unit (“ICU”) admissions, and deaths. This policy is intended to effectuate positive public health outcomes in the City of Seaside by reducing the likelihood of hospitalizations at health care facilities in the City and surrounding areas, ICU admissions to hospitals that serve the City and its community, and deaths.

At this time, the current COVID-19 vaccines approved for use in the United States are effective at helping to reduce the risk of getting and spreading the infection. The current COVID-19 vaccines are also effective at reducing the risk of becoming seriously ill, even if a fully vaccinated person gets COVID-19, and even against the current variants of the virus that causes COVID-19. Although no vaccine is 100% effective at preventing illness in vaccinated people, the currently authorized COVID-19 vaccines remain the best form of protection against COVID-19.

This policy complements the County of Monterey’s Resolution No. 21-272, requiring all County employees to become fully vaccinated against COVID-19 and the Executive Order issued by the White House on September 9, 2021 requiring COVID-19 vaccination for all Federal employees, with exceptions only as required by law.

In accordance with this Policy, City employees, contractors, volunteers and interns may obtain the COVID-19 vaccine at a vaccination site of their choosing. Information on the COVID-19 vaccines and how to obtain vaccination is available at <https://covid19.ca.gov/vaccines/>.

II. Relevant Definitions

1. “City personnel”, for purposes of this Policy and related requirements, includes: (1) City of Seaside employees; (2) Non-employees, including interns, and volunteers, who provide services to the City; and (3) Contractors who are engaged by the City and who work at City worksites and facilities or interact with other City employees or members of the public in the performance of their duties on behalf of the City.

City contractors who qualify as City personnel for purposes of this Policy only include, for

example, contracted staff who work at City worksites or facilities or with the City of Seaside outside of such worksites or facilities. This definition does not include, for example, a third-party attorney who provides legal services exclusively from a remote location. The inclusion of non-employees in the definition of “City personnel” confers no employment status between such individuals and the City.

2. “COVID-19 vaccine” means a COVID-19 vaccine approved by the U.S. Food and Drug Administration under either the Emergency Use Authorization approval process or the Biologics License Application (“BLA”) (*i.e.*, general use) approval process.
3. “Fully vaccinated” means (1) it has been at least two weeks since a person has completed the entire recommended series of a COVID-19 vaccine, and (2) the person has provided proof of vaccination in a form consistent with the requirements for verification of vaccine status in the State of California’s July 26, 2021 Public Health Officer Order which is available at the following web address: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Unvaccinated-Workers-In-High-Risk-Settings.aspx>.

Proof of vaccination includes the following: (1) COVID-19 vaccination record card (issued by the Department of Health and Human Services, Centers for Disease Control & Prevention (“CDC”) or World Health Organization Yellow Card) which includes the name of the person vaccinated, type of vaccine provided and date last dose administered); (2) a photo of a vaccination record card as a separate document; (3) a photo of a vaccination record card stored on a phone or electronic device; (4) documentation of COVID-19 vaccination from a health care provider; (5) digital record that includes a QR code that when scanned by a SMART Health Card reader displays to the reader client name, date of birth, vaccine dates and vaccine type; and (6) documentation of vaccination from other contracted employers who follow these vaccination records guidelines and standards.

4. “Partially vaccinated” means (1) a person has received (i) one dose of a two dose recommended series of a COVID-19 vaccine or (ii) the complete recommended series of a COVID-19 vaccine but less than two weeks has elapsed since the person completed the entire recommended series, and (2) the person has provided proof of vaccination in a form consistent with the requirements for verification of vaccine status in the State of California’s July 26, 2021 Public Health Officer Order.

III. Scope

The policy applies to all City personnel including volunteers and Board & Commissioners. The policy is to be administered in conjunction with the City’s COVID-19 Prevention Plan and protocols designed to mitigate risks related to COVID-19 in the workplace and at City facilities or properties. The City’s COVID-19 Prevention Plan is available at

<https://www.ci.seaside.ca.us/602/Policies-and-Procedures>. The City Manager may make changes to this policy and related forms as necessary to manage and administer the policy.

IV. Effective Period

The policy shall be effective immediately and shall remain in full force and effect until the City Manager determines that the local public health circumstances have sufficiently improved to permit the suspension of the policy.

V. Vaccination Requirement

The City requires that City personnel adhere to the following requirements:

1. By October 25, 2021, all City personnel must be partially or fully vaccinated or must have submitted a request for exemption.
2. By November 22, 2021, all City personnel who will seek an exemption must have submitted the request for exemption as outlined in Section VI.
3. By December 6, 2021, all City personnel must be fully vaccinated or must have submitted a request for exemption.
4. Effective November 22, 2021, all newly hired City employees and any new volunteers, interns or contractors must be fully vaccinated or must have submitted a request for exemption.

City personnel who fail to comply with this policy shall not be permitted to perform work at City worksites or facilities, except as outlined in Section VI for employees who are exempt from the vaccination requirement for the limited reasons identified therein.

Required Testing While Personnel Become Fully Vaccinated

Additionally, from October 22, 2021 through December 6, 2021 (the deadline for all City personnel to be fully vaccinated or have submitted a request for exemption), individuals who are not fully vaccinated will be required to undergo weekly testing until they establish that they are fully vaccinated, as defined above, and no later than December 6, 2021. If individuals are granted an exemption pursuant to Section VI below, they will be subject to the terms of the established reasonable accommodation.

VI. Limited Exemptions to Vaccination Requirement

Limited Exemptions for City Employees:

1. City employees may request a reasonable accommodation to the vaccination

requirement if they:

- A. Have a medical condition, disability, or other medical restriction that affects their ability to safely receive a COVID-19 vaccine, as verified by their Health Care provider, and are requesting an exemption as a reasonable accommodation; or,
 - B. Object to COVID-19 vaccination based on their sincerely-held religious belief, practice, or observance.
2. Requests for exemption must be submitted according to the requirements set forth in Section VI, below. If a person's request for exemption is not approved, they must be partially or fully vaccinated within one week and fully vaccinated within seven (7) weeks of when they were notified that their request for exemption was not approved. Individuals who are required to vaccinate and were denied a requested exemption will be required to undergo weekly testing until they are fully vaccinated within the applicable timeframe.
3. To seek a reasonable accommodation from the vaccination requirements in this Policy, City employees must use the process and forms designated by the City for this purpose, and include supporting documentation as follows:
- A. Contact City Human Resources Department at 899-6712 or access the appropriate form through <http://www.ci.seaside.ca.us/602/Policies-and-Procedures>. The available forms are:
 - a. Disability Accommodation Request Form; and
 - b. Religious Accommodation Request Form

Employees may contact the Samantha Sakhrani in the City's Human Resources Department at 899-6711 or salcaraz@ci.seaside.ca.us to request the form or assistance with completing the form.

- A. Complete and submit the applicable form(s) as directed by the City's Human Resources Department.
- B. The Human Resources Department will then contact the employee to request additional information, as necessary, and to engage the employee in an interactive process if the employee so qualifies.

Limited Exemptions for City Contractors, Volunteers, and Interns

If a City contractor, volunteer or intern is covered by this policy and does not meet the vaccination requirements, the individual's sponsoring department may request an ad hoc

exemption from the City, who will consider the requested exemption on a case-by-case basis. The City Manager or his / her designee's consideration will include, but not be limited to, the sponsoring department's need and whether the contractor, volunteer, or intern meets the standard for an exemption available to City employees, as described above.

VII. Vaccine Boosters

If COVID-19 vaccine booster doses become necessary to prevent the contraction and transmission of the virus that causes COVID-19, this vaccination policy and the requirements and limited exemptions set forth herein shall apply to COVID-19 vaccine boosters.

Under such circumstances, all City personnel must receive a COVID-19 vaccine booster when public health authorities, including the United States Centers for Disease Control, the California Department of Public Health ("CDPH"), or the Monterey County Department of Public Health indicate that a COVID-19 vaccine booster is necessary, based on the COVID-19 vaccine that the employee received and the date upon which the employee became fully vaccinated.

VIII. Confidentiality of Vaccination Records

The City will treat all vaccination records as confidential medical information and maintain such records as required by the Confidentiality of Medical Information Act ("CMIA"), California Civil Code §§ 56.20, 56.21.

The City will not use or disclose such information, unless authorized to do so or as permitted or required under the law.

AUTHORIZATION FOR THE CITY OF SEASIDE'S USE AND DISCLOSURE OF CONFIDENTIAL MEDICAL INFORMATION

Confidentiality of Medical Information Act ("CMIA"), Civil Code §§ 56.20, 56.21.

Pursuant to California's Confidentiality of Medical Information Act, I, _____ **[Name of City Personnel]**, authorize the City of Seaside to use and disclose information regarding my COVID-19 vaccination status for legitimate, non-discriminatory business purposes where my vaccination status is necessary for the City to make work-related decisions authorized by or in order to comply with federal, state, or local law or regulation that takes a person's vaccination status into account.

Specifically, I authorize the City to use and disclose this information for the purposes provided under the Cal/OSHA COVID-19 Regulations (8 C.C.R. §§ 3205-3205.4), including, but not limited to, decisions regarding the use of face coverings.

This authorization is limited to the following types of information:

Information regarding my COVID-19 vaccination status.

The City is authorized to use this information for the following purposes:

For legitimate, non-discriminatory business purposes where information regarding my vaccination status is necessary for the City to make work-related decisions authorized by or in order to comply with federal, state, or local laws that take a person's vaccination status into account.

The following parties are authorized to disclose this information for the above purposes:

The City and the City's designated agent(s) where:

1. The disclosure of my vaccination status is or may be impliedly or constructively disclosed by my action(s) (*e.g.*, not wearing a face covering in the workplace); and/or

2. The disclosure of my vaccination status is or may be impliedly or constructively disclosed by action(s) of the City or the City's designated agent(s) (e.g., allowing me to not wear a face covering in the workplace).

The following parties are authorized to receive disclosure of this information for the above purposes:

Any agent or employee of the City, visitor, invitee or other member of the public accessing the City's premises or facilities, etc., who may become aware of my vaccination status, by my action(s) and/or those of the City (e.g., become aware that I am fully vaccinated by my choice to remove a face covering in the workplace with the City's consent).

Authorization period:

The parties specified above are authorized to disclose information regarding my COVID-19 vaccination status in the manner specified above through **June 30, 2022**.

Right to receive a copy of this authorization:

I understand that if I sign this authorization, I have the right to receive a copy of this authorization. Upon request, the City will provide me with a copy of this authorization.

I authorize the limited uses and disclosures of my medical information as described above for the purposes listed above. I understand that this authorization is voluntary and that I am signing this authorization voluntarily.

Name (PLEASE PRINT)	Signature	Date
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Disability Accommodation Request Form For City of Seaside Policy Requiring COVID-19 Vaccination

The City of Seaside ("City") affords equal employment opportunity for all qualified employees and applicants as to all terms of employment and prohibits discrimination against employees or applicants based on classifications protected by law, including, but not limited to, those with qualifying disabilities. Accordingly, the City provides accommodations for employees and applicants whose qualifying disabilities conflict with an employment requirement, unless providing such accommodation would impose an undue hardship on the City and its conduct of City business.

To promote a safe and healthful workplace for employees, contractors, volunteers and interns and to promote the health and safety of employees, contractors, volunteers and interns, and members of the public who may visit City's worksites and facilities, and the community in general, the City requires that all employees, contractors who work at worksites and facilities or interact with City employees or members of the public in the performance of their duties on behalf of the City, volunteers, and interns be fully vaccinated in accordance with the City's COVID-19 vaccination policy.

Employees may use this form to request an accommodation or exemption to the City's requirement if they have a contraindication to the available COVID-19 vaccines recognized by the Centers for Disease Control and Prevention ("CDC") or by the vaccines' manufacturer, or a qualifying disability, including pregnancy-related conditions, that precludes their vaccination.

Employees requesting an accommodation must complete this form and provide all of the requested information:

Section A: General Information and Worksite Information

Employee's Name _____
Employee's Job Title: _____
Employee's Supervisor: _____
Employee's Department: _____
Employee's Worksite: _____

Section B: General Position and Worksite Information

Please check all that currently apply to you:

- ☐ I perform work onsite at a City worksite or facility.
- ☐ My essential job duties require that I interact in person with City employees, visitors, or members of the public.
- ☐ I perform work in shared or communal spaces or areas where City employees, visitors, or members of the public may also be present.

Section C: Reason for Request

- ☐ I have a physical or mental disability (which can include a contraindication to each of the FDA-approved COVID-19 vaccines) that limits or precludes my ability to be fully vaccinated against COVID-19.
- ☐ The certification from my medical provider is attached (**the medical provider should not disclose information about your diagnosis or condition; the certification**).

Section D: Requested Accommodation

- ☐ Please describe the accommodation* you are requesting**:

** Please note that an accommodation must enable you to meet the essential functions of your job and must not impose an undue hardship on the City or pose a direct threat to your health and safety or the health and safety of others in the workplace.*

Further, please note that the City adopted the vaccination policy based on public health concerns in the community and in order to effectuate positive public health outcomes in the community and to protect the health and safety of all employees and individuals who come to the agency. While the City will, on an individualized basis, evaluate each request for accommodation from the vaccination policy, please note that the circumstances requiring that the City adopt such policy may continue for some time and it may not be possible to provide workplace accommodations at all or non-workplace accommodations in perpetuity.

*** Please note that the City will consider your preferred accommodation and other possible accommodations for your health or medical condition.*

My signature below indicates that the information I have provided in this form is true and correct. I also understand that in evaluating my request for an accommodation, the City will request an additional document(s) from my health care provider, and may not grant my requested accommodation if it does not allow me to perform my essential job duties, if it imposes an undue hardship on the City, or if it poses a direct threat to my health and safety or to the health and safety of others.

Employee's Signature

Date

Religious Accommodation Request Form For City of Seaside Policy Requiring COVID-19 Vaccination

The City of Seaside ("City") affords equal employment opportunity for all qualified employees and applicants as to all terms of employment and prohibits discrimination against employees or applicants based on classifications protected by law, including, but not limited to, religion, creed, and religious belief, practice, or observance.

Accordingly, the City provides accommodations for employees and applicants whose sincerely held religious belief, practice, or observance conflicts with an employment requirement, unless providing such an accommodation would impose an undue hardship on the City and its conduct of City business.

To promote a safe and healthful workplace for employees, contractors who work at City worksites and facilities or interact with City employees or members of the public in the performance of their duties on behalf of the City, volunteers, and interns, and to promote the health and safety of employees, contractors, volunteers and interns, and members of the public who may visit City worksites and facilities and the community in general, the City requires that all employees, contractors, volunteers, and interns become fully vaccinated against COVID-19 in accordance with the City's COVID-19 vaccination policy.

Employees may use this form to request a religious accommodation to the vaccination requirement if they have a sincerely held religious belief, practice, or observance that conflicts with the City's requirement that all employees, contractors, volunteers and interns receive a COVID-19 vaccination.

Employees requesting an accommodation must complete this form and provide all of the requested information:

Section A: General Information and Worksite Information

Employee's Name: _____

Employee's Job Title: _____

Employee's Supervisor: _____

Employee's Department: _____

Employee's Worksite: _____

Section B: General Position and Worksite Information

Please check all that currently apply to you:

- ☐ I perform work onsite at a City worksite or facility.
- ☐ My essential job duties require that I interact in person with City employees, visitors, or members of the public.
- ☐ I perform work in shared or communal spaces or areas where City employees, visitors, or members of the public may also be present.

Section C: Religious Belief, Practice, or Observance

Do you have a sincerely held religious belief, practice, or observance that conflicts with the requirement that you receive a COVID-19 vaccination?

- ☐ Yes
- ☐ No

Description of Religious Belief, Practice, or Observance

Please describe how your sincerely held religious belief(s), practice(s), or observance(s) conflict(s) with the requirement that you receive a COVID-19 vaccination:

Section D: Requested Accommodation

Please describe the accommodation* you are requesting**:

** Please note that an accommodation must enable you to meet the essential functions of your job and must not impose an undue hardship on the City or pose a direct threat to your health and safety or the health and safety of others in the workplace.*

Further, please note that the City adopted its COVID-19 vaccination policy based on public health concerns in the community and in order to effectuate positive public health outcomes in the community and to protect the health and safety of all employees and individuals who come to the agency. While the City will, on an individualized basis, evaluate each request for accommodation from the COVID-19 vaccination policy, please note that the circumstances requiring that the City adopt such policy may continue for some time and it may not be possible to provide workplace accommodations at all or accommodations in perpetuity.

*** Please note that the City will consider your preferred accommodation and other possible accommodations for your religious belief, practice, or observance.*

My signature below indicates that the information I have provided in this form is true and correct. I also understand that in evaluating my request for an accommodation, the City may not grant my requested accommodation if it does not allow me to perform my essential job duties, if it imposes an undue hardship on the City, or if it poses a direct threat to my health and safety or to the health and safety of others.

Employee's Signature

Date

ATTACHMENT "A" – Statement of Qualification Questionnaire

Bidders shall complete the entire Statement of Qualification Questionnaire and submit it in accordance with Document 00 2000 (Instructions to Bidders) and Document 00 4513 (Statement of Qualifications). Failure to complete the questionnaire or inclusion of any false statement(s) shall be ground for immediate disqualification.

CONTACT INFORMATION

Company Name: _____

Owner of Company: _____

Contact Person: _____

Address: _____

Phone: _____ Fax: _____

Address: _____

Department of Industrial Relations (DIR) Registration No.: _____

PART A: GENERAL INFORMATION

1. Does Bidder possess a valid and current California Contractor's license for the work proposed? Yes ___ No ___
2. Does Bidder have a minimum of \$2,000,000 liability insurance coverage? Yes ___ No ___
3. Has Bidder's License been revoked at any time in the last five years? Yes ___ No ___
4. Has Bidder been "default terminated" by an Owner (other than for convenience), or has a Surety completed a contract for Bidder within the last five years? Yes ___ No ___
5. Has Bidder been convicted more than twice for failure to pay prevailing wages in the last three years? Yes ___ No ___
6. Can Bidder comply with the City's COVID 19 Vaccination Requirement Policy? (Policy can be found in the Appendices) Yes ___ No ___

**Bidder may be disqualified if any answer to questions 1, 2, or 6 is No.
Bidder may be disqualified if any answer to questions 3, 4, or 5 is Yes.**

SEPTEMBER 2021

DOCUMENT 00 0101

PROJECT MANUAL

for

LAGUNA GRANDE PARK IMPROVEMENTS

located at

CANYON DEL REY BLVD. AT HILBY AVENUE, SEASIDE, CA 93955

CITY OF SEASIDE
DEPARTMENT OF PUBLIC WORKS



City of Seaside
440 Harcourt Ave.
Seaside, CA 93955

Approved by: Nisha Patel, P.E.
City Engineer / Public Works Director

Recommended by: Leslie Llantero
Assistant Engineer

Advertisement Date: Thursday, September 30, 2021

Bid Date: Thursday, October 28, 2021

DOCUMENT 00 0110

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END OF DOCUMENT

DOCUMENT 00 1113

NOTICE INVITING BIDS

ARTICLE 1 – INVITATION TO BID

- 1.01 Notice Inviting Bids:** Owner will receive sealed Bids at The Office of the City Clerk, City of Seaside City Hall, 440 Harcourt Ave., Seaside, California 93955, until **3:30 pm Thursday October 28, 2021** for the following public work:

**CITY OF SEASIDE
LAGUNA GRANDE PARK IMPROVEMENTS**

located at

CANYON DEL REY BOULEVARD AT HILBY AVENUE

- 1.02 Project Description:** This project includes the demolition of concrete curb, concrete pavement, and asphalt walks, clearing and grubbing, and excavation play area. The project includes providing and installing new play equipment and rubber safety surface play area, site furnishings including bench relocation and drink fountain, paving, walks, curbs, and replacing detectable warning surface.
- 1.03 Procurement of Bidding Documents:** Bidders may obtain Bidding Documents from the City's website at www.ci.seaside.ca.us.
- 1.04 Instructions:** Bidders shall refer to Document 00 2113 (Instructions to Bidders) for required documents and items to be submitted in a sealed envelope for deposit at the Office of the City Clerk, City of Seaside City Hall, 440 Harcourt Ave., Seaside, California 93955, no later than the time and date set forth in Paragraph 1.01 above.
- 1.05 Optional Pre-Bid Site Conference:** Owner will provide opportunities for Pre-Bid Site Conference on Wednesday, October 13, 2021 at 9:30 AM on site at Laguna Grande Park on Canyon Del Rey Boulevard at Hilby Avenue.
- 1.06 Bid Preparation Cost:** Bidders are solely responsible for the cost of preparing their Bids.
- 1.07 Reservation of Rights:** Owner specifically reserves the right, in its sole discretion, to reject any or all Bids, to re-bid, or to waive inconsequential defects in bidding not involving time, price or quality of the work. Owner may reject any and all Bids and waive any minor irregularities in the Bids.

ARTICLE 2 – LEGAL REQUIREMENTS

- 2.01 Required Contractor's License(s):** A California Class A General Engineering Contractors License or a Class B General Building Contractors License is required of the prime contractor to bid this contract.
- 2.02 Lowest Bid Determination:** The determination of lowest bid shall be based upon:
Base contract bid only.
- 2.03 Prevailing Wage Laws:** The successful Bidder must comply with all prevailing wage laws applicable to the Project, and related requirements contained in the Contract Documents. Copies

of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are on file at [\[http://www.dir.ca.gov/OPRL/PWD/index.htm\]](http://www.dir.ca.gov/OPRL/PWD/index.htm) and are deemed included in the Bidding Documents. Upon request, Owner will make available copies to any interested party. Also, the successful Bidder shall post the applicable prevailing wage rates at the Site.

- 2.04 Contractor Registration Requirements:** No contractor or subcontractor may be listed on a bid proposal for a public works project or may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- 2.05 Notice of Compliance Monitoring:** This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

END OF DOCUMENT

DOCUMENT 00 2113

INSTRUCTIONS TO BIDDERS

Bids are requested by Owner, for a general construction contract, or work described in general, as set forth in Document 00 1113 (Notice Inviting Bids), and the following additional terms.

ARTICLE 1 - PROCEDURES FOR SUBMISSION OF BIDS

1.01 Pre-Bid Conference and Site Visit

- A. Owner will conduct optional Pre-Bid Site Visits at the dates, times and location indicated in Document 00 1113 (Notice Inviting Bids), to consider such matters as Bidders may request.
- B. The Site Visit may be the Bidders' only opportunity to investigate conditions at the Site. Other Pre-Bid Site Visits may be scheduled at Owner's sole discretion, depending on staff availability.

1.02 Required Pre-Bid Investigations

- A. Prior to submission of Bid, Bidder must conduct a careful examination of Bidding Documents and understand the nature, extent, and location of Work to be performed. Refer to Document 00 7200 (General Conditions) on required pre-bid investigations.
- B. Bidders may examine any available existing conditions information (e.g., record documents, specifications, studies, drawings of previous work), as well as applicable environmental assessment information (if any) regarding the Project, by giving Owner reasonable advanced notice. Owner will make copies available for a fee. A Bidder must give five (5) days advanced notice if copies are desired.

1.03 Registration

- A. Each bidder and any subcontractor listed in a bid proposal pursuant to California Public Contract Code Section 4104, must be currently registered with the Department of Industrial Relations and qualified to perform public work consistent with California Labor Code section 1725.5, except in limited circumstances as referenced in California Labor Code section 1771.1(a). No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

1.04 Bidder Questions and Answers

- A. Bidders must direct all questions about the meaning or intent of Bidding Documents to Owner in writing no later than the 10th day preceding the date set for the receipt of bids. No addenda will be issued to Bidders after the 5th day preceding the date set for the receipt of Bids. Interpretations or clarifications considered necessary by Owner in response to such questions will be issued by written Addenda and posted to the City's website. It is the Contractors responsibility to check the City's website for Addendums. Owner may not answer questions received less than ten Days prior to the date for opening Bids.
- B. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect, and Bidders shall not rely on oral statements.

1.05 Addenda

- A. Addenda may also be issued to modify the Bidding Documents as deemed advisable by Owner. Addenda shall be acknowledged by number in Document 00 4113 (Bid Form) and shall be part of the Contract Documents. A complete listing of Addenda may be secured from Owner.

ARTICLE 2 - RECEIPT OF BIDS:

2.01 Date and Time

- A. Sealed Bids will be received by the Owner until the date and time indicated in Document 00 1113 (Notice Inviting Bids). All Bid envelopes will be time-stamped to reflect their submittal time. Owner shall reject all Bids received after the specified time and will return such Bids to Bidders unopened. Bidders must submit Bids in accordance with this Document 00 2113.

2.02 Bid Submission:

- A. All bids shall be submitted on the prescribed bid forms.
- B. Bidders must submit their Bid in a sealed envelope.
- C. Bidders shall label their Bid envelope by "Bid for Construction – Laguna Grande Park Improvements <<Bidder Name>>".

2.03 Required Contents of Bid Submittals

- A. Document 00 4113 (Bid Form). Bidders must submit Bids on Document 00 4113 (Bid Form) in accordance with the provisions of Document 00 4113. Bidders must complete all Bid items and supply all information required by Bid documents and specifications.
- B. Document 00 4313 (Bond Accompanying Bid). Each Bid must be accompanied by the prescribed bid security in an amount equal to 10 percent of the total amount of the Bid, including the aggregate of all separate bid items and schedules covered by the Bid.
- C. Document 00 4314 (Bidder Registration and Experience Form). Bidders must submit Document 00 4314 (Bidder Registration and Experience Form), completed in accordance with the provisions of Document 00 4314.
- D. Document 00 4330 (Subcontractor List). Bidders must submit Document 00 4330 (Subcontractors List) completed in accordance with the provisions of Document 00 4330. The Subcontractors List must include the names of all subcontractors for those subcontractors who will perform any portion of work, including labor, rendering of service, or specially fabricating and installing a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in excess of one half of one percent (0.5%) of the total Bid amount. Any violation of this requirement may result in a Bid being deemed non-responsive and not being considered. The bidder shall install with his/her own work forces work amounting to not less than fifty percent (50%) of the total amount bid for this project and must submit a listing when requested of the actual subcontract amount to confirm compliance prior to award of the Bids.
- E. Document 00 4513 (Statement of Qualifications for Construction Work). Bidder must submit Document 00 4513 (Statement of Qualifications for Construction Work) in accordance with the provisions of Document 00 4513.
- F. Document 00 4519 (Non-Collusion Affidavit). Bidders must submit Document 00 4519 (Non-Collusion Affidavit) completed in accordance with the provisions of Document 00 4519.
- G. Document 00 4546 (Bidder Certifications). Bidders must submit Document 00 4546 (Bidder Certification) completed in accordance with the provisions of Document 00 4546.

ARTICLE 3 - BID OPENING AND EVALUATION

3.01 Determination of Apparent Low Bidder

- A. Owner will open each Bidders' Envelope at the time and place indicated in Document 00 1113 (Notice Inviting Bids), initially evaluate them for responsiveness, and determine an Apparent Low Bidder as specified herein.
- B. Apparent Low Bid will be determined solely on the total amount of all Bid items based on terms contained in Document 00 1113 (Notice Inviting Bids) and Document 00 4113 (Bid Form). All Bidders are required to submit Bids on all Bid items (including any alternates).
- C. If Apparent Low Bidder is determined to be non-responsive or non-responsible, then Owner may proceed to the next Apparent Low Bidder's Bid pursuant to any procedures determined in its reasonable discretion and proceed for all purposes as if this Apparent Low Bidder were the original Apparent Low Bidder.

3.02 Evaluation of Bids

- A. Bids must be full, complete, clearly written and using the required forms. Bidders shall make any change in the Bid by crossing out the original entry, entering and initialing the new entry. Bidder's failure to submit all required documents strictly as required entitles Owner at its sole discretion to reject the Bid as non-responsive. All Bidders must submit Bids containing each of the fully executed documents supplied in this Project Manual.
- B. In evaluating Bids, Owner will consider Bidders' qualifications, whether or not the Bids comply with the prescribed requirements, unit prices, and other data, as may be requested in Document 00 4113 (Bid Form) or prior to the Notice of Award.
- C. Owner may conduct reasonable investigations and reference checks of Bidder and other persons and organizations as Owner deems necessary to assist in the evaluation of any Bid and to establish Bidder's responsibility, qualifications, financial ability and ability to perform the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time. Submission of a Bid constitutes Bidder's consent to the foregoing.
- D. Owner shall have the right to consider information provided by sources other than Bidder. Owner shall also have the right to communicate directly with Bidder's surety regarding Bidder's bonds.
- E. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between written words and figures will be resolved in favor of the words.
- F. Bids shall be deemed to include the written responses of the Bidder to any questions or requests for information of Owner made as part of Bid evaluation process after submission of Bid.

3.03 Reservation of Rights

- A. Owner reserves the right to reject any or all nonconforming, non-responsive, unbalanced, or conditional Bids, and to reject the Bid of any Bidder as non-responsive as a result of any error or omission in the Bid, or if Owner believes that it would not be in the best interest of Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner. For purposes of this paragraph, an "unbalanced Bid" is one having nominal prices for some Bid items and enhanced prices for other Bid items.
- B. Owner may retain Bid securities and Bid bonds of other than the Apparent Low Bidder for a period of 90 Days after award or full execution of the Contract, whichever first occurs.
- C. Owner may reject any or all Bids and waive any informalities or minor irregularities in the Bids. Owner also reserves the right, in its discretion, to reject any or all Bids and to re-Bid the Project.

ARTICLE 4 - MANDATORY BID PROTEST PROCEDURES:

4.01 Submission of Written Bid Protest

- A. Any Bid protest in connection with the construction contract or work described in general in Document 00 1113 (Notice Inviting Bids) must be submitted in writing to City Clerk's Office, 440 Harcourt Avenue Seaside, CA 93955, before **3:30 P.M.** of the fifth Business Day following opening of the Bidders' envelopes.
- B. The initial protest document must contain a complete statement of the basis for the protest.
- C. The protest must refer to the specific portion of the document that forms the basis for the protest.
- D. The protest must include the name, address, and telephone number of the person representing the protesting party.
- E. Only Bidders who the Owner otherwise determines are responsive and responsible are eligible to protest a Bid; protests from any other party will not be considered. In order to determine whether a protesting Bidder is responsive and responsible, Owner may evaluate all information contained in any protesting Bidder's Bid and conduct the same investigation and evaluation as Owner is entitled to take regarding an Apparent Low Bidder.
- F. The party filing the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other Bidders who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.

4.02 Exclusive Remedy

- A. The procedure and time limits set forth in this paragraph are mandatory and are Bidder's sole and exclusive remedy in the event of Bid protest. Bidder's failure to comply with these procedures shall constitute a waiver of any right to further pursue the Bid protest, including filing a Government Code Claim or legal proceedings. A Bidder may not rely on a protest submitted by another Bidder but must timely pursue its own protest.

ARTICLE 5 - AWARD AND EXECUTION OF CONTRACT

5.01 Notice of Award and Submittal of Executed Contract Documents

- A. If Contract is to be awarded, it will be awarded to the lowest responsible responsive Bidder. Owner will issue Document 00 5100 Notice of Award. Such Award, if made, will be made within ninety (90) days after the opening of the Bid Proposals.
- B. Successful Bidder must execute and submit to Owner the "Required Contract Documents and Proof of Insurance" set forth below, by 5:00 p.m. of the 10th Working Day following the Notice of Award.

5.02 Required Contract Documents and Proof of Insurance

- A. Document 00 5200 (Agreement), fully executed by successful Bidder. Submit signed copy and initials on each page.
- B. Document 00 6113.13 (Construction Performance Bond), fully executed by successful Bidder and surety, in the amount set forth in Document 00 6113.13. Submit one original.
- C. Document 00 6113.16 (Construction Labor and Material Payment Bond), fully executed by successful Bidder and surety, in the amount set forth in Document 00 6113.16. Submit one original.
- D. Document 00 6536 (Guaranty), fully executed by successful Bidder.
- E. Insurance certificates and endorsements required by Document 00 7316 (Supplementary Conditions—Insurance): Submit one original set.

5.03 Failure to Execute and Deliver Documents:

- A. If Bidder to whom Contract is awarded, within the period described in this Document 00 2113, fails or neglects to execute and deliver all required Contract Documents and file all required bonds, insurance certificates, and other documents, Owner may, in its sole discretion, rescind the award, recover on Bidder's surety bond, or deposit Bidder's cashier's check or certified check for collection, and retain the proceeds thereof as liquidated damages for Bidder's failure to enter into the Contract Documents. Bidder agrees that calculating the damages Owner may suffer as a result of Bidder's failure to execute and deliver all required Contract Documents would be extremely difficult and impractical and that the amount of Bidder's required Bid security shall be the agreed and presumed amount of Owner's damages.
- B. Upon such failure to timely deliver all required Contract Documents as set forth herein, Owner may determine the next Apparent Low Bidder and proceed accordingly. Such Award, if made, will be made within ninety(90) days after the opening of the Bid Proposals.

ARTICLE 6 - GENERAL CONDITIONS AND REQUIREMENTS

6.01 Modification of Commencement of Work:

- A. Owner expressly reserves the right to modify the date for the Commencement of Work under the Contract and to independently perform and complete work related to Project. Owner accepts no responsibility to Contractor for any delays attributed to its need to complete independent work at the Site.
- B. Owner shall have the right to communicate directly with Apparent Low Bidder's proposed performance bond surety, to confirm the performance bond. Owner may elect to extend the time to receive faithful performance and labor and material payment bonds.

6.02 Conformed Project Manual:

- A. Following Award of Contract, Owner may prepare a conformed Project Manual reflecting Addenda issued during bidding, which will, failing objection, constitute the approved Project Manual.

6.03 Bonds:

- A. The successful Bidder shall furnish to the Owner a Performance Bond ensuring the performance of the Work in accordance with the Contract Documents and a Payment Bond ensuring the payment of all obligations arising from the Work. Sureties and Bonds shall comply with the requirements in the General Conditions and Supplementary Conditions. Bonds shall be delivered to the Owner at the time and place the Contract Agreement is executed unless otherwise provided in the Contract Documents or otherwise approved in writing by the Owner. Bonds shall conform exactly to the forms included in Section 00 6113.13 and 00 6113.16 of the Contract Documents.
- B. Failure to execute the bonds within the time specified shall allow the Owner to consider that the Bidder has abandoned the Contract, in which case the check or bidder's bond accompanying the bid shall be the property of the Owner.
- C. The Performance and Payment Bond(s) may be either a single bond or a separate Performance Bond and a Separate Payment (labor and materials) Bond. If a single bond is used, it must be in the amount of two hundred percent (200%) of the Total Bid, and if separate Bonds are used, each must be for one hundred percent (100%) of the Total Bid. The Bond covering payment must comply with Section 3248 of the California Civil Code.
- D. All bonds and endorsements thereto to be submitted pursuant to the terms of the Contract Documents must be written and issued by a company having a minimum of an "A" rating and of adequate financial category as rated by the current edition of Best's Key Rating Guide as published by A. M. Best Company, Oldwick, New Jersey 08858..

6.04 Wage Rates:

- A. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California

Department of Industrial Relations, and are pursuant to Section 1773 of the Labor Code and can be found at <http://www.dir.ca.gov/dlsr/PWD/Northern.html>.

6.05 Notice of Compliance Monitoring:

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

6.06 Withdrawal of Bids:

- A. Bidders may withdraw their Bids at any time prior to the Bid opening time fixed in this Document 00 2113, only by written request for the withdrawal of Bid filed with Owner at **440 Harcourt Ave. Seaside, CA 93955**. Bidder or its duly authorized representative shall execute request to withdraw Bid.

6.07 Ineligible Contractors and Subcontractors:

- A. Owner shall not accept a Bid from a Bidder who is ineligible to bid or work on, or be awarded, a public works project pursuant to California Labor Code section 1777.1 or 1777.7. Bidders and the Contractor who is awarded the project contract shall not utilize, or allow work by, any subcontractor who is ineligible to bid or work on, or be awarded, a public works project pursuant to California Labor Code Section 1777.1 or 1777.7. (See California Public Contract Code Section 6109.) The California Division of Labor Standards Enforcement publishes a list of debarred contractors and subcontractors on the Internet at www.dir.ca.gov/DLSE/debar.html.

6.08 Substitutions:

- A. Bidders must base their Bids on products and systems specified in Contract Documents or listed by name in Addenda. Owner will consider substitution requests only for "or equal items." Bidders wanting to use "or equal" item(s) may submit Document 00 6325 (Substitution Request Form) no later than 20 Calendar Days after Notice of Award. As a limitation on Bidder's privilege to request substitution of "or equal" items, Owner has found that certain items are designated as Owner standards and certain items are designated to match existing items in use on a particular public improvement either completed or in the course of completion or are available from one source. As to such items, Owner will not permit substitution. Such items are described in the Bidding Documents as "No substitutions allowed".

6.09 Definitions:

- A. All abbreviations and definitions of terms used in this Document 00 2113 are set forth in Document 00 7200 (General Conditions) and Section 01 4200 (References and Definitions).

END OF DOCUMENT

DOCUMENT 00 3132

EXISTING CONDITIONS

ARTICLE 1 - REPORTS AND INFORMATION ON EXISTING CONDITIONS

1.01 Inspection of Reports:

- A. Owner, its consultants, and prior contractors may have collected documents providing a general description of the Site and conditions of the Work. These documents may consist of geotechnical reports for and around the Site, contracts, contract specifications, tenant improvement contracts, as-built drawings, utility drawings, and information regarding Underground Facilities (collectively, "Existing Conditions Data".)
- B. Existing Conditions Data is for information only and does not describe labor, materials or equipment furnished by Contractor, but rather, information regarding conditions of the work. Such Existing Conditions Data is not a Contract Document.

ARTICLE 2 - USE OF EXISTING CONDITIONS DATA

2.01 Above-Ground Existing Conditions:

- A. Owner makes no warranty or representation of existing aboveground conditions, as-built conditions, or other aboveground actual conditions verifiable by reasonable independent investigation. These conditions are verifiable by Bidder by the performance of its own independent investigation that Bidder must perform prior to bidding and Bidder must not rely on the information supplied by Owner regarding existing conditions.
- B. Bidder represents and agrees that in submitting its Bid, it is not relying on any information regarding above-ground existing conditions supplied by Owner.

2.02 Underground Facilities:

- A. Information supplied regarding existing Underground Facilities at or contiguous to the Site is based on information furnished to Owner by others (e.g., the builders of such Underground Facilities or others).
- B. Owner assumes responsibility for only the general accuracy, completeness or thoroughness of information regarding Underground Facilities that are owned by Owner. This express assumption of responsibility applies only if Bidder has conducted the independent investigation required of it under Document 00 7200 (General Conditions) and discrepancies were not apparent. Bidder is solely responsible for any interpretation or conclusion drawn from this information.
- C. Owner is not responsible only for information regarding Underground Facilities owned by others.

ARTICLE 3 - INVESTIGATIONS

3.01 Required Investigations:

- A. Before submitting a Bid, each Bidder shall be responsible to obtain such additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise, which may affect cost, progress, performance or furnishing of Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of Contract Documents.
- B. Bidders shall advise Owner in writing during the Bid period of any questions, suppositions, inferences or deductions Bidders may have for Owner's review and response.
- C. Owner has provided time in the period prior to bidding for Bidder to perform these investigations.

3.02 Access to Site for Investigations:

- A. During the Pre-Bid Site Visit(s), Owner will provide each Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies, as each Bidder deems necessary for submission of a Bid. Bidders must fill all holes and clean up and restore the Site to its former conditions upon completion of such explorations, investigations, tests, and studies. Such investigations may be performed only under the provisions of Document 00 2113 (Instructions to Bidders) and Document 00 7200 (General Conditions) including, but not limited to, proof of insurance and obligation to indemnify against claims arising from such investigation work. Each Bidder shall supply all equipment required to perform any investigations as each Bidder deems necessary. Owner has the right to limit the number of pieces of machinery operating at one time due to safety concerns.

END OF DOCUMENT

DOCUMENT 00 4113

BID FORM

TO CITY OF SEASIDE

THIS BID IS SUBMITTED BY:

(Firm/Company Name)

Re: **Laguna Grande Park Improvements** located on **Canyon Del Rey Boulevard at Hilby Avenue** in Seaside, California 93955.

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with the City of Seaside in the form included in the Contract Documents, Document 00 5200 (Agreement), to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Sum and within the Contract Time indicated in this Bid and in accordance with all other terms and conditions of the Contract Documents.
2. Bidder accepts all of the terms and conditions of the Contract Documents, Document 00 1000 (Notice Inviting Bids), and Document 00 2113 (Instructions to Bidders), including, without limitation, those dealing with the disposition of Bid Security. This Bid will remain subject to acceptance for 90 Days after the day of Bid opening, unless there is a bid protest, then 120 days after the day of bid opening.
3. In submitting this Bid, Bidder represents that Bidder has examined all of the Contract Documents, performed all necessary Pre-Bid investigations, received the Pre-Bid conference minutes (if any), and received the following Addenda:

Addendum Number	<u>ADDENDUM DATE</u>	Signature of Bidder

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

SCHEDULE OF BID PRICES

All Bid items, including lump sums and unit prices, must be filled in completely. Bid items are described in Section 01 1100 (Summary of Work). Quote in figures only, unless words are specifically requested.

ITEM #	BID ITEM	EST. QTY.	UNIT	UNIT PRICE	TOTAL
1	Mobilization and Demobilization	1	LS		
2	Storm Water Compliance	1	LS		
3	Construction Surveying	1	LS		
4	Demolition Work	1	LS		
5	Pedestrian Concrete Pavement	1550	SF		
6	AC Conform Paving	140	SF		
7	Concrete Curb Transition	6	LF		
8	Furnish and Install Play Equipment, Rubber Play Surface, Flush Concrete Curb	1	LS		
9	Remove & Relocate Bench	4	EA		
10	Salvage and Furnish Drinking Fountain	1	LS		
11	Reconstruct Detectable Warning Surface and Concrete	1	LS		
12	Record Drawings	1	LS		
TOTAL					
The TOTAL BASE BID AMOUNT described in words is:					

_____ and _____/100 DOLLARS)					

5. Subcontractors for work included in all Bid items are listed on Document 00 4330 (Subcontractors List) submitted herewith.
6. The undersigned Bidder understands that Owner reserves the right to reject this Bid.
7. If written notice of the acceptance of this Bid, hereinafter referred to as Notice of Award, is mailed or delivered to the undersigned Bidder within the time described in Paragraph 2 of this Document 00 4113 or at any other time thereafter before it is withdrawn, the undersigned Bidder will execute and deliver the documents required by Document 00 2113 (Instructions to Bidders) within the times specified therein.
8. Notice of Award or request for additional information may be addressed to the undersigned Bidder at the address set forth below.

9. The undersigned Bidder herewith encloses cash, a cashier's check, or certified check of or on a responsible bank in the United States, or a corporate surety bond furnished by a surety authorized to do a surety business in the State of California, in form specified in Document 00 2113 (Instructions to Bidders), in the amount of ten percent (10%) of the Total Bid Price and made payable to the City of Seaside.
10. The undersigned Bidder agrees to commence Work under the Contract Documents on the date established in Document 00 7200 (General Conditions) and to complete all Work within the time specified in Document 00 5200 (Agreement).
11. The undersigned Bidder agrees that, in accordance with Document 00 7200 (General Conditions), liquidated damages for failure to complete all Work in the Contract within the time specified in Document 00 5200 (Agreement) shall be as set forth in Document 00 5200.
12. The names of all persons interested in the foregoing Bid as principals are:

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

NAME OF BIDDER: _____

licensed in accordance with an act for the registration of Contractors, and with license

number: _____ Expiration: _____.

_____	_____
(Place of Incorporation, if Applicable)	(Principal)
_____	_____
	(Principal)
_____	_____
	(Principal)

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(Signature of Bidder)

NOTE: If Bidder is a corporation, set forth the legal name of the corporation together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation. If Bidder is a partnership, set forth the name of the firm together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership.

Business Address: _____

Contractor's Representative(s):

(Name/Title)

(Name/Title)

(Name/Title)

Officers Authorized to Sign Contracts

(Name/Title)

(Name/Title)

(Name/Title)

Telephone Number(s):

(Area Code) (Number)

(Area Code) (Number)

Fax Number(s):

(Area Code) (Number)

(Area Code) (Number)

Date of Bid:

END OF DOCUMENT

DOCUMENT 00 4313

BOND ACCOMPANYING BID

KNOW ALL BY THESE PRESENTS:

That the undersigned

_____,
(Name of Contractor)

as Principal and the undersigned as Surety are held and firmly bound unto Owner, the City of Seaside, as obligee, in the penal sum of (Dollar Amount in Words)
Dollars (\$_____) lawful money of the United States of America being at least ten percent (10%) of the aggregate amount of said Principal's base Bid, for the payment of which, well and truly to be made, we bind ourselves, our successors, executors, administrators, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal is submitting a Bid for Laguna Grande Park Improvements located at the intersection of Canyon Del Rey at Hilby Avenue, Seaside, California, 93955.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Bid submitted by the said Principal be accepted and the Contract be awarded to said Principal and said Principal shall within the required periods enter into the Contract so awarded and provide the required Construction Performance Bond, Construction Labor and Material Payment Bond, insurance certificates, Guarantee, and all other endorsements, forms, and documents required under Document 00 2000 (Instructions to Bidders), then this obligation shall be void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument this _____ day of _____, 20____.
(Month)

(Corporate Seal)

By _____
Principal

Name /Title

By _____
Surety

Name /Title

(Corporate Seal)

By _____
Attorney in Fact

Name /Title

END OF DOCUMENT

DOCUMENT 00 4314

BIDDER REGISTRATION FORM

INSTRUCTIONS

In order to register to undertake work for Owner, Bidder must:

- 1) Fill out this registration form completely; do not leave blanks.
- 2) Provide certificates of insurance or a letter evidencing coverage complying with Document 00 4513 (Statement of Qualifications).

INDEPENDENT CONTRACTOR REGISTRATION

Contractor's License # _____

Date: _____ Fed I.D. # _____

Full Corporate Name of Company: _____

Street Address: _____

Mailing Address: _____

Phone: _____ Fax: _____

Name of Principal Contact: _____

Type of Business: _____ Sole Proprietor _____ Partnership
 _____ Non-Profit 501(c)(3) _____ Corporation
 _____ other (please explain: _____)

INSURANCE

Workers' Compensation:

Carrier: _____

Address: _____

Phone and Fax: _____

Policy Number: _____

General Liability:

Carrier: _____

Address: _____

Phone and Fax: _____

Policy Number: _____

Policy Limits: \$ _____

A.M. Best Rating: _____

Automobile Liability:

Carrier: _____

Address: _____

Phone and Fax: _____

Policy Number: _____

Policy Limits: \$ _____

A.M. Best Rating: _____

All-risk Course of Construction (if applicable, as required by Document 00 7316 [Supplementary Conditions – Insurance]):

Carrier: _____

Address: _____

Phone and Fax: _____

Policy Number: _____

Policy Limits: \$ _____

A.M. Best Rating: _____

Professional Liability (if applicable, as required by Document 00 7316 [Supplementary Conditions – Insurance]):

Carrier: _____

Address: _____

Phone and Fax: _____

Policy Number: _____

Policy Limits: \$ _____

A.M. Best Rating: _____

**Pollution Legal Liability Insurance (if applicable, as required by Document 00 7316
[Supplementary Conditions – Insurance]):**

Carrier: _____

Address: _____

Phone and Fax: _____

Policy Number: _____

Policy Limits: \$ _____

A.M. Best Rating: _____

**BIDDER CERTIFIES, UNDER PENALTY OF PERJURY, THAT THE FOREGOING
INFORMATION IS CURRENT AND ACCURATE AND AUTHORIZES OWNER, AND ITS AGENTS AND
REPRESENTATIVES TO OBTAIN A CREDIT REPORT AND/OR VERIFY ANY OF THE ABOVE
INFORMATION.**

SIGNATURE

DATE

SAFETY EXPERIENCE

The following statements as to the Bidder's safety experience are submitted with the Bid, as part thereof, and the Bidder guarantees the truthfulness and accuracy of all information.

1. List Bidder's interstate Experience Modification Rate for the last three years.

[20__] _____ [20__] _____ [20__] _____
2. Use Bidder's last year's Cal/OSHA 200 log to fill in the following number of injuries and illnesses:
 - a. Number of lost workday cases _____
 - b. Number of medical treatment cases _____
 - c. Number of fatalities _____
3. Employee hours worked last year _____
4. State the name of Bidder's safety engineer/manager: _____

Attach a resume or outline of this individual's safety and health qualifications and experience.

I CERTIFY, UNDER PENALTY OF PERJURY, THAT THE FOREGOING INFORMATION IS CURRENT AND ACCURATE AND I AUTHORIZE OWNER, AND ITS AGENTS AND REPRESENTATIVES TO OBTAIN A CREDIT REPORT AND/OR VERIFY ANY OF THE ABOVE INFORMATION.

BIDDER:

By: _____
Signature / Name

Its: _____
Title

Date _____

END OF DOCUMENT

DOCUMENT 00 4330

SUBCONTRACTORS LIST

Bidder submits the following information as to the subcontractors Bidder intends to employ if awarded the Contract.

Full Name of Subcontractor and Address of Mill or Shop	Description of Work: Reference To Bid Items	Subcontractor's License No.	Public Works Contractor Registration NO.	Value of Work (\$)

(Bidder to attach additional sheets if necessary)

END OF DOCUMENT

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DOCUMENT 00 4513

STATEMENT OF QUALIFICATIONS FOR CONSTRUCTION WORK

ARTICLE 1 – GENERAL INFORMATION

1.01 Minimum Bidder Qualifications.

- A. Bidders must be duly licensed in accordance with the California Business & Professions Code and have a history of work performance sufficient to meet the requirements of a responsible bidder in the California Public Contract Code Section 1104.
- B. The prime contractor must possess either a “Class A – General Engineering” or the licenses described in Document 00 1113. This contractor must have a minimum five (5) years experience as a continuously operating entity engaged in the performance of similar work and successfully completed at least three (3) park improvements or ADA accessibility projects over the last five (5) years.
- C. Bidders must demonstrate successful experience with type of work of this Project, to include, within the past year, completed 1 park improvement project of a similar nature and complexity, with a contract dollar amount of at least 75% of the amount of Bidder’s Bid.

1.02 Measurement.

- A. Bidder’s compliance with the minimum qualification requirements will be measured by Bidder’s experience as an operating entity and also by the experience of the supervisory personnel who will have responsible charge of the various major components of the Work.
- B. If Bidder subcontracts portions of the Work, Owner, in its determination of whether the minimum qualification requirements have been met, may consider the qualifications of the Subcontractor’s supervisory personnel.
- C. The qualifications of the Key Personnel are to be submitted with the Statement of Qualifications (“SOQ”), by providing the information described in this Document 00 4513.

ARTICLE 2 – REQUIRED CONTENTS OF SOQ SUBMISSION

2.01 Transmittal Letter.

- A. The Transmittal Letter shall name the proposed prime contractor, its legal structure (i.e., corporation, partnership, limited partnership, joint venture). If a joint venture or partnership is proposed, Bidder shall identify partner and/or member of the joint venture and their roles and responsibilities.

2.02 Submittals:

- A. Completed Questionnaire. Bidder shall include a completed Statement of Qualification Questionnaire in the form attached to this Document 00 4513 as Attachment “A”.
- B. Surety Letter re: Capability to Provide Required Performance and Payment Bonds. Bidder shall include a letter from a surety duly licensed to do business in the State of California, having a financial rating from A.M. Best Company of A-, VII or better, that the surety has agreed to provide Bidder with the required performance and payment bonds in accordance with the requirements set forth in Documents 00 6113.13 (Construction Performance Bond) and 00 6113.16 (Construction Labor and material Payment bond), each in the penal sum of the Contractor’s bid when submitted. Owner shall have the right to verify with the surety that the surety, based upon the Bid prices, will issue the required bonds under the conditions stated.
- C. Insurer Letter re: Capability to Provide the Required Insurance. Bidder shall provide a letter from an insurance underwriter, having a financial rating reasonably acceptable to Owner, confirming that the insurer will provide Bidder the required coverages and amounts specified in the Contract Documents.

2.03 Format.

- A. The SOQ shall be clear and concise to enable management-oriented personnel to make a thorough evaluation and arrive at a sound determination as to whether the SOQ meet Owner’s requirement. To this end, the SOQ should be so specific, detailed and complete as to demonstrate clearly and

fully that the Bidder has a thorough understanding of and has demonstrated knowledge of the requirements to perform the Work (or applicable portion thereof).

- B. Any explanation requested by a Bidder regarding the meaning or interpretation of this Document 00 4513 must be requested in writing and with sufficient time allowed for a reply to reach Bidder before the submission of its SOQ. Oral explanations or instructions will not be binding. Any information provided to any prospective Bidder concerning this Document 00 4513 will be furnished to all prospective Bidders as an Addendum to the Bidding Documents.

STATEMENT OF QUALIFICATION QUESTIONNAIRE FOLLOWS ON NEXT PAGE

ATTACHMENT "A" – Statement of Qualification Questionnaire

Bidders shall complete the entire Statement of Qualification Questionnaire and submit it in accordance with Document 00 2000 (Instructions to Bidders) and Document 00 4513 (Statement of Qualifications). Failure to complete the questionnaire or inclusion of any false statement(s) shall be ground for immediate disqualification.

CONTACT INFORMATION

Company Name: _____

Owner of Company: _____

Contact Person: _____

Address: _____

Phone: _____ Fax: _____

Address: _____

Department of Industrial Relations (DIR) Registration No.: _____

PART A: GENERAL INFORMATION

1. Does Bidder possess a valid and current California Contractor's license for the work proposed? Yes ___ No ___
2. Does Bidder have a minimum of \$2,000,000 liability insurance coverage? Yes ___ No ___
3. Has Bidder's License been revoked at any time in the last five years? Yes ___ No ___
4. Has Bidder been "default terminated" by an Owner (other than for convenience), or has a Surety completed a contract for Bidder within the last five years? Yes ___ No ___
5. Has Bidder been convicted more than twice for failure to pay prevailing wages in the last three years? Yes ___ No ___

Bidder may be disqualified if any answer to questions 1 or 2 is No.

Bidder may be disqualified if any answer to questions 3, 4, or 5 is Yes.

**PART B: EXPERIENCE OF APPURTENANCE / RETROFIT CONTRACTOR
CLASS A LICENSURE**

The nature of this Project requires prior similar experience for the firm and the Key Personnel assigned. Summarize similar project experience below and provide the detailed project information requested:

List three projects of similar size and scope to the Work of the Contract, completed in the past five (5) years, and indicate who were the superintendent, project manager and scheduler. NOTE: this listing will be used to assess compliance with the stated minimum qualifications in Paragraph 1.01C.

Project Name	Construction Cost (\$)	Year Completed	Name of Project Superintendent	Name of Project Manager	Name of Project Scheduler

List Key Personnel that will be assigned to the Work of the current Project and their experience/training with the projects listed above:

Project Manager: _____

Project Superintendent: _____

Project Scheduler: _____

Recent Projects.

Provide information about three (3) of its most currently completed projects. Names and references must be current and verifiable. This listing will be used to assess compliance with the stated minimum qualifications in Paragraph 1.01C. If a separate sheet is used, it must contain all of the following information:

1. Project Name: _____
 Location: _____
 Owner: _____
 Owner Contact (name and phone): _____
 Architect/Engineer: _____
 Architect/Engineer Contact (name and phone number): _____
 Const. Mgr. or Project Mgr. (name and phone number): _____
 Description of Project, Scope of Work Performed: _____

 Total Construction Cost: _____
 Total Change Order Amount: _____
 Did Change Orders exceed 10% of original contract sum? _____ If yes, please explain on separate sheet.
 Original Scheduled Date of Completion: _____
 Time Extensions Granted (number of Days): _____
 Actual Date of Completion: _____
 Number of Stop Notices filed by Subcontractors or Suppliers: _____
2. Project Name: _____
 Location: _____
 Owner: _____
 Owner Contact (name and phone): _____
 Architect/Engineer: _____
 Architect/Engineer Contact (name and phone number): _____
 Const. Mgr. or Project Mgr. (name and phone number): _____
 Description of Project, Scope of Work Performed: _____

 Total Construction Cost: _____

Total Change Order Amount: _____

Did Change Orders exceed 10% of original contract sum? _____ If yes, please explain on separate sheet.

Original Scheduled Date of Completion: _____

Time Extensions Granted (number of Days): _____

Actual Date of Completion: _____

Number of Stop Notices filed by Subcontractors or Suppliers: _____

3. Project Name: _____

Location: _____

Owner: _____

Owner Contact (name and phone): _____

Architect/Engineer: _____

Architect/Engineer Contact (name and phone number): _____

Const. Mgr. or Project Mgr. (name and phone number): _____

Description of Project, Scope of Work Performed: _____

Total Construction Cost: _____

Total Change Order Amount: _____

Did Change Orders exceed 10% of original contract sum? _____ If yes, please explain on separate sheet.

Original Scheduled Date of Completion: _____

Time Extensions Granted (number of Days): _____

Actual Date of Completion: _____

Number of Stop Notices filed by Subcontractors or Suppliers: _____

Bidder hereby declares under penalty of perjury that all the information provided in this questionnaire is true and correct.

SIGNATURE

TITLE

END OF DOCUMENT

DOCUMENT 00 4519

NON-COLLUSION AFFIDAVIT

PUBLIC CONTRACT CODE §7106

NON-COLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

_____, being first duly sworn,
(Name of Principal of Bidder)

deposes and says that he or she is _____
(Office of Affiant)
of _____, the party
(Name of Bidder)

making the foregoing Bid, that the Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the Bid is genuine and not collusive or sham; that Bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham Bid, and has not directly or indirectly colluded, conspired, connived or agreed with any bidder or anyone else to put in a sham Bid, or that anyone shall refrain from bidding, and that the Bidder has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the Bid price of Bidder or any other bidder, or to fix any overhead, profit or cost element of the Bid price, or of that of any other bidder, or to secure any advantage against Owner, or anyone interested in the proposed contract; that all statements contained in the Bid are true; and further, that Bidder has not, directly or indirectly, submitted its Bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, Bid depository, or to any member or agent thereof to effectuate a collusive or sham Bid.

Executed under penalty of perjury under the laws of the State of California:

(Name of Bidder)

(Signature of Principal)

(Name / Title of Principal)

Subscribed and sworn before me _____

This _____ day of _____, 20____

Notary Public of the State of _____

In and for the County of _____

My Commission expires _____ (Seal)

NOTE: If Bidder is a partnership or a joint venture, this affidavit must be signed and sworn to by every member of the partnership or venture.

NOTE: If Bidder [including any partner or venturer of a partnership or joint venture] is a corporation, this affidavit must be signed by the Chairman, President, or Vice President and by the Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer.

NOTE: If Bidder's affidavit on this form is made outside the State of California, the official position of the person taking such affidavit shall be certified according to law.

END OF DOCUMENT

DOCUMENT 00 4546

BIDDER CERTIFICATIONS

TO BE EXECUTED BY ALL BIDDERS AND SUBMITTED WITH BID

The undersigned Bidder certifies to Owner as set forth in sections 1 through 6 below.

1. STATEMENT OF CONVICTIONS

By my signature hereunder, I hereby swear, under penalty of perjury, that no more than one final, unappealable finding of contempt of court by a Federal Court has been issued against Bidder within the past two years because of failure to comply with an order of a Federal Court or to comply with an order of the National Labor Relations Board.

2. CERTIFICATION OF WORKER'S COMPENSATION INSURANCE

By my signature hereunder, as the Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract.

3. CERTIFICATION OF PREVAILING WAGE RATES AND RECORDS

By my signature hereunder, as the Contractor, I certify that I am aware of the provisions of Section 1773 of the California Labor Code, which requires the payment of prevailing wage on public projects. Also, that the Contractor and any subcontractors under the Contractor shall comply with California Labor Code §1776, regarding wage records, and with California Labor Code §1777.5, regarding the employment and training of apprentices. It is the Contractor's responsibility to ensure compliance by any and all subcontractors performing work under this Contract.

4. CERTIFICATION OF COMPLIANCE WITH PUBLIC WORKS CHAPTER OF LABOR CODE

By my signature hereunder, as the Contractor, I certify that I am aware of Sections 1777.1 and 1777.7 of the California Labor Code and Contractor and Subcontractors and am eligible to bid and work on public works projects. Contractor warrants that it is currently registered with the Department of Industrial Relations and qualified to perform public work consistent with Labor Code section 1725.5. Contractor further warrants that any subcontractors who are subject to Public Contract code section 4104, are registered and qualified to perform public work consistent with Labor Code section 1725.5. No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. Bidder shall maintain a current DIR registration for the duration of the project.

5. CERTIFICATION OF NOTICE OF COMPLIANCE MONITORING

By my signature hereunder, as the Contractor, I certify that I am aware of Section 1771.4 of the California Labor Code and that this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

6. CERTIFICATION OF ADEQUACY OF CONTRACT AMOUNT

By my signature hereunder, as the Contractor, pursuant to Labor Code Section 2810(a), I certify that, if awarded the Contract based on the undersigned's Bid, the Contract will include funds sufficient to allow the Contractor to comply with all applicable local, state, and federal laws or regulations governing the labor or services to be provided. I understand that Owner will be relying on this certification if it awards the Contract to the undersigned.

BIDDER:

(Name of Bidder)

Date: _____

By: _____
(Signature)

Name: _____
(Print Name)

Its: _____
(Title)

END OF DOCUMENT

DOCUMENT 00 5100

NOTICE OF AWARD

Dated _____

TO: _____

ADDRESS: _____

PROJECT NO.: _____

CONTRACT FOR: The City of Seaside

<< Project Name >>

located at << Location >>, Seaside, California, 93955.

The Contract Sum of your contract is _____ Dollars (\$_____).

1. One (1) copy of the proposed Contract Documents listed below accompany this Notice of Award.
2. You must comply with the following conditions precedent by **5:00 p.m.** of the **10th Working Day** following the date of this Notice of Award, that is, by **[Day of the Week, Month Day, 20__]**.
 - a. Deliver to Owner one fully executed counterparts of Document 00 5200 (Agreement). The copy of Document 00 5200 (Agreement) must bear your original signature on the signature page and your initials on each page.
 - b. Deliver to Owner one originals of Document 00 6113.13 (Construction Performance Bond), executed by you and your surety.
 - c. Deliver to Owner one originals of Document 00 6113.16 (Construction Labor and Material Payment Bond), executed by you and your surety.
 - d. Deliver to Owner original set of the insurance certificates with endorsements required under Document 00 7316 (Supplementary Conditions – Insurance).
 - e. Deliver to Owner one original of Document 00 6536 (Guaranty), executed by you.
3. Failure to comply with these conditions within the time specified will entitle Owner to consider your Bid abandoned, to annul this Notice of Award, and to declare your Bid security forfeited.
4. Within 21 Days after you comply with the conditions in Paragraph 2 of this Document 00 5100, Owner will return to you one fully signed copy of Document 00 5200 (Agreement).
5. Before you may start any Work at the Site, you must attend a preconstruction conference and receive a written Notice to Proceed from Owner. The preconstruction conference may be arranged through Leslie Llantero, Project Manager, (831) 899-6832. Questions regarding bonds and insurance and all other inquiries regarding the Project should be directed to Leslie Llantero, Project Manager.

6. Upon commencement of the Work, you and each of your Subcontractors shall certify and provide Owner copies of payroll records on forms provided by the Division of Labor Standards Enforcement, in accordance with California Labor Code §1776.

OWNER

BY: _____
Nisha Patel, Public Works Director/City Engineer

ACCEPTANCE OF NOTICE OF AWARD

Receipt of the above notice of Award is hereby acknowledged by:

This day of _____, 2021

By: _____

Title: _____

END OF DOCUMENT

DOCUMENT 00 5200

AGREEMENT

THIS AGREEMENT, dated this [date] day of [Month], [20__], by and between [Name of Contractor] whose place of business is located at [Address of Contractor] ("Contractor"), and the City of Seaside ("Owner"), acting under and by virtue of the authority vested in Owner by the laws of the State of California.

WHEREAS, Owner, by its Resolution No. [insert number] adopted on the [date] day of [Month, Year] awarded to Contractor the following Contract:

PROJECT NUMBER xx-xx

Laguna Grande Park Improvements
located at
Canyon Del Rey Boulevard at Hilby Avenue, Seaside, California, 93955

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

ARTICLE 1 - SCOPE OF WORK OF THE CONTRACT

1.01 Work of the Contract

- A. Contractor shall complete all Work specified in the Contract Documents, in accordance with the Specifications, Drawings, and all other terms and conditions of the Contract Documents (Work).

1.02 Price for Completion of the Work

- A. Owner shall pay Contractor the following Contract Sum <<Amount in Word (\$)>> for completion of Work in accordance with Contract Documents as set forth in Contractor's Bid, attached hereto.

ARTICLE 2 - COMMENCEMENT AND COMPLETION OF WORK

2.01 Commencement of Work

- A. Contractor shall commence Work on the date established in the Notice to Proceed.
- B. Owner reserves the right to modify or alter the Commencement Date.

2.02 Completion of Work

- A. Contractor shall achieve Substantial Completion of the entire Work within **30 Working** Days from the Commencement Date and **15 Working** Days following substantial completion to achieve Final Completion.

ARTICLE 3 - PROJECT REPRESENTATIVES

3.01 Owner's Project Manager

- A. Owner has designated Leslie Llantero as its Project Manager to act as Owner's Representative in all matters relating to the Project.
- B. City Manager shall have final authority over all matters pertaining to the Contract Documents and shall have sole authority to modify the Contract Documents on behalf of Owner, to accept work, and to make decisions or actions binding on Owner, and shall have sole signature authority on behalf of Owner.
- C. Owner may assign all or part of the Project Manager's rights, responsibilities and duties to a Construction Manager, or other Owner Representative.

3.02 Architect/Engineer

- A. **Whitson Engineers** furnished the Plans and Specifications and shall have the rights assigned to Architect/Engineer in the Contract Documents.

ARTICLE 4 - LIQUIDATED DAMAGES FOR DELAY IN COMPLETION OF WORK

4.01 Liquidated Damage Amounts

- A. As liquidated damages for delay Contractor shall pay Owner **Three Hundred Dollars (\$300)** for each Day that expires after the time specified herein for Contractor to achieve Substantial Completion of the entire Work, until achieved.
- B. As liquidated damages for delay Contractor shall pay Owner **Three Hundred Dollars (\$300)** for each Day that expires after the time specified herein for Contractor to achieve Final Completion of the entire Work, until achieved.

4.02 Scope of Liquidated Damages

- A. Measures of liquidated damages shall apply cumulatively.
- B. Limitations and stipulations regarding liquidated damages are set forth in Document 00 7200 (General Conditions).

ARTICLE 5 - CONTRACT DOCUMENTS

- 5.01** Contract Documents consist of the following documents, including all changes, Addenda, and Modifications thereto:

Document 00 0115	List of Drawings
Document 00 3132	Geotechnical & Existing Conditions
Document 00 5200	Agreement
Document 00 5500	Notice to Proceed
Document 00 6113.13	Construction Performance Bond
Document 00 6113.16	Construction Labor and Material Payment Bond
Document 00 6290	Escrow Agreement for Security Deposits
Document 00 6325	Substitution Request Form
Document 00 6530	Release of Claims
Document 00 6536	Guaranty
Document 00 7200	General Conditions
Document 00 7316	Supplementary Conditions – Insurance & Indemnification
Document 00 9113	Addenda
Document 01 1100 through 01 7700	General Requirements
Document 01 7123	General Requirements – Field Engineering
Document 11 6817 through 32 1314	Technical Specifications

- 5.02** There are no Contract Documents other than those listed above. The Contract Documents may only be amended, modified or supplemented as provided in Document 00 7200 (General Conditions).

ARTICLE 6 - MISCELLANEOUS

- 6.01** Terms and abbreviations used in this Agreement are defined in Document 00 7200 (General Conditions) and Section 01 4200 (References and Definitions) and will have the meaning indicated therein.
- 6.02** It is understood and agreed that in no instance are the persons signing this Agreement for or on behalf of Owner or acting as an employee, agent, or representative of Owner, liable on this Agreement or any of the Contract Documents, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of Owner is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.

- 6.03** In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, Contractor or Subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. §15) or under the Cartwright Act (Chapter 2 (commencing with §16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time Owner tenders final payment to Contractor, without further acknowledgment by the parties.
- 6.04** Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Documents and on file at Owner's Office, and shall be made available to any interested party on request. Pursuant to California Labor Code §§ 1860 and 1861, in accordance with the provisions of Section 3700 of the Labor Code, every contractor will be required to secure the payment of compensation to his/her employees. Contractor represents that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor shall comply with such provisions before commencing the performance of the Work of the Contract Documents.
- 6.05** During the term of this Agreement, Contractor warrants that it is currently registered with the Department of Industrial Relations and qualified to perform public work consistent with Labor Code section 1725.5. Contractor further warrants that any subcontractors who are subject to Public Contract code section 4104, are registered and qualified to perform public work consistent with Labor Code section 1725.5.
- 6.06** This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- 6.07** This Agreement and the Contract Documents shall be deemed to have been entered into in the County of Monterey, State of California, and governed in all respects by California law (excluding choice of law rules). The exclusive venue for all disputes or litigation hereunder shall be in the Superior Court for the County of Monterey. IN WITNESS WHEREOF the parties have executed this Agreement in quadruplicate the day and year first above written.

CONTRACTOR: [CONTRACTOR'S NAME]

OWNER: The City of Seaside

By: _____
(Signature)

By: _____
(Signature)

(Print Name)

(Print Name)

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

(Title)

Attest: _____
City Clerk Signature

(Print Name)

END OF DOCUMENT

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DOCUMENT 00 5500

NOTICE TO PROCEED

Dated: _____, 201__

To: _____
(Contractor)

Address: _____

CONTRACT FOR: The City of Seaside, **Lugna Grande Park Improvements**, located at **Canyon Del Rey Boulevard at Hilby Avenue**, Seaside, California, 93955

AGREEMENT NO: AGXX-XX

PROJECT NO: **342-8910-9569**

You are notified that the Contract Time under the above Contract will commence to run on _____ **[20__]**. On that date, you are to start performing your obligations with respect to Work at the Site under the Contract Documents. In accordance with Article 2 of Document 00 5200 (Agreement), the dates of Substantial Completion and Final Completion for the entire Work are _____, **[20__]** and _____, **[201__]**, respectively.

Before you may start any Work at the Site, you must:

1. Submit schedule
2. Submit certified Safety Program and related information
3. Submit copies of applicable permits
3. **[Other]**

OWNER

By: _____

Its: _____

END OF DOCUMENT

DOCUMENT 00 6113.13

CONSTRUCTION PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

1.01 THAT WHEREAS, City of Seaside (Owner”), a municipality incorporated under the laws of the State of California, has awarded to (Name of Contractor) as Principal, Contract Number _____, dated the ____ day of _____, 20____ (the “Contract”), titled _____ in the amount of \$ _____, which Contract is by this reference made a part hereof, for the work of the following Contract:

This project includes the demolition of concrete curb, concrete pavement, and asphalt walks, clearing and grubbing, and excavation play area. The project includes providing and installing new play equipment and rubber safety surface play area, site furnishings including bench relocation and drink fountain, paving, walks, curbs, and replacing detectable warning surface.

1.02 AND WHEREAS, Principal is required to furnish a bond in connection with the Contract, guaranteeing the faithful performance thereof;

1.03 NOW, THEREFORE, we, the undersigned Principal and <<Name of Surety>> as Surety are held and firmly bound unto Owner in the sum of 100% OF THE CONTRACT PRICE to be paid to Owner or its successors and assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

1.04 THE CONDITION OF THIS OBLIGATION IS SUCH, that if Principal, or its heirs, executors, administrators, successors, or assigns approved by Owner, shall promptly and faithfully perform the covenants, conditions, and agreements of the Contract during the original term and any extensions thereof as may be granted by Owner, with or without notice to Surety, and during the period of any guarantees or warranties required under the Contract, and shall also promptly and faithfully perform all the covenants, conditions, and agreements of any alteration of the Contract made as therein provided, notice of which alterations to Surety being hereby waived, on Principal's part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify, defend, protect, and hold harmless Owner as stipulated in the Contract, then this obligation shall become and be null and void; otherwise it shall be and remain in full force and effect.

1.05 No extension of time, change, alteration, modification, or addition to the Contract, or of the work required thereunder, or work or actions by Owner to mitigate the damages resulting from any breach in performance by Contractor, shall release or exonerate Surety on this bond or in any way affect the obligation of this bond; and Surety does hereby waive notice of any such extension of time, change, alteration, modification, or addition.

1.06 Whenever Principal shall be and declared by Owner in default under the Contract, Surety shall promptly remedy the default, or shall promptly, and in no event later than thirty (30) days from notice:

- A. Undertake through its agents or independent contractors (but having qualifications and experience reasonably acceptable to Owner), to complete the Contract in accordance with its terms and conditions and to pay and perform all obligations of Principal under the Contract, including without limitation, all obligations with respect to warranties, guarantees, indemnities, and the payment of liquidated damages; or
- B. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and, upon determination by Owner of the lowest responsible bidder, arrange for a contract between such bidder and Owner and make available as work progresses (even though there should be a default

or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Sum, and to pay and perform all obligations of Principal under the Contract, including, without limitation, all obligations with respect to warranties, guarantees, and the payment of liquidated damages; but, in any event, Surety's total obligations hereunder shall not exceed the amount set forth in the third paragraph hereof. The term "balance of the Contract Sum," as used in this paragraph, shall mean the total amount payable by Owner to the Principal under the Contract and any amendments thereto, less the amount paid by Owner to Principal.

- 1.07** Surety's obligations hereunder are independent of the obligations of any other surety for the performance of the Contract, and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing Owner's rights against the others.
- 1.08** Surety may not use Contractor to complete the Contract absent Owner's Consent. Owner shall have the right in its sole discretion to continue the work of the Contract, as necessary following a default and/or termination, as necessary to prevent risks of personal injury, property damage or delay to the Project.
- 1.09** No right of action shall accrue on this bond to or for the use of any person or corporation other than Owner or its successors or assigns.
- 1.10** Surety shall join in any proceedings brought under the Contract upon Owner's demand and shall be bound by any judgment.
- 1.11** Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of _____, 20____.

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)
 Signature: _____
 Name and Title: _____
 Address: _____

SURETY

Company: _____ (Corp. Seal)
 Signature: _____
 Name and Title: _____
 Address: _____

END OF DOCUMENT

DOCUMENT 00 6113.16

CONSTRUCTION LABOR AND MATERIAL PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS:

1.01 THAT WHEREAS, City of Seaside ("Owner") has awarded to <<(Name of Contractor)>> _____ as Principal, Contract Number _____ dated the _____ day of _____, 20____ (the "Contract"), titled _____ in the amount of \$_____, which Contract is by this reference made a part hereof, for the work of the following Contract:

This project includes the demolition of concrete curb, concrete pavement, and asphalt walks, clearing and grubbing, and excavation play area. The project includes providing and installing new play equipment and rubber safety surface play area, site furnishings including bench relocation and drink fountain, paving, walks, curbs, and replacing detectable warning surface.

1.02 AND WHEREAS, Principal is required to furnish a bond in connection with the Contract to secure the payment of claims of laborers, mechanics, material suppliers, and other persons as provided by law;

1.03 NOW, THEREFORE, we, the undersigned Principal and (Name of Surety) _____, as Surety, are held and firmly bound unto Owner in the sum of 100% OF THE CONTRACT PRICE (\$ _____), for which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

1.04 THE CONDITION OF THIS OBLIGATION IS SUCH, that if Principal, or its executors, administrators, successors, or assigns approved by Owner, or its subcontractors shall fail to pay any of the persons named in California Civil Code §9100, or amounts due under the State of California Unemployment Insurance Code with respect to work or labor performed under the Contract, or for any amounts required to be deducted, withheld, and paid over to the State of California Employment Development Department from the wages of employees of Principal and subcontractors pursuant to Section 13020 of the State of California Unemployment Insurance Code with respect to such work and labor, that Surety will pay for the same in an amount not exceeding the sum specified in this bond, plus reasonable attorneys' fees, otherwise the above obligation shall become and be null and void.

1.05 This bond shall inure to the benefit of any of the persons named in California Civil Code §9100, as to give a right of action to such persons or their assigns in any suit brought upon this bond. The intent of this bond is to comply with the California Mechanic's Lien Law.

1.06 Surety, for value received, hereby expressly agrees that no extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Contract, or to the work to be performed thereunder, shall in any way affect the obligation of this bond; and it does hereby waive notice of any such extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Contract, or to the work to be performed thereunder.

1.07 Surety's obligations hereunder are independent of the obligations of any other surety for the payment of claims of laborers, mechanics, material suppliers, and other persons in connection with Contract; and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing Owner's rights against the other.

1.08 Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

IN WITNESS WHEREOF, we have hereunto set our hands this ____ day of _____, 20____.

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

Signature

Name

Title

Street Address

City, State, Zip Code

SURETY

Company: (Corp. Seal)

Signature

Name

Title

Street Address

City, State, Zip Code

END OF DOCUMENT

DOCUMENT 00 6290

ESCROW AGREEMENT FOR SECURITY DEPOSIT IN LIEU OF RETENTION

California Public Contract Code §22300

THIS ESCROW AGREEMENT ("Escrow Agreement") is made and entered into this ____ day of _____, 201__, by and between the City of Seaside, ("Owner"), whose address is 440 Harcourt Avenue, Seaside CA 93955, (Name of Contractor) _____ ("Contractor"), whose place of business is located at (Contractor's Address) _____, and [] Owner, as escrow agent OR [] (Name of Bank) _____, a state or federally chartered bank in the State of California, whose place of business is located at _____ ("Escrow Agent").

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

1. Pursuant to California Public Contract Code §22300, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by Owner pursuant to Agreement Number _____ entered into between Owner and Contractor for the **Laguna Grande Park Improvements** located at **Canyon Del Rey Blvd. at Hilby Avenue**, SEASIDE, CA, 93955, in the amount of \$ _____ dated _____, 201__ (the "Contract"). Alternatively, on written request of Contractor, Owner shall make payments of the retention earnings directly to Escrow Agent. When Contractor deposits the securities as a substitute for Contract earnings, Escrow Agent shall notify Owner within ten Days of the deposit. The market value of the securities at the time of substitution shall be at least equal to the cash amount then required to be withheld as retention under terms of Contract between Owner and Contractor. Securities shall be held in name of _____, and shall designate Contractor as the beneficial owner.
2. Owner shall make progress payments to Contractor for those funds which otherwise would be withheld from progress payments pursuant to Contract provisions, provided that Escrow Agent holds securities in form and amount specified in Paragraph 1 of this Document 00 6290.
3. When Owner makes payment(s) of retention earned directly to Escrow Agent, Escrow Agent shall hold said payment(s) for the benefit of Contractor until the time that the escrow created under this Escrow Agreement is terminated. Contractor may direct the investment of the payments into securities. All terms and conditions of this Escrow Agreement and the rights and responsibilities of the parties shall be equally applicable and binding when Owner pays 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 Owner. Such expenses and payment terms shall be determined by Owner, Contractor, and Escrow Agent.
5. Interest earned on securities or money market accounts held in escrow and all interest earned on that interest shall be for sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to Owner.
6. Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from Owner to Escrow Agent that Owner consents to withdrawal of amount sought to be withdrawn by Contractor.
7. Owner shall have the right to draw upon the securities in event of default by Contractor. Upon seven Days written notice to Escrow Agent from Owner of the default, Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by Owner.
8. Upon receipt of written notification from Owner certifying that the Contract is final and complete, and that 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 written notifications from Owner and Contractor pursuant to Paragraphs 5 through 8, inclusive, of this Document 00 6290 and Owner and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of securities and interest as set forth.
10. Names of persons who are authorized to give written notice or to receive written notice on behalf of Owner and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are set forth below. Either Owner or Contractor may change the names of the person they each authorize to give notice under this Escrow Agreement by providing written notice to the other of such change, along with an exemplar of the person's signature.

ON BEHALF OF OWNER:

ON BEHALF OF CONTRACTOR:

Title

Name

Signature

Address

City/State/Zip Code

Title

Name

Signature

Address

City/State/Zip Code

ON BEHALF OF ESCROW AGENT:

Title

Name

Signature

Address

City/State/Zip Code

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

OWNER

CONTRACTOR

Title

Name

Signature

Title

Name

Signature

ATTEST

Signature

Print Name

City Clerk

ESCROW AGENT

Title

Print Name

Signature

REVIEWED AS TO FORM:

Counsel for Owner

Print Name

Date

At the time the Escrow Account is opened, Owner and Contractor shall deliver to Escrow Agent a fully executed counterpart of this Document 00 6290.

END OF DOCUMENT

DOCUMENT 00 6325

SUBSTITUTION REQUEST FORM

To: The City of Seaside, Owner

[() -]

PROJECT:	Contractor:
Owner Project No:	

Substitution Request By:	Firm:
--------------------------	-------

Transmittal Record	Attn:	Firm:	Date Sent:	Date Rec'd:	Date Due:
Contractor to Owner					
Contractor to Architect					
Owner / Architect to Consultant					
Architect to Owner Representative					
Owner Representative to Contractor					

We hereby submit for your consideration the following product instead of the specified item for the Project:

Section / Drawing	Article	Specified Item
Proposed Substitution:		

We have (a) attached manufacturer's literature, including complete technical data and laboratory test results, if applicable, (b) attached an explanation of why proposed substitution is a true equivalent to specified item, (c) included complete information on changes to Contract Documents that the proposed substitution will require for its proper installation, and (d) filled in the blanks below:

Contractor to complete questions that follow and certifies to the accuracy of all answers:

A.	Does the substitution affect dimensions shown on Drawings? Yes ___ / No ___. If No, please explain proposed mitigation and why substitution is equivalent to originally specified item:
B.	Will the undersigned pay for changes to the building design, including engineering and detailing costs caused by the requested substitution? Yes ___ / No ___. If No, please state reasons explain why substitution is equivalent to originally specified item:
C.	What effect does the substitution have on other trades? No effect: ___ / Some effect ___. If substitution will affect other trades, please explain the effect and why substitution is equivalent to originally specified item:
D.	Will substitution cause change to Project Schedule, or to critical delivery dates? Add? Shorten? If the substitution will add to schedule dates or affect critical activities, please explain why substitution is equivalent to originally specified item:
E.	Please describe differences between proposed substitution and specified item? Please explain and identify any and all differences, and please explain why substitution is equivalent to originally specified item:
F.	What is the Cost Differential to Contractor in original specified item and proposed substitution including all mark-ups? [If substitution requested during bid period, skip this question.]
G.	Are Manufacturer's guarantees for the proposed item the same as for item specified? Yes ____; No _____. If No, please explain why substitution is equivalent to originally specified item:

H.	Contractor accepts full responsibility for delays caused by redesign of other items of the Work necessitated by substitution? Yes ___ / No ___. If No, please state reasons and explain why substitution is equivalent to originally specified item:
I.	Contractor states that the function, appearance and quality are equivalent or superior to the specified item? Yes ___ / No ___. If No, please explain why substitution is equivalent to originally specified item:

We certify that the function, appearance, and quality of the proposed substitution are equivalent or superior to those of the specified item, except as we may specifically state otherwise in this request.

Submitted by: _____ Signature: _____
 Firm: _____ Date: _____
 Address: _____ Phone/ Fax: _____
 Remarks: _____

Consultant Response: ☐ Accepted ☐ Not Accepted ☐ Accepted As Noted ☐ Received Too Late	Owner Representative Response: ☐ Accepted ☐ Not Accepted ☐ Accepted As Noted ☐ Received Too Late
Remarks: _____ _____	Remarks: _____ _____
By: _____	By: _____

END OF DOCUMENT

DOCUMENT 00 6530

AGREEMENT AND RELEASE OF ANY AND ALL CLAIMS
[Public Code § 7100]

THIS AGREEMENT AND RELEASE OF ANY AND ALL CLAIMS ("Agreement and Release"), made and entered into this [date] day of [Month], [Year], by and between the City of Seaside/Seaside County Sanitation District ("Owner"), and [Name of Contractor] ("Contractor"), whose place of business is at [Address of Contractor].

RECITALS

- A. Owner and Contractor entered into Contract Number [AGxx.xxx] (the "Contract") for << INSERT PROJECT NAME >> located at << INSERT LOCATION >>.
- B. The Work under the Contract has been completed.

AGREEMENT

NOW THEREFORE, it is mutually agreed between Owner and Contractor as follows:

- 1. Contractor will not be assessed liquidated damages except as detailed below:

Original Contract Sum	\$ _____
Modified Contract Sum	\$ _____
Payment to Date	\$ _____
Liquidated Damages	\$ _____
Payment Due to Contractor	\$ _____

- 2. Subject to the provisions of this Agreement and Release, Owner with forthwith pay to Contractor the sum of [\$ _____ dollars and _____ Cents (\$ _____)] under the Contract, less any amounts withheld under the Contract or represented by any Notice to Withhold Funds on file with Owner as of the date of such payment.
- 3. Contractor acknowledges and hereby agrees that there are no unresolved or outstanding claims in dispute against Owner arising from the Contract, except for the claims described in Paragraph 4 of this Document 00 6530. It is the intention of the parties in executing this Agreement and Release that this Agreement and Release shall be effective as a full, final and general release of all claims, demands, actions, causes of action, obligations, costs, expenses, damages, losses and liabilities of Contractor against Owner, and all of its agents, employees, consultants, inspectors, representatives, assignees and transferees, except for the Disputed Claims set forth in Paragraph 4 of this Document 00 6530. Nothing in this Agreement and Release shall limit or modify Contractor's continuing obligations described in Paragraph 6 of this Document 00 6530.
- 4. The following claims submitted under Document 00 7200 (General Conditions), Article 12, are disputed (hereinafter, the "Disputed Claims") and are specifically excluded from the operation of this Agreement and Release.

[insert information in Chart Below, affix attachments if necessary]

Claim No.	Date Submitted	Description of Claim	Amount of Claim

5. Consistent with California Public Contract Code §710, Contractor hereby agrees that, in consideration of payment set forth in Paragraph 2 of this Document 00 6530, Contractor hereby releases and forever discharges Owner, and all of its agents, employees, consultants, inspectors, assignees and transferees from any and all liability, claims, demands, actions or causes of action of whatever kind or nature arising out of or in any way concerned with the Work under the Contract.
6. Guarantees and warranties for the Work, and any other continuing obligation of Contractor, shall remain in full force and effect as specified in the Contract Documents.
7. Contractor shall immediately defend, indemnify and hold harmless Owner, and of the Owner's representatives, Project Manager, and all of their agents, employees, consultants, inspectors, assignees and transferees, from any and all claims, demands, actions, causes of action, obligations, costs, expenses, damages, losses and liabilities that may be asserted against them by any of Contractor's suppliers and/or Subcontractors of any tier and/or any suppliers to them for any and all labor, materials, supplies and equipment used, or contemplated to be used in the performance of the Contract, except for the Disputed Claims set forth in Paragraph 4 of this Document 00 6530.
8. Contractor hereby waives the provisions of California Civil Code §1542, which provide as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER, MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

9. The provisions of this Agreement and Release are contractual in nature and not mere recitals and shall be considered independent and severable, and if any such provision or any part thereof shall be at any time held invalid in whole or in part under any federal, state, county, municipal or other law, ruling, or regulation, then such provision, or part thereof shall remain in force and effect only to the extent permitted by law, and the remaining provisions of this Agreement and Release shall also remain in full force and effect, and shall be enforceable.
10. Contractor represents and warrants that it is the true and lawful owner of all claims and other matters released pursuant to this Agreement and Release, and that it has full right, title and authority to enter into this instrument. Each party represents and warrants that it has been represented by counsel of its own choosing in connection with this Agreement and Release.
11. All rights of Owner shall survive completion of the Work or termination of the Contract, and execution of this Agreement and Release.

CONTRACTOR: [CONTRACTOR’S NAME]

By: _____
(Signature)

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

OWNER: The City of Seaside

By: _____
(Signature)

(Print Name)

(Title)

By: _____
(Signature)

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

DOCUMENT 00 6536

GUARANTY

TO: The City of Seaside ("Owner"), for construction of **Laguna Grande Park Improvements** located at **Canyon Del Rey Blvd. at Hilby Avenue**, Seaside, California, 93955.

The undersigned guarantees all construction performed on this Project and also guarantees all material and equipment incorporated therein in addition to submitting to Owner a Surety Bond in a sum equal to one hundred percent of the Contract price, prior to the date of recording the notice of completion.

Contractor hereby grants to Owner for a period of one year following the date of Final Acceptance of the Work completed, or such longer period specified in the Contract Documents, its unconditional warranty of the quality and adequacy of all of the Work including, without limitation, all labor, materials and equipment provided by Contractor and its Subcontractors of all tiers in connection with the Work.

Neither final payment nor use nor occupancy of the Work performed by the Contractor shall constitute an acceptance of Work not done in accordance with this Guaranty or relieve Contractor of liability in respect to any express warranties or responsibilities for faulty materials or workmanship. Contractor shall remedy any defects in the Work and pay for any damage resulting therefrom, which shall appear within two years, or longer if specified, from the date of Final Acceptance of the Work completed.

If within one year after the date of Final Acceptance of the Work completed, or such longer period of time as may be prescribed by laws or regulations, or by the terms of Contract Documents, any Work is found to be Defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions, correct such Defective Work. Contractor shall remove any Defective Work rejected by Owner and replace it with Work that is not Defective, and satisfactorily correct or remove and replace any damage to other Work or the work of others resulting therefrom. If Contractor fails to promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the Defective Work corrected or the rejected Work removed and replaced. Contractor shall pay for all claims, costs, losses and damages caused by or resulting from such removal and replacement. Where Contractor fails to correct Defective Work, or defects are discovered outside the correction period, Owner shall have all rights and remedies granted by law.

Inspection of the Work shall not relieve Contractor of any of its obligations under the Contract Documents. Even though equipment, materials, or Work required to be provided under the Contract Documents have been inspected, accepted, and estimated for payment, Contractor shall, at its own expense, replace or repair any such equipment, material, or Work found to be Defective or otherwise not to comply with the requirements of the Contract Documents up to the end of the guaranty period.

All abbreviations and definitions of terms used in this Agreement shall have the meanings set forth in the Contract Documents.

The foregoing Guaranty is in addition to any other warranties of Contractor contained in the Contract Documents, and not in lieu of, any and all other liability imposed on Contractor under the Contract Documents and at law with respect to Contractor's duties, obligations, and performance under the Contract Documents. In the event of any conflict or inconsistency between the terms of this Guaranty and any warranty or obligation of the Contractor under the Contract Documents or at law, such inconsistency or conflict shall be resolved in favor of the higher level of obligation of the Contractor.

Date: _____, 20____

Contractor's name

By: _____
Signature

Print Name

Title

Street Address

City, State, Zip code

END OF DOCUMENT

DOCUMENT 00 7200

GENERAL CONDITIONS

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GENERAL CONDITIONS

ARTICLE 1 - INTERPRETATION OF CONTRACT DOCUMENTS

1.01 Interpretation Of Documents

- A. Contract Documents are complementary; what is called for by one is as binding as if called for by all.
- B. Individual Contract Documents subdivide at first level into Articles, and then into paragraphs.

1.02 Order Of Precedence Of Documents

- A. In the case of discrepancy or ambiguity in the Contract Documents, the following order of precedence shall prevail:
 - 1. Modifications in inverse chronological order (i.e., most recent first), and in the same order as specific portions they are modifying;
 - 2. Agreement Forms (Document 00 5200), and terms and conditions referenced therein;
 - 3. Supplementary General Conditions (Document 00 7201 et seq), if included;
 - 4. General Conditions (Document 00 7200);
 - 5. Division 1 Specifications, if included;
 - 6. Drawings and Technical Specifications (Division 2 and above);
 - 7. Written numbers over figures, unless obviously incorrect;
 - 8. Figured dimensions over scaled dimensions;
 - 9. Large-scale Drawings over small-scale Drawings.
- B. Any conflict between Drawings and Technical Specifications (Division 2 and above) will be resolved in favor of the document of the latest date (i.e., the most recent document), and if the dates are the same or not determinable, then in favor of Specifications.
- C. Any conflict between a bill or list of materials shown in the Contract Documents and the actual quantities required to complete Work required by Contract Documents, will be resolved in favor of the actual quantities.
- D. All Technical Specifications included in the Project manual shall be included within the Contract Documents unless identified otherwise.

ARTICLE 2 - PRE-BID INVESTIGATIONS

2.01 Pre-Bid Investigations Required

- A. Prior to and as a condition of submitting a Bid and executing Document 00 5200 (Agreement), Contractor shall make reasonable efforts to investigate fully the Work of the Contract. Contractor shall visit the Site, examine thoroughly and understand fully the nature and extent of the Contract Documents, Work, Site, locality, actual conditions and as-built conditions.
- B. Contractor's investigation shall include, without limitation, requesting and thoroughly examining of all reports of exploration and tests of subsurface conditions, as-built drawings, drawings, product specification(s) or reports, made available by Owner for contracting purposes or during Contractor's pre-bid investigations, of existing above ground and (to the extent applicable) below ground conditions (together, "Existing Conditions Data"), including, as applicable, Underground Facilities, geotechnical data, as-built data, utility surveys, record documents of all types, hazardous materials surveys, or similar materials which may appear or be referenced in the Project Manual or the in the Contract Documents, and all local conditions, and federal, state and local laws and regulations that in any manner may affect cost, progress, performance or furnishing of Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.
- C. Contractor's investigations shall consider fully the fact that Existing Conditions Data is in many cases based on information furnished to Owner by others (e.g., the prior owner or builders), and that due to their age or their chain of custody since preparation, may not meet current industry standards for accuracy. Contractor shall also: (i.) provide Owner with prompt written notice of all conflicts, errors, ambiguities, or discrepancies of any type, that it discovered in or among the

Contract Documents and the Existing Conditions Data, and (ii.) subject to Owner's approval, conduct any such additional or supplementary examinations, investigations, explorations, tests, studies and data compilations, concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise, which Contractor may deem necessary in order to perform and furnish the Work in accordance with the terms and conditions of Contract Documents.

- D. During performance of the Contract, Contractor will be charged with knowledge of all information that it should have learned in performing these pre-bid investigations and other obligations, and shall not be entitled to Change Orders (time or compensation) due to any information, error, inconsistency, omission, or conditions that Contractor should have known as a part of this Work. Contractor shall be responsible for the resultant losses, including, without limitation, the cost of correcting Defective Work.

2.02 Limited Reliance Permitted On Owner's Existing Conditions Data

- A. Regarding aboveground and as-built conditions shown on the Contract Documents or supplied by Owner, such information has been compiled in good faith, however, Owner does not expressly or impliedly warrant or represent that such information is correctly shown or indicated, or otherwise complete for construction purposes. Contractor must independently verify such information as part of its pre-bid investigations, and where conditions are not reasonably verifiable or discrepancies are identified, bring such matters to Owner's attention through written question issued during the bid period. In executing Document 00 5200 (Agreement), Contractor shall rely on the results of its own independent investigation and shall not rely on Owner-supplied information regarding aboveground conditions and as-built conditions, and Contractor shall accept full responsibility for its verification work sufficient to complete the Work as intended.
- B. Regarding subsurface conditions other than Underground Facilities shown on the Contract Documents or otherwise supplied by Owner, Contractor may rely only upon the general accuracy of actual reported depths, actual reported character of materials, actual reported soil types, actual reported water conditions, or actual obstructions shown or indicated in the Contract Documents. Owner is not responsible for the completeness of any subsurface condition information, Contractor's conclusions or opinions drawn from any subsurface condition information, or subsurface conditions that are not specifically shown. (For example, Owner is not responsible for soil conditions in areas contiguous to areas where a subsurface condition is shown.)

2.03 Pre-Bid Investigation Requirements For Excavation And Utilities Relocation Projects

- A. As part of its pre-bid investigations for Projects involving excavation and/or relocation of existing utilities, Contractor shall make reasonable efforts to verify information regarding Underground Facilities, including but not limited to, requesting additional information or verification of information as necessary.
- B. Because of the nature and location of Owner and the Project, the existence of Underground Facilities is deemed inherent in the Work of the Contract, as is the fact that Underground Facilities are not always accurately shown or completely shown on as-built records, both as to their depth and location. Contractor shall, therefore, take care to note the existence and potential existence of Underground Facilities, in particular, above and below grade structures, drainage lines, storm drains, sewers, water, gas, electrical, chemical, hot water, and other similar items and utilities. Contractor shall carefully consider all supplied information, request additional information Contractor may deem necessary, and visually inspect the Site for above ground indications of Underground Facilities (such as, for example not by way of limitation, the existence of existing service laterals, appurtenances or other types of utilities, indicated by the presence of an underground transmission main or other visible facilities, such as buildings, new asphalt, meters and junction boxes, on or adjacent to the Site). Contractor shall also consider local underground conditions and typical practices for Underground Facilities, either through its own direct knowledge or through its subcontractors, and fully consider this knowledge in assessing the existing information and the reasonableness of its reliance.

ARTICLE 3 - SUBCONTRACTORS

3.01 Subcontractor Listing Law

- A. Contractor shall comply with the Subcontractor Listing law, California Public Contract Code §§4101 et seq. Contractor shall not substitute any other person or firm in place of any Subcontractor listed in the Bid except as may be allowed by law.
- B. Subcontractors shall not assign or transfer their subcontracts or permit them to be performed by any other contractor without Owner's written approval. At Owner's request, Contractor shall provide Owner with a complete copy of all executed subcontracts or final commercial agreements with Subcontractors and/or suppliers.

3.02 Subcontracts

- A. Subcontract agreements shall preserve and protect the rights of Owner under the Contract Documents so that subcontracting will not prejudice such rights. To the extent of the Work to be performed by a Subcontractor, Contractor shall require the Subcontractor's written agreement (1) to be bound to the terms of Contract Documents and (2) to assume vis-à-vis Contractor all the obligations and responsibilities that Contractor assumes toward Owner under the Contract Documents. (These agreements include for example, and not by way of limitation, all warranties, claims procedures and rules governing submittals of all types to which Contractor is subject under the Contract Documents.)
- B. Contractor shall provide for the assignment to Owner of all rights any Subcontractor (of any tier) may have against any manufacturer, supplier, or distributor for breach of warranties and guarantees relating to the Work performed by the Subcontractor under the Contract Documents. Subcontracts shall provide and acknowledge Owner as an intended third-party beneficiary of each subcontract and supply contract (of any tier).

ARTICLE 4 - DRAWINGS AND SPECIFICATIONS

4.01 Intent Of Drawings And Specifications

- A. Contractor shall interpret words or phrases used to describe Work (including services), materials, or equipment that have well-known technical or construction industry or trade meaning in accordance with that meaning. Drawings' intent specifically includes the intent to depict construction that complies with all applicable laws, codes and standards.
- B. As part of the "Work," Contractor shall provide all labor, materials, equipment, machinery, tools, facilities, services, employee training and testing, hoisting facilities, Shop Drawings, storage, testing, security, transportation, disposal, the securing of all necessary or required field dimensions, the cutting or patching of existing materials, notices, permits, documents, reports, agreements and any other items required or necessary to timely and fully complete Work described and the results intended by Contract Documents and, in particular, Drawings and Specifications. Divisions and Specification Sections and the identification on any Drawings shall not control Contractor in dividing Work among Subcontractors or suppliers or delineating the Work to be performed by any specific trade.
- C. Contractor shall perform reasonably implied parts of Work as "incidental work" although absent from Drawings and Specifications. Incidental work includes any work not shown on Drawings or described in Specifications that is necessary or normally or customarily required as a part of the Work shown on Drawings or described in Specifications. Incidental work includes any work necessary or required to make each installation satisfactory, legally operable, functional, and consistent with the intent of Drawings and Specifications or the requirements of Contract Documents. Contractor shall perform incidental work without extra cost to Owner. Incidental work shall be treated as if fully described in Specifications and shown on Drawings, and the expense of incidental work shall be included in price Bid and Contract Sum.

4.02 Checking Of Drawings And Specifications

- A. Before undertaking each part of Work, Contractor shall carefully study and compare Contract Documents and check and verify pertinent figures shown in the Contract Documents and all

applicable field measurements. Contractor shall be responsible for any errors that might have been avoided by such comparison. Figures shown on Drawings shall be followed; Contractor shall not scale measurements. Contractor shall promptly report to Owner, in writing, any conflict, error, ambiguity or discrepancy that Contractor may discover. Contractor shall obtain a written interpretation or clarification from Owner before proceeding with any Work affected thereby. Contractor shall provide Owner with a follow-up correspondence every ten Days until it receives a satisfactory interpretation or clarification.

4.03 Interpretation Of Drawings And Specifications

- A. A typical or representative detail on Drawings shall constitute the standard for workmanship and material throughout corresponding parts of Work. Where necessary, and where reasonably inferable from Drawings, Contractor shall adapt such representative detail for application to such corresponding parts of Work. The details of such adaptation shall be subject to prior approval by Owner. Repetitive features shown in outline on Drawings shall be in exact accordance with corresponding features completely shown.
- B. Should any discrepancy appear or any misunderstanding arise as to the import of anything contained in Drawings and Specifications, or should Contractor have any questions or requests relating to Drawings or Specifications, Contractor shall refer the matter to Owner, in writing, with a copy to the Architect/Engineer. Owner will issue with reasonable promptness written responses, clarifications or interpretations as Owner may determine necessary, which shall be consistent with the intent of and be reasonably inferable from Contract Documents. Such written clarifications or interpretations shall be binding upon Contractor. If Contractor believes that a written response, clarification or interpretation justifies an adjustment in the Contract Sum or Contract Time, Contractor shall give Owner prompt written notice. If the parties are unable to agree to the amount or extent of the adjustment, if any, then Contractor shall perform the Work in conformance with Owner's response, clarification, or interpretation and may make a written claim for the adjustment as provided in Article 12.
- C. The following general specifications shall apply wherever in the Specifications, or in any directions given by Owner in accordance with or supplementing Specifications, it is provided that Contractor shall furnish materials or manufactured articles or shall do Work for which no detailed specifications are shown. Materials or manufactured articles shall be of the best grade, in quality and workmanship, obtainable in the market from firms of established good reputation. If not ordinarily carried in stock, the materials or manufactured articles shall conform to industry standards for first class materials or articles of the kind required, with due consideration of the use to which they are to be put. Work shall conform to the usual standards or codes, such as those cited herein, for first class work of the kind required. Contractor shall specify in writing to Owner the materials to be used or Work to be performed under this Paragraph ten Business Days prior to furnishing such materials or performing such Work.

4.04 Use Of Drawings And Specifications.

- A. Drawings, Specifications and other Contract Documents were prepared for use for Work of Contract Documents only. No part of Contract Documents shall be used for any other construction or for any other purpose except with the written consent of Owner. Any unauthorized use of Contract Documents is prohibited and at the sole liability of the user.

ARTICLE 5 - COMMENCEMENT OF THE WORK

5.01 Submission Of Required Schedules

- A. Contractor shall submit to Owner in draft for review and discussion at the Preconstruction Conference, and in final prior to the first payment application, the following schedules:
 - 1. Schedule of Values
 - 2. Progress Schedule, and
 - 3. Schedule of Submittals.

- B. No progress payment shall be due or owing to Contractor until such schedules are submitted to and acceptable to Owner and/or Architect/Engineer as meeting the requirements of the Contract Documents. In Owner's sole discretion, Owner may elect to instead withhold a portion of any progress payment for unacceptable compliance with contract requirements for such schedules.
- C. Owner's acceptance of Contractor's schedules will not create any duty of care or impose on Owner any responsibility for the sequencing, scheduling or progress of Work nor will it interfere with or relieve Contractor from Contractor's full responsibility therefore.

5.02 Commencement Date Of Contract Time

- A. The Contract Time will commence to run on the 60th Day after the issuance of the Notice of Award or, if a Notice to Proceed is given, on the date indicated in the Notice to Proceed.
- B. Owner may give a Notice to Proceed at any time within 60 Days after the Notice of Award. Contractor shall not do any Work at the Site prior to the date on which the Contract Time commences to run.

ARTICLE 6 - CONTRACTOR'S ORGANIZATION AND EQUIPMENT

6.01 Contractor's Legal Address

- A. Address and facsimile number given in Contractor's Bid are hereby designated as Contractor's legal address and facsimile number. Contractor may change its legal address and facsimile number by notice in writing, delivered to Owner, which in conspicuous language advises Owner of a change in legal address or facsimile number, and which Owner accepts in writing. Delivery to Contractor's legal address or depositing in any post office or post office box regularly maintained by the United States Postal Service, in a wrapper with postage affixed, directed to Contractor at legal address, or of any drawings, notice, letter or other communication, shall be deemed legal and sufficient service thereof upon Contractor. Facsimile to Contractor's designated facsimile number of any letter, memorandum, or other communication on standard or legal sized paper, with proof of facsimile transmission, shall be deemed legal and sufficient service thereof upon Contractor.

6.02 Contractor's Superintendents Or Forepersons

- A. Contractor shall at all times be represented on Site by one or more superintendents or forepersons authorized and competent to receive and carry out any instructions that Owner may give, and shall be liable for faithful observance of instructions delivered to Contractor or to authorized representative or representatives on Site.

6.03 Proficiency In English

- A. Supervisors, security guards, safety personnel and employees who have unescorted access to the Site shall possess proficiency in the English language in order to understand, receive and carry out oral and written communications or instructions relating to their job functions, including safety and security requirements.

6.04 Contractor's And Subcontractors' Employees

- A. Contractor shall employ, and shall permit its Subcontractors to employ, only competent and skillful personnel to do Work. If Owner notifies Contractor that any of its employees, or any of its Subcontractors' employees on Work is incompetent, unfaithful, disorderly or profane, or fails to observe customary standards of conduct or refuses to carry out any provision of the Contract Documents, or uses threatening or abusive language to any person on Work representing Owner, or violates sanitary rules, or is otherwise unsatisfactory, and if Owner requests that such person be discharged from Work, then Contractor or its Subcontractor shall immediately discharge such person from Work and the discharged person shall not be re-employed on the Work except with consent of Owner.

6.05 Contractor's Use Of The Site

- A. Contractor shall not make any arrangements with any person to permit occupancy or use of any land, structure or building within the limits of the Work, for any purpose whatsoever, either with or without compensation, in conflict with any agreement between Owner and any Owner, former Owner or tenant of such land, structure or buildings. Contractor may not occupy Owner-owned property outside the limit of the Work as indicated on the Drawings unless it obtains prior approval from Owner.

6.06 Contractor's Site Office

- A. Unless expressly provided otherwise in the Contract Documents, Contractor shall provide a site office staffed by a resident project manager or job superintendent.

ARTICLE 7 - OWNER'S ADMINISTRATION OF WORK

7.01 Owner's Representative(s)

- A. Owner's Representative(s) will have limited authority to act on behalf of Owner as set forth in the Contract Documents.
- B. Except as otherwise provided in these Contract Documents or subsequently identified in writing by Owner, Owner will issue all communications to Contractor through Owner's Representative, and Contractor shall issue all communications to Owner through Owner's Representative in a written document delivered to Owner.
- C. Should any direct communications between Contractor and Owner's consultants, architects or engineers not identified in Article 2 of Document 00 5200 (Agreement) occur during field visits or by telephone, Contractor shall immediately confirm them in a written document copied to Owner.

7.02 Owner's Observation Of The Work

- A. Work shall be performed under Owner's general observation and administration. Contractor shall comply with Owner's directions and instructions in accordance with the terms of Contract Documents, but nothing contained in these General Conditions shall be taken to relieve Contractor of any obligations or liabilities under the Contract Documents. Owner's failure to review or, upon review, failure to object to any aspect of Work reviewed, shall not be deemed a waiver or approval of any non-conforming aspect of Work.
- B. Subject to those rights specifically reserved in the Contract Documents, Owner will not supervise, or direct, or have control over, or be responsible for, Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, or Contractor's failure to comply with laws and regulations applicable to the furnishing or performance of Work. Owner will not be responsible for Contractor's failure to perform or furnish the Work in accordance with Contract Documents.

7.03 Architect/Engineer's Observation Of Work

- A. Owner may engage an Architect/Engineer, an independent consultant or Project Manager (collectively for purposes of this Paragraph, "Project Manager/Architect") to assist in administering the Work. If so engaged, Project Manager/Architect will advise and consult with Owner, but will have authority to act on behalf of Owner only to extent provided in the Contract Documents or as set forth in writing by Owner. Project Manager/Architect will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with Work. Project Manager/Architect will not be responsible for or have control over the acts or omissions of Contractor, Subcontractors or their agents or employees, or any other persons performing Work.
- B. Project Manager/Architect may review Contractor's Submittals, such as Shop Drawings, Product Data, and Samples, but only for conformance with design concept of Work and with information given in the Contract Documents.
- C. Project Manager/Architect may visit the Site at intervals appropriate to stage of construction to become familiar generally with the progress and quality of Work and to determine in general if Work is proceeding in accordance with Contract Documents. Based on its observations, Project Manager/Architect may recommend to Owner that it disapproves or rejects Work that Project

Manager/Architect believes to be Defective or will not produce a complete Project that conforms to Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by Contract Documents. Owner will also have authority to require special inspection or testing of Work, whether or not the Work is fabricated, installed or completed.

- D. Project Manager/Architect may conduct inspections to recommend to Owner the dates that Contractor has achieved Substantial Completion and Final Acceptance, and will receive and forward to Owner for review written warranties and related documents required by Contract Documents.

7.04 Owner's And Architect/Engineer's Exercise Of Contract Responsibilities

- A. Owner, Project Manager, Architect/Engineer and all Owner's representatives, in performing their duties and responsibilities under the Contract Documents, accept no duties, responsibilities or duty of care, nor may the same be implied or inferred, towards Contractor, any Subcontractor, sub-Subcontractor or supplier, except those set forth expressly in the Contract Documents.

7.05 Owner's Right Of Access To The Work

- A. During performance of Work, Owner and its agents, consultants, and employees may at any time enter upon Work, shops or studios where any part of the Work may be in preparation, or factories where any materials for use in Work are being or are to be manufactured, and Contractor shall provide proper and safe facilities for this purpose, and shall make arrangements with manufacturers to facilitate inspection of their processes and products to such extent as Owner's interests may require. Other contractors performing work for Owner may also enter upon Work for all purposes required by their respective contracts. Subject to the rights reserved in the Contract Documents, Contractor shall have sole care, custody, and control of the Site and its Work areas.

7.06 Owner's Right Of Separate Construction

- A. Owner may perform with its own forces, construction or operations related to the Project, or the Site during Contractor's operations. Owner may also award separate contracts in connection with other portions of the Project or other construction or operations, on the Site or areas contiguous to the Site, under conditions similar to these Contract Documents, or may have utility Owners perform other work.
- B. Contractor shall adjust its schedule and fully coordinate with and shall afford all other contractors, utility districts and Owner (if Owner is performing work with its own forces), proper and safe access to the Site, and reasonable opportunity for the installation and storage of their materials. Contractor shall ensure that the execution of its Work properly connects and coordinates with others' work, do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work, and shall cooperate with them to facilitate the progress of the Work.
- C. To the extent that any part of Contractor's Work is to interface with work performed or installed by other contractors or utility owners, Contractor shall inspect and measure the in-place work. Contractor shall promptly report to Owner in writing any defect in in-place work that will impede or increase the cost of Contractor's interface unless corrected.

ARTICLE 8 - CONTRACTOR'S PROSECUTION AND PROGRESS OF THE WORK

8.01 Contractor To Supervise The Work

- A. Subject to those rights specifically reserved in the Contract Documents, Contractor shall supervise, direct, have control over, and be responsible for, Contractor's means, methods, techniques, sequences or procedures of construction, safety precautions and programs incident thereto, and compliance with laws and regulations applicable to the furnishing or performance of Work.
- B. Contractor shall keep on the Site at all times during Work progress a competent resident Superintendent, who shall not be replaced without Owner's express written consent. The Superintendent shall be Contractor's representative at the Site and shall have complete authority

to act on behalf of Contractor. All communications to and from the Superintendent shall be as binding as if given to or by Contractor.

- C. Contractor shall supervise, inspect, and direct Work competently and efficiently, devoting the attention and applying such personal skills and expertise as may be required and necessary to perform Work in accordance with Contract Documents. Contractor shall be solely responsible for and have control and charge of construction means, methods, techniques, sequences and procedures, safety precautions and programs in connection with the Work. Contractor shall be responsible to see that the completed Work complies accurately with Contract Documents.
- D. Contractor is fully responsible for Contractor's own acts and omissions. Contractor is responsible for all acts and omissions of its Subcontractors, suppliers, and other persons and organizations performing or furnishing any of the Work, labor, materials, or equipment under a direct or indirect contract with Contractor.
- E. Contractor shall conduct monthly Contractor Safety Committee meetings, and weekly toolbox safety talks.

8.02 Contractor To Maintain Cost Data

- A. Contractor shall maintain full and correct information as to the number of workers employed in connection with each subdivision of Work, the classification and rate of pay of each worker in form of certified payrolls, the cost to Contractor of each class of materials, tools and appliances used by Contractor in Work, and the amount of each class of materials used in each subdivision of Work. Contractor shall provide Owner with monthly summaries of this information. If Contractor maintains or is capable of generating summaries or reports comparing actual Project costs with Bid estimates or budgets, Contractor shall provide Owner with a copy of such report upon Owner's request.
- B. Contractor shall maintain daily job reports recording all significant activity on the job, including the number of workers on Site, Work activities, problems encountered and delays. Contractor shall provide Owner with copies for each Day Contractor works on the Project, to be delivered to Owner either the same Day or the following morning before starting work at the Site. Contractor shall take pre-construction and monthly progress photographs of all areas of the Work. Contractor shall maintain copies of all correspondence with Subcontractors and records of meetings with Subcontractors.
- C. Owner shall have the right to audit and copy Contractor's books and records of any type, nature or description relating to the Project (including but not limited to financial records reflecting in any way costs claimed on the Project), and to inspect the Site, including Contractor's trailer, or other job Site office, and this requirement shall be contained in the subcontracts of Subcontractors working on Site. By way of example, Owner shall have the right to inspect and obtain copies of all Contract Documents, planning and design documents, Bid proposal and negotiation documents, cost records and job cost variance reports, design modification proposals, value engineering or other cost reduction proposals, revisions made to the original design, job progress reports, photographs, and as-built drawings maintained by Contractor. Owner and any other applicable governmental entity shall have the right to inspect all information and documents maintained hereunder at any time during the Project and for a period of five years following Final Completion, in accordance with the provisions of Section 8546.7 of the California Government Code. This right of inspection shall not relieve Contractor of its duties and obligations under the Contract Documents. This right of inspection shall be specifically enforceable in a court of law, either independently or in conjunction with enforcement of any other rights in the Contract Documents.

8.03 Contractor To Supply Sufficient Workers And Materials

- A. Unless otherwise required by Owner under the terms of Contract Documents, Contractor shall at all times keep on the Site materials and employ qualified workers sufficient to prosecute Work at a rate and in a sequence and manner necessary to complete Work within the Contract Time. This obligation shall remain in full force and effect notwithstanding disputes or claims of any type.
- B. At any time during progress of Work should Contractor directly or indirectly (through Subcontractors) refuse, neglect, or be unable to supply sufficient materials or employ qualified workers to prosecute the Work as required, then Owner may require Contractor to accelerate the Work and/or furnish additional qualified workers or materials as Owner may consider necessary, at

no cost to Owner. If Contractor does not comply with the notice within three Business Days of date of service thereof, Owner shall have the right (but not a duty) to provide materials and qualified workers to finish the Work or any affected portion of Work, as Owner may elect. Owner may, at its discretion, exclude Contractor from the Site, or portions of the Site or separate work elements during the time period that Owner exercises this right. Owner will deduct from moneys due or which may thereafter become due under the Contract Documents, the sums necessary to meet expenses thereby incurred and paid to persons supplying materials and doing Work. Owner will deduct from funds or appropriations set aside for purposes of Contract Documents the amount of such payments and charge them to Contractor as if paid to Contractor. Contractor shall remain liable for resulting delay, including liquidated damages and indemnification of Owner from claims of others.

- C. Exercise by Owner of the rights conferred upon Owner in this subparagraph is entirely discretionary on the part of Owner. Owner shall have no duty or obligation to exercise the rights referred to in this subparagraph and its failure to exercise such rights shall not be deemed an approval of existing Work progress or a waiver or limitation of Owner's right to exercise such rights in other concurrent or future similar circumstances. (The rights conferred upon Owner under this subparagraph are, like all other such rights, cumulative to Owner's other rights under any provision of the Contract Documents.)

8.04 Contractor To Maintain Project Record Documents

- A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Contract Modifications, Change Orders, Work Directives, Force Account orders, and written interpretations and clarifications in good order and annotated to show all as-built changes made during construction. These Project Record Documents, together with all approved Samples and a counterpart of all approved Shop Drawings, shall be maintained and available to Owner for reference. Upon completion of the Work, Contractor shall deliver to Owner, the Project Record Documents, Samples and Shop Drawings and as-built drawings.
- B. Throughout Contractor's performance of the Work of the Project, Contractor shall maintain construction records to include: shop drawings; product data/material data sheets; samples; submittal; purchases; materials; equipment; inspections; applicable handbooks; applicable codes and standards; maintenance and operating manuals and instructions; RFI Log; Submittal Log; other related documents and revisions which arise out of the Construction Contracts. Contractor shall maintain records of principal building layout lines, elevations for the bottom of footings, floor levels, and key site elevations (certified by a qualified surveyor or professional engineer). Contractor shall make all records available to Owner. At the completion of the Project, Contractor shall deliver all such records to the Owner to have a complete set of record as-built drawings.

8.05 Contractor To Not Disrupt Owner Operation

- A. Contractor shall schedule and execute all Work in a manner that does not interfere with or disrupt Owner operations, including but not limited to, parking, utilities (electricity, gas, water), noise, access by employees and administration, access by vendors, physicians, patients and any other person or entity using Owner facilities or doing business with Owner. Contractor shall produce and supply coordination plans and requests to Owner, following Owner procedures, for all necessary interference of construction with Owner, which Owner will reasonably cooperate with.

8.06 Contractor To Provide Temporary Facilities And Controls

- A. Unless expressly provided otherwise in the Contract Documents, Contractor shall provide all temporary utilities (including without limitation electricity, water, natural gas), lighting, heating, cooling and ventilating devices, telephone, sanitary facilities, barriers, fences and enclosures, tree and plant protection, fire protection, pollution, erosion, Storm Water Pollution Prevention controls, noise and traffic control, and any other necessary services required for construction, testing or completion of the Work.

ARTICLE 9 - WARRANTY, GUARANTY, AND INSPECTION OF WORK

9.01 Warranty And Guaranty

- A. General Representations and Warranties: Contractor represents and warrants that it is and will be at all times fully qualified and capable of performing every Phase of the Work and to complete Work in accordance with the terms of Contract Documents. Contractor warrants that all construction services shall be performed in accordance with generally accepted professional standards of good and sound construction practices and all requirements of Contract Documents. Contractor warrants that Work, including but not limited to each item of materials and equipment incorporated therein, shall be new, of suitable grade of its respective kind for its intended use, and free from defects in design, engineering, materials, construction and workmanship. Contractor warrants that Work shall conform in all respects with all applicable requirements of federal, state and local laws, applicable construction codes and standards, licenses, and permits, Drawings and Specifications and all descriptions set forth therein, and all other requirements of Contract Documents. Contractor shall not be responsible, however, for the negligence of others in the specification of specific equipment, materials, design parameters and means or methods of construction where that is specifically shown and expressly required by Contract Documents.
- B. Extended Guarantees: Any guarantee exceeding two years provided by the supplier or manufacturer of any equipment or materials used in the Project shall be extended for such term. Contractor expressly agrees to act as co-guarantor of such equipment and materials and shall supply Owner with all warranty and guarantee documents relative to equipment and materials incorporated in the Project and guaranteed by their suppliers or manufacturers.
- C. Environmental and Toxics Warranty: The covenants, warranties and representations contained in this Paragraph are effective continuously during Contractor's Work on the Project and following cessation of labor for any reason including, but not limited to, Project completion. Contractor covenants, warrants and represents to Owner that:
 - 1. To Contractor's knowledge after due inquiry, no lead or Asbestos-containing materials were installed or discovered in the Project at any time during Contractor's construction thereof. If any lead or Asbestos-containing materials were discovered, Contractor made immediate written disclosure to Owner.
 - 2. To Contractor's knowledge after due inquiry, no electrical transformers, light fixtures with ballasts or other equipment containing PCBs are or were located on the Project at any time during Contractor's construction thereof.
 - 3. To Contractor's knowledge after due inquiry, no storage tanks for gasoline or any other toxic substance are or were located on the Project at any time during Contractor's construction thereof. If any such materials were discovered, Contractor made immediate written disclosure to Owner.
 - 4. Contractor's operations concerning the Project are and were not in violation of any applicable environmental federal, state, or local statute, law or regulation dealing with hazardous materials substances or toxic substances and no notice from any governmental body has been served upon Contractor claiming any violation of any such law, ordinance, code or regulation, or requiring or calling attention to the need for any Work, repairs, construction, alteration, or installation on or in connection with the Project in order to comply with any such laws, ordinances, codes, or regulations, with which Contractor has not complied. If there are any such notices with which Contractor has complied, Contractor shall provide Owner with copies thereof.

9.02 Inspection Of Work

- A. Work and materials, and manufacture and preparation of materials, from beginning of construction until Final Completion and acceptance of Work, shall be subject to inspection and rejection by Owner, its agents, representatives or independent contractors retained by Owner to perform inspection services, or governmental agencies with jurisdictional interests. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's Site safety procedures and program so that they may comply therewith as applicable. Upon request or where

specified, Owner shall be afforded access for inspection at the source of supply, manufacture or assembly of any item of material or equipment, with reasonable accommodations supplied for making such inspections.

- B. Contractor shall furnish, in such quantities and sizes as may be required for proper examination and tests, Samples or test specimens of all materials to be used or offered for use in connection with Work. Contractor shall prepare Samples or test specimens at its expense and furnish them to Owner. Contractor shall submit all Samples in ample time to enable Owner to make any necessary tests, examinations, or analyses before the time it is desired to incorporate the material into the Work.
- C. Contractor shall give Owner timely notice of readiness of Work for all required inspections, tests or approvals, and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- D. If applicable laws or regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests or approvals, and furnish Owner with the required certificates of inspection, or approval. Owner will pay the cost of initial testing and Contractor shall pay all costs in connection with any follow-up or additional testing. Contractor shall also be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests or approvals required for the acceptance of materials or equipment to be incorporated in the Work, or of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.
- E. If Contractor covers any Work, or the work of others, prior to any required inspection, test or approval without written approval of Owner, Contractor shall uncover the Work at Owner's request. Contractor shall bear the expense of uncovering Work and replacing Work. In any case where Contractor covers Work contrary to Owner's request, Contractor shall uncover Work for Owner's observation or inspection at Owner's request. Contractor shall bear the cost of uncovering Work.
- F. Whenever required by Owner, Contractor shall furnish tools, labor and materials necessary to make examination of Work that may be completed or in progress, even to extent of uncovering or taking down portions of finished Work. Should Work be found unsatisfactory, cost of making examination and of reconstruction shall be borne by Contractor. If Work is found to be satisfactory, Owner, in manner herein prescribed for paying for alterations, Modifications, and extra Work, except as otherwise herein specified, will pay for examination.
- G. Inspection of the Work by or on behalf of Owner, or Owner's failure to do so, shall not under any circumstances be deemed a waiver or approval of any non-conforming aspect of the Work. Contractor shall have an absolute duty, in the absence of a written Change Order signed by Owner, to perform Work in conformance with the Contract Documents and to immediately correct Defective Work immediately upon Contractor's knowledge.
- H. Any inspection, evaluation, or test performed by or on behalf of Owner relating to the Work is solely for the benefit of Owner, and shall not be relied upon by Contractor. Contractor shall not be relieved of the obligation to perform Work in accordance with the Contract Documents, nor relieved of any guaranty, warranty, or other obligation, as a result of any inspections, evaluations, or tests performed by Owner, whether or not such inspections, evaluations, or tests are permitted or required under the Contract Documents. Contractor shall be solely responsible for testing and inspecting Work already performed to determine whether such Work is in proper condition to receive later Work.

9.03 Correction Of Defective Work

- A. Owner may direct Contractor to correct any Defective Work or remove it from the Site and replace it with Work that is not Defective and satisfactorily correct or remove and replace any damage to other Work or the work of others resulting from the correction or removal. Contractor shall be responsible for any and all claims, costs, losses and damages caused by or resulting from such correction or removal. A Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work and the Contract Sum. If the parties are unable to agree to the amount of an appropriate decrease in the Contract Sum, Owner may decide the proper

amount or, in its discretion may elect to leave the Contract Sum unchanged and deduct from monies due Contractor, all such claims, costs, losses and damages caused by or resulting from the correction or removal. If Contractor disagrees with Owner's calculations, it may make a claim as provided in Article 12 of this Document 00 7200. Owner's rights under this Paragraph shall be in addition to any other rights it may have under the Contract Documents or by law.

- B. If Contractor fails to supply sufficient skilled workers, suitable materials or equipment, or to furnish or perform the Work in such a way that the completed Work will conform to Contract Documents, Owner may order Contractor to replace any such Defective Work, or stop any portion of Work to permit Owner (at Contractor's expense) to replace such Defective Work. These Owner rights are entirely discretionary on the part of Owner, and shall not give rise to any duty on the part of Owner to exercise the rights for the benefit of Contractor or any other party.

9.04 Acceptance And Correction Of Defective Work By Owner

- A. Owner may in its sole discretion elect to accept Defective Work. Contractor shall pay all claims, costs, losses and damages attributable to Owner's evaluation of and determination to accept such Defective Work. If Owner accepts any Defective Work prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work and the Contract Sum. If the parties are unable to agree to the amount of an appropriate decrease in the Contract Sum, Owner may deduct from monies due Contractor, all claims, costs, losses, damages, expenses and liabilities attributable to the Defective Work. If Contractor disagrees with Owner's calculations, Contractor may make a claim as provided in Article 12 of this Document 00 7200. If Owner accepts any Defective Work after final payment, Contractor shall pay to Owner, an appropriate amount as determined by Owner.
- B. Owner may correct and remedy deficiency if, after five Days' written notice to Contractor, Contractor fails to correct Defective Work or to remove and replace rejected Work; or provide a plan for correction of Defective Work acceptable to Owner; or perform Work in accordance with Contract Documents. In connection with such corrective and remedial action, Owner may exclude Contractor from all or part of the Site; take possession of all or part of Work and suspend Contractor's Work related thereto; take possession of all or part of Contractor's tools, appliances, construction equipment and machinery at the Site; and incorporate in Work any materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, its representatives, agents, employees, and other contractors and Project Manager/Architect's consultants' access to the Site to enable Owner to exercise the rights and remedies under this Paragraph. Contractor shall be responsible for all claims, costs, losses, damages, expenses and liabilities incurred or sustained by Owner in exercising such rights and remedies. A Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to Work and the Contract Sum. If the parties are unable to agree to the amount of an appropriate decrease in the Contract Sum, Owner may deduct from moneys due Contractor, all claims, costs, losses and damages caused by or resulting from the correction or removal. If Contractor disagrees with Owner's calculations, Contractor may make a claim as provided in Article 12.

9.05 Rights Upon Inspection, Correction Or Acceptance

- A. Contractor shall not be allowed an extension of Contract Time because of any delay in the performance of Work attributable to the exercise by Owner of its rights and remedies under this Article. Where Owner exercises its rights under this Article, it retains and may still exercise all other rights it has by law or under the Contract Documents including, but not limited to, the right to terminate Contractor's right to proceed with the Work under the Contract Documents for cause and/or make a claim or back charge where a Change Order cannot be agreed upon.
- B. Inspection by Owner or its authorized agents or representatives shall not relieve Contractor of its obligation to have furnished material and workmanship in accordance with Contract Documents. Payment for Work completed through periodic progress payments, final payment or otherwise shall not operate to waive Owner's right to require full compliance with Contract Documents and shall in no way be deemed as acceptance of any defective Work paid therefor. Contractor's obligation to

complete the Work in accordance with Contract Documents shall be absolute, unless Owner agrees otherwise in writing.

9.06 Proof Of Compliance Of Contract Provisions

- A. In order that Owner may determine whether Contractor has complied or is complying with requirements of Contract Documents not readily enforceable through inspection and tests of Work and materials, Contractor shall at any time, when requested, submit to Owner properly authenticated documents or other satisfactory proofs of compliance with all applicable requirements.
- B. Before commencing any portion of Work, Contractor shall inform Owner in writing as to time and place at which Contractor wishes to commence Work, and nature of Work to be done, in order that proper provision for inspection of Work may occur, and to assure measurements necessary for record and payment. Information shall be given to Owner a reasonable time in advance of time at which Contractor proposes to begin Work, so that Owner may complete necessary preliminary work without inconvenience or delay to Contractor.

9.07 Correction Period And Project Warranty Period:

- A. If within two years after the date of Final Acceptance, or such longer period of time as may be prescribed by laws, regulations or by the terms of Contract Documents or any extended warranty or guaranty, any Work (completed or incomplete) is found to be Defective, Contractor shall promptly without cost to Owner and in accordance with Owner's written instructions, correct such Defective Work. Contractor shall remove any Defective Work rejected by Owner and replace it with Work that is not Defective, and satisfactorily correct or remove and replace any damage to other Work or the work of others resulting therefrom. If Contractor fails to promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the Defective Work corrected or the rejected Work removed and replaced. Contractor shall pay for all claims, costs, losses and damages caused by or resulting from such removal and replacement. Where Contractor fails to correct Defective Work, or defects are discovered outside the correction period, Owner shall have all rights and remedies granted by law.
- B. In special circumstances where a part of the Work is occupied or a particular item of equipment is placed in continuous service before Final Acceptance of all the Work, the correction period for that part of Work or that item may start to run from an earlier date if so provided by Change Order.
- C. Where Defective Work or rejected Work (and damage to other Work resulting therefrom) has been corrected, removed, or replaced under this provision after the commencement of the correction period, the correction period hereunder with respect to such Work shall be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

9.08 No Waiver

- A. Neither recordation of Final Acceptance nor final certificate for payment nor provision of the Contract nor partial or entire use or occupancy of premises by Owner shall constitute acceptance of Work not done in accordance with Contract Documents nor relieve Contractor of liability in respect to express warranties or responsibility for faulty materials or workmanship.
- B. If, after installation, operation, or use of materials or equipment to be provided under Contract proves to be unsatisfactory to Owner, Owner shall have right to operate and use materials or equipment until said materials and equipment can, without damage to Owner, be taken out of service for correction or replacement. Period of use of Defective materials or equipment pending correction or replacement shall in no way decrease guarantee period required for acceptable corrected or replaced items of materials or equipment.
- C. Nothing in the Contract Documents shall be construed to limit, relieve, or release Contractor's, Subcontractors', and equipment suppliers' liability to Owner for damages sustained as result of latent defects in materials or equipment caused by negligence of Contractor, its agents, suppliers, employees, or Subcontractors.

ARTICLE 10 - MODIFICATIONS OF CONTRACT DOCUMENTS

10.01 Owner's Right To Direct Changed Work.

- A. Owner may, without notice to the sureties and without invalidating the Contract, make changes in the Work ("Changed Work"), including without limitation: alterations, deviations, additions to, or deletions from Contract Documents; increase or decrease the quantity of any item or portion of the Work; expand, reduce or otherwise change the Contract Time; delete any item or portion of the Work; and require extra Work. Contractor shall perform such Work under applicable provisions of the Contract Documents, unless specifically provided otherwise at the time the change is ordered. In the case of any ordered extra Work, Owner reserves the right to furnish all or portions of associated labor, material, and equipment, which Contractor shall accept and use without payment for costs, markup, profit, or otherwise for such Owner-furnished labor, materials, and equipment.
- B. If Changed Work is of such a nature as to increase or decrease the time or cost of any part of Work, price fixed in Contract shall be increased or decreased by amount as the Contractor and Owner may agree upon as reasonable and proper allowance for increase or decrease in cost of Work using the cost guidelines set forth in this Article, and absent such agreement, then as Owner may direct (with Contractor retaining its rights under Article 12 herein).

10.02 Required Documentation For Changed Work

- A. Changes affecting the Contract Time or Contract Sum of the Work shall be set forth in a written Change Order or Change Directive that shall specify:
 1. The Work performed in connection with the change to be made;
 2. The amount of the adjustment of the Contract Sum, if any, and the basis for compensation for the Work ordered; and
 3. The extent of the adjustment in the Contract Time, if any.
- B. A Change Order or Change Directive will become effective when signed by Owner, notwithstanding that Contractor has not signed it. A Change Order will become effective without Contractor's signature, provided Owner indicates same thereon (by indicating it as a "unilateral change order").
- C. All changes in any plans and specifications approved by any authority with jurisdiction may also require addenda or change orders approved by that authority.
- D. Where Owner requests, a performance bond rider covering the changed Work must be executed and delivered to Owner before proceeding with the changed Work or shortly in time thereafter.

10.03 Procedures And Pricing Of Changed Work

- A. Procedures for changed work and pricing of changed work, claims and all forms of extra compensation, are set forth in Section 01 2600 (Modification Procedures).

ARTICLE 11 - TIME ALLOWANCES

11.01 Time Allowances

- A. Time is of the essence. Contract Time may only be changed by Change Order, and all time limits stated in the Contract Documents are to mean that time is of the essence.

11.02 Excusable Delay And Inexcusable Delay Defined.

- A. Excusable Delay. Subject to the provisions on Notice of Delay below, Contract Time may be adjusted in an amount equal to the time lost due to:
 1. Changes in the Work ordered by Owner ("**Changes**");
 2. Acts or neglect by Owner, Architect, any Owner Representative, utility owners or other contractors performing other work, not permitted or provided for in the Contract Documents, provided that Contractor has performed its responsibilities under the Contract Documents (including but not limited to pre-bid investigations) ("**Acts or Neglect**"); or
 3. Fires, floods, epidemics, abnormal weather conditions beyond the parameters otherwise set forth in this Article, earthquakes, civil or labor disturbances, or acts of God (together, "force

majeure events”), provided damages resulting therefrom are not the result of Contractor’s failure to protect the Work as required by Contract Documents (“**Force Majeure**”).

- B. Inexcusable Delay. Contract Time shall not be extended for any period of time where Contractor (and/or any Subcontractor) is delayed or prevented from completing any part of the Work due to a cause that is within Contractor’s risk or responsibility under the Contract Documents. Delays attributable to or within the control of a Subcontractor, or its subcontractors, or supplier, are deemed delays within the control of Contractor.
- C. Float. Float shall be treated as a Project resource. Contractor shall not be entitled to a time extension for impacts that consume float, but do not impact the critical path.

11.03 Notice Of Delay

- A. Within seven Days of the beginning of any delay (excepting adverse weather delays), Contractor shall notify Owner in writing, by submitting a notice of delay that shall describe the anticipated delays resulting from the delay event in question. If Contractor requests an extension of time, Contractor shall submit a TIE within ten days of the notice of delay. Owner will determine all claims and adjustments in the Contract Time. No claim for an adjustment in the Contract Time will be valid and such claim will be waived if not submitted in accordance with the requirements of this subparagraph. In cases of substantial compliance with the seven-day notice requirement here (but not to exceed twenty-one days from the beginning of the delay event), Owner may in its sole discretion recognize a claim for delay accompanied with the proper TIE, provided Contractor also shows good faith and a manifest lack of prejudice to Owner from the late notice.

11.04 Compensable Time Extensions

- A. Subject to other applicable provisions of the Contract Documents, Contractor may be entitled to adjustment in Contract Sum in addition to Contract Time for:
 - 1. Excusable delay caused solely by Changes in the Work ordered by Owner, as provided above, and/or
 - 2. Excusable delay caused solely by Acts or Neglect by Owner or other person, as provided above.

11.05 Non-Compensable Time Extensions

- A. Subject to other applicable provisions of the Contract Documents, Contractor may be entitled to adjustment in Contract Time only, without adjustment in Contract Sum, for
 - 1. Periods of excusable delay caused solely by weather or Force Majeure events as provided above in this Article, or
 - 2. Periods of concurrent delay, where delay results from two or more causes, one of which is compensable (resulting from Changes or Acts or Neglect as set forth above in this Article), and the other of which is non-compensable or unexcusable, such as: acts or neglect of Contractor, Subcontractors or others for whom Contractor is responsible; other acts, omissions and conditions which would not entitle Contractor to adjustment in Contract Time; adverse weather; and/or actions of Force Majeure as provided above in this Article.

11.06 Adverse Weather

- A. Adverse weather delays may be allowed only if the number of workdays of adverse weather exceeds the parameters listed or referenced immediately below in this subparagraph and Contractor proves that adverse weather actually caused delays to work on the critical path. Contractor shall give written notice of intent to claim an adverse weather day within one Day of the adverse weather day occurring.
- B. Claims for extension of time for rain delay will not be granted unless the number of days work is prevented by rain exceeds 110% of the average number of rain days expected for the period of the Contract Time, based on the records of the National Oceanic & Atmospheric Administration (NOAA) weather station closest to the Project Site, as measured and reported by NOAA. (For example, for California, Oregon and Washington, these figures are contained in the “>=0.10 inch” column at the

applicable weather station's "General Climate Summary Table" for "Precipitation" at <http://www.wrcc.dri.edu/Climsum.html>), pro-rated in the individual month Contractor starts and finishes Work. Delays due to adverse weather conditions will not be allowed for weather conditions that fall within these parameters.

- C. In order to qualify as an adverse weather delay with respect to the foregoing parameters, (i.) daily rainfall must exceed .1 inch, and/or (ii.) daily snowfall must exceed 1.0 inch or more, at the NOAA station located closest to the Project site, as measured and reported by NOAA. Notwithstanding these allowances, Contractor shall at all times employ all available mitigation measures to enable Work to continue, Contractor shall take reasonable steps to mitigate potential weather delays, such as dewatering the Site, lime treatment, and covering Work and material that could be affected adversely by weather. Failure to do so shall be cause for Owner to not grant a time extension due to adverse weather, where Contractor could have avoided or mitigated the potential delay by exercising reasonable care.
- D. Contractor shall include the foregoing precipitation parameters as a monthly activity in its progress schedule. As Work on the critical path is affected by precipitation, Contractor shall notify Owner and request that the days be moved to the affected activities. Any adverse weather days remaining shall be considered Project float available to either Owner or Contractor.
- E. Adverse weather delay for precipitation shall be recognized for the actual period of time Contractor proves it was delayed by precipitation exceeding the specified parameters. For example, and not by way of limitation, if precipitation exceeding the specified parameters does not in fact delay Contractor's progress on the critical path, then no time extension shall be recognized; and conversely, if Contractor proves to Owner's satisfaction that precipitation exceeding the specified parameters causes delay to Contractor for a period longer than the number of precipitation days incurred (e.g., if it rains or snows during grading work), then Contractor shall be entitled to a time extension equal to the actual period of such delay.
- F. During unfavorable weather, wet ground, or other unsuitable construction conditions, Contractor shall employ best practices to protect the Work, manage the construction site and rainwater during inclement weather. Persons performing the Work shall examine surfaces to receive their Work and shall report in writing to Contractor, with copy to Owner representative and the Architect conditions detrimental to the Work. Failure to examine and report discrepancies makes the Contractor responsible, at no increase in Contract Sum, for corrections Owner may require. Commencement of Work constitutes acceptance of surface.

11.07 Liquidated Damages

- A. Time is of the essence. Execution of Contract Documents by Contractor shall constitute its acknowledgement that Owner will actually sustain damages in the form of Contract administration expenses (such as Project management and consultant expenses) in the amount fixed in the Contract Documents for each and every Day during which completion of Work required is delayed beyond expiration of time fixed for completion plus extensions of time allowed pursuant to provisions hereof.
- B. Contractor and Owner agree that because of the nature of the Project, it would be impractical or extremely difficult to fix the amount of such actual damages incurred by Owner because of a delay in completion of all or any part of the Work. Contractor and Owner agree that specified measures of liquidated damages shall be presumed to be the amount of such damages actually sustained by Owner, and that because of the nature of the Project, it would be impracticable or extremely difficult to fix the actual damages.
- C. Liquidated damages for delay shall cover administrative, overhead, interest on bonds, and general loss of public use damages suffered by Owner as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from Defective Work, lost revenues or costs of substitute facilities, or damages suffered by others who then seek to recover their damages from Owner (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties), and defense costs thereof. Owner may deduct from any money due or to become due to Contractor subsequent to time for completion of entire Work and extensions of time allowed pursuant to provisions hereof, a sum representing then-accrued liquidated damages.

ARTICLE 12 - CLAIMS BY CONTRACTOR

12.01 Obligation to File Claims for Disputed Work

- A. Should it appear to Contractor that the Work to be performed or any of the matters relative to the Contract Documents are not satisfactorily detailed or explained therein, or should any questions arise as to the meaning or intent of the Contract Documents, or should any dispute arise regarding the true value of any work performed, work omitted, extra work that the Contractor may be required to perform, time extensions, payment to the Contractor during performance of this Contract, performance of the Contract, and/or compliance with Contract procedures, or should Contractor otherwise seek extra time or compensation FOR ANY REASON WHATSOEVER, then Contractor shall first follow procedures set forth in the Contract (including but not limited to other Articles of this Document 00 7200 and Section 01 2600.) If a dispute remains, then Contractor shall give written notice to Owner that expressly invokes this Article 12. Owner shall decide the issue in writing within 15 days; and Owner's written decision shall be final and conclusive. If Contractor disagrees with Owner's decision, or if Contractor contends that Owner failed to provide a decision timely, then Contractor's SOLE AND EXCLUSIVE REMEDY is to promptly file a written claim setting forth Contractor's position as required herein.

12.02 Form And Contents Of Claim

- A. Contractor's written claim must identify itself as a "Claim" under this Article 12 and must include the following: (1) a narrative of pertinent events; (2) citation to contract provisions; (3) theory of entitlement; (4) complete pricing of all cost impacts; (5) a time impact analysis of all time delays that shows actual time impact on the critical path; (6) documentation supporting items 1 through 5; a verification under penalty of perjury of the claim's accuracy. The Claim shall be submitted to Owner within thirty (30) calendar days of receiving Owner's written decision, or the date Contractor contends such decision was due, and shall be priced like a change order according to Section 01 2600, and must be updated monthly as to cost and entitlement if a continuing claim. Routine contract materials, for example, correspondence, RFI, Change Order requests, or payment requests shall not constitute a claim. Contractor shall bear all costs incurred in the preparation and submission of a claim.

12.03 Administration During/After Claim Submission

- A. Owner may render a final determination based on the Claim or may in its discretion conduct an administrative hearing on Contractor's claim, in which case Contractor shall appear, participate, answer questions and inquiries, and present any further evidence or analysis requested by Owner prior to rendering a final determination. Should Owner take no action on the Claim within 45 days of submission, it shall be deemed denied.
- B. Notwithstanding and pending the resolution of any claim or dispute, Contractor shall diligently prosecute the disputed work to final completion in accordance with Owner's determination.
- C. After their submission, claims less than \$375,000 shall also be subject to the Local Agency Disputes Act.

12.04 Compliance

- A. The provisions of this Article 12 constitute a non-judicial claim settlement procedure that, pursuant to Section 930.2 of the California Government Code, shall constitute a condition precedent to submission of a valid Government Code Claim under the California Government Code. Contractor shall bear all costs incurred in the preparation, submission and administration of a claim. Any claims presented in accordance with the Government Code must affirmatively indicate Contractor's prior compliance with the claims procedure herein and the previous dispositions under Paragraph 12.3 above of the claims asserted. Pursuant to Government Code Section 930.2, the one-year period in Government Code section 911.2 shall be reduced to 150 days from either accrual of the cause of action, substantial completion or termination of the contract, whichever occurs first; in all other respects, the Government Code shall apply unchanged.
- B. Failure to submit and administer claims as required in Article 12 shall waive Contractor's right to claim on any specific issues not included in a timely submitted claim. Claim(s) or issue(s) not raised

in a timely protest and timely claim submitted under this Article 12 may not be asserted in any subsequent litigation, Government Code Claim, or legal action.

- C. Owner shall not be deemed to waive any provision under this Article 12, if at Owner's sole discretion, a claim is administered in a manner not in accord with this Article 12. Waivers or modifications of this Article 12 may only be made a signed change order approved as to form by legal counsel for both Owner and Contractor; oral or implied modifications shall be ineffective.

ARTICLE 13 - UNDERGROUND CONDITIONS

13.01 Contractor To Locate Underground Facilities.

- A. During construction, Contractor shall comply with Government Code Sections 4216 to 4216.9, and in particular Section 4216.2 which provides, in part: "Except in an emergency, every person planning to conduct any excavation shall contact the appropriate regional notification center at least two working days, but no more than 14 calendar days, prior to commencing that excavation, if the excavation will be conducted in an area which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the excavator, and, if practical, the excavator shall delineate with white paint or other suitable markings the area to be excavated. The regional notification center shall provide an inquiry identification number to the person who contacts the center and shall notify any member, if known, who has a subsurface installation in the area of the proposed excavation."
- B. Contractor shall contact USA, and schedule the Work to allow ample time for the center to notify its members and, if necessary, for any member to field locate and mark its facilities. Contractor is charged with knowledge of all subsurface conditions reflected in USA records. Prior to commencing excavation or trenching work, Contractor shall provide Owner with copies of all USA records secured by Contractor. Contractor shall advise Owner of any conflict between information provided in Document 00 3132 (Geotechnical Data and Existing Conditions), the Drawings and that provided by USA records. Contractor's excavation shall be subject to and comply with the Contract Documents.
- C. Contractor shall also investigate the existence of existing service laterals, appurtenances or other types of utilities, indicated by the presence of an underground transmission main or other visible facilities, such as buildings, new asphalt, meters and junction boxes, on or adjacent to the Site, even if not shown or indicated in Document 00 3132 (Geotechnical Data and Existing Conditions), the Drawings or that provided by USA records. Contractor shall immediately secure all such available information and notify Owner and the utility owner, in writing, of its discovery.

13.02 Contractor To Protect Underground Facilities.

- A. At all times during construction, all operating Underground Facilities shall remain in operation, unless the Contract Documents expressly indicate otherwise. Contractor shall maintain such Underground Facilities in service where appropriate; shall repair any damage to them caused by the Work; and shall incorporate them into the Work, including reasonable adjustments to the design location (including minor relocations) of the existing or new installations. Contractor shall take immediate action to restore any in service installations damaged by Contractor's operations.
- B. Prior to performing Work at the Site, Contractor shall lay out the locations of Underground Facilities that are to remain in service and other significant known underground installations indicated by the Underground Facilities Data. Contractor shall further locate, by carefully excavating with small equipment, potholing and principally by hand, all such utilities or installations that are to remain and that are subject to damage. If additional utilities whose locations are unknown are discovered, Contractor shall immediately report to Owner for disposition of the same. Additional compensation or extension of time on account of utilities not shown or otherwise brought to Contractor's attention, including reasonable action taken to protect or repair damage, shall be determined as provided in this Document 00 7200.
- C. If during construction, an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated in the materials supplied by Owner for bidding or in information on file at USA or otherwise reasonably available to Contractor, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby (and in no event

later than seven Days), and prior to performing any Work in connection therewith (except in an emergency), identify the owner of such Underground Facility and give written notice to that owner and to Owner. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

- D. The cost of all of the following will be included in the Contract Sum and Contractor shall have full responsibility for (a) reviewing and checking all available information and data including, but not limited to, information made available for bidding and information on file at USA; (b) locating all Underground Facilities shown or indicated in the Contract Documents, available information, or indicated by visual observation including, but not limited to, and by way of example only, engaging qualified locating services and all necessary backhoeing and potholing; (c) coordination of the Work with the owners of such Underground Facilities during construction; and (d) the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.
- E. Consistent with California Government Code §4215, as between Owner and Contractor, Owner will be responsible for the timely removal, relocation, or protection of existing main or trunk line utility facilities located on the Site only if such utilities are not identified in the Contract Documents or information made available for bidding. Owner will compensate for the cost of locating and repairing damage not due to Contractor's failure to exercise reasonable care, removing and relocating such main or trunk line utility facilities not indicated in the Contract Documents or information made available for bidding with reasonable accuracy, and equipment on the Project necessarily idled during such Work. Contractor shall not be assessed liquidated damages for delay in completion of the Project, when such delay was caused by the failure of Owner or the utility to provide for removal or relocation of such utility facilities.

13.03 Concealed Or Unknown Conditions

- A. If either of the following conditions is encountered at Site when digging trenches or other excavations that extend deeper than four feet below the surface, Contractor shall give a written Notice of Differing Site Conditions to Owner promptly before conditions are disturbed, except in an emergency as set forth in this Document 00 7200, and in no event later than seven Days after first observance of:
 - 1. Subsurface or Latent physical conditions which differ materially from those indicated in the Contract Documents; or
 - 2. Unknown physical conditions of an unusual nature or which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.
- B. In response to Contractor's Notice of Differing Site Conditions under this Paragraph, Owner will investigate the identified conditions, and if they differ materially and cause increase or decrease in Contractor's cost of, or time required for, performance of any part of the Work, Owner will negotiate the appropriate change order following the procedures set forth in the Contract Documents. If Owner determines that physical conditions at the Site are not Latent or are not materially different from those indicated in Contract Documents or that no change in terms of the Contract Documents is justified, Owner will so notify Contractor in writing, stating reasons (with Contractor retaining its rights under Article 12 of this Document 00 7200.)
- C. Contractor shall not be entitled to any adjustment in the Contract Sum or Contract Time regarding claimed Latent or materially different Site conditions (whether above or below grade) if Contractor knew or should have known of the existence of such conditions at the time Contractor submitted its Bid, failed to give proper notice, or relied upon information, conclusions, opinions or deductions of the kind that the Contract Documents preclude reliance upon.
- D. Regarding Underground Facilities, Contractor shall be allowed an increase in the Contract Sum or an extension of the Contract Time, or both, to the extent that they are attributable to the existence of any Underground Facility that is owned and was built by Owner only where the Underground Facility:

1. Was not shown or indicated in the Contract Documents or in the information supplied for bidding purposes or in information on file at USA; and
 2. Contractor did not know of it; and
 3. Contractor could not reasonably have been expected to be aware of it or to have anticipated it from the information available. (For example, if surface conditions such as pavement repairs, valve covers, or other markings, indicate the presence of an Underground Facility, then an increase in the Contract Sum or an extension of the Contract Time will not be due, even if the Underground Facility was not indicated in the Contract Documents, in the information supplied to Contractor for bidding purposes, in information on file at USA, or otherwise reasonably available to Contractor.)
- E. Contractor shall bear the risk that Underground Facilities not owned or built by Owner may differ in nature or locations shown in information made available by Owner for bidding purposes, in information on file at USA, or otherwise reasonably available to Contractor. Underground Facilities are inherent in construction involving digging of trenches or other excavations on Owner's Project, and Contractor is to apply its skill and industry to verify the information available.
- F. Contractor's compensation for claimed Latent or materially different Site conditions shall be limited to the actual, reasonable, incremental increase in cost of that portion of the Work, resulting from the claimed Latent or materially different Site conditions. Such calculation shall take into account the estimated value of that portion of the Work and the actual value of that portion of the Work, using for guidance Contractor's or its subcontractor's bid amount and actual amounts incurred for that portion of the Work and the reasonable expectation (if any) of differing or difficult site conditions in the Work area based on the available records and locale of the Work. For example, if Contractor excavates in an area unexpected, then such costs would be recoverable entirely; while if Contractor extends an existing excavation, then such costs would be recoverable if the resulting excavation costs in that work area exceeded the reasonable expectations therefore.

13.04 Notice Of Hazardous Waste Or Materials Conditions

- A. Contractor shall give a written Notice of Hazardous Materials Condition to Owner promptly, before any of the following conditions are disturbed (except in an emergency as set forth in this Document 00 7200), and in no event later than 24 hours after first observance of any:
1. Material that Contractor believes may be hazardous waste or hazardous material, as defined in Section 25117 of the Health and Safety Code (including, without limitation, Asbestos, lead, PCBs, petroleum and related hydrocarbons, and radioactive material) that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law ("hazardous material"); or
 2. Other material that may present an imminent substantial danger to persons or property exposed thereto in connection with Work at the Site ("other materials").
- B. Except as otherwise provided in the Contract Documents or as provided by applicable law, Contractor shall not be required to give any notice for the disturbance or observation of any such hazardous materials or other materials where such matter is disturbed or observed as part of the scope of Work under the Contract Documents (such as hazardous waste or hazardous material investigation, remediation or disposal activities which are identified as the subject of Work under the Contract Documents), where Contractor complies with all requirements in the Contract Documents and applicable law respecting such materials.
- C. Contractor's Notice of Hazardous Materials Condition shall indicate whether the hazardous materials or other materials were shown or indicated in the Contract Documents to be within the scope of Work, and whether the hazardous materials or other materials were brought to the Site by Contractor, its Subcontractors, suppliers, or anyone else for whom Contractor is responsible.
- D. Contractor shall not be entitled to any adjustment in the Contract Sum or Contract Time regarding claimed hazardous waste or materials if:
1. Contractor knew of the existence of such hazardous materials or other materials at the time Contractor submitted its Bid; or

2. Contractor should have known of the existence of such hazardous material or other materials as a result of its having the responsibility to obtain additional or supplementary examinations, investigation, explorations, tests, studies, and data concerning the conditions at or contiguous to the Site prior to submitting its Bid; or
 3. Contractor failed to give the written notice within the required timeframe set forth below.
- E. If Owner determines that conditions involve hazardous materials or other materials and that a change in Contract Document terms is justified, Owner will issue either a Request for Proposal or Construction Change Directive under the procedures described in the Contract Documents. If Owner determines that conditions do not involve hazardous materials or other materials or that no change in Contract Document terms is justified, Owner will notify Contractor in writing, stating the reasons for its determination.
 - F. In addition to the parties' other rights under this Document 00 7200, if Contractor does not agree to resume Work based on a reasonable belief that it is unsafe, or does not agree to resume Work under special conditions, Owner may order the disputed portion of Work deleted from the Work, or performed by others, or Owner may invoke its right to terminate Contractor's right to proceed under the Contract Documents in whole or in part, for convenience or for cause as the facts may warrant.
 - G. If Contractor does not agree with any Owner determination of any adjustment in the Contract Sum or Contract Time under this Article, Contractor may make a claim as provided in Article 12 of this Document 00 7200.

ARTICLE 14 - LEGAL AND MISCELLANEOUS

14.01 Laws And Regulations

- A. Contractor shall keep fully informed of and shall comply with all laws, ordinances, regulations and orders of any properly constituted authority affecting the Contract Documents, Work and persons connected with Work, and shall protect and indemnify Owner and its officers, employees, consultants and agents against any claim or liability, including attorney's fees, arising from or based on violation of law, ordinance, regulation or order, whether by Contractor or by Subcontractors, employees or agents. Authorized persons may at any time enter upon any part of Work to ascertain compliance of all applicable laws, ordinances, regulations and orders.

14.02 Permits And Taxes

- A. Contractor shall procure all permits and licenses applicable to the Work (including environmental matters to the extent applicable); pay all charges and fees, including fees for street opening permits; comply with, implement and acknowledge effectiveness of all permits; initiate and cooperate in securing all required notifications or approvals therefore; and give all notices necessary and incident to due and lawful prosecution of Work, unless otherwise provided herein. Owner will pay applicable building permits, sanitation and water fees for the completed construction, except as otherwise provided in the Contract Documents. Contractor shall pay all sales and/or use taxes levied on materials, supplies, or equipment purchased and used on or incorporated into Work, and all other taxes properly assessed against equipment or other property used in connection with Work, without any increase in the Contract Sum. Contractor shall make necessary arrangements with proper authorities having jurisdiction over roads, streets, pipelines, navigable waterways, railroads, and other works in advance of operations, even where Owner may have already obtained permits for the Work.

14.03 Communications And Information Distribution

- A. All communications recognized under the Contract Documents shall be in writing, in the form of a serialized document, by type of communication. For example, RFI's shall be serialized beginning with RFI No. 1; payment applications shall be serialized beginning with Payment Application No. 1, submittals shall be serialized per specification section and transmitted with transmittal sheets beginning with Transmittal No. 1; and correspondence shall be serialized beginning with letter No. 1. Contractor may propose other record management and identification systems or protocols, intended to facilitate orderly transmittal of project information, storage and retrieval of such

information, which Owner will review consistent with these stated objectives, and accept or reject in its sole discretion.

- B. Documents Requiring Signatures. All documents requiring signatures for approval prior to implementing action, as stipulated in other portions of Contract Documents, shall require a manually signed, serialized letter delivered to the other party at its address for notice otherwise specified in the Contract Documents, either personally or by mail.
- C. Electronic data transfer of such correspondence will serve to expedite preliminary concurrence of information, only. Receipt of "hard copy" signature on forms is required prior to implementing action or work as the conditions may require. For example, change orders and authorizations for extra cost, require signatures. A party may acknowledge receipt of PDF copies of required correspondence by e-mail, but in the absence of such acknowledgment, mail or personal delivery is required.
- D. All emails shall be copied to Owner's and Contractor's Project Representative. Owner reserves the right to preclude e-mail communication, in whole or in part, as Project needs may require. Communication between Owner and Contractor shall not be via Twitter, Facebook, or other types of instant text message systems. Any such communications shall be inadmissible for any purpose related to this Contract.

14.04 Suspension Of Work

- A. Owner may, without cause, order Contractor in writing to suspend, delay or interrupt Work in whole or in part for such period of time as Owner may determine. An adjustment shall be made for increases in cost of performance of Work of the Contract Documents caused by any such suspension, delay or interruption, calculated using the measures set forth in Section 01 2600 (Modification Procedures). No adjustment shall be made to extent that performance is, was or would have been so suspended, delayed or interrupted by another cause for which Contractor is responsible.

14.05 Termination Of Contract For Cause

- A. The Contractor shall be in default of the Contract Documents and Owner may terminate the Contractor's right to proceed under the Contract Documents, for cause, in whole or in part, should the Contractor commit a material breach of the Contract Documents and not cure such breach within ten (10) calendar days of the date of notice from Owner to the Contractor demanding such cure; or, if such breach is curable but not curable within such ten (10) day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for the Contractor to avail itself of a time period in excess of 10 calendar days, the Contractor must provide Owner within the ten (10) day period with a written plan acceptable to Owner that demonstrates actual resources, personnel and a schedule to promptly to cure said breach, and then diligently commence and continue such cure according to the written plan).
- B. In the event of termination by Owner for cause as provided herein, the Contractor shall deliver to Owner possession of the Work in its then condition, including but not limited to, all designs, engineering, Project records, cost data of all types, plans and specifications and contracts with vendors and subcontractors, all other documentation associated with the Project, and all construction supplies and aids dedicated solely to performing the Work which, in the normal course of construction, would be consumed or only have salvage value at the end of the construction period. The Contractor shall remain fully liable for the failure of any Work completed and materials and equipment provided through the date of such termination to comply with the provisions of the Contract Documents. The provisions of this Section shall not be interpreted to diminish any right which Owner may have to claim and recover damages for any breach of the Contract Documents or otherwise, but rather, the Contractor shall compensate Owner for all loss, cost, damage, expense, and/or liability suffered by Owner as a result of such termination and/or failure to comply with the Contract Documents.
- C. In the event a termination for cause is later determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience, and the Contractor shall have no greater rights than it would have had following a termination for convenience. Any Contractor claim arising out of a termination for cause shall be made in accord with Article 12

herein. No other loss, cost, damage, expense or liability may be claimed, requested or recovered by the Contractor.

14.06 Termination Of Contract For Convenience

- A. Owner may terminate performance of the Work under the Contract Documents in accordance with this clause in whole, or from time to time in part, whenever Owner shall determine that termination is in Owner's best interest. Termination shall be effected by Owner delivering to the Contractor notice of termination specifying the extent to which performance of the Work under the Contract Documents is terminated, and the effective date of the termination.
- B. Contractor shall comply strictly with Owner's direction regarding the effective date of the termination, the extent of the termination, and shall stop work on the date and to the extent specified.
- C. Contractor shall be entitled to a total payment on account of the Contract work so terminated measured by (i.) the actual cost to Contractor of Work actually performed, up to the date of the termination, with profit and overhead limited to twelve percent (12%) of actual cost of work performed, up to but not exceeding the actual contract value of the work completed as measured by the Schedule of Values and Progress Schedule, (ii.) offset by payments made and other contract credits. In connection with any such calculation, however, Owner shall retain all rights under the Contract Documents, including but not limited to claims, indemnities, or setoffs.
- D. Under no circumstances may Contractor recover legal costs of any nature, nor may Contractor recover costs incurred after the date of the termination.

14.07 Contingent Assignment Of Subcontracts

- A. Contractor hereby assigns to Owner each Subcontract for a portion of the Work, provided that:
 - 1. The assignment is effective only after Owner's termination of Contractor's right to proceed under the Contract Documents (or portion thereof relating to that Subcontract) as set forth herein.
 - 2. The assignment is effective only for the Subcontracts which Owner expressly accepts by notifying the Subcontractor in writing;
 - 3. The assignment is subject to the prior rights, if any, of the Surety, obligated by Document 00 6113.13 (Construction Performance Bond) provided under the Contract Documents, where the Surety exercises its rights to complete the Contract;
 - 4. After the effectiveness of an assignment, Contractor shall, at its sole cost and expense (except as otherwise provided in this Document 00 7200), sign all instruments and take all actions reasonably requested by Owner to evidence and confirm the effectiveness of the assignment in Owner; and
 - 5. Nothing in this Paragraph shall modify or limit any of Contractor's obligations to Owner arising from acts or omissions occurring before the effectiveness of any Subcontract assignment, including but not limited to all defense, indemnity and hold-harmless obligations arising from or related to the assigned Subcontract.

14.08 Remedies And Contract Integration

- A. Subject to Contract Documents provisions regarding Contractor claims, claim review, and claim resolution, and subject to the limitations therein, the exclusive jurisdiction and venue for resolving all claims, counter claims, disputes and other matters in question between Owner and Contractor arising out of or relating to Contract Documents, any breach thereof or the Project shall be the applicable court of competent jurisdiction located in the State and County where the Project is located. All Owner remedies provided in the Contract Documents shall be taken and construed as cumulative and not exclusive; that is, in addition to each and every other remedy herein provided; and in all instances Owner shall have any and all other equitable and legal rights and remedies which it would have according to law.
- B. The Contract Documents, any Contract Modifications and Change Orders, shall represent the entire and integrated agreement between Owner and Contractor regarding the subject matters hereof and thereof and shall constitute the exclusive statement of the terms of the parties'

agreement. The Contract Documents, and any Contract Modifications and Change Orders, shall supersede any and all prior negotiations, representations or agreements, written or oral, express or implied, that relate in any way to the subject matter of the Contract Documents or written Modifications. Owner and Contractor represent and agree that, except as otherwise expressly provided in the Contract Documents, they are entering into the Contract Documents and any subsequent written Modification in sole reliance upon the information set forth or referenced in the Contract Documents or Contract Modifications; the parties are not and will not rely on any other information, which shall be inadmissible in any proceeding to enforce these documents.

- C. Either party's waiver of any breach or failure to enforce any of the terms, covenants, conditions or other provisions of the Contract Documents at any time shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel strict compliance with every term, covenant, condition or other provision hereof, any course of dealing or custom of the trade or oral representations notwithstanding.
- D. Neither acceptance of the whole or any part of Work by Owner nor any verbal statements on behalf of Owner or its authorized agents or representatives shall operate as a waiver or modification of any provision of the Contract Documents, or of any power reserved to Owner herein nor any right to damages provided in the Contract Documents.

14.09 Interpretation.

- A. Should any part, term or provision of this Agreement or any of the Contract Documents, or any document required herein or therein to be executed or delivered, be declared invalid, void or unenforceable, all remaining parts, terms and provisions shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby. If the provisions of any law causing such invalidity, illegality or unenforceability may be waived, they are hereby waived to the end that this Agreement and the Contract Documents may be deemed valid and binding agreements, enforceable in accordance with their terms to the greatest extent permitted by applicable law. In the event any provision not otherwise included in the Contract Documents is required to be included by any applicable law, that provision is deemed included herein by this reference (or, if such provision is required to be included in any particular portion of the Contract Documents, that provision is deemed included in that portion).
- B. Contract Documents shall not be construed to create a contractual relationship of any kind between (1) Project Manager or any Owner's representative and Contractor; (2) Owner and/or its Representatives and a Subcontractor, sub-Subcontractor, or supplier of any Project labor, materials, or equipment; or (3) between any persons or entities other than Owner and Contractor.

14.10 Patents

- A. Fees or claims for any patented invention, article or arrangement that may be used upon or in any manner connected with performance of the Work or any part thereof shall be included in the Bid price for doing the Work. Contractor shall defend, indemnify and hold harmless Owner and each of its officers, employees, consultants and agents, including, but not limited to, the Board and each Owner's Representative, from all damages, claims for damages, costs or expenses in law or equity, including attorney's fees, arising from or relating to any claim that any article supplied or to be supplied under the Contract Documents infringes on the patent rights, copyright, trade name, trademark, service mark, trade secret or other intellectual property right of any person or persons or that the person or entity supplying the article does not have a lawful right to sell the same. Such costs or expenses for which Contractor agrees to indemnify and hold harmless the above indemnities include but are not limited to any and all license fees, whether such fees are agreed by any indemnitee or ordered by a court or administrative body of any competent jurisdiction.

14.11 Substitution For Patented And Specified Articles

- A. Except as noted specifically in the instructions to Bidders or in Contract Documents, whenever in Specifications, material or process is designated by patent or proprietary name or by name of manufacturer, such designation shall be deemed to be used for purpose of facilitating description of material and process desired, and shall be deemed to be followed by the words "or Approved Equal" and Contractor may offer any substitute material or process that Contractor considers

“equal” in every respect to that so designated and if material or process offered by Contractor is, in opinion of Owner, Equal in every respect to that so designated, its use will be approved. However, Contractor may utilize this right only by timely submitting Document 00 6325 (Substitution Request Form) as provided in Document 00 2113 (Instructions to Bidders). A substitution will be approved only if it is a true “or equal” item in every aspect of its design and quality, including but not limited to its dimensions, weights, service requirements, durability, functioning, impact on contiguous construction elements, overall schedule and design.

14.12 Interest Of Public Officers

- A. No representative, officer, or employee of Owner no member of the governing body of the locality in which the Project is situated, no member of the locality in which Owner was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project, during the tenure of the official or for one year thereafter, shall, as principal, agent, attorney or otherwise, be directly or indirectly interested, in the Contract Documents or the proceeds thereof.

14.13 Limit Of Liability

- A. Owner, and each of its officers, board members, employees, consultants and agents including, but not limited to, project manager and each other owner representative, shall have no liability to contractor for special, consequential, or incidental damages, except to the limited extent that these contract documents or applicable public contracting statutes may specify their recovery.

ARTICLE 15 - WORKING CONDITIONS AND PREVAILING WAGES

15.01 Use Of Site/Sanitary Rules

- A. All portions of the Work shall be maintained at all times in neat, clean and sanitary condition. Contractor shall furnish toilets for use of Contractor’s and Subcontractors’ employees on the Site where needed, and their use shall be strictly enforced. All toilets shall be properly secluded from public observation, and shall be located, constructed and maintained subject to Owner’s approval.
- B. Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workers to the Site and land areas identified in and permitted by Contract Documents and other land and areas permitted by applicable laws and regulations, rights of way, permits and easements or as designated by Owner, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, any improvement located thereon, or to Owner or occupant thereof resulting from the performance of Work.
- C. During the progress of the Work, Contractor shall keep the Site and the Project free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work, Contractor shall clean the site, remove all waste materials, rubbish and debris from and about the Site as well as all tools, appliances, construction equipment and machinery and surplus materials. Contractor shall leave the premises clean and ready for occupancy by Owner at Substantial Completion of Work. Contractor shall restore to original condition all property not designated for alteration by Contract Documents.
- D. Contractor shall not load nor permit any part of any structure or pavement to be loaded in any manner that will endanger the structure or pavement, nor shall Contractor subject any part of Work or adjacent property to stresses or pressures that will endanger it. Contractor shall conduct all necessary existing conditions investigation regarding structural, mechanical, electrical or any other system existing, shall perform Work consistent with such existing conditions, and shall have full responsibility for insufficiencies or damage resulting from insufficiencies of existing systems, equipment or structures to accommodate performing the Work.

15.02 Protection Of Work, Persons, And Property

- A. Contractor shall be responsible for initiating, maintaining and supervising all safety and site security precautions and programs in connection with Work, and shall develop and implement a site security and safety plan throughout construction. Contractor shall comply with all safety requirements

specified in any safety program established by Owner, or required by state, federal or local laws and ordinances. Contractor shall be responsible for all theft or damage to Work, property or structures, and all injuries to persons, either on the Site or constituting the Work (e.g., materials in transit), arising from the performance of Work of the Contract Documents from a cause.

- B. Contractor shall comply with all applicable laws and regulations of any public body having jurisdiction for safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owners of adjacent property and of Underground Facilities and utility Owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property.
- C. Contractor shall remedy all damage, injury or loss to any property referred to above in this Article, caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, supplier, or any other person or organization directly or indirectly employed by any of them to perform or furnish any Work or anyone for whose acts any of them may be liable. Contractor's duties and responsibility for safety and for protection of Work shall continue until such time as all the Work is completed and Final Acceptance of the Work. Owner and its agents do not assume any responsibility for collecting any indemnity from any person or persons causing damage to Contractor's Work.
- D. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.
- E. Owner may, at its option, retain such moneys due under the Contract Documents as Owner deems necessary until any and all suits or claims against Contractor for injury to persons or property shall be settled and Owner receives satisfactory evidence to that effect.
- F. Work within the right-of-way lines of the city and/or Owner and/or State shall be done in accordance with the standards and specifications of the controlling agency. Permit for such work shall be obtained and paid for by the Contractor before executing the work within such right-of-ways.

15.03 Responsibility For Safety And Health

- A. Contractor shall ensure that its and each tier of Subcontractors' employees, agents and invitees comply with applicable health and safety laws while at the Site. These laws include the Occupational Safety and Health Act of 1970 and rules and regulations issued pursuant thereto, and Owner's safety regulations as amended from time to time. Contractor shall comply with all Owner directions regarding protective clothing and gear.
- B. Contractor shall be fully responsible for the safety of its and its Subcontractors' employees, agents and invitees on the Site. Contractor shall notify Owner, in writing, of the existence of hazardous conditions, property or equipment at the Site that are not under Contractor's control. Contractor shall be responsible for taking all the necessary precautions against injury to persons or damage to the property of Contractor, Subcontractors or persons from recognized hazards until the responsible party corrects the hazard.
- C. Contractor shall confine all persons acting on its or its Subcontractors' behalf to that portion of the Site where Work under the Contract Documents is to be performed, Owner-designated routes for ingress and egress thereto, and any other Owner-designated area. Except those routes for ingress and egress over which Contractor has no right of control, within such areas, Contractor shall provide safe means of access to all places at which persons may at any time have occasion to be present.

15.04 Emergencies

- A. In emergencies affecting the safety or protection of persons or Work or property at the Site or adjacent thereto, Contractor, without special instruction or authorization from Owner, is obligated to act to prevent threat and damage, injury or loss, until directed otherwise by Owner. Contractor shall give Owner prompt written notice if Contractor believes that any significant changes in Work or variations from Contract Documents have been caused thereby. If Owner determines that a change in the Contract Documents is required because of the action taken by Contractor in

response to such an emergency, a Change Order or Construction Change Directive will be issued to document the consequences of such action.

15.05 Use Of Roadways And Walkways

- A. Contractor shall not unnecessarily interfere with use of any roadway, walkway or other facility for vehicular or pedestrian traffic. Before beginning any interference and only with Owner's prior concurrence, Contractor may provide detour or temporary bridge for traffic to pass around or over the interference, which Contractor shall maintain in satisfactory condition as long as interference continues. Unless otherwise provided in the Contract Documents, Contractor shall bear the cost of these temporary facilities.

15.06 Nondiscrimination

- A. No person or entity shall discriminate in the employment of persons upon public works because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sexual preference, or gender of such persons, except as provided in Section 12940 of the California Government Code. Every contractor for public works violating the provisions of Section 1735 of the California Labor Code is subject to all the penalties imposed for a violation of Chapter 1, Part 7, Division 2 of the California Labor Code.

15.07 Registration

- A. Each bidder and any subcontractor listed in a bid proposal pursuant to California Public Contract Code Section 4104, must be currently registered with the Department of Industrial Relations and qualified to perform public work consistent with California Labor Code section 1725.5, except in limited circumstances as referenced in California Labor Code section 1771.1(a). No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

15.08 Prevailing Wages And Working Hours

- A. Contractor shall pay to persons performing labor in and about Work provided for in the Contract Documents an amount equal to or more than the general prevailing rate of per diem wages for (1) work of a similar character in the locality in which the Work is performed and (2) legal holiday and overtime work in said locality. The per diem wages shall be an amount equal to or more than the stipulated rates contained in a schedule that has been ascertained and determined by the Director of the State Department of Industrial Relations and Owner to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this Contract. Contractor shall also cause a copy of this determination of the prevailing rate of per diem wages to be posted at each Site.
- B. Contractor shall forfeit, as a penalty to Owner, Fifty Dollars (\$50.00) for each laborer, workman, or mechanic employed in performing labor in and about the Work provided for in the Contract Documents for each Day, or portion thereof, that such laborer, workman or mechanic is paid less than the said stipulated rates for any Work done under the Contract Documents by him or her or by any Subcontractor under him or her, in violation of Articles 1 and 2 of Chapter 1 of Part 7 of Division II of the California Labor Code. The sums and amounts which shall be forfeited pursuant to this Paragraph and the terms of the California Labor Code shall be withheld and retained from payments due to Contractor under the Contract Documents, pursuant to this Document 00 7200 and the California Labor Code, but no sum shall be so withheld, retained or forfeited except from the final payment without a full investigation by either the State Department of Industrial Relations or by Owner. The Labor Commissioner pursuant to California Labor Code §1775 shall determine the final amount of forfeiture.
- C. Contractor shall insert in every subcontract or other arrangement which Contractor may make for performance of Work or labor on Work provided for in the Contract, provision that Subcontractor shall pay persons performing labor or rendering service under subcontract or other arrangement not less than the general prevailing rate of per diem wages for work of a similar character in the

- locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed in the California Labor Code.
- D. Contractor stipulates that it shall comply with all applicable wage and hour laws, including without limitation, California Labor Code §§ 1776 and 1810-1815. Failure to so comply shall constitute a default under this Contract.
- E. Contractor and its Subcontractors shall be responsible for compliance with Labor Code §§ 1810-1815.
1. Eight hours of labor performed in execution of the Contract constitutes a legal day's work. The time of service of any workman employed on the Project is limited and restricted to 8 hours during any one calendar day, and 40 hours during any one calendar week.
 2. Contractor and its Subcontractors shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him or her in connection with the Project. The record shall be kept open at all reasonable hours to the inspection Owner and to the Division of Labor Standards Enforcement.
 3. Contractor or its Subcontractors shall, as a penalty to Owner, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the Contract Documents by the respective Contractor or Subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Labor Code §§ 1810-1815.
 4. Work performed on the Project by employees of Contractor or its Subcontractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay.
- F. Contractor and its Subcontractors shall be responsible for compliance with Labor Code Section 1776.
1. Contractor and Subcontractors must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the Work of the Contract Documents. Each payroll record shall contain or be verified by a written declaration as required by Labor Code Section 1776.
 2. The payroll records enumerated above must be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor as required by Labor Code Section 1776.
 - a. Contractor shall inform Owner of the location of records enumerated above, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.
 - b. Contractor or Subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated above. In the event that the Contractor or Subcontractor fails to comply with the ten-day period, he or she shall, as a penalty to Owner on whose behalf the contract is made or awarded, forfeit \$100.00 for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. Contractor is not subject to a penalty assessment pursuant to this Paragraph due to the failure of a Subcontractor to comply with this Paragraph.
 3. Contractor at Owner's request shall, also deliver certified payrolls to Owner with each Application for Payment as set forth above in this Document 00 7200 (General Conditions).

15.09 Compliance Monitoring By Department of Industrial Relations

- A. This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

15.010 Environmental Controls

- A. Contractor shall comply with all rules, regulations, ordinances, and statutes that apply to any Work performed under the Contract Documents including, without limitation, any toxic, water, stormwater management and soil pollution controls and air pollution controls specified in California Government Code §11017. Contractor shall be responsible for insuring that Contractor's Employees, Subcontractors, and the public are protected from exposure to airborne hazards or contaminated water, soil, or other toxic materials used during or generated by activities on the Site or associated with the Project.

15.011 Shoring Safety Plan

- A. Any conflict between this Paragraph and Division 2 of the Specifications shall be resolved in favor of the most stringent requirement.
- B. At least five Days in advance of any excavation five feet or more in depth, Contractor shall submit to Owner a detailed plan showing the shoring, bracing and sloping design (including calculations) and other provisions to be made for worker protection from the hazard of caving ground during the excavation, as required by California Labor Code §6705. A civil or structural engineer registered in California shall prepare and sign any plan that varies from the shoring system standards established by the State Construction Safety Orders.
- C. During the course of Work, Contractor shall be responsible for determining where sloping, shoring, and/or bracing is necessary and the adequacy of the design, installation, and maintenance of all shoring and bracing for all excavation, including any excavation less than five feet in depth. Contractor will be solely responsible for any damage or injuries that may result from excavating or trenching. Owner's acceptance of any drawings showing the shoring or bracing design or Work schedule shall not relieve Contractor of its responsibilities under this Paragraph.
- D. Appoint a qualified supervisory employee who shall be responsible to determine the sloping or shoring system to be used depending on local soil type, water table, stratification, depth, etc.

END OF DOCUMENT

DOCUMENT 00 7316

SUPPLEMENTARY CONDITIONS – INSURANCE AND INDEMNIFICATION

ARTICLE 1 - INSURANCE

- 1.01** At or before the date specified in Document 00 2113 (Instructions to Bidders), Contractor shall furnish to the City of Seaside ("Owner") satisfactory proof that Contractor has taken out for the entire period covered by the Contract the following classes of insurance in the form and with limits and deductibles specified below, unless otherwise specified in Contract Documents:
- A. Comprehensive General Liability Insurance covering claims for personal injury, bodily injury and property damage arising out of the Work and in a form providing coverage not less than that of a Standard Commercial General Liability Insurance policy ("Occurrence Form"). Such insurance shall provide for all operations and include independent contractors, products liability, completed operations for one year after Final Completion and acceptance of the final payment for the Work, contractual liability, and coverage for explosion, collapse, and underground hazards. The limits of such insurance shall not be coverage of less than [\$1,000,000] each occurrence, [\$2,000,000] general aggregate limit, and [\$2,000,000] aggregate for products and completed operations. The policies shall be endorsed to provide Broad Form Property Damage Coverage.
 - B. Comprehensive Automobile Liability Insurance covering all owned, non-owned, and hired vehicles. Such insurance shall provide coverage not less than the standard Comprehensive Automobile Liability policy with limits not less than [\$1,000,000] each person Bodily Injury, [\$1,000,000] each occurrence Bodily Injury, and [\$1,000,000] each occurrence Property Damage.
 - C. All-Risk Course of Construction Insurance including damage to property owned by Owner, Contractor or third parties caused by fire. Insurance shall be in the amount of 100 percent of the completed value of the Work to be performed under this Contract. Deductible shall not exceed [\$10,000.00]. Each loss shall be borne by Contractor.
 - D. Workers' Compensation Insurance for all persons whom the Contractor may employ in carrying out Work contemplated under Contract Documents, in accordance with the Act of Legislature of State of California, known as "Workers' Compensation Insurance and Safety Act," approved May 26, 1913, and all acts amendatory or supplemental thereto, in the statutory amount.
- 1.02** All policies of insurance shall be placed with insurers acceptable to Owner. The insurance underwriter(s) for all insurance policies except Workers' Compensation shall have an A. M. Best Company rating of [A-, VIII] or better, unless otherwise specified in Contract Documents. Required minimum amounts of insurance may be increased should conditions of Work, in opinion of Owner, warrant such increase. Contractor shall increase required insurance amounts upon direction by Owner.
- 1.03** Required Endorsements: The policies required under Document 00 7200 (General Conditions) and this Document 00 7316 shall be endorsed as follows:
- A. Name Owner, its elected and/or appointed governing body and boards, employees, representatives, consultants, and agents, and Project Manager as additional insureds, but only with respect to liability arising out of the activities of the named insured.
 - B. Each such policy shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limit of the insurance company's liability required hereunder. Should any of the policies identified herein contain a "cross-suits" exclusion, such exclusion must not apply to any additional insureds.
 - C. Insurance shall be primary to Owner and no other insurance or self-insured retention carried or held by Owner shall be called upon to contribute to a loss covered by insurance for the named insured.
- 1.04** Certificates of insurance and endorsements shall have clearly typed thereon Owner Contract Number and title of Contract Documents. Written notice of cancellation, non-renewal, or reduction in coverage of any policy shall be mailed to Owner (Attention: Owner Risk Manager / Purchasing

Agent) at the address listed in Document 00 5200 (Agreement), 60 Days in advance of the effective date of the cancellation, non-renewal, or reduction in coverage. Written notice of cancellation for non-payment shall be mailed within 10 Days of cancellation. Contractor shall maintain insurance in full force and effect during entire period of performance of Contract Documents. Contractor shall keep insurance in force during warranty and guarantee periods, except that Contractor may discontinue All-Risk Course of Construction Insurance after Final Payment. At time of making application for extension of time, and during all periods exceeding the Contract Time resulting from any cause, Contractor shall submit evidence that insurance policies will be in effect during requested additional period of time. Upon Owner's request, Contractor shall submit to Owner, within 30 Days, copies of the actual insurance policies or renewals or replacements.

- 1.05** Contractor shall pay all insurance premiums, including any charges for required waivers of subrogation or the endorsement of additional insureds. If Contractor fails to maintain insurance, Owner may take out comparable insurance, and deduct and retain amount of premium from any sums due Contractor under Contract Documents.
- 1.06** If injury occurs to any employee of Contractor, Subcontractor or sub-subcontractor for which the employee, or the employee's dependents in the event of employee's death, is entitled to compensation from Owner under provisions of the Workers' Compensation Insurance and Safety Act, as amended, or for which compensation is claimed from Owner, Owner may retain out of sums due Contractor under Contract Documents, amount sufficient to cover such compensation, as fixed by the Act, as amended, until such compensation is paid, or until it is determined that no compensation is due. If Owner is compelled to pay compensation, Owner may, in its discretion, either deduct and retain from the Contract Sum the amount so paid, or require Contractor to reimburse Owner.
- 1.07** Nothing herein shall be construed as limiting in any way the extent to which Contractor or any Subcontractor may be held responsible for payment of damages resulting from their operations.
- 1.08** All Subcontractors shall maintain the same insurance required to be maintained by Contractor with respect to their portions of the Work unless otherwise indicated in Contract Documents, and Contractor shall cause the Subcontractors to furnish proof thereof to Owner within ten Days of Owner's request.
- 1.09** The following provisions apply to any licensed professional engaged by Contractor to perform portions of the Work ("Professional").
 - A.** Each Professional shall maintain the following insurance, unless otherwise specified in Contract Documents:
 - 1.** Professional Liability Insurance, insuring against professional errors and omissions arising from Professional's Work on the Project, in an amount not less than **[\$1,000,000]** combined single limit for each occurrence. If Professional cannot provide an occurrence policy, Professional shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than two years following Final Completion of the Project.
 - 2.** Professional shall satisfy all other provisions of this Document 00 7316 relating to that insurance, including without limitation providing required insurance certificates (containing the required endorsements) before commencing its Work on the Project.

ARTICLE 2 - RESPONSIBILITY OF CONTRACTOR AND INDEMNIFICATION

- 2.01** Owner and each of its officers, employees, consultants and agents including, but not limited to, the Board, Project Manager and each Owner's Representative, shall not be liable or accountable in any manner for loss or damage that may happen to any part of the Work; loss or damage to materials or other things used or employed in performing the Work; injury, sickness, disease, or death of any person; or damage to property resulting from any cause whatsoever except their sole negligence, willful misconduct or active negligence, attributable to performance or character of the

Work, and Contractor releases all of the foregoing persons and entities from any and all such claims.

- 2.02** To the furthest extent permitted by law (including without limitation California Civil Code §2782), Contractor shall assume defense of, and indemnify and hold harmless, Owner and each of its officers, employees, consultants and agents, including but not limited to the Board, Project Manager and each Owner's Representative, from claims, suits, actions, losses and liability of every kind, nature and description, including but not limited to claims and fines of regulatory agencies and attorney's fees and consultant's fees, directly or indirectly arising out of, connected with or resulting from performance of the Work, failure to perform the Work, or condition of the Work which is caused in whole or part by any act or omission of Contractor, Subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, resulting from any cause whatsoever except their sole negligence, willful misconduct or active negligence.
- 2.03** With respect to third-party claims against Contractor, Contractor waives any and all rights to any type of express or implied indemnity against Owner and each of its officers, employees, consultants and agents including, but not limited to Owner, the Board, Project Manager and each Owner's Representative. Owner shall provide timely notice to Contractor of any third-party claim relating to the Contract Documents, in accordance with Section 9201 of the California Public Contract Code.
- 2.04** Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Contractor, its Subcontractors of any tier, or the officers or agents of any of them.
- 2.05** To the furthest extent permitted by law (including, without limitation, Civil Code §2782), the indemnities, releases of liability and limitations of liability, claims procedures, and limitations of remedy expressed throughout Contract Documents shall apply even in the event of breach of Contract, negligence (active or passive), fault or strict liability of the party(ies) indemnified, released, or limited in liability, and shall survive the termination, rescission, breach, abandonment, or completion of the Work or the terms of the Contract Documents. If Contractor fails to perform any of these defense or indemnity obligations, Owner may in its discretion back charge Contractor for Owner's costs and damages resulting therefrom and withhold such sums from progress payments or other Contract moneys which may become due.
- 2.06** The indemnities in the Contract Documents shall not apply to any indemnified party to the extent of its sole negligence or willful misconduct; nor shall they apply to Owner or other indemnified party to the extent of its active negligence.

END OF DOCUMENT

DOCUMENT 00 9113

ADDENDA

CONTRACT NUMBER xx-xx

CITY OF SEASIDE

LAGUNA GRANDE PARK IMPROVEMENTS

located at

CANYON DEL REY BLVD. AT HILBY AVENUE
SEASIDE, CALIFORNIA, 93955

[DOCUMENT TO BE COMPLETED AS ADDENDA DURING BID PERIOD]

[If a conformed copy is created, delete bracketed line above and replace with the following:]

The following Addenda were issued, modifying the Project Manual:

Addendum No. 1, issued on **[date]**
Addendum No. 2, issued on **[date]**
[continue as appropriate]

(Addenda have been incorporated into the conformed Project Manual.)

END OF DOCUMENT

DIVISION 1 GENERAL REQUIREMENTS

SECTION 01 1100

SUMMARY

PART 1 – GENERAL

1.01 SUMMARY

- A. Section includes Summary of Work and Work Restrictions including:
1. Work Covered by Contract Documents
 2. Bid Items
 3. Time of Completion / Liquidated Damages
 4. Work Under Other Contracts
 5. Work Sequence
 6. Work Days and Hours
 7. Shutdown for Discovery of Cultural Resources
 8. Partial Occupancy/Utilization Requirements
 9. Contractor Use of Site
 10. Project Site Maintenance
 11. Construction Staking and Monument Protection
 12. Protection of Existing Structures and Underground Facilities
 13. Permits
 14. Actual Damages for Permit Violations
 15. Protection of Existing Trees During Construction Activities
 16. Construction Water
 17. Conditions of Use
 18. Contractor's Responsibilities

1.02 WORK COVERED BY CONTRACT DOCUMENTS

Work comprises of the construction of Owner's **Laguna Grande Park Improvements** located on **the west side of Canyon Del Rey Boulevard across from Harcourt Avenue** in Seaside, California, 93955.

- A. This project includes the demolition of concrete curb, concrete pavement, and asphalt walks, clearing and grubbing, and excavation play area. The project includes providing and installing new play equipment and rubber safety surface play area, site furnishings including bench relocation and drink fountain, paving, walks, curbs, and replacing detectable warning surface.
- B. The Work of this Contract comprises construction of all the Work indicated, described in the Specifications, or otherwise required by the Contract Documents. Unless provided otherwise in the Contract Documents, all risk of loss to Work covered by Contract Documents shall rest with Contractor until Final Acceptance of the Work. Cost of maintenance of systems and equipment prior to Final Acceptance will be considered as included in prices Bid and no direct or additional payment will be made therefore.
- C. For all Bid items, furnish and install all Work, including connections to existing systems, indicated and described in Specifications and all other Contract Documents. Work and requirements applicable to each individual Bid item, or unit of Work, shall be deemed incorporated into the description of each Bid item (whether Lump Sum or Unit Price). Any Bid item may be deleted from the Work and Contract Sum, in total or in part, prior to or after award of Contract without compensation in any form or adjustment of other Bid items or prices therefore.
- D. Allowance Work shall be done as Change Orders and as specified in Section 01 2600 (Modification Procedures). Identify Allowance Items (See Document 00 4113 [Bid Form]) work on the Progress Schedules and on Applications for Payment. The Amount given on Document 00 4113 (Bid Form) under each Allowance Item is the sum of money set aside for each Allowance

Item. These amounts shall be included in the Contract Sum on the Bid Form. If the cost of Work done under any Allowance Item is less than the amount given on the Bid Form under that Allowance Item, the Contract Sum shall be reduced by the difference between the amount given in the Bid Form and the cost of Work actually done.

1.03 BID ITEMS

Bid Item 1 – Mobilization

Measurement and payment for this item shall be on a lump sum (LS) basis. The lump sum cost shall pay for all the costs of mobilization and demobilization for items awarded. The work shall include, but not be limited to, preparatory and cleanup work necessary for performance of the work in accordance with the Standard Specifications, Plans and Specifications, and as directed by the Engineer. This item also includes the movement of construction personnel, equipment, supplies and incidentals to and from the project site, and all other work and operations, which must be incurred prior to the beginning of and after the end of construction work. This item shall also include obtaining bonds, insurance policies, licenses, and permits required by the contract documents, project meetings, coordination and all related administrative costs for this Project. Partial payment of this bid item shall be based on percent of this item completed and shall be contingent upon the Contractor's furnishing and the City's acceptance of: 1) the schedule of values, 2) the construction schedule, 3) Traffic Control Plans, 4) Quality Control Plan, 5) all submittals and shop drawings, 6) electrician certifications, 7) subcontractor's Certificate of Good Faith Effort to hire local, and 8) fringe benefit summary statement. Also included in this bid item is maintaining the project site, regular cleanup and final cleanup, temporary fencing and staging area, if any.

Bid Item 2 – Storm Water Compliance

Measurement and payment for this item shall be on a lump sum (LS) basis. The work shall include, but not be limited to, the furnishing of all labor, materials, tools, equipment and incidentals necessary for the implementation of the requirements under "Environmental/Pollution Prevention Requirements" in accordance with the Plans and Specifications, and as directed by the Engineer and no additional compensation will be allowed therefor. This work also includes compliance with all applicable rules, regulations, ordinances and statutes. Also included is providing and installing BMPs, proper maintenance and inspection of all BMPs installed for the project, removal of BMPs, and clean up and proper disposal of any environmental pollutants due to construction related activities.

Bid Item 3 – Construction Surveying

Measurement and payment for this item shall be on a lump sum (LS) basis. The work shall include, but not be limited to, construction staking and marking required to establish the lines and grades to construct the project. Also, included in this work item is referencing all necessary control points, setting benchmarks and performing all construction layout and reference staking necessary for the proper control and satisfactory completion of the project.

Bid Item 4 – Demolition Work

Measurement and payment for this item shall be on a lump sum (LS) basis. The work shall include, but not be limited to, furnishing all labor, materials, tools, equipment, and incidentals necessary for all demolition work as shown on the plans including but not limited to demolition and disposal of concrete walks and asphalt paving, including associated curbs, gutters, and aggregate base, saw-cutting of existing concrete and asphalt as required, any required excavation and import/export of soil, and site clearing and grubbing, in accordance with these specifications and as directed by the Engineer.

Bid Item 5 – Pedestrian Concrete Pavement

Measurement and payment for this item shall be on a per square foot (SF) basis. The work shall include, but not be limited to, furnishing all labor, materials, tools, equipment, and incidentals necessary for over-

excavation and recompaction of sub-grade, and constructing concrete pavement and ramp to play areas including the thickened edge and dowelling into existing sidewalk and curb in accordance with the plans. All work shall be performed as shown on the plans, and as specified in these specifications, and as directed by the Engineer.

Bid Item 6 – AC Conform Paving

Measurement and payment for this item shall be on a square foot (SF) basis. The work shall include, but not be limited to, furnishing all labor, materials, tools, equipment, and incidentals necessary for the installation of asphaltic concrete to (Caltrans Type A) conform to existing paving areas. All work shall be performed as shown on the plans, and as specified in these specifications, and as directed by the Engineer.

Bid Item 7 – Concrete Curb Transition

Measurement and payment for this item shall be on a linear foot (LF) basis. The work shall include, but not be limited to, furnishing all labor, materials, tools, equipment, and incidentals necessary for the construction of the concrete curb transition as shown on the plans, and in accordance with these specifications, and as directed by the Engineer.

Bid Item 8 – Furnish and Install Play Equipment, Rubber Play Surface, Flush Concrete Curb

Measurement and payment for this item shall be on a lump sum (LS) basis. The work shall include, but not be limited to, furnishing all labor, materials, tools, equipment, and incidentals necessary for the purchase and installation of the play equipment, including footings, installation of the rubber play surface, and construction of the flush concrete curb, as shown on these plans, and in accordance with these specifications, and as directed by the Engineer.

Bid Item 9 – Remove and Relocate Benches

Measurement and payment for this item shall be on a per each (EA) basis. The work shall include, but not be limited to, furnishing all labor, materials, tools, equipment, and incidentals necessary for the removal, storage, and installation of the benches as shown on the plans, and in accordance with these specifications, and as directed by the Engineer.

Bid Item 10 – Salvage and Furnish Drinking Fountain

Measurement and payment for this item shall be on a lump sum (LS) basis. The work shall include, but not be limited to, furnishing all labor, materials, tools, equipment, and incidentals necessary for the drinking fountain as shown on the plans, and in accordance with these specifications, and as directed by the Engineer.

Bid Item 11 – Reconstruct Detectable Warning Surface and Concrete

Measurement and payment for this item shall be on a lump sum (LS) basis. The work shall include, but not be limited to, furnishing all labor, materials, tools, equipment, and incidentals necessary for the installation of the detectable warning surface as shown on these plans, and in accordance with these specifications, and as directed by the Engineer.

Bid Item 12 – Record Drawings

Measurement and payment for this item shall be on a lump sum (LS) basis for furnishing to the City a complete set of Record (As-Built) Drawings upon project completion, and as specified in these specifications, and as directed by the Engineer.

1.04 TIME OF COMPLETION AND LIQUIDATED DAMAGES

- A. Time of Completion: 45 days from the Notice to Proceed
- B. The Contractor shall pay to the Owner a sum of Three Hundred Dollars (\$300.00) per day, for each and every calendar days delay in finishing the work in excess of the number of working days prescribed above.

1.05 WORK UNDER OTHER CONTRACTS

- A. The Owner does not anticipate any work under other contracts occurring at Laguna Grande Park site simultaneously with this project.

1.06 WORK SEQUENCE

- A. Construct work in stages and at times to accommodate Owner operation requirements during the construction period; coordinate construction schedule and operations with Owner.
- B. The allowable working conditions stated below are requirements by the Owner. Any requested change must be approved by the Owner. The Contractor may request a change in the allowable working conditions by submitting a written request to the Owner with a minimum 48 hours notice.
 - 1. All scheduling conditions included in permits issued by the affected agencies shall be followed.
 - 2. The Contractor shall coordinate all work with the Owner at (831) 899-6832.

1.07 WORK DAYS AND HOURS

- A. Work Days and hours: Monday-Friday inclusive, 8:00 a.m.-5:00 p.m. local time.
- B. Work at the Site on weekends or holidays is not permitted, unless the contractor requests otherwise from Owner in writing at least 48 hours in advance and Owner approves in its sole discretion.

1.08 SHUTDOWN FOR DISCOVERY OF CULTURAL RESOURCES

- A. If discovery is made of items of historical archaeological or paleontological interest, immediately cease all Work in the area of discovery. Archaeological indicators may include, but are not limited to, dwelling sites, locally darkened soils, stone implements or other artifacts, fragments of glass or ceramics, animal bones, human bones, and fossils. After cessation of excavation, immediately contact Owner. Do not resume Work until authorization is received from Owner. When resumed, excavation or other activities shall be as directed by Owner.

1.09 PARTIAL OCCUPANCY/UTILIZATION REQUIREMENTS

- A. Allow Owner to take possession of and use any completed or partially completed portion of the Work during the progress of the Work as soon as is possible without interference to the Work.
- B. Possession, use of Work, and placement and installation of equipment by Owner shall not in any way evidence the completion of the Work or any part of it.
- C. Contractor shall not be held responsible for damage to the occupied part of the Work resulting from Owner occupancy.
- D. Make available, in areas occupied, on a 24 hour per day and 7 day per week basis if required, any utility services, heating, and cooling in condition to be put in operation at the time of occupancy.
 - 1. Responsibility for operation and maintenance of said equipment shall remain with Contractor.
 - 2. Make, and Owner shall certify, an itemized list of each piece of equipment so operated with the date operation commences.
 - 3. Itemized list noted above shall be basis for commencement of warranty period for equipment.
 - 4. Owner shall pay for utility cost arising out of occupancy by Owner during construction.

- E. Use and occupancy by Owner prior to acceptance of Work does not relieve Contractor of its responsibility to maintain insurance and bonds required under the Contract until entire Work is completed and accepted by Owner.
- F. Prior to date of Final Acceptance of the Work by Owner, all necessary repairs or renewals in Work or part thereof so used, not due to ordinary wear and tear, but due to Defective materials or workmanship or to operations of Contractor, shall be made at expense of Contractor, as required in Document 00 7200 (General Conditions).
- G. Use by Owner of Work or part thereof as contemplated by this Section 01 1100 shall in no case be construed as constituting acceptance of Work or any part thereof. Such use shall neither relieve Contractor of any responsibilities under Contract, nor act as waiver by Owner of any of the conditions thereof.
- H. Owner may specify in the Contract Documents that portions of the Work, including electrical and mechanical systems or separate structures, shall be substantially completed on dates described in this Section 01 1100, if any, prior to Substantial Completion of all of the Work. Notify Owner in writing when Contractor considers any such part of the Work ready for its intended use and Substantially Complete and request Owner to issue a Certificate of Substantial Completion for that part of the Work.

1.10 CONTRACTOR USE OF SITE

- A. Confine operations at Site to areas permitted by Contract Documents, permits, ordinances, and laws. Do not unreasonably encumber Site with materials or equipment.
- B. Assume full responsibility for protection and safekeeping of products stored on premises. Move any stored products that interfere with operations of Owner or other contractor.
- C. Coordinate parking, storage, staging, and Work areas with Owner. Use of the work area is permitted only for the purposes necessary to perform the work. If practicable, dispose of construction debris concurrently with its removal. If stockpiling is necessary, dispose of stockpiles weekly, Owner will provide a storage area for Contractor's equipment and materials. Parking and storage will be confined to the areas designated for storage or otherwise approved by the Owner. Do not store construction materials in the drip line of any tree.
- D. Prior to commencement of Work or excavation, Contractor and Owner shall jointly survey the area adjacent to the Project area making permanent note and record of such existing damage such as cracks, sags or other similar damage. This record shall serve as a basis for determination of subsequent damage to structures, conditions or other existing improvements due to Contractor's operations. All parties making the survey shall sign the official record of existing damage. Cracks, sags or damage of any nature to the adjacent Project area, not noted in the original survey but subsequently noted, shall be reported immediately to Owner.
- E. The Contractor shall follow all city ordinances in force during the duration of this Contract.
- F. It is essential that the Contractor perform the Work with as little interference and disturbance as possible to the surrounding neighborhood.
- G. When suspect materials, outside the scope of Work, are encountered during the Work or restoration process, the Contractor shall immediately contact the Project Manager for evaluation and approval of the methods for dealing with the material.

1.11 PROJECT SITE MAINTENANCE

A. Disposal of Material –

1. Unless otherwise shown on the plans or specified herein, all excess materials and materials removed from existing improvements shall become the property of and be disposed by the Contractor. The Contractor shall be responsible for all costs associated with disposing all excess materials in a safe and legal manner. No material shall be placed on private or public property without prior approval from the Owner and the property owner. The Contractor shall not allow and refuse, excavated material, surplus concrete or mortar, or any associated washings, to be disposed upon paved streets, into manholes or into the Owner's storm drain system.
2. Contractor shall establish a system for daily collection and disposal of waste materials from construction areas and elsewhere on the site. Contractor shall handle waste materials that are hazardous, dangerous, or unsanitary separately from inert waste by containerizing appropriately. Burning or burying of waste materials on site will not be permitted. No extra payment will be made for handling/disposal of hazardous material.

B. Cleanup and Dust Control –

1. At all times during construction, including weekends and holidays, and throughout all phases of construction, including work suspensions and until final acceptance of the project, the Contractor shall keep the work site clean and free from rubbish, debris, and prevent the formation of an airborne dust nuisance.
2. Materials and equipment shall be removed from the site as soon as they are no longer necessary. Upon completion of the work and before final inspection, the entire site shall be cleared of equipment, unused materials, and rubbish so as to present a satisfactory clean and neat appearance. All cleanup costs shall be absorbed in the Contractor's bid.
3. The Contractor shall abate dust nuisance by cleaning, sweeping, and sprinkling with water, those excavated areas of dirt or other materials which are prone to causing dust, within both the project site and the storage or staging area. If required or directed by the Engineer, the Contractor shall provide an approved water truck of large capacity with spraying capability.
4. The Contractor shall be required to apply water for dust control immediately during construction efforts within one (1) hour after notification by the Engineer that an airborne nuisance exists. If dust control is not adequate in the opinion of the Engineer, the Engineer will have this work done by others and will deduct such cost from the total contract price.
5. All hauling trucks or other construction vehicles leaving the site shall be cleaned of mud or dirt clinging to the exterior body surfaces or wheel rims before travelling on public streets outside the work limits. All trucks coming to or leaving the site with materials or loose debris shall be loaded in a manner which will prevent the dropping of materials or debris on public streets. Spillage resulting from hauling operations along or across any public traveled way shall be removed immediately at the Contractor's expense.
6. When construction operations cause dirt to be deposited on public streets, the Contractor shall immediately remove such material. Streets shall be cleaned by street sweeping, rather than flushing, so as to prevent material from entering the storm drain system.
7. Excess excavated material shall be removed from the site immediately. Sufficient material may remain for use as backfill if permitted by the specifications. Forms and form lumber shall be removed from the site as soon as practicable after stripping.
8. Failure of the Contractor to comply with the Engineer's cleanup orders may result in an order to suspend work until the condition is corrected. No additional compensation will be allowed as a result of such suspension.

C. Air Pollution Control: The Contractor shall not discharge smoke, dust or any other air contaminants into the atmosphere in such quantity as will violate the regulations of any legally constituted authority.

D. Noise Control: The Contractor shall make every reasonable effort to control noise generated as a result of construction to the satisfaction of the Engineer. Use of an air compressor, jackhammer

or other loud, vibrating sound generating devices shall be limited to operations between the hours of 8:00 a.m. and 4:30 p.m. unless otherwise authorized by the Engineer. A sound barrier shall be used for any equipment required to run between 4:30 pm and 8:00 am. Sound barrier details shall be coordinated with and approved by the Owner.

- E. Vermin Control: At the time of acceptance, structures entirely constructed under the contract shall be free of rodents, insects, vermin and pests. Necessary extermination work shall be arranged and paid for by the Contractor as part of the contract work within the contract time and shall be performed by a license exterminator in accordance with requirements of governing authorities. The Contractor shall be liable for injury to persons or property and responsible for the elimination of offensive orders resulting from extermination operations.
- F. Sanitation: The Contractor shall provide and maintain enclosed toilets for the use of employees engaged in the work. These accommodations shall be maintained in a neat and sanitary condition. They shall also comply with all applicable laws, ordinances and regulations pertaining to the public health and sanitation of dwellings and camps.
- G. Temporary Light and Power: The Contractor shall at his own expense furnish, install, maintain, and remove all temporary light and power, including piping, wiring, lamps, and other equipment, necessary for the work.
- H. Storm Water Pollution Control
 - 1. Storm Water Pollution Control work shall consist of following Best Management Practices (BMP) for storm water pollution prevention, submitting a Water Pollution Control Plan in compliance with the most current NPDES requirements, including the preparation of a Storm Water Pollution Prevention Plan (SWPPP) if warranted by the project type, size or risk level; and constructing those facilities which may be required to provide prevention, control, and abatement of water pollution.
 - 2. In compliance with State and Federal regulations on construction storm water management and non-point source pollution control, no pollutants will be allowed to enter the storm drainage system. The Contractor shall be responsible for containing and removing any waste from the Contractor's construction operations using the appropriate BMP. The Contractor shall be responsible for cleaning catch basins of solid or liquid waste materials originating from the Contractor's operation before this material migrates further into the storm drain system.
 - 3. Violation of this provision shall cause the Owner to issue a stop-work notice and take necessary action to require the Contractor to correct and comply with regulations. All costs related to the stop-work action and corrective work to come into compliance shall be fully borne by the Contractor.
 - 4. All construction efforts shall be conducted in a manner which prevents the release of hazardous material or hazardous waste into the soil or groundwater and minimizes the discharge of pollutants into the storm drain system.

1.12 CONSTRUCTION STAKING AND MONUMENT PROTECTION

- A. Contractor shall provide its own survey staking. Provide Owner with Contractor's survey staking information in writing within 3 Business Days after it becomes available to Contractor.
- B. Contractor shall be responsible for laying out the Work, shall protect and preserve the established construction stakes and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Whenever Contractor knows or reasonably should know that any Work activity is likely to damage or destroy any construction stakes or property monuments or require relocation because of necessary changes in grades or locations, Contractor shall replace or repair construction stake or property monuments at Contractor's expense.

1.13 PROTECTION OF EXISTING STRUCTURES AND UNDERGROUND FACILITIES

- A. The Drawings may indicate existing above- and below-grade structures, drainage lines, storm drains, sewers, water lines, gas lines, electrical lines, hot water lines, and other similar items and Underground Facilities that are known to Owner. At least 2 Business Days, or as otherwise

noted, prior to commencement of excavation, notify the owners of the following Underground Facilities:

1. Electric and Gas: PG&E Salinas District
Dispatcher: 1 (800) 743-5000
Engineering: 1 (800) 743-5000
2. Sewer lines: Seaside County Sanitation District
440 Harcourt Avenue, Seaside 93955
Phone: (831) 784-3574
3. Water lines: California American Water
511 Forest Lodge Road #100, Pacific Grove, CA
Phone: (831) 646-3287
4. Water lines: Seaside Municipal Water System
440 Harcourt Avenue, Seaside 93955
Phone: (831) 899-6841

- B. Where overhead service to a structure, known to receive service, does not exist, then underground service shall be assumed to exist.
- C. Attention is also directed to the existence of overhead power and telephone lines.
- D. Perform pot-holing by hand within 24 inches (in any direction) of the Underground Facilities. This may be done on an area-by-area basis but shall be accomplished at least 7 Days in advance of the date of construction within such area.
- E. In addition to reporting, if a utility is damaged, Contractor must take appropriate action as provided in Document 00 7200 (General Conditions).
- F. Additional compensation or extension of time on account of utilities not indicated or otherwise brought to Contractor's attention including reasonable action taken to protect or repair damage shall be determined as provided in Document 00 7200 (General Conditions).

1.14 PERMITS

- A. The Contractor shall, at the Contractor's expense, obtain all necessary permits and licenses for the construction of each part of the Public improvement, give all necessary notices, and pay all fees and taxes required by law. The Contractor shall obtain and maintain in effect a business license from the Owner until the Owner has accepted the Public Improvements in their entirety.
- B. Permits, agreements, or written authorizations that are known by Owner to apply to this Project are listed below:
 1. Storm Water Pollution Prevention
 2. Cal/OSHA Permit. Obtain, as applicable, permit(s) as required by Cal/OSHA for the following:
 - a. Construction of trenches or excavations that are five feet or more in depth and into which a person is required to descend.
 - b. Construction or demolition of any building, structure, or scaffolding for falsework more than three stories high, or the equivalent height (36 feet).
 - c. Erection or dismantling of vertical shoring systems more than three stories high, or the equivalent height (36 feet).

3. The local Cal/OSHA district office is located at:

Foster City District Office
1065 East Hillsdale Blvd., Ste. 110
Foster City, CA 94404
(650) 573-3812

- C. All other permits that may be required, such as electrical, mechanical, fire prevention, irrigation, grading, slope protection, tree cutting, etc., have not been applied for and shall be obtained by Contractor. Applicable permit fees will be reimbursed to the extent specified in Document 00 7200 (General Conditions).

1.15 ACTUAL DAMAGES FOR PERMIT VIOLATIONS

- A. In addition to damages which are impracticable or extremely difficult to determine, for which liquidated damages will be assessed as described in Document 00 5200 (Agreement) and Document 00 7200 (General Conditions), Owner may incur actual damages, including fines imposed by any regulatory agency, where the violations result from Contractor's activities.
- B. Contractor shall be liable for and shall pay Owner the amount of any actual losses in addition to liquidated damages or other remedies provided by the Contract Documents.
- C. The amount of liquidated damages provided in Document 00 5200 (Agreement) and Document 00 7200 (General Conditions) is not intended to include, nor does the amount include, any damages incurred by Owner for reasons other than those listed in that paragraph. Any money due or to become due to Contractor may be retained by Owner to cover both the liquidated and the actual damages described above and, should such money not be sufficient to cover such damages, Owner shall have the right to recover the balance from Contractor or its sureties.

1.16 PROTECTION OF EXISTING TREES DURING CONSTRUCTION ACTIVITIES

- A. The Contractor shall protect all existing trees on the job site from construction activities, starting from within the drip lines of each tree. The Owner reserves the right to issue a stop-working notice if it is determined that the Contractor's negligence has caused damaged to existing trees.
- B. Care must be taken when digging near any existing tree to minimize harm to the tree. Excavation must be done by hand until below the root zone. If any roots 2" or greater in diameter are encountered, they must be protected from damage. If the work cannot proceed without damaging such roots, the Engineer must be notified at once.
- C. No storage of materials; disposal of paints, solvents or other noxious materials; no unnecessary operation of equipment or parked cars shall be allowed within the drop line of any trees.

1.17 CONSTRUCTION WATER

- A. Construction water is available from Owner through the use of the hose bib located at the Park restroom building.

1.18 CONDITIONS OF USE

- A. The Contractor shall assume full responsibility for the protection and safekeeping of project materials, tools, and equipment stored on premises. Any stored products interfering with Owner operations shall be moved by the Contractor at his/her expense. The Contractor shall obtain and pay for use of any additional storage or work area for operations.
- B. The Owner will require the following of the Contractor in addition to the requirements shown and described elsewhere in these documents:
1. The Contractor shall hand carry written notification to property owners adjacent to the project area a minimum 7 days in advance of beginning construction. The Contractor shall submit a draft notification letter to the Owner during the pre-construction meeting.
 2. The Contractor shall designate a person to contact should a problem arise during non-working hours or days. The Owner shall be given that person's name, phone number, e-mail.

1.19 CONTRACTOR'S RESPONSIBILITIES

- A. Unless noted otherwise, the Contractor shall provide and pay for:
 - 1. Labor, supervision, materials, and equipment
 - 2. Tools, construction equipment and machinery
 - 3. Utilities required for construction.
 - 4. All other facilities and services necessary for proper execution and completion of work.
 - 5. Contractor must submit in their proposal acknowledgement of State and Federal laws and regulations regarding all facets of removing and disposing of coating which contains lead or asbestos found.
- B. Pay all required sales, consumer and use taxes.
- C. Conform to the requirements of all permits including, but not limited to any construction permits associated with the project.
- D. The Contractor acknowledges and is familiar with the existing site condition constraints, topographic features, and overall geographical locations of the project.
- E. Secure and pay for, as necessary proper execution and completion of the work, applicable permits and licenses.
- F. Give required notices to homeowners
- G. Comply with Codes, ordinances, rules, regulations, orders, and other legal requirements of public authorities, which bear performance on the work.
- H. Promptly submit written notice to the Owner of observed variance of Contract documents from legal requirements.
- I. The Contractor shall be responsible for all costs associated with the containment and disposal of waste (hazardous / non-hazardous) that may result from execution of this project.
- J. The Contractor shall provide their own power, fuel, and power supplies.

PART 2 – PRODUCTS

2.01 PRODUCTS ORDERED IN ADVANCE

- A. As provided in Document 00 7200 (General Conditions) and Section 00 2113 (Measurement and Payment), and subject to all other provisions of the Contract Documents, Owner will pay for the following materials and equipment prior to incorporation into the Work:
 - 1. None

PART 3 – EXECUTION – NOT USED

END OF SECTION

DIVISION 1 GENERAL REQUIREMENTS

SECTION 01 2000

MEASUREMENT AND PAYMENT

PART 1 – GENERAL

1.01 SUMMARY

- A. Section includes description of requirements and procedures for determining amount of Work performed and for obtaining payment for Work performed.

1.02 REFERENCES

- A. California Public Contract Code
- B. Code of Civil Procedures
- C. Government Code

1.03 COMPOSITION AND SCOPE OF CONTRACT SUM

A. Scope of Contract Sum

- 1. The Contract Sum for performance of the Work under Contract Documents, or under any Bid item, allowance, or Alternate, shall include full compensation for all Work required under the Contract Documents, including without limitation, all labor, materials, taxes, transport, handling, storage, supervision, administration, and all other items necessary for the satisfactory completion of the Work, whether or not expressly specified or indicated, incidental work and unexpected expenses, and all terms, conditions, requirements and limitations set forth in the Contract Documents.
- 2. Contract Sum may be expressed as lump sum, unit price, GMP, allowance, or combination thereof.

B. Unit Price items

- 1. Quantity of Work to be paid for under any item for which a unit price is fixed in Contract Documents shall be determined by Owner based on, so far as practicable, actual number of units satisfactorily completed, as determined by Owner and certified by Contractor, within prescribed or ordered limits, and no payment will be made for Work unsatisfactorily performed or done outside of limits.
- 2. Unit Prices shall apply to Work covered by unit prices so long as actual quantities performed on the Project are not less than 75 percent or greater than 125 percent of the estimated quantities bid or otherwise stated in the Contract Documents. If actual quantities exceed these parameters, then the unit price shall be adjusted by an amount to reflect the Contractor's incremental cost differential resulting from increased or decreased economies of scale.

C. Lump Sum Items

- 1. When estimated quantity for specific portion of Work is not indicated and/or Work is designated as lump sum, payment will be on a lump sum basis for Work satisfactorily completed in accordance with Contract Documents.
- 2. Payment for lump sum Work, or items of Work subject to a lump sum (e.g. without limitation, change order work), shall be made on the basis of satisfactory completion of such Work or work item, earned in progressive stages in accordance with the Contract Documents, up to but not exceeding the Contractor's percentage completion of the Work or item.
- 3. Lump sum items shall be paid based upon the approved Schedule of Values, which shall be used to measure progressive payments based upon satisfactory progress towards

completion of the item.

D. Allowance Items

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

1.04 PAYMENT PROCEDURES

A. Schedule of Values:

1. Within ten Days from issuance of Notice of Award and prior to the Contractor's first Application for Payment, Contractor shall submit a detailed breakdown of its Bid by scheduled Work items and/or activities, including coordination responsibilities and Project Record Documents responsibilities. Where more than one Subcontractor comprises the work of a Work item or activity, the Schedule of Values shall show a separate line item for each subcontract. Contractor shall furnish such breakdown of the total Contract Sum by assigning dollar values (cost estimates) to each applicable Progress Schedule network activity, which cumulative sum equals the total Contract Sum. This breakdown shall be referred to as the Schedule of Values.
2. Contractor's overhead, profit, insurance, cost of bonds (except to the extent expressly identified in a Bid item) and/or other financing, as well as "general conditions costs," (e.g., Site cleanup and maintenance, temporary roads and access, off-Site access roads, temporary power and lighting, security, and the like), shall be prorated through all activities so that the sum of all the Schedule of Values line items equals Contractor's total Contract Sum, less any allowances designated by Owner. Scheduling, record documents and quality assurance control shall be separate line items.
3. Owner will review the breakdown in conjunction with the Progress Schedule to ensure that the dollar amounts of this Schedule of Values are, in fact, reasonable cost allocations for the Work items listed. Upon favorable review by Owner, Owner will accept this Schedule of Values for use. Owner shall be the sole judge of fair market cost allocations.
4. Owner will reject any attempt to increase the cost of early activities, i.e., "front loading," resulting in a complete reallocation of moneys until such "front loading" is corrected. Repeated attempts at "front loading" may result in suspension or termination of the Work for default, or refusal to process progress payments until such time as the Schedule of Values is acceptable to Owner.

B. Contractor's Requests for Progress Payments

1. If requested by Contractor, progress payments will be made monthly, under the following conditions:
 - a. On or before the 25th Day of each month, Contractor shall submit to Owner one copy of an Application for Payment for the cost of the Work put in place during the period from the last Day of the previous month to the end of the current month, along with one copy of an updated Progress Schedule. Such Applications for Payment shall be for the expected total value of activities completed or partially completed, based upon Schedule of Values prices (or Bid item prices if unit price) of all labor and materials incorporated in the Work up until midnight of the last Day of that one month period, less the aggregate of previous payments. Accumulated retainage shall be shown as separate item in payment summary. Owner and Contractor will reconcile any differences in the field, based on the reconciled monthly report sheets. If Contractor is late submitting its Application for Payment, that Application may be processed at any time during the succeeding one-month period, resulting in processing of Contractor's Application for Payment being delayed for more than a Day for Day basis.
 - b. Except as otherwise provided in a labor compliance program applicable to the Work (if any) or as otherwise required by Owner, concurrently with each Application for Payment, Contractor shall submit to the Owner the Contractor's and its

Subcontractors' certified payroll records required to be maintained pursuant to Labor Code Section 1776 for all labor performed during pay periods ending during the period covered by the Application for Payment.

- c. No progress payment will be processed prior to Owner receiving all requested, acceptable schedule update information and certified payrolls, and in Owner's sole and absolute discretion, Owner may deny the entire Application for Payment for noncompliance.
- d. Each Application for Payment shall list each Change Order and Construction Change Directive ("CCD") executed prior to date of submission, including the Change Order/CCD Number, and a description of the Work activities, consistent with the descriptions of original Work activities. Contractor shall submit a monthly Change Order/CCD status log to Owner.
- e. If Owner requires substantiating data, Contractor shall submit information requested by Owner, with cover letter identifying Project, Application for Payment number and date, and detailed list of enclosures. Contractor shall submit one copy of substantiating data and cover letter for each copy of Application for Payment submitted.
- f. If Contractor fails or refuses to participate in monthly Work reconciliations or other construction progress evaluation with Owner, Contractor shall not receive current payment until Contractor has participated fully in providing construction progress information and schedule update information to Owner.

C. Owner's Review of Progress Payment Applications

- 1. Owner will review Contractor's Application for Payment following receipt and during the Progress Schedule and Billing Meeting. If adjustments need to be made to percent of completion of each activity, Owner will make appropriate notations and return to Contractor. Contractor shall revise and resubmit. All parties shall update percentage of completion values in the same manner, i.e., express value of an accumulated percentage of completion to date.
- 2. If Owner determines that portions of the Application for Payment are not proper or not due under the Contract Documents, then Owner may approve the other portions of the Application for Payment, and in the case of disputed items or Defective Work not remedied, may withhold up to 150 percent of the disputed amount from the progress payment.
- 3. Pursuant to California Public Contract Code §20104.50, if Owner fails to make any progress payment within 30 Days after receipt of an undisputed and properly submitted Application for Payment from Contractor, Owner shall pay interest to the Contractor equivalent to the legal rates set forth in subdivision (a) of Section 685.010 of the California Code of Civil Procedure. The 30-Day period shall be reduced by the number of Days by which Owner exceeds the seven-Day return requirement set forth herein.
- 4. As soon as practicable after approval of each Application for Payment for progress payments, Owner will pay to Contractor in manner provided by law, an amount equal to 95 percent (95%) of the amounts otherwise due as provided in the Contract Documents, or a lesser amount if so provided in Contract Documents and by law, provided that payments may at any time be withheld if, in judgment of Owner, Work is not proceeding in accordance with Contract, or Contractor is not complying with requirements of Contract, or to comply with stop notices or to offset liquidated damages accruing or expected. In Owner's sole discretion, if Contractor has failed to comply with either its Progress Schedule update or project record documents requirements, Owner may retain an additional 5% of any earned amounts until such requirements are satisfied.
- 5. Before any progress payment or final payment is due or made, Contractor shall submit satisfactory evidence that Contractor is not delinquent in payments to employees, Subcontractors, suppliers, or creditors for labor and materials incorporated into Work. This specifically includes, without limitation, conditional lien release forms for the current progress payment and unconditional release forms for past progress payments. This also includes copies of certified payroll from contractor and subcontractors for the current payment period.

D. Payment for Material and Equipment Not Yet Incorporated Into the Work

1. No payment shall be made for materials or equipment not yet incorporated into the Work, except as specified elsewhere in the Contract Documents or as may be agreed to by Owner in its sole discretion. Where Contractor requests payment on the basis of materials and equipment not incorporated in the Work, Contractor must satisfy the following conditions:
2. The materials and/or equipment shall be delivered and suitably stored at the Site or at another local location agreed to in writing, for example, a mutually acceptable bonded and insured warehouse.
3. Full title to the materials and/or equipment shall vest in Owner at the time of delivery to the Site, warehouse or other storage location. Obtain a negotiable warehouse receipt, endorsed over to Owner for materials and/or equipment stored in an off-site warehouse. No payment will be made until such endorsed receipts are delivered to Owner.
4. Stockpiled materials and/or equipment shall be available for Owner inspection, but Owner shall have no obligation to inspect them and its inspection or failure to inspect shall not relieve Contractor of any obligations under the Contract Documents. Materials and/or equipment shall be segregated and labeled or tagged to identify these specific Contract Documents.
5. After delivery of materials and/or equipment, if any inherent or acquired defects are discovered, defective materials and/or equipment shall be removed and replaced with suitable materials and/or equipment at Contractor's expense.
6. At Contractor's expense, insure the materials and/or equipment against theft, fire, flood, vandalism, and malicious mischief, as well as any other coverages required under the Contract Documents.
7. Contractor's Application for Payment shall be accompanied by a bill of sale, invoice or other documentation warranting that Owner has received the materials and equipment free and clear of all liens and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect Owner interest therein, all of which must be satisfactory to Owner. This documentation shall include, but not be limited to, conditional releases of mechanics' liens and stop notices from all those providing materials and equipment as to which the Application for Payment relates, as well as unconditional releases of the same from the same as to the previous Application for Payment for which they have not already been provided. Amounts previously paid for materials and equipment prior to incorporation into the Work shall be deducted from amounts otherwise due Contractor as they are incorporated.

1.05 FINAL PAYMENT

A. Final Payment

1. As soon as practicable after all required Work is completed in accordance with Contract Documents, including punchlist, testing, record documents and Contractor maintenance after Final Acceptance, Contractor shall submit its Application for Final Payment.
2. Provided Contractor has met all conditions required for Final payment, Owner will pay to Contractor, in manner provided by law, unpaid balance of Contract Sum of Work (including, without limitation, retentions), or whole Contract Sum of Work if no progress payment has been made, determined in accordance with terms of Contract Documents, less sums as may be lawfully retained under any provisions of Contract Documents or by law.

B. Final Accounting

1. Prior progress payments and change orders shall be subject to audit and correction in the final payment.
2. Contractor and each assignee under an assignment in effect at time of final payment shall execute and deliver at time of final payment, and as a condition precedent to final payment, Document 00 6530 (Agreement and Release of Claims).

1.06 SUBSTITUTION OF SECURITIES

A. **Public Contract Code Section 22300.** In accordance with the provisions of Public Contract Code Section 22300, substitution of securities for any moneys withheld under Contract Documents to ensure performance is permitted under following conditions:

1. At request and expense of Contractor, securities listed in Section 16430 of the Government Code, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by Contractor and Owner which are equivalent to the amount withheld under retention provisions of Contract shall be deposited with Controller or with a state or federally chartered bank in California, as the escrow agent, who shall then pay such moneys to Contractor. Upon satisfactory completion of Contract, securities shall be returned to Contractor.
2. Alternatively, Contractor may request and Owner shall make payment of retentions earned directly to the escrow agent at the expense of Contractor. At the expense of Contractor, Contractor may direct the investment of the payments into securities and receive the interest earned on the investments upon the same terms provided for securities deposited by Contractor. Upon satisfactory completion of the work of the Contract Documents, Contractor shall receive from escrow agent all securities, interest, and payments received by the escrow agent from Owner. Contractor shall then pay to each Subcontractor, not later than 10 Days after receipt of the payment, the respective amount of interest earned, net of costs attributed to retention withheld from each Subcontractor, on the amount of retention withheld to insure the performance of Contractor.
3. Contractor shall be beneficial owner of securities substituted for moneys withheld and shall receive any interest thereon.
4. Contractor may enter into an escrow agreement, form included in Contract Documents, as authorized under Public Contract Code Section 22300, specifying amount of securities to be deposited, terms and conditions of conversion to cash in case of default of Contractor, and termination of escrow upon completion of Contract Documents.
5. Public Contract Code Section 22300, in effect on Bid Day, is hereby incorporated in full by this reference and shall supersede anything inconsistent therewith.

PART 2 – PRODUCTS – NOT USED

PART 3 – EXECUTION – NOT USED

END OF SECTION

DIVISION 1 GENERAL REQUIREMENTS

SECTION 01 2600

MODIFICATION PROCEDURES

PART 1 – GENERAL

1.01 SUMMARY

- A. Section includes requirements that supplement the paragraphs of Document 00 7200 (General Conditions).
- B. Description of procedures for modifying the Contract Documents and determining costs for changes in contract amounts.

1.02 PROCEDURES FOR CONTRACTOR INITIATED CHANGE ORDER

- A. Contractor-Initiated Change Proposal Request (CPR) and Procedures:
 - 1. Contractor may initiate changes by submitting a Change Proposal Request ("CPR").
 - 2. Whenever Contractor elects or is entitled to submit a CPR, Contractor shall prepare and submit to Owner for consideration a CPR using the form included in this Project Manual. All CPRs must contain a complete breakdown of costs of credits, deducts and extras; itemizing materials, labor, taxes, Markup and any requested changes to Contract Time. All Subcontractor Work shall be so indicated. Individual entries on the CPR form shall include applicable Schedule of Values code, with all amounts determined as provided herein. After receipt of a CPR with a detailed breakdown, Owner will act promptly thereon.
 - 3. If Owner accepts a CPR, Owner will prepare a Change Order for Owner and Contractor signatures.
 - 4. If CPR is not acceptable to Owner because it does not agree with Contractor's proposed cost and/or time, Owner will provide comments thereto. Contractor will then, within seven (7) Days (except as otherwise provided herein), submit a revised CPR.
 - 5. When necessity to proceed with a change does not allow Owner sufficient time to conduct a proper check of a CPR (or revised CPR), Owner may issue a Change Directive (CD) as provided below.
- B. Contractor-Initiated Request for Information (RFI) Procedures, Requirements and Limitations:
 - 1. Contractor may submit RFI's for clarifications in Owner-prepared Contract Documents, which may result in the Contractor submitting a CPR.
 - 2. Whenever Contractor requires information regarding the Project or Owner-prepared Contract Documents, or receives a request for such information from a Subcontractor, Contractor may prepare and deliver an RFI to Owner. Contractor shall use RFI format provided on approval by Owner. Contractor shall not issue an RFI to Owner solely to clarify Contractor-prepared Construction Documents. Contractor must submit time critical RFIs at least 30 days before scheduled start date of the affected Work activity. Contractor shall reference each RFI to an activity of Progress Schedule and shall note time criticality of the RFI, indicating time within which a response is required. Contractor's failure to reference RFI to an activity on the Progress Schedule and note time criticality on the RFI shall constitute Contractor's waiver of any claim for time delay or interruption to the Work resulting from any delay in responding to the RFI.
 - 3. Contractor shall be responsible for its costs to implement and administer RFIs throughout the Contract duration. Regardless of the number of RFIs submitted, Contractor shall not be entitled to additional compensation for the effort required to submit the RFIs. Contractor shall be responsible for Owner's administrative costs for answering RFIs where the answer could reasonably be found by reviewing the Contract Documents, as determined by Owner; at Owner discretion, such costs may be deducted from progress payments or final payment.

4. Owner will respond within ten (10) days from receipt of RFI with a written response to Contractor. Contractor shall distribute response to all appropriate Subcontractors.
5. If Contractor is satisfied with the response and does not request a change in Contract Sum or Contract Time, then the response shall be executed without a change.
6. If Contractor believes the response is incomplete, Contractor shall issue another RFI (with the same RFI number with the letter "A" indicating it is a follow-up RFI) to Owner clarifying original RFI. Additionally, Owner may return RFI requesting additional information should original RFI be inadequate in describing condition.

C. Time Requirements:

1. If Contractor believes that an Owner response to an RFI, submittal or other Owner direction, results in change in Contract Sum or Contract Time, Contractor shall notify Owner with the issuance of a preliminary CPR within ten Days after receiving Owner's response or direction, and in no event after starting the disputed work or later than the time allowed under Article 12 of Document 00 7200 (General Conditions). If Contractor also requests a time extension, or has issued a notice of delay or otherwise requests a time extension with a CPR, then Contractor shall submit the TIE required herein concurrently with the CPR and in no event later than ten Days after providing the notice of delay.
2. If Contractor requires more time to accurately identify the required changes to the Contract Sum or Contract Time, Contractor may submit an updated and final CPR and TIE within 14 days of submitting the preliminary CPR.
3. If Owner agrees with Contractor's CPR and/or TIE, then Owner will prepare a Change Order for Owner and Contractor signatures. If Owner disagrees with Contractor, then Contractor may give notice of potential claim as provided in Article 12 of Document 00 7200 (General Conditions), and proceed thereunder.
4. Contractor must submit CPRs, notices of potential claim or Claims within the required time periods. Any failure to do so waives Contractor's right to submit a CPR or file a Claim.

D. Cost Estimate Information:

1. Contractor and subcontractors shall, upon Owner's request, permit inspection of the original unaltered cost estimates, subcontract agreements, purchase orders relating to the change, and documents substantiating all costs associated with its CPR or Claims arising from changes in the Work.

1.03 PROCEDURES FOR OWNER INITIATED CHANGE ORDERS

A. Owner Initiated Change Directives (CD):

1. Owner may, by Change Directive ("CD") or initially by Instruction Bulletin or by following the procedures for disputed work herein, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, with or without adjustment to Contract Sum or Contract Time.
2. If at any time Owner believes in good faith that a timely Change Order will not be agreed upon using the foregoing procedures, or at any other time, Owner may issue a CD with its recommended cost and/or time adjustment (if any). Upon receipt of CD, Contractor shall promptly proceed with the change of Work involved and respond to Owner within ten (10) Days.
3. Contractor's response must be any one of following:
 - a. Return CD signed, thereby accepting Owner response, including adjustment to time and cost (if any).
 - b. Submit a (revised if applicable) Cost Proposal with supporting documentation (if applicable, reference original Cost Proposal number followed by letter A, B, etc. for each revision), if Owner so requests.
 - c. Give notice of intent to submit a claim as described in Article 12 of Document 00 7200 (General Conditions), and submit its claim as provided therein.

4. If CPR or the CD provides for an adjustment to any Contract Sum, the adjustment shall be based on one of the following methods:
 - a. Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation.
 - b. Contractor to proceed on cost reimbursable (force account) basis while negotiating towards a firm price.
 - c. Cost to be determined in a manner agreed.
5. Change Directive signed by Contractor indicates the agreement of Contractor therewith, including adjustment in Contract Sum or the method for determining them. Such agreement shall be effective immediately and shall be finalized as a Change Order. Where Owner authorizes CD work on a time and materials basis up to a maximum amount, then Contractor shall promptly advise Owner upon reaching 75% of such maximum amount, otherwise Contractor shall accept fully the risk of completing the CD work without exceeding such maximum amount.
6. If Contractor does not respond promptly or disagrees with the method for adjustment (or non-adjustment) in the Contract Sum, the method and the adjustment shall be determined by Owner on the basis of the Contract Documents and the reasonable expenditures and savings of those performing the Work attributable to the change. If the parties still do not agree on the proper adjustment due to a Change Directive, Contractor may file a Claim per Article 12 of Document 00 7200 (General Conditions) and/or Owner may direct the changed work through a unilateral change order. Contractor shall keep and present an itemized accounting in a manner consistent with the SOV, together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this paragraph shall be limited to those provided herein.
7. Pending final determination of cost to Owner, Contractor may include amounts not in dispute in its Applications for Payment. The amount of credit to be allowed by Contractor to Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by Owner. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for Markup shall be figured on the basis of net increase, if any, with respect to that change.

B. Owner Initiated Change Order (CO) or Request for Proposal (RFP):

1. Owner may initiate changes in the Work or Contract Time by issuing a Request for Proposal ("RFP") or Change Order ("CO") to Contractor.
2. Owner may issue an RFP to Contractor. Any RFP will detail all proposed changes in the Work and request a quotation of changes in Contract Sum and Contract Time from Contractor.
3. In response to an RFP, Contractor shall furnish a Change Proposal Request (CPR) within twenty-one (21) Business Days of Owner's RFP. Upon approval of CPR, Owner may issue a Change Directive directing Contractor to proceed with extra Work.
4. If the parties agree on price and time for the work, the Owner will issue a Contact Change Order. If the parties do not agree on the price or time for a CPR, Owner may either issue a CD or decide the issue per Article 12 of Document 00 7200 (General Conditions). Contractor shall perform the changed Work notwithstanding any claims or disagreements of any nature.

1.04 **PROCEDURES THAT APPLY TO CONTRACTOR- AND OWNER-INITIATED CHANGE ORDERS**

A. Adjustment of Schedules to Reflect Change Orders or CDs:

1. Contractor shall revise Schedule of Values and Application for Payment forms to record each authorized Change Order or CD as a separate line item and adjust the Contract Sum as shown thereon prior to the next monthly pay period.
2. Contractor shall revise the Progress Schedules prior to the next monthly pay period, to reflect CO or CD.

3. Contractor shall enter changes in Project Record Documents prior to the next monthly pay period.

B. Required Documentation for Adjustments to Contract Amounts:

1. For all changes and cost adjustments requested, Contractor shall provide documentation of change in Contract Amounts asserted, with sufficient data to allow evaluation of the proposal.
2. In all requests for compensation, cost proposals, estimates, claims and any other calculation of costs made under the Contract Documents, Contractor shall breakout and quantify costs of labor, equipment and materials identified herein, for Contractor and subcontractors of any tier.
3. Contractor shall, on request, provide additional data to support computations for:
 - a. Quantities of products, materials, labor and equipment.
 - b. Taxes, insurance, and bonds.
 - c. Justification for any change in Contract Time and new Progress Schedule showing revision due, if any.
 - d. Credit for deletions from Contract, similarly documented.
4. Contractor shall support each claim or computation for additional cost, with additional information including:
 - a. Origin and date of claim or request for additional compensation.
 - b. Dates and times Work was performed and by whom.
 - c. Time records and wage rates paid.
 - d. Invoices and receipts for products, materials, equipment and subcontracts, similarly documented.
 - e. Credit for deletions from Contract, similarly documented.

C. Responses and Disputes:

1. For all responses for which the Contract Documents do not provide a specific time period, recipients shall respond within a reasonable time.
2. For all disputes arising from the procedures herein, Contractor shall follow Article 12 of Document 00 7200 (General Conditions).

1.05 COST DETERMINATION FOR CHANGES IN CONTRACT AMOUNTS

A. Calculation of Total Cost of Extra Work:

1. Total cost of changed Work, extra Work or of Work omitted shall be the sum of three components defined immediately below as: Component 1 (Direct Cost(s)); Component 2 (Markup); and, Component 3 (bonds, insurance, taxes)
2. Component 1: Direct Cost(s) of labor, equipment and materials, is calculated based upon actually incurred (or omitted) labor costs, material costs and equipment rental costs, as defined herein;
3. Component 2: Markup on such actually incurred Direct Costs, is applied in the percentages identified below; and
4. Component 3: Actual additional costs for any additionally required insurance, bonds, and/or taxes, defined herein, is calculated without Markup.

1.06 MEASUREMENT OF DIRECT COST OF CONSTRUCTION (COST COMPONENT NO. 1)

A. Composition of Component 1 (Direct Cost of Construction):

1. Component 1 has four subcomponents, also referred to as "LEMS":
 - a. Labor (Component 1A)
 - b. Equipment (Component 1B)
 - c. Materials (Component 1C)
 - d. Subcontractors (Component 1D)

B. Measurement of Cost of Labor (Component 1A):

1. Cost of Labor shall be calculated as: Cost of labor for workers (including forepersons when authorized by Owner) used in actual and direct performance of the subject work, whether employer is Contractor, Subcontractor or other forces, in the sum of the following:
 - a. Actual Wages: Actual wages paid shall include any employer payments to or on behalf of workers for health and welfare, pension, vacation, and similar purposes.
 - b. Labor surcharge: Payments imposed by local, county, state, and federal laws and ordinances, and other payments made to, or on behalf of, workers, other than actual wages as defined, such as worker's compensation insurance. Such labor surcharge shall not exceed generally accepted standards in the State for labor rates in effect on date upon which extra Work is accomplished.
 - c. Cost of labor shall include no other costs, fees or charges.
 2. Labor cost for operators of equipment owned and operated by Contractor or any Subcontractor, shall be no more than rates of such labor established by collective bargaining agreements for type of worker and location of Work, whether or not owner-operator (i.e., Contractor or Subcontractor) is actually covered by such an agreement.
 3. Cost of labor shall be recorded and documented in certified payroll records, maintained in the form customary and/or required in the State, delivered to Owner weekly.
- C. Measurement of Cost of Equipment (Component 1B):
1. Measurement of Component 1B (Cost of Equipment). Cost of Equipment shall be calculated as: Cost of Equipment used in actual and direct performance of the subject work, whether by Contractor, Subcontractor or other forces. Cost of Equipment shall be calculated as herein described.
 2. For rented equipment, cost will be based on actual rental invoices, appropriate for the use and duration of the work. Equipment used on extra Work shall be of proper size and type. If, however, equipment of unwarranted size or type and cost is used, cost of use of equipment shall be calculated at rental rate for equipment of proper size and type, as determined by Owner.
 3. Equipment rental cost for Contractor or Subcontractor-owned equipment, shall be determined by reference to, and not in excess of, the generally accepted standards in the State for equipment rental rates in effect on date upon which extra Work is accomplished. If there is no applicable rate for an item of equipment, then payment shall be made for Contractor- or Subcontractor-owned equipment at rental rate listed in the most recent edition of the CalTrans Standard Schedules and Specifications, and absent a rental rate therein, then the Association of Equipment Distributors (AED) book.
 4. In all cases, rental rates paid shall be deemed to cover cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals.
 5. Unless otherwise specified, manufacturer's ratings, and manufacturer-approved modifications, shall be used to classify equipment for determination of applicable rental rates. Individual pieces of equipment or tools not listed in said publication and having a replacement value of \$100 or less, whether or not consumed by use, shall be considered to be small tools and no payment will be made therefore as payment is included in payment for labor. Rental time will not be allowed while equipment is inoperative due to breakdowns.
 6. For equipment on Site, rental time to be paid for equipment shall be time equipment is in operation on extra Work being performed or on standby as approved by Owner. The following shall be used in computing rental time of equipment:
 - a. When hourly rates are listed, less than 30 minutes of operation shall be considered to be ½ hour of operation.
 - b. When daily rates are listed, less than four hours of operation shall be considered to be ½ Day of operation.
 - c. Rates shall correspond to actual rates paid by Contractor, i.e., if Contractor pays lower weekly or monthly rates, then same shall be charged to Owner.

7. For equipment that must be brought to Site to be used exclusively on extra Work, cost of transporting equipment to Site and its return to its original location shall be determined as follows:
 - a. Owner will pay for costs of loading and unloading equipment.
 - b. Cost of transporting equipment in low bed trailers shall not exceed hourly rates charged by established haulers.
 - c. Cost of transporting equipment shall not exceed applicable minimum established rates of California Public Utilities Commission or appropriate State Dept. of Transportation.
 - d. Owner will not make any payment for transporting and loading and unloading equipment if equipment is used on Work in any other way than upon extra Work.
 - e. Rental period may begin at time equipment is unloaded at Site of extra Work and terminate at end of the performance of the extra Work or Day on which Owner directs Contractor to discontinue use of equipment, whichever first occurs. Excluding Saturdays, Sundays, and Owner legal holidays, unless equipment is used to perform extra Work on such Days, rental time to be paid per Day shall be four hours for zero hours of operation, six hours for four hours of operation and eight hours for eight hours of operation, time being prorated between these parameters. Hours to be paid for equipment that is operated less than eight hours due to breakdowns, shall not exceed eight less number of hours equipment is inoperative due to breakdowns.
8. Employee vehicles are not part of Component 1A, rather, are included within Component 2 (Markup).
9. Equipment costs shall include no other costs, fees or charges.

D. Measurement of Cost of Material (Component 1C):

1. Cost of Material shall be calculated as herein described. Cost of such materials will be cost to purchaser (Contractor, Subcontractor or other forces) from supplier thereof, except as the following are applicable:
2. If cash or trade discount by actual supplier is offered or available to purchaser, it shall be credited to Owner notwithstanding fact that such discount may not have been taken.
3. For materials salvaged upon completion of Work, salvage value of materials shall be deducted from cost, less discounts, of materials.
4. If cost of a material is, in opinion of Owner, excessive, then cost of material shall be deemed to be lowest current wholesale price at which material is available in quantities concerned delivered to Site, less any discounts as provided in this Paragraph.
5. Material costs shall include no other costs, fees or charges.

E. Measurement of Cost of Subcontractors (Component 1D):

1. Where reimbursed or calculated per the terms of the Contract Documents, change order or Change Directive, cost of Subcontractors shall be calculated as amounts earned by Subcontractors procured in compliance with the Contract Documents and approved by the Owner, provided such subcontractor earned amounts meet the following requirements:
 - a. Such amounts are earned under the terms of the Subcontracts and the Work complies with the terms of the Contract Documents;
 - b. Such amounts are properly requested, documented and permitted under the terms of the subcontract(s) and the Contract Documents.
 - c. Total cost to Owner of Direct Costs of Construction (labor, equipment, materials), Markup, and costs of bonds, insurance and taxes, conform to contract limitations (i.e., totals paid by Owner do not exceed the 20% Markup limitation.).

1.07 MEASUREMENT AND PAYMENT OF MARK UP (COST COMPONENT 2)

A. Markup Percentages for Changed Work (Component 2):

1. Markup on Direct Cost of labor and materials for extra Work shall be 15%. Markup on Direct Cost of equipment for extra Work shall be 15%.

2. When extra Work is performed by Subcontractors, regardless of the number of tiers, total Markup on "Component 1" Direct Costs shall not exceed 20%. Contractor and its Subcontractors shall divide the 20% as they may agree.
 3. Under no circumstances shall the total Markup on any extra Work exceed twenty (20) percent, stated as a percent of the Direct Cost of labor, equipment and materials. This limitation shall apply regardless of the actual number of subcontract tiers.
 4. On proposals covering both increases and decreases in Contract Sum, Markup shall be allowed on the net increase only as determined above. When the net difference is a deletion, no percentage for Markup shall be allowed, but rather an appropriate percentage deduction shall be issued in the amount of the net difference.
- B. Measurement and Payment of Mark Up (Component 2):
1. Mark Up (Component 2) provides complete compensation to Contractor for:
 - a. All Contractor profit;
 - b. All Contractor home-office overhead;
 - c. All Contractor assumption of risk assigned to Contractor under the Contract Documents;
 - d. Subject to the qualifications below regarding self-performed work, all General Conditions and General Requirements.
 2. Profit. Compensation for profit included within Component 2 (Mark Up), includes without limitation: Fees of all types, nature and description; and Profit and margins of all types, nature and description.
 3. Home Office Expenses. Compensation for home office expenses included within Component 2 (Mark Up), includes without limitation: Salaries and other compensation of any type of Contractor's personnel (management, administrative and clerical), and all direct and indirect operating, travel, payroll, safety, storage, quality control, maintenance and overhead costs of any nature whatsoever, incurred by Contractor at any location other than the Project specific site office, including without limitation, Contractor's principal or branch offices; insurance premiums other than those for Project specific insurance directed by the Owner in a change order; all hardware, software, supplies and support personnel necessary or convenient for Contractor's capture, documentation and maintenance of its costs and cost accounting data and cost accounting and control systems and work progress reporting.
 4. Assumption of Risk. Compensation for Contractor's assumption of risk under the Contract Documents, included within Component 2 (Mark Up), includes without limitation loss, cost, damage, expense or liability resulting directly or indirectly from any of the following causes ("unallowable costs"), for Contractor and subcontractors of any tier: noncompliance with the Contract Documents, fault or negligence, defective or non-conforming Work, by Contractor or any Subcontractor or Vendor of any tier or anyone directly or indirectly employed by any of them, or for whose acts or omissions any of them are responsible or liable at law or under the Contract Documents; cost overruns of any type; costs in excess of any lump sum, not to exceed amount or GMP; costs resulting from bid or "buy out" errors, unallocated scope, or incomplete transfer of scope or contract terms to subcontractors; any costs incurred by Contractor relating to a Change in the Work without a Change Order or Change Directive in accordance with the Contract Documents; costs for work or materials for which no price is fixed in the Contract Documents, unless it is expressly specified that such work or material is to be paid for as extra work.
 5. General Conditions and Division 1 General Requirements. Compensation for Contractor's General Conditions and General Requirements Costs included within Component 2 (Mark Up), includes compensation to Contractor for: Contractor's direct costs, without overhead or profit, for salaries and related forms of compensation and employer's costs for labor and personnel costs, of Contractor's employees and subconsultant's employees (if any), while and only to the extent they are performing Work at the Project Site. Personnel and Work compensated by this Component include without limitation: All required Project management responsibilities; all on-site services; monthly reporting and scheduling; routine field inspection of Work; general superintendence; general administration and preparation of cost

proposals, schedule analysis, change orders and other supporting documentation as necessary; salaries of project superintendent, project engineers, project managers, safety manager, other manager, timekeeper, and secretaries; all cost estimates and updates thereto; development, validation and updates to the project schedule; surveying; estimating. Compensation for Contractor's General Requirements Costs included within Component 2 (Mark Up), compensates Contractor for its "General Requirements" Costs, including without limitation: all scheduling hardware, software, licenses, equipment, materials and supplies; purchase, lease or rental, build out, procurement, supporting equipment and maintenance of temporary on-Site facilities, Project field and office trailers and other temporary facilities, office equipment and supporting utilities; platforms, fencing, cleanup and jobsite security; temporary roads, parking areas, temporary security or safety fencing and barricades, etc.; all Contractor's motor vehicles used by any Contractor's personnel, and all costs thereof; all health and safety requirements, required by law or Owner procedures; all surveying; all protection of Work; handling and disposal fees; final cleanup; repair or maintenance; other incidental Work; all items, activities and function similar to any of those described above; all travel, entertainment, lodging, board and the like.

6. Personnel compensated by the Markup Component do not include workers of foreman level or below in the case of self-performed work; rather, such personnel shall be treated as a Direct Cost of Construction. Costs compensated by the Markup component do not include temporary measures specifically required by the changed work, not otherwise required or ongoing in the prosecution of the Work, that commence specifically to support the changed work and conclude with the completion of the changed work. Such costs shall be treated as Direct Costs of Construction. Examples of General Requirements costs that this component may not cover are the following: temporary barricades or fencing of specific areas required specifically for the changed work; cranes required specifically for the changed work; extra security required specifically for the changed work.

1.08 MEASUREMENT AND PAYMENT OF BONDS INSURANCE TAXES (COMPONENT 3)

- A. Measurement of Bonds, Insurance, Taxes (Component 3):
 1. Component 3 (Bonds, Insurance, Taxes) consists of the cost of bonds, insurance and taxes, also referred to as "BIT". All State sales and use taxes, applicable County and applicable City sales taxes, shall be included. Federal and Excise tax shall not be included.
 2. There is no mark up on BIT.

1.09 EFFECT OF PAYMENT

- A. Change Order Compensation is All Inclusive.
 1. Except as provided expressly below regarding changes that extend the Contract Time, payment of calculated cost of extra work constitutes full and complete compensation for costs or expense arising from the extra Work, and is intended to be all inclusive.
 2. Payment for Direct Cost of Construction (Component 1 or LEMS) is intended to be all-inclusive. Any costs or risks not delineated within cost of labor, equipment or materials herein, shall be deemed to be within the costs and risks encompassed by the applicable Markups and unallowable in any separate amount.
 3. Payment of Markup (Component 2) is intended to be all-inclusive. Contractor waives claims for any further or different payment of cost and risk items delineated herein, other than the allowable percentage markup on costs set forth in the Contract Documents; such separate, further or different cost or risk items shall be unallowable, waived and liquidated within the allowable percentage markup.
 4. Contractor shall recover no other costs or markups on extra work of any type, nature or description.
- B. Exception for Changes Extending the Contract Time.
 1. Where a change in the Work extends the Contract Time, Contractor may request and recover additional, actual direct costs, provided Contractor can demonstrate such additional costs are (i.) actually incurred performing the Work, (ii.) not compensated by the Markup allowed,

and (iii) directly result from the extended Contract Time. Contractor shall make such request and provide such documentation following all required procedures, documentation and time requirements in the Contract Documents, and subject to all contract limitations of liability. Contractor may not seek or recover such costs using formulas (e.g., Eichleay).

C. Limits of Liability / Accord and Satisfaction.

1. The foregoing limits of compensation apply in all cases of claims for changed Work, whether calculating Change Proposal Requests, Change Orders or CDs, or calculating claims and/or damages of all types, and applies even in the event of fault, negligence, strict liability, or tort claims of all kinds, including strict liability or negligence. Contractor may recover no other costs arising out of or connected with the performance of extra Work, of any nature.
2. Under no circumstances may Contractor claim or recover special, incidental or consequential damages against Owner, its representatives or agents, whether arising from breach of contract, negligence, strict liability or other tort or legal theory, unless specifically and expressly authorized in the Contract Documents.
3. No change in Work shall be considered a waiver of any other condition of Contract Documents. No claim shall be made for anticipated profit, for loss of profit, for damages, or for extra payment whatever, except as expressly provided for in Contract Documents.
4. Accord and Satisfaction: Every Change Order and accepted CD shall constitute a full accord and satisfaction, and release, of all Contractor (and if applicable, Subcontractor) claims for additional time, money or other relief arising from or relating to the subject matter of the change including, without limitation, impacts of all types, cumulative impacts, inefficiency, overtime, delay and any other type of claim. Contractor may elect to reserve its rights to disputed claims arising from or relating to the changed Work at the time it signs a Change Order or approves a CD, but must do so expressly in a writing delivered concurrently with the executed Change Order or approved CD, and must also submit a Claim for the reserved disputed items pursuant to Article 12 of Document 00 7200 (General Conditions) no later than thirty (30) days after Contractor's first written notice of its intent to reserve rights. Execution of any Change Order or CD shall constitute Contractor's representation of its agreement with this provision.

1.010 MISCELLANEOUS REQUIREMENTS

A. Owner-Furnished Materials.

1. Owner reserves right to furnish materials as it deems advisable, and Contractor shall have no claims for costs and Markup on such materials.

B. Records And Certification.

1. All charges shall be recorded daily and summarized in Change Proposal Request form attached hereto. Contractor or authorized representative shall complete and sign form each day. Contractor shall also provide with the form: the names and classifications of workers and hours worked by each; an itemization of all materials used; and a list by size type and identification number of equipment and hours operated.
2. Owner shall have the right to audit all records in possession of Contractor relating to activities covered by Contractor's claims for modification of Contract, including CD Work. This right shall be specifically enforceable, and any failure of Contractor to voluntarily comply shall be deemed an irrevocable waiver and release of all claims then pending that were or could have been subject to Article 12 of Document 00 7200 (General Conditions).

PART 2 – PRODUCTS – NOT USED

PART 3 – EXECUTION – NOT USED

END OF SECTION

[COST PROPOSAL FORM FOLLOWS ON NEXT PAGE]

COST PROPOSAL (CP)

Owner **[Insert Project Name]**
Contract Number _____

CP Number: _____
Date: _____
In Response To _____
Bulletin #, etc.

To: **[Insert Name of Owner]**
Attention: **[_____]**
[Insert Owner's Address]
Phone: (____) ____ - ____
Fax: (____) ____ - ____

From: **[Insert Contractor's Name/Address]**

This Cost Proposal is in response to the above-referenced _____ **[insert Bulletin, etc. as applicable]**.

Brief description of change(s): _____

ITEM DESCRIPTION	PRIME CONTRACTOR	SUB 1	SUB 2	SUB 3	SUB 4	TOTAL
MATERIAL						
LABOR						
EQUIPMENT						
Other (Specify) Extended Overhead						
TOTAL COST						
Subcontractor's Overhead & Profit 15 percent						
Contractor's Overhead & Profit 15 percent						
Overhead & Profit to Contractor for Subcontractor's Work 5 percent						
(percent of Total Cost above not including any Overhead & Profit – may not exceed 20%)						
GRAND TOTAL						
REQUESTED CHANGE IN CONTRACT TIME (DAYS) (Time Impact Evaluation Enclosed)						

By Contractor:

Signature:

Date:

DIVISION 1 GENERAL REQUIREMENTS

SECTION 01 3119

PROJECT MEETINGS

PART 1 – GENERAL

1.01 SUMMARY

- A. Section includes description of required project meetings.

1.02 PRECONSTRUCTION CONFERENCE

- A. Preconstruction Conference. Owner will call for and administer Preconstruction Conference at time and place to be announced (usually the week prior to start of Work at the Site). Contractor, all major Subcontractors, and major suppliers shall attend Preconstruction Conference. Agenda may include, but not be limited to, the following items:

1. Schedules
2. Personnel and vehicle permit procedures
3. Use of premises
4. Location of the Contractor's on-Site facilities
5. Security
6. Housekeeping
7. Submittal and RFI procedures
8. Inspection and testing procedures, on-Site and off-Site
9. Utility shutdown procedures
10. Control and reference point survey procedures
11. Injury and Illness Prevention Program
12. Contractor's Initial Progress Schedule
13. Contractor's Schedule of Values
14. Contractor's Schedule of Submittals
15. Jurisdictional agency requirements

- B. The Contractor shall deliver the following submittals at the preconstruction meeting:

1. Schedules
2. Water Pollution Control Plan (BMPs)
3. Safety Plan
4. Sample Resident Notification Letter
5. Any submittal requiring prompt review due to required lead times

1.03 WEEKLY PROJECT MEETINGS

- A. Owner will schedule and administer weekly progress meetings throughout duration of Work. Progress meetings will be held weekly unless otherwise directed by Owner. Meetings shall be held at Owner's Offices unless otherwise specified in Contract Documents.

1. Owner's Representative will prepare agenda and distribute it 4 Days in advance of meeting to the Contractor.
2. Participants with agenda items shall present them.
3. The Architect/Engineer and other responsible entities shall attend meetings unless otherwise specified in Contract Documents or provided by Owner.
4. Owner shall record and distribute the meeting minutes. Minutes shall be distributed by the Owner to the Contractor within 3 business days after the meeting. Contractor shall distribute the minutes to those affected by decisions made at meeting. Attendees shall have five business days to submit comments or additions to the minutes. Minutes shall constitute final

- memorialization of results of meeting.
- 5. Progress meetings shall be attended by Contractor's job superintendent, major Subcontractors and suppliers, Owner, and others as appropriate to agenda topics for each meeting.
- 6. Agenda may contain the following items, as appropriate:
 - a. Review, revise as necessary, and approve previous meeting minutes
 - b. Review of Work progress since last meeting
 - c. Status of Construction Work Schedule, delivery schedules, adjustments
 - d. Submittal, RFI, and Change Order status
 - e. Review of the Contractor's safety program activities and results, including report on all serious injury and/or damage accidents
 - f. Other items affecting progress of Work

1.04 PROGRESS SCHEDULE AND BILLING MEETINGS

- A. A meeting will be held on approximately the 20th of each month to review the schedule update submittal and progress payment application.
- B. At this meeting, at a minimum, the following items will be reviewed:
 - 1. Percent complete of each activity;
 - 2. Time impact evaluations for Change Orders and Time Extension Request;
 - 3. Actual and anticipated activity sequence changes;
 - 4. Actual and anticipated duration changes; and
 - 5. Actual and anticipated Contractor delays.
- C. These meetings are considered a critical component of overall monthly schedule update submittal and Contractor shall have appropriate personnel attend. At a minimum, Contractor's General Superintendent and Scheduler shall attend these meetings.

PART 2 – PRODUCTS – NOT USED

PART 3 – EXECUTION – NOT USED

END OF SECTION

DIVISION 1 GENERAL REQUIREMENTS

SECTION 01 3230

PROGRESS SCHEDULES AND SUBMITTALS

PART 1 – GENERAL

1.01 SUMMARY

- A. Section includes description of requirements and procedures for submitting progress schedules and submittals.

1.02 CONTRACTOR TO SUBMIT PROGRESS SCHEDULES

- A. Contractor shall submit original (baseline) progress schedule before or at the pre-construction meeting for review by the Owner.
- B. Baseline Progress Schedule shall show Contractor's construction and procurement activities, including but not limited to, equipment procurement and delivery (Contractor and Owner supplied), activities with Subcontractors and suppliers, major submittal reviews, commissioning of systems, use of major equipment on site, and necessary interface with Owner and third parties required to complete the Work in a timely manner and in accordance with Contract Time.

1.03 SCHEDULE REQUIREMENTS.

- A. Unless Owner agrees in writing otherwise, progress schedule shall be on Microsoft Project or equivalent software, as Owner may specify, which Contractor shall prepare and supply to Owner, with all datapoint entries completed for start dates, necessary work activities, durations (not longer than 21 calendar days) and logic ties.
- B. Contractor's progress schedule may be in the form of a CPM (arrow) diagram or, if Owner agrees in writing, a bar chart. The hard copies of the schedule supplied to Owner shall indicate the critical path of the Work (in red) and shall show a logical progression of the Work through completion within Contract Time.
- C. Unless Owner agrees in writing otherwise, progress schedule shall also show early and late start and finish dates and total available float (float to the successor activity's late start date) for each activity. Owner has no obligation to accept an early completion schedule.

1.04 MONTHLY UPDATES

- A. Contractor's progress schedule shall be updated monthly to reflect actual progress. The schedule shall be subject to Owner's review and acceptance for use in monitoring Contractor's Work and evaluating Applications for Payment.
- B. Contractor shall supply Owner with an electronic copy of the updated progress schedule with each monthly payment application. Contractor shall provide Owner with two-week lookahead schedules weekly, showing in detail and activities and resources scheduled for the immediate two week period.

1.05 RECOVERY SCHEDULE

- A. Owner may request a recovery schedule should Contractor fall 21 or more Days behind any schedule Milestone, which schedule shall show Contractor's plan and resources committed to retain Contract completion dates.
- B. The recovery schedule shall show the intended critical path. If Owner requests, Contractor shall also:
 - 1. Secure and demonstrate appropriate Subcontractor and supplier consent to the recovery Schedule.
 - 2. Submit a narrative explaining trade flow and construction flow changes and man-hour loading assumptions for major Work activities and/or Subcontractors.

1.06 TIME IMPACT EVALUATION ("TIE") FOR CHANGE ORDERS, TIME EXTENSIONS AND DELAYS:

- A. When Contractor requests a time extension for any reason, Contractor shall submit a TIE that includes both a written narrative and a schedule diagram depicting how the changed Work or other impact affects other schedule activities. The schedule diagram shall show how Contractor proposes to incorporate the changed Work or other impact in the schedule and how it impacts the current Schedule update critical path or otherwise. Contractor is also responsible for requesting time extensions based on the TIE's impact on the critical path. The diagram shall be tied to the main sequence of scheduled activities to enable Owner to evaluate the impact of changed Work to the scheduled critical path.
- B. Contractor is responsible for all costs associated with the preparation of TIE's, and the process of incorporating TIE's into the current schedule update. Provide Owner with four copies of each TIE.

PART 2 – PRODUCTS – NOT USED

PART 3 – EXECUTION – NOT USED

END OF SECTION

DIVISION 1 GENERAL REQUIREMENTS

SECTION 01 3300

SUBMITTALS

PART 1 – PART 1 GENERAL

1.01 SUMMARY

- A. Section includes description of requirements and procedures for submittals. Please refer to the technical specifications and/or plans for any additional submittals not specifically mentioned in this section.

1.02 SCHEDULE OF SUBMITTALS

- A. Contractor shall prepare for Owner's review and acceptance prior to commencement of work on the Site, for purposes of contract administration, a schedule of submittals (also referred to as a submittal register) required to complete the Work, prepared by Contractor and accepted by Owner for contract administration. Schedule of submittals shall include, for each submittal: the specification or drawing reference requiring the submittal, if applicable; the material, item, or process for which the submittal is required; the submittal number and identifying title of the submittal; the Contractor's anticipated submission date and the approval need date.
- B. Contractor shall update monthly the schedule of submittals to reflect actual submission and acceptance dates for submittals. Review by Owner of schedule of submittals does not excuse Contractor of obligation to supply, schedule and coordinate all submittals required by the Contract Documents.
- C. Following is a list of anticipated submittals. Please refer to the technical specifications for any additional submittals not specifically mentioned in this section.
 - 1. Safety Plan
 - 2. Water Pollution Control Plan
 - 3. Spill Prevention Plan
 - 4. Manufacturer's Plans and Specifications for furnished items (see Bid Item 8, 10 & 11)
 - 5. General Safety Requirements (See Section 09871)
 - 6. Tests, Certificates
 - 7. Record Drawings
 - 8. Calculations/Certifications for meeting Cal-OSHA Requirements

1.03 CONTRACTOR TO SUBMIT SHOP DRAWINGS, PRODUCT DATA AND SUBMITTALS.

- A. Contractor shall review for compliance with Contract Documents, approve and submit to Owner Shop Drawings, Product Data, Samples and similar submittals required by Contract Documents.
- B. Contractor shall schedule and submit concurrently submittals covering component items forming a system or items that are interrelated. Contractor shall include certifications to be submitted with the pertinent drawings at the same time.
- C. Contractor shall coordinate scheduling, sequencing, preparing and processing of all submittals with performance of work so that work will not be delayed by submittal processing.
- D. Submittals shall specifically identify any Work depicted that does not conform to the Contract

Documents.

1.04 OWNER REVIEW OF SHOP DRAWINGS, PRODUCT DATA AND SUBMITTALS.

- A. After review by Owner of each Submittal, material will be returned to Contractor with actions defined as follows:
 - 1. NO EXCEPTIONS TAKEN - Accepted subject to its compatibility with general design concept of the Work, future Submittals and additional partial Submittals for any portions of the Work not covered in this Submittal. Does not constitute acceptance or deletion of specified or required items not shown on the Submittal.
 - 2. MAKE CORRECTIONS NOTED (NO RESUBMISSIONS REQUIRED) - Same as item 1 above, except that minor corrections as noted shall be made by Contractor.
 - 3. REVISE AS NOTED AND RESUBMIT - Rejected because of major inconsistencies or errors that shall be resolved or corrected by Contractor prior to subsequent review by Owner.
 - 4. REJECTED - RESUBMIT - Submitted material does not conform to Drawings and/or Specifications in major respect, i.e.: wrong size, model, capacity, or material.
- B. Favorable review will not constitute acceptance by Owner of any responsibility for the accuracy, coordination, or completeness of the Submittals. Accuracy, coordination, and completeness of Submittals shall be sole responsibility of Contractor, including responsibility to back-check comments, corrections, and modifications from Owner's review before fabrication. Contractor, Subcontractors, or suppliers may prepare Submittals, but Contractor shall ascertain that Submittals meet requirements of Contract Documents, while conforming to structural space and access conditions at point of installation. Owner's review will be only to assess if the items covered by the Submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as indicated by the Contract Documents. Favorable review of Submittal, method of Work, or information regarding materials and equipment Contractor proposes to furnish shall not relieve Contractor of responsibility for errors therein and shall not be regarded as assumption of risks or liability by Owner, or any officer or employee thereof, and Contractor shall have no claim under Contract Documents on account of failure or partial failure or inefficiency or insufficiency of any plan or method of Work or material and equipment so accepted. Favorable review shall be considered to mean merely that Owner has no objection to Contractor using, upon Contractor's own full responsibility, plan or method of Work proposed, or furnishing materials and equipment proposed.
- C. Unless otherwise specified, Owner's review will not extend to the means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
- D. Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been favorably reviewed by the Owner; otherwise, any such Work is at Contractor's sole risk.

PART 2 – PRODUCTS – NOT USED

PART 3 – EXECUTION – NOT USED

END OF SECTION

DIVISION 1 GENERAL REQUIREMENTS

SECTION 01 4100

REGULATORY REQUIREMENTS

PART 1 – GENERAL

1.01 SUMMARY

A. Section includes:

1. Regulatory requirements applicable to Contract Documents
2. Required provisions under Local Agency Disputes Act
3. Required references under federal law

1.02 GENERAL

A. Compliance with Laws

1. Conform to all applicable codes, laws, ordinances, rules and regulations, which shall have full force and effect as though printed in full in these Specifications. Codes, laws, ordinances, rules, regulations and ordinances (**Regulatory Requirements**) are not furnished to Contractor, because Contractor is assumed to be familiar with these requirements.
2. Any listing of Regulatory Requirements for hazardous waste abatement Work in the Contract Documents is supplied to Contractor as a courtesy and shall not limit Contractor's responsibility for complying with all applicable Regulatory Requirements having application to the Work. Where conflict among the Regulatory Requirements or with these Specifications occurs, the most stringent requirements shall be used.
3. Specific reference in the Specifications to codes and regulations or requirements of regulatory agencies shall mean the latest printed edition of each adopted by the regulatory agency in effect at the time of the opening of Bids, except as may be otherwise specifically stated in the Contract Documents.

B. Precedence

1. Where specified requirements differ from Regulatory Requirements, the more stringent requirements shall take precedence. Where Drawings or Specifications require or describe products or execution of better quality, higher standard or greater size than required by Regulatory Requirements, then Drawings and Specifications shall take precedence so long as such increase is legal. Where no requirements are identified on Drawings or in Specifications, comply with all Regulatory Requirements of governing authorities having jurisdiction.
2. Should any conditions develop not covered by the Contract Documents wherein the finished Work will not comply with current codes, a Change Order detailing and specifying the required Work shall be submitted to and approved by Owner before proceeding with the Work.

1.03 REGULATORY REQUIREMENTS

A. Applicable Codes

1. Codes that apply to Contract Documents include all Codes applicable to construction, including, but not limited to, the following:
 - a. California Building Code (2007 Edition or latest applicable code) as amended by applicable local ordinances for all construction work.
 - b. California Electrical Code (2007 Edition or latest applicable code) as amended by applicable local ordinances for all construction work.

- c. California Plumbing Code (2007 Edition or latest applicable code) as amended by applicable local ordinances for plumbing, sewage disposal and health requirements.
- d. California Mechanical Code (2007 Edition or latest applicable code) as amended by applicable local ordinances for all construction work.
- e. International Fire Code (2006 Edition or latest applicable code) as amended by applicable local ordinances for all construction work.
- f. California Administrative Code Titles 15, 19 and 24 (with California amendments), and Americans with Disabilities Act (ADA) accessibility guidelines, whichever is more stringent.
- g. All State laws and City and County Ordinances, rules of the State or City or County Health Departments, rules of the National Board of Fire Underwriters and National Fire Protection Associations, and local power company regulations for mechanical and electrical work.

B. Applicable Laws, Statutes, Ordinances, Rules, And Regulations

- 1. During prosecution of Work to be done under Contract Documents, Contractor shall comply with applicable laws, ordinances, rules and regulations, including, but not limited to, the following:
 - a. Federal:
 - 1) Americans With Disabilities Act of 1990
 - 2) 29 CFR, Section 1910.1001, Asbestos
 - 3) 40 CFR, Subpart M, National Emission Standards for Asbestos
 - 4) Executive Order 11246
 - 5) Federal Endangered Species Act
 - 6) Clean Water Act
 - b. State of California:
 - 1) California Code of Regulations, Titles 5, 8, 17, 19, 21, 22, 24 and 25
 - 2) California Public Contract Code
 - 3) California Health and Safety Code
 - 4) California Government Code
 - 5) California Labor Code
 - 6) California Civil Code
 - 7) California Code of Civil Procedure
 - 8) CPUC General Order 95, Rules for Overhead Electric Line Construction
 - 9) CPUC General Order 128, Rules for Construction of Underground Electric Supply and Communications Systems
 - 10) Cal/OSHA
 - 11) OSHA: Hazard Communications Standards
 - 12) California Endangered Species Act
 - 13) Water Code
 - 14) Fish and Game Code
 - c. State of California Agencies:
 - 1) State and Consumer Services Agency
 - 2) Office of the State Fire Marshall
 - 3) Office of Statewide Health Planning and Development
 - 4) Department of Fish and Game
 - 5) All Air Quality Management Districts with jurisdiction
 - 6) All Regional Water Quality Control Boards with jurisdiction
 - 7) Division of the State Architect (if having jurisdiction)
 - d. All Local Agencies with jurisdiction (cities, counties, fire departments)

C. Change Orders and Claims:

1. The California Public Contract Code, including but not limited to Section 7105(d)(2), and the California Government Code Section 930.2 et seq., apply to all contract procedures for changes, time extensions, change orders (time or compensation) and claims.
2. Any change, waiver, or omission to implement contract change order and claim procedures shall have no legal effect unless expressly permitted in a fully executed change order approved by Contractor and Owner and approved as to form by their respective legal counsel.

D. Required Provisions On Contract Claim Resolution

1. The California Public Contract Code specifies required provisions on resolving contract claims less than \$375,000, which are set forth below, and constitute a part of this Contract.
2. For the purposes of this section, "Claim" means a separate demand by Contractor of \$375,000 or less for (1) a time extension, (2) payment or money or damages arising from Work done by or on behalf of Contractor arising under the Contract Documents and payment of which is not otherwise expressly provided for or the Claimant is not otherwise entitled to, or (3) an amount the payment of which is disputed by Owner. In order to qualify as a Claim, the written demand must state that it is a Claim submitted under paragraph 12 of Document 00 7200 (General Conditions) and be submitted in compliance with all requirements of Document 00 7200 (General Conditions), paragraph 12. Separate Claims which total more than \$375,000 do not qualify as a "separate demand of \$375,000 or less," as referenced above, and are not subject to this section.
3. A voucher, invoice, payment application, or other routine or authorized form of request for payment is not a Claim for purposes of this section. If such request is disputed as to liability or amount, then the disputed portion of the submission may be converted to a Claim under this section by submitting a separate claim in compliance with Contract Documents claim submission requirements.
4. Caution. This section does not apply to tort claims and nothing in this section is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 and Chapter 2 of Part 3 of Division 3.6 of Title 1 of the California Government Code.
5. Procedure:
 - a. The Claim must be in writing, submitted in compliance with all requirements of Document 00 7200 (General Conditions), paragraph 12, including, but not limited to, the time prescribed by and including the documents necessary to substantiate the Claim, pursuant to Document 00 7200 (General Conditions), paragraph 12.3. Claims must be filed on or before the day of final payment. Nothing in this section is intended to extend the time limit or supersede notice requirements for the filing of claims as set forth in Document 00 7200 (General Conditions), paragraph 12 or elsewhere in the Contract Documents.
 - b. For Claims of fifty thousand dollars (\$50,000) or less, Owner shall respond in writing within forty-five (45) days of receipt of the Claim, or Owner may request in writing within thirty (30) days of receipt of the Claim, any additional documentation supporting the Claim or relating to any defenses or claims Owner may have against Claimant. If additional information is thereafter required, it shall be requested and provided in accordance with this section upon mutual agreement of Owner and Claimant. Owner's written response to the Claim, as further documented, shall be submitted to Claimant within fifteen (15) days after receipt of further documentation or within a period of time no greater than taken by Claimant in producing the additional information, whichever is greater.
 - c. For Claims over Fifty Thousand Dollars (\$50,000) and less than or equal to \$375,000: Owner shall respond in writing within sixty (60) days of receipt of the Claim, or Owner may request in writing within thirty (30) days of receipt of the Claim, any additional documentation supporting the Claim or relating to any defenses or claims Owner may have against Claimant. If additional information is thereafter required, it shall be

requested and provided in accordance with this section, upon mutual agreement of Owner and Claimant; Owner's written response to the Claim, as further documented, shall be submitted to Claimant within thirty (30) days after receipt of further documentation or within a period of time no greater than taken by Claimant in producing the additional information, whichever is greater.

- d. Meet and Confer: If Claimant disputes Owner's written response, or Owner fails to respond within the time prescribed above, Claimant shall notify Owner, in writing, either within fifteen (15) days of receipt of Owner's response or within fifteen (15) days of Owner's failure to timely respond, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon demand Owner will schedule a meet and confer conference within thirty (30) days for settlement of the dispute.
- e. Following the meet and confer conference, if the Claim or any portion remains in dispute, Claimant may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the California Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time Claimant submits its written claim as set forth herein, until the time that Claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.

E. Compliance With Americans With Disabilities Act

- 1. Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a Contractor, must be accessible to the disabled public. Contractor shall provide the services specified in the Contract Documents in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under the Contract Documents and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns shall constitute a material breach of the Contract Documents.

F. Compliance With IRCA

- 1. Contractor acknowledges that Contractor, and all subcontractors hired by Contractor to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act ("IRCA"). Contractor is and shall remain in compliance with the IRCA and shall ensure that any subcontractors hired by Contractor to perform services under this Agreement are in compliance with the IRCA. In addition, Contractor agrees to indemnify, defend and hold harmless Owner, its agents, officers and employees, from any liability, damages or causes of action arising out of or relating to any claims that Contractor's employees, or employees of any subcontractor hired by Contractor, are not authorized to work in the United States for Contractor or its subcontractor and/or any other claims based upon alleged IRCA violations committed by Contractor or Contractor's subcontractors.

PART 2 – PRODUCTS – NOT USED

PART 3 – EXECUTION – NOT USED

END OF SECTION

DIVISION 1 GENERAL REQUIREMENTS

SECTION 01 4200

REFERENCES AND DEFINITIONS

PART 1 - GENERAL

1.01 SUMMARY

A. Section Includes:

1. Reference standards, abbreviations, symbols, and definitions used in Contract Documents.
2. Full titles are given in this Section for standards cited in other Sections of Specifications.

1.02 REFERENCE TO STANDARDS AND SPECIFICATIONS OF TECHNICAL SOCIETIES; REPORTING AND RESOLVING DISCREPANCIES

A. References

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard, specification, manual, code, or laws or regulations in effect at the time of opening of Bids, except as may be otherwise specifically stated in the Contract Documents.
2. If during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any such law or regulation applicable to the performance of the Work or of any such standard, specification, manual, or code or of any instruction of any supplier, Contractor shall report it in writing at once to Owner's Representative and Architect/Engineer, and Contractor shall not proceed with the Work affected thereby until consent to do so is given by Owner.

B. Precedence

1. Except as otherwise specifically stated in the Contract Documents or as may be provided by Change Order, CCD, or Supplemental Instruction, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
 - a. The provisions of any such standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or
 - b. The provisions of any such laws or regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such law or regulation).
2. No provision of any such standard, specification, manual, code, or instruction shall be effective to change the duties and responsibilities of Owner, Owner's Representative, Architect/Engineer or Contractor, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents, nor shall it be effective to assign to Owner, Architect/Engineer, or any of their consultants, agents, representatives or employees any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

C. Referenced Grades, Classes, and Types:

1. Where an alternative or optional grade, class, or type of product or execution is included in a reference but is not identified in Drawings or in Specifications, provide the highest, best, and greatest of the alternatives or options for the intended use and prevailing conditions.

D. Edition Date of References:

1. When an edition or effective date of a reference is not given, it shall be understood to be the current edition or latest revision published as of the date of opening Bids.
2. All amendments, changes, errata and supplements as of the effective date shall be included.

E. ASTM and ANSI References: Specifications and Standards of the American Society for Testing and Materials (ASTM) and the American National Standards Institute (ANSI) are identified in the Drawings and Specifications by abbreviation and number only and may not be further identified by title, date, revision, or amendment. It is presumed that Contractor is familiar with and has access to these nationally- and industry-recognized specifications and standards.

1.03 DEFINITIONS

A. Meaning of Words and Phrases

Wherever any of the words or phrases defined below, or a pronoun used in place thereof, is used in any part of the Contract Documents, it shall have the meaning here set forth. Where abbreviations and symbols are used, such abbreviations and symbols shall be given their common meaning in the construction industry. In the Contract Documents, the neuter gender includes the feminine and masculine, and the singular number includes the plural.

While Owner has made an effort to identify all defined terms with initial caps, the following definitions shall apply regardless of case unless the context otherwise requires:

1. Addenda: Written or graphic instruments issued prior to the opening of Bids, which clarify, correct, or change the bidding requirements or the Contract Documents. Addenda shall not include the minutes of the Pre-Bid Conference and/or Site Visit.
2. Agreement (Document 00 5200): Agreement is the basic Contract Document that binds the parties to construction Work. Agreement defines relationships and obligations between Owner and Contractor and by reference incorporates Conditions of Contract, Drawings, and Specifications and contains Addenda and all Modifications subsequent to execution of Contract Documents.
3. Alternate: Work added to or deducted from the base Bid, if accepted by Owner.
4. Application for Payment: Written application for monthly or periodic progress or final payment made by Contractor complying with the Contract Documents.
5. Approved Equal: Approved in writing by Owner as being of equivalent quality, utility and appearance.
6. Architect/Engineer: If used elsewhere in the Contract Documents, "Architect/Engineer" shall mean a person (or that person's firm) holding a valid California State Architect's or Engineer's license representing the Owner in the administration of the Contract Documents. Architect/Engineer may be an employee of or an independent consultant to Owner. When Architect/Engineer is referred to within the Contract Documents and not an employee of Owner, Architect/Engineer shall be construed to include employees of Architect/Engineer and/or employees that Architect/Engineer supervises. When the designated Architect/Engineer is an employee of Owner, his or her authorized representatives on the Project will be included under the term Architect/Engineer. If Architect/Engineer is an employee of Owner, Architect/Engineer is the beneficiary of all Contractor obligations to Owner, including without limitation, all releases and indemnities. Architect/Engineer may also be referred to as Architect or Engineer.

7. Asbestos: Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by OSHA or Cal/OSHA.
8. Bid: The offer or proposal of the Bidder submitted on the prescribed form(s) setting forth the prices for the Work to be performed.
9. Bidder: One who submits a Bid.
10. Bidding Documents: All documents comprising the Project Manual (including all documents and Specification Sections listed in Document 00 0110 [Table of Contents]), including documents supplied for bidding purposes only and Contract Documents.
11. Board: The governing body of the Owner.
12. Business Day: Any Day other than Saturday, Sunday, and the following days that have been designated as holidays by Owner. If a holiday falls on a Saturday, the preceding Friday will be the holiday. If a holiday falls on a Sunday, the following Monday will be the holiday.
 - a. New Year's Day, January 1;
 - b. Martin Luther King Jr.'s Birthday, third Monday in January;
 - c. Presidents' Day, third Monday in February;
 - d. Cesar Chavez Birthday, March 31;
 - e. Memorial Day, last Monday in May;
 - f. Juneteenth, June 19;
 - g. Independence Day, July 4;
 - h. Labor Day, first Monday in September;
 - i. Veterans' Day, November 11;
 - j. Thanksgiving Day, as designated by the President;
 - k. The Day following Thanksgiving Day;
 - l. The Day preceding Christmas Day, December 24;
 - m. Christmas Day, December 25; and
 - n. Each day appointed by the Governor of California and formally recognized by the Governing Board as a day of mourning, thanksgiving, or special observance.
13. By Owner: Work that will be performed by Owner or its agents at the Owner's expense.
14. By Others: Work that is outside scope of Work to be performed by Contractor under this Contract, which will be performed by Owner, other contractors, or other means.
15. Change Order: A written instrument prepared by Owner and signed by Owner and Contractor, stating their agreement upon all of the following:
 - a. a change in the Work;
 - b. the amount of the adjustment in the Contract Sum, if any; and
 - c. the amount of the adjustment in the Contract Time, if any.
16. Code Inspector: A local or state agency responsible for the enforcement of applicable codes and regulations.
17. Concealed: Work not exposed to view in the finished Work, including within or behind various construction elements.
18. Construction Change Directive ("CCD"): A written order prepared and signed by Owner, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both.
19. Contract Amount: a change order price, line item price, Contract Sum, or other price assigned to a scope of work.
20. Contract Conditions or Conditions of the Contract: Consists of two parts: General Conditions and Supplementary Conditions.
 - a. General Conditions are general clauses that are common to the Owner Contracts, including Document 00 7200 (General Conditions).

- b. Supplementary Conditions modify or supplement General Conditions to meet specific requirements for Contract Documents, including Document 00 7201 (Supplementary Conditions).
- 21. Contract Documents and Contract: Contract Documents and Contract shall consist of the documents identified as the Contract Documents in Document 00 5200 (Agreement), plus all changes, Addenda, and modifications thereto.
- 22. Contract Modification: Either:
 - a. a written amendment to Contract signed by Contractor and Owner; or
 - b. a Change Order; or
 - c. a Construction Change Directive; or
 - d. a written directive for a minor change in the Work issued by Owner.
- 23. Contract Sum: The sum stated in the Agreement and, including authorized adjustments, the total amount payable by Owner to Contractor for performance of the Work and the Contract Documents. The Contract Sum is also sometimes referred to as the Contract Price or the Contract Amount.
- 24. Contract Time: The number or numbers of Days or the dates stated in the Agreement to achieve Substantial Completion of the Work or designated Milestones; and/or to achieve Final Completion of the Work so that it is ready for final payment and is accepted.
- 25. Contractor: The person or entity identified as such in the Agreement and referred to throughout the Contract Documents as if singular in number and neutral in gender. The term "Contractor" means the Contractor or its authorized representative.
- 26. Contractor's Employees: Persons engaged in execution of Work under Contract as direct employees of Contractor, as Subcontractors, or as employees of Subcontractors.
- 27. Day: One calendar day of 24 hours measured from midnight to the next midnight, unless the word "day" is specifically modified to the contrary.
- 28. Defective: An adjective which, when modifying the word "Work," refers to Work that is unsatisfactory or unsuited for the use intended, faulty, or deficient, that does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents (including but not limited to approval of Samples and "or equal" items), or has been damaged prior to final payment (unless responsibility for the protection thereof has been assumed by Owner). Unapproved substitutions are defective. Owner is the judge of whether Work is Defective.
- 29. Division of State Architect: A division of the State of California providing, design and construction oversight for K-12 schools and community colleges, and developing and maintaining accessibility standards and codes utilized in public and private buildings throughout the State of California.
- 30. Drawings: The graphic and pictorial portions of Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.
- 31. Equal: Equal in opinion of Owner. Burden of proof of equality is responsibility of Contractor.
- 32. Final Acceptance or Final Completion: Owner's acceptance of the Work as satisfactorily completed in accordance with Contract Documents. Requirements for Final Acceptance/Final Completion include, but are not limited to:
 - a. Final cleaning is completed.
 - b. All systems having been tested and accepted as having met requirements of Contract Documents.
 - c. All required instructions and training sessions having been given by Contractor.
 - d. All Project Record Documents having been submitted by Contractor, reviewed by Owner, and accepted by Owner.
 - e. All punch list Work, as directed by Owner, having been completed by Contractor.

- f. Generally all Work, except Contractor maintenance after Final Acceptance/Final Completion, having been completed to satisfaction of Owner.
- 33. Force Account: Work directed to be performed without prior agreement as to lump sum or unit price cost thereof, and which is to be billed at cost for labor, materials, equipment, taxes, and other costs, plus a specified percentage for overhead and profit.
- 34. Exposed: Work exposed to view in the finished Work, including behind louvers, grilles, registers and various other construction elements.
- 35. Furnish: Supply only, do not install.
- 36. Indicated: Shown or noted on the Drawings.
- 37. Install: Install or apply only, do not furnish.
- 38. Latent: Not apparent by reasonable inspection, including but not limited to, the inspections and research required as a condition to bidding under Document 00 7200 (General Conditions).
- 39. Law: Unless otherwise limited, all applicable laws including without limitation all federal, state, and local laws, statutes, standards, rules, regulations, ordinances, and judicial and administrative decisions.
- 40. Material: This word shall be construed to embrace machinery, manufactured articles, materials of construction (fabricated or otherwise), and any other classes of material to be furnished in connection with Contract, except where a more limited meaning is indicated by context.
- 41. Milestone: A principal event specified in Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all Work.
- 42. Modification: Same as Contract Modification.
- 43. Not in Contract or "NIC": Work that is outside the scope of Work to be performed by Contractor under Contract Documents.
- 44. Notice of Completion: Shall have the meaning provided in California Civil Code §3093, and any successor statute.
- 45. Off Site: Outside geographical location of the Project.
- 46. Owner: Owner is defined in Document 00 5200 (Agreement).
- 47. Owner-Furnished, Contractor Installed: Items furnished by Owner at its cost for installation by Contractor at its cost under Contract Documents.
- 48. Owner's Representative(s): See Document 00 5200 (Agreement).
- 49. Partial Utilization: Use by Owner of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all of the Work.
- 50. PCBs: Polychlorinated byphenyls.
- 51. Phase: A specified portion of the Work (if any) specifically identified as a Phase in Document 00 5200 (Agreement) or Document 01 1100 (Summary).
- 52. Product Data: That information (brochures, catalog sheets, manufacturer's cut sheets, etc.) supplied by vendors having technical and commercial characteristics of the supplied equipment or materials and accompanying commercial terms such as warranties, instructions, and manuals.
- 53. Progress Report: A periodic report submitted by Contractor to Owner with progress payment invoices accompanying progress schedule. See Document 00 7200 (General Conditions).
- 54. Project: Total construction of which Work performed under Contract Documents may be whole or part.
- 55. Project Manager: If used elsewhere in the Contract Documents, "Project Manager" shall mean a person representing the Owner in the administration of the Contract Documents. Project Manager may be an employee of or an independent consultant to Owner. When Project Manager is referred to within the Contract Documents and no Project Manager has

in fact been designated, then the matter shall be referred to Owner. The term Project Manager shall be construed to include employees of Project Manager and/or employees that Project Manager supervises. When the designated Project Manager is an employee of Owner, his or her authorized representatives on the Project will be included under the term Project Manager. If Project Manager is an employee of Owner Project Manager is the beneficiary of all Contractor obligations to Owner, including without limitation, all releases and indemnities.

56. Project Manual: Project Manual consists of Bidding Requirements, Agreement, Bonds, Certificates, Contract Conditions, Drawings, and Specifications.
57. Project Record Documents: All Project deliverables required under the Contract Documents, including without limitation, as built drawings; Installation, Operation, and Maintenance Manuals; and Machine Inventory Sheets.
58. Provide: Furnish and install.
59. Request for Information ("RFI"): A document prepared by Contractor requesting information regarding the Project or Contract Documents. The RFI system is also a means for Owner to submit Contract Document clarifications or supplements to Contractor.
60. Request for Proposals ("RFP"): A document issued by Owner to Contractor whereby Owner may initiate changes in the Work or Contract Time as provided in Contract Documents.
61. Request for Substitution ("RFS"): A document prepared by Contractor requesting substitution of materials as permitted and to the extent permitted in Contract Documents.
62. RFI-Reply: A document consisting of supplementary details, instructions, or information issued by Owner that clarifies or supplements Contract Documents, and with which Contractor shall comply. RFI-Replies do not constitute changes in Contract Sum or Contract Time except as otherwise agreed in writing by Owner. RFI-Replies will be issued through the RFI administrative system.
63. Samples: Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
64. Shop Drawings: All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
65. Shown: As indicated on Drawings.
66. Site: The particular geographical location of Work performed pursuant to the Contract Documents.
67. Specifications: The written portion of the Contract Documents consisting of requirements for materials, equipment, construction systems, standards, and workmanship for the Work; performance of related services.
68. Specified: As written in Specifications.
69. Subcontractor: A person or entity that has a direct contract with Contractor to perform a portion of the Work at the Site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and neutral in gender and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.
70. Substantial Completion: The Work (or a specified part thereof) has progressed to the point where, in the opinion of Owner as evidenced by a notice or certificate of Substantial Completion, the Work is sufficiently complete, in accordance with Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended, and unperformed or incomplete work elements are minor in nature; or if no such certificate is issued, when the Work (or specified part) is complete and ready for final payment as evidenced by written recommendation of Owner for final payment. The terms "Substantially

Complete” and “Substantially Completed” as applied to all or part of the Work refer to Substantial Completion thereof.

71. Supplemental Instruction: A written directive from Owner to Contractor ordering alterations or Modifications that do not result in change in Contract Sum or Contract Time, and do not substantially change Drawings or Specifications.
72. Testing and Special Inspection Agency: An independent entity engaged to inspect and/or test the workmanship, materials, or manner of construction of buildings or portions of buildings, to determine if such construction complies with the Contract Documents and applicable codes.
73. Underground Facilities: All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities that have been installed underground to furnish any of the following services or materials: Electricity, gases, chemicals, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems, or water.
74. Unit Price Work: Shall be the portions of the Work for which a unit price is provided in Document 00 5200 (Agreement) or Section 01 1100 (Summary).
75. Work: The entire completed construction, or the various separately identifiable parts thereof, required to be furnished under the Contract Documents within the Contract Time. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials and equipment into the construction, and performing or furnishing services and furnishing documents, all as required by the Contract Documents including everything shown in the Drawings and set forth in the Specifications. Wherever the word “work” is used, rather than the word “Work,” it shall be understood to have its ordinary and customary meaning.

B. Other Defined Terms

The following terms are not necessarily identified with initial caps; however they shall have the meaning set forth below:

1. Wherever words “as directed,” “as required,” “as permitted,” or words of like effect are used, it shall be understood that direction, requirements, or permission of Owner is intended. Words “sufficient,” “necessary,” “proper,” and the like shall mean sufficient, necessary, or proper in judgment of Owner. Words “approved,” “acceptable,” “satisfactory,” “favorably reviewed,” or words of like import, shall mean approved by, or acceptable to, or satisfactory to, or favorably reviewed by Owner.
2. Wherever the word “may” or “ought” is used, the action to which it refers is discretionary. Wherever the word “shall” or “will” is used, the action to which it refers is mandatory.

PART 2 - PRODUCTS – NOT USED

PART 3 - EXECUTION – NOT USED

END OF SECTION

DIVISION 1 GENERAL REQUIREMENTS

SECTION 01 7700

CONTRACT CLOSEOUT

PART 1 - GENERAL

1.01 SUMMARY

A. **Section describes requirements and procedures for:**

1. Project cleaning
2. Testing of equipment and systems
3. Substantial Completion
4. Final Completion
5. Close Out
6. Warranties

1.02 SUBSTANTIAL COMPLETION

A. **Removal of Temporary Construction Facilities and Project Cleaning.**

1. Prior to Substantial Completion inspection: remove temporary materials, equipment, services, and construction; clean all areas affected by the Work; clean and repair damage caused by installation or use of temporary facilities; restore permanent facilities used during construction to specified condition.

B. **Equipment and Systems.**

1. Prior to Substantial Completion, Contractor shall start up, run for periods prescribed by Owner, operate, adjust and balance all manufactured equipment and Project systems, including but not limited to, mechanical, electrical, safety, fire, and controls.
2. Demonstrate that such equipment and systems conform to contract standards and manufacturer's guarantees. Where applicable, use testing protocols specified, and if the contract is silent, then consistent with manufacturer's recommendations and industry standards.

C. **Procedure for Substantial Completion**

1. When Contractor considers Work or designated portion of the Work as Substantially Complete, submit written notice to Owner, with list of items remaining to be completed or corrected and explanation of why such items do not prevent Owner's beneficial use and occupancy of the Work for its intended purposes. Within reasonable time, Owner will inspect to determine status of completion.
2. Should Owner determine that Work is not Substantially Complete, Owner will promptly notify Contractor in writing, listing all defects and omissions. Contractor shall remedy deficiencies and send a second written notice of Substantial Completion. Owner will reinspect the Work. If deficiencies previously noted are not corrected on reinspection, then pay the cost of the reinspection.
3. When Owner concurs that Work is Substantially Complete, Owner will issue a written notice or certificate of Substantial Completion, accompanied by Contractor's list of items to be completed or corrected as verified by Owner.
4. Manufactured units, equipment and systems that require startup must have been started up and before a notice or certificate of Substantial Completion will be issued.
5. A punch list examination will be performed upon Substantial Completion. One follow-up review of punch list items for each discipline will be provided. If further Site visits are required to review punch list items due to incompleteness of the Work by Contractor, Contractor will reimburse Owner for costs associated with these visits.

1.03 FINAL COMPLETION

A. Requirements

1. Final Completion occurs when Work meets requirements for Owner's Final Acceptance.

B. Procedure

1. When Contractor considers Work is Finally Complete, submit written certification that:
 - a. Contractor has inspected Work for compliance with Contract Documents, and all requirements for Final Acceptance have been met.
 - b. Except for Contractor maintenance after Final Acceptance, Work has been completed in accordance with Contract Documents and deficiencies listed with Certificate of Substantial Completion have been corrected. Equipment and systems have been tested in the presence of Owner, and are operative.
 - c. Project Record Documents are completed and turned over to Owner, and Work is complete and ready for final inspection.
2. In addition to submittals required by Contract Documents, provide submittals required by governing authorities and submit final statement of accounting giving total adjusted Contract Sum, previous payments, and sum remaining due.
3. Should Owner determine that Work is incomplete or Defective, Owner promptly will so notify Contractor, in writing, listing the incomplete or Defective items. Contractor shall promptly remedy the deficiencies and notify the Owner when it is ready for reinspection.

C. Final Adjustments of Accounts:

1. Submit a final statement of accounting to Owner, showing all adjustments to the Contract Sum and complete and execute Document 00 6530 (Agreement and Release of Claims).
2. If so required, Owner shall prepare a final Change Order for submittal to Contractor, showing adjustments to the Contract Sum that were not previously made into a Contract Modification.

D. Warranties

1. Execute Contractor's Submittals and assemble warranty documents, and Installation, Operation, and Maintenance Manuals, executed or supplied by Subcontractors, suppliers, and manufacturers. Provide table of contents and assemble in 8½ inches by 11 inches three-ring binder with durable plastic cover, appropriately separated and organized. Assemble in Specification Section order.
2. Submit material prior to final Application for Payment. For equipment put into use with Owner's permission during construction, submit within 14 Days after first operation. For items of Work delayed materially beyond Date of Substantial Completion, provide updated Submittal within 14 Days after acceptance, listing date of acceptance as start of warranty period.
3. Warranty Forms: Submit drafts to Owner for approval prior to execution. Forms shall not detract from or confuse requirements or interpretations of Contract Documents. Warranty shall be countersigned by manufacturers. Where specified, warranty shall be countersigned by Subcontractors and installers.
4. Rejection of Warranties: Owner reserves right to reject unsolicited and coincidental product warranties that detract from or confuse requirements or interpretations of Contract Documents.
5. Term of Warranties: For materials, equipment, systems, and workmanship, warranty period shall be two years minimum from date of Final Completion of entire Work except where:
 - a. Detailed Specifications for certain materials, equipment or systems require longer warranty periods.
 - b. Materials, equipment or systems are put into beneficial use of Owner prior to Final Completion as agreed to in writing by Owner.

E. Warranty of Title:

1. No material, supplies, or equipment for Work under Contract shall be purchased subject to any chattel mortgage, security agreement, or under a conditional sale or other agreement by which an interest therein or any part thereof is retained by seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in Work and agrees upon completion of all Work to deliver premises, together with improvements and appurtenances constructed or placed thereon by Contractor, to Owner free from any claim, liens, security interest, or charges, and further agrees that neither Contractor nor any person, firm, or corporation furnishing any materials or labor for any Work covered by Contract shall have right to lien upon premises or improvement or appurtenances thereon. Nothing contained in this paragraph, however, shall defeat or impair right of persons furnishing materials or labor under bond given by Contractor for their protection or any rights under law permitting persons to look to funds due Contractor in hands of Owner.
- F. **Turn-In.** Contract Documents will not be closed out and final payment will not be made until all keys issued to Contractor during prosecution of Work and letters from property owners, pursuant to Contract Documents, are turned in to Owner.
- G. **Release of Claims.** Contract Documents will not be closed out and final payment will not be due or made until Document 00 6530 (Agreement and Release of Claims) is completed and executed by Contractor and Owner.
- H. **Fire Inspection Coordination.** Coordinate fire inspection and secure sufficient notice to Owner to permit convenient scheduling (if applicable).
- I. **Building Inspection Coordination.** Coordinate with Owner a final inspection for the purpose of obtaining an occupancy certificate (if applicable).

PART 2 - PRODUCTS – NOT USED

PART 3 - EXECUTION – NOT USED

END OF SECTION

DIVISION 1 GENERAL REQUIREMENTS

SECTION 01 71 23

FIELD ENGINEERING

PART 1 – GENERAL

1.1 SECTION INCLUDES

- A. Work in this section includes surveying and engineering services required for the execution of work.
- B. CONTRACTOR must:
 - 1. Provide SURVEYOR to perform construction staking as outlined herein
 - 2. Locate utilities by an appropriate combination of potholing and electronic detection
 - 3. Verify horizontal and vertical locations of all utility crossings and points of connection
 - 4. Verify horizontal and vertical elevations of existing improvements at match points
 - 5. Provide any engineering calculations and/or plans required for execution of CONTRACTOR'S construction methods
- C. Principal items of work include:
 - 1. Field location of existing on-site utility lines and improvements required for the execution of the work under this contract.
 - 2. Surveying and construction staking work required for the execution of the work under this contract.
 - 3. Civil, structural, or other professional engineering services required to execute Contractor's construction methods.

1.2 EXISTING DATA

- A. Review and verify the existing horizontal and vertical controls within two (2) weeks of Notice to Proceed, and prior to the start of work.
- B. Review all record documents provided by the OWNER within two (2) weeks of Notice to Proceed, and prior to the start of work,
- C. Site data given herein and on the Drawings are as exact as could be secured, but their absolute accuracy cannot be guaranteed. Exact locations, distances, elevations, etc., shall finally be governed by field conditions and the ENGINEER'S instructions.
- D. In the event there is any conflict between actual conditions and the Drawings, notify the ENGINEER immediately and do not proceed with the work until directed by the ENGINEER.

1.3 QUALIFICATIONS OF SURVEYOR

- A. California registered civil engineer or California licensed land surveyor, acceptable to OWNER

1.4 QUALIFICATIONS OF ENGINEER

- A. California registered engineer of the appropriate discipline, acceptable to OWNER.

1.5 SUBMITTALS

- A. Submit the name, address, and license number of the ENGINEER to the OWNER, if CONTRACTOR-provided.

PART 2 – PRODUCTS

2.1 NOT USED.

PART 3 – EXECUTION

3.1 PROTECTION OF SURVEY REFERENCE POINTS

- A. Locate and protect existing survey reference points prior to starting site work, and preserve all permanent reference points during construction.
- B. All stakes, boundary lines, corner markers, benchmarks survey markers, etc., which have been or may be established in any part of the site, must be carefully preserved and respected by the CONTRACTOR and must be restored at the CONTRACTOR's expense if lost or destroyed as a result of the CONTRACTOR's operations.

3.2 CONSTRUCTION STAKING

- A. Prior to the start of work, SURVEYOR shall review and verify the existing horizontal and vertical controls. Report any discrepancies to the ENGINEER.
- B. Establish and safeguard a minimum of two permanent benchmarks on the project site.
- C. SURVEYOR shall establish all necessary horizontal and vertical survey control lines and points on site prior to commencement of CONTRACTOR's work, as outlined below. These controls shall be maintained by the CONTRACTOR throughout the course of construction.
- D. The following survey stakes shall be provided by the CONTRACTOR-PROVIDED SURVEYOR for use in constructing the improvements as shown on the contract documents.
 - 1. Rough Grade Stakes for areas to be paved and play area to be excavated.
 - 2. Finish Grade Stakes for curbs, gutters, slabs, and sidewalk areas – Provided stakes at grade breaks and angle points, at beginning and end of horizontal and vertical curves, at maximum 25' spacing on curved alignments, at 50' spacing on tangent alignments, and as generally necessary for construction of the work.

3.3 RECORDS

- A. Maintain a complete, accurate log of all control and survey work as it progresses.
- B. Upon completion of final site improvements, prepare record (as-built) drawings including locations and elevations of all underground utilities, site drainage piping and structures, points of connection, manholes and drain inlets, and locations of utility stub outs.

END OF SECTION

DIVISION 11 EQUIPMENT

SECTION 11 6817

PLAYGROUND EQUIPMENT

PART 1 - GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and General Provisions of Contract, including General and Supplementary Conditions and Division-1 Specification Sections, apply to the work of this Section.

1.02 DESCRIPTION OF WORK

- A. Scope: Furnish labor, material, and equipment necessary for the provision and installation of the playground equipment, structure or modular unit as shown on the drawings and specified herein. Work shall include but not be limited to the following: excavation, layout, and the provision and installation of playground equipment, structure or modular unit in accordance with the manufacturer's installation instructions, including all appurtenances and accessories as required for a full and complete installation. Items to be installed include:
 - 1. Playground Equipment
- B. Related work includes but is not limited to:
 - 1. Earthwork and Grading
 - 2. Site Concrete

1.03 STANDARDS

- A. Applicable ASTM International Standards (latest revisions) as they apply to this work and related test methods, including:
 - 1. F1487 Consumer Safety Performance Specification for Playground Equipment for Public Use
 - 2. F1951 Specification for Determination of Accessibility of Surface Systems under and around Playground Equipment.
- B. U.S. Consumer Product Safety Commission, CPSC Publication #325: Handbook for Public Playground Safety, latest edition.
- C. Department of Justice 2010 American Disabilities Act Standards for Accessible Design (ADAAG 28 CFR Part 36).

1.04 QUALITY ASSURANCE

- A. The equipment manufacturer shall warrant material and workmanship against defects, from the date of manufacturer's invoice, for the period of time as expressed in the attached Miracle Recreation Equipment Company Warranty.
- B. The Contractor shall guarantee installation workmanship for a period of one year from the date of Substantial Completion of the Project. The Contractor shall be responsible for coordinating manufacturer material warranty items with the manufacturer/distributor and for the installation of replacement material(s) at no additional cost to the Owner.
- C. Upon request, provide copy of Contractor's installation warranty on company letterhead.
- D. All products shall bear the certification seal of the International Play Equipment Manufacturers Association (IPEMA). All designs shall meet or exceed the Americans with Disabilities Act (ADA) "Final Accessibility Guidelines for Play Areas" regulations as published on October 18, 2000. All manufacturers must be ISO 9001 certified.

1.05 SUBMITTALS

- A. Play equipment manufacturer and manufacturer's representative's name(s) and address(es)
- B. Plan view drawings with model numbers, descriptive labels (including component names,) deck heights if applicable, and notations of compliance
- C. Detailed component list with model numbers and catalog descriptions
- D. Color Chart
- E. Written material specifications for all components
- F. IPEMA certification certificate from the IPEMA website
- G. Copy of manufacturer's warranty
- H. Copy of manufacturer's ISO 9001 Certification
- I. Approval of the submittals shall be the Contractor's authorization to order the required material and equipment. There will be no deviation from the approved submittals without the written authorization of the Owner's representative.

1.06 DELIVERY, STORAGE, AND HANDLING

- A. Deliver products in manufacturer's unopened containers, fully identified with Manufacturer's name, brand, type and grade.

- B. Protect products from weather, soiling and damage using handling equipment and storage techniques recommended by manufacturer.

PART 2 - PRODUCTS

2.01 PLAYGROUND EQUIPMENT

- A. General: The following is a list of play structure and playground equipment types and shall be approved via the shop drawing submittals process.

B. Qty	Model No.	Description
2	704796P1	Bell (Post Mount)
1	70471513B	Calypso 3 Drum Panel (Below Deck)
1	305	Inclusive Whirl
1	7049754B	Xylophone Panel (Below Deck)
3	718555	3 ½" OD X 70" Post for Play Panels
1	787	Risk Management Sign (Included at no cost)

as available from Miracle Recreation Equipment Company, Fred DiPietro, 800-879-7730, or approved equal.

- C. See drawings for the described color schedules of the various elements of playground equipment, structure or modular unit to be provided. Conveying changes to colors is the responsibility of the Owner, prior to ordering equipment.
- D. Approved equal via a substitution request prior to bid.

PART 3 - EXECUTION

3.01 GENERAL

- A. Verification of Conditions
1. Prior to installation of playground equipment footings and sub-slabs, verify location of underground utilities and facilities in the playground area. Bring any anticipated conflicts to the notice of the Owners Representative prior to layout and excavation. Damage to underground utilities and facilities will be repaired at no additional expense to the Owner.
 2. Prior to installation of playground equipment, verify that associated footings and sub-slabs have been installed in proper locations and at proper elevations.
 3. Verify locations of playground perimeter and pathways. Verify that playground layout and equipment locations including use zones comply with requirements for each type and component of equipment.
 4. Examine areas and conditions for compliance with requirements for site clearing, earthwork, site surface, sub-grade drainage, and other conditions affecting installation of playground equipment. Do not begin installation before final grading required for placing protective surfacing is complete, unless otherwise permitted by Owners Representative.

- B. Review all playground equipment and accessory locations with the Owners Representative prior to installation.
- C. Coordinate as required with the work of other trades, specifically with the resilient surfacing installer if applicable.
- D. Protection of In-Place Conditions: Protect surrounding areas, surfaces and appurtenances already in place during installation of playground equipment.

3.02 INSTALLATION – PLAY EQUIPMENT

- A. Explicit, printed installation instructions, written in English, shall be provided by Miracle Recreation Equipment Company, which shall include detailed, scaled plan views, elevations, and footing drawings and details when applicable, as well as sequential assembly instructions to assure proper installation of the playground equipment, structure or modular unit.
- B. Equipment must be installed by a Miracle Recreation-Certified equipment installer and must be installed in accordance with the manufacturer's installation instructions. The equipment shall be inspected after installations by a CPSI not employed by the installer and signed off by said CPSI before the playground is opened for first use. Such inspection shall be the responsibility of the Owner.

3.03 PLAYGROUND SAFETY AUDIT

- A. The playground site investigation and safety assessment (Audit) shall be performed by the CPSI as required by State law for the following types of public playground improvements: construction of new playgrounds, modifications to existing playground equipment and/or the installation of new equipment in an existing playground.
- B. The Contractor shall provide 3 days notice for the City's CPSI to perform the Audit.
- C. The Audit shall assess the layout and condition of the playground equipment and surfacing and identify any and all equipment, surfacing and signage that are not in compliance with the latest editions of ASTM F1487 and CPSC publication #325.
- D. The Audit shall be in a written report format, detailed and legible, utilizing checklists as recommended by the National Recreation and Park Association.
- E. The Audit shall establish playground equipment and surfacing standard of care.
- F. Non-Conforming Work: replace, modify or repair rejected work until compliance with the Audit is achieved. Any corrections necessary shall be to the satisfaction of the Owners Representative and at no additional cost to the Owner.

3.04 CLOSEOUT SUBMITTALS

- A. Contractor shall provide the Owner with one copy of complete manufacturer's installation instructions and maintenance kit if provided. Additional sets of installations instructions may be purchased from the manufacturer if originals are lost or damaged. It is the Contractor's responsibility to secure the installation instructions from the installer. Miracle Recreation mails one complete set of installation instructions directly to the Owner, and the Contractor shall not be required to supply additional sets to the Owner.

3.05 REPAIR, CLEAN-UP, AND PROTECTION

- A. Restore adjacent existing areas that have been damaged from the construction.
- B. Repair damaged play equipment finishes to match original finish or replace damaged products prior to Substantial Completion.
- C. Clean playground equipment of construction materials, dirt, stains, filings, and blemishes due to shipment or installation. Clean in accordance with manufacturer's instructions, using cleaning agents as recommended by manufacturer.
- D. Clean play areas of excess construction materials, debris, and waste.
- E. Remove excess and waste material and legally dispose of off-site.
- F. Protect installed products from damage or use until Substantial Completion.
- G. The site shall be kept clean and free of tools, trash, debris, and installation materials on a daily basis. Material may be stored on-site during installation with appropriate protective measures and approval by the Owner's representative.

END OF SECTION

DIVISION 11 EQUIPMENT

SECTION 11 6818

Rubber Safety Surface

PART 1 - GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and General Provisions of Contract, including General and Supplementary Conditions and Division-1 Specification Sections, apply to the work of this Section.

1.02 DESCRIPTION OF WORK

- A. Provide all labor, materials, and tools necessary for the complete installation of a poured in place safety surfacing system as outlined in these specifications. The system should consist of, but not necessarily be limited to, the following:
 - 1. Section includes: Resilient playground surfacing poured in place system.
 - 2. Related work: Playground equipment and resilient playground surfacing sub base.
- B. Related work includes but is not limited to:
 - 1. Earthwork and Grading
 - 2. Site Concrete

1.03 STANDARDS

- A. Applicable ASTM International Standards (latest revisions) as they apply to this work and related test methods, including:
 - 1. F1292 Specification for Impact Attenuation of Surface Systems under and around Playground Equipment.
 - 2. F1951 Specification for Determination of Accessibility of Surface Systems under and around Playground Equipment.
 - 3. F3012-14 Standard Specification for Loose-Fill Rubber for Use as a Playground Safety Surface under and around Playground Equipment.
- B. U.S. Consumer Product Safety Commission, CPSC Publication #325: Handbook for Public Playground Safety, latest edition.
- C. Department of Justice 2010 American Disabilities Act Standards for Accessible Design (ADAAG 28 CFR Part 36).

1.04 DEFINITIONS

- A. EPDM granules: EPDM rubber (ethylene propylene diene monomer (M-class) rubber), a type of synthetic rubber, is an elastomer characterized by a wide range of applications. The M refers to its classification in ASTM standard D-1418; the M class includes rubbers having a saturated chain of the polymethylene type.
- B. Critical Fall Height: A critical fall height (CFH) is the maximum height of fall from play equipment to the ground. It is important to note that safety surfaces do not prevent injury but aim to lessen the severity of any injury that may occur on falls from stated height(s).
- C. Fall Height: Fall height is a measurement defined as the vertical distance between a designated play surface and the protective surfacing beneath it.
- D. TPV: Thermoplastic Vulcanized Elastomer. Developed using resin and synthetic rubber with higher UB stabilization.
- E. SBR: Styrene-butadiene or styrene-butadiene rubber (SBR) describe families of synthetic rubbers derived from styrene and butadiene.

1.05 ASTM TESTING STANDARDS

FlexGround Standard meets or exceeds all required ASTM standards below.

- A. ASTM D624 Standard Test Method for Tear Strength of Conventional Vulcanized Rubber and Thermoplastic Elastomers.
- B. ASTM D2859 Standard Test Method for Flammability of Finished Textile Floor Covering Materials
- C. ASTM E303 Standard Test Method for Measuring Surface Frictional Properties Using the British Pendulum Tester
- D. ASTM F1292 Standard Specification for Impact Attenuation of Surface Systems Under and Around Playground Equipment
- E. ASTM F1951 Standard Specification for Determination of Accessibility of Surface Systems Under and Around Playground Equipment
- F. ASTM C1028 Standard Test Method for Determining the Static Coefficient of Friction of Ceramic Tile and Other Like Surfaces by the Horizontal Dynamometer Pull Meter Method – This standard replaces ASTM D2047
- G. ASTM D412 Standard Test Methods for Vulcanized Rubber and Thermoplastic Rubbers and Thermoplastic Elastomers-Tension

1.06 QUALITY ASSURANCE

- A. Manufacturer should have manufactured and installed playground poured in place safety surfaces for a minimum of 5 years, and meet current ASTM F-1292 Test Criteria. The installation of the poured in place product should be completed by FLEXGROUND. Manufacturer's detailed installation procedures should be submitted to the Architect and made part of the Bid Specifications.
- B. The manufacturer must be experienced in the manufacturing of a poured in place safety surfacing system and provide references of five (5) specific installations in the last three (3) years.
- C. The installer must provide competent workmen skilled in this specific type of poured in place safety surfacing system installation. The designated supervisory personnel on the project must be competent in the installation of this material, including mixing, spreading and compacting the materials correctly.
- D. Installation should be in accordance with ASATM F1292 for Impact Attenuation of surface system under and around playground equipment. The poured in place system to be installed in compliance with the Critical Fall height as determined by the Playground Equipment.
- E. Manufacturer should provide written instructions for recommended maintenance practices.
- F. Manufacturer should submit color samples for customer verification. Color samples shall be 6"x6" of 1/2" top wear course layer with aliphatic binder – per client selection or specification; or 8 oz clear plastic jars with specified colored granules. Sample submittal format per client preference.
- G. Substitutions: no substitutions permitted without prior written approval of the Owners Representative.
- H. Modifications: Submit Drawings with proposed modifications clearly identified and sufficient information to determine compliance with specified criteria. Incomplete Drawings will be rejected.
- I. Site Documentation: Maintain one copy of the latest edition of ASTM F1487 and CPSC publication #325 at project site.
- J. Safety Audit: On completion of installation, the Owner shall provide a playground site investigation and safety assessment by a Certified Playground Safety Inspector (CPSI), and the contractor shall address any issues noted at no additional cost to the Owner.

1.07 SUBMITTALS

The bidder and/or poured in place safety surfacing manufacturer must provide the following:

- A. Certificates:
 - 1. IPEMA Certification specific to poured in place safety surfacing.

2. IPEMA certification specific to ½" layer of .5mm TPV or EPDM over cushion layer. 1-4mm TPV or EPDM IPEMA certification not acceptable.
- B. The poured in place safety surfacing manufacturer should provide a warranty to the owner that covers defects in materials and workmanship of the rubber for a period of SEVEN (7) years when TPV is used or FIVE (5) years if EPDM is used, from the date of Substantial Completion.
- C. The manufacturer's warranty should include general wear and tear. The warranty should specifically exclude vandalism, high heel punctures, acts of war or acts of nature beyond the control of the owner or the manufacturer.
- D. All poured in place warranties should be limited to repair or replacement of the affected areas and should include all necessary materials, labor, transportation costs, etc. to complete said repairs.
- E. The manufacturer should instruct the owner's personnel on proper maintenance and repair of the ULTRAFLEX safety surface.
- F. All warranties, expressed or implied, are contingent upon the following:
 1. Installation being performed by FLEXGROUND
 2. Owner, at owner's expense, having a Flexcoat performed at 2-year intervals from date of substantial completion
 3. Full payment by the owner of all pertinent invoices and adherence to any required maintenance procedures.

PART 2 - PRODUCTS

2.01 Rubber Safety Surface

The ULTRAFLEX poured in place safety surfacing system should be in accordance with the following:

- A. A dual durometer poured in place system with a wearing layer upper membrane and an underlying impact attenuation cushion layer. The finished surface should be porous and capable of being installed at varying thickness to comply with the Critical Fall Height requirements of the playground equipment.
- B. FLEXGROUND primer is a 100% solids urethane primer/sealer. It is designed with low viscosity and penetrating abilities making this an ideal priming urethane.
- C. The cushion layer should be a mixture of black recycled rubber mixed with a 100% solids moisture cured aliphatic or aromatic Polyurethane binder (100 pounds of rubberized cushion layer to 12 pounds of binder) installed at the appropriate thickness for a 3' fall height. As an upgrade, a 5/8" chunk rubber derived only from high quality pre-consumer recycled rubber containing EPDM is available. The cushion layer should be porous.
- D. The ULTRAFLEX wearing surface should be manufactured from .5mm TPV or EPDM virgin colored rubber granules bonded by FLEXGROUND binder, 100% solids moisture cured aliphatic

or aromatic Polyurethane binder (110 pounds of TPV to 24.2 pounds of binder) and applied to a minimum thickness of ½" (12.7mm) over the cushion layer.

- E. The system color should be selected from Manufacturer's Color Chart by owner prior to bid.

PART 3 – SITE PREPARATION AND BASE

The ULTRAFLEX site preparation and base should be in accordance with the following:

- A. The sub-base will have a slope of 2%.
- B. The base aggregate should consist of a minimum of four inches (4") of ¾" Class 2 aggregate compacted to 95%. Finish slope of porous aggregate should be 2% from the centerline of the area to the perimeter, and the grade should not vary more than a quarter inch (¼") in ten feet (10').
- C. The sub-base should be installed in two-inch (2") lifts to appropriate thickness.
- D. The sub-base should be compacted using vibrating tamper, to approximately 95% Proctor density.
- E. The sub-base should no longer have any vegetation.
- F. Subgrade prior to aggregate installation: Sublevel grade is to be compacted prior to the ABC aggregate installation. Particular attention should be paid to areas of disturbed earth such as where footers for playground equipment enter the ground. Concrete used to fill said areas/footers should be poured to the top of sublevel surface.
- G. The sub-base installer and architect will accept the aggregate base in writing prior to the installation of the poured in place system.
- H. Any alterations must be agreed upon between all parties.
- I. Hard Base Construction: For concrete surfaces, shot blast, acid etch, or power scarify as required to obtain optimal bond of the Cushion Layer to the concrete. Remove sufficient material to provide a sound surface, free of glaze, efflorescence, or form release agents. Remove grease oil, and other penetrating contaminants.
- J. For concrete or asphalt surface that is not enclosed (i.e., a curb to curb pour), the concrete shall have keyway cuts 1.5" wide by 1.5" deep so that the system can be bull nosed down into the notch area.

PART 4 - EXECUTION

The poured in place safety surfacing installer should strictly adhere to the installation procedures outlined under these sections. Any variance from these requirements should be accepted in writing by the manufacturer's onsite representative and submitted to the architect/owner, verifying that the changes do not in any way affect the warranty.

4.01 GENERAL

- A. Trailer/Large truck access will be necessary for the installation. In the case that access for trailer/truck is not available the owner or general contractor will be responsible for transporting material to the job site.
- B. Crew is responsible for protecting the surface only while present on site. General Contractor or owner shall be responsible for the security of the surfacing overnight during installation, as well as during the product's cure period after completion of the install.
- C. Crew will leave site clean and shall remove all trash and debris.
- D. Contractor, at their expense, shall provide a dumpster for all waste and trash.

4.02 PRIMER

- A. A urethane primer should be applied to concrete, asphalt, or wood surfaces at a rate of 200-150 square feet per gallon. The entire area does not need to be primed at once, instead prime about 700 square feet at a time in immediate advance of rubber installation. This procedure should be continued until all areas are complete.
- B. The urethane primer should be applied to any playground equipment that will be surrounded by the poured in place safety surfacing system.

4.03 CUSHION LAYER

- A. The components of the poured in place safety surfacing should be mixed on site in a mixer to ensure a comprehensive mix according to manufacturer's instructions.
- B. The cushion layer comprised of SBR buffings shall be mixed with the aromatic or aliphatic moisture cure polyurethane binder at a rate of 12% of the total weight of the material thoroughly so that the binder is evenly dispersed into the rubber base. Or,
- C. The cushion layer comprised of non-tire derived SBR & EPDM Chunk Rubber shall be mixed with the appropriate amount of urethane so that the binder is evenly dispersed into the rubber base.
- D. The cushion layer mix should then be spread and troweled to the desired depth and allow to cure for 24 hours.

4.04 WEAR COURSE LAYER

- A. The wear course layer should be mixed with .5mm TPB or EPDM granules and aliphatic urethane binder at a rate of 22% of the total weight of the materials so the granules are covered thoroughly and evenly.
- B. The wear course layer mix should be spread and troweled to a depth of a half inch (½”).
- C. Where seams are required due to color change, a step configuration with a 4” overlap will be constructed to maintain wear surface integrity.
- D. The finished texture shall be slip resistant, smooth and even.
- E. The poured in place surface should be allowed to cure for 24-72 hours or until dry to the touch.

4.05 PLAYGROUND SAFETY AUDIT

- A. The playground site investigation and safety assessment (Audit) shall be performed by the CPSI as required by State law for the following types of public playground improvements: construction of new playgrounds, modifications to existing playground equipment and/or the installation of new equipment in an existing playground.
- B. The Contractor shall provide 3 days notice for the City’s CPSI to perform the Audit.
- C. The Audit shall assess the layout and condition of the playground equipment and surfacing and identify any and all equipment, surfacing and signage that are not in compliance with the latest editions of ASTM F1487 and CPSC publication #325.
- D. The Audit shall be in a written report format, detailed and legible, utilizing checklists as recommended by the National Recreation and Park Association.
- E. The Audit shall establish playground equipment and surfacing standard of care.
- F. Non-Conforming Work: replace, modify or repair rejected work until compliance with the Audit is achieved. Any corrections necessary shall be to the satisfaction of the Owners Representative and at no additional cost to the Owner.

4.06 CLOSEOUT SUBMITTALS

- A. Manufacturer’s warranty: Submit manufacturer’s warranty and ensure that forms have been completed in the Owner’s name and registered with manufacturer.
- B. Maintenance / Parts: Manufacturer’s recommended maintenance instructions and list of replaceable parts for each equipment item, with address and phone number of source of supply.

4.07 REPAIR, CLEAN-UP AND PROTECTION

- A. Restore adjacent existing areas that have been damaged from the construction.
- B. Repair damaged play equipment finishes to match original finish or replace damaged products prior to Substantial Completion.
- C. Clean playground equipment of construction materials, dirt, stains, filings, and blemishes due to shipment or installation. Clean in accordance with manufacturer's instructions, using cleaning agents as recommended by manufacturer.
- D. Clean play areas of excess construction materials, debris, and waste.
- E. Remove excess and waste material and legally dispose of off-site.
- F. Protect installed products from damage or use until Substantial Completion.

END OF SECTION

DIVISION 12 FURNISHINGS

SECTION 12 9301

SITE FURNISHINGS

PART 1 - GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and General Provisions of Contract, including General and Supplementary Conditions and Division-1 Specification Sections, apply to the work of this Section.

1.02 DESCRIPTION OF WORK

- A. Extent: Furnish all labor, material, equipment, tools, and incidentals necessary for the provision and installation of Site Furnishings as shown on the Drawings and as specified in this Section. The work includes all miscellaneous hardware, foundations, footings and miscellaneous appurtenances associated with the installation. Items to be installed include:
 - 1. Drinking Fountain
- B. Related work includes but is not limited to:
 - 1. Site Concrete
 - 2. Reset Benches

1.03 STANDARDS

- A. Unless otherwise shown or specified, all materials and methods shall conform to the appropriate current sections of: The State of California Department of Transportation (CALTRANS) Standard Specifications, latest edition, except for measurement and payment requirements.
- B. Applicable ASTM International Standards (latest revisions) as they apply to this work and related test methods.
- C. Applicable ISO Testing Standards (latest revisions) as they apply to this work.

1.04 SUBMITTALS

- A. Documentation: product data for all standard site furnishings and accessories.
- B. Samples: manufacturer's sample chips of all finishes and colors specified.
- C. Shop Drawings: for all custom site furnishings and accessories. Show all locations, markings, quantities, materials, sizes, and shapes and indicate all methods of connecting, anchoring, fastening, bracing, and attaching to the work of other trades.

- D. Maintenance Data: At Substantial Completion submit maintenance information for site furnishings and accessories where applicable for inclusion in the Owner's maintenance manuals.

1.05 QUALITY ASSURANCE

- A. Manufacturer's Instructions: Materials, products, processes, equipment or the like shall be installed or applied in strict accordance with printed instructions furnished by the manufacturer of the material for use under conditions similar to those at the job site.
- B. Perform all work in accordance with all applicable State and local laws, codes and regulations.

1.06 DELIVERY, STORAGE & HANDLING

- A. Delivery & Handling: Transport, store and handle precast units and manufactured items in a manner to avoid hairline cracks, staining or other damage.
- B. Storage & Protection Store units free of the ground and protected from mud or rain splashes. Cover units, secure covers firmly, and protect the units from dust, dirt or other staining material.

PART 2 - PRODUCTS

2.01 FURNISHINGS

- A. Drinking Fountain: MODEL 10145 SMFA, manufactured by Most Dependable Fountains, Inc., Color: Blue.
- B. Approved equals, prior to bid.

PART 3 - EXECUTION

3.01 GENERAL

- A. Review and Adjustment: Locate all site furnishings as shown on the Drawings. Review all site furnishing locations prior to proceeding with any installation. Make adjustments as approved by the Owners Representative.
- B. Install all embedded site furnishings in concrete paving areas prior to the concrete pour. Schedule the receiving of equipment in conjunction with the concrete pour. Any block outs of concrete pour due to scheduling conflicts shall be approved by the Owners Representative and at no additional cost to the Owner. Finish of any block out areas shall match adjacent paving.
 - 1. Furnishings damaged due to the concrete pour shall be replaced at the discretion and to the satisfaction of the Owners Representative, and not repaired or cleaned.

3.02 INSTALLATION

- A. Site Furnishings: install per manufacturer's recommendations and as shown on the Drawings and as specified herein.

- B. Comply with manufacturer's written installation instructions unless more stringent requirements are indicated. Complete field assembly of site furnishings where required.
- C. Set all work true and square, plumb and level. Provide spacers under furniture to level to the satisfaction of the Owner's Representative.

3.03 CLEAN-UP

- A. After completion of all operations, remove all excess soil, trash, and other debris. Clean all walks, walls, and pavement, leaving the entire area in a neat, orderly condition.

3.04 CLOSEOUT SUBMITTALS

- A. Maintenance Data: cleaning and maintenance information for site furnishings and accessories.

END OF SECTION

DIVISION 31 EARTHWORK

SECTION 31 00 01

EARTHWORK

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 01 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes:
 - 1. Clearing
 - 2. Stripping
 - 3. Excavation
 - 4. Moisture conditioning and compaction
 - 5. Embankment

1.3 REFERENCES

- A. California Building Standards Code (CBSC), 2016 Edition
- B. California Code 4216 – Protection of Underground Infrastructure
- C. California Occupational Safety and Health Administrative Code
- D. Standard Specifications, State of California, Department of Transportation (Caltrans), 2010 Edition
- E. ASTM C136 – Standard Test Method for Sieve Analysis of Fine and Coarse Aggregates
- F. ASTM D1556 – Standard Test Method for Density of Soil in Place by the Sand - Cone Method.
- G. ASTM D1557 - Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort
- H. ASTM D2419 - Standard Test Method for Sand Equivalent Value of Soils and Fine Aggregate
- I. ASTM D2487 - Standard Practice for Classification of Soils for Engineering Purposes (Unified Soil Classification System)
- J. ASTM D2922 - Standard Test Method for Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth)
- K. ASTM D3017 - Standard Test Method for Water Content of Soil and Rock in Place by Nuclear Methods (Shallow Depth)

1.4 SUBMITTALS

- A. Submit samples of proposed imported engineered fill materials to the GEOTECHNICAL ENGINEER. Number and size of samples shall be as directed by the GEOTECHNICAL ENGINEER.
- B. Submit gradation and quality testing results for proposed imported engineered fill materials to the GEOTECHNICAL ENGINEER.
- C. Submit samples and test results at least two weeks prior to planned purchase/delivery.

- D. Existing on-site soils will be sampled and tested by the GEOTECHNICAL ENGINEER during construction.

1.5 DEFINITIONS

- A. Relative Compaction, or Percent Relative Compaction: Dry density expressed as a percentage of the maximum dry density at optimum moisture content obtained in accordance with ASTM D1557.
- B. Remove: Remove and dispose of off-site, in a legal manner.

PART 2 – PRODUCTS

2.1 MATERIALS

- A. General Engineered Fill – Proposed fill material shall be of approved on-site soil supplemented by imported material, if necessary.
 - 1. On-site soil shall meet the following requirements:
 - a. Soil shall be free of organics, debris, and other deleterious materials, and recycled materials such as asphaltic concrete, concrete, brick, etc.
 - b. Soil shall not contain any rocks and clods over 4 inches in maximum dimension
 - 2. Imported soil shall meet the following requirements:
 - a. Soil shall be free of organic and deleterious materials, and recycled materials such as asphaltic concrete, concrete, brick, etc.
 - a. Soil shall not contain any rocks or clods over 4 inches in maximum dimension, and shall not contain over 15 percent by weight rocks larger than 2 inches.
 - b. Soil shall be granular, having a plasticity index of less than 15, and not more than 20 percent by weight passing the #200 sieve.
 - c. Soil shall have sufficient binder to allow excavations to stand without caving.
 - d. The portion finer than the no. 200 sieve shall not contain any expansive clays.
- B. Controlled Density Fill – Slurry cement backfill conforming to the Standard Specifications.

PART 3 – EXECUTION

3.1 GENERAL

- A. All improvements shall be constructed in accordance with the California Building Code, the Drawings, and these Specifications.
- B. Onsite grading and earthwork, site preparation, excavation, trenching and compaction shall be observed and tested by the GEOTECHNICAL ENGINEER. All grading and earthwork shall be done to the satisfaction of the GEOTECHNICAL ENGINEER.
- C. In the event that any unusual conditions are encountered during grading operations which are not covered by these Specifications, the GEOTECHNICAL ENGINEER shall be immediately notified such that additional recommendations may be made
- D. Provide dust control in accordance with all federal, state, and local requirements

3.2 PREPARATION

- A. Layout all work, establish grades, locate existing underground utilities, set markers and stakes, set up and maintain barricades and protection for utilities, benchmarks, paving, site features, and the public.
- B. Excavation for any purpose shall not remove lateral support from any foundation without first underpinning or protecting the foundation against settlement or lateral translation. The excavation outside the foundation shall be backfilled with soil that is free of organic material, construction debris, cobbles, and boulders or with a controlled low-strength material (CLSM). The backfill shall be placed in lifts and compacted in a manner that does not damage the foundation or the waterproofing or dampproofing material.

3.3 CLEARING AND STRIPPING

- A. Remove structures, pavements, and utilities as shown on the Drawings.
- B. Areas to be graded shall be cleared of all grass, brush, trees, rubbish, and debris. The cleared materials shall be removed from areas to be graded and shall be disposed of in areas designated by the Owner.
- C. Completely remove tree stumps and root balls in areas to receive pavements, structures, or engineered fill.
- D. Upper natural soils containing roots, deleterious materials, and excessive organics shall be stripped from all areas to be graded. This material shall not be reused as compacted fill and shall either be removed from the site or stockpiled for later use in landscape areas.
- E. Unanticipated buried subsurface objects encountered, or voids created during site preparation, shall be called to the attention of the geotechnical engineer.

3.4 EXCAVATION, MOISTURE CONDITIONING, AND RECOMPACTION

- A. Following clearing and stripping, subgrade shall be cut and finished true to line and grade, to present a smooth surface free from ruts, hummocks or other uneven features which would tend to prevent uniform compaction.
- B. The exposed subgrade shall then be scarified to a depth of 8 inches, moisture conditioned, and recompacted to at least 90% relative compaction.
 - 1. In vehicular traffic areas, recompact to 95% relative compaction.
- C. When the moisture content of the subgrade is below the desired moisture, water shall be added until the proper moisture content is achieved.
- D. When the moisture content of the subgrade is too high to permit the specified compaction to be achieved, the subgrade shall be aerated by blading, ripping, diking or other methods until the moisture content is satisfactory for compaction.

3.5 PLACING, SPREADING, AND COMPACTING FILL MATERIAL

- A. The geotechnical engineer shall inspect all surfaces to receive fill prior to the placement of fill.
- B. Fill shall be placed in horizontal layers not exceeding eight inches (8") in loose thickness (before compaction). Each layer shall be spread evenly and shall be thoroughly mixed during the spreading to promote uniformity of material in each layer.
- C. All re-compacted and engineered fill soils shall be compacted within 3 percent of the laboratory optimum moisture content for the soil.

1. When the moisture content of the fill material is below the proper moisture, water shall be added until the proper moisture content is achieved.
 2. When the moisture content of the fill material is too high to permit the specified degree of compaction to be achieved, the fill material shall be aerated by blading, ripping, or disking or other methods until the moisture content is satisfactory.
- D. After each layer has been placed, mixed, and spread evenly, it shall be thoroughly compacted to at least 90% relative compaction.
1. Compact the upper 12 inches of finished subgrade in vehicular traffic areas to at least 95% relative compaction.
- E. Compaction shall be undertaken with equipment capable of achieving the specified density and shall be accomplished while the fill material is at the required moisture content. Each layer shall be compacted over its entire area until the required density has been obtained.
- F. Fill slopes shall be compacted by slope rolling and trimming or shall be overfilled and trimmed back to planned grade.
- G. The filling operations shall be continued until the fills have been brought to the finished slopes and grades as shown on the Drawings.
- H. Fill slopes shall be no steeper than 2:1 (horizontal to vertical), unless shown otherwise in the Construction Documents.
- I. The completed fill shall be finished true to line and grade. Any depressions shall be filled and compacted and all loose material shall be removed.
- 3.6 SUBGRADE PREPARATION IN PAVEMENT AREAS:
- A. Pavement Areas are exterior areas which are not in the building subgrade preparation area and which will receive asphalt, concrete, or DG pavement or other flatwork, including parking lots, driveways, access roads, patios, equipment slabs, curbs, gutters, or sidewalks.
 - B. Subgrade preparation in pavement areas shall be in accordance with the Geotechnical Report and as directed by the GEOTECHNICAL ENGINEER.
 1. Over-excavate to at least 12 inches below pavement subgrade or existing grade, whichever is lower.
 - C. Subgrade preparation shall extend at least 1 foot horizontally beyond the edge of pavement areas.
- 3.7 SURPLUS MATERIAL
- A. Surplus material shall become the property of the CONTRACTOR and shall be disposed of off the site in a legal manner.
- 3.8 TESTING AND OBSERVATION
- A. The GEOTECHNICAL ENGINEER will inspect all surfaces to receive fill prior to the placement of any fill.
 - B. The GEOTECHNICAL ENGINEER will make field density tests after compaction of each layer of fill or as determined necessary. Additional layers of fill shall not be spread until the field density tests indicate that the minimum specified density has been obtained.
 - C. Should the result of any compaction test fail to meet the minimum required density as specified in these Specifications or in the Geotechnical Report, the deficiency shall be corrected to the satisfaction of the GEOTECHNICAL ENGINEER, at the contractor's expense. The expense of retesting such areas shall also be borne by the contractor.

END OF SECTION

DIVISION 31 EARTHWORK

SECTION 31 1117

DEMOLITION

PART 1 - GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and General Provisions of Contract, including General and Supplementary Conditions and Division-1 Specification Sections, apply to the work of this Section.

1.02 DESCRIPTION OF WORK

- A. Extent: Furnish all labor, material, equipment, tools, and incidentals necessary for Demolition work as shown on the Drawings and as specified in this Section. The work includes:
 - 1. Demolition of concrete walks and asphalt paving, including associated curbs, gutters, and aggregate base.
 - 2. Saw-cutting of existing concrete and asphalt as required.
 - 3. Site clearing and grubbing
- B. Related work includes but is not limited to:
 - 1. Earthwork and Grading

1.03 DEFINITIONS

- A. Topsoil: See Specification Section Earthwork and Grading.

1.04 SUBMITTALS

- A. Indicate on the project schedule submittal, proposed time for demolition work in this Section, including shut-off time and capping of any utility service.

1.05 QUALITY ASSURANCE

- A. Reviews: Prior to any site clearing or demolition work, prepare protection measures for review by the Owners Representative.

1.06 SITE CONDITIONS

- A. Occupancy: Paving areas and structures to be removed or demolished will be vacated and discontinued in use prior to the start of work.
- B. Explosives: Use of explosives for demolition work is not permitted.
- C. Traffic: Conduct demolition operations and the removal of debris to ensure minimum interference with roads, streets, walks, and other adjacent occupied or used facilities. Do not close or obstruct streets, walks, or other occupied facilities without permission from Owner.
- D. Protection: Ensure the safe passage of persons around the area of demolition. Conduct operations to prevent damage to adjacent buildings, structures, other facilities, and injury to persons. See Special Provisions for additional information regarding building access.
- E. Construction Fence: Contractor is required to fence site and provide an adequate level of safety and protection at all times during construction
- F. Protection of existing trees and vegetation to remain: Protect all trees and shrubs to remain.
- G. Damage: Promptly repair damages caused to adjacent facilities by demolition operations at no cost to Owner.

PART 2 - PRODUCTS

Not applicable.

PART 3 - EXECUTION

3.01 GENERAL

- A. Protect all trees and items to remain in place.
- B. Clearing and grubbing:
 - 1. Protection measures for trees to be preserved are to be in place and reviewed by the Owner's Representative prior to any clearing and grubbing.
 - 2. Clear and grub only areas as necessary to construct improvements shown on the Drawings.
 - 3. Use only hand methods for grubbing inside the drip line of trees indicated to be preserved, unless otherwise approved by the Owners Representative.
 - 4. Remove vegetation, improvements, and obstructions protruding through the ground surface and/or interfering with installation of new construction. Removal includes stumps and roots
 - 5. Remove all organic matter in unpaved areas to be replanted, to a sufficient depth to remove such material. Replanting includes areas with mulch-only applications. The depth of removal will vary with the type and density of vegetation across the project site and with the time of year.
 - 6. Remove all vegetation and grass before stripping existing topsoil.

7. Strip existing topsoil from all unpaved areas to be improved with paving, structures, to whatever depths are encountered in a manner to prevent intermingling with underlying subsoil or other waste materials.
8. Remove all vegetation matter from collected existing topsoil and stockpile for re-use in proposed planting areas unless otherwise instructed by the Owner's Representative. See Specification Section Soil Preparation. Do not use stockpiled existing topsoil as structural fill and/or under proposed paving.

3.02 DEMOLITION

- A. Pollution Controls:
 1. Use water sprinkling, temporary enclosures, and other suitable methods to limit the amount of dust and dirt rising and scattering in the air to the lowest practical level.
 2. Comply with governing regulations pertaining to environmental protection. Do not use water when it may create hazardous or objectionable conditions such as flooding.
 3. Clean adjacent structures and improvements of dust, dirt, and debris caused by demolition operations, as directed by the Owner or governing authorities.
- B. General: Remove above and below grade pavements, curbing and other conditions necessary to permit new construction and other work as indicated on the Drawings. Removal of underground pipe or conduit interfering with construction is included under this Section.
- C. Damage: Return adjacent areas to condition existing prior to the start of the work.
- D. Saw-cutting: Saw-cut all asphalt and concrete to interface with new planting or paving areas. Concrete interfaces are to be saw-cut with a diamond tipped blade. Use the correct blade for the application as determined by the Blade Application Code for Diamond Saw Blades, 2004 edition, developed by the Masonry and Concrete Saw Manufacturers Institute.
- E. Salvaged Items: Deliver all items noted for salvage and not to be re-used on site to the Owner, unless directed otherwise by the Owners Representative.

3.04 REMOVAL OF PAVEMENTS AND STRUCTURES

- A. All existing pavement, structures, footings and base material within the limits of work not shown to be retained shall be removed and resulting voids shall be backfilled with engineered filled or controlled density fill.

3.05 SAWCUTTING

- A. Sawcutting shall be done so as to provide a straight, neat edge. Where construction operations cause damage beyond the limits of the sawcut line, the damaged area shall also be removed and replaced to a sawcut edge.
- B. Sawcut slurry shall be vacuumed and not be allowed to run into catch basins.

- C. Asphalt concrete pavement shall be sawcut at the locations indicated by the engineer and as shown on the plans. Sawcut lines shall be parallel or perpendicular to the adjacent curb line where possible. Sawcut shall be to a minimum depth of 2 inches.
- D. Curb and gutter shall be sawcut at the locations indicated by the engineer and as shown on the plans. Sawcut shall be to a minimum depth of 6 inches.
- E. Sidewalk shall be sawcut at the locations indicated by the engineer and as shown on the plans. Sawcut lines shall coincide with existing score marks or joints. Sawcut shall be to a minimum depth of 6 inches, or to a full depth, whichever is less.

3.06 UTILITY REMOVAL AND ABANDONMENT

- A. Pipes 4" and larger, vaults, risers, boxes, inlets, etc. Which are not to be retained in service shall be completely removed from within the work area. Pipes smaller than 4" may be abandoned in place by capping both ends of the pipe, unless otherwise noted.

3.07 CLEAN-UP

- A. Disposal Waste materials are defined as all materials generated by demolition or excavation that are not identified for salvage or re-use by the Owner. Dispose of waste materials legally off-site.

END OF SECTION

DIVISION 32 EXTERIOR IMPROVEMENTS

SECTION 32 11 24

AGGREGATE BASE COURSE

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 01 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes:
 - 1. Class 2 aggregate subbase
 - 1. Class 2 aggregate base

1.3 REFERENCES

- A. Standard Specifications, State of California, Department of Transportation (Caltrans), 2015 edition.
- B. ASTM D1557 - Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft³).
- C. ASTM D1556 - Standard Test Method for Density of Soil in Place by the Sand - Cone Method
- D. ASTM D2922 - Standard Test Method for Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth)
- E. ASTM D3017 - Standard Test Method for Water Content of Soil and Rock in Place by Nuclear Methods (Shallow Depth).

1.4 SUBMITTALS

- A. Results of laboratory testing for gradation, R-value, Sand Equivalent, and Durability Index in accordance with Sections 25 and 26 of the Standard Specifications.
- B. Materials certificates signed by material producer and Contractor, certifying that each material item complies with, or exceeds, the specified requirements.

PART 2 – PRODUCTS

2.1 MATERIALS

- A. Class 2 Aggregate Subbase shall conform to Section 25 of the Standard Specifications.
- B. Class 2 Aggregate Base shall conform to Section 26 of the Standard Specifications.

PART 3 – EXECUTION

3.1 GENERAL

- A. Perform work in conformance with Sections 25 and 26 of the Caltrans Standard Specifications.

3.2 PREPARATION

- A. Prepare subgrade as specified in Section 31 00 00.
- B. Sprinkle the subgrade regularly to moisten the surface and to prevent it from drying out and/or cracking prior to the placement of aggregate base.

3.3 INSTALLATION

- A. Deliver, handle, place and compact aggregate base per Sections 25 and 26 of the Standard Specifications.
- B. Compact aggregate subbase and aggregate base to at least 95 percent relative compaction as determined by ASTM D1557.

3.4 FIELD QUALITY CONTROL

- A. The GEOTECHNICAL ENGINEER will field test subgrade and aggregate base course compaction.

END OF SECTION

DIVISION 32 EXTERIOR IMPROVEMENTS

SECTION 32 12 17

ASPHALT CONCRETE PAVING

PART 1 – GENERAL

1.1 SUMMARY

- A. This Section includes:
 - 1. Asphalt concrete paving (Hot Mix Asphalt).

1.2 RELATED REQUIREMENTS

- A. Section 32 11 23 – Aggregate Base Course.

1.3 REFERENCES

- A. Standard Specifications, State of California, Department of Transportation (Caltrans), 2015 edition.

1.4 SUBMITTALS

- A. Hot mix asphalt mix design prepared by a certified laboratory
- B. Materials certificates signed by material producer and Contractor

PART 2 – PRODUCTS

2.1 ASPHALT CONCRETE PAVEMENT (HOT MIX ASPHALT)

- A. HMA Type A in accordance with Section 39 of the Standard Specifications.
 - 1. Construction Process: Standard.
 - 2. Tack Coat: as required by the Standard Specifications

PART 3 – EXECUTION

3.1 GENERAL

- A. Perform work in accordance with Section 39 of the Standard Specifications.
- B. Equipment, methods and tolerances used for spreading and compacting HMA shall comply with the requirements of Standard Specifications.
- C. Finish paving shall conform to slopes, lines and finish grades shown and noted on the Drawings and shall drain properly.
 - 1. Maintain line and profile shown on the Construction Drawings to tolerance of 1/4 inch plus/minus, in any 10 feet, non-cumulative.
 - 2. HMA surface shall be free from depressions exceeding 1/8 inch when measured with a 10 foot straight-edge.
- D. Surface shall be free of gouges, ridges and ruts, with a uniform and consistent finish.
- E. Where adjacent surfaces are intended to be flush, they shall conform smoothly at all points with no greater than 1/4 inch grade differential, and shall drain properly across the seam.

3.2 FIELD QUALITY CONTROL

- A. Field density and thickness testing of asphalt pavement will be performed by the GEOTECHNICAL ENGINEER.
- B. For accessible paths of travel and accessible parking areas, comply with California Building Code accessibility requirements regarding:

1. Surface: slip resistant
2. Changes in Level: 1/4 inch or less (vertical)
3. Path of travel:
 - a. Clear Width: 4 feet minimum, unless otherwise noted
 - b. Running Slope: less than 1:20 (5%)
 - c. Cross-Slope: not greater than 1:48 (2%)
1. Slope in Landings and Accessible Parking and Loading Areas: not greater than 1:48 (2%) in any direction
- C. Flood Test:
 1. Perform a flood test in areas which are sloped less than 3%. Where a seal coat is to be applied, perform flood test prior to application of seal coat.
 2. Where water ponds in excess of 1/8 inch deep or in an area greater than 2 feet in any direction, or where the drainage pattern does not conform to the intent of the Drawings, repair or replace HMA in a manner acceptable to the OWNER to provide proper drainage, at no cost to the OWNER.

3.3 PROTECTION

- A. Do not permit vehicular traffic on pavement until it has cooled to atmospheric temperature and hardened, but in no case less than 8 hours.
- B. Do not use completed paving surface for storage of construction vehicles or construction materials.
- C. Gouges, cracks, stains, or other surface defects or marks shall be corrected by the CONTRACTOR in a manner acceptable to the OWNER, at no cost to the OWNER.

END OF SECTION

DIVISION 32 EXTERIOR IMPROVEMENTS

SECTION 32 13 14

CONCRETE PAVING

PART 1 - GENERAL

1.1 SUMMARY

- A. This section includes exterior concrete paving including driveways, walkways, patios, curbs, and gutters.
- B. For concrete for building applications, see Division 03 – Concrete.

1.2 RELATED REQUIREMENTS

- A. Section 32 11 24 – Aggregate Base Course

1.3 REFERENCES

- A. California Code of Regulations, Title 24, Part 2, California Building Code (CBC), 2019
- B. Standard Specifications, State of California, Department of Transportation (Caltrans), 2018 edition.
- C. ACI 301, "Specification for Structural Concrete"

1.4 SUBMITTALS

- A. Concrete mix design and materials certificates:
 - 1. Aggregate (gradation and quality)
 - 2. Cementitious materials
 - 3. 28-day compressive strength
 - 4. Slump
 - 5. w/c Ratio
 - 6. Entrained Air
 - 7. Admixtures
 - 8. Curing compound
 - 9. Steel reinforcement and reinforcement accessories.
 - 10. Bonding agent or epoxy adhesive
 - 11. Fiber reinforcement.
- B. Material Test Reports: From a qualified testing agency indicating and interpreting test results for compliance with the Contract Documents
- C. Manufacturers' current printed specifications and catalogue cut sheets for each type of manufactured product, including:
 - 1. Expansion joint filler, backer rod and bond breaker and/or zip strip.
 - 2. Integral color
 - 3. Applied finish materials
 - 4. Joint Sealant Color Sample
- D. Proposed joint pattern, if not indicated on or if different from the Drawings
- E. Sample chip of specified color indicating pigment number and required dosage rate.

1.5 QUALITY ASSURANCE

- A. Manufacturer Qualifications: Manufacturer of ready-mixed concrete products complying with ASTM C 94 requirements for production facilities and equipment.
- B. Installer Qualifications: Regularly engaged and specializing in concrete paving, with a minimum 5 years' experience
- C. Mock-Up:
 - 1. Provide one full-scale mock-up. Construct at least two months before start of concrete work. Allow concrete to cure 28 days before observation.
 - 2. At location on Project selected by Owner's Representative, demonstrate each forming and finishing condition required on Project using materials, workmanship, joint treatment, form ties, curing method, and patching techniques to be used throughout Project. Paving mock-ups shall be a minimum 4-foot x 4-foot for each type of finish.
 - 3. Accepted mock-up provides visual standard for work of Section.
 - 4. Mock-up may remain as part of Work
- D. Testing Agency Qualifications: An independent agency qualified according to ASTM C 1077 and ASTM E 329 for testing indicated, as documented according to ASTM E 548.
 - 1. Personnel conducting field tests shall be qualified as ACI Concrete Field Testing Technician, Grade 1, according to ACI CP-01 or an equivalent certification program

PART 2 – PRODUCTS

2.1 FORMS

- A. Form Materials: Plywood, metal, metal-framed plywood, or other approved panel-type materials to provide full-depth, continuous, straight, smooth exposed surfaces.
- B. Use flexible or curved forms for curves with a radius 100 feet or less.
- C. Use commercially formulated form-release agent that will not bond with, stain, or adversely affect concrete surfaces and will not impair subsequent treatments of concrete surfaces

2.2 CONCRETE:

- 1. Concrete mix design shall conform to Section 90, "Concrete," of the Caltrans Standard Specifications.
- 1. Cementitious material: Portland cement, Type II, low alkali, with supplementary cementitious materials as defined in Section 90 of the Standard Specifications.
 - a. Vehicular Pavements and Heavy-Duty Curbs and Gutters: Provide cementitious materials content and maximum water to cementitious materials ratio as required to achieve modulus of rupture of at least 570 psi at 28 days age and at least 650 psi at 42 days age. Cementitious materials content must be between 505 and 675 pounds per cubic yard.
 - b. Pedestrian Paving, Curbs, and Gutters: provide at least 505 pounds per cubic yard cementitious materials.
- B. Admixtures: complying with Section 90, "Concrete" of the Caltrans Standard Specifications

2.3 STEEL REINFORCEMENT

- A. Plain-Steel Welded Wire Reinforcement: ASTM A 185, fabricated from as-drawn steel wire into flat sheets
- B. Deformed-Steel Welded Wire Reinforcement: ASTM A 497, flat sheet

- C. Epoxy-Coated Welded Wire Fabric: ASTM A 884, Class A, plain steel
- D. Reinforcing Bars: ASTM A615, grade 40 for #3 and smaller bars and grade 60 for #4 and larger bars
- E. Galvanized Reinforcing Bars: ASTM A 767, Class II zinc coated, hot-dip galvanized after fabrication and bending; with ASTM A 615, Grade 60 deformed bars.
- F. Epoxy-Coated Reinforcing Bars: ASTM A 775 or ASTM A 934; with ASTM A 615, Grade 60 deformed bars.
- G. Smooth Dowel Bars: Plain steel bars, ASTM A 615, Grade 60. Cut bars true to length with ends square and free of burrs, with half of the dowel length lubricated to prevent bonding with the concrete, and with polyethylene cap installed on lubricated end to prevent end bearing.
- H. Bolsters, chairs, spacers, and other devices for spacing, supporting, and fastening reinforcing bars, welded wire reinforcement, and dowels in place. Manufacture bar supports according to CRSI's "Manual of Standard Practice" from steel wire, plastic, or precast concrete of greater compressive strength than concrete, and as follows:
 - 1. Equip wire bar supports with sand plates or horizontal runners where base material will not support chair legs.
 - 1. For epoxy-coated reinforcement, use epoxy-coated or other dielectric-polymer-coated wire bar supports

2.4 CURING MATERIALS

- A. Curing materials conforming to "Section 90, "Concrete" of the Caltrans Standard Specifications.

2.5 EXPANSION JOINT MATERIAL

- A. Premolded Joint Filler: ASTM D1751, non-extruding and bituminous type resilient filler, compatible with sealant and backer rod.
- B. Sealant Backer Rod:
 - 1. Type: Compressible polyethylene foam rod or other flexible, permanent, durable non-absorptive material as recommended by joint sealer manufacturer for compatibility with joint sealer.
- C. Expansion Joint Cap: Snap Cap by W.R. Meadows or similar.
- D. Joint Sealer
 - 1. Type: Multi-component modified polyurethane sealant conforming to Federal Specification TT-S-00227E, designed for exterior locations subject to foot traffic.
 - 2. Color: Submit Samples
- E. Bond Breaker: Polyethene tape as recommended by joint sealant manufacturer where bond to joint filler must be avoided for proper performance of joint sealer.

PART 3 – EXECUTION

3.1 GENERAL

- A. Construct in accordance with the Standard Specifications and ACI 301, "Specification for Structural Concrete".

3.2 EXAMINATION

- A. Examine exposed subgrades and subbase surfaces for compliance with requirements for dimensional, grading, and elevation tolerances.
- B. Proof-roll prepared subbase surface below concrete pavements with heavy pneumatic-tired equipment to identify soft pockets and areas of excess yielding.
 - 1. Subbase with soft spots and areas of pumping or rutting exceeding depth of 1/4 inch shall be brought to the attention of the Geotechnical Engineer, who will provide recommendations for corrective action.
- C. Proceed with concrete pavement operations only after nonconforming conditions have been corrected and subgrade is ready to receive pavement.

3.3 PREPARATION

- A. Remove loose material from compacted subbase surface immediately before placing concrete.
- B. Precautions to protect fresh concrete from developing plastic shrinkage cracks must be taken in advance of concrete placement when evaporation rate due to any combination of temperature, humidity, and wind velocity is expected to approach 0.2 lb./sq. ft./hr. as determined by Figure 2.1.5 of ACI 305.

3.4 EDGE FORMS AND SCREED CONSTRUCTION

- A. Set, brace, and secure edge forms, bulkheads, and intermediate screed guides for pavement to required lines, grades, and elevations. Install forms to allow continuous progress of work and so forms can remain in place at least 24 hours after concrete placement.
- B. Clean forms after each use and coat with form-release agent to ensure separation from concrete without damage.

3.5 STEEL REINFORCEMENT

- A. General: Comply with CRSI's "Manual of Standard Practice" for fabricating, placing, and supporting reinforcement.
- B. Clean reinforcement of loose rust and mill scale, earth, ice, or other bond-reducing materials.
- C. Arrange, space, and securely tie bars and bar supports to hold reinforcement in position during concrete placement. Maintain minimum cover to reinforcement.
- D. Install welded wire reinforcement in lengths as long as practicable. Lap adjoining pieces at least one full mesh, and lace splices with wire. Offset laps of adjoining widths to prevent continuous laps in either direction.
- E. Epoxy-Coated Reinforcement: Use epoxy-coated steel wire ties to fasten epoxy-coated reinforcement. Repair cut and damaged epoxy coatings with epoxy repair coating according to ASTM D 3963.

3.6 JOINTS

- A. General: Form construction, isolation, and contraction joints and tool edgings true to line with faces perpendicular to surface plane of concrete. Construct transverse joints at right angles to centerline, unless otherwise indicated.
 - 1. When joining existing pavement, place transverse joints to align with previously placed joints, unless otherwise indicated.

- B. Construction Joints: Set construction joints at side and end terminations of pavement and at locations where pavement operations are stopped for more than one-half hour unless pavement terminates at isolation joints.
 - 1. Continue steel reinforcement across construction joints, unless otherwise indicated. Do not continue reinforcement through sides of pavement strips, unless otherwise indicated.
 - 2. Provide tie bars at sides of pavement strips where indicated.
- C. Isolation (Expansion) Joints: Form isolation joints of preformed joint-filler strips abutting concrete curbs, catch basins, manholes, inlets, structures, walks, other fixed objects, and where indicated.
 - 1. Locate expansion joints as shown on the Drawings, and at a minimum:
 - a. At the beginning and end of curves and at changes in direction
 - b. At re-entrant corners
 - c. At abutting walls, column penetrations, footings, or other structures
 - d. At approximately 20 feet on center each way in plaza areas, as necessary to limit area to a maximum of 400 square feet
 - e. At maximum intervals of 60 feet.
 - 2. Extend joint fillers full width and depth of joint.
 - 3. Terminate joint filler not less than 1/2 inch or more than 1 inch below finished surface if joint sealant is indicated.
 - 4. Place top of joint filler flush with finished concrete surface if joint sealant is not indicated.
 - 5. Furnish joint fillers in one-piece lengths. Where more than one length is required, lace or clip joint-filler sections together.
 - 6. Protect top edge of joint filler during concrete placement with metal, plastic, or other temporary preformed cap. Remove protective cap after concrete has been placed on both sides of joint.
- D. Contraction Joints: Form weakened-plane contraction joints, sectioning concrete into areas as indicated. Construct contraction joints for a depth equal to at least 1-1/4 inches, or one-fourth of the concrete thickness, whichever is greater.
 - 1. Grooved Joints: Form contraction joints after initial floating by grooving and finishing each edge of joint with grooving tool to a 3/8-inch radius. Repeat grooving of contraction joints after applying surface finishes. Eliminate groover marks on concrete surfaces.
 - 2. Sawed Joints: Form contraction joints with power saws equipped with shatterproof abrasive or diamond-rimmed blades. Cut 1/8-inch- wide joints into concrete when cutting action will not tear, abrade, or otherwise damage surface, and before the pavement develops shrinkage cracks.
 - 3. Locate contraction joints as shown on the Drawings, and at a minimum:
 - a. At 10 feet on center maximum for curbs and cross gutters. Where concrete sidewalk occurs adjacent to curb, align curb and sidewalk joints.
 - b. At pavement plazas, approximately 4 feet on center each way, and as necessary to limit area to a maximum of 20 square feet.
 - c. At all re-entrant corners and at changes in direction.
 - d. To provide rectangles of not less than 12 nor more than 20 square feet in linear walkways
- E. Dowels: Install dowel bars and support assemblies at joints where indicated and at construction joints.

1. Expansion joint dowels: Lubricate one-half of dowel length to prevent concrete bonding to one side of joint and install polyethylene end sleeve on the lubricated end to prevent end bearing of the dowel against the concrete.
- F. Edging: Tool edges of pavement, gutters, curbs, and joints in concrete after initial floating with an edging tool to a 3/8-inch radius, unless otherwise shown on the Drawings. Repeat tooling of edges after applying surface finishes. Eliminate tool marks on concrete surfaces.

3.7 CONCRETE PLACEMENT

- A. Inspection: Before placing concrete, inspect and complete formwork installation, steel reinforcement, and items to be embedded or cast in. Notify other trades to permit installation of their work.
- B. Remove snow, ice, or frost from subbase surface and reinforcement before placing concrete. Do not place concrete on frozen surfaces.
- C. Moisten subbase to provide a uniform dampened condition at time concrete is placed.
- D. Do not place concrete around manholes or other structures until they are at required finish elevation and alignment.
- E. Do not add water to fresh concrete after testing.
- F. Deposit and spread concrete in a continuous operation between transverse joints. Do not push or drag concrete into place or use vibrators to move concrete into place.
- G. Consolidate concrete according to ACI 301 by mechanical vibrating equipment supplemented by hand spading, rodding, or tamping.
 1. Consolidate concrete along face of forms and adjacent to transverse joints with an internal vibrator. Keep vibrator away from joint assemblies, reinforcement, or side forms. Use only square-faced shovels for hand spreading and consolidation. Consolidate with care to prevent dislocating reinforcement, dowels, and joint devices.
- H. Place concrete in two operations; strike off initial pour for entire width of placement and to the required depth below finish surface. Lay welded wire fabric or fabricated bar mats immediately in final position. Place top layer of concrete, strike off, and screed.
 1. Remove and replace concrete that has been placed for more than 15 minutes without being covered by top layer or use bonding agent if approved by Engineer.
- I. Screed pavement surfaces with a straightedge and strike off.
- J. Commence initial floating using bull floats or darbies to impart an open textured and uniform surface plane before excess moisture or bleed water appears on the surface. Do not further disturb concrete surfaces before beginning finishing operations or spreading surface treatments.
- K. Slip-Form Pavers: When automatic machine placement is used, submit specific mix design and laboratory test results.
 1. Produce pavement to required thickness, lines, grades, finish, and jointing as required for formed pavement.
 2. Compact subbase and prepare subgrade of sufficient width to prevent displacement of paver machine during operations.
- L. Hot and Cold Weather Placement: Comply with ACI 306.1.

3.8 FLOAT FINISHING

- A. General: Do not add water to concrete surfaces during finishing operations.

- B. Float Finish: Begin the second floating operation when bleed-water sheen has disappeared and concrete surface has stiffened sufficiently to permit operations. Finish surfaces to true planes. Cut down high spots and fill low spots. Refloat surface immediately to uniform granular texture.
 - 1. Burlap Finish: Drag a seamless strip of damp burlap across float-finished concrete, perpendicular to line of traffic, to provide a uniform, gritty texture.
 - 2. Medium-to-Fine-Textured Broom Finish: Draw a soft bristle broom across float-finished concrete surface perpendicular to line of traffic to provide a uniform, fine-line texture.
 - 3. All exterior walkway surfaces shall receive a slip-resistant finish at least equivalent to a medium broom finish.
 - 4. Medium-to-Coarse-Textured Broom Finish: Provide a coarse finish by striating float-finished concrete surface 1/16 to 1/8 inch deep with a stiff-bristled broom, perpendicular to line of traffic.
- C. All exposed faces shall be finished. Faces of curbing at planter areas shall be finished to 6" below finish planter grade.

3.9 SPECIAL FINISHES

- A. See Landscape Drawings

3.10 CONCRETE PROTECTION AND CURING

- A. General: Protect freshly placed concrete from premature drying and excessive cold or hot temperatures.
- B. Comply with ACI 306.1 for cold-weather protection.
- C. Evaporation Retarder: Apply evaporation retarder to concrete surfaces if hot, dry, or windy conditions cause moisture loss approaching 0.2 lb/sq. ft. x h before and during finishing operations. Apply according to manufacturer's written instructions after placing, screeding, and bull floating or darbying concrete, but before float finishing.
- D. Begin curing after finishing concrete but not before free water has disappeared from concrete surface.
- E. Curing Methods: Cure concrete by the moisture curing, moisture-retaining-cover curing, curing compound, or a combination of these as follows:
 - 1. Moist Curing: Keep surfaces continuously moist for not less than seven days with the following materials:
 - a. Water.
 - b. Continuous water-fog spray.
 - c. Absorptive cover, water saturated and kept continuously wet. Cover concrete surfaces and edges with 12-inch lap over adjacent absorptive covers.
 - 2. Moisture-Retaining-Cover Curing: Cover concrete surfaces with moisture-retaining cover for curing concrete, placed in widest practicable width, with sides and ends lapped at least 12 inches, and sealed by waterproof tape or adhesive. Immediately repair any holes or tears during curing period using cover material and waterproof tape.
 - 3. Curing Compound: Apply uniformly in continuous operation by power spray or roller according to manufacturer's written instructions. Recoat areas subjected to heavy rainfall within three hours after initial application. Maintain continuity of coating and repair damage during curing period.

3.11 TOLERANCES

- A. Comply with tolerances of ACI 117 and as follows:
 - 1. Elevation: 1/4 inch
 - 2. Thickness: Plus 3/8 inch, minus 1/4 inch.
 - 3. Surface: Gap below 10-foot- long, unleveled straightedge not to exceed 1/4 inch.
 - 4. Lateral Alignment and Spacing of Tie Bars and Dowels: 1 inch.
 - 5. Vertical Alignment of Tie Bars and Dowels: 1/4 inch.
 - 6. Alignment of Tie-Bar End Relative to Line Perpendicular to Pavement Edge: 1/2 inch.
 - 7. Alignment of Dowel-Bar End Relative to Line Perpendicular to Pavement Edge: Length of dowel 1/4 inch per 12 inches.
 - 8. Joint Spacing: 3 inches.
 - 9. Contraction Joint Depth: Plus 1/4 inch, no minus.
 - 10. Joint Width: Plus 1/8 inch, no minus.
- B. Comply with California Title 24 accessibility requirements regarding:
 - 1. Surface: slip resistant
 - 2. Changes in Level: 1/4 inch or less (vertical)
 - 3. Clear Width: complying with the minimum clear width required for the various types of facilities being constructed.
 - 4. Running Slope, General: less than 1:20 (5%)
 - 5. Running Slope, Ramps and Curb Ramps: not greater than 1:12 (8.33%)
 - 6. Cross-Slope: not greater than 1:48 (2%)
 - 7. Slope in Landings: not greater than 1:48 (2%) in any direction
- C. Provide flood test of all gutters and paving. Where water ponds in excess of 1/8 inch deep or in an area greater than 2 feet in any direction, or where the drainage pattern does not conform to the intent of the Drawings, replace the gutter or pavement to the nearest joint to provide proper drainage, at no cost to the OWNER.

3.12 FIELD QUALITY CONTROL

- A. Testing Agency: a qualified independent testing and inspecting agency to perform field tests and inspections and prepare test reports.
- B. Testing Services: Testing of composite samples of fresh concrete obtained according to ASTM C 172 shall be performed according to the following requirements:
 - 1. Testing Frequency: Obtain at least 1 composite sample for each 100 cu. yd. or fraction thereof of each concrete mix placed each day.
 - a. When frequency of testing will provide fewer than five compressive-strength tests for each concrete mixture, testing shall be conducted from at least five randomly selected batches or from each batch if fewer than five are used.
 - 2. Slump: ASTM C 143; one test at point of placement for each composite sample, but not less than one test for each day's pour of each concrete mix. Perform additional tests when concrete consistency appears to change.
 - 3. Air Content: ASTM C 231, pressure method; one test for each composite sample, but not less than one test for each day's pour of each concrete mix.
 - 4. Concrete Temperature: ASTM C 1064; one test hourly when air temperature is 40 deg F and below and when 80 deg F and above, and one test for each composite sample.
 - 5. Compression Test Specimens: ASTM C 31; cast and laboratory cure one set of three standard cylinder specimens for each composite sample.
 - 6. Compressive-Strength Tests: ASTM C 39; test 1 specimen at 7 days and 2 specimens at 28 days.

- a. A compressive-strength test shall be the average compressive strength from 2 specimens obtained from same composite sample and tested at 28 days.
- C. Strength of each concrete mix will be satisfactory if average of any 3 consecutive compressive-strength tests equals or exceeds specified compressive strength and no compressive-strength test value falls below specified compressive strength by more than 500 psi.
- D. Test results shall be reported in writing to Engineer, concrete manufacturer, and Contractor within 48 hours of testing. Reports of compressive-strength tests shall contain Project identification name and number, date of concrete placement, name of concrete testing and inspecting agency, location of concrete batch in Work, design compressive strength at 28 days, concrete mixture proportions and materials, compressive breaking strength, and type of break for both 7- and 28-day tests.
- E. Nondestructive Testing: Impact hammer, sonoscope, or other nondestructive device may be permitted by Engineer but will not be used as sole basis for approval or rejection of concrete.
- F. Additional Tests: Testing and inspecting agency shall make additional tests of concrete when test results indicate that slump, air entrainment, compressive strengths, or other requirements have not been met, as directed by Engineer.
- G. Remove and replace concrete pavement where test results indicate that it does not comply with specified requirements.
- H. Additional testing and inspecting, at Contractor's expense, will be performed to determine compliance of replaced or additional work with specified requirements.

3.13 REPAIRS AND PROTECTION

- A. Remove and replace concrete pavement that is broken, damaged, or defective or that does not comply with requirements in this Section.
- B. Drill test cores where directed by Engineer, when necessary to determine magnitude of cracks or defective areas. Fill drilled core holes in satisfactory pavement areas with portland cement concrete bonded to pavement with epoxy adhesive.
- C. Protect concrete from damage. Exclude traffic from pavement for at least 14 days after placement. When construction traffic is permitted, maintain pavement as clean as possible by removing surface stains and spillage of materials as they occur.
- D. Maintain concrete pavement free of stains, discoloration, dirt, and other foreign material. Sweep concrete pavement not more than two days before date scheduled for Substantial Completion inspections.

END OF SECTION

Attachment 5



Laguna Grande Park Improvements

Bid Results ***Revised***

October 28, 2021

3:30 PM

	Bidder	Bid Amount	Responsive/Non Responsive	Notes
1	Kraemer Engineering	\$109,853.38	Non Responsive	Missing Revised Attachment A Statement of Qualification Questionnaire (00 4513) and Non Collusion Affidavit was not notarized (00 4519)
2	Don Chapin	\$128,110.00	Non Responsive	Missing Bidders Certifications (00 4546)
3	MPE	\$134,435.00	Responsive	
4	Top Tier	\$142,142.00	Responsive	
5	Innovate Concrete	\$155,535.00	Non Responsive	Missing Revised Attachment A Statement of Qualification Questionnaire (00 4513)
6	G&G Builders	\$198,801.90	Non Responsive	Missing Revised Attachment A Statement of Qualification Questionnaire (00 4513)
7	Jacob Construction	\$207,009.00	Non Responsive	Missing Revised Attachment A Statement of Qualification Questionnaire (00 4513)

City of Seaside
FY 22 Running Budget totals - budget amendments
As of 11/18/2021

Operating Budget		Approval Date
Adopted Surplus	107,278.00	6/17/2021
Less:		
MCWD Application	(40,000.00)	8/19/2021
Forklift	(35,027.00)	9/2/2021
Disaster Kleenup	(50,000.00)	10/7/2021
Parking Enforcemnt Vehicle	(80,525.67)	11/4/2021
Running total:		<u>(98,274.67)</u>

Capital Budget		Approval Date
Projected Unassigned Fund Balance	12,966,234.00	6/17/2021
Less:		
Highland Otis Park	(62,669.00)	8/19/2021
Ellis Park	(390,818.00)	10/7/2021
Parking Lot	(1,240,000.00)	10/7/2021
Laguna Grande Improvements	(55,100.00)	pending
Running total:		<u>11,217,647.00</u>

Note: Changes to the Capital Budget will also impact the 5 year forecast presented at the time of budget adoption.



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.E.

TO: City Council

FROM: Roberta Greathouse, Acting City Manager

BY: Victor Damiani, Finance Director

DATE: November 18, 2021

SUBJECT: ADOPT A RESOLUTION ADOPTING AN UPDATED SALARY SCHEDULE FOR PART-TIME EMPLOYEES THAT REFLECTS THE NEW STATE MINIMUM WAGE THAT TAKES EFFECT JANUARY 1, 2022

RECOMMENDATION

Adopt a resolution updating the City's salary schedule for part-time employees in order to comply with the new state minimum wage that takes effect January 1, 2022.

BACKGROUND

The State of California enacted legislation that increases the minimum wage every year until 2022, when it reaches \$15.00 per hour. For employers who employ 26 or more employees, it is scheduled to increase as follows:

1. On January 1, 2020, the minimum wage will increase to \$13.00 per hour.
2. On January 1, 2021, the minimum wage will increase to \$14.00 per hour.
3. On January 1, 2022, the minimum wage will increase to \$15.00 per hour.

Adjusting the hourly wage for entry level classifications in order to comply with minimum wage also requires salary increases for other part-time classifications to prevent compaction between the entry level and journey level positions. Staff recommends implementation of the proposed salary schedule which provides an increase in the hourly rate for most of the part-time classifications.

The last across the board salary increase for part-time employees occurred in 2021 when the minimum wage increased to \$14.00 per hour in accordance with the State Legislation. The salary schedule for positions designated as 30 hours will continue to

consist of five steps with 5% separating each step and the salary schedule for part-time temporary positions will contain up to eight steps with 2.5% between each step. This will provide departments with greater flexibility in setting appropriate hourly pay rates for staff.

It is recommended the new salary schedule takes effect on December 25, 2021, which is the first day of the pay period which includes January 1, 2022.

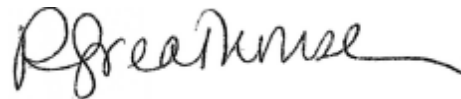
FISCAL IMPACT

The impact of implementing the state-mandated minimum wage is estimated to be \$22,088.37 for Fiscal Year 2021/2022. This increase was not fully budgeted, but at this time it does not appear a budget adjustment is needed. Staff will continue to monitor the City's part time salary budget line items and any necessary budget adjustments will be addressed at the mid-year budget review if needed.

ATTACHMENTS

1. Part-time salaries resolution
 2. 2022 2.5 Part Time Salary Schedule
 3. 2022 30hr Part Time Salary Schedule
-

Reviewed for Submission to the City Council by:



Roberta Greathouse, Acting City Manager

RESOLUTION NO. 21-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE
ADOPTING AN UPDATED SALARY SCHEDULE THAT REFLECTS THE NEW
MINIMUM WAGE**

WHEREAS, the City's Classification Plan of positions may be amended on recommendation of the City Manager and approval by the City Council; and

WHEREAS, in order to provide greater efficiency in the operation of the City and enhance service levels, certain job classifications have been prepared; and

WHEREAS, there is a need to adopt a new part-time Salary Schedule effective December 28, 2021, to reflect the new State minimum wage increase; and

WHEREAS, these changes to the part-time Salary Schedule will enhance the organizational structure of part-time positions and improve service levels;

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Seaside hereby approves the attached Salary Schedule for part-time employees.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 18th day of November, 2021, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

Ian N. Oglesby, Mayor

ATTEST:

Dominique L. Davis, City Clerk

2022 Seasonal Part-Time Salary Schedule

FOR JOB CLASSIFICATIONS WORKING LESS THAN 1,000 PER YEAR Hourly Rate of Pay; up to 8 steps; 2.5% between steps Effective December 25, 2021									
Occupational Job Families and Job Classes	Grade	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8

Aquatics Programs

Lead Lifeguard	9	\$ 16.54	\$ 16.95	\$ 17.37	\$ 17.81	\$ 18.25	\$ 18.71	\$ 19.18	\$ 19.66
Water Safety Instructor	7	\$ 15.75	\$ 16.14	\$ 16.55	\$ 16.96	\$ 17.39	\$ 17.82	\$ 18.27	\$ 18.72
Lifeguard	4	\$ 15.00	\$ 15.38	\$ 15.76	\$ 16.15	\$ 16.56	\$ 16.97	\$ 17.40	\$ 17.83

Recreation Programs

Recreation Leader IV	9	\$ 16.54	\$ 16.95	\$ 17.37	\$ 17.81	\$ 18.25	\$ 18.71	\$ 19.18	\$ 19.66
Recreation Leader III	7	\$ 15.75	\$ 16.14	\$ 16.55	\$ 16.96	\$ 17.39	\$ 17.82	\$ 18.27	\$ 18.72
Recreation Leader II	3		\$ 15.00	\$ 15.38	\$ 15.76	\$ 16.15	\$ 16.56	\$ 16.97	\$ 17.40
Recreation Leader I	1				\$ 15.00	\$ 15.38	\$ 15.76	\$ 16.15	\$ 16.56

Other

Intern	7	\$ 15.08	\$ 15.46	\$ 15.84	\$ 16.24	\$ 16.65	\$ 17.06	\$ 17.49	\$ 17.93
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Scheduled Minimum Wage Adjustments:

2020 \$13.00
 2021 \$14.00
 2022 \$15.00

2022 Regular Part-Time Salary Schedule

JOB CLASSIFICATIONS SCHEDULED AN AVERAGE OF 30 HOURS PER WEEK Hourly Rate of pay; 5 STEPS; 5% BETWEEN STEPS Effective December 25, 2021						
Occupational Job Families and Job Classes	Grade	Step 1	Step 2	Step 3	Step 4	Step 5

Aquatics Programs

Pool Manager	21	\$ 21.30	\$ 22.37	\$ 23.48	\$ 24.66	\$ 25.89
Assistant Pool Manager	16	\$ 18.83	\$ 19.77	\$ 20.76	\$ 21.80	\$ 22.89
Senior Lifeguard	12	\$ 17.06	\$ 17.91	\$ 18.81	\$ 19.75	\$ 20.74

Recreation Programs

Recreation Specialist II	19	\$ 20.28	\$ 21.29	\$ 22.36	\$ 23.48	\$ 24.65
Recreation Specialist	15	\$ 18.37	\$ 19.29	\$ 20.25	\$ 21.27	\$ 22.33
Rec Bus Driver	16	\$ 18.83	\$ 19.77	\$ 20.76	\$ 21.80	\$ 22.89

Administrative Group

Office Assistant	16	\$ 18.83	\$ 19.77	\$ 20.76	\$ 21.80	\$ 22.89
Facility Receptionist	13	\$ 17.48	\$ 18.35	\$ 19.27	\$ 20.24	\$ 21.25
Volunteer Coordinator	16	\$ 18.83	\$ 19.77	\$ 20.76	\$ 21.80	\$ 22.89

Facilities Group

Lead Facility Attendant	12	\$ 17.06	\$ 17.91	\$ 18.81	\$ 19.75	\$ 20.74
Facility Attendant	9	\$ 15.84	\$ 16.63	\$ 17.46	\$ 18.34	\$ 19.25

Note: The following job classifications are equivalent to the full-time rates:

Admin Assistant; Senior Admin Asst; Firefighter; Police Officer Reserve; Police Records Tech; and Youth Resource Center Coordinator.

Note: No changes were made to this schedule since all positions already complied with the \$15 minimum wage.



CITY OF SEASIDE STAFF REPORT

Item No.: 8.F.

TO: City Council

FROM: Roberta Greathouse, Acting City Manager

BY: Nisha Patel, Public Works Director/City Engineer
Scott Ottmar, Senior Engineer

DATE: November 18, 2021

SUBJECT: ADOPT A RESOLUTION AUTHORIZING AN AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT WITH CSG CONSULTANTS INC IN THE AMOUNT OF \$26,000.00 FOR DEVELOPMENT REVIEW SERVICES FOR PHASE 2A & 2B OF THE ENCLAVE TO BE REIMBURSED BY THE DEVELOPER

RECOMMENDATION

Adopt a resolution authorizing the City Manager to execute an amendment to the professional services agreement with CSG Consultants Inc. in the amount of \$26,000.00 for development review services for the Enclave by Shea Homes.

BACKGROUND

In September of 2019, Shea Homes Limited Partnership (Shea Homes or Developer) acquired the development rights to Phases 1 & 2 of the residential component of the Seaside Resort Estates Development project. Shea Homes has received design approval for model homes and is currently under construction on the remaining phase 1 lots. On June 22, 2021, the Developer submitted rough grading plans for construction of Phase 2A & 2B of the Enclave with the goal of starting grading in the fall of 2021. Phase 2A & 2B of the Development will construct 27 new homes along with associated sewers, storm drains, roads and gate access to the Development. Because the level of effort necessary to review the plans exceeds the current resources of the Engineering Division, a professional services agreement with CSG Consultants Incorporated (Consultant) was executed in the amount of \$21,000.00 to review the initial civil grading plans and associated hydrology and hydraulics reports. The Consultant is currently on the City's pre-qualified on-call list for land development review. To keep construction on schedule, the Developer intentionally omitted submission of civil improvement plans as part of the grading permit application. The Consultant performed

three reviews of the initial plans and the rough grading permit was issued on October 20, 2021.

On October 27, 2021, the Developer submitted the civil improvement plans for construction of roads, water, sewer and storm drains associated with Phase 2A & 2B of the Development. Staff solicited a proposal from the Consultant to review the 31 pages of civil engineering improvement plans and a proposal was received on November 2, 2021. Staff has reviewed the CSG proposal and determined the scope of services are appropriate. The Consultant has the necessary staff resources, qualifications and skills to successfully review the documents submitted. Staff recommends approving a resolution (Attachment 1) authorizing the City Manager to execute an amendment (Attachment 2) to the professional services agreement with CSG Consultants Inc. in the amount of \$26,000.00 for development review services for Phase 2A & 2B of the Enclave.

FISCAL IMPACT

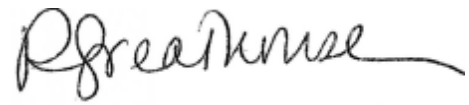
An amendment to the agreement with CSG Consultants Inc. will have no fiscal impact to the General Fund. The City's adopted fee schedule requires the Developer to pay actual costs for engineering review for commercial and multi-family developments greater than 1 acre in size. The City is further entitled to recover the actual costs associated with inspection of such public improvements. Expenses associated with the Professional Services Agreement with the Consultant will be charged to deposit account #601-2214 where funds are provided by the Developer.

Projects of this size and complexity have the potential to encounter unforeseen conditions requiring specialized review. Furthermore, potential future phases of the Development will require the continued use of the expertise of the Consultant. Staff recommends the City Council authorize the City Manager to execute the amendment to the professional services agreement in the amount of \$26,000.00 with CSG Consultant's Inc. for review of Phase 2A & 2B civil improvement plans for the Enclave. Staff further recommends the City Council authorize the City Manager to execute future amendments for future phase review, to be funded by Developer deposits, such that the total agreement amount does not exceed \$125,000.00.

ATTACHMENTS

1. Resolution
2. Amendment #1
3. Professional Services Agreement

Reviewed for Submission to the City Council by:

A handwritten signature in black ink, appearing to read "R Greathouse", with a long horizontal flourish extending to the right.

Roberta Greathouse, Acting City Manager

RESOLUTION NO. 21-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH CSG CONSULTANTS INC IN THE AMOUNT OF \$26,000.00 TO PROVIDE PLAN REVIEW SERVICES FOR PHASE 2A & 2B OF THE ENCLAVE

WHEREAS, Shea Homes Limited Partnership (Developer) acquired interest in the single family residential component of the Seaside Resort Estates Development (the Project); and

WHEREAS, the Developer has submitted preliminary plans and reports associated with the construction of phase 2A & 2B of the Project; and

WHEREAS, the level of effort and specialized skills necessary to review and comment on these plans and reports exceeds the current resources of the City's Engineering Division; and

WHEREAS, on March 18, 2021, the City approved an on-call list for land development review services for a period of 3 years with optional two one year extensions; and

WHEREAS, the CSG Consultants Inc (Consultant) is included on the on-call land development review services list; and

WHEREAS, on August 13, 2021, a professional services agreement with the Consultant was executed in the amount of \$21,000.00 to perform review of rough grading, tree removal, and stormwater control plans; and

WHEREAS, on October 27, 2021 the Developer submitted additional civil improvements plans for Phase 2A & 2B of the Project that were not included in the initial Consultant scope of work; and

WHEREAS, the Consultant submitted a proposal to provide review services for the additional civil improvement plans; and

WHEREAS, staff have reviewed the proposal and determined the scope services and fees are reasonable; and

WHEREAS, the Developer intends to submit additional plans and reports requiring the specialized skills of the Consultant; and

WHEREAS, in accordance with the City's adopted fee schedule, the Developer is responsible for the actual costs incurred by the City for the review of engineering documents; and

WHEREAS, a deposit account # 601-2312 has been established for the tracking of costs incurred by the City to process the Project, and the Professional Services Agreement will be funded from said deposit account; and

WHEREAS, a development of this size and complexity has the potential to encounter unforeseen conditions requiring the specialized services of the Consultant; and

WHEREAS, a total contract amount of \$125,000.00, to be funded by Developer deposits, is estimated to be sufficient to address unforeseen conditions and future phases of development.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Seaside hereby authorizes the City Manager to execute an amendment to the professional services agreement with the CSG Consultants Inc. in the amount of \$26,000.00 and any future amendments to the agreement such that the total contract value does not exceed \$125,000.00.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 18th day of November 2021, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

Ian N. Oglesby, Mayor

ATTEST:

Dominique L. Davis, City Clerk

CONTRACT AMENDMENT #1
PROFESSIONAL SERVICES
City of Seaside

Date: November 3, 2021

Change Requested by: X City/District Consultant

Contract Date

Project Name

August 13, 2021

Enclave Phase 2A & 2B Development

To (Consultant): CSG Consultants, Inc. 550 Pilgrim Drive, Foster City, CA 94404

You are directed to make the following changes to the Contract Documents or amend the following described work not included in the contract documents for this project.

The purpose of this addendum is to provide additional professional services related to the project named above. The contract terms and conditions shall not be modified except for as stated herein.

MODIFY the following text in **Section 2, "Services."**

Consultant shall perform the tasks described and set forth in Exhibit A and Exhibit A1 attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A and A1.

MODIFY the following text in **Section 5 Payment**

- (a) The Agency agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B and B1, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed Twenty-One Thousand Dollars (\$47,000) for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

MODIFY the following text in **Section 22, "Contents of Request for Proposal and Proposal."**

Consultant is bound by the contents of City's Request for Proposal, Exhibit "D" hereto and incorporated herein by this reference, and the contents of the proposal submitted by the Consultant, Exhibit B and B1 attached hereto.

CONTRACT AMENDMENT #1
PROFESSIONAL SERVICES
City of Seaside

Original Contract Amount	Previous CCO Total (Not including this Amendment)	This Amendment Total	Revised Contract Amount
\$21,000	\$0.00	\$26,000	\$47,000
Original Contract Time	Original Completion Date	Days To Date (Including This Amendment)	Revised Completion Date
12 Months	June, 30, 2022	0	June, 30, 2022

SUBMITTED BY:		
	Nisha Patel Public Works Director/City Engineer	
Signature	Name and Title	Date
CITY APPROVAL BY:		
	Roberta Greathouse Acting City Manager	
Signature	Name and Title	Date

CONSULTANT ACCEPTANCE BY:		
	Hatem Ahmed Principal	
Signature	Name and Title	Date

EXHIBIT A1

SCOPE OF WORK

ENCLAVE DEVELOP PHASE 2A & 2B

The City of Seaside received civil engineering grading plans, improvement plans hydrology and hydraulics report, geotechnical report and storm water control plan associated with the Enclave development. As outlined below, the Consultant will be responsible for reviewing technical documents for the Project.

I. TASK DESCRIPTION

The primary objective of the proposed work is to provide review comments on the civil engineering plans and reports to include:

1. Review of the most current Improvement Plan for Phase 2A
2. Review of the most current Improvement Plan for Phase 2B
3. Review of the Conditions of Approval as it relates to the Improvement Plans of the two project sites
4. Preparation of a draft comment letter.
5. Quality Assurance/Quality Control Review (QA/QC)
6. Progress meeting with staff to review comments.
7. Preparation of a final draft comment letter.
8. Follow up meetings with staff and applicant.
9. Completion of a second, third, and final review.

II. SCHEDULE OF PERFORMANCE

Time is of the essence. The Work shall be diligently performed as follows:

1. Initial review of documents shall be completed within 15 business days from receipt of Notice to Proceed.
2. Second and subsequent reviews shall be completed within 10 business days.

III. DELIVERABLES

Consultant shall provide written comments for the civil engineering plans, hydrology, hydraulics, geotechnical reports, and Storm Water Control Plan. Includes marking up associated documents and providing a tabulated summary of such comments. Comments will be provided in PDF and or Microsoft Excel or similar format.

Deliverables include:

1. Marked up plans and reports as appropriate
2. Tabulated summary of comments for plans and reports.



550 Pilgrim Drive
Foster City, CA 94404
phone 650.522.2500
fax 650.522.2599

www.csgegr.com

November 2, 2021

Scott Ottmar, PE
Senior Engineer
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955

RE: The Enclave Phase 2A and Phase 2B - Proposal for Improvement Plan Review

Dear Mr. Ottmar, PE:

CSG Consultants, Inc. (CSG) is pleased to present this proposal to assist the City of Seaside(City) with the review of the Improvement Plans for the Enclave Phase 2A and Phase 2B Project (Project). This Project is part of the entitled Seaside Resort, approved in 2005 that has had several final maps processed. This Project includes the development of 27 residential lots in two phases within the Bayonet Golf Course area that was once part of the Fort Ord Military Base. CSG recently completed the review of the Grading and Drainage plans for this project.

The scope of work will consist of:

- review Improvement plans for both phases
- conformance Review of the VTM from the 2005 conditions of approval as it relates to infrastructure improvements

The Project received entitlements in 2005 as part of the project formally known as the Seaside Resort. The Streets will be private with gated access. Water and Sewer will be provided by MCWD. Several final maps have already been approved in the overall development.

Future scope amendments that are anticipated, but not part of this proposal, may include but are not limited to the Review of Construction Cost Estimate, and Subdivision Map Review including City Surveyor Services. Additional scope amendment proposals will be provided upon request.

Work to be performed under this proposal is expected to include, but not be limited to, the following:

- 1) Review of the most current Improvement Plan for Phase 2A
- 2) Review of the most current Improvement Plan for Phase 2B
- 3) Review of the Conditions of Approval as it relates to the Improvement Plans of the two project sites
- 4) Preparation of a draft comment letter.
- 5) Quality Assurance/Quality Control Review (QA/QC)
- 6) Progress meeting with staff to review comments.
- 7) Preparation of a final draft comment letter.
- 8) Follow up meetings with staff and applicant.
- 9) Completion of a second, third, and final review.

Work will be completed under the supervision of Mark Lander, P.E., and Senior Project Manager David Rubcic, PE, PLS who will serve as point of contact. Other CSG staff will assist as needed.

Our fee for performing the work described above will be on a time and materials basis, based on our 2021 Standard Fee Schedule in an amount not to exceed \$26,000.

A breakdown of the costs by staff and task is attached. Hours and costs by task may be adjusted between tasks as needed provided the total fee amount is not exceeded.

We anticipate that one initial review, a second review, a third review and one final review will be sufficient. Additional reviews may be needed if the project resubmittal and review of previously reviewed plans is required because of changes or added conditions during the life of the project. Each submittal will be made formerly to the City by the applicant, and similarly, review comments for each submittal will be issued to the City, with a copy to the applicant upon request. For the initial review, work will be completed within 15 work days from the authorization to proceed. Subsequent reviews will be completed within 10 work days of receiving the plans and supporting documents. We have included time for meeting with City staff and the applicant to discuss plan check comments. If additional reviews are required, CSG will complete the reviews if there is budget remaining under the estimated amount, or on an hourly basis for an additional fee, if the estimated amount is exceeded.

Thank you for considering CSG for this work. We look forward to working with you on this project. Please feel free to call me at (650) 522-2500 if you would like to discuss this further.

Sincerely,

David Rubcic, P.E., P.L.S.
Senior Project Manager

Cc: Mark Lander, PE

Attachments
Fee Breakdown



**CITY OF SEASIDE
PROFESSIONAL SERVICE AGREEMENT
ENCLAVE PHASE 2A & 2B DEVELOPMENT**

AGT
21-105

THIS AGREEMENT, is made and effective August 13, 2021, between the City of Seaside, a municipal corporation ("Agency") and the CSG Consultants Inc., a California Corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on August 13, 2021 and shall remain and continue in effect until tasks described herein are completed, but in no event later than June 30, 2022, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

Consultant shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. PERFORMANCE

Consultant shall at all times faithfully, competently and to the best of his/her ability, experience, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. AGENCY MANAGEMENT

Agency's City Engineer shall represent Agency in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but not including the authority to enlarge the Tasks to Be Performed or change the compensation due to Consultant. Agency's City Manager shall be authorized to act on Agency's behalf and to execute all necessary documents which enlarge the Tasks to Be Performed or change Consultant's compensation, subject to Section 5 hereof.



**CITY OF SEASIDE
PROFESSIONAL SERVICE AGREEMENT
ENCLAVE PHASE 2A & 2B DEVELOPMENT**

AGT
21-105

THIS AGREEMENT, is made and effective August 13, 2021, between the City of Seaside, a municipal corporation ("Agency") and the CSG Consultants Inc., a California Corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

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This Agreement shall commence on August 13, 2021 and shall remain and continue in effect until tasks described herein are completed, but in no event later than June 30, 2022, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

Consultant shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. PERFORMANCE

Consultant shall at all times faithfully, competently and to the best of his/her ability, experience, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. AGENCY MANAGEMENT

Agency's City Engineer shall represent Agency in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but not including the authority to enlarge the Tasks to Be Performed or change the compensation due to Consultant. Agency's City Manager shall be authorized to act on Agency's behalf and to execute all necessary documents which enlarge the Tasks to Be Performed or change Consultant's compensation, subject to Section 5 hereof.

7. DEFAULT OF CONSULTANT

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, Agency shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

(b) If the Agency Manager or his/her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the Agency shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

8. OWNERSHIP OF DOCUMENTS

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by Agency that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of Agency or its designees at reasonable times to such books and records; shall give Agency the right to examine and audit said books and records; shall permit Agency to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the Agency and may be used, reused, or otherwise disposed of by

10. INSURANCE

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit C attached to and part of this Agreement.

11. INDEPENDENT CONSULTANT

(a) Consultant is and shall at all times remain as to the Agency a wholly independent Consultant. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither Agency nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the Agency. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against Agency, or bind Agency in any manner.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, Agency shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for Agency. Agency shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

12. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The Agency, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

13. UNDUE INFLUENCE

Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the Agency in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the Agency will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant,

Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To Agency: City of Seaside
440 Harcourt Ave
Seaside, CA 93955
Attention: City Clerk

To Consultant: CSG Consultants Inc.
550 Pilgrim Drive
Foster City, CA 94404
Att: Dave Rubcic, P.E.

17. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the Agency. Because of the personal nature of the services to be rendered pursuant to this Agreement, David Rubcic shall be the Project Manager for the services described in this Agreement.

David Rubcic may use assistants, under its direct supervision, to perform some of the services under this Agreement. Consultant shall provide Agency fourteen (14) days' notice prior to the departure of David Rubcic from Consultant's employ. Should he/she leave Consultant's employ, the Agency shall have the option to immediately terminate this Agreement, within three (3) days of the close of said notice period. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the Governing Board and the Consultant.

18. LICENSES

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

19. GOVERNING LAW

The Agency and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any

CONSULTANT: CSG Consultants
A California Corporation

By: Hatem Ahmed
Hatem Ahmed, Principal

Date: 8.5.21

City of Seaside
A Municipal Corporation

Craig Malin
Craig Malin, City Manager

Date: 8/13/21

Attachments:	Exhibit A	Scope of Work
	Exhibit B	Consultant Proposal
	Exhibit C	Insurance Requirements
	Exhibit D	Request for Proposal



Exhibit B

550 Pilgrim Drive
Foster City, CA 94404
phone 650.522.2500
fax 650.522.2599

www.csgegr.com

June 30, 2021

Scott Ottmar, PE
Senior Engineer
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955

RE: The Enclave Phase 2A and Phase 2B - Proposal for Grading and Drainage Plan Review

Dear Mr. Ottmar, PE:

CSG Consultants, Inc. (CSG) is pleased to present this proposal to assist the City of Seaside (City) with the review of the Grading and Drainage Plan for the Enclave Phase 2A and Phase 2B Project (Project). This Project is part of the entitled Seaside Resort, approved in 2005 that has had several final maps processed. This Project includes the development of 27 residential lots in two phases within the Bayonet Golf Course area that was once part of the Fort Ord Military Base.

The scope of work will consist of:

- review Rough Grading and Drainage plans for both phases
- review preliminary stormwater control plan as it relates to the Low Impact Development requirements for the Central Coast Regional Water Quality Control Board
- review, as appropriate, any amendments to the already established SWPPP
- review tree removal plan with the replacement ratio of 1:1.

The Project received entitlements in 2005 as part of the project formally known as the Seaside Resort. The Streets will be private with gated access. Water and Sewer will be provided by MCWD. Several final maps have already been approved in the overall development.

Future scope amendments that are anticipated, but not part of this proposal, may include but are not limited to the review of Full Street Improvement Plans including public and private infrastructure, Review of Construction Cost Estimate, Subdivision Map Review including City Surveyor Services, and Conformance Review of the VTM from the 2005 conditions of approval as it relates to infrastructure improvements. Additional scope amendment proposals will be provided upon request.

Work to be performed under this proposal is expected to include, but not be limited to, the following:

- 1) Review of the most current Rough Grading and Drainage Plan for Phase 2A
- 2) Review of the most current Rough Grading and Drainage Plan for Phase 2B
- 3) Review of the Conditions of Approval as it relates to the Grading and drainage of the two project sites
- 4) Review of any amendments to the already established SWPPP (2 amendments allowance).
- 5) Review of the Hydrologic and Hydraulic Analysis for the project.
- 6) Review of the Stormwater Control Plan.
- 7) Review of the Tree Removal plan for both Phase 2A and Phase 2B

Exhibit B

Attachment 1

City of Seaside
The Enclave Phase 2A and Phase 2B
Grading and Drainage Plan Review

6/30/2021

Task	Hours		
	Senior Principal Engineer - Mark Lander	Senior Project Manager - David Rubcic	Associate Engineer - CSG Staff
Hourly Rate	\$ 250.00	\$ 220.00	\$ 170.00
Review of Rough Grading and Drainage Plan Phase 2A	2	8	
Review of Rough Grading and Drainage Plan Phase 2B	2	8	
Review of COA as it relates to Grading and Drainage for Both Phases 2A and 2B		4	
Review of amendments to SWPPP (2 amendment allowance)			8
Review of Hydrologic and Hydraulic analysis			4
Review of Storm Water Control Plan			4
Review of Tree Removal Plan for Both Phases 2A and 2B		4	
Preparation of Draft Comment Letter		4	
QA/QC	2		
Progress Meeting with Staff to review comments	1	1	
Preparation of a final draft comment letter		1	
Follow-up Meeting with Staff and applicant	1	1	
Subtotal:	8	31	16
2nd Review			
Second Submittal Review of Plan Documents incl. QA/QC	2	12	4
Preparation of Second Comment Letter		2	
Meeting with Staff	1	1	
Meetings with Applicant	1	1	
Subtotal:	4	16	4
3rd Review			
Third Submittal Review of Above Plan Documents incl QA/QC	1	8	2
Preparation of Third Comment Letter		1	
Meeting with Staff	1	1	
Meetings with Applicant	1	1	
Subtotal:	3	11	2
Final Review			
Final Submittal Review of Above Materials incl. QA/QC	1	2	
Final Letter to City			0
Subtotal:	1	2	0
Total Hours	16	60	22
Cost	\$ 4,000.00	\$ 13,200.00	\$ 3,740.00
Total Hours	98		
Subtotal Plan Review	\$ 20,940.00		
Adjusted Subtotal Plan Review	\$ 20,940.00		
Total Fee Estimate	\$ 20,940.00		

Use \$21,000 for total

Costs may be adjusted between tasks as needed, up to the total amount of \$21,000.

commercial general liability, automobile liability, and employer's liability. Such policy or policies shall include the following terms and conditions:

- A drop down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;
- Pay on behalf of wording as opposed to reimbursement;
- Concurrence of effective dates with primary policies;
- Policies shall "follow form" to the underlying primary policies; and
- Insureds under primary policies shall also be insureds under the umbrella or excess policies.

Other provisions or requirements

Proof of insurance. Consultant shall provide certificates of insurance to Agency as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by Agency's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with Agency at all times during the term of this contract. Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by Consultant, his agents, representatives, employees or sub-consultants.

Primary/noncontributing. Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by Agency shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of Agency before the Agency's own insurance or self-insurance shall be called upon to protect it as a named insured.

Agency's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Agency has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Agency will be promptly reimbursed by Consultant or Agency will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Agency may cancel this Agreement.

endorsement of any kind that has not been first submitted to Agency and approved of in writing.

Separation of insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass through clause. Consultant agrees to ensure that its sub-consultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to Agency for review.

Agency's right to revise specifications. The Agency reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the Agency and Consultant may renegotiate Consultant's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by Agency. Agency reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by Agency.

Timely notice of claims. Consultant shall give Agency prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this AGREEMENT, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

**Request for Qualifications
Seaside Land Development Review**

The ideal candidate has a good working knowledge of the following documents:

1. State Water Resources Control Board (SWRCB) Water Quality Order No. 2013-0001-DWQ National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000004 and Construction General Permit Order 2009-009-DWQ and their amendments
2. Central Coast Regional Water Quality Control Board (CCRWQCB) Low Impact Development Standards, including but not limited to Resolution No. R3-2013-0032
3. CCRWQCB *Technical Support Post-Construction Stormwater Management Requirements for Development Projects in the Central Coast Region, User Guide for Municipal Implementation*
4. Fort Ord Reuse Authority (FORA) *Base Reuse Plan & Habitat Management Plan*.
5. *California Subdivision Map Act*
6. City of Seaside Municipal Code
7. California Environmental Quality Act (CEQA) & National Environmental Policy Act (NEPA)

Attachment A contains a copy of the Standard Consultant Agreement, which includes standard terms and conditions and insurance requirements applicable to the performance of this work.

III. FORM AND CONTENT OF PROPOSAL

Proposals should clearly state respondent's qualifications. In reviewing the proposals, the City of Seaside considers the quality of the proposal to be reflective of the potential quality of the work the Consultant is able to perform. The ability of the Consultant to clearly and concisely convey information will be considered in the review process. Consultants are encouraged not to submit lengthy and overly wordy proposals.

The SOQ will be limited to 15 numbered pages including title sheet and cover letter if provided. Minimum font size is 12. Page size is limited to letter size with no fold-outs. Submittals must be printed on both sides of the paper. A clear front and back cover shall be provided and the front and back clear cover will not count towards the 15 page limit

- A) A brief description of the consultant's firm, including the year the firm was established, type of organization (partnership, corporation, etc.), and a statement of the firm's qualifications for performing the subject consulting services.
- B) A summary of the qualifications and experience of each member proposed to provide professional services.
- C) A project summary list with descriptions of the proposed team's experience working for public entities.
- D) A list of references of relevant clients, including a contact person with their current telephone number and email address.

**Request for Qualifications
Seaside Land Development Review**

All material submitted in accordance with this RFQ becomes property of the City of Seaside and will not be returned.

VI. EVALUATION PROCESS

Agency staff will review each SOQ for completeness and content. Each SOQ will be evaluated based upon the relevant qualifications and experience of the consultant. Staff may conduct interviews if necessary. References will also be verified. The SOQ review will focus upon the following criteria:

1. *Organization:* Does the firm offer the breadth and quality of services required for the types of services listed in the Scope of Work?
2. *Staff:* Do the qualifications of key personnel to be assigned to the anticipated projects coincide with tasks listed in the Scope of Work? Do assigned personnel have requisite education, experience, and professional qualifications?
3. *Experience:* Has the firm demonstrated the ability to successfully provide services for projects of a similar complexity and nature as described herein?
4. *Professional Standing:* Are the firm's references from past clients and associates favorable? Are deliverables submitted on time and within budget?
5. *Proposal:* Organization, presentation, and content of proposal. Conformance to the specified proposal format.
6. *Responsiveness.* Ability to perform services at City of Seaside City Hall at a fair and reasonable cost. Ability to respond to request for service in a timely manner.

Proposals will be ranked on the basis of qualifications. The City of Seaside may conduct interviews with some or all of the firms who submit proposals, or it may complete its evaluation based on the proposals alone. If interviews are conducted, firms selected for interview will be contacted at that time to arrange the date and time for their interview.

VII. SELECTION PROCESS

Based on staff recommendation, City Council will consider approval of consultant(s). The City Council may select up to two firms or choose to determine that no SOQ proposal exhibits adequate qualifications.

Upon the selection by the City Council, consultant(s) may or may not be called upon by the City of Seaside to provide services.

VIII. SCHEDULE

The anticipated schedule for award of this project is as follows:

Release of RFQ
Receipt of Proposals

December 21, 2020
January 20, 2021 at 2:00 PM

XIII. PUBLIC NATURE OF PROPOSAL MATERIAL

Responses to this RFQ become the exclusive property of the City of Seaside. At such time as the City Manager recommends a Consultant to the City Council all proposals received in response to this RFQ become a matter of public record and shall be regarded as public records, with the exception of those elements in each proposal which are defined by the Consultant as business or trade secrets and plainly marked as "Confidential," "Trade Secret," or "Proprietary." The City of Seaside shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as "Confidential," "Trade Secret," or "Proprietary" or if disclosure is required under the Public Records Act. Any proposal which contains language purporting to render all or significant portions of the proposal "Confidential," "Trade Secret," or "Proprietary" shall be regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of Seaside may not be in a position to establish that the information that a Consultant submits is a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary," the City of Seaside will provide the Consultant who submitted the information with reasonable notice to allow the Consultant to seek protection from disclosure by a court of competent jurisdiction.

XIV. DISQUALIFICATION

Factors such as, but not limited to, any of the following may be considered just cause to disqualify a proposal without further consideration:

- A. Evidence of collusion, directly or indirectly, by Consultants in regard to the amount, terms, or conditions of this proposal;
- B. Any attempt to improperly influence any member of the selection staff;
- C. Existence of any lawsuit, unresolved contractual claim or dispute between Consultant and the City of Seaside;
- D. Evidence of incorrect information submitted as part of the proposal;
- E. Evidence of Consultant's inability to successfully complete the responsibilities and obligations of the proposal; and
- F. Consultant's default under any agreement, which results in termination of the Agreement.

XV. NON-CONFORMING PROPOSAL

A proposal shall be prepared and submitted in accordance with the provisions of these RFQ instructions and specifications. Any alteration, omission, addition, variance, or limitation of form or to a proposal may be sufficient grounds for non-acceptance of the proposal, at the sole discretion of the City of Seaside.

**Request for Qualifications
Seaside Land Development Review**

implied, exists on the part of the City of Seaside to make an award or to pay any cost incurred in the preparation or submission of an RFQ.

- G. Failure to execute the agreement within the time frame identified above shall be sufficient cause for voiding the award.
- H. Failure to comply with other requirements within the set time shall constitute failure to execute the Agreement. If the selected respondent refuses or fails to execute the Agreement, the City of Seaside may award the contract to the next qualified highest ranked Respondent.

XIX. ATTACHMENTS

Attachment A – Draft Consultant Agreement

5. PAYMENT

(a) The Agency agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed Twenty-One Thousand Dollars (\$21,000) for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the Agency City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by Agency City Manager and Consultant at the time Agency's written authorization is given to Consultant for the performance of said services.

(c) Consultant will submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the Agency disputes any of Consultant's fees it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

(a) The Agency may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the Agency suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the Agency shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the Agency. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the Agency pursuant to Section 3.

7. DEFAULT OF CONSULTANT

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, Agency shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

(b) If the Agency Manager or his/her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the Agency shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

8. OWNERSHIP OF DOCUMENTS

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by Agency that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of Agency or its designees at reasonable times to such books and records; shall give Agency the right to examine and audit said books and records; shall permit Agency to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the Agency and may be used, reused, or otherwise disposed of by

the Agency without the permission of the Consultant. With respect to computer files, Consultant shall make available to the Agency, at the Consultant's office and upon reasonable written request by the Agency, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

9. INDEMNITY AND DEFENSE

(a) Indemnification and Defense for Professional Services

To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless Agency and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all claims, losses, liabilities, damages, costs and expenses, including attorney's fees and costs, to the extent they arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant. Consultant's duty to defend shall consist of reimbursement of defense costs incurred by Agency in direct proportion to the Consultant's proportionate percentage of fault. Consultant's percentage of fault shall be determined, as applicable, by a court of law, jury or arbitrator. In the event any loss, liability or damage is incurred by way of settlement or resolution without a court, jury or arbitrator having made a determination of the Consultant's percentage of fault, the parties agree to mediation with a third party neutral to determine the Consultant's proportionate percentage of fault for purposes of determining the amount of indemnity and defense cost reimbursement owed to the Agency.

(b) For All Other Liabilities

Notwithstanding the foregoing and without diminishing any rights of Agency under Section 9.A, for any liability, claim, demand, allegation against Agency arising out of, related to, or pertaining to any act or omission of Consultant, but which is not a design professional service, Consultant shall defend, indemnify, and hold harmless Agency, its officials, employees, and agents ("Indemnified Parties") from and against any and all damages, costs, expenses (including reasonable attorney fees and expert witness fees), judgments, settlements, and/or arbitration awards, whether for personal or bodily injury, property damage, or economic injury, and arising out of, related to, any concurrent or contributory negligence on the part of the Agency, except for the sole or active negligence of, or willful misconduct of the Agency.

10. INSURANCE

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit C attached to and part of this Agreement.

11. INDEPENDENT CONSULTANT

(a) Consultant is and shall at all times remain as to the Agency a wholly independent Consultant. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither Agency nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the Agency. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against Agency, or bind Agency in any manner.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, Agency shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for Agency. Agency shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

12. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The Agency, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

13. UNDUE INFLUENCE

Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the Agency in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the Agency will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant,

in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of Agency, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without Agency's prior written authorization. Consultant, its officers, employees, agents, or sub-consultants, shall not without written authorization from the Agency Manager or unless requested by the Agency Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the Agency. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives Agency notice of such court order or subpoena.

(b) Consultant shall promptly notify Agency should Consultant, its officers, employees, agents, or sub-consultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the Agency. Agency retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with Agency and to provide the opportunity to review any response to discovery requests provided by Consultant. However, Agency's right to review any such response does not imply or mean the right by Agency to control, direct, or rewrite said response.

16. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to,

Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To Agency: City of Seaside
440 Harcourt Ave
Seaside, CA 93955
Attention: City Clerk

To Consultant: CSG Consultants Inc.
550 Pilgrim Drive
Foster City, CA 94404
Att: Dave Rubcic, P.E.

17. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the Agency. Because of the personal nature of the services to be rendered pursuant to this Agreement, David Rubcic shall be the Project Manager for the services described in this Agreement.

David Rubcic may use assistants, under its direct supervision, to perform some of the services under this Agreement. Consultant shall provide Agency fourteen (14) days' notice prior to the departure of David Rubcic from Consultant's employ. Should he/she leave Consultant's employ, the Agency shall have the option to immediately terminate this Agreement, within three (3) days of the close of said notice period. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the Governing Board and the Consultant.

18. LICENSES

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

19. GOVERNING LAW

The Agency and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any

litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with jurisdiction over the Agency.

20. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

21. WORK SCHEDULED/TIME OF COMPLETION

Agency and Consultant agree that time is of the essence in this Agreement. Consultant shall perform as described in Exhibit A.

22. CONTENTS OF REQUEST FOR PROPOSAL AND PROPOSAL

Consultant is bound by the contents of Agency's Request for Proposal, Exhibit "D" hereto and incorporated herein by this reference, and the contents of the proposal submitted by the Consultant, Exhibit "B" hereto. In the event of conflict, the requirements of Agency's Request for Proposals and this Agreement shall take precedence over those contained in the Consultant's proposals.

23. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

(Signatures on next page)

CONSULTANT: CSG Consultants
A California Corporation

By: Hatem Ahmed
Hatem Ahmed, Principal

Date: 8.5.21

City of Seaside
A Municipal Corporation

Craig Malin
Craig Malin, City Manager

Date: 8/13/21

Attachments:	Exhibit A	Scope of Work
	Exhibit B	Consultant Proposal
	Exhibit C	Insurance Requirements
	Exhibit D	Request for Proposal

EXHIBIT A

SCOPE OF WORK

ENCLAVE DEVELOP PHASE 2A & 2B

The City of Seaside received civil engineering grading plans, hydrology and hydraulics report, geotechnical report and storm water control plan associated with the Enclave development. As outlined below, the Consultant will be responsible for reviewing technical documents for the Project.

I. TASK DESCRIPTION

The primary objective of the proposed work is to provide review comments on the civil engineering grading plans and reports to include:

1. Prepare written review comments on grading and tree removal plans.
2. Prepare written review comments on the hydrology and hydraulics reports as applicable.
3. Prepare written review comments on the Stormwater Control Plan. Review shall be in accordance with the Central Coast Regional Water Quality Control Board (CCRWQCB) Low Impact Development Standards as defined in Resolution No. R3-2013-0032.

II. SCHEDULE OF PERFORMANCE

Time is of the essence. The Work shall be diligently performed as follows:

1. Initial review of documents shall be completed within 15 business days from receipt of Notice to Proceed.
2. Second and subsequent reviews shall be completed within 10 business days.

III. DELIVERABLES

Consultant shall provide written comments for the civil engineering plans, hydrology, hydraulics, geotechnical reports, and Storm Water Control Plan. Includes marking up associated documents and providing a tabulated summary of such comments. Comments will be provided in PDF and or Microsoft Excel or similar format.

Deliverables include:

1. Marked up plans and reports as appropriate
2. Tabulated summary of comments for plans and reports.



June 30, 2021

Scott Ottmar, PE
Senior Engineer
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955

RE: The Enclave Phase 2A and Phase 2B - Proposal for Grading and Drainage Plan Review

Dear Mr. Ottmar, PE:

CSG Consultants, Inc. (CSG) is pleased to present this proposal to assist the City of Seaside (City) with the review of the Grading and Drainage Plan for the Enclave Phase 2A and Phase 2B Project (Project). This Project is part of the entitled Seaside Resort, approved in 2005 that has had several final maps processed. This Project includes the development of 27 residential lots in two phases within the Bayonet Golf Course area that was once part of the Fort Ord Military Base.

The scope of work will consist of:

- review Rough Grading and Drainage plans for both phases
- review preliminary stormwater control plan as it relates to the Low Impact Development requirements for the Central Coast Regional Water Quality Control Board
- review, as appropriate, any amendments to the already established SWPPP
- review tree removal plan with the replacement ratio of 1:1.

The Project received entitlements in 2005 as part of the project formally known as the Seaside Resort. The Streets will be private with gated access. Water and Sewer will be provided by MCWD. Several final maps have already been approved in the overall development.

Future scope amendments that are anticipated, but not part of this proposal, may include but are not limited to the review of Full Street Improvement Plans including public and private infrastructure, Review of Construction Cost Estimate, Subdivision Map Review including City Surveyor Services, and Conformance Review of the VTM from the 2005 conditions of approval as it relates to infrastructure improvements. Additional scope amendment proposals will be provided upon request.

Work to be performed under this proposal is expected to include, but not be limited to, the following:

- 1) Review of the most current Rough Grading and Drainage Plan for Phase 2A
- 2) Review of the most current Rough Grading and Drainage Plan for Phase 2B
- 3) Review of the Conditions of Approval as it relates to the Grading and drainage of the two project sites
- 4) Review of any amendments to the already established SWPPP (2 amendments allowance).
- 5) Review of the Hydrologic and Hydraulic Analysis for the project.
- 6) Review of the Stormwater Control Plan.
- 7) Review of the Tree Removal plan for both Phase 2A and Phase 2B

- 8) Preparation of a draft comment letter.
- 9) Quality Assurance/Quality Control Review (QA/QC)
- 10) Progress meeting with staff to review comments.
- 11) Preparation of a final draft comment letter.
- 12) Follow up meetings with staff and applicant.
- 13) Completion of a second, third, and final review.

Work will be completed under the supervision of Mark Lander, P.E., and Project Manager David Rubcic, PE, PLS who will serve as point of contact. Other CSG staff will assist as needed.

Our fee for performing the work described above will be on a time and materials basis, based on our 2021 Standard Fee Schedule in an amount not to exceed \$21,000.

A breakdown of the costs by staff and task is attached. Hours and costs by task may be adjusted between tasks as needed provided the total fee amount is not exceeded.

We anticipate that one initial review, a second review, a third review and one final review will be sufficient. Additional reviews may be needed if the project resubmittal and review of previously reviewed plans is required because of changes or added conditions during the life of the project. Each submittal will be made formerly to the City by the applicant, and similarly, review comments for each submittal will be issued to the City, with a copy to the applicant upon request. For the initial review, work will be completed within 15 work days from the authorization to proceed. Subsequent reviews will be completed within 10 work days of receiving the plans and supporting documents. We have included time for meeting with City staff and the applicant to discuss plan check comments. If additional reviews are required, CSG will complete the reviews if there is budget remaining under the estimated amount, or on an hourly basis for an additional fee, if the estimated amount is exceeded.

Thank you for considering CSG for this work. We look forward to working with you on this project. Please feel free to call me at (650) 522-2500 if you would like to discuss this further.

Sincerely,



David Rubcic, P.E., P.L.S.
Senior Project Manager

Cc: Mark Lander, PE

Attachments
Fee Breakdown

Exhibit B

Attachment 1

City of Seaside

The Enclave Phase 2A and Phase 2B

Grading and Drainage Plan Review

6/30/2021

Task	Hours		
	Senior Principal Engineer - Mark Lander	Senior Project Manager - David Rubcic	Associate Engineer - CSG Staff
Hourly Rate	\$ 250.00	\$ 220.00	\$ 170.00
Review of Rough Grading and Drainage Plan Phase 2A	2	8	
Review of Rough Grading and Drainage Plan Phase 2B	2	8	
Review of COA as it relates to Grading and Drainage for Both Phases 2A and 2B		4	
Review of amendments to SWPPP (2 amendment allowance)			8
Review of Hydrologic and Hydraulic analysis			4
Review of Storm Water Control Plan			4
Review of Tree Removal Plan for Both Phases 2A and 2B		4	
Preparation of Draft Comment Letter		4	
QA/QC	2		
Progress Meeting with Staff to review comments	1	1	
Preparation of a final draft comment letter		1	
follow-up Meeting with Staff and applicant	1	1	
Subtotal:	8	31	16
2nd Review			
Second Submittal Review of Plan Documents incl. QA/QC	2	12	4
Preparation of Second Comment Letter		2	
Meeting with Staff	1	1	
Meetings with Applicant	1	1	
Subtotal:	4	16	4
3rd Review			
Third Submittal Review of Above Plan Documents incl QA/QC	1	8	2
Preparation of Third Comment Letter		1	
Meeting with Staff	1	1	
Meetings with Applicant	1	1	
Subtotal:	3	11	2
Final Review			
Final Submittal Review of Above Materials incl. QA/QC	1	2	
Final Letter to City			0
Subtotal:	1	2	0
Total Hours			
Cost	16	60	22
	\$ 4,000.00	\$ 13,200.00	\$ 3,740.00
Total Hours	98		
Subtotal Plan Review	\$ 20,940.00		
Adjusted Subtotal Plan Review	\$ 20,940.00		
Total Fee Estimate	\$ 20,940.00		

Use \$21,000 for total

Costs may be adjusted between tasks as needed, up to the total amount of \$21,000.

EXHIBIT C

INSURANCE REQUIREMENTS

Without limiting Consultant's indemnification of Agency, and prior to commencement of Work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to Agency.

General liability insurance. Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

Automobile liability insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

Professional liability (errors & omissions) insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement and Consultant agrees to maintain continuous coverage through a period no less than three (3) years after completion of the services required by this Agreement.

Workers' compensation insurance. Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

Consultant shall submit to Agency, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of Agency, its officers, agents, employees and volunteers.

Umbrella or excess liability insurance. [Optional depending on limits required]. Consultant shall obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverages set forth above, including

commercial general liability, automobile liability, and employer's liability. Such policy or policies shall include the following terms and conditions:

- A drop down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;
- Pay on behalf of wording as opposed to reimbursement;
- Concurrency of effective dates with primary policies;
- Policies shall "follow form" to the underlying primary policies; and
- Insureds under primary policies shall also be insureds under the umbrella or excess policies.

Other provisions or requirements

Proof of insurance. Consultant shall provide certificates of insurance to Agency as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by Agency's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with Agency at all times during the term of this contract. Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by Consultant, his agents, representatives, employees or sub-consultants.

Primary/noncontributing. Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by Agency shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of Agency before the Agency's own insurance or self-insurance shall be called upon to protect it as a named insured.

Agency's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Agency has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Agency will be promptly reimbursed by Consultant or Agency will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Agency may cancel this Agreement.

Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the Agency's Risk Manager.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against Agency, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against Agency, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

Enforcement of contract provisions (non estoppel). Consultant acknowledges and agrees that any actual or alleged failure on the part of the Agency to inform Consultant of non-compliance with any requirement imposes no additional obligations on the Agency nor does it waive any rights hereunder.

Requirements not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the Agency requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Agency.

Notice of cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide to Agency with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

Additional insured status. General liability policies shall provide or be endorsed to provide that Agency and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting

endorsement of any kind that has not been first submitted to Agency and approved of in writing.

Separation of insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass through clause. Consultant agrees to ensure that its sub-consultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to Agency for review.

Agency's right to revise specifications. The Agency reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the Agency and Consultant may renegotiate Consultant's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by Agency. Agency reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by Agency.

Timely notice of claims. Consultant shall give Agency prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this AGREEMENT, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

**REQUEST FOR QUALIFICATIONS
PROFESSIONAL SERVICES
LAND DEVELOPMENT PROJECTS REVIEW
DECEMBER 21, 2020**

The City of Seaside is requesting proposals from qualified firms to provide professional services to review documents for proposed land development projects within the City of Seaside, hereinafter referred to as “the Projects.” The selected firm, hereinafter referred to as “the Consultant,” will be responsible for reviewing technical documents for the Projects. The City of Seaside intends to select up to three firms with which to negotiate a contract based on the responses to this Request for Qualification (RFQ). Selection will be based on demonstrated expertise in providing support to public works departments.

I. BACKGROUND

The City of Seaside is located approximately 115 miles south of San Francisco and 73 miles south of San Jose. The City of Seaside encompasses a total area of approximately nine square miles. Seaside is the largest city on the Monterey Peninsula with 33,878 residents. A large part of the City of Seaside's area, 6.44 square miles, lies within the former Fort Ord military base. From time to time, the City of Seaside may contract with outside consultants to assist with processing larger and complex development projects. This RFQ is intended to provide such additional resources for the Public Works Engineering Department.

II. PROPOSED SCOPE OF WORK

The primary objective of the work is to review documents for the Projects. The proposed scope of services may include the following:

- Perform additional investigations including field investigations as may be required to determine existing conditions. This may include preparing a report to describe the existing facilities.
- Review engineered plans, reports, technical specifications, and engineer's cost estimates for the proposed improvements.
- Review maps including parcel, tract maps and other documents associated with adjustments, mergers or changes to property boundaries.
- Prepare review comments citing, if necessary, federal, state, and local standards and regulations.
- Review and prepare documents as required by California Environmental Quality Act.
- Provide project support during the planning and design phase.
- Provide project support during the construction phase.
- Provide status reports that accurately communicate budget and schedule to city staff in a timely manner.

**Request for Qualifications
Seaside Land Development Review**

The ideal candidate has a good working knowledge of the following documents:

1. State Water Resources Control Board (SWRCB) Water Quality Order No. 2013-0001-DWQ National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000004 and Construction General Permit Order 2009-009-DWQ and their amendments
2. Central Coast Regional Water Quality Control Board (CCRWQCB) Low Impact Development Standards, including but not limited to Resolution No. R3-2013-0032
3. CCRWQCB *Technical Support Post-Construction Stormwater Management Requirements for Development Projects in the Central Coast Region, User Guide for Municipal Implementation*
4. Fort Ord Reuse Authority (FORA) *Base Reuse Plan & Habitat Management Plan*.
5. *California Subdivision Map Act*
6. City of Seaside Municipal Code
7. California Environmental Quality Act (CEQA) & National Environmental Policy Act (NEPA)

Attachment A contains a copy of the Standard Consultant Agreement, which includes standard terms and conditions and insurance requirements applicable to the performance of this work.

III. FORM AND CONTENT OF PROPOSAL

Proposals should clearly state respondent's qualifications. In reviewing the proposals, the City of Seaside considers the quality of the proposal to be reflective of the potential quality of the work the Consultant is able to perform. The ability of the Consultant to clearly and concisely convey information will be considered in the review process. Consultants are encouraged not to submit lengthy and overly wordy proposals.

The SOQ will be limited to 15 numbered pages including title sheet and cover letter if provided. Minimum font size is 12. Page size is limited to letter size with no fold-outs. Submittals must be printed on both sides of the paper. A clear front and back cover shall be provided and the front and back clear cover will not count towards the 15 page limit

- A) A brief description of the consultant's firm, including the year the firm was established, type of organization (partnership, corporation, etc.), and a statement of the firm's qualifications for performing the subject consulting services.
- B) A summary of the qualifications and experience of each member proposed to provide professional services.
- C) A project summary list with descriptions of the proposed team's experience working for public entities.
- D) A list of references of relevant clients, including a contact person with their current telephone number and email address.

**Request for Qualifications
Seaside Land Development Review**

All proposing firms must be professionally engaged in the project management and review of land development projects with experience in the public sector for a minimum of five (5) years. At a minimum, Consultants must employ qualified individuals who are licensed and/or otherwise qualified in the following disciplines:

1. Licensed Professional Civil Engineering (PE)
2. Licensed Land Surveyor or PE licensed prior to January 1, 1982
3. Construction General Permit Qualified SWPPP Practitioner (QSP) and Qualified SWPPP Developer (QSD)
4. Construction cost estimating/value engineering, and
5. Project management.

IV. QUESTIONS AND ADDENDA

Please direct any questions you may have regarding this RFQ, including any request for the City of Seaside to issue a formal written clarification or correction of a discrepancy or an omission in this RFQ, **via email** to:

Scott Ottmar, Senior Engineer
City of Seaside – Engineering Division
Email: sottmar@ci.seaside.ca.us
Phone: (831) 899-6885

Any request for a formal written clarification or correction of a discrepancy or an omission in this RFQ must be received by the City of Seaside at least three (3) business days prior to the proposal due date.

V. SUBMITTAL OF PROPOSALS

SOQs must be received by 2:00 PM January 20, 2020 at the following address:

Scott Ottmar, Senior Engineer
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955

SOQ received after this deadline will not be accepted. The SOQ and any accompanying documents may be submitted via email to pwinfo@ci.seaside.ca.us, in Adobe pdf format. Cost information shall be included in a separate PDF, password protected file and titled “Standard Hourly Fees” and included with the same email as the proposal. City of Seaside will request the password.

Optionally, three bound copies, plus one electronic copy submitted on CD or USB flash drive may be submitted in a sealed envelope with the words “**Proposal for Professional Services**” clearly marked in the lower left-hand corner of the envelope. Cost information shall be placed in a separate, sealed envelope within the proposal envelope.

**Request for Qualifications
Seaside Land Development Review**

All material submitted in accordance with this RFQ becomes property of the City of Seaside and will not be returned.

VI. EVALUATION PROCESS

Agency staff will review each SOQ for completeness and content. Each SOQ will be evaluated based upon the relevant qualifications and experience of the consultant. Staff may conduct interviews if necessary. References will also be verified. The SOQ review will focus upon the following criteria:

1. *Organization:* Does the firm offer the breadth and quality of services required for the types of services listed in the Scope of Work?
2. *Staff:* Do the qualifications of key personnel to be assigned to the anticipated projects coincide with tasks listed in the Scope of Work? Do assigned personnel have requisite education, experience, and professional qualifications?
3. *Experience:* Has the firm demonstrated the ability to successfully provide services for projects of a similar complexity and nature as described herein?
4. *Professional Standing:* Are the firm's references from past clients and associates favorable? Are deliverables submitted on time and within budget?
5. *Proposal:* Organization, presentation, and content of proposal. Conformance to the specified proposal format.
6. *Responsiveness.* Ability to perform services at City of Seaside City Hall at a fair and reasonable cost. Ability to respond to request for service in a timely manner.

Proposals will be ranked on the basis of qualifications. The City of Seaside may conduct interviews with some or all of the firms who submit proposals, or it may complete its evaluation based on the proposals alone. If interviews are conducted, firms selected for interview will be contacted at that time to arrange the date and time for their interview.

VII. SELECTION PROCESS

Based on staff recommendation, City Council will consider approval of consultant(s). The City Council may select up to two firms or choose to determine that no SOQ proposal exhibits adequate qualifications.

Upon the selection by the City Council, consultant(s) may or may not be called upon by the City of Seaside to provide services.

VIII. SCHEDULE

The anticipated schedule for award of this project is as follows:

Release of RFQ	December 21, 2020
Receipt of Proposals	January 20, 2021 at 2:00 PM

**Request for Qualifications
Seaside Land Development Review**

Interview Consultant(s), if necessary	week of February 1, 2021
Retain Consultant(s)	February 18, 2021
Start of Contract	March 1, 2021

IX. ACCEPTANCE OR REJECTION OF PROPOSAL

The City of Seaside reserves the right to accept or reject any and all proposals. The City of Seaside also reserves the right to waive any informality or irregularity in any Qualifications. Additionally, the City of Seaside may, for any reason, decide not to award an agreement as a result of this RFQ or cancel the RFQ process. The City of Seaside shall not be obligated to respond to any proposal submitted, nor be legally bound in any manner by the submission of the proposal. The City of Seaside will make a recommendation to the City Council regarding the selection of Consultant based upon an evaluation of the proposals. The City of Seaside reserves the right to negotiate project deliverables and associated costs.

X. GENERAL DESCRIPTION OF PROPOSED AGREEMENT

Upon conclusion of the RFQ process, the City of Seaside will select a Consultant with which to enter into negotiations for the assignments described. The selected Consultant shall enter into contract negotiations with the City of Seaside in substantial conformity with the selected proposal and the form of the Consultant Agreement, which is contained in Attachment A.

XI. INSURANCE REQUIREMENTS

The selected Consultant, at Consultant's sole cost and expense and for the full term of the Agreement or any extension thereof, shall obtain and maintain all of the insurance requirements outlined in the Consultant Agreement (see Attachment A).

All policies, endorsements, certificates, and/or binders shall be subject to approval by the City of Seaside as to form and content. The selected Consultant agrees to provide the City of Seaside with a copy of said policies, certificates and/or endorsements.

The selected Consultant shall satisfy these insurance requirements prior to approval of the Agreement. Please address any issues with respect to insurance requirements in your response to the corresponding question in the RFQ.

XII. EXAMINATION OF PROPOSED MATERIAL

The submission of a proposal shall be deemed a representation and certification by the Consultant that they have investigated all aspects of the RFQ, that they are aware of the applicable facts pertaining to the RFQ process, its procedures and requirements, and that they have read and understood the RFQ. No request for modification of the statement shall be considered after its submission on grounds that the Consultant was not fully informed as to any facts or condition.

XIII. PUBLIC NATURE OF PROPOSAL MATERIAL

Responses to this RFQ become the exclusive property of the City of Seaside. At such time as the City Manager recommends a Consultant to the City Council all proposals received in response to this RFQ become a matter of public record and shall be regarded as public records, with the exception of those elements in each proposal which are defined by the Consultant as business or trade secrets and plainly marked as “Confidential,” “Trade Secret,” or “Proprietary.” The City of Seaside shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as “Confidential,” “Trade Secret,” or “Proprietary” or if disclosure is required under the Public Records Act. Any proposal which contains language purporting to render all or significant portions of the proposal “Confidential,” “Trade Secret,” or “Proprietary” shall be regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of Seaside may not be in a position to establish that the information that a Consultant submits is a trade secret. If a request is made for information marked “Confidential,” “Trade Secret,” or “Proprietary,” the City of Seaside will provide the Consultant who submitted the information with reasonable notice to allow the Consultant to seek protection from disclosure by a court of competent jurisdiction.

XIV. DISQUALIFICATION

Factors such as, but not limited to, any of the following may be considered just cause to disqualify a proposal without further consideration:

- A. Evidence of collusion, directly or indirectly, by Consultants in regard to the amount, terms, or conditions of this proposal;
- B. Any attempt to improperly influence any member of the selection staff;
- C. Existence of any lawsuit, unresolved contractual claim or dispute between Consultant and the City of Seaside;
- D. Evidence of incorrect information submitted as part of the proposal;
- E. Evidence of Consultant’s inability to successfully complete the responsibilities and obligations of the proposal; and
- F. Consultant’s default under any agreement, which results in termination of the Agreement.

XV. NON-CONFORMING PROPOSAL

A proposal shall be prepared and submitted in accordance with the provisions of these RFQ instructions and specifications. Any alteration, omission, addition, variance, or limitation of form or to a proposal may be sufficient grounds for non-acceptance of the proposal, at the sole discretion of the City of Seaside.

XVI. PROHIBITION OF GIFTS

City of Seaside officials are subject to several legal and policy limitations regarding receipt of gifts from persons, firms, or corporations either engaged in business with the City of Seaside, or proposing to do business with the City of Seaside. The offering of any illegal gift shall be grounds to disqualify a Consultant. To avoid even the appearance of impropriety, Consultants should not offer any gifts or souvenirs, even of minimal value, to City of Seaside officers or employees. The Consultant shall be subject to the City of Seaside's prohibition.

XVII. NON-DISCRIMINATION/NON-PREFERENTIAL TREATMENT

The successful Consultant shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of City of Seaside contracts.

XVIII. ADDITIONAL TERMS AND CONDITIONS

The following additional terms and conditions are applicable to this RFQ process:

- A. It is anticipated that the award of the Agreement resulting from the RFQ shall include terms and conditions similar to those referenced in the City of Seaside's Standard Consultant Agreement, attached. Exceptions proposed by the Consultant, if any, to the terms and conditions included in the City of Seaside's Standard Consultant Agreement should be included in the proposal. The City of Seaside reserves the right to consider any proposal exceptions during its evaluation of the acceptability of a proposal.
- B. This RFQ does not commit the City of Seaside to pay any costs incurred in the submission of the proposal or in making any necessary studies or analysis in preparation of submission of the proposal.
- C. The City of Seaside reserves the right without limitation to:
 - 1. Enter into an agreement with another Consultant in the event that the originally selected Consultant defaults or fails to execute an agreement with the City of Seaside;
 - 2. Modify and re-issue the RFQ;
 - 3. Take action regarding the RFQ as may be deemed to be in the best interest of the City of Seaside.
- D. The City of Seaside reserves the right to verify any information provided during the RFQ process. The City of Seaside may contact references listed or any other person known to have contracted with Consultant.
- E. An agreement shall not be binding or valid with the City of Seaside unless and until it is executed by authorized representatives of the City of Seaside and of the Consultant.
- F. While it is the intent of the City of Seaside to proceed with this project, this solicitation does not obligate the City of Seaside to enter into an Agreement. The City of Seaside retains the right to cancel this RFQ at any time. No obligation either expressed or

**Request for Qualifications
Seaside Land Development Review**

implied, exists on the part of the City of Seaside to make an award or to pay any cost incurred in the preparation or submission of an RFQ.

- G. Failure to execute the agreement within the time frame identified above shall be sufficient cause for voiding the award.
- H. Failure to comply with other requirements within the set time shall constitute failure to execute the Agreement. If the selected respondent refuses or fails to execute the Agreement, the City of Seaside may award the contract to the next qualified highest ranked Respondent.

XIX. ATTACHMENTS

Attachment A – Draft Consultant Agreement



CITY OF SEASIDE STAFF REPORT

Item No.: 8.G.

TO: City Council

FROM: Roberta Greathouse, Acting City Manager

BY: Nisha Patel, Public Works Director/City Engineer
Leslie Llantero, Assistant Engineer

DATE: November 18, 2021

**SUBJECT: ADOPT A RESOLUTION AUTHORIZING AMENDMENT NO. 7 TO
THE PROFESSIONAL SERVICE AGREEMENT WITH HARRIS &
ASSOCIATES FOR THE PAVEMENT REHABILITATION PROJECT
FOR AN AMOUNT NOT TO EXCEED \$34,960.00**

RECOMMENDATION

Adopt a resolution authorizing the City Manager to execute Contract Amendment No. 7 to the professional services agreement with Harris & Associates to incorporate additional pavement striping bid documents for striping throughout the entire City in the FY 2021/22 Pavement Rehabilitation Project for an amount not to exceed \$34,960.00.

BACKGROUND

On November 1, 2018, the City Council awarded a professional services agreement to Harris for the design of roadway improvements, which included Pavement Rehabilitation Project Phase 2 and Phase 3. During the construction of Phase 3, it was revealed that utility conflicts prevented construction of the pavement rehabilitation for Kimball Avenue and Wheeler Avenue. California American Water (Cal Am) and Pacific Gas and Electric (PG&E) have been working to lower their utilities on these streets. PG&E has already lowered their utility lines, and Cal Am began work in late October and their work is anticipated to be completed by the end of January 2022.

Staff has retained Harris to complete the bid package for the next paving phase entitled FY 2021/22 Pavement Rehabilitation project. This project includes the pavement rehabilitation of Kimball Avenue, Wheeler Street, northern and southern portions of Fremont Boulevard and several base repair locations. Street striping was included in the FY 2021/22 Transportation Capital Projects Budget with a total project amount of

\$175,000. Due to limited Public Works staffing resources and the current workload demands of the engineering division of Public Works, it was determined to incorporate street striping for the entire City into the FY 2021/22 Pavement Rehabilitation Project.

Harris submitted a proposal dated November 3, 2021 in the amount of \$34,960 as an amendment to the original Pavement Design Services agreement. Harris will provide an inventory assessment of existing striping and pavement markings city wide and prepare striping bid documents to be incorporated in FY 2021/22 Pavement Rehabilitation Project. Staff reviewed the proposal and determined the scope to be in conformance with the requirements of the original contract and the original Request for Proposal (RFP). Staff recommends the Council approve a resolution authorizing the City Manager to execute Contract Amendment No. 7 with Harris & Associates to incorporate additional pavement striping bid documents in the FY 2021/22 Pavement Rehabilitation Project. It is further recommended to authorize the City Manager to execute future amendments in the amount of \$5,310.00.

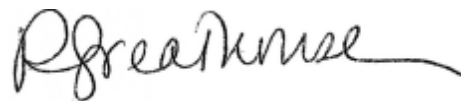
FISCAL IMPACT

An amendment to the Harris and Associates professional services agreement will have no fiscal impact on the General Fund. Street striping is in the FY 2021/22 Budget in the amount of \$175,000.00. Amendment No. 7 to the Professional Services Agreement (PSA) with Harris & Associates will be funded from the Transportation Capital Projects Fund (Acc No. 212-8970-9600).

ATTACHMENTS

1. Resolution
2. Amendment #7

Reviewed for Submission to the City Council by:



Roberta Greathouse, Acting City Manager

RESOLUTION NO. 20-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH HARRIS & ASSOCIATES FOR PAVEMENT DESIGN SERVICES TO INCLUDE STRIPING INVENTORY ASSESSMENT FOR AN AMOUNT NOT TO EXCEED \$34,690.00.

WHEREAS, The City of Seaside owns and maintains some of the public roadways within the city limits; and

WHEREAS, on November 1, 2018, Council awarded a professional services agreement to Harris & Associates for the design of roadway improvements, which included Pavement Rehabilitation Project Phase 2 and Phase 3; and

WHEREAS, during the construction of Phase 3, it was determined to remove the paving rehabilitation of Kimball Avenue and Wheeler Avenue from the construction contract due to utility conflicts and that the paving rehabilitation would be incorporated into the subsequent paving project; and

WHEREAS, Harris & Associates was retained to prepare construction documents for the next paving project, entitled FY 2021/22 Pavement Rehabilitation, which includes Kimball Avenue, Wheeler Street, northern and southern portions of Fremont Boulevard and several base repairs locations; and

WHEREAS, street striping is included in the FY 2021/22 Budget in the Transportation Capital Projects account 212-8980-9600 with a total project amount of \$175,000; and

WHEREAS, due to limited Public Works staffing resources and the current work load demands for the engineering department, it was determined to incorporate street striping into the FY 2021/22 Pavement Rehabilitation project; and

WHEREAS, Harris & Associates provided a proposal, dated November 3, 2021, to provide an inventory assessment of the existing striping and pavement markings city wide and prepare striping construction documents to be incorporated into FY 2021/22 Pavement Rehabilitation Project; and

WHEREAS, staff determined that Harris & Associates is qualified to perform the above mentioned services for FY 2021/22 Pavement Rehabilitation project; and

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Seaside authorizes the City Manager to execute Amendment No. 7 to the professional services agreement with Harris and Associates in the amount of \$34,690.00 to conduct striping inventory assessment and prepare additional construction documents for the FY 2021/22 Pavement Rehabilitation Project; and

BE IT FURTHER RESOLVED, that the City of Seaside City Council authorizes the City Manager to execute additional contract amendments in the amount of \$5310.00.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 18th day of November 2021 by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

Ian N. Oglesby, Mayor

ATTEST:

Dominique L. Davis, City Clerk

CONTRACT AMENDMENT #7
PROFESSIONAL SERVICES
City of Seaside

Date: November 4, 2021

Change Requested by: X City/District Consultant

Contract Date

Project Name

 11/2/2018

 Pavement Design Services

To (Consultant): Harris & Associates, Inc. 450 Lincoln Ave. Suite 103, Salinas, CA 93901

You are directed to make the following changes to the Contract Documents or amend the following described work not included in the contract documents for this project.

The purpose of this addendum is to provide additional professional services related to the project named above. The contract terms and conditions shall not be modified except for as stated herein.

MODIFY the following text in **Section 2, "Services."**

Consultant shall perform the tasks described and set forth in Exhibit A, A1, A2, A3, A4, A5, A6 and A7 attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit E, A1, A2, A3, A4, A5, A6 and A7.

MODIFY the following text in **Section 22, "Contents of Request for Proposal and Proposal."**

Consultant is bound by the contents of City's Request for Proposal, Exhibit "D" hereto and incorporated herein by this reference, and the contents of the proposal submitted by the Consultant, Exhibit E, A1, A2, A3, A4, A5, A6 and A7 attached hereto.

Original Contract Amount	Previous CCO Total (Not including this Amendment)	This Amendment Total	Revised Contract Amount
\$1,058,180	\$894,112	\$34,960	\$1,987,252
Original Contract Time	Original Completion Date	Days To Date (Including This Amendment)	Revised Completion Date
44 Months	June, 30, 2022	1,337	June, 30, 2022

CONTRACT AMENDMENT #7
PROFESSIONAL SERVICES
City of Seaside

	Nisha Patel PW Director / City Engineer	11/5/21
Signature	Name and Title	Date
	Roberta Greathouse Acting City Manager	
Signature	Name and Title	Date

	Frank S. Lopez VP , Engineering Services	November, 4, 2021
Signature	Name and Title	Date



November 4, 2021

Leslie Llantero
Associate Engineer
City of Seaside
440 Harcourt Drive
Seaside, CA 93955

Amendment #7 – Engineering Design Services for the Seaside Roadway Rehabilitation Project – Striping Citywide

Dear Leslie,

Harris & Associates (Harris) is pleased to continue to provide Engineering Design Services for the Seaside Roadway Rehabilitation Project. The following is a suggested scope of work and fee estimate based on our discussions with City staff.

PROJECT UNDERSTANDING

The additional engineering design services requested by the City consists of performing an inventory assessment of the roadway striping throughout the City and develop plans for roadway segments that require striping improvements. Since the condition of the roadways is not known at this time and the number of roadways requiring striping has an impact on the number of plan sheets to prepare, we are proposing to perform this work on two phases as presented below.

SCOPE OF WORK

The following outlines our scope of work for the Project as identified above. The tasks align with the current Work Breakdown Structure for the current project.

TASK 801 – PROJECT MANAGEMENT

TASK 801.1 – PROJECT ADMINISTRATION

Project Management responsibilities will involve preparation and maintenance of the Project scope, schedule, budget, and resource management. A brief progress report will accompany each monthly Harris invoice. It will discuss budget, schedule, and “next steps”.

TASK 801.2 – PROJECT MEETINGS

This task includes meetings with City staff throughout design process to discuss. This includes a kick off meeting, meeting to discuss the inventory assessment and design review meetings at the 90% Submittal.

Assumptions

- *One (1) project kick-off meeting (Virtual Meeting).*
- *Two (2) design review meetings after the Inventory Assessment Phase and 90% Submittal. (Virtual Meeting).*

Deliverables

- *Meeting Minutes for each meeting.*

TASK 802 – INVENTORY ASSESSMENT

TASK 802.1 – ROADWAY EXHIBIT

Harris staff will first develop a citywide exhibit identifying roadway segments based on delineated neighborhoods throughout the City. This approach will allow Harris and City staff to prioritize sections and remove sections that may not require striping due to recent roadway improvements. The exhibit will be presented to the City for review prior to performing the Field Survey.

Deliverables

- *Roadway Exhibit.*

TASK 802.2 – FIELD INVESTIGATION

Harris will conduct a field investigation for the streets identified by the City per Task 802.1 to perform an inventory assessment of the striping. Striping includes stop bars, centerline delineations and other striping designations (e.g. speed humps).

Deliverables

- *Field Notes and photos taken by Harris staff.*

Assumptions

- *Four (4) days of field investigation.*
- *Two (2) days to develop inventory assessment*

The sheet count is not known at this time and therefore the level of effort cannot be determine for the PS&E phase (90% & 100%) of the project. Based on this, an allowance is proposed and can be negotiated upon completion of Task 802. The following tasks are anticipated and noted for consideration.

TASK 803 – 90% SUBMITTAL PACKAGE

TASK 803.1 – 90% DESIGN PLANS

Based upon the Inventory Assessment meeting, Harris will develop and submit 90% Design Plans and Specifications to include Striping Treatments at locations identified by the City.

Deliverables

- *Electronic copy in pdf format of 90% Design Plans.*
- *All construction plans will be prepared in a format compatible with the City's preferred AutoCAD format.*

TASK 803.2 – 90% SPECIFICATIONS

Prepare project specifications in the City's preferred MS Word format using the City's latest electronic sample. The Special Provisions and bid sheet will be prepared in a format consistent with current City projects.

Deliverables

- *Electronic copy in pdf format of 90% Contract Documents and Technical Specifications.*

Assumptions

- *Technical Specifications will be based on City and MUTCD standards.*
- *City to provide front end documents with minor formatting required by Harris.*

TASK 803.3 – 90% OPINION OF PROBABLE CONSTRUCTION COST

Harris will prepare a 90% Opinion of Probable Construction Cost (OPCC).

Deliverables

- *Electronic copy in pdf format of 90% Opinion of Probable Construction Cost.*

TASK 803.4 – QUALITY CONTROL REVIEW

Harris will perform a quality control review prior to submittal of 90% Submittal Package. A Harris Quality Control Manager will perform the quality control review.

TASK 804 – FINAL SUBMITTAL PACKAGE

TASK 804.1 – FINAL DESIGN PLANS

Based upon comments received from the City to the 90% Design Submittal, Harris will address the comments, revise, and submit Final plans for the City to issue for bid.

Deliverables

- *Electronic copy in pdf format of Final Plans (Signed & Stamped).*
- *Two (2) full size hard copies of Final Plans (Signed & Stamped).*

TASK 804.2 – FINAL SPECIFICATIONS

Harris will prepare Final Technical Specifications and Contract Documents.

Deliverables

- *Electronic copy in pdf format of Final Contract Documents and Technical Specifications (Signed & Stamped).*
- *Two (2) hard copies of Final Contract Documents and Technical Specifications (Signed & Stamped)*

TASK 804.3 – FINAL OPINION OF PROBABLE CONSTRUCTION COST

Harris will prepare a Final Opinion of Probable Construction Cost.

Deliverables

- *Electronic copy in pdf format of Final Opinion of Probable Construction Cost.*
- *Two (2) hard copy versions of the Final Opinion of Probable Construction Cost.*

TASK 804.4 – QUALITY CONTROL REVIEW

Harris will perform a quality control review prior to submittal of Final Submittal Package. A Harris Quality Control Manager will perform the quality control review.

TASK 805 – BID PERIOD SERVICES

Harris will assist the City in answering bidders' questions during the bidding stage, issue addendums and attend one pre-bid meeting.

Deliverables

- *Pre-bid meeting notes in electronic pdf format.*
- *Two (2) addendum to the plans and specifications in electronic pdf format.*
- *Two (2) Request for Information (RFI) response in electronic pdf format.*

Assumptions

- *The City will advertise and distribute bid documents.*
- *All bid inquiries will be routed through the City.*
- *Two (2) addendum is assumed to be issued during bidding.*
- *Two (2) RFI assumed during bidding.*

FEE ESTIMATE

The not to exceed time and materials cost estimate for performing the tasks described above is \$34,960. A detailed level of effort is provided in **Attachment 1**.

The Harris team is ready and can start immediately upon issuance of Notice to Proceed (NTP). Please feel free to contact me directly should you have any questions regarding this scope of work and cost estimate.

Sincerely,

Harris & Associates, Inc.



Frank S. Lopez, PE, QSD
Vice President, Engineering Consulting
(831) 233-9242 ■ Frank.Lopez@WeAreHarris.com

Attachment 1 – Fee Estimate

City of Seaside
Amendment #7 – Engineering Design Services
for the Seaside Roadway Rehabilitation Project



Harris & Associates

FEE ESTIMATE

Task/Subtask	Harris & Associates			Subtotals
	PIC/QC Manager \$260.00	PM \$160.00	Design Engineer \$130.00	
Engineering Design Services				
Task 801 Project Management				
801.1 Project Management		10		\$1,600
801.2 Meetings	4	8	8	\$3,360
Subtotal Hours =	4	18	8	30
Task 801 Subtotal (\$) =	\$1,040	\$2,880	\$1,040	\$4,960
Task 802 Inventory Assessment				
802.1 Roadway Exhibit		4	8	\$1,680
802.2 Field Investigation	2	16	40	\$8,280
Subtotal Hours =	2	20	48	70
Task 802 Subtotal (\$) =	\$520	\$3,200	\$6,240	\$9,960
Task 803 90% Submittal Package				
803.1 90% Plans		16	40	\$7,760
803.2 90% Specifications		2	8	\$1,360
803.3 90% Opinion of Probable Construction Cost		2	4	\$840
803.4 Quality Control Review	4			\$1,040
Subtotal Hours =	4	20	52	76
Task 803 Subtotal (\$) =	\$1,040	\$3,200	\$6,760	\$11,000
Task 804 Final Submittal Package				
804.1 Final Plans		8	16	\$3,360
804.2 Final Specifications		2	6	\$1,100
804.3 Final Opinion of Probable Construction Cost		2	2	\$580
804.4 Quality Control Review	4			\$1,040
Subtotal Hours =	4	12	24	40
Task 804 Subtotal (\$) =	\$1,040	\$1,920	\$3,120	\$6,080
Task 805 Bid Period Services				
805.1 Pre-bid Meeting	2	4		\$1,160
805.2 Respond to RFI (2 assumed)	2	4		\$1,160
805.3 Addenda Assistance (2 assumed)		4		\$640
Subtotal Hours =	4	12	0	16
Task 805 Subtotal (\$) =	\$1,040	\$1,920	\$0	\$2,960
Total Hours by Classification =	18	82	132	232
Total (\$) by Classification =	\$4,680	\$13,120	\$17,160	\$34,960
Percentage of Time Allocated (by hours) =	8%	35%	57%	
Total (\$) =	\$34,960			\$34,960
Total =				\$34,960

- 1 The effort shown for Task 803 and 804 are estimated and will be refined once Task 802 is complete
- 2 Hours and fee may be renegotiated if the project is delayed by factors beyond Harris' control.
- 3 Hours and fee may be renegotiated if additional streets and/or a change in treatment is requested after 90% submittal.
- 4 City comments will be presented to Harris in one consolidated set of marked-up documents and/or letter form.
- 5 Detailed Environmental studies are not included. This project is anticipated to be categorically exempt.



CITY OF SEASIDE STAFF REPORT

Item No.: 8.H.

TO: City Council

FROM: Roberta Greathouse, Acting City Manager

BY: Trevin Barber, Assistant City Manager

DATE: November 18, 2021

**SUBJECT: APPROVE AN AMENDMENT TO A LEASE AGREEMENT WITH THE
FORT ORD HOSTEL SOCIETY FOR THE DEVELOPMENT OF A
SEASIDE ECO-HOSTEL IN CAMPUS TOWN**

RECOMMENDATION

Authorize the Acting City Manager to execute an amendment to a lease agreement with the Fort Ord Hostel Society and any related documents.

BACKGROUND

On August 28, 2008, the City of Seaside entered into a lease agreement with the Central California Council of America Youth Hostels to construct and operate a youth hostel on the former Fort Ord Property commonly known as Surplus II. This lease was for 30 years and had an annual rent of \$1.00.

During this time, the parties developed a proposed plan for a flagship Eco-hostel. It included reusing Army buildings as much as possible; construction to LEED Gold/Platinum standards, conserving water with ultra-low-flow fixtures, capturing water from fog and rain for reuse, utilizing solar and wind energy, and implementing xeriscape landscaping. This plan for phased development of the 120-bed Eco-Hostel encompassed +/-23,000 square feet of building space with a Cafe/Travel Store, 1/3 acre outdoor meditation garden for neighborhood and guest use, additional outdoor activity space with an amphitheater and organic garden, and solar panel covered parking spaces. Also, State Parks generously donated 5.5 acre feet of water for exclusive use by the Eco-Hostel project. The plan and CEQA study were approved by the City of Seaside in 2014. Phase 1 of the plan was implemented, which included bringing metered utilities to the site and modifying one building for temporary occupancy of a caretaker. The Phase 2 construction plans for a 48-bed Eco-Hostel were completed between 2015 and 2016 and approved for a building permit by the City of Seaside.

However, the building permit was not pulled because construction bids on Phase 2 of the project exceeded the original cost estimate, which meant that more time was needed to raise sufficient funds to ensure completion of Phase 2.

In 2016, the governing body of the Central California Council of America Youth Hostels requested that the lease be transferred to a new entity called the Fort Ord Youth Hostel Society. This was part of a larger effort by American Youth Hostels to require that smaller properties be affiliated but not owned by their various chapters. Staff worked with the local group, incorporated as the Fort Ord Hostel Society (FOHS), to address concerns about the viability of this project. The amendment at that time included many provisions, one of which requires that FOHS consider other locations. This term was included because staff expected the developer currently working on the land adjacent to this property to offer either (1) an offsite opportunity or (2) offer to construct a hostel elsewhere as part of the development. The lease amendment also incorporated the assignment of water rights from California State Parks to the City of Seaside, as included in the original lease. The amendment incorporated an extension provided by the California Department of Parks and Recreation on August 15, 2016. The previous lease had relatively few requirements for performance in constructing a hostel. Staff analysis concluded that entering into this amendment would allow the City to end the lease in the event that the newly formed FOHS fails to perform or is unable to raise the required funding to move their project forward.

The second proposed lease amendment extends the time for FOHS to perform its obligations as assignee under both the original lease and the first amendment. This extension is necessary to enable further planning with regard to ensuring the development of a hostel that conforms to the plans for Seaside's "Campus Town" development.

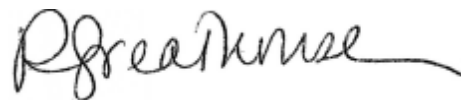
FISCAL IMPACT

None.

ATTACHMENTS

1. Hostel Lease 2nd Amendment

Reviewed for Submission to the City Council by:



Roberta Greathouse, Acting City Manager

Fort Ord Hostel Development: Lease 2nd Amendment

(City of Seaside / Fort Ord Hostel Society)

This Lease 2nd Amendment agreement (“Agreement”), effective as of the last signature date, is made by and between the City of Seaside, a political subdivision of the State of California (“Seaside”) and Fort Ord Hostel Society, a California nonprofit public benefit corporation (“FOHS”) as successor lessee to the Central California Council of American Youth Hostels, a California nonprofit public benefit corporation (“AYH”). Under the original lease between AYH and Seaside dated August 28, 2008 (“Original Lease”), AYH leased lands and improvements on property described therein (“Premises”) for development of a hostel.

This Agreement extends the time for FOHS to perform its obligations as assignee under the Original Lease and the 1st Amendment thereof dated May 18, 2017 (“1st Amendment”). The Original Lease and the 1st Amendment are hereinafter referred to collectively as the “Lease.” This extension is necessary to enable further planning with regard to ensuring development of a hostel within the area of Seaside that includes the Premises and is commonly known as Seaside’s “Campus Town” development (“Development”).

RECITALS

WHEREAS, the parties have no knowledge of any noticed default by FOHS under the Lease that would prohibit or hinder this Agreement; and

WHEREAS, Seaside and FOHS have proceeded to negotiate in good faith in the planning and pursuit of the hostel in the context of the Development, however certain matters have occurred and time limits passed, that have frustrated the completion of some obligations by FOHS under the Lease and both parties wish to continue to participate in negotiations with regard to the hostel and the Development so that the same may reach conclusion; and

WHEREAS, in order for said negotiations to continue without prejudice to either party, the parties wish to extend the time for performance of obligations by FOHS under the Lease and reaffirm the same; and

WHEREAS, to ensure adequate water is available for the hostel in the event FOHS is unable to secure water in accordance with that certain SECOND AMENDMENT AND RESTATEMENT OF ASSIGNMENT BY THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION TO THE CITY OF SEASIDE CONCERNING WATER FOR THE CENTRAL CALIFORNIA COUNCIL OF AMERICAN YOUTH HOSTELS IN THE CITY OF SEASIDE dated August 15, 2016, as the same may be further amended from time to time, which provides up to 5.5 acre-feet of water per year to the Premises for use by FOHS (the “Water Assignment”), Seaside intends to allocate and provide water to FOHS under the same terms and conditions as provided in the Water Assignment in accordance with paragraph six below;

NOW THEREFORE, in consideration of the terms hereof the parties hereto agree as follows:

EXTENSION OF FOHS TIME TO PERFORM UNDER THE LEASE

1. The time for performance of the obligations of FOHS under the Lease are hereby extended as to each and every obligation for a term that coincides with and is equal to

Fort Ord Hostel Development: Lease 2nd Amendment

(City of Seaside / Fort Ord Hostel Society)

- the date the phase of the Development that includes the Premises is completed, but no later than 20 years from effective date of this Agreement.
2. FOHS will continue to consider, in good faith, alternative designs and locations for the hostel within the Development.
 3. FOHS will provide to Seaside for review and approval a revised hostel site plan (“Site Plan”) which is anticipated to include design modifications consistent with the Development, revisions responsive to the Covid-19 pandemic, and Seaside’s request that buildings on the Premises not renovated for hostel use be removed.
 4. FOHS shall provide to Seaside evidence of financial ability to complete construction of the hostel in accordance with the approved Site Plan within one year after the Site Plan approval becomes final.
 5. Hostel construction shall commence by FOHS on or before two years after the Site Plan Approval becomes final and shall be substantially completed within three years after the Site Plan approval becomes final.

ADMINISTRATIVE CORRECTIONS

6. Seaside shall reserve and make water available to FOHS in the same quantity and on the same terms and conditions as provided for in the Water Assignment to accommodate the timing and construction of a hostel in accordance with the terms of this Agreement and operation of the hostel in perpetuity thereafter so much as the Water Assignment is in full force and effect, to the benefit of the City for the 5.5 acre-feet of water, at time of building.
7. All FOHS progress and completion dates specified in the Lease are hereby extended in accordance with the terms of this Agreement.

The above amendments are intended to be basic ‘housekeeping’ items between FOHS and Seaside to permit FOHS adequate time to consider modification of hostel plans and to include possibly accommodating the Development as Seaside reviews further plans for the Development, the Premises, and the hostel.

Fort Ord Hostel Development: Lease 2nd Amendment

(City of Seaside / Fort Ord Hostel Society)

Witness

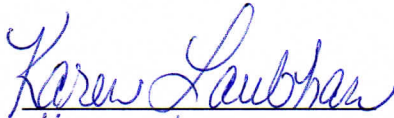
City of Seaside, California, by:

Hon. Ian Oglesby, Mayor

Date: _____

Witness

Fort Ord Hostel Society, by:



KAREN LAUBHAN



Peter Kambas, President

Date: 10-22-2021



CITY OF SEASIDE STAFF REPORT

Item No.: 9.A.

TO: City Council

FROM: Roberta Greathouse, Acting City Manager

BY: David Little, Building Official

DATE: November 18, 2021

**SUBJECT: INTRODUCTION OF AN ORDINANCE REPEALING AND
AMENDING TITLE 8, CHAPTER 8.28, SECTION 8.28.110
(RECYCLABLES AND ORGANICS DIVERSION REQUIREMENTS)
OF THE SEASIDE MUNICIPAL CODE TO MANDATORY ORGANIC
WASTE DISPOSAL REDUCTION (FIRST READING - ROLL CALL
VOTE)**

RECOMMENDATION

Introduce and pass to print the draft ordinance in compliance with SB 1383 regarding organic waste collection, edible food recovery, inspection and enforcement.

BACKGROUND

Landfills represent the third largest source of methane emissions in California. When buried in landfills, organic waste, which includes paper products as well as food scraps, emits methane, a contributor to climate change. Organics make up 50% of what Californians send to landfills. It is believed that a reduction of organic waste in landfills will directly impact climate change.

In September 2016, Governor Jerry Brown signed the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reductions bill, SB 1383, into law. The law established statewide methane emissions reduction targets to reduce emissions of short-lived climate pollutants. The State is targeting a 50 percent reduction by 2020, and a 75 percent reduction by 2025, of California's methane emissions generated by the disposal of organic materials, including green (yard) waste, wood waste, food waste, and waste from fibers such as paper and cardboard. This is the most significant waste reduction mandate to be adopted in California in over 30 years, as it requires local jurisdictions to implement organic waste collection and edible food recovery programs, as well as develop enforcement mechanisms to ensure that businesses and residents

comply with the law.

All California cities must establish a local ordinance requiring food recovery organizations and services to report specific data to the jurisdiction, as well as, an inspection and enforcement protocol for edible food generators, recovery organizations, and recovery services. It is important to note that while the State has mandated these programs, it has not allocated any funds to local jurisdictions for compliance. The State has suggested that each jurisdiction apply collection rate adjustments on their residential and commercial service accounts to recoup costs associated with SB 1383 requirements. Additional costs associated with inspections and enforcement are currently unknown and may require a future cost of service study.

Key elements of this ordinance:

1. Complies with SB1383 requirements.
2. Primarily based on the CalRecycle Model Ordinance.
3. Prescriptive regulations provide minimal flexibility.
4. Authorizes inspections and enforcement.
5. Repeals existing Recycling and Organics Diversion Ordinance.

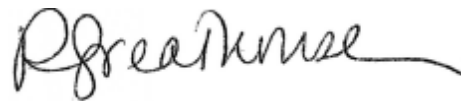
FISCAL IMPACT

None at this time.

ATTACHMENTS

1. Draft Solid Waste Ordinance

Reviewed for Submission to the City Council by:



Roberta Greathouse, Acting City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**REPEALING AND AMENDING TITLE 8, CHAPTER 8.28 SECTION 8.28.110
(RECYCLABLES AND ORGANICS DIVERSION REQUIREMENTS) OF THE SEASIDE
MUNICIPAL CODE TO MANDATORY ORGANIC WASTE DISPOSAL REDUCTION**

WHEREAS, in September 2016, the State set methane emission reduction targets for California in [Senate Bill 1383](#), intended as a statewide effort to reduce emissions of short-lived climate pollutants (like organic waste) in various sectors of California's economy; and

WHEREAS, SB 1383 establishes statewide targets to reduce the amount of organic waste disposed of in landfills (50% reduction by 2020 and 75% by 2025). It also sets a goal to rescue at least 20% of currently disposed edible food by 2025 and redirect that food to people in need; and

WHEREAS, From 2016-2020, the California Department of Resources, Recycling and Recovery (CalRecycle) worked to develop regulations to achieve the goals of SB 1383. These new regulations were finalized by CalRecycle in November 2020 and take effect in January 2022; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEASIDE DOES
ORDAIN AS FOLLOWS:**

Title 8, Chapter 8.28 Section 8.28.110 of the Seaside Municipal Code is repealed and is hereby amended to read as follows:

Section 8.28.110

MANDATORY ORGANIC WASTE DISPOSAL REDUCTION

- Section 1 Purpose and Findings.**
- Section 2 Title.**
- Section 3 Definitions.**
- Section 4 Requirements for Single-Family Premises.**
- Section 5 Requirements for Multi-Family Residential Dwellings.**
- Section 6 Requirements for Commercial Businesses.**
- Section 7 Reserved.**
- Section 8 Requirements for Commercial Edible Food Generators.**
- Section 9 Requirements for Haulers and Facility Operators.**

Section 10 Self-Hauler Requirements.

Section 11 Compliance with CALGreen Recycling Requirements.

Section 12 Model Water Efficient Landscaping Ordinance Requirements.

Section 13 Inspections and Investigations by City.

Section 14 Enforcement.

SECTION 1.

The City of Seaside finds and declares:

- A. State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.
- B. State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires the City to implement a Mandatory Commercial Recycling program.
- C. State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Waste per week to arrange for recycling services for that waste, requires the City to implement a recycling program to divert

Organic Waste from businesses subject to the law, and requires the City to implement a Mandatory Commercial Organics Recycling program.

- D. SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including the City, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets.
- E. SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires the City to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This Ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption.
- F. Requirements in this Ordinance are consistent with other adopted goals and policies of the City.

SECTION 2. Title. Title 8 Chapter 8.28 Section 8.28.110 of the Seaside Municipal Code shall be entitled "Mandatory Organic Disposal Waste Reduction".

Section 3. Definitions

- (a) "Alternative Daily Cover (ADC)" has the same meaning as in Section 20690 of Title 27 of the California Code of Regulations.
- (b) "Alternative Intermediate Cover (AIC)" has the same meaning as in Section 20700 of Title 27 of the California Code of Regulations.
- (c) "Bulky Item" means discarded appliances (including refrigerators), furniture, tires, carpets, mattresses, Yard Trimmings and/or wood waste, and similar large items which can be handled by two (2) people, weigh no more than two hundred (200) pounds, and require special collection due to their size or nature, but can be collected without the assistance of special loading equipment (such as forklifts or cranes) and without violating vehicle load limits. Bulky Items must be generated by the customer and at the service address wherein the Bulky Items are collected. Bulky Items do not include abandoned automobiles, large auto parts, trees, construction and demolition debris, or items herein defined as Excluded Waste.

- (d) "CalRecycle" means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on jurisdictions (and others).
- (e) "California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).
- (f) "City" means the City of Seaside, a municipal corporation acting through its City Council, and all the territory lying within the municipal boundaries of the City.
- (g) "City Enforcement Official" means the city manager, chief operating officer, executive director, or other executive in charge or their authorized person(s) who is/are partially or whole responsible for enforcing the ordinance.
- (h) "Commercial Business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, or industrial facility.
- (i) "Commercial Edible Food Generator" includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in this Section 3 or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).
- (j) "Compliance Review" means a review of records by a City to determine compliance with this ordinance.
- (k) "Community Composting" means any activity that Composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).
- (l) "Compost" has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this ordinance, that "Compost" means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.
- (m) "Compostable Plastics" or "Compostable Plastic" means plastic materials that meet the ASTM D6400 standard for compost-ability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

- (n) "Container Contamination" or "Contaminated Container" means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).
- (o) "C&D" means construction and demolition debris.
- (p) "Designated Waste" means non-Hazardous Waste which may pose special Disposal problems because of its potential to contaminate the environment, and which may be Disposed of only in Class II Disposal sites or Class III Disposal sites pursuant to a variance issued by the California Department of Health Services. Designated Waste consists of those substances classified as Designated Waste by the State, in California Code of Regulations Title 23, Section 2522 as may be amended from time to time.
- (q) "Designee" means an entity that the City contracts with or otherwise arranges to carry out any of the City's responsibilities of this ordinance as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.
- (r) "Discarded Materials" means Recyclable Materials, Organic Materials, and Solid Waste placed by a Generator in a collection container and/or at a location for the purposes of collection excluding Excluded Waste.
- (s) "Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.
- (t) "Enforcement Action" means an action of the City to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- (u) "Excluded Waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City/County/District and its Generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in City/County/District, or its Designee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose City/County/District, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and

amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection through the City's collection programs and the Generator or customer has properly placed the materials for collection pursuant to instructions provided by City or its Designee for collection services.

- (v) "Food Distributor" means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).
- (w) "Food Facility" has the same meaning as in Section 113789 of the Health and Safety Code.
- (x) "Food Recovery" means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).
- (y) "Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:
 - (1) A food bank as defined in Section 113783 of the Health and Safety Code;
 - (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
 - (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this ordinance.

- (z) "Food Recovery Service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for

the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

- (aa) "Food Scraps" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.
- (bb) "Food Service Provider" means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).
- (cc) "Food-Soiled Paper" is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.
- (dd) "Food Waste" means Food Scraps, Food-Soiled Paper, and Compostable Plastics.
- (ee) "Food Waste Self-Hauler" means a Self-Hauler who generates and hauls, utilizing their own employees and equipment, an average of one cubic yard or more per week, or 6,500 pounds or more per quarter of their own Food Waste to a location or facility that is not owned and operated by that Self-Hauler. Food Waste Self-Haulers are a subset of Self-Haulers.
- (ff) "Generator" means a person or entity that is responsible for the initial creation of one or more types of Discarded Materials.
- (gg) "Grocery Store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).
- (hh) "Hauler Route" means the designated itinerary or sequence of stops for each segment of the City's collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).
- (ii) "Hazardous Substance" means any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic waste", "pollutant", or "toxic substances", or similarly identified as hazardous to human health or the environment, in or pursuant to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery

Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and, (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and, (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other Applicable Law currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's (PCBs), petroleum, natural gas, and synthetic fuel products, and by-products.

- (jj) "Hazardous Waste" means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as solar panels from residential premises, and Hazardous Waste by the U.S. Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.
- (kk) "Infectious Waste" means (a) equipment, instruments, utensils and other fomites of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having a communicable disease and must, therefore, be isolated as required by public health agencies; (b) laboratory wastes, including pathological specimens (i.e., all tissues, specimens of blood elements, excreta and secretions obtained from patients or laboratory animals) and disposable fomites (any substance that may harbor or transmit pathogenic organisms) attendant thereto; and/or (c) surgical operating room pathologic specimens - including recognizable anatomical parts, human tissue, anatomical human remains and disposable materials from hospitals, clinics, outpatient areas and emergency rooms, as defined in 14 CCR Section 17225.36.
- (ll) "Inspection" means a site visit where a City/County/District reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of Recyclable Materials, Organic Waste, Solid Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).
- (mm) "Large Event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this ordinance.

- (nn) "Local Education Agency" means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).
- (oo) "Multi-Family Residential Dwelling" or "Multi-Family" means of, from, or pertaining to residential Premises with five (5) or more dwelling units. Multi-Family Premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.
- (pp) "MWELO" refers to the Model Water Efficient Landscape Ordinance (MWELO), 23 CCR, Division 2, Chapter 2.7.
- (qq) "Non-Local Entity" means the following entities that are not subject to the City's enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42):
- (1) Federal facilities, including military installations, located within the boundaries of the City, including U.S. Army Presidio of Monterey and Bureau of Land Management.
 - (2) Facilities operated by the State park system located within the boundaries of the City, including Seaside State Beach.
 - (3) Public universities located within the boundaries of the City, including California State University Monterey Bay.
- (rr) "Notice of Violation (NOV)" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.
- (ss) "Organic Materials" means Yard Trimmings, Food Scraps, and Food-Soiled Papers that are set aside, handled, packaged, or offered for collection in a manner different from Solid Waste for the purpose of processing.
- (tt) "Organic Materials Container" shall be used for the purpose of storage and collection of Source Separated Organic Materials.
- (uu) "Organic Waste" means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).
- (vv) "Owner" means the Person(s) holding legal title to real property and/or any improvements thereon and shall include the Person(s) listed on the latest equalized assessment roll of the County Assessor.

- (ww) "Paper Products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).
- (xx) "Printing and Writing Papers" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).
- (yy) "Premises" means and includes any land, building and/or structure, or portion thereof, in the City where Discarded Materials are produced, generated, or accumulated. All structures on the same legal parcel, which are owned by the same person shall be considered as one Premises.
- (zz) "Prohibited Container Contaminants" means the following: (i) Discarded Materials placed in the Recyclable Materials Container that are not identified as acceptable Source Separated Recyclable Materials for the City/County/District's Recyclable Materials Container; (ii) Discarded Materials placed in the Organic Materials Container that are not identified as acceptable Source Separated Organic Materials for the City/County/District's Organic Materials Container; (iii) Discarded Materials placed in the Solid Waste Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Organic Materials to be placed in City's Organic Materials Container and/or Recyclable Materials Container; and, (iv) Excluded Waste placed in any container.
- (aaa) "Recovered Organic Waste Products" means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).
- (bbb) "Recovery" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).
- (ccc) "Recyclable Materials" means Discarded Materials set aside, handled, packaged, or offered for collection in a manner different from Solid Waste for the purpose of recycling. No Discarded Materials shall be considered Recyclable Materials unless such material is separated from Organic Materials, and Solid Waste. Recyclable Materials shall include, but not be limited to newspaper (including inserts, coupons, and store advertisements); mixed paper (including office paper, computer paper, magazines, junk mail, catalogs, brown paper bags, colored paper legal pad backings, shoe boxes, cereal, and other similar food boxes), chipboard, corrugated Cardboard, glass containers of any color (including brown, clear, and green glass bottles and jars), aluminum (including beverage containers and small pieces of scrap metal), , steel, tin, or bi-metal cans, rigid plastics with a neck, and, those materials added by the Service Provider from time to time.

- (ddd) "Recyclable Materials Container" shall be used for the purpose of storage and collection of Source Separated Recyclable Materials.
- (eee) "Regional Agency" means regional agency as defined in Public Resources Code Section 40181.
- (fff) "Regional or County Agency Enforcement Official" means a regional or county agency enforcement official, designated by the City with responsibility for enforcing the ordinance in conjunction or consultation with City Enforcement Official.
- (ggg) "Remote Monitoring" means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Recyclable Materials Containers, Organic Materials Containers, and Solid Waste Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.
- (hhh) "Renewable Gas" means gas derived from Organic Waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).
- (iii) "Residential" shall mean of, from, or pertaining to a Single-Family Premises or Multi-Family Premises including Single-Family homes, apartments, condominiums, Townhouse complexes, mobile home parks, and cooperative apartments.
- (jjj) "Responsible Party" means the owner, property manager, tenant, lessee, occupant, or other designee that subscribes to and pays for Recyclable Materials, Organic Materials, and/or Solid Waste collection services for a Premises in the City or, if there is no such subscriber, the owner or property manager of a Single-Family Premises, Multi-Family Premises, or Commercial Premises. In instances of dispute or uncertainty regarding who is the Responsible Party for a Premises, Responsible Party shall mean the owner of a Single-Family Premises, Multi-Family Premises, or Commercial Premises.
- (kkk) "Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-Premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).
- (III) "Route Review" means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).
- (mmm) "SB 1383" means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of

Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

- (nnn) "SB 1383 Regulations" or "SB 1383 Regulatory" means or refers to, for the purposes of this ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.
- (ooo) "Self-Haul" means to act as a Self-Hauler.
- (ppp) "Self-Hauler" means a person, who hauls Solid Waste, Organic Waste or Recyclable Material they have generated to another person. Self-hauler also includes a landscaper, or a person who back-hauls waste. Back-haul means generating and transporting Recyclable Materials or Organic Waste to a destination owned and operated by the Generator or Responsible Party using the Generator's or Responsible Party's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).
- (qqq) "Single-Family" means of, from, or pertaining to any residential Premises with fewer than five (5) units.
- (rrr) "Solid Waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:
- (1) Hazardous waste, as defined in the State Public Resources Code Section 40141.
 - (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
 - (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.
 - (4) Recyclable Materials, Organic Waste, and Construction and Demolition Debris when such materials are Source Separated.

- (sss) "Solid Waste Container" shall be used for the purpose of storage and collection of Solid Waste.
- (ttt) "Source Separated" or "Source-Separated (materials)" means materials, including commingled Recyclable Materials and Organic Materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the ordinance, Source Separated shall include separation of materials by the Generator, Responsible Party, or Responsible Party's employee, into different containers for the purpose of collection such that Source-Separated materials are separated from Solid Waste for the purposes of collection and processing.
- (uuu) "Source Separated Organic Materials" means Organic Materials that are Source Separated and placed in an Organic Materials Container.
- (vvv) "Source Separated Recyclable Materials" means Recyclable Materials that are Source Separated and placed in a Recyclable Materials Container.
- (www) "State" means the State of California.
- (xxx) "Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).
- (yyy) "Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:
- (1) Supermarket.
 - (2) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
 - (3) Food Service Provider.
 - (4) Food Distributor.
 - (5) Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this ordinance.

(zzz) "Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (2) Hotel with an on-site Food Facility and 200 or more rooms.
- (3) Health facility with an on-site Food Facility and 100 or more beds.
- (4) Large Venue.
- (5) Large Event.
- (6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- (7) A Local Education Agency facility with an on-site Food Facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this ordinance.

(aaaa) "Wholesale Food Vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

(bbbb) "Yard Waste" or "Yard Trimmings" means types of Organic Waste resulting from normal yard and landscaping installation, maintenance, or removal.

Section 4. Requirements for Single-Family Premises

(a) Single-Family Organic Waste Generators shall comply with the following requirements except Single-Family generators that meet the Self-Hauler requirements in Section 11 of this chapter:

- (1) Shall subscribe to and pay for City's three-container collection services for weekly collection of Recyclable Materials, Organic Materials, and Solid Waste generated by the Single-Family Premises and comply with requirements of those services as described below in Section 4(a)(2). City/County/District shall have the right to review the number and size of a Generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials. The Responsible Parties for Single-Family Premises shall adjust their service level for their collection services as requested by the City. The City's Organic Waste collection services for all Organic Waste generated as described below in Subsection (b). The City shall have the

right to review the number and size of a generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and Single-Family generators shall adjust their service level for their collection services as requested by the City. Generators may additionally manage their Organic Waste.

- (2) Participate in the City's three-, container collection service(s) in the manner described below.
 - (A) Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.
 - (B) Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers and not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.
- (b) Nothing in this Section prohibits a Responsible Party or Generator of a Single-Family Premises from preventing or reducing Discarded Materials generation, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

Section 5. Requirements for Multi-Family Residential Dwellings

- (a) Responsible Parties of Multi-Family Premises shall provide or arrange for Recyclable Materials, Organic Materials, and Solid Waste collection services consistent with this ordinance and for employees, contractors, and tenants subject to exceptions for Multi-Family Premises in Low-Population Areas specified in Section 5(c) of this ordinance.
- (b) Except for Responsible Parties of Multi-Family Premises that meet the Self-Hauler requirements in Section 11 of this ordinance and Responsible Parties of Multi-Family Premises in Low-Population Areas that meet requirements in Section 5(c) of this ordinance, Responsible Parties of Multi-Family Premises shall:
 - (1) Subscribe to and pay for City's three-container collection services and comply with requirements of those services for all Recyclable Materials, Organic Materials, and Solid Waste generated at the Multi-Family Premises as further described below in this Section 5. City/County/District shall have the right to review the number and size of the Multi-Family Premises' collection containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials. The Responsible Party of a Multi-Family Premises shall adjust their

service level for their collection services as requested by the City/County/District or its Designee.

- (2) Participate in the City's three-container collection service(s) for at least weekly collection of Recyclable Materials, Organic Materials, and Solid Waste in the manner described below.
 - (A) Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.
 - (B) Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers and to not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.
 - (3) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors for employees, contractors, tenants, and customers, consistent with City/County/District's Recyclable Materials Container, Organic Materials Container, and Solid Waste Container collection service or, if Self-Hauling, consistent with the Multi-Family Premises' approach to complying with Self-Hauler requirements in Section 11 of this ordinance.
 - (4) Annually provide information to employees, contractors, tenants, and customers about Recyclable Materials and Organic Waste Recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Solid Waste.
 - (5) Provide education information before or within fourteen (14) days of occupation of the Premises to new tenants that describes requirements to Source Separate Recyclable Materials and Organic Materials and to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from each other and from Solid Waste (when applicable) and the location of containers and the rules governing their use at each property.
 - (6) Provide or arrange access for City/County/District or its Designee to their properties during all Inspections conducted in accordance with this ordinance to confirm compliance with the requirements of this ordinance.
- (c) Responsible Parties of Multi-Family Premises in Low-Population Areas shall comply with the following requirements:

Section 6. Requirements for Commercial Businesses

- (a) Responsible Parties of Commercial Businesses shall provide or arrange for Recyclable Materials, Organic Materials, and Solid Waste collection services consistent with this

ordinance and for employees, contractors, tenants, and customers subject to exceptions for Commercial Premises in Low-Population Areas specified in Section 6(c) of this ordinance.

- (b) Except Responsible Parties of Commercial Businesses that meet the Self-Hauler requirements in Section 11 of this ordinance and Responsible Parties of Commercial Premises in Low-Population Areas that meet requirements in Section 6(c) of this ordinance, Responsible Parties of Commercial Premises shall:
 - (1) Subscribe to and pay for City's three-container collection services and comply with requirements of those services for all Recyclable Materials, Organic Materials, and Solid Waste generated at the Commercial Premises as further described below in this Section 6. City/County/District shall have the right to review the number and size of a Commercial Premises' containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials. The Responsible Party of the Commercial Business shall adjust their service level for their collection services as requested by the City/County/District or its Designee.
 - (2) Participate in the City's three-container collection service(s) for at least weekly collection of Recyclable Materials, Organic Materials, and Solid Waste in the manner described below.
 - (A) Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.
 - (B) Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers and to not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.
 - (3) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Section 6(b)(4) below) for employees, contractors, tenants, and customers, consistent with City's Recyclable Materials Container, Organic Materials Container, and Solid Waste Container collection service or, if Self-Hauling, consistent with the Commercial Premises' approach to complying with Self-Hauler requirements in Section 11 of this ordinance.
 - (4) Provide containers for the collection of Source Separated Recyclable Materials and Source Separated Organic Materials in all indoor and outdoor areas where Solid Waste containers are provided for customers, for materials generated by

that Commercial Business. Such containers shall be visible and easily accessible. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the Responsible Party of the Commercial Business does not have to provide that particular container in all areas where Solid Waste containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the Responsible Party of the Commercial Business shall have either:

- (A) A body and lid that conforms with the container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. The Responsible Party of the Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - (B) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (5) To the extent practical through education, training, Inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the City's Recyclable Materials Container, Organic Materials Container, and Solid Waste collection service or, if Self-Hauling, per the instructions of the Commercial Business's Responsible Party to support its compliance with Self-Hauler requirements in Section 11 of this ordinance.
 - (6) Periodically inspect Recyclable Materials Containers, Organic Materials Containers, and Solid Waste Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
 - (7) Annually provide information to employees, contractors, tenants, and customers about Recyclable Materials and Organic Waste Recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Solid Waste.

- (8) Provide education information before or within fourteen (14) days of occupation of the Premises to new tenants that describes requirements to Source Separate Recyclable Materials and Organic Materials and to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from each other and from other Solid Waste and the location of containers and the rules governing their use at each property.
- (9) Provide or arrange access for the City or its Designee to their properties during all Inspections conducted in accordance with this ordinance to confirm compliance with the requirements of this ordinance.
 - (c) If the Responsible Party of a Commercial Business wants to Self-Haul, meet the Self-Hauler requirements in Section 11 of this ordinance.
 - (d) Nothing in this Section prohibits a Responsible Party or a Generator of a Commercial Business from preventing or reducing Discarded Materials generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
 - (e) Responsible Parties of Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 8 of this ordinance.

Section 7. Reserved

Section 8. Requirements for Commercial Edible Food Generators

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- (b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- (c) Commercial Edible Food Generators shall comply with the following requirements:
 - (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
 - (2) Contract with or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for

Food Recovery; or (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.

- (3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- (4) Allow the City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
- (5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (A) A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - (B) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - (C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (iii) The established frequency that food will be collected or self-hauled.
 - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
 - (d) Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

Section 9. Requirements for Haulers and Facility Operators.

- (a) Requirements for Haulers

- (1) Exclusive franchise hauler, non-exclusive franchised haulers, or permitted haulers providing residential, Commercial, or industrial Organic Waste collection services to generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the City to collect Organic Waste:
 - (A) Through written notice to the City annually on or before February 1st, identify the facilities to which they will transport Organic Waste, including facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste.
 - (B) Transport Source Separated Recyclable Materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 - (C) Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting Construction and Demolition (C&D) in a manner that complies with 14 CCR Section 18989.1.
 - (2) Exclusive franchise hauler, non-exclusive franchised haulers, or permitted haulers authorization to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with the City.
- (b) Requirements for Facility Operators and Community Composting Operations
- (1) Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon City request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.
 - (2) Community Composting operators, upon City request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

Section 10. Self-Hauler Requirements.

Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that City otherwise requires generators to separate for collection in the City's organics and recycling collection program) generated onsite from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.

- (c) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.
- (d) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City. The records shall include the following information:
 - (1) Delivery receipts and weight tickets from the entity accepting the waste.
 - (2) The amount of material in cubic yards or tons transported by the generator to each entity.
 - (3) If the material is transported to an entity that does not have scales onsite or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- (e) A residential Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in Subsection (d) above.

Section 11. Compliance with CALGreen Recycling Requirements

- (a) Persons applying for a permit from the City for new construction and building additions and alternations shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended. If the requirements of CALGreen are more stringent than the requirements of this Section, the CALGreen requirements shall apply.
- (b) For projects covered by CALGreen or more stringent requirements of the City, the applicants must, as a condition of the City's permit approval, comply with the following:

- (1) Where five (5) or more Multi-Family dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of Recyclable Materials Container and Organic Materials Container materials, consistent with the three collection program offered by the City/County, or comply with provision of adequate space for recycling for Multi-Family Premises and Commercial Premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
- (2) New Commercial or Multi-Family construction or additions resulting in more than 30% of the floor area shall provide readily accessible areas identified for the storage and collection of Recyclable Materials Container and Organic Materials Container materials, consistent with the three - container collection program offered by the City, or shall comply with provision of adequate space for recycling for Multi-Family Premises and Commercial Premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
- (3) Comply with CALGreen requirements and applicable law related to management of C&D, including diversion of Organic Waste in C&D from disposal. Comply with City's municipal code, and all written and published City policies and/or administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of C&D.

Section 12. Model Water Efficient Landscaping Ordinance Requirements.

- (a) Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the City, who are constructing a new (Single-Family, Multi-Family, public, institutional, or Commercial) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWELO, including sections related to use of Compost and mulch as delineated in this Section 12.
- (b) The following Compost and mulch use requirements that are part of the MWELO are now also included as requirements of this ordinance. Other requirements of the MWELO are in effect and can be found in 23 CCR, Division 2, Chapter 2.7.

- (c) Property owners or their building or landscape designers that meet the threshold for MWELo compliance outlined in Section 13(a) above shall:
- (1) Comply with Sections 492.6 (a)(3)(B)(C), (D) and (G) of the MWELo, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section to include the following:
 - (A) For landscape installations, Compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.
 - (B) For landscape installations, a minimum three- (3) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent (5%) of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.
 - (C) Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.
 - (2) The MWELo compliance items listed in this Section are not an inclusive list of MWELo requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELo compliance outlined in shall consult the full MWELo for all requirements.
- (d) If, after the adoption of this ordinance, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWWELo September 15, 2015 requirements in a manner that requires City/County to incorporate the requirements of an updated MWELo in a local ordinance, and the amended requirements include provisions more stringent than those required in this Section, the revised requirements of 23 CCR, Division 2, Chapter 2.7 shall be enforced.

Section 13. Inspections and Investigations by the City.

- (a) City representatives and/or its designated entity, including Designees, are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow the City to enter the interior of a private residential property for Inspection.
- (b) Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's employee or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this chapter described herein. Failure to provide or arrange for: (i) access to an entity's premises; (ii) installation and operation of Remote Monitoring equipment; or (iii) access to records for any Inspection or investigation is a violation of this chapter and may result in penalties described.
- (c) Any records obtained by the City during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- (d) City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.
- (e) City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

Section 14. Enforcement.

- (a) Violation of any provision of this chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a City Enforcement Official or representative. Enforcement Actions under this chapter are issuance of an administrative citation and assessment of a fine. The City's procedures on imposition of administrative fines in Chapter 2.56 are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter.

- (b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. The City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. The City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources.
- (c) Responsible Entity for Enforcement. Enforcement pursuant to this chapter may be undertaken by the City Enforcement Official, which may be the City Manager or their designated entity, legal counsel, or combination thereof.
- (d) Process for Enforcement
 - (1) City Enforcement Officials and/or their Designee will monitor compliance with this chapter randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program (that may include Remote Monitoring). Section 13 establishes the City's right to conduct Inspections and investigations.
 - (2) The City may issue an official notification to notify regulated entities of its obligations under this chapter.
 - (3) With the exception of violations of generator contamination of container contents, the City shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.
 - (4) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the City shall commence an action to impose penalties, via an administrative citation and fine, pursuant to Chapter 2.56, Administrative Citations and Penalties.

Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the City or, if no such address is available, to the owner at the address of the dwelling or Commercial property or to the party responsible for paying for the collection services, depending upon available information.

(e) Penalty Amounts for Types of Violations

The penalty levels shall be as set forth in Section 2.56.040, subject to any minimum or maximum penalty amounts imposed by the SB 1383 Regulations.

(f) Factors Considered in Determining Penalty Amount

The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty amount range:

- (1) The nature, circumstances, and severity of the violation(s).

- (2) The violator's ability to pay.
- (3) The willfulness of the violator's misconduct.
- (4) Whether the violator took measures to avoid or mitigate violations of this chapter.
- (5) Evidence of any economic benefit resulting from the violation(s).
- (6) The deterrent effect of the penalty on the violator.
- (7) Whether the violation(s) were due to conditions outside the control of the violator.

(g) Compliance Deadline Extension Considerations

The City may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this Section 2.56.010 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

- (1) Acts of God, such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
- (2) Delays in obtaining discretionary permits or other government agency approvals; or
- (3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(h) Appeals Process

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to Chapter 1.10.

(i) Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, the City will conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if the City determines that Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this chapter and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

(j) Civil Penalties for Non-Compliance

Beginning January 1, 2024, if the City determines that an Organic Waste Generator, Self- Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to Section 8.34.100, as needed.

SECTION 3. ENVIRONMENTAL REVIEW

This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds that under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. It also finds the Ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources.

SECTION 4. SEVERABILITY

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

The City Council hereby declares that it would have passed this Ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

SECTION 5. EFFECTIVE DATE

This Ordinance shall be in full force and effect 30 days after its final passage and adopted but no sooner than January 1, 2022.

INTRODUCED AND PASSED TO PRINT at a regular meeting of the City Council of the City of Seaside, State of California, on the 18th day of November 2021.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside, State of California, on the ____ day _____ 2021, by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

APPROVED:

Ian N. Oglesby, Mayor

ATTEST:

Dominique L. Davis, City Clerk



CITY OF SEASIDE STAFF REPORT

Item No.: 10.A.

TO: City Council

FROM: Roberta Greathouse, Acting City Manager

BY: Ashley Collick, Assistant City Manager

DATE: November 18, 2021

**SUBJECT: COMMUNITY SOCIAL SERVICES GRANT FUNDING
RECOMMENDATIONS**

RECOMMENDATION

Review committee recommendations and provide direction.

BACKGROUND

In 2020, Council created the Community Social Services grant program and designated \$320,000 to enhance community and social services. On July 15, 2021, the council voted to designate 1/3 of \$320,000 to new organizations / programs, recognizing the need to broaden the field of applicants so that newer organizations have an opportunity to be included for funding.

Application Process

The City of Seaside budgeted \$320,000 in the FY21/22 Adopted Budget for Community Social Services Grants designed to enhance community and social services. Staff distributed a Request for Proposals seeking proposals from public or private nonprofit organizations, including community-based organizations (CBO) and faith-based organizations serving Seaside residents. Grass-root organizations which were not officially recognized as non-profits we required to align with an established non-profit to apply.

Applicants were urged to propose cost-effective projects that meet a significant and timely community need and/or impact a substantial number of individuals, and applicants must propose a cash and/or in-kind match of at least 10%.

Eight proposals were received by the October 3, 2021, deadline and deemed eligible.

- Building Healthy Communities requested \$105,318 to support a Youth Leadership Academy;
- Community Human Services requested \$50,000 to support the efforts of the Seaside Family Service Center;
- Community Partnership for Youth requested \$100,000 in support of the Afterschool Mentor / Tutor Program;
- Meals on Wheels requested \$20,000 in support of the Home Delivered Meals Program;
- Road to Reality requested \$29,141 in support of a Life skills program;
- Screenplay Home Writers Actors Youth Workshop;
- Sun Street Centers requested \$50,000 in support of Seaside Substance Abuse Services;
- The Village Project requested \$121,000 in support of Therapeutic Services; and
- United Way requested 35,923 in support of the Family Friends and Neighbors Outreach / Mujeres En Accion program

Two proposals were rejected as being ineligible. Palenke Arts submitted a request for \$40,000 for Operational Program Support, however the proposal was received after the 5:00 p.m. deadline (received at 11:57 p.m. on 10/3/21). Screenplay Home Writers Actors Youth Workshop requested \$57,104 in support of Artist workshops, however the proposal did not qualify as they did not submit proof of a 501c3 or an alignment with a non-profit.

To review the submitted proposals click [here](#).

Selection Process

An ad-hoc committee of professionals, consisting of City staff, community and social service professionals, and community residents, were responsible for reviewing proposal applications. The selection committee was Toni Wills, Jasmine Dolan, and Gayle Tier.

The committee held its introductory meeting on October 18, 2021, and on October 25, 2021, and November 3, 2021, applicants made presentations to explain their proposal and answer questions from the committee. The committee deliberated on November 3, 2021, and scoring was announced on November 8, 2021. Every meeting was streamed live on YouTube and the written public comment was received and reviewed by the committee members before and after each meeting.

Each organization had an opportunity to score 100 points maximum on their proposal. The following criteria was used to score each proposal:

- Demonstrated project need & target population (30 points);
- Quality of and need for the practice or program proposed (20 points),

- Evidence that the program or practices are effective (10points):
- Potential for maximum positive impact (20 points);
- Organization and staff experience and capabilities (10 points);
- Cost-effectiveness and funding match (10 points)

CSS Grant Review Panel Meeting Youtube Links

[10/18/2021](#)

[10/25/2021](#)

[10/27/2021](#) - (cancelation posted)

[11/03/2021](#)

[11/08/2021](#)

Committee Recommendations

Although the committee discussed different options for recommending funding, ultimately, the committee chose to recommend funding at the level requested by the applicant as the committee recognized that each organization requested what they needed for reasons known to them, not the committee.

Organizations were recommended for funding based on their ranking, and the committee chose to fully fund those organizations and award the remaining balance to an additional organization. The organizations were separated into two categories per the request for proposal, with 1/3 of the funding awarded to programs /proposals. Based on the scoring / ranking of the proposals, the ad hoc committee makes the following funding recommendations:

2/3 funding recommendations (\$214,400)

- Meals on Wheels with a total average score of 82 at \$20,000;
- Sun Street Centers with a total average score of 81.3 at \$50,000;
- Community Partnership for Youth with a total average score of 81.0 at \$100,000; and
- The Village Project with a total average score of 78 with the remaining balance of \$44,400 (they requested \$121,000).

1/3 funding recommendations (\$105,600)

One-third (1/3) of the funding (\$105,600) was designated for new programs / organizations and will be selected at the discretion of the City Council. Enhanced services in realms including, but not limited to, education, recreation, social work, public health, public safety, mental health, youth development, elder care, community building and restoration, and homeless and housing advocacy are eligible for funding.

Based on the presentations and scoring process, the Committee recommends Council

award the new program funding as follows:

- Road to Reality with a total average score of 65 at \$29,141; and
- Building Healthy Communities with a total average score of 57 with the remaining balance of \$76,459 (they requested 105,318).

Successful applicants are required to submit quarterly reports to the City of Seaside. This includes descriptions of special events, significant activities, and major accomplishments, and quantitative information on the number of service hours, participants served, people completing or leaving the program, and other information as needed.

FISCAL IMPACT

2/3 funding (\$214,400.00):

Meals on Wheels \$20,000.00
Sun Street Centers \$50,000.00
Community Partnership for Youth \$100,000.00
The Village Project \$44,400.00

1/3 funding (\$105,600):

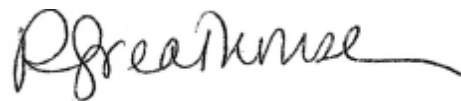
Road to Reality \$29,141.00
Building Healthy Communities \$76,459.00

Total: \$320,000.00

ATTACHMENTS

1. Community Social Services Grant RFP - 2021
2. Community Social Services Grant - 2021 Scores and Rankings

Reviewed for Submission to the City Council by:



Roberta Greathouse, Acting City Manager



Request for Proposals for Community / Social Services
Proposals Due: October 3, 2021

A. Program Description

The City of Seaside has budgeted \$320,000 in the FY21/22 fiscal year to enhance community and social services. One-third (1/3) of the funding in the amount of \$105,600 will be designated for new programs / organizations. Enhanced services in realms including, but not limited to, education, recreation, social work, public health, public safety, mental health, youth development, elder care, community building and restoration, and homeless and housing advocacy are eligible for funding.

The funding in the present fiscal year is tied to significantly increased community and social service needs related to current circumstances. Funded projects will have a grant period running to June 30, 2022. Given the City's own extraordinary financial challenges, there is no guarantee that program funds may continue past June 30, 2022. The City expects to fund multiple service enhancements, with a focus on established and / or grass-roots Seaside community-based organizations.

B. Eligibility Requirements

Eligible Applicants. Eligible applicants are public or private nonprofit organizations including community-based organizations (CBO) and faith-based organizations serving Seaside residents. Grass-roots organizations which are not officially recognized as a non-profit should align with an established non-profit to apply.

Funding and match requirements. The City of Seaside will make up to \$320,000 available to community-based organizations over the grant period. One-third (1/3) of the funding in the amount of \$105,600 will be designated for new programs / organizations. Applicants are urged to propose cost-effective projects that meet a significant and timely community need and/or impact a substantial number of individuals. The City may request changes in proposed budgets in order to optimize community outcomes.

To receive maximum points for cost-effectiveness, applicants must propose a cash and/or in-kind match of at least 10%. Program funds can be used to supplement existing funds dedicated to the project but may not replace (supplant) funds that have been appropriated for the same purpose.

Reporting requirements. Successful applicants will be required to submit quarterly reports to the City of Seaside. This includes descriptions of special events, significant activities, and major accomplishments, and quantitative information on the number of service hours, participants served, people completing or leaving the program, and other information as needed. Successful applicants will also be required to participate in a comprehensive evaluation of the program and present a status report to the City not later than December 2022.

Insurance. The City of Seaside requires that individuals and firms that contract with the City for services file a certificate of insurance prior to the execution of the contract agreement. Depending on the relationship between the City and the program recipient, the successful respondent may be required to maintain a general liability insurance policy, broad form, of at least \$1,000,000 and provide an endorsement naming the City as an additional insured for liability and workers compensation.

C. Selection Process

The City of Seaside will select community-based projects through an open and competitive process. Submittal of a Project through this process is not a binding agreement or a guarantee for funding. An ad-hoc committee of professionals will review applications and make recommendations to the Seaside City Council. The Seaside City Council and only the Seaside City Council will approve contracts for services under this program. Information necessary to prepare a proposal to the City is provided below.

Proposal Due Date. The proposal must be received by the City of Seaside by 5 p.m. on October 3, 2021. Proposals must be emailed to acollick@ci.seaside.ca.us. **PROPOSALS WILL NOT BE ACCEPTED AFTER THE DEADLINE.**

Review process. Proposals will be reviewed by an ad-hoc Committee consisting of but not limited to city staff, community and social service professionals, and community residents.

Proposals will be rated on the following criteria:

Criteria	Maximum Points
Demonstrated project need, target population	30
Quality of and need for the practice or program proposed	20
Evidence that the program or practices are effective	10
Potential for maximum positive impact	20
Organization and staff experience and capabilities	10
Cost-effectiveness and funding match	10
Total	100

D. Proposal Requirements

Proposals are limited to three (3) single-spaced pages with 1" margins and 12-point fonts. Budget information and the cover sheet are excluded from this limit. The proposal should include the following sections:

I. Cover Sheet (not subject to the page limitations)

Include a cover sheet with the name of your proposed program, a brief summary of the program, your organization's name and address, and the name, phone number, and email of the contact person.

II. Background

Provide a Statement of the Problem to be addressed, explaining why the proposed project is needed, what problem(s) it addresses, and who the target population will be. Explain why this problem (or problems) and target population have been chosen.

State the Goals and Objectives for the proposed project and, in instances where the project need is expected to continue past June 30, 2022, state how the project may be continued.

III. Proposed Activities:

Describe in detail the activities, project, or practice to be supported through City funding. Proposed programs and practices should be evidence-based, with their effectiveness demonstrated by causal evidence. Provide references for such evidence.

Include information on the annual number to be served, number of events to be held, etc. Include a brief timeline.

IV. Organizational Experience

Describe your organization and its experience relevant to your proposed project. Include information on the organization's ties to the community and work with community residents, other CBOs, and city and/or county agencies relevant to the proposed project. Explain your capabilities in meeting the reporting requirements of the grant.

Provide information on staff (position, experience) who will run the proposed program.

V. Budget (not subject to the page limitations)

Provide a budget, using the categories in the table below. Report amounts in whole dollars.

Line Item	City funds	Other funds	In-kind match	Total
1. Salaries and benefits				
2. Services and supplies				
3. Equipment				
4. Other				
Total				

To receive the maximum points for cost effectiveness, a 10% match is required from the community-based organizations, which may be cash, in-kind, or a combination of both. Other funds is income from a source other than City funds that is budgeted for the project. When used to augment the project, cash expenditures for items such as personnel, facilities, and supplies may be considered In-kind match. In-kind match may also be non-cash outlay of materials or resources to support a portion of project activities. It may include non-cash outlay contributed by public agencies, private organizations, or individuals. Examples include donated office supplies, equipment, professional services, and volunteer time.

Provide sufficient detail in each line item to explain how City funds will be expended to implement and operate the proposed project. This detail should itemize costs as described below and include a brief narrative for each category to explain how they will be used and why they are needed for the proposed project.

1. Salaries: Provide the name or position of each staff person, the amount of time each will spend on the project, and their hourly rates. Benefits: Provide information on the benefits received by each staff person and how they are calculated (e.g., FICA at 6.2% of salary).
2. Services and supplies: Itemize all services and supplies, such as office supplies, workshop materials, phone costs, printing and mailing, etc.
3. Equipment: Itemize all computers, furniture, and other equipment needed to perform the project activities.
4. Other: List other costs that do not fit into one of the above line items, such as rent, training, etc.

VI. Proof of Non-Profit Status (not subject to the page limitations)

E. Other Requirements

Disqualification. Factors such as, but not limited to, any of the following may be considered just cause to disqualify a response to the RFP without further consideration:

- A. Evidence of collusion, directly or indirectly, among Respondents in regard to the amount, terms, or conditions of this proposal;
- B. Any attempt to improperly influence any member of the ad-hoc committee reviewing proposals;
- C. Existence of any lawsuit, unresolved contractual claim or dispute between Respondent and the City;
- D. Evidence of incorrect information submitted as part of the RFQ;
- E. Evidence of Respondent's inability to successfully complete the responsibilities and obligations of the proposed scope of work; and
- F. Respondent's default under any agreement, which results in termination of the Agreement.

Non-Discrimination / Non-Preferential Treatment. Program recipients shall not discriminate, in any way, against any person based on race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, national origin, or any other protected classification in connection with or related to the performance of this program.

Prohibition of Gifts. City officials are subject to several legal and policy limitations regarding receipt of gifts from persons, firms, or corporations either engaged in business with the City, or proposing to do business with the City. The offering of any illegal gift shall be grounds to disqualify a proposed recipient. To avoid even the appearance of impropriety, respondents should not offer any gifts or souvenirs, even of minimal value, to City officers or employees.

F. Questions / Clarifications

Contact information. All clarifications made by the City will be in writing and will be provided to all respondents. Questions concerning the RFP or proposal process must be submitted by email to:

Ashley Collick

Email: acollick@ci.seaside.ca.us

PROPOSALS ARE DUE OCTOBER 3,2021 AT 5:00 PM

CSS Grant Scores and Ranking (round two)

	<u>Reviewer 1</u>	<u>Reviewer 2</u>	<u>Reviewer 3</u>	<u>Proposal Criteria</u>
<u>Building Healthy Communities</u>	15	10		12 Demonstrated project need / target population
	10	10		12 Quality of need for the practice or program
	5	4		10 Evidence that the programs are effective
57	10	10		20 Potential for Maximum Positive Impact
	10	5		8 Staff Experience and Capabilities
	5	10		6 Cost effective and funding match
Total	55	49		68
<u>Community Human Services</u>	30	20		15 Demonstrated project need / target population
	20	10		16 Quality of need for the practice or program
	5	2		10 Evidence that the programs are effective
70	18	10		10 Potential for Maximum Positive Impact
	10	4		8 Staff Experience and Capabilities
	10	3		10 Cost effective and funding match
Total	93	49		69
<u>Community Partnership for Youth</u>	18	30		18 Demonstrated project need / target population
	10	20		20 Quality of need for the practice or program
	5	10		10 Evidence that the programs are effective
81.0	17	15		10 Potential for Maximum Positive Impact
	10	10		10 Staff Experience and Capabilities
	10	10		10 Cost effective and funding match
Total	70	95		78
<u>Meals on Wheels</u>	25	30		12 Demonstrated project need / target population
	15	20		20 Quality of need for the practice or program
	5	10		10 Evidence that the programs are effective
82	20	10		10 Potential for Maximum Positive Impact
	10	10		10 Staff Experience and Capabilities
	10	10		8 Cost effective and funding match
Total	85	90		70
<u>Road to Reality</u>	20	20		18 Demonstrated project need / target population
	10	20		12 Quality of need for the practice or program
	5	1		0 Evidence that the programs are effective
65	20	10		20 Potential for Maximum Positive Impact
	5	5		8 Staff Experience and Capabilities
	10	5		6 Cost effective and funding match
Total	70	61		64
<u>Sun Street Centers</u>	25	30		12 Demonstrated project need / target population
	15	20		20 Quality of need for the practice or program
	0	8		10 Evidence that the programs are effective
81.3	20	20		10 Potential for Maximum Positive Impact
	10	10		10 Staff Experience and Capabilities
	8	10		6 Cost effective and funding match
Total	78	98		68
<u>TheVillage Project</u>	20	25		21 Demonstrated project need / target population
	15	20		13 Quality of need for the practice or program
	5	10		10 Evidence that the programs are effective
78	15	20		10 Potential for Maximum Positive Impact
	10	10		10 Staff Experience and Capabilities
	5	10		6 Cost effective and funding match
Total	70	95		70
<u>United Way</u>	25	30		15 Demonstrated project need / target population
	10	10		8 Quality of need for the practice or program
	5	5		0 Evidence that the programs are effective
66	15	10		20 Potential for Maximum Positive Impact
	10	10		2 Staff Experience and Capabilities
	10	10		4 Cost effective and funding match
Total	75	75		49

CSS Grant Scores and Ranking (round two)

<u>All Applicants</u>	<u>Amount Requested</u>
<u>Meals on Wheels</u> 82	20,000
<u>Sun Street Centers</u> 81.3	50,000
<u>Community Partnership for Youth</u> 81.0	100,000
<u>TheVillage Project</u> 78	121,000
<u>Community Human Services</u> 70	50,000
<u>United Way</u> 66	35,923
<u>Road to Reality</u> 65	29,141
<u>Building Healthy Communities</u> 57	105,318
Total	511,382

CSS Grant Scores and Ranking (round two)

<u>2/3 funding (214,400)</u>	<u>Amount Requested</u>	
<u>Meals on Wheels</u>	20,000	
82		
<u>Sun Street Centers</u>	50,000	
81.3		
<u>Community Partnership for Youth</u>	100,000	
81.0		
<u>TheVillage Project</u>	121,000	Remaining balance
78		44,400
<u>Community Human Services</u>	50,000	
70		
<u>United Way</u>	35,923	
66		
Available Funding	214,400	
Total Requested	376,923	

CSS Grant Scores and Ranking (round two)

<u>1/3 funding (105,600)</u>	<u>Amount Requested</u>
<u>Road to Reality</u> 65	29,141
<u>Building Healthy Communities</u> 57	105,318
Available Funding	105,600
Total Requested	134,459

remaining
balance
76,459



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 10.B.

TO: City Council

FROM: Roberta Greathouse, Acting City Manager

BY: Ashley Collick, Assistant City Manager

DATE: November 18, 2021

SUBJECT: ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE FRANCHISE AGREEMENT WITH GREENWASTE RECOVERY, INC. (GWR) AND INCREASING THE GARBAGE COLLECTION RATES BY 5.2% EFFECTIVE JANUARY 1, 2022, TO REFLECT INCREASED COSTS ASSOCIATED WITH SB1383

RECOMMENDATION

Adopt the resolution authorizing the City Manager to sign the amendment to the franchise agreement that includes the following provisions:

- Bringing the City and Contractor into compliance with the requirements of SB 1383;
- Settling Green Waste Recovery's claims for extraordinary rate adjustment related to unanticipated events that impacted the franchise agreement;
- Clarifying the process and results of the cost-based rate adjustment; and
- Approving an assignment of the franchise agreement resulting from a change in ownership of Green Waste Recovery.

The resolution also authorizes a 5.2% increase in collection rates beginning January 1, 2022, due to increased costs related to SB 1383.

BACKGROUND

GreenWaste Recovery (GWR) entered into a Solid Waste, Recycling, and Organics Collection Services Agreement (Agreement) with the City of Seaside on May 1, 2015. The Agreement provides GWR with the exclusive right to collect residential, multi-family, and commercial discarded materials from the City, subject to the limitations of

that Agreement and applicable law. The Agreement is scheduled to terminate April 30, 2030. An amendment to the Agreement has been negotiated and is attached to include provisions to resolve each of the following issues:

1. Provisions bringing the City and Contractor into compliance with the requirements of SB 1383,
2. Resolving GreenWaste Recovery's claims for extraordinary rate adjustment related to unanticipated events that impacted the franchise agreement,
3. Clarifying the process and results of the cost-based rate adjustment, and
4. Approving an assignment of the franchise agreement resulting from a change in ownership of GreenWaste Recovery.

Cost Based Rate Adjustment

The Agreement provides for a periodic review of the contractor's detailed costs and revenues and a reconciliation of the actual operating results of the agreement to the rates charged to customers. This adjustment process is performed in order to set rates under the agreement. In conducting the first such review under the Agreement, the parties identified practical aspects of the process that needed modification for both clarity and to prevent unintended outcomes. These changes do not have a material impact on the process and simply memorialize in greater detail how the process was conducted during its first application under the Agreement. The results of the cost-based rate adjustment have already been applied to customer rates, as required by the Agreement, and there is no impact on the current or future rates from this proposed change.

SB 1383 Change in Law and Scope

SB 1383 is the most significant state level waste management legislation to affect local governments in over 30 years. The focus of the legislation is to dramatically reduce the amount of methane generated from California landfills by reducing organic waste to landfill by 75% by 2025. The prescriptive programmatic requirements of SB 1383 extend penalties for non-compliance to jurisdictions, generators, facilities, and haulers. As a result, the franchise agreement required updates to service, reporting, and customer service provisions of the Agreement to achieve compliance and support the rest of the community in achieving compliance. These required changes triggered an agency-directed change in scope, as outlined in Section 3.5 of the Agreement and entitle GWR to compensation for the new services to be provided under the law. The costs of the change in scope have been reviewed by HF&H Consultants and negotiated with GWR to minimize the impact on ratepayers to the greatest extent practical while still ensuring the quality/level of service required to ensure successful implementation.

COVID-19 Pandemic

The local shelter-in-place orders resulting from the COVID-19 pandemic resulted in changes to how residents and businesses generated and subscribed to waste services. The sharp decline in commercial business due to shelter-in-place mandates led to a

significant drop in revenues generated from these customers while at the same time putting increased pressure on collection capacities for the residential sector.

HF&H Consultants reviewed GWR's claim related to the cost and revenue impacts of the shelter-in-place orders and determined, in agreement with both the City and GWR, that the revenue base rate used for determination in Rate period four was sufficient to recoup losses from the pandemic. This determination is supported because the base rate (July 1, 2020, through June 30, 2021) was from a period of time during which COVID-19 had its highest impacts on customer subscription levels.

HF&H Consultants reviewed GWR's claim related to the cost and revenue impacts of the shelter-in-place orders and determined, in agreement with the MRWMD Member Agencies, that it was unreasonable for GWR to request additional revenues during rate period seven, when revenues fell short of projections due to the COVID -19 pandemic. This determination was considered in combination with prior years when GWR exceeded their revenue targets. Therefore, the parties have agreed to resolve this matter without any additional compensation to GWR.

Assignment Review

In September 2021, GWR notified the City of their intent to sell their company to an investment fund operated by Macquarie (a global financial services and investment bank) with a closing date in December 2021. Section 12.6 of the Agreement governs this type of transaction and reserves the rights for the franchising agency to conduct a due diligence review. Such a review was performed by HF&H Consultants in accordance with the process outlined in the Agreement. HF&H's assignment review report is attached. The report identified a few performance gaps related to insurance, performance bonds, billing, public education, and diversion. For each area where a performance gap was identified, HF&H worked with GWR to agree on enhanced contract language and processes to provide greater control over these issues going forward and minimize the likelihood that the errors are repeated.

FISCAL IMPACT

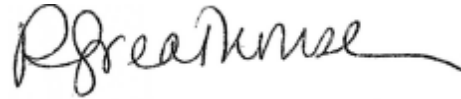
HF&H has found there will be no fiscal impact to the City's general or enterprise funds as a result of the new amendment, with the exception of some minor increases in fees collected by the City on the basis of the contractor's receipts.

Generator rates for service are expected to increase by 5.2% resulting from the proposed Amendment. The rate adjustment coincides with the expanded provision of services. Nearly all of the proposed increases are related to the implementation of SB 1383, with only very minor contributions from the other extraordinary items described above.

ATTACHMENTS

1. Assignment Review Report Final
 2. SB1383 Costs Worksheet
 3. SB1383 Franchise Amendment
 4. Resolution
-

Reviewed for Submission to the City Council by:

A handwritten signature in black ink, appearing to read "R Greathouse", with a long horizontal flourish extending to the right.

Roberta Greathouse, Acting City Manager

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Walnut Creek, California 94596
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November 1, 2021

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Mniccum@pbcsd.org

Transmitted via email

Subject: Solid Waste Franchise Assignment Report – GreenWaste Recovery, Inc.

Dear Messrs.,

HF&H Consultants, LLC (HF&H) provides the enclosed report on our due diligence review of the Assignment of your jurisdictions' franchises resulting from a change in control of GreenWaste Recovery, Inc., Zanker, and their affiliated companies (GWZ). This report presents the scope of our due diligence review, the findings of our review, proposed conditions to the Assignment of the franchises based on our review, and our recommendations.

Sincerely,

HF&H CONSULTANTS, LLC


Rob Hilton, CMC
President

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GLOSSARY

Agreement - Solid Waste, Recycling, and Organics Collection Services Agreement between GWR/Zanker and Franchising Agencies.

Assignee – MIP V Waste, LLC, a subsidiary of a fund managed by Macquarie Infrastructure and Real Assets.

Assignment –a change in control that falls under the definition of Assignment pursuant to the terms of the Agreement.

Franchisee – see GWR.

Franchising Agencies – Cities of Carmel, Del Rey Oaks, Marina, Pacific Grove, Sand City, and Seaside; the County of Santa Cruz; and, the Pebble Beach Community Services District.

GreenWaste/Zanker (GWZ) – means the umbrella name for all GreenWaste Recovery and Zanker affiliated companies.

GWR – GreenWaste Recovery, the hauler for the Franchising Agencies.

MIRA – Macquarie Infrastructure and Real Assets, part of Macquarie Asset Management.

MRWMD Agencies – Cities of Carmel, Del Rey Oaks, Marina, Pacific Grove, Sand City, Seaside, and the Pebble Beach Community Services District.

Pebble Beach – Pebble Beach Community Services District

PEOP – Public Education and Outreach Plan.

Review – Assignment Review.

Zanker - GWR's sister company, Zanker Road Resource Management, LTD.

ZWED – GWR's sister company, Zero Waste Energy Development.

EXECUTIVE SUMMARY

GWR has proposed an Assignment of their Solid Waste, Recycling, and Organics Collection Services Agreement (Agreement) with the cities of Carmel, Del Rey Oaks, Marina, Pacific Grove, Sand City, and Seaside; the Pebble Beach Community Services District; and, the County of Santa Cruz (hereinafter “Franchising Agencies”). This report presents the Franchising Agencies with the results of HF&H’s due diligence Assignment review (Review) to support the Franchising Agencies in determining whether it is in the best interest of each of their communities to accept the terms of the proposed Assignment.

HF&H was engaged to perform an Assignment Review (Review) of the companies falling under the umbrella of GreenWaste Recovery and Zanker Road Resource Management LTD (hereinafter “GreenWaste/Zanker”), in accordance with Section 12.6 of the Agreements.

The Review is a targeted assessment addressing GreenWaste/Zanker’s performance in four key areas:

1. An audit of GreenWaste/Zanker’s compliance and performance under the current Agreements.
2. A review of the financial and other terms of the change in control between the Franchisee and the Assignee.
3. A review and determination of the financial health and stability of both the Franchisee and Assignee.
4. A review of information regarding the experience, qualifications, and the performance of the Assignee to assess their ability to perform at or above the levels of the current Franchisee.

Following completion of our analysis on these four key areas, HF&H recommends the following key action steps (which are further described in Section 2 of this Report).

General Finding

In general, our review found that the transaction will result in a change in control and governance of GWZ, but that the corporate and local management teams will remain unchanged. The resulting company appears to meet all of the minimum criteria for the consideration of the Assignment. Our review identified certain shortfalls in performance that are documented herein, however the specific issues were relatively minor in nature, were promptly resolved, and never resulted in the contractor being subject to liquidated damages or found in default of the agreement.

HF&H recommends that each franchising agency review and consider the specific findings of this report prior to approving any Assignment of the franchise agreement. HF&H did not identify any issues during the performance of this review that creates a new or unreasonable risk for the jurisdictions and their respective constituents. That said, HF&H recommends conditioning the approval of the Assignment on GWZ’s agreement to implementing the various recommendations contained in this report. These recommendations pertaining to GWR are already incorporated into the Amendments currently under consideration.

Compliance Issues

- HF&H found that GWR failed to achieve its annual diversion goals nor did they provide some of the required education and outreach activities for the Franchising Agencies that would have supported those diversion goals. GWR has agreed to establish an annual budget of \$75,000 for the MRWMD Agencies and \$75,000 for Santa Cruz County, any unspent portion of which would be returned to the

agencies at the end of each rate year. This should reduce cost cutting incentives to GWR and allow the agencies to monitor PEOs and expenditures. In addition, GWR has agreed to prepare a Diversion Plan by the end of 2022 to document the impact of SB 1383 changes on the diversion targets and to create specific, tonnage-based, plans for achieving the 65% diversion goal stated in the Agreements.

- HF&H found that GWR failed to provide accurate fee payments (See Section 2 for thorough analysis). Upon notification, GWR remedied these errors immediately and paid any outstanding fees owed to the appropriate Franchising Agency.
- HF&H found numerous minor billing and reporting errors during the review. HF&H recommends that additional and more frequent training for staff to avoid mistakes in the future. In addition, HF&H recommends that the Franchising Agencies utilize the performance reviews and billing audits that are provided for in their Agreements to monitor these activities more closely.
- HF&H found that GWR failed to purchase certain required capital under the Agreement with Santa Cruz County. GWR was notified of this issue and has agreed to purchase new collection vehicles required for SB 1383. The new vehicles that were not purchased must be put into service by April 1, 2023 when the rate application for the July 1, 2023 rate adjustment is submitted and if they fail to put those vehicles into service by that time, the depreciation costs for such vehicles will be disallowed until the rate adjustment after they are placed into service.
- HF&H found that all insurance and performance bonds were not at the required amounts. Upon notification of these issues, GWR immediately reissued new insurance certificates and performance bonds for all Franchising Agencies. The Franchising Agencies' Risk Managers should review these policies and bonds more closely on an annual basis to ensure compliance with the contract.

Assignment Terms

HF&H recommends that the Franchising Agencies continue to monitor operations and staffing levels to ensure that the Assignee continues to provide operations that meet the obligations of the Agreements throughout the remaining term. The robust reporting requirements, scheduled performance reviews and billing audits, along with the allowable cost-based rate adjustments should be sufficient to monitor and ensure that the Assignee is continuing to operate the franchises in accordance with its franchise agreements.

Financial Condition

HF&H's review determined that the financial strength of GWZ combined with the substantial resources of the Assignee result in minimal risk to the Franchising Agencies. The only significant concern related to the financial aspects of this transaction are that other funds under common management with the Assignee commonly hold the assets they acquire for shorter periods of time than are remaining on the Franchise Agreements. This may subject the Franchising Agencies to a subsequent Assignment request process; however, the Franchising Agencies would maintain all of their consent rights over any such Assignment.

Experience and Qualification

HF&H's review found that the company resulting from the transaction will have sufficient experience and qualifications to meet the requirements of the Agreement. The leadership and management team will have substantially more than the ten years of required experience operating similar businesses and the manager of the Assignee has experience acquiring and developing other solid waste infrastructure

companies through prior funds. GWZ has provided for retention agreements for executives (CFO, CSO) and managers (General Manager, Customer Service Manager) that provide substantial incentives for those personnel to stay for at least the first year of the transition.

SECTION 1 OVERVIEW

A. Background

GreenWaste Recovery (GWR) entered into separate Solid Waste, Recycling, and Organics Collection Services Agreements (Agreements) with the cities of Carmel, Del Rey Oaks, Marina, Pacific Grove, Sand City, and Seaside; the Pebble Beach Community Services District; and, the County of Santa Cruz (hereinafter “Franchising Agencies”). The Agreement provides GWR with the exclusive right to collect residential, multi-family, and commercial discarded materials from these jurisdictions, subject to the limitations of that Agreement and applicable law. An amendment to each Agreement has been negotiated and was provided to each Franchising Agency in an HF&H email correspondence dated October 26, 2021.

In September 2021, GWR notified the Franchising Agencies of their intent to sell their company to an investment fund managed by MIRA, which is ultimately controlled by Macquarie Group Limited, a publicly-traded, a global financial services firm with a closing date in December 2021. Section 12.6 of the Agreement governs this type of transaction and reserves the right for the Franchising Agencies to conduct an Assignment Review (Review). The Review was performed by HF&H Consultants, in accordance with the process outlined in the Agreement, and identified a few performance gaps related to insurance, performance bonds, billing, public education, and diversion (See “Section 2: Findings and Recommendations”). For each area where a performance gap was identified, HF&H worked with GWR to agree on enhanced contract language and processes to provide greater control over these issues going forward and to minimize the likelihood that such errors would be repeated.

The issue areas covered in this Review are as follows:

Compliance Issue Areas

- Implementation of all collection services and recycling programs
- Public education and outreach
- Performance consistent with the standards of performance defined in the Agreement
- Billing review
- Delivery of material to the correct facilities
- Provision of operating assets that meet the requirements of the Agreement
- Reporting
- Payment of fees
- Insurance and performance sureties required by the Agreement
- Liquidated damages

Assignment Term Issue Areas

- Financial condition of franchise and Assignee
- Risk to Franchising Agency and/or rate payers

Financial Condition Issue Areas

- Financial health and stability
- Return on investment
- Ability to maintain ongoing operating costs without compromising performance

Experience and Qualification Issue Areas

- Experience
- Qualifications
- Performance of Assignee
 - Litigation History
 - Regulatory violations

B. Techniques

HF&H's Review team conducted the following activities:

- Initial and follow-up information requests to GWR, MRWMD Agencies, and Santa Cruz County
- Phone interviews with GWR's operations and management staff.
- Review of quarterly reports and other requested financial and operational data.
- Sample testing of GWR collection customers invoices.
- Review of tonnage and facility reports.
- Review and calculation and payment of fees.
- Calls and meetings with GWR and the Franchising Agencies.

C. Limitations of the Analysis

The scope of HF&H's analysis was limited as follows:

- The Review covered a wide range of performance areas in the Agreements. Therefore, the recommendations include several areas for suggested follow-up monitoring related to specific issues.
- The information used in the Review is, to the best of our understanding, accurate based on the data and information as provided by GreenWaste/Zanker and/or the Franchising Agencies, and was reviewed for reasonableness within industry standards.
- The Review did not entail independent verification of the accuracy or completeness of all of the source documents provided by GreenWaste/Zanker and the Franchising Agencies.
- While the recommendations identify potential areas for improvement, the scope of work for the Review did not include development of specific remedies other than those incorporated into the amendments already under consideration and this report.
- Other matters might have come to our attention that would have been reported to the City had we addressed additional topic areas, additional issues within topic areas, and/or performed additional procedures.

SECTION 2: FINDINGS & RECOMMENDATIONS

HF&H performed review and analysis of GWR's performance and compliance with the Agreements, the terms under which the Assignee intends to purchase the Franchisee, the financial health and stability of the Franchisee and its operations, and the experience and qualifications of the Assignee in relation to its ability to perform its obligations at or above the standards defined within the Agreements. The findings of this Review are documented in this section and provide documentation of all instances of noncompliance with the Agreement, as well as other potential areas of concern.

Generally, GWR has been found to be compliant with the terms and conditions of its Agreements with some exceptions noted in the findings below. For each area where non-compliance was documented, GWR has been notified and has attempted to remedy the situation and/or HF&H has made recommendations to prevent future failures to meet compliance. Particular areas of concern are related to public education and outreach, overall diversion performance, reporting, and performance bonds and insurance levels.

HF&H believes that the recommendations below should be implemented regardless of the approval of a change in control and that these recommendations should help to ensure that the requirements of the Agreements for all Franchising Agencies are better met.

A. Compliance Review

A-1. Implementation of Collection and Recycling Programs Required Under Agreement

The Franchising Agencies' Agreements establish specific collection services, documented in Exhibit B of each Agreement, which must be performed by GWR. HF&H reviewed all requirements of Exhibits B1 - Single Family Residential Services, B2 - Multi-Family Services, B3 - Commercial Services, B4 - Construction and Demolition Debris Services (all except Santa Cruz County), B4 - Agency Services (Santa Cruz County), B5 - Agency Services (all except Santa Cruz County), B5 - Agency Services Levels and Locations (for Santa Cruz County), B6 - Agency Services Levels and Locations (all except Santa Cruz County), and B7 Agency Special Events Schedule (select Franchising Agencies only).

HF&H collected evidence of GWR's compliance with collection services through materials on their website, rate sheets, quarterly reports, and annual reports as well as discussions with Franchising Agency staff. Where services could not be verified through documentation, HF&H contacted GWR and/or Franchising Agency staff to verify compliance. It is important to note that only a sample of information from this material was examined during this review.

Findings

HF&H found that GWR is generally compliant with the core collection services for single family residential, multi-family residential, commercial, construction and demolition, and agency services, with the following exceptions:

- GWR incorrectly escalated the Youth Service Recycling Grant, resulting in an underpayment of \$24,108.86 to the City of Seaside over a six-year period. GWR was notified of this error and has paid the amount owed in full. The annual differences in the grant amount paid and correctly escalated grant amount owed are summarized in the table below.

Figure 1: Youth Service Recycling Grant Amounts- Seaside

Year	CPI Increase	Amount Paid	Escalated Grant Amount	Amount Owed
2016	3.60%	\$ 51,800.00	\$ 51,800.00	\$ -
2017	2.70%	\$ 51,350.00	\$ 53,198.60	\$ 1,848.60
2018	2.88%	\$ 51,439.05	\$ 54,729.71	\$ 3,290.66
2019	3.87%	\$ 51,932.55	\$ 56,845.07	\$ 4,912.52
2020	0.13%	\$ 50,067.07	\$ 56,921.32	\$ 6,854.25
2021	4.07%	\$ 52,033.66	\$ 59,236.49	\$ 7,202.83
TOTAL OWED				\$ 24,108.86

Recommendations

- HF&H recommends GWR and the City of Seaside both annually confirm that the Youth Service Recycling grant has been calculated correctly.
- HF&H recommends that GWR work with each property manager/property owner and to increase the education and outreach to multi-family tenants so that they are informed of the three (3) free bulky service events offering and that they may participate for no cost. The educational material should also inform tenants that any request for bulky service, that is outside the purview of these three allotted events, will be charged a fee.
- HF&H recommends that GWR have more frequent trainings with its billing staff to review all provided and included/free services in order to avoid future charges for services which should not be charged.

A-2. Public Education and Outreach Analysis

The Agreement establishes specific public education and outreach requirements to be performed by GWR, in accordance with Exhibit C of the Franchising Agencies Agreements. This part of the Review was broken into five separate sections: 1) single family; 2) multi-family; 3) commercial; 4) schools; and, 5) special events. For each section, HF&H reviewed printed collateral, Public Education and Outreach Annual Plans (PEOPs), and quarterly reports from 2020 that were submitted by GWR for the Franchising Agencies. Only one Franchising Agency's 2020 PEOP example was provided to HF&H for the Review as all PEOPs were identical. Printed collateral was reviewed for the inclusion of specified educational topics outlined in the Agreements and included newsletters, posters, recycling guides, postcards, and truck signs. Quarterly reports were used to identify the number of engagements GWR had with customers to offer educational and/or technical support, as well as to identify the number of non-collection tags that were distributed annually. Additionally, quarterly reports were cross-referenced with the PEOPs for each Franchising Agency to ensure deliverables were met.

Findings

Single Family Education and Outreach Activities

A Public service announcement and press release, required to be sent at the start of the new Agreement, were not provided to HF&H for review. For each of the Franchising Agencies requiring seasonal notices and directly mailed postcards (Carmel, Del Rey Oaks, Marina, Pacific Grove, Sand City, Seaside, and Santa Cruz County), those postcards did not meet the specific requirements to contain seasonal information. Additionally, seasonal notices, as required by the Agreement, were not included as a separate offering or piece of collateral distributed to customers.

Although a recycling guide was developed in 2015 for the Pebble Beach Community Services District and the cities of Carmel, Del Rey Oaks, Marina, Pacific Grove, Sand City, and Seaside, the guide was not distributed at any point in 2020. Pebble Beach did not have a recycling guide specific created for them other than an online posting; furthermore, there was no record of distributing such guides in the 2020 quarterly reports. GWR notes that Pebble Beach removed the outreach budget for distribution as part of negotiations.

In Santa Cruz County in 2020, the truck side advertisement did not align with the themes of each quarterly newsletter as required by the Agreement. GWR's webpage for each Franchising Agency does contain links for each of the comprehensive recycling guides, but did not provide information on the availability of compost or worm bins offered through the MWRMD. Recycle guides were removed from the MRWMD jurisdictions in order to avoid potential conflicts with the District's list once the District took over the processing of recyclable materials.

Presentations for homeowner's associations and other neighborhood groups were not recorded in quarterly reports for any Franchising Agency as provided in 2020. These presentations according to the Agreement are only required upon request and it is not clear whether they were ever requested.

Multi Family Education and Outreach Activities

GWR confirmed with HF&H that AB 341 informational flyers were delivered to multi-family customers and information about the legislation was included in quarterly newsletters prior to 2020. HF&H did not review the newsletters containing the AB 341 information.

A multi-family recycling guide was developed in 2015 for the cities of Carmel, Del Rey Oaks, Marina, Pacific Grove, Pebble Beach, Sand City, and Seaside. The 2015 guide contained all the requirements outlined in the Agreement but, was not distributed at any point in 2020 for the same reason noted in our findings for Single family education and outreach. A uniform household hazardous waste guide was created for all the Franchising Agencies; however, distribution was not specified in the quarterly reports. For each of the Franchising Agencies requiring seasonal notices (Carmel, Del Rey Oaks, Marina, Pacific Grove, Sand City, Seaside, and Santa Cruz County), the notices were provided in the form of quarterly postcards directly-mailed to customers. Postcards did not meet the specific requirements to contain seasonal collection program information; however, the theme of each postcard was described in the annual PEOP and reviewed by the jurisdiction at the start of the calendar year.

Move-in Kits were not specifically reviewed by HF&H as a full kit was not provided by GWR. Within the PEOPs, however, move-in kits are documented to contain materials developed independently such as the recycling guide. Move-in kits were recorded as delivered upon request for each jurisdiction throughout 2020.

GWR maintains a webpage specific to each Franchising Agency. The website meets the minimum requirements listed in the Agreement of listing current rates, maintaining a separate section for single-family and multi-family customers, and containing information on the collection programs offered. However, the site does not provide a clear opportunity for multi-family property managers to request recycling opportunity assessments or additional move-in-kits.

HF&H reviewed the total records in each quarterly report to determine the number of multi-family customers GWR engaged with to provide education or technical assistance. The number of engagements varied across each Franchising Agency from zero in the City of Carmel for quarters two and three to 449 in quarter two for Santa Cruz County. HF&H did not review each individual record to determine the specific level of technical assistance or outreach provided to the customer; therefore, HF&H cannot make a determination on the complete compliance with the prescriptive technical assistance requirements outlined in the Agreements. The information provided in the quarterly reports did not make clear which customers received proactive engagement versus those that were provided support in response to a request. No reports were provided that listed the specific customers targeted for technical support and the results from those engagements as required by the Agreement.

Commercial Education and Outreach Activities

GWR confirmed AB 341 flyers were delivered to commercial customers and information about the legislation was included in quarterly newsletters prior to 2020. HF&H did not review the newsletters containing the AB 341 information.

A commercial recycling guide was developed in 2015 for the cities of Carmel, Del Rey Oaks, Marina, Pacific Grove, Pebble Beach, Sand City, and Seaside. The 2015 guide contained all the requirements outlined in the Agreements, but according to quarterly reports was not distributed at any point in 2020 for the reasons mentioned in our previous findings. The creation of recycling and organic materials “how-to” guides was required for all Franchising Agencies in addition to laminated posters providing graphic illustrations of accepted and prohibited items for each material stream. Laminated posters were reviewed by HF&H and found to contain versions for commercial customers receiving food scrap collection service and those that are not. The posters were not further tailored for different business types such as restaurants, strip malls, and large commercial businesses as required in the Agreements. According to the PEOP for the MRWMD Agencies, the posters developed were distributed as needed to commercial customers as a means to explain the collection program for both recyclable and organic materials. These posters were delivered in lieu of the “how-to” guides. Posters were not differentiated between the MRWMD agencies and Santa Cruz County.

Per the Agreements for the Franchising Agencies, each bill is required to include a brief statement to commercial customers providing service-related announcements. No specific message or example bill was provided for review. However, quarterly newsletters for the cities of Carmel, Del Rey Oaks, Marina, Pacific Grove, Sand City, Seaside, and Santa Cruz County were included at least twice throughout 2020 with the customer’s invoice. For all Franchising Agencies, including Pebble Beach (which is not required to send newsletters per their franchise agreement), the PEOP stated that an educational or informational statement was included in each invoice. As no invoices were provided for this purpose, HF&H was unable to confirm this.

HF&H reviewed the total records in each quarterly report to determine the number of commercial customers GWR engaged with to provide education or technical assistance. The number of engagements varied across each Franchising Agency from eight in Pebble Beach in quarter one to 332 in quarter three for Santa Cruz County. Many of the engagements across all the Franchising Agencies were for repeated

customers. HF&H did not review each individual record to determine the specific level of technical assistance or outreach provided to the customer, and therefore cannot make a determination on the complete compliance with the prescriptive technical assistance requirements outlined in the Agreements. The information provided in the quarterly reports did not make it clear which customers received proactive engagement versus those that were provided support in response to a request. No reports were provided that listed the specific customers targeted for technical support and the results from those engagements as required by the Agreements.

Schools Education and Outreach Activities

Technical assistance and tours of the Recycling and MRWMD MRF are required to be provided by GWR upon request. No such assistance or tours were recorded as being provided throughout 2020 and HF&H did not investigate further into this compliance requirement.

Special Events Education and Outreach Activities

GWR is required, upon request, to participate in exhibit booths at special events. No record of attendance at such events was recorded in the 2020 quarterly reports and HF&H did not investigate further into the compliance of this requirement.

Recommendation

- HF&H recommends GWR align each PEOP with each specific requirement of the Agreement in order for the Franchising Agency to more clearly identify which requirements are met and when GWR is not in compliance. Portions of the PEOP that stray from, or do not meet, the requirements of the Agreements should be noted and receive written approval by the jurisdiction.
- Each Franchising Agency should determine whether GWR may utilize one piece of educational collateral to meet multiple requirements and, if so, ensure collateral contains all the information outlined in the Agreement prior to GWR distributing the materials.
- HF&H recommends each Franchising Agency and GWR develop an oversight and reporting process for AB 341 eligible multi-family and commercial customers and extend the requirements for technical assistance to customers eligible under other applicable laws including AB 1826 and SB 1383. A separate tab or section on the quarterly report should be dedicated to list these customers, when/how GWR contacted them to offer support, and the specific results of the technical assistance provided.
- HF&H recommends GWR update their website to include links to recycling guides and a prominently displayed button for commercial and multi-family customers to request move-in kits, other educational collateral, or technical assistance. Additional and more consistent promotion of the technical assistance program and presentations available for homeowner's associations and other community organizations should be included on the website and printed collateral.
- Finally, it is recommended that metrics be developed for measuring the success of the education and outreach programs provided by GWR and to include a section within each quarterly report that compares GWR's current performance against these metrics. Metrics may include participation rates in optional programs (worm bin kits, HHW drop off, bulky item pickups), website traffic, and the number of presentation and technical assistance requests received.

A-3. Performance Standards Analysis

The Agreement establishes specific performance standards, documented in Exhibit F, which must be performed by GWR. The performance areas include Service Quality and Reliability, Customer Service, Diversion, Facilities, and Reporting.

HF&H sampled a random selection of quarterly reports from each of the Franchising Agencies. Within each quarterly report, HF&H reviewed the Customer Service Report to verify compliance with Service Quality and Reliability and Customer Service performance standards and reviewed the Tonnage report to verify compliance with Diversion and Facilities performance standards.

Findings

GWR has met performance standards related to Service Quality and Reliability, Customer Service, and Facilities, but has failed to meet performance standards related to Diversion and Reporting. GWR's failures in these areas are detailed below.

- **Diversion.** All Franchising Agencies require GWR to reach 65% Diversion or greater in each calendar quarter. HF&H reviewed between seven and eight quarters per agency, half of which were in the beginning of the Agreement, and the other half of which were the most recent calendar quarters. Of the 74 total quarters checked, Diversion targets were only reached in Pebble Beach in Q1 2016 and in the most recent quarters. GWR failed to achieve their Diversion target in all quarters reviewed for all other Franchising Agencies .
- **Reporting.** Issues were noted regarding GWR's reporting. In one instance, GWR submitted a quarterly report a week late (Santa Cruz County's Q4 2018 report was submitted on Friday, February 22, 2019 and was due on February 15, 2019). Additionally, the content of several of GWR's quarterly reports for Santa Cruz County were found to contain inaccurate information. Quarterly Revenue Reports for Q1 2019, Q2 2019, Q3 2019, Q4 2019, Q2 2020, and Q3 2020 show 0% for the AB 1826 infrastructure payment, which was in fact made, but not reported; GWR submitted checks showing a 3% AB 1826 infrastructure payment for each of these quarters. The failure of GWR to include the 3% AB 1826 infrastructure payment in the revenue for these quarters also resulted in an inaccurate franchise fee calculation in the revenue report. The franchise fee in the revenue report for the aforementioned quarters does not match the franchise fee paid as calculated by HF&H through checks provided by GWR. The issue is described in detail in A-7 Reporting Standards Analysis.

Recommendations

- GWR and the Agencies must work together to increase diversion. GWR has proposed to include an annual diversion plan as part of their annual public education and outreach plan. This language has been added to the County's franchise agreement to reflect this new requirement.
- HF&H recommends that GWR address issues that led to the revenue reports being misreported in Santa Cruz County. It is recommended that GWR provide additional rounds of review to verify that revenue reports tie to submitted checks before presenting to the County of Santa Cruz. Should these issues continue HF&H recommends that the County evaluate the use of the allowed liquidated damages. As noted in A-7 below, the error did not result in any underpayment to the County.

A-4. Billing Analysis

HF&H reviewed 163 total invoices provided by GWR to allow HF&H to test for systemic billing errors by reviewing several invoices from each jurisdiction. Of the 163 invoices tested, 20 were from Carmel customers, 20 were from Del-Rey-Oaks customers, 23 were from Marina customers, 20 were from Pebble Beach customers, 20 were from Pacific Grove customers, 20 were from Sand City customers, 22 were from Seaside customers, and 18 were from Santa Cruz County customers. The Franchising Agencies were sampled to include a variety of service levels for four customer types: residential, multi-family, commercial, and roll-off. Note that Santa Cruz County does not have roll-off customers included in this franchise.

Each invoice was compared to the current rate sheet published on GWR's website. Charges were checked against the rate sheet items for corresponding customer types and service levels. HF&H noted the amount GWR billed for each charge, and the correct charge for each line item.

Findings

There were no systemic issues found in GWR's billing. Of the 163 invoices reviewed, there were 8 total exceptions, which are summarized in the table below. Many of the exceptions are minor undercharges or overcharges. There was an instance where a multi-family cart customer in Del-Rey-Oaks was charged \$7.37 for recycling in error. GWR remedied the error by issuing a refund to the customer for each billing period that the customer was overcharged.

Figure 2: GWR Billing Errors

Jurisdiction	Number Tested	Number Of Exceptions	Comments
Carmel	20	2	Undercharge for Commercial 1 YD Garbage and Roll-Off Organics
Del-Rey-Oaks	20	1	Customer was charged for recycling in error. GWR issued a refund to the customer
Marina	23	0	
Pebble Beach	20	3	Two customers undercharged. Commercial customer overcharged \$1.56.
Pacific Grove	20	1	Roll-Off customer overcharged \$28.37.
Sand City	20	1	Residential customer overcharged \$1.35 for additional refuse cart
Seaside	22	0	
Santa Cruz County	18	0	
TOTAL	163	8	

Recommendation

GWR has agreed to conduct a billing and performance review by a third party per the terms of the Agreements in calendar year 2022 in order to further identify any potential systematic errors within the billing system and remedy them. HF&H also recommends that GWR perform periodic audits of their billing system to ensure customers are charged according to the rate sheet. Additionally, GWR must periodically check that customers are in the correct customer class in their billing system.

A-5. Facilities Use Analysis

HF&H reviewed GWR's Santa Cruz County quarterly reports from Q3 2018 and Q2 2021 and compared the facilities listed in the tonnage reconciliation section to the facilities allowed in the Agreement. We found that GWR's quarterly reports for the MRWMD Agencies do not include tonnage reconciliation by facility in quarterly reports, and so HF&H could not check for use of approved facilities through reporting. HF&H confirmed that GWR uses the approved facilities for its MRWMD Agencies through review of tonnage reports historically provided by MRWMD and compared to GWR's quarterly and annual reports. Additionally, it should be noted that GWR would be disadvantaged to use other facilities, as the approved facility tonnage reports form the basis of the tonnage cost component when setting rates.

Findings

GWR is in compliance with the facilities listed in the Agreement. GWR Santa Cruz County disposes of solid waste at Ben Lomond Transfer Station and Buena Vista Landfill. The County processes organic materials at the Buena Vista Composting Facility and MRWMD's composting facility. The County's recyclables are sent to the GreenWaste MRF, and the San Jose MRF. Material collected for the MRWMD Agencies are delivered to the MRWMD as required per the Agreement.

Recommendation

It is recommended that GWR add a tonnage reconciliation by facility table to quarterly tonnage reports for the MRWMD, similar to the one included in Santa Cruz County's tonnage report.

A-6. Asset Analysis

HF&H conducted a detailed review of GWR's vehicle capital. Current vehicle inventory data was gathered from the Franchising Agencies' 2020 annual reports. The vehicle inventory listed in the annual reports was then compared to the vehicle capital proposed in Exhibit G2 Form 4 of the Agreement.

Findings

MRWMD Vehicle Capital

GWR proposed 48 total vehicles to service the MRWMD in the Agreement signed in 2014 and, as of the 2020 Annual Report, owned 48 vehicles. GWR had proposed to own 21 side-loader collection vehicles, but owned 18 as of 2020. GWR is also using an additional five front or rear loading vehicles instead of the anticipated side loaders based on the account types for the MRWMD agencies. The findings are summarized in the table below.

Figure 3: GWR Vehicle Inventory Capital

MRWMD Vehicle Inventory Capital			
Vehicle Type	Total Vehicles Proposed	Total Vehicle Inventory*	Difference (Proposed - Inventory)
Side Loader	21	18	3
Front & Rear Loader	6	11	-5
Roll-Off	3	6	-3
Flatbed	1	2	-1
Utility	8	5	3
Outreach	3	4	-1
Total Vehicles	42	48	-6

*Total inventory per 2020 Annual Report

Santa Cruz County Vehicle Capital

HF&H found that GWR misreported vehicle capital in its Santa Cruz County annual reports. GWR neglected to add spare vehicles bought prior to 2017, even though they use these vehicles to service the County. Upon further investigation, HF&H found that GWR failed to purchase two new side-loader collection vehicles and instead used spare vehicles to service two of the County's routes (see the actual required vs, actual new in the table below).

Two additional difficult to service routes were required beyond what was anticipated in the initial proposal, and GWR also services these routes with spare collection vehicles. GWR feels the two additional routes required after signing the Agreement are offset by the two routes that they had been running with spare trucks, and that the new trucks requested for SB 1383 are justified because they are already running two additional routes with old vehicles. GWR has agreed to purchase the two vehicles that will be required to replace the two routes currently being run with older spare vehicles at no additional cost. This does not include the two additional vehicles that will need to be purchased as a result of the demonstrated need for two additional difficult to service routes which will be part of the rate application for the July 1, 2022 rate adjustment.

Figure 4: GWR Santa Cruz County Vehicle Capital

Santa Cruz County Vehicles	Total Vehicle Capital Requirements Per Franchise Agreement (Actual + Spare)			Totals from 2020 Annual Report and August 2021 Asset List		
Vehicle Type	Actual	Spare	Proposed	Actual (New)	Spare (Old)	Total
Side Loader	32.00	3.00	35.00	30.00	5.00	35.00
Front & Rear Loader	10.00	2.00	12.00	10.00	2.00	12.00
Difficult to Service				-	2.00	2.00
Roll-Off	-	-	-	-	-	-
Flatbed	1.00	0.50	1.50	1.50	0.50	2.00
Total Collection Vehicles	43.00	5.50	48.50	41.50	5.50	51.00
Total Other Vehicles	8.00	-	8.00	8.50	1.50	12.00
Total Vehicles	51.00	5.50	56.50	50.00	7.00	63.00

Recommendation

- GWR must include all spare vehicles in their annual report that are used to service Santa Cruz County.

- HF&H recommends Franchising Agencies confirm that GWR purchases new vehicles required for SB 1383 rather than using spare vehicles (with the exception of the use of old vehicles during lead time for new trucks to arrive) and that the two (2) vehicles which should have been purchased as new rather than using older spare vehicles be purchased at no additional cost to Santa Cruz County. If these vehicles are not put in service by the time of the July 2023 Rate Application they should be excluded from the allowable depreciation until such time as the assets are put into service.

A-7. Reporting Standards Analysis

HF&H reviewed timestamps indicating when GWR submitted reports to the Franchising Agencies, and compared those timestamps to the deadlines indicated in the Agreement. Additionally, HF&H noted when certain reports were submitted on time as these were found to be inaccurate and had to be submitted again.

When reviewing annual and quarterly reports. HF&H noted any inaccuracies and included them in the findings below.

Findings

- GWR submitted quarterly and annual reports on time with one exception. GWR submitted the Quarter 4 2018 report to Santa Cruz County on Friday, February 22, 2019. The report was due to the County on February 15, 2019.
- While reports were submitted on time with one exception, clarification and corrections have often been needed, particularly at the beginning of the Agreements and/or during staff turnover.
- GWR misreported the number of vehicles in annual reports for Santa Cruz County. GWR has only been reporting vehicles purchased after 2017, although they additionally use older vehicles to service the County as allowed for spare vehicles.
- Errors were found in GWR's Santa Cruz County quarterly revenue reports for Q1 2019, Q2 2019, Q3 2019, Q4 2019, Q2 2020 and Q3 2020. GWR failed to include the AB 1826 infrastructure fee in each of these reports, resulting in GWR reporting the fee that they paid as 0% of gross receipts instead of 3% of gross receipts. This resulted in a total error of \$1,196,109.14 over the six quarters. However, HF&H confirmed through an audit of GWR's checks that GWR did indeed pay \$1,195,978.15 in AB 1828 infrastructure fees to the County during these quarters.
- Because the franchise fee for Santa Cruz County is calculated from gross revenue (as opposed to gross receipts), the franchise fee is also reported incorrectly for Q1 2019, Q2 2019, Q3 2019, Q4 2019, Q2 2020 and Q3 2020. HF&H verified that the correct franchise fees were paid each quarter through an audit of GWR's checks for the specified quarters.

Recommendation

- As noted in the Performance Standards Analysis, HF&H recommends that the assessment of liquidated damages be evaluated should fee calculations continue to be incorrect or misreported in the future.
- Additionally, liquidated damages may be assessed for each year that vehicles were misreported in annual reports. The Agencies should monitor and evaluate whether this is an appropriate remedy.

- GWR must address issues that led to the misreporting, as noted in the Performance Standards Analysis. It is recommended that GWR have another staff member verify that all reports are correct before submittal.

A-8. Fee Payment Review

HF&H reviewed a random selection of GWR's quarterly revenue reports for the Franchising Agencies. For fees not covered in the revenue, HF&H requested GWR provide checks for each year as proof that the required fee was paid.

Findings

- Pacific Grove's franchise fee payment was intended to increase from 10% to 12% in Q1 of 2016, and to 14% instead of 10% in Q4 of 2015. GWR missed these increases but paid back the past due monies once the issue was noticed. The issue has been resolved.
- GWR failed to increase the amounts of The Central Coast Media Coalition and Santa Cruz Green School Payments starting with Rate Period 2, as required by the Agreement. The total amount owed over three years was \$6,095.26 for the Santa Cruz Green Schools Program and \$4,063.51 for the Central Coast Recycling Media Coalition. GWR remedied the situation by paying back both fees, the monies owed, along with submitting a letter to each organization explaining the mistake.

Recommendation

HF&H recommends that both GWR and the Franchising Agencies review fee payments to make sure that they are in compliance with the Agreement. That includes making sure fees are escalated appropriately where required by the Agreement.

A-9. Insurance and Performance Bonds Review

HF&H reviewed the insurance and performance bond requirements based on each Franchising Agency's Agreement requirements. GWR provided the current insurance certificates and performance bonds for each Franchising Agency, which was reviewed in comparison to the individual agreement requirements. It is important to note the following: 1) the insurance requirements have not changed since the effective date of the Agreements; and 2) the performance bond amounts have adjusted at least once (Santa Cruz County was adjusted once and all other bonds were adjusted twice) since the effective date of the Agreements.

Findings

HF&H has found that GWR did not have the obligatory minimum amount of insurance as required by *any* of the Agreements since the beginning of the term. This issue was present until this error was discovered during this review. Upon notifying GWR, GWR promptly remedied these errors.

During this review, it was also determined that GWR did not have the requisite performance bonds amounts (which should have been adjusted in Rate Year 3 and Rate Year 6) and remedied this error promptly upon discovery.

Recommendation

HF&H recommends that the Franchising Agencies Risk Managers follow-up with GWR annually to confirm that they are holding the proper amount of insurance required. Furthermore, HF&H recommends that Franchising Agencies calculate, confirm, and enforce the performance bond amount for the remainder of the term (adjustment to occur during Rate Years 6 (County only), 9, and 12).

A-10. Liquidated Damages Assessment

HF&H requested information from GWR and all Franchising Agencies to determine whether any liquidated damages have ever been assessed against GWR. GWR has been threatened with liquidated damages due to late submittals for rate applications in 2019 and public education and outreach performance in 2019; however, no liquidated damages were ever assessed.

Findings

No findings. Liquidated damages were never assessed.

Recommendation

N/A

B. Review of Assignment Terms

HF&H reviewed the proposed terms of the change in control between the Franchisee and Assignee, which included the information required by Section 12.6 of the Agreement. This review, along with the review performed in Section 2.C Review of Financial Condition of Franchisee and Assignee (below), is intended to assess whether the proposed sale would create undue risk to the Franchising Agencies and/or ratepayers resulting from the transaction.

Findings

Upon review of the terms of Assignment (and the review of the financial condition of the Franchisee and Assignee seen in Section 2.C below), HF&H has concluded that the Assignee will be able to make a reasonable return on investment without creating undue risk to the Franchising Agencies and/or ratepayers resulting from the transaction. Calculations based on the financial statements provided by the Franchisee show the Franchisee is in good health and meets, and should continue to meet, favorable returns based on industry standards. Additionally, the return-on-investment calculation has been demonstrated to fall within reasonable industry ranges.

Additionally, the Assignee's manager has demonstrated through its other ventures that the investment strategy it employs is, in part, based on further appreciating the value of the venture being purchased to raise the enterprise value of the entity that it acquires. This strategy ensures that the Assignee not only makes a reasonable rate of return through the operation itself, but also retains or increase the value of the operation as a whole should it choose to sell the operation in the future.

Recommendation

HF&H recommends that the Franchising Agencies continue to monitor operations and ensure that the Assignee continues to provide operations that meet the obligations of the Agreements throughout the

remaining term of the Agreement. The robust reporting requirements, along with the allowable cost-based rate adjustments, should be sufficient to monitor and ensure that the Assignee is continuing to operate in accordance with the Agreements.

C. Review of Financial Condition of Franchisee and Assignee

HF&H reviewed financial statements and other financial materials from both the Franchisee and Assignee to determine the financial health and stability of both. This included reviewing GWR and Zanker income statements and balance sheets for at least three full years and documenting key financial ratios for each company. HF&H compared these financial ratios to benchmarks for companies of a similar size within the solid waste industry. Based on this review and the information obtained during Section 2.B (above), HF&H has provided the results of this analysis and its opinion on whether the individual and combined financial performance of the companies is adequate to recover a reasonable return on the investment of the Assignee, and to maintain ongoing operating costs of the Franchisee without compromising operational performance under the Agreements. As appropriate, HF&H worked with GWR, the proposed Assignee, and the Franchising Agencies' legal counsel to determine the confidentiality of various documents provided by the Franchisee and Assignee and established appropriate procedures in maintaining that confidentiality.

HF&H calculated five financial ratios as described below:

Current Ratio: The current ratio roughly measures a company's ability to pay its current obligations. It is a measure of liquidity; the higher the ratio, the more liquid. It is calculated as the Total Current Assets / Total Current Liabilities.

Quick Ratio: The quick ratio is a more conservative measure than the current ratio to measure a company's ability to pay its obligations using only the most liquid assets. The higher the ratio, the more liquid. It is calculated as (Cash + Accounts Receivable) / Total Current Liabilities.

Debt to Equity Ratio: The debt to equity ratio measures the relationship between capital contributed by creditors and capital contributed by owners. A low ratio indicates greater financial safety and borrowing flexibility. It is calculated as Total Liabilities / Owners Equity.

Current Debt to Worth Ratio: The current debt to worth ratio expresses the relationship between capital contributed by owners and current capital contributed by creditors. The lower the ratio, the more easily it can cover or meet its debt obligation without having to sell a lot of assets. It is calculated as Current Liabilities / Net Worth

Profit Margin: The profit margin calculation measures a company's return on total sales. The higher the margin, the more return on its operations. It is calculated as Profit Before Taxes / Total Sales.

Findings

As summarized in the table below, GWR is more favorable than the industry benchmark in all five categories for the past three years. The financial performance of GWR is adequate to recover a reasonable return on the investment and maintain ongoing operating costs without compromising operational performance under the Agreement.

Figure 5: Financial Ratio Benchmarking – GWR

Type of Ratio	Measurement	Reporting Year						Ratios as Compared to Industry		
		2020	Industry 2020-21 ¹	2019	Industry 2019-20 ¹	2018	Industry 2018-19 ¹	2020	2019	2018
Liquidity	Current Ratio	2.15	1.10	2.89	1.10	2.75	1.30	More Favorable	More Favorable	More Favorable
	Quick Ratio	1.47	0.90	2.13	0.90	1.60	1.00	More Favorable	More Favorable	More Favorable
Capital Structure	Debt to Equity Ratio	2.39	2.50	2.07	2.80	2.15	2.40	More Favorable	More Favorable	More Favorable
	Current Debt to Worth	0.46	0.59	0.31	0.98	0.30	0.60	More Favorable	More Favorable	More Favorable
Operating	Profit Margin	13.32%	6.00%	8.75%	4.60%	8.75%	6.40%	More Favorable	More Favorable	More Favorable

¹ GWR RMAU Benchmark ID: 562111 Solid Waste Collection Financial Ratio Benchmarks for annual sales equal to or greater than \$25 million.

# of More Favorable	5	5	5
# of Less Favorable	0	0	0
# of Even	0	0	0

HF&H also reviewed GWR's sister companies, Zanker Road Resource management, LTD (Zanker) and Zero Waste Energy Development (ZWED). Zanker was more favorable in all categories in all three years except for the Debt-to-Equity Ratio in 2019 and 2020. ZWED was only more favorable in the Debt-to-Equity Ratio in 2020 and the Current Debt to Net Worth Ratio in 2018 and 2020; ZWED was less favorable in all other categories over the past three years. However, the ZWED operation has recently agreed to new terms with another city that changed the compensation methodology to a flat amount adjusted by CPI that is unaffected by tonnage volumes. This adjustment will provide relief to their current financial position and improve ZWED's financial ratios.

Recommendation

GWR and its affiliate companies appear to be in good financial standing. No Recommendation.

D. Review of Experience and Qualifications of Assignee

HF&H reviewed information regarding the experience, qualifications, and performance of the Assignee to assess their ability to perform at or above the levels of the current Franchisee. The experience and qualifications review included an evaluation of biographies, case studies, and organizational charts. The performance evaluation included a review of GWR and Zanker regulatory violations and litigation history. Because GWR and Zanker are not being replaced by another company, it made the most sense to review their performance as opposed to the Assignee.

Findings

Experience and Qualifications

HF&H found that most of the management for both GWR and Zanker will remain the same. The major changes for both companies are instead to the Board of Directors, with the addition of Paul Mitchener (MIRA) and three (3) additional board members that have not yet been identified. Tracy Adams (Current CEO of GWR) will remain as CEO, and will now serve as CEO for Zanker as well, in addition to now holding a position on the board of directors for both GWR and Zanker. Greg Ryan (Former CEO of Zanker) will now serve as COO of both GWR and Zanker. The remainder of executives for the following positions will also remain the same for GWR and Zanker: Director of Employee Relations (Zoraya Atayde) and CFO (Dave Tilton); CSO (Emily Hanson) will keep her position but will additionally be serving as CSO for Zanker. Furthermore, based on the organizational charts, it does not appear that any lower-level management or

staff will be affected by the change in control. MIRA has additionally stated that they intend to implement an incentive program for all senior management and executives have been offered a one-year retention agreement, but at the time of this report, only four people had been given a retention agreement including: Jimmy Moresco, Sara Treat, Emily Hanson, and Dave Tilton.

Litigation and Regulatory Performance

HF&H found that most of the regulatory violations were very minimal, with the exception of Zanker's Z-Best facility. They are currently in the process of expanding and seemingly allowed some construction permits to expire (grading) and/or did not get the required permits to continue work; including, continued construction (i.e., drainage and grading, three accessory structures, electrical, and offices and breakroom). The original notice of violation, which included nine violations, was sometime on or around August 2020 and only a select few of the violations have been resolved. GWZ was able to supply a draft compliance agreement provided by the County of Santa Clara and their responses to that draft, demonstrating that they are exercising appropriate diligence to resolve the matter.

HF&H has reviewed GreenWaste/Zanker's litigation history for the past five years, and there are only a few material things to note:

1. In 2019, there was a class action settlement against Zanker for violating California labor laws (total of ten allegations) regarding failure to pay minimum wage, overtime, providing meal or rest breaks, and failure to provide drinkable water (Zanker denied the allegations, but settled the suit with the claimants);
2. In 2019, ZWED agreed to pay a civil penalty of \$37,000 to settle all claims related to Notices of Violations from the Bay Area Air Quality Management District.

Recommendation

Experience and Qualifications

HF&H recommends that the Franchising Agencies require GWR and Zanker to notify them if, and when, any new board members are appointed to the governance of the company. This is a one-time notice requirement for the initial Board composition after the transaction closes. HF&H further suggests that the Franchising Agencies require notification of any changes in senior management or executives for any reason within five years of this change in control occurring.

Litigation and Regulatory Performance

None of the litigation and regulatory issues identified are directly related to GWR's operations supporting the Franchising Agencies. Franchising Agencies may wish to periodically monitor GWR's compliance with applicable laws through the periodic performance reviews that are allowed under the Agreements.

Greenwaste Recovery, Inc.

SB 1383 Cost Analysis

	Total	Sand City 2.03%	Del Rey Oaks 2.44%	Marina 18.39%	Seaside 28.86%	Pebble Beach 10.12%	Carmel 15.16%	Pacific Grove 23.00%
Subscription percentage								
Driver labor	\$ 169,086.79	\$ 3,432.24	\$ 4,119.21	\$ 31,087.07	\$ 48,806.02	\$ 17,117.86	\$ 25,637.68	\$ 38,886.71
Customer Service/Outreach Allocation	405,080.71	8,223	9,868	74,475	116,924	41,009	61,420	93,161
	574,167.50	11,654.84	13,987.60	105,562.28	165,730.44	58,127.06	87,057.79	132,047.49
Fuel	70,884.35	1,438.86	1,726.85	13,032.28	20,460.40	7,176.13	10,747.79	16,302.04
Vehicle Maintenance Allocation	7,500.00	152.24	182.71	1,378.90	2,164.84	759.28	1,137.18	1,724.86
Vehicle Insurance	9,600.00	194.87	233.87	1,764.99	2,770.99	971.88	1,455.59	2,207.82
Vehicle registration	1,800.00	36.54	43.85	330.93	519.56	182.23	272.92	413.97
Depreciation	151,483.67	3,074.92	3,690.37	27,850.69	43,724.97	15,335.77	22,968.62	34,838.33
Other expenses one-time	19,890.75	403.76	484.57	3,656.97	5,741.36	2,013.68	3,015.92	4,574.49
Other expenses annual	62,588.41	1,270.46	1,524.75	11,507.05	18,065.82	6,336.27	9,489.93	14,394.13
General & Administrative - 7.75%								
	323,747.18	6,571.64	7,886.98	59,521.81	93,447.93	32,775.23	49,087.96	74,455.63
Total cost per year	897,914.69	18,226.48	21,874.58	165,084.09	259,178.37	90,902.29	136,145.75	206,503.12
Carmel specific (see tab)								
Total Costs	897,914.69	18,226.48	21,874.58	165,084.09	259,178.37	90,902.29	136,145.75	206,503.12
Operating Ratio		89.30%	89.30%	89.30%	89.30%	89.30%	85.76%	89.30%
Franchise/Other Fees - Percentage		10.00%	20.00%	15.00%	15.00%	9.00%	13.00%	19.95%
General & Administrative - 7.75%								
Franchise/Other Fees	205,109.64	2,319.22	6,262.70	33,362.58	52,378.51	10,295.75	24,237.91	58,937.30
Profit	113,882.08	2,183.91	2,621.03	19,780.51	31,054.97	10,891.99	22,606.29	24,743.37
Interest (@ subscription percentage)	22,789.96	462.61	555.20	4,190.00	6,578.20	2,307.19	3,455.51	5,241.25
TOTAL	\$ 1,239,696.36	\$ 23,192.22	\$ 31,313.51	\$ 222,417.18	\$ 349,190.05	\$ 114,397.22	\$ 186,445.47	\$ 295,425.04
RP7 Final Compensation	20,348,906	\$ 506,856	\$ 492,912	\$ 3,861,304	\$ 5,786,438	\$ 2,050,800	\$ 3,030,857	\$ 4,619,739
"Buffer" Included in RP7	258,624	\$ 10,000	\$ 5,000	-	48,500	\$ 61,524	\$ 72,600	\$ 61,000
Total Proposed Cost Minus RP7 "Buffer"	\$ 981,072	\$ 13,192	\$ 26,314	\$ 222,417	\$ 300,690	\$ 52,873	\$ 113,845	\$ 234,425
Annual Increase Requested	4.82%	2.60%	5.34%	5.76%	5.20%	2.58%	3.76%	5.07%

One-Time Increase that will wholly account for SB1383 that will be CPI'd	Sand City 2.60%	Del Rey Oaks 5.34%	Marina 5.76%	Seaside 5.20%	Pebble Beach 2.58%	Carmel 3.76%	Pacific Grove 5.07%
RP7 Final Compensation	\$ 506,856	\$ 492,912	\$ 3,861,304	\$ 5,786,438	\$ 2,050,800	\$ 3,030,857	\$ 4,619,739
SB1383 Costs	\$ 23,192	\$ 31,314	\$ 222,417	\$ 349,190	\$ 114,397	\$ 186,445	\$ 295,425
New Revenue Requirement - Annual	\$ 530,048	\$ 524,226	\$ 4,083,721	\$ 6,135,628	\$ 2,165,197	\$ 3,217,302	\$ 4,915,164
Less Buffer (Accrued over 12-months, use over 6-months)	\$ 10,000	\$ 5,000	-	48,500	\$ 61,524	\$ 72,600	\$ 61,000
January 1 Rate Increase Needs to Generate	\$ 13,192	\$ 26,314	\$ 222,417	\$ 300,690	\$ 52,873	\$ 113,845	\$ 234,425
Rate Increase Will Generate this Amount over 6-months:	6,596	13,157	111,209	150,345	26,437	56,923	117,213
This is the 12-month buffer to be used over 6-months:	10,000	5,000	-	48,500	61,524	72,600	61,000
Total Revenue for GWR (50% Rate Increase for 6-months + Buffer)	16,596	18,157	111,209	198,845	87,961	129,523	178,213
We require this to be generated over 6-months	11,596	15,657	111,209	174,595	57,199	93,223	147,713
Surplus/(Under Revenue)	5,000	2,500	-	24,250	30,762	36,300	30,500
JULY 1 RATE ADJUSTMENT							
Buffer Included in RP7 Rates (12-months)	10,000	5,000	-	48,500	61,524	72,600	61,000
Generated over 6-months with Jan 1 Increase	6,596	13,157	111,209	150,345	26,437	56,923	117,213
2nd Half of SB1383 Needed Already in Rate Base	6,596	13,157	111,209	150,345	26,437	56,923	117,213
Included in July 1 Rate Basis	23,192	31,314	222,417	349,190	114,397	186,445	295,425
Required Rate Basis for July 1 Rate Adjustment	23,192	31,314	222,417	349,190	114,397	186,445	295,425
JULY 1 SURPLUS /(SHORTFALL)	-	-	-	-	-	-	-

AMENDMENT #1 TO FRANCHISE AGREEMENT

BETWEEN CITY OF SEASIDE

AND

GREENWASTE RECOVERY, INC.

**FOR SOLID WASTE, RECYCLING, AND ORGANIC
COLLECTION SERVICES**

NOVEMBER 18, 2021

DRAFT SUBJECT TO FINAL QUALITY REVIEW

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Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

This Amendment #1 to the Franchise Agreement Between the City of Seaside and Green Waste Recovery, Inc. for Solid Waste, Recycling, and Organic Collection Services ("Amendment #1"), is made and entered into between the City of Seaside, a political subdivision of the State of California (hereafter "Agency") and GreenWaste Recovery, Inc. a California corporation (hereafter "Contractor"), each of which may be referred to individually as a "Party" or together as the "Parties."

RECITALS

This Amendment #1 is made and entered into on the basis of the following facts, understandings, and intentions of the Parties:

WHEREAS: The Parties entered into a Franchise Agreement for Solid Waste, Recycling, and Organic Materials Collection on August 8, 2014, ("Agreement" capitalized terms used but not defined herein shall have the meanings given to them in the Agreement); and,

WHEREAS: The Agreement provides Agency with the right to direct Contractor to modify the scope of one or more types of service described in the Agreement, or to otherwise modify its performance under the Agreement, subject to providing additional compensation; and,

WHEREAS: during the performance of annual Rate adjustments required by Article 8 of the Agreement, Parties identified that the initially agreed-upon Rate adjustment methodology resulted in annual Rate adjustment with differing percentage changes for different Rates and changes to relationships between different service Rates, which was not a desirable outcome of the Parties; and,

WHEREAS: Agency and Contractor have agreed to: (a) fund additional Contractor personnel to conduct record keeping and reporting activities through Rates when the cost-based Rate adjustment process was performed for Rate Period Five; and, (b) Contractor agrees it shall not request further funding from Agency or through Rates in order to employ or retain additional personnel related to the performance of record keeping and reporting requirements as required by the Agreement as well as additional record keeping and reporting efforts that may result from the implementation of SB 1383 regulations; and,

WHEREAS: Agency and Contractor wish to modify: (a) the annual Rate adjustment methodologies in the Agreement; and, (b) the services specified within the Agreement and to be provided by Contractor with relation to record keeping and reporting requirements required by Senate Bill 1383, in each case in accordance with the terms and conditions of this First Amendment;

WHEREAS: SB 1383 establishes regulatory requirements for jurisdictions, Generators, haulers, Solid Waste facilities, and other entities to support achievement of State-wide Organic Waste Disposal reduction targets; and,

WHEREAS: SB 1383 requires the Agency to implement Collection programs, meet Processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements; and, the Agency has chosen to delegate some of its responsibilities to the Contractor, acting as the Agency's designee, through this Agreement; and,

WHEREAS: Both Parties have, in good faith, negotiated changes to the Agreement necessary to support the Agency's compliance with SB 1383, as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions herein contained, Agency and Contractor do hereby agree as follows:

I. EFFECTIVE DATE

This Amendment #1 shall become effective on the date this Amendment is signed by both Parties.

II. PROGRAM AMENDMENTS TO AGREEMENT

Article 1. Grant and Acceptance of Franchise

1.2 Limitations to the Franchise

1. Article 1, Section 1.2 of the Agreement is hereby amended to add the following subsections:

- “K. Edible Food, which is collected from a Generator by other Person(s), such as a Person from a Food Recovery Organization or Food Recovery Service, for the purposes of Food Recovery; or which is transported by the Generator to another Person(s), such as a Person from a Food Recovery Organization, for the purposes of Food Recovery, regardless of whether the Generator donates, sells, or pays a fee to the other Person(s) to collect or receive the Edible Food from the Generator.
- L. Food Scraps that are separated by the Generator and used by the Generator or other Person(s) for lawful use as animal feed, in accordance with 14 CCR Section 18983.1(b)(7). Food Scraps intended for animal feed may be Self-Hauled by Generator or hauled by another party.”

Article 4. Scope of Services

2. Article 4 of the Agreement is hereby amended to include the following:

“Contractor shall perform the Solid Waste, Recyclable Materials, Organic Materials, Reusable Materials, and C&D services described in this Article 4. This Article 4 describes the general requirements for the services to be provided. More specific requirements for how each service shall be provided to each Customer Type are described in Exhibit B. Failure to specifically require an act necessary to perform the service does not relieve Contractor of its obligation to perform such act.”

4.2 Recyclable Materials

3. Article 4, Section 4.2 of the Agreement is hereby amended to read as follows:

“Contractor shall provide Recyclable Materials Collections services as described in Exhibit B.

Contractor agrees to Transport and deliver all Recyclable Materials placed by Customers in Recyclable Material Containers in Agency to the Approved Recyclable Materials Processing Facility. All tipping fees and other costs associated with Transporting to and Processing Recyclable Materials at the Approved Recyclable Materials Processing Facility shall be paid by Contractor. All contamination fees charged by the Approved Recyclable Materials Processing Facility shall be paid by Contractor and shall be allowable and recoverable as one-time costs provided in Exhibit E.

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

Contractor shall observe and comply with all regulations in effect at the Approved Recyclable Materials Processing Facility and cooperate with and take direction from the operator thereof with respect to delivery of Recyclable Materials. Contractor shall actively work with the Approved Recyclable Materials Processing Facility operator throughout the Term of this Agreement to minimize contamination of the Recyclable Materials Collected under this Agreement and delivered to the Processing Facility.”

4.3 Organic Materials

4. Article 4, Section 4.3 of the Agreement is hereby amended to read as follows:

“Contractor shall provide Organic Material Collections services as described in Exhibit B.

Contractor agrees to Transport and deliver all Organic Materials placed by Customers in Organic Material Containers in Agency to the Approved Organic Materials Processing Facility. All tipping fees and other costs associated with Transporting to and Processing Organic Materials at the Approved Organic Materials Processing Facility shall be paid by Contractor. All contamination fees charged by the Approved Organic Materials Processing Facility shall be paid by Contractor and shall be allowable and recoverable as one-time costs provided in Exhibit E.

Contractor shall observe and comply with all regulations in effect at the Approved Organic Materials Processing Facility and cooperate with and take direction from the operator thereof with respect to delivery of Organic Materials. Contractor shall actively work with the Approved Organic Materials Processing Facility operator throughout the Term of this Agreement to minimize contamination of the Organic Materials Collected under this Agreement and delivered to the Processing Facility.”

4.4 Construction and Demolition Debris (C&D)

5. Article 4, Section 4.4 of the Agreement is hereby amended to read as follows:

“Contractor shall work with the Customer to determine the best approach to facilitate CalGreen compliance through offering Source Separated or Mixed C&D Collection services as described in Exhibit B. C&D Collection service shall be a temporary service, provided only at sites where construction, alteration, remodeling, repair, or demolition operations are being performed. C&D Collection services shall be provided to any Customer upon request.

Contractor shall Transport all C&D Collected under this Agreement to the Approved C&D Processing Facility. Contractor shall pay all tipping fees and other costs associated with Transporting and Processing C&D. All contamination fees charged by the Approved C&D Processing Facility shall be paid by Contractor and shall be passed on to the Customer.

Contractor shall observe and comply with all regulations in effect at the Approved C&D Processing Facility and cooperate with and take direction from the operator thereof with respect to delivery of C&D.”

4.6 Special Events

6. Article 4 Section 4.6 is hereby amended to read as follows:

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

“Contractor shall provide the special event services to other events that are primarily funded by Agency upon thirty (30) days advance request by the Agency Contract Manager. Special event services include:

1. Event Collection Stations. Each event collection station shall include a separate receptacle or each of Solid Waste, Recyclable Materials, and Organic Materials, as appropriate. Contractor shall provide a sufficient number of event collection stations of sufficient capacity to meet the needs of the event as determined by Contractor in cooperation with the event organizer. Contractor may utilize the inventory of event receptacles owned and maintained by the MRWMD.
2. Collection Station Monitors. Collection station monitors should service event collection stations and educate event attendees about what materials are acceptable in each event collection station receptacle. Contractor shall staff the event with a sufficient number of employees or volunteers to ensure that event collection stations are serviced frequently enough to prevent overflow and litter.
3. Containers. Contractor shall provide Containers for the aggregation of material removed from event collection stations during the course of the event. Contractor shall provide Containers in sufficient number of appropriate type(s) for the needs of the event as determined by Contractor in cooperation with the event organizer. Contractor shall service Containers, as agreed-upon with the event organizer, and deliver Collected materials to the appropriate Approved Facility for Processing and/or Disposal.
4. Public Education Booth. Upon request of either the Agency Contract Manager or the event organizer, Contractor shall staff a booth or exhibit at the event for the purpose of educating the public about the services and programs provided by Contractor under this Agreement and the benefits of source reduction, reuse, Recycling, and Composting.
5. Reporting. Within fourteen (14) calendar days of the end of the event, Contractor shall submit a report to the Agency Contract Manager and event organizer. The report should include, at a minimum: the number of event collection stations deployed at the event, the number of collection station monitors, the tonnage of each material type (i.e., solid waste, recyclable materials, and organic materials) collected, and a description of the public education provided at the event.

Contractor may, at its sole discretion and expense, coordinate with local youth, community, or charitable organizations to provide some or all of the required services. Regardless of Contractor's use of such an organization, Contractor shall be responsible for ensuring that service is provided to the Customer in a professional and timely manner. For special events hosted or primarily funded by the Agency, Contractor shall provide the above-described special event services at the request of the event organizer and may negotiate the charges for such services with the event organizer based on the specific needs of the event. Exhibit B7 is hereby removed.”

4.7 Public Education and Outreach

7. Article 4, Section 4.7 is hereby amended to read as follows:

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

“The public education and outreach activities included in the scope of services provided by Contractor under this Agreement are described in Exhibit C. Each piece of collateral identified in Exhibit C as unique must be developed and distributed. In the event the Agency approves any deviation to the outreach pieces identified in Exhibit C, approval shall be obtained by email and the approval email shall be provided with the next Quarterly report. In addition, Contractor shall spend no less than \$24,082 on collateral development and/or distribution beginning in calendar year 2022. This amount shall be adjusted annually beginning January 1, 2023 and each year thereafter by adjusting the prior year’s amount by the same percentage adjustment applied to Customer Rates on the prior July 1st. If Contractor spends less than the specified amount in a calendar year on collateral development and distribution, the amount remaining shall be credited to ratepayers during the next annual adjustment on the July 1st following the close of the calendar year as a one-time “other” adjustment.”

4.9 Customer Service Program

8. Article 4, Section 4.9.2 Service Requests, Compliments, Complaints of the Agreement is hereby amended to read as follows:

“Contractor shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all Customer service requests and complaints. Contractor shall record in a separate log, approved as to form by Agency Contract Manager, all complaints, noting the name and address of complainant, date and time of complaint, nature of complaint, and nature and date of resolution. The Contractor shall retain this complaint log for the Term. Upon request by the Agency Contract Manager, Contractor shall compile and submit a summary statistical table of the complaint log.

Contractor shall respond to all complaints received within twenty-four (24) hours, weekends and Holidays excluded. In particular, if a complaint involves a failure to Collect Solid Waste, Recyclable Materials or Organic Materials from a Premises in the Agency, Contractor shall Collect the material in question within twenty-four (24) hours of receipt of the Complaint, provided that Generator has properly placed materials for Collection.”

4.10 Generator Waivers

9. Article 4 of the Agreement is hereby amended to add the following subsections:

“A. Types of Generator Waivers

1. General. Agency may grant waivers described in this Section to Generators that impact the scope of Contractor’s provision of service for those Generators. Waivers issued shall be subject to compliance with SB 1383 Regulatory requirements, pursuant to 14 CCR Section 18984.11, or other requirements specified by the Agency.
2. De Minimis Waivers. The Agency may waive a Multi-Family or Commercial Generator’s obligation to comply with some or all of the Source Separated Recyclable Materials and/or Source Separated Organic Materials requirements set forth in this Agreement, SB 1383 Regulations, and Section 8.28.110 of Municipal Code so long as the Multi-Family or Commercial Generator provides documentation or the Agency has evidence demonstrating one of the following de minimis conditions:

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

- a. The Multi-Family or Commercial Generator's total Solid Waste Collection service is two (2) cubic yards or more per week, and Source Separated Recyclable Materials subject to Collection in a Recyclable Materials Container comprises less than twenty (20) gallons per week, per applicable Container, of the Multi-Family's or Commercial's total waste; or,
 - b. The Multi-Family or Commercial Generator's total Solid Waste Collection service is less than two (2) cubic yards per week, and Organic Materials subject to Collection in an Organic Materials Container comprises less than ten (10) gallons per week, per applicable Container, of the Multi-Family's or Commercial total waste.
3. Physical Space Waivers. The Agency may waive a Multi-Family or Commercial Generator's, obligation to comply with some or all of the Source Separated Recyclable Materials or Source Separated Organic Materials Collection service requirements set forth in this Agreement, SB 1383 Regulations, and Municipal Code Section 8.28.1210 if the Multi-Family Generator, Commercial Generator provides documentation, or the Agency has evidence from its staff, the Contractor, licensed architect, or licensed engineer demonstrating that the Premises lacks adequate space for Recyclable Materials Containers and/or Organic Materials Containers.
- B. Contractor Waiver Request on Behalf of Generator. Upon reasonable belief that a Generator that is a Generator may qualify for a de minimis or physical space waiver, the Contractor may submit a request to the Agency to grant a waiver to the Generator, provided that adequate evidence of the de minimis or physical space waiver requirements specified in 14 CCR Section 18984.11 is included with the request. Agency shall review and approve or deny the waiver request. Contractor's request for consideration of a waiver shall include the Generator's name and address, type of Commercial business or number of Multi-Family units if Generator is a Multi-Family Premises, reasons Generator may be eligible for the waiver, and evidence such as, but not limited to: Service Level data, photo documentation, weight records, and technical assistance assessment results.
- D. Contractor Change in Customer's Service Levels. When the Agency grants a waiver to a Generator that is a Customer, the Agency shall notify the Contractor within five (5) days of the waiver approval with information on the Customer and any changes to the Service Level or Collection service requirements for the Customer. Contractor shall have five (5) days to modify the Customer's Service Level and billing statement, as needed.
- E. Contractor Recordkeeping of Customers' Granted Waivers. Upon Contractor request, no more than four (4) times per year, the Agency shall provide Contractor an updated listing of waivers approved by the Agency, including the Customer's names, mailing address, service address, and type of waiver. Contractor shall maintain waiver-related records pursuant to Exhibit D."

4.11 Edible Food Recovery Program Support

10. Article 4 of the Agreement is hereby amended to add the following subsection:

"A. Contractor Cooperation and Non-Interference with Food Recovery Efforts by Others.

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Contractor shall cooperate with and shall not impede, interfere, or attempt to impede or interfere with the implementation, expansion, or operation of Food Recovery efforts in the Agency.”

4.12 Contamination Monitoring

11. Article 4 of the Agreement is hereby amended to add the following subsection:

“A. Noticing of Generators with Contamination, Non-Collection, and Disposal of Materials. Upon identification of Prohibited Container Contaminants in a Customer’s Container, Contractor shall provide the Customer with a with a non-Collection notice or courtesy notice as required in Section 1 of Exhibit C.

B. Quarterly Reporting Requirements. Contractor shall maintain records and report to the Agency quarterly on contamination monitoring activities and actions taken, in accordance with Exhibit D.”

Article 5. Standard of Performance

5.5 Container Requirements

12. Article 5, Section 5.5 of the Agreement is hereby amended to read as follows:

“Contractor shall provide all Carts, Bins, and Drop Boxes to all Customers as part of its services. Contractor-provided Containers shall be designed and constructed to be watertight and prevent the leakage of liquids. All Containers shall display the Contractor’s name, local telephone number, and some identifying inventory or serial number.

In the interest of creating effective and consistent public education and outreach, Contractor will utilize its Containers to reinforce public education messages. All Solid Waste Containers shall be grey in color. All Recyclable Materials Containers shall be blue in color. All Organic Materials Containers shall be green in color. Containers for Collection of C&D may be in any color, provided that the colors do not conflict with the Container color requirements of this Section and provided that the C&D Container colors are consistent for all C&D Containers. The C&D Container color shall be reviewed and approved by the Agency on or before December 31, 2021 and Contractor shall only be directed to modify the color of the C&D containers if all Agencies agree on the color and Contractors actual costs to repaint existing C&D containers shall be fully recoverable to Contractor within one (1) year of incurring such costs. Contractor’s Containers shall also be labeled with a list of acceptable materials and a list of prohibited materials and such labels shall be in both English and Spanish. Specific color selections and labels shall be approved by the Agency Contract Manager prior to placing the order for any new Containers.

Contractor shall provide Customers (including Single-Family, Multi-Family, Commercial, and Agency facility Customers) with Collection Containers as requested by the Customer, Agency, or District to meet its desired Service Level within five (5) Business Days of Service provider’s first receipt of the Customer request. If an existing Container is replaced by the Contractor from a Customer’s Premises for any reason on or after January 1, 2022, the Contractor shall replace the Container with a Container that complies with the color and labeling requirements of this Section 5.5.

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All Containers shall be maintained in a safe, serviceable, and functional condition and present a clean appearance. Customers using Carts shall be responsible for cleaning such Carts. Contractor shall steam clean and repaint all Containers, except Carts, as requested by Customer or as deemed necessary by Contractor to present a clean appearance. If Customer requests steam cleaning more frequently than one (1) time per year, Contractor may charge the Customer at approved Rates for such service. If any Container is impacted by graffiti, Contractor shall remedy the situation within fourteen (14) calendar days of notification at no additional charge.

5.6 Personnel

13. Article 5, Section 5.6 of the Agreement is hereby amended to add the following subsection:

“E. Record Keeping and Reporting Personnel. During the Rate adjustment process to determine Rates for Rate Period Five, Contractor and Agency reviewed the number of personnel Contractor assigned to perform record keeping and reporting activities required by this Agreement and agreed to fund additional personnel above the level reflected in Contractor’s Proposal (and shown in Exhibit G). Contractor agrees that the augmentation of record keeping and reporting personnel shall be sufficient throughout the Term and agrees that Contractor may not request additional personnel or resources for the performance of any increased record keeping and reporting requirements resulting from the implementation of SB 1383.”

Article 6. Record Keeping and Reporting

6.2 Report Submittal Requirements

14. Article 6, Section 6.2 of the Agreement is hereby amended to read as follows:

“For reports and documentation specifically related to demonstrating Agency S1383 compliance, Contractor shall provide all such reports to the Agency Contract Manager and/or MRWMD within five (5) Business Days of such request. Contractor shall submit quarterly reports within thirty (30) calendar days after the end of the calendar quarter. Contractor shall submit annual reports no later than forty-five (45) calendar days after the end of each calendar year. Quarterly and annual reports shall, at a minimum, include all data and information as described in Exhibit D.

Contractor may propose report formats that are responsive to the objectives and audiences for each report. The format of each report shall be approved by the Agency Contract Manager and such approval shall not be unreasonably withheld. Agency Contract Manager may, from time to time during the Term, review and request changes to Contractor’s report formats and content and Contractor shall not unreasonably deny such requests; provided, however, that Contractor shall be entitled to compensation adjustments if Agency Contract Manager’s requested changes to Contractor’s report formats and content materially increase Contractor’s reporting requirements or time required to prepare, compile, assemble or otherwise create such reports and Contractor.

Contractor shall submit (via mail and e-mail) all reports in Excel®, csv, or other formats compatible for uploading into Agency managed record keeping and reporting systems to the Agency Contract Manager with a copy to the General Manager (or their designated representative) of the MRMWD. Agency reserves the right to require Contractor to provide additional reports or documents as Agency Contract Manager reasonably determines to be required for the administration of this Agreement or compliance with Applicable Law.

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For complaints the Contractor receives regarding Generator or Property Owner non-compliance with SB 1383, Contractor shall record such complaints separately from other complaints in a SB 1383 log. SB 1383 complaints shall not be considered complaints related to the Contractor's performance under this Agreement unless the individual filing the complaint specifically alleges the Contractor's non-performance. Contractor shall maintain records and report to the Agency quarterly on SB 1383 related complaints in accordance with Article D."

Article 8. Contractor's Compensation and Rate Setting

15. Article 8, Section 8.2.C of the Agreement is hereby amended to read as follows:

"Rates for Subsequent Rate Periods. Rates for subsequent Rate Periods shall be adjusted annually in accordance with this Section 8.2 and Exhibit E. The index-based adjustment, which is described in Exhibit E1, involves use of various cost adjustment factors (such as the percentage change in the consumer price index and percentage change in the Approved Facility tipping fees) to calculate adjusted Rates. Such Rate adjustment calculations shall be performed in strict conformance to the procedures described in Exhibit E1.

Up to three times during the initial term of the Agreement and up to once per extension period, each Party may request that Rates be adjusted using the cost-based methodology described in Exhibit E2 that involves a review of Contractor's actual costs and projection of cost for the coming Rate Period. This cost-based Rate adjustment, if requested by either Party, will be performed instead of the index-based rate adjustment for that Rate Period. The option to request a cost-based adjustment process during the Term of the Agreement is intended to provide the Parties an opportunity to adjust Rates to more accurately reflect actual costs of operations if the cost indices are not tracking with actual changes in costs. Such Rate adjustment calculations shall be performed in strict conformance to the procedures described in Exhibit E2. If either Party desires use of the cost-based methodology pursuant to Exhibit E2, such Party shall provide written notice to the other Party on or before November 1 of the Rate Period prior to the Rate Period for which the Rates would be adjusted using such methodology."

16. Article 8, Section 8.2 of the Agreement is hereby amended to add the following subsection:

"E. Senior and Low Income Rates. Contractor shall offer discounted Rates for up to four hundred thirty-two (432) qualifying Customers subscribing to 32-gallon service with the Contractor. The senior Rate shall only be available to Single-Family Customers where all members of the household are over 65 years of age. The senior Rate and the low income rate shall only apply to Single-Family Customers who demonstrate participation in the PG&E "Lifeline" program or other comparable utility program offering discounts based on a low income qualification. The low income qualification for the senior Rate shall only apply to Customers subscribing to 32-gallon service with Contractor that were not already receiving the senior Rate on May 1, 2015 and where these "legacy" Customers terminate services with Contractor or increase their subscription beyond 32-gallon service, they shall no longer be eligible to receive the senior Rate without meeting the low income qualification. Contractor may require Customers receiving discounted Rates to recertify their eligibility no more frequently than once annually; provided, however, that Contractor may only require a copy of the primary account holder's valid driver's license or other form of identification that includes residency for legacy accounts."

Article 10. Default and Remedies

10.1 Events of Default

17. Article 10, Section 10.1 of the Agreement is hereby amended to add the following subsection:

“P. Failure to Comply with Requirements of SB 1383. Contractor fails to comply with other requirements of the Agreement including, but not limited to, public education, reporting, recordkeeping and reporting, or other obligations of this Agreement that delegate the Agency’s responsibility and/or authority under SB 1383 to the Contractor.”

Article 12. Other Agreements of the Parties

18. Article 12, Section 12.9 of the Agreement is hereby amended to read as follows:

“All notices, demands, requests, proposals, approvals, consents, and other communications, which this Agreement requires authorizes or contemplates, shall be in writing and shall either be personally delivered to a representative of the Parties at the address below or deposited in the United States mail, first class postage prepaid, addressed as follow:

If to Agency:

If to Contractor:

Tracy Adams
Chief Executive Officer
610 E. Gish Road
San Jose, CA 95112

The address to which communications may be delivered may be changed from time to time by a notice given in accordance with this Section. Notice shall be deemed given on the day it is personally delivered or, if mailed, three (3) calendar days from the date it is deposited in the mail.”

Article 13. Miscellaneous Agreements

13.8 Consent to Change in Control and Transitional Assignment

19. Article 13, Section 13.8 is added to the Agreement:

“A. Consent to Change in Control.

The Agency acknowledges Contractor entered into an agreement dated as of August 28, 2021 (the “Transaction”) to sell all or substantially all of its outstanding capital stock to MIP V Waste, LLC, a Delaware limited liability company (“Company”), which would result in a change of control of Contractor to Company. Agency engaged HF&H Consultants (“Consultant”) to

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review the Transaction and opine on a resultant change of control of Contractor pursuant to Section 12.6 of the Agreement (the "Evaluation Report").

Notwithstanding any provision in this Agreement, Agency hereby approves and consents to the change of control of Contractor to Company pursuant to Section 12.6 of the Agreement (the "COC Approval"). The COC Approval shall in no event be deemed an event of default or cause or result in any default or violation under, termination of, or any other effect on this Agreement. The COC Approval shall become effective immediately upon execution by Agency of this Agreement provided, that the COC Approval and this Section 13.8 shall be deemed null and void if Contractor furnishes written notice to Agency that it will not consummate the Transaction.

In consideration of the COC Approval, Agency may request that Rates be adjusted one additional time during the remaining term of the Agreement after November 16, 2021 using the cost based methodology and rate adjustment procedures described in Section 8.2.C and Exhibit E2 of the Agreement.

B. Calendar Year 2022 Transitional Assignment.

Agency acknowledges that Company, no later than December 31, 2022, may cause Contractor and its affiliates to undergo a reorganization and, in connection therewith, Contractor may assign the Agreement to an affiliate of the Company ("Proposed Assignee") in a manner that would otherwise constitute an assignment pursuant to Section 12.6 of the Agreement ("Future Assignment"). For the purposes of this Section 13.8, "affiliate" of the Company shall only include MIP V Waste (ECI) AIV, L.P. (together with Macquarie Infrastructure Partners V, L.P., Macquarie Infrastructure Partners V SCSp). Effective upon the COC Approval, the Agency approves and consents to any Future Assignment, and such assignment shall in no event be deemed an event of default or cause or result in any default or violation under, termination of, or any other effect on this Agreement, upon the satisfaction of the following:

1. Contractor furnishes thirty (30) calendar days written notice to Agency following the closing of any Future Assignment ("Notice"). The Notice shall describe the assignment in general terms, and identify the Proposed Assignee, as that term is defined herein below.
2. Within thirty (30) calendar days of the Notice, Consultant provides written confirmation to Contractor and the Agency that the assignment hereunder is to an affiliate in accordance with this Section 13.8.B and does not result in a change in governance or management.
3. By furnishing Notice to Agency, Proposed Assignee represents and warrants to Agency that it accepts the assignment of the Agreement from Contractor, and that it assumes all of the rights, interests, and obligations of the Agency under this Agreement.

Contractor acknowledges that Agency is providing such consent upon representations by Contractor that any such reorganization shall not result in any adverse changes in the

quality or frequency of services provided under this Agreement, and that Contractor acknowledges that any such reorganization shall not be grounds for an increase in rates under the terms of this Agreement. “

Exhibit A Definitions

Modified Definitions

20. Exhibit A of the Agreement is hereby amended to modify the following definitions:

“Approved Recyclable Materials Processing Facility. The Monterey Regional Waste Management District Compost Facility at 14201 Del Monte Blvd, Marina, CA 93933, which is owned and operated by the MRWMD.

Construction and Demolition Debris. Those materials collected as C&D by Contractor and accepted at the Approved C&D Processing Facility as C&D and includes Source Separated discarded building materials, packaging, debris, and rubble resulting from construction, alteration, remodeling, repair or demolition operations on any pavements, excavation projects, houses, Commercial buildings, or other structures, excluding Excluded Waste.

Discarded Materials. means Solid Waste, Recyclable Materials, Organic Materials, and C&D placed by a Generator in a receptacle and/or at a location for the purposes of Collection by Contractor, excluding Excluded Waste and Edible Food that is recovered for human consumption that is not discarded.

Food Scraps. Discarded Materials that will decompose and/or putrefy including: (i) all kitchen and table food waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) discarded paper that is contaminated with Food Scraps; (iv) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (v) non-Recyclable paper or Food-Soiled Paper. Food Scraps are a subset of Organic Materials.

Recyclable Materials. Those Discarded Materials that are set out in Recyclables Containers by generators, that are Collected by Contractor as Recyclable Materials, and are specifically accepted by the Approved Recyclable Materials Processing Facility for the purpose of Recycling. Recyclable Materials are those materials that include, but are not limited to: newspaper (including inserts, coupons, and store advertisements); mixed paper (including office paper, computer paper, magazines, junk mail, catalogs, brown paper bags, brown paper, paperboard, paper egg cartons, telephone books, grocery bags, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, cereal, and other similar food boxes yet excluding paper tissues, paper towels, paper with plastic coating, paper contaminated with food, wax paper, foil-line paper, Tyvex non-tearing paper envelopes); chipboard; corrugated cardboard; glass containers of any color (including brown, clear, and green glass bottles and jars); aluminum (including beverage containers and small pieces of scrap metal); steel, tin or bi-metal cans; mixed plastics such as plastic containers (no. 1 to 7); and, bottles including containers made of HDPE, LDPE, or PET. The definition of Recyclable Materials is subject to change based on the requirements of the Approved Recyclable Materials Processing Facility.

Yard Trimmings. Those Discarded Materials that will decompose and/or putrefy, including, but not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree

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trimmings, dead trees, small pieces of unpainted and untreated wood, and other types of organic waste. Yard Trimmings are a subset of Organic Materials. Yard Trimmings placed for Collection may not exceed six (6) inches in diameter and three (3) feet in length and must fit within the Contractor provided Container. The definition of Yard Trimmings is subject to change based on the requirements of the Approved Organic Materials Processing Facility.”

New Definitions

21. Exhibit A of the Agreement is hereby amended to add the following definitions:

“Alternative Daily Cover (ADC). Disposal Site cover material, other than Compostable material and at least six (6) inches of earthen material, placed on the surface of the active face of the refuse fill area at the end of each operating day to control vectors, fires, odors, blowing litter, and scavenging, as defined in 20690 of Title 27 of the California Code of Regulations.

Back-Haul. Generating and Transporting Organic Waste to a destination owned and operated by the Generator using the Generator’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

CalGreen. California Green Building Standards Code, 24 CCR, Part 11 as amended July 1, 2019 and effective January 1, 2020.

California Code of Regulations or CCR. The State of California Code of Regulations. CCR references in this Agreement are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

Commercial Edible Food Generators. Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators, or as otherwise defined in 14 CCR Section 18982(a)(7). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators, or as otherwise specified by 14 CCR Section 18982(a)(7).

Edible Food. Food intended for human consumption. For the purposes of this Agreement, Edible Food is not Solid Waste if it is recovered and not discarded. Nothing in this Agreement requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code. If the definition in 14 CCR Section 18982(a)(18) for Edible Food differs from this definition, the definition in 14 CCR Section 18982(a)(18) shall apply to this Agreement.

Food Recovery. Actions to collect and distribute food for human consumption which otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

Food Recovery Organization. An entity that primarily engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities, including, but not limited to:

1. A food bank as defined in Section 113783 of the Health and Safety Code;
2. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,

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3. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

Food Recovery Service. A Person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery; or as otherwise defined in 14 CCR Section 18982(a)(26).

Food-Soiled Paper. Pre- and post-consumer compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, coffee filters, napkins, pizza boxes, and milk cartons. Unless otherwise provided in the definition of Food Scraps, Food-Soiled Paper is a subset of Food Scraps.

Food Scraps means those Discarded Materials that will decompose and/or putrefy including: (i) all kitchen and table food waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) discarded paper that is contaminated with Food Scraps; (iv) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (v) non-Recyclable paper or contaminated paper. Food Scraps are a subset of Organic Materials. The definition of Food Scraps is subject to change based on the requirements of the Approved Organic Materials Processing Facility.

Grocery Store. A store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments.

Non-Collection Notice. The Contractor's notice to Customer(s) as described in Section 4.12.

Organic Waste. Solid Wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, Yard Trimmings, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.

Paper Products. Include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling; or as otherwise defined in 14 CCR Section 18982(a)(51).

Printing and Writing Paper(s). Include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications; or as otherwise defined in 14 CCR Section 18982(a)(54).

Prohibited Container Contaminants. The following: (i) Discarded Materials placed in the Recyclable Materials Container that are not identified as acceptable Source Separated Recyclable Materials; (ii) Discarded Materials placed in the Organics Materials Container that are not identified as acceptable Source Separated Organic Materials; (iii) Discarded Materials placed in the Solid Waste Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Organic

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Materials to be placed in Organics Materials Container and/or Recyclable Materials Container; and
(iv) Un-permitted Materials placed in any Container.

Property Owner. The owner of real property, or as otherwise defined in 14 CCR Section 18982(a)(57).

Related-Party Entity. All business (including corporations, limited and general partnerships, and sole proprietorships) which are directly or indirectly related to Contractor by virtue of direct or indirect Ownership interests or common management shall be deemed to be affiliated with Contractor and included within the term “Related-Party Entity” as used herein. A Related-Party Entity shall include a business in which Contractor Owns a direct or indirect Ownership interest, a business which has a direct or indirect Ownership interest in Contractor and/or a business which is also Owned, controlled, or managed by any business or individual which has a direct or indirect Ownership interest in Contractor. For purposes of determining whether an indirect Ownership interest exists, the constructive Ownership provisions of Section 318(a) of the Internal Revenue code of 1986, as in effect on the date of this Agreement, shall apply; provided, however, the (i) “ten percent (10%)” shall be substituted for “fifty percent (50%)” in Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof; and (ii) Section 318(a)(5)(C) shall be disregarded. For purposes of determining Ownership under this paragraph and constructive or indirect Ownership under Section 318(a), Ownership interest of less than ten percent (10%) shall be disregarded, and percentage interests shall be determined on the basis of the percentage of voting interest or value which the Ownership interest represents, whichever is greater. Related-Party Entities shall be limited to those businesses which are directly or indirectly involved in the provision of service under this Agreement.

SB 1383. Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

SB 1383 Regulations or SB 1383 Regulatory. Refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

Self-Hauler or Self-Haul. A Person who hauls Solid Waste, Organic Waste, or recovered material they have generated to another Person, or as otherwise defined in 14 CCR Section 18982(a)(66). Self-Hauler also includes a landscaper, a Person who Back-Hauls waste or any Contractor removing materials as an incidental part of services provided as defined in Section 1.2.

Service Level. Refers to the size of a Customer’s Container and the frequency of Collection service.

Tier One Commercial Edible Food Generator. As defined under 14 CCR Section 18982(a)(7). Tier One Commercial Edible Food Generators include:

1. Supermarket. Full-line, self-service retail store with gross annual sales of Two Million Dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items.
2. Grocery Store with a total facility size equal to or greater than 10,000 square feet.

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3. Food Service Provider. An entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.
4. Food Distributor. A company that distributes food to entities including, but not limited to, supermarkets, and grocery stores.
5. Wholesale Food Vendor. Business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.

Tier Two Commercial Edible Food Generator. As defined under 14 CCR Section 18982(a)(7). Tier Two Commercial Edible Food Generators include:

1. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
2. Hotel with an on-site food facility and 200 or more rooms.
3. Health facility with an on-site food facility and 100 or more beds.
4. Large Venue. A permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of 14 CCR, Division 7, Chapter 12 and this Agreement, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of 14 CCR, Division 7, Chapter 12 and this Agreement, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Agreement.
5. Large Event. An event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Agreement.
6. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
7. A local education agency with an on-site food facility.”

Exhibit B1 Single-Family Residential Services

22. Exhibit B1, Section 1 of the Agreement is hereby amended to read as follows:

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services**"1. Solid Waste Collection**

Contractor shall Collect Solid Waste in Contractor-provided Carts one (1) time per week from Single-Family Customers and Transport all Solid Waste to the Approved Disposal Facility for Disposal.

Containers: Carts

Container Sizes: 32-, 64-, and 96-gallons (as requested by Customer)

Service Frequency: One (1) time per week

Service Location: One (1) direction or two (2) direction side/back-yard Solid Waste Collection service for Single-Family Customers may be available for an additional monthly per-Container fee.

Acceptable Materials: Solid Waste

Prohibited Materials: Recyclable Materials, Organic Materials, Excluded Waste.

Additional Service: Contractor shall provide additional Solid Waste Carts to Single-Family Customers upon request and may charge the "Additional Solid Waste Cart" Monthly Service Rate approved by the Agency.

Contractor shall provide for Collection of up to ten (10) additional bags of Solid Waste from each Customer annually at no additional charge. Solid Waste must be placed in black or grey bags and placed next to their Solid Waste Container for Collection. Single-family Customers will not be required to contact Customer Service for pick-up. During the first year and on an annual basis thereafter, Contractor shall distribute to each Single-Family Customer ten (10) Solid Waste Collection stickers. Single-Family Customers may purchase additional Solid Waste Collection stickers in multiples of 10 by contacting Customer Service. Each additional Solid Waste Collection sticker will be charged at a Rate equal to the weekly collection Rate of a single 32-gallon Container (monthly Rate divided by four). Customers may also place a standing order on their account for collection of additional Solid Waste each bag collected will charged at a Rate equal to the weekly collection Rate of a single 32-gallon Container (monthly Rate divided by four).

Other Requirements: None"

23. Exhibit B1, Section 2 of the Agreement is hereby amended to read as follows:

"2. Recyclable Materials Collection

Contractor shall Collect Recyclable Materials in Contractor-provided Containers one (1) time per week from Single-Family Customers and Transport all Recyclable Materials to the Approved Recyclable Materials Processing Facility for Processing.

Containers: Carts

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Container Sizes: 64-, and 96-gallons. Standard Container size is 96-gallon Carts. 64-gallon Carts will be made available, when requested by Customer.

Service Frequency: One (1) time per week on the same day Solid Waste is collected.

Service Location: One (1) direction or two (2) direction Side- or Back-yard Organic Material Collection Service for Single-Family Customers may be available for an additional per-Container fee.

Acceptable Materials: Recyclable Materials

Prohibited Materials: Solid Waste, Organic Materials, Excluded Waste

Additional Service: Single-Family Customers shall receive one (1) Recyclable Materials Cart as standard. Contractor shall provide additional Recyclable Materials Carts to Single-Family Customers upon request and may charge the "Additional Recycling Cart" Monthly Rental Rate approved by the Agency.

Contractor shall establish an "overages" program that allows Single-Family Customers to place additional mixed Recyclable Materials Curbside (in Customer-provided clear plastic bags) or cardboard (tied and bundled no larger than 3' x 3') adjacent to the Recyclable Materials Cart on their regularly-scheduled Collection day at no additional charge to the Customer.

Other Requirements: Contractor shall accept household batteries in the Recyclable Materials program, provided that those batteries have been separately packaged in a sealed, clear plastic bag.

Contractor may assess a "contamination fee" per event for Customers who have repeatedly (no less than three times in a calendar year) placed more than the allowable volume of prohibited materials in their Recyclable Materials Container. Prior to assessing such contamination fee, Contractor must provide targeted education (e.g. through the use of a tag on the Container) no less than three times to that specific Customer. Such education shall, at a minimum, notify the Customer of the specific materials that have been incorrectly placed and inform the Customer as to which Container the materials should be placed. Upon assessment of the contamination fee, Contractor shall document the presence of prohibited items through photographic record and make such documentation available to the Customer and/or Agency Contract Manager, upon request."

24. Exhibit B1, Section 3 of the Agreement is hereby amended to read as follows:

"3. Organic Materials Collection

Contractor shall Collect Organic Materials in Contractor-provided Carts one (1) time per week from Single-Family Customers and Transport all Organic Materials to the Approved Organic Materials Processing Facility for Processing.

Containers: Carts

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

Container Sizes: 64-, and 96-gallons. Standard Container size is 96-gallon Carts. 64-gallon Carts will be made available, when requested by Customer.

Service Frequency: One (1) time per week Seaside: on the same day Solid Waste is collected.

Service Location: One (1) direction or two (2) direction Side- or Back-yard Organic Material Collection Service for Single-Family Customers may be available for an additional per-Container fee.

Acceptable Materials: Organic Waste

Prohibited Materials: Solid Waste, Recyclable Materials, Excluded Waste

Additional Service: Single-Family Customers shall receive one (1) Organic Materials Cart standard. Contractor shall provide additional Organic Materials Carts to Single-Family Customers upon request and may charge the "Additional Organics Cart" Monthly Service Rate equivalent to fifty (50%) of the Solid Waste monthly Service Rate gallon equivalent.

Contractor shall provide for Collection of up to ten (10) additional bags of Yard Trimmings from each Customer annually at no additional charge. Single-family Customers will not be required to contact Customer Service for pick-up. On an annual basis, Contractor shall distribute to each Single-Family Customer 10 Yard Trimming Collection stickers. Single-Family Customers may purchase additional Yard Trimming stickers in multiples of 10 by contacting Customer Service. Each additional Yard Trimming Collection sticker will be charged at a Rate equal to fifty percent (50%) of the weekly collection Rate of a single 32-gallon Solid Waste Collection Container (monthly Rate x 50% divided by 4).

Customers may also place a standing order on their account for collection of additional Yard Trimmings and each additional Customer-provided can or bundle collected will charge at a Rate equal to the weekly collection Rate of a single 32-gallon Container (monthly Rate divided by four).

Other Requirements: Contractor may assess a "contamination fee" per event for Customers who have repeatedly (no less than three times in a calendar year) placed more than the allowable volume of prohibited materials in their Organic Materials Container. Prior to assessing such contamination fee, Contractor must provide targeted education (e.g. through the use of a tag on the Container) no less than three times to that specific Customer. Such education shall at a minimum, notify the Customer of the specific materials that have been incorrectly placed and inform the Customer as to which Container the materials should be placed. Upon assessment of the contamination fee, Contractor shall document the presence of prohibited items through photographic record and make such documentation available to the Customer and/or Agency Contract Manager, upon request."

25. Exhibit B1, Section 6 of the Agreement is hereby amended to read as follows:

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

“Contractor shall develop and educate Single-Family Customers about the availability of and participation requirements for programs dealing with seasonal or periodic waste management demands that exceed regularly scheduled Collection via outreach through the Customer newsletter and the Contractor website. Contractor shall provide the following seasonal program services to Single-Family Customers at no additional charge:

- i) Holiday Tree Collection. Contractor shall Collect from Single-Family Customers whole, unflocked, and undecorated holiday trees that are placed Curbside during the first two (2) weeks of each year.
- ii) Halloween Pumpkins. Contractor shall Collect undecorated raw Holiday Pumpkins from Single-Family Customers that have removed all non-biodegradable debris (candle wax, glue, and paint) and placed the pumpkins in their Organic Material Carts.
- iii) Spring Cleaning. Contractor shall provide Single-Family Customers with Spring Cleaning Collection opportunities through the Bulky Item and Reusable Materials Collection Events.
- iv) Leaf Season. Contractor Collect from Single-Family Customers up to 10 additional bags of Yard Trimming Materials throughout the year as described in the Yard Trimmings Additional Services section above.”

Exhibit B2 Multi-Family Services

26. Exhibit B2, Section 1 of the Agreement is hereby amended to read as follows:

“1. Solid Waste Collection

Contractor shall Collect Solid Waste in Contractor-provided Containers not less than one (1) time per week from Multi-Family Customers and Transport all Solid Waste to the Approved Disposal Facility for Disposal or, at the direction of the Agency Contract Manager (if an additional cost is involved), or the MRWMD (if no additional cost is involved) to the Approved Mixed Waste Processing Facility for Processing prior to Disposal.

Containers: Carts, Bins, Drop Boxes, Compactors

Container Sizes: 64-, and 96-gallon Carts;
1-, 2-, 3-, 4-, 6-, and 8 - cubic yard Bins; and,
10-, 15-, 20-, 25-, 30-, 35-, and 40- cubic yard Drop Boxes or Compactors
(as requested by Customer)

Service Frequency: Up to six (6) times per week but not less than one (1) time per week, as requested by Customer.

Service Location: Curbside or other Customer-selected service location at the Multi-Family Premises (push/pull charges may apply if service location is not immediately accessible by the Collection vehicle)

Acceptable Materials: Solid Waste

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

Prohibited Materials: Recyclable Materials, Organic Materials, Excluded Waste

Additional Service: Special pickups requested by a Customer, on days other than their regularly scheduled Collection day, will be available at an approved additional charge. Extra picks ups can be scheduled equating to up to six (6) days per week total service.

Special pickups requested by a Customer, on days other than their regularly scheduled Collection day, will be available at an approved additional charge. Extra picks ups can be scheduled equating to up to six (6) days per week total service for Bin, Drop Box, and Compactor service and up to five (5) days per week total service for Cart service.

Other Requirements: Contractor shall make contact with Multi-Family Customers in advance of the start of service to determine appropriate Container sizes and service frequency.

Contractor shall open and close gates, push and/or pull Containers, lock and unlock Containers, or perform other services as reasonably necessary to access and empty Containers (additional charge may apply)."

27. Exhibit B2, Section 2 of the Agreement is hereby amended to read as follows:

"2. Recyclable Materials Collection

Contractor shall Collect Recyclable Materials in Contractor-provided Containers not less than one (1) time per week from Multi-Family Customers and Transport all Recyclable Materials to the Approved Recyclable Materials Processing Facility for Processing.

Containers: Carts, Bins, Drop Boxes, Compactors

Container Sizes: 64-, and 96-gallon or comparable size Carts;
1-, 2-, and 3-cubic yard Bins; and,
10-, 20-, 30-, and 40- cubic yard Drop Boxes or Compactors
(as requested by Customer)

Service Frequency: Up to six (6) times per week but not less than one (1) time per week (as requested by Customer)

Service Location: Curbside or other Customer-selected service location at the Multi-Family Premises (difficult to service charges may apply if service location is not immediately accessible by the Collection vehicle)

Acceptable Materials: Recyclable Materials

Prohibited Materials: Solid Waste, Organic Materials, Excluded Waste

Additional Service: Special pickups requested by a Customer, on days other than their regularly scheduled Collection day, will be available at an approved additional charge. Extra picks ups can be scheduled equating to up to six (6) days per week total service.

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

Other Requirements: Contractor shall make contact with Multi-Family Customers in advance of the start of service to determine appropriate Container sizes and service frequency.

Contractor shall open and close gates, push and/or pull Containers, lock and unlock Containers, or perform other services as reasonably necessary to access and empty Containers (additional charge may apply).

Multi-Family Customers with no greater than once per week individual cart service will receive one (1) Recyclable Materials cart free of additional charge.

Contractor may assess a "contamination fee" per event for Customers who have repeatedly (no less than three times in a calendar year) placed more than the allowable volume of prohibited materials in their Recyclable Materials Container. Prior to assessing such contamination fee, Contractor must provide targeted education (e.g. through the use of a tag on the Container) no less than three times to that specific Customer. Such education shall, at a minimum, notify the Customer of the specific materials that have been incorrectly placed and inform the Customer as to which Container the materials should be placed. Upon assessment of the contamination fee, Contractor shall document the presence of prohibited items through photographic record and make such documentation available to the Customer and/or Agency Contract Manager, upon request."

28. Exhibit B2, Section 3 of the Agreement is hereby amended to read as follows:

"2. Organic Materials Collection

Contractor shall Collect Organic Materials in Contractor-provided Carts no less than one (1) time per week from Multi-Family Customers and Transport all Organic Materials to the Approved Organic Materials Processing Facility for Processing.

Containers: Carts

Container Sizes: 64-, and 96-gallon or comparable size Carts (as requested by Customer).

Service Frequency: Up to three (3) times per week but not less than one (1) time per week, as requested by the Multi-Family Customer.

Service Location: Curbside or other Customer-selected service location at the Multi-Family Premises (difficult to service charges may apply if service location is not immediately accessible by the Collection vehicle)

Acceptable Materials: Organic Materials

Prohibited Materials: Solid Waste, Recyclable Materials, Excluded Waste

Additional Service: Special pickups requested by a Customer, on days other than their regularly scheduled Collection day, will be available at an approved additional charge. Extra picks ups can be scheduled equating to up to six (6) days per week total service.

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

Other Requirements: Contractor shall make contact with Multi-Family Customers in advance of the start of service to determine appropriate Container sizes and service frequency.

Contractor may assess a "contamination fee" per event for Customers who have repeatedly (no less than three times in a calendar year) placed more than the allowable volume of prohibited materials in their Organics Container. Contractor shall document any set-outs classified as Contaminated with photographic evidence of the presence of the Prohibited Material(s) and shall provide such evidence to the Agency Contract Manager or Customer upon request. In the event of a Contaminated set-out, Contractor shall provide Customer with a written warning of the Contamination and instruct the Customer about how to properly separate and place Organic Materials for Collection and Contractor may, at their sole discretion, refuse to Collect the Container until it is no longer Contaminated. In the event that Contractor classifies more than two (2) set-outs in a consecutive three (3) month period as Contaminated, whether Collected or not, Contractor may assess the "Organics Contamination" Rate approved by the Agency under this Agreement if Collected. In the event that Contractor has assessed the Organics Contamination Rate more than two (2) times in a consecutive six (6) month period, Contractor may cancel the Customer's subscription to the Organic Materials program and may prohibit such Customer from subscribing to the program until they demonstrate to the satisfaction of the Contractor or Agency Contract Manager that adequate measures have been implemented to prevent future contamination."

Exhibit B3 Commercial Services

29. Exhibit B2, Section 1 of the Agreement is hereby amended to read as follows:

"1. Solid Waste Collection

Contractor shall Collect Solid Waste in Contractor-provided Containers not less than one (1) time per week from Commercial Customers and Transport all Solid Waste to the Approved Disposal Facility for Disposal or, at the direction of the Agency Contract Manager (if an additional cost is involved), or the MRWMD (if no additional cost is involved) to the Approved Mixed Waste Processing Facility for Processing prior to Disposal.

Containers: Carts, Bins, Drop Boxes, Compactors.

Container Sizes: 64-, and 96-gallon or comparable size Carts;
1-, 2-, and 3- cubic yard Bins; and,
10-, 20-, 30-, and 40- cubic yard Drop Boxes or Compactors
(as requested by Customer).

Service Frequency: Up to six (6) times per week but not less than one (1) time per week, as requested by Customer.

Service Location: Curbside; or other Customer-selected service location at the Commercial Premises (difficult to service charges may apply if service location is not immediately accessible by the Collection vehicle)

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

Acceptable Materials: Solid Waste

Prohibited Materials: Excluded Waste

Additional Service: Special pickups requested by a Customer, on days other than their regularly scheduled Collection day, will be available at an approved additional charge. Extra picks ups can be scheduled equating to up to six (6) days per week total service.

Other Requirements: Contractor shall make contact with Commercial Customers in advance of the start of service to determine appropriate Container sizes and service frequency.

Contractor shall open and close gates, push and/or pull Containers, lock and unlock Containers, or perform other services as reasonably necessary to access and empty Containers (additional charge may apply). “

30. Exhibit B2, Section 2 of the Agreement is hereby amended to read as follows:

“2. Recyclable Materials Collection

Contractor shall Collect Recyclable Materials and/or Source Separated Recyclable Materials in Contractor-provided Containers not less than one (1) time per week from Commercial Customers and Transport all Recyclable Materials to the Approved Recyclable Materials Processing Facility for Processing or, at Contractor’s discretion, to any Person who will make a net payment to Contractor for the delivery of the Source-Separated Recyclable Materials.

Containers: Carts, Bins, Drop Boxes, Compactors

Container Sizes: 64-, and 96-gallon or comparable size Carts;
1-, 2-, and 3- cubic yard Bins; and,
10-, 20-, 30-, and 40- cubic yard Drop Boxes or Compactors
(as requested by Customer)

Service Frequency: Up to six (6) times per week but not less than one (1) time per week (as requested by Customer)

Service Location: Curbside or other Customer-selected service location at the Commercial Premises (difficult to service charges may apply if service location is not immediately accessible by the Collection vehicle)

Acceptable Materials: Recyclable Materials

Prohibited Materials: Solid Waste, Organic Materials, Excluded Waste

Additional Service: Special pickups requested by a Customer, on days other than their regularly scheduled Collection day, will be available at an approved additional charge. Extra picks ups can be scheduled equating to up to six (6) days per week total service.

Other Requirements: Contractor shall make contact with Commercial Customers in advance of the start of service to determine appropriate Container sizes and service frequency.

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

Contractor shall open and close gates, push and/or pull Containers, lock and unlock Containers, or perform other services as reasonably necessary to access and empty Containers (additional charge may apply).

Contractor may assess a "contamination fee" per event for Customers who have repeatedly (no less than three times in a calendar year) placed more than the allowable volume of prohibited materials in their Recyclable Materials Container. Prior to assessing such contamination fee, Contractor must provide targeted education (e.g. through the use of a tag on the Container) no less than three times to that specific Customer. Such education shall, at a minimum, notify the Customer of the specific materials that have been incorrectly placed and inform the Customer as to which Container the materials should be placed. Upon assessment of the contamination fee, Contractor shall document the presence of prohibited items through photographic record and make such documentation available to the Customer and/or Agency Contract Manager, upon request.

Contractor shall document and report to the Agency Contract Manager and the MRWMD each instance where Contractor delivers Source Separated Recyclable Materials to a Person other than the Approved Recyclable Materials Processing Facility. Such report shall include the Person to whom the materials were delivered, the specific type of materials delivered (e.g., cardboard, metal etc.), the number of Tons, and the amount received in payment for the delivery. "

31. Exhibit B2, Section 3 of the Agreement is hereby amended to read as follows:

"3. Organic Materials Collection

Contractor shall Collect Organic Materials in Contractor-provided Containers one (1) time per week from Commercial Customers and Transport all Organic Materials to the Approved Organic Materials Processing Facility for Processing.

Containers: Carts, Bins, Drop Boxes, Compactors

Container Sizes: 64-, and 96-gallon or comparable size Carts;
1- and 2- cubic yard Bins; and,
10-, 20-, 30-, and 40- cubic yard Drop Boxes or Compactors
(as requested by Customer)

Service Frequency: Up to six (6) times per week but not less than one (1) time per week, as requested by Customer

Service Location: Curbside or other Customer-selected service location at the Commercial Premises (difficult to Service charges may apply if service location is not immediately accessible by the Collection vehicle)

Acceptable Materials: Organic Materials

Prohibited Materials: Solid Waste, Recyclable Materials, Excluded Waste

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

Additional Service: Special pickups requested by a Customer, on days other than their regularly scheduled Collection day, will be available at an approved additional charge. Extra picks ups can be scheduled equating to up to six (6) days per week total service.

Other Requirements: Contractor shall make contact with Commercial Customers in advance of the start of service to determine appropriate Container sizes and service frequency.

Contractor shall open and close gates, push and/or pull Containers, lock and unlock Containers, or perform other services as reasonably necessary to access and empty Containers (additional charge may apply).

Contractor may assess a "contamination fee" per event for Customers who have repeatedly (no less than three times in a calendar year) placed more than the allowable volume of prohibited materials in their Organics Container. Contractor shall document any set-outs classified as Contaminated with photographic evidence of the presence of the Prohibited Material(s) and shall provide such evidence to the Agency Contract Manager or Customer upon request. In the event of a Contaminated set-out, Contractor shall provide Customer with a written warning of the Contamination and instruct the Customer about how to properly separate and place Organic Materials for Collection and Contractor may, at their sole discretion, refuse to Collect the Container until it is no longer Contaminated. In the event that Contractor classifies more than two (2) set-outs in a consecutive three (3) month period as Contaminated, whether Collected or not Contractor may assess the "Organics Contamination" Rate approved by the Agency under this Agreement if Collected. In the event that Contractor has assessed the Organics Contamination Rate more than two (2) times in a consecutive six (6) month period, Contractor may cancel the Customer's subscription to the Organic Materials program and may prohibit such Customer from subscribing to the program until they demonstrate to the satisfaction of the Contractor or Agency Contract Manager that adequate measures have been implemented to prevent future contamination."

Exhibit C Public Education and Outreach Requirements

32. Exhibit C, Section 1 of the Agreement is hereby amended to read as follows:

"1. General Administration

The Agency places the utmost importance on effective public outreach and education in helping residents and businesses fully understand options for and benefits of source reduction, reuse, Recycling, and Composting. General provisions are as follows:

1. Prior to the Commencement Date and by December 1 of each following year during the Term of this Agreement, Contractor shall develop and submit an annual public education plan to promote the programs performed by Contractor under this Agreement. Each public education plan shall specify the target audience for services provided, include upcoming promotions for ongoing and known special events, identify program objectives, individual tasks, public education materials to be developed or updated, opportunities for expanded partnerships, and a timelines for implementation. Input shall be solicited from the Agency and each plan

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- implementation success shall be measured by deadlines and products developed. Contractor shall meet with the Agency Contract Manager to present and discuss the plan, review the prior year's activities (including direct and in-kind donations made, sponsorships and services provided to Agency-sponsored events) and determine whether community activities and the provision of services to the Agency reflect the needs of Agency staff and their City Council. Agency Contract Manager shall be allowed up to thirty (30) calendar days after receipt to review, request modifications, and approve the plan. Additionally, beginning December 1 of 2022 for calendar year 2023, Contractor shall include as part of its annually public education plan, an annual diversion plan. The annual diversion plan shall include, at a minimum, an analysis of Solid Waste, Recyclable Material, and Organic Material tons from the prior year that were delivered for Processing by Customer Type and Contractor's proposed plan to decrease the percentage and/or total tons of Solid Waste tons Collected relative to Recyclable Material and Organic Material tons delivered for Processing.
2. The Agency Contract Manager and Contractor shall meet a minimum of one (1) time per calendar quarter to discuss services, outreach, and educational campaigns and request changes or adaptations to the annual public education plan.
 3. Contractor shall distribute instructional information, public education, and promotion materials in advance of, and following, commencement of services. This shall entail, at a minimum, distributing program literature with delivery of Containers. Contractor shall use multiple media sources including print, radio television, electronic/ social media, and events to notify Customers of the change in their service provider and to highlight new program offerings. Transition and ongoing sector-specific collateral materials shall be developed and distributed.
 4. When developing outreach, educational and promotional materials, Contractor shall work with the Agency to understand goals and objectives, ensure coordinated messaging, then begin drafting the content and developing a graphic mock-up. All outreach and educational materials shall be thematically branded with consistent color, font, look and feel; produced in English and Spanish; and photo-oriented to appeal to varied language and literacy levels. Materials shall also be made available in digital form, and shall be printed double-sided by a Monterey County business on 100% recycled and recyclable paper. Prior to finalizing any collateral materials, and no fewer than four (4) weeks prior to the deadline for distribution, the draft shall be provided to the Agency for a final review. The draft shall then be sent for printing and distribution.
 5. All Agency facilities shall receive any and all public education and outreach materials and services provided to the Commercial sector. Contractor shall provide all printed public education materials to Agency offices and facilities to have available for the public that visits those facilities and shall replenish the materials as requested by the Agency Contract Manager.
 6. Contractor shall participate in and provide annual funding of at least Twenty Five Thousand Dollars (\$25,000) to the Central Coast Recycling Media Coalition as the service provider for the Cities of Carmel-by-the-Sea, Del Rey Oaks, Marina, Pacific Grove, Sand City, and Seaside and the Pebble Beach CSD.

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7. Contractor shall develop and utilize corrective action notices that will also function as Non-Collection and courtesy notices in clear instances of Customer non-compliance or when the Contractor identifies Prohibited Container Contaminants in a Container. The notices shall include the Generator's requirement to properly separate Discarded Materials into the appropriate Collection Container. Contractor shall develop and maintain a system of keeping records of and following up with Customers who receive Non-Collection Notices during Collection of materials.
 8. Contractor shall develop a website specific to its operations in Monterey County, with a section specific to Agency programs and Customers, that will be used to post educational materials for download, highlight program successes and provide Diversion statistics. Contractor shall prepare multi-lingual public education materials in English and Spanish and post the multi-lingual outreach materials on its website.
 9. Not less than once per year during each Rate Year, and by January 1, 2022, Contractor shall distribute a mailer designed by the District to each Generator in the Agency that includes information specified in 14 CCR Section 18985.1(a). Such mailer shall be distributed by Contractor to all Residential and Commercial mailing addresses including individual Multi-Family dwelling units and tenants of multi-tenant Commercial properties. Contractor shall also make this notice available in an electronic format through the Contractor's website.
 10. In coordination with the MRWMD, Contactor shall distribute Compost coupons to Generators to be able to retrieve Compost from the MRWMD subject to availability and program rules to be defined by MRWMD."
33. Exhibit C, Section 2 of the Agreement is hereby amended to read as follows:

"2. Public Education and Outreach Team

To best achieve the highest possible level of public education and awareness, Contractor has proposed to employ one full-time Environmental Outreach Manager (EOM) and two (2) full-time Environmental Outreach Coordinators (EOC) to develop and implement all public education and outreach activities required by this Agreement for all sectors in the Cities of Carmel-by-the-Sea, Del Rey Oaks, Marina, Pacific Grove, Sand City, and Seaside and the Pebble Beach CSD. and shall serve the MRWMD service area exclusively. The public education and outreach staff shall work with Agency to conduct outreach, promote waste reduction, Recycling, Diversion programs, and provide technical assistance to qualifying Multi-family and Commercial Customers.

As described in Contractor's Proposal, the EOM shall have the following duties and responsibilities:

1. Serve as liaison with the Agency and MRWMD. In this capacity, EOM shall participate in strategy development meetings related to source reduction, reuse, Recycling, and Composting;
2. Participate in community activities and offer support to local service organizations;
3. Develop and maintain relationships with the media, draft press releases; and,

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4. Ensure compliance with Agreement(s).

The Contractor's EOCs shall have the following duties and responsibilities:

1. Attend events and meetings in the community to promote Recycling and Diversion programs;
2. Assist with the development and distribution of educational and outreach materials;
3. Develop a thorough understanding of the history and challenges in managing Solid Waste and increasing Recycling and Diversion efforts;
4. Identify recurring contamination issues and proposing solutions;
5. Participate in educational and Participating Agency-sponsored activities as well as workshops, civic and business group meetings, and other community events;
6. Provide tours of Processing Facilities, as appropriate;
7. Create environmental awareness and promoting Recycling throughout the community; and,
8. Provide technical assistance to qualifying Multi-Family and Commercial Service Recipients to comply with SB 1383 by conducting site surveys to right-size Containers and Collection frequency and making recommendations to increase participation and reduce contamination.

Contractor's EOM and EOCs shall, at a minimum, perform the following additional tasks:

9. Work to develop partnerships with and incorporate Agency and MRWMD program and educational activities into Contractor activities, and vice versa;
10. Prepare proposals and presentations to municipal contract entities;
11. Participate and represent Contractor in community activities;
12. Oversee Customer satisfaction of all program services, as described in Exhibit B to the Agreement;
13. Ensure compliance with the Agreement and regulatory agencies having jurisdiction over Contractor's activities;
14. Coordinate, produce, and implement the annual education and outreach plan required by Section 1 of this Exhibit C to the Agreement;
15. Offer annual visits to identify the service needs of each eligible Customer, other than Single-Family Customers, by conducting "Recycling opportunity assessments" of Customer locations and facilities;

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16. Manage follow up Recycling opportunity assessments for businesses to conduct a more comprehensive investigation and educational process after the initial review;
 17. Provide all Customers with appropriate educational information necessary to make informed, environmentally-forward decisions relative to waste reduction, reuse, and Recycling activities.
 18. Maximize the opportunity for initial and sustained program success by seeking to identify a “champion” (ideally a senior manager) at each eligible Commercial and Multi-Family Customer who will serve as a primary contact and advocate for Recycling and Composting programs within the Customer’s organization;
 19. Help plan service needs for special events and Large Venues with a focus on reducing the Disposal of materials resulting from such events or venues; and,
 20. Create and distribute reports as required under this Agreement and/or requested by Agency Contract Manager.”
34. Exhibit C, Section 3 of the Agreement is hereby amended to read as follows:

“3. Sector-Specific Activities

The following tables present the public education and outreach activities to be performed by Contractor as minimum requirements under this Agreement. Each Customer Type faces unique waste management opportunities and challenges; therefore, Contractor shall develop targeted, sector-specific educational materials and perform outreach activities as described for each Customer Type.

Any public education and outreach materials provided to schools shall be updated by the Contractor to offer on-going technical assistance to eligible schools and the development and implementation of curriculum to teach children about Recycling, Composting, Food Scraps, and may include information on the Agency’s Edible Food Recovery program to the extent that information is provided by the Agency.”

Exhibit D Reporting Requirements

35. Exhibit D of the Agreement is hereby amended to read as follows:

“Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. Reports are intended to compile recorded data into useful forms of information that can be used to, among other things:

1. Determine and set Rates and evaluate the financial efficacy of operations.
2. Evaluate past and expected progress towards achieving the Contractor’s Diversion goals and objectives.
3. Provide concise and comprehensive program information and metrics for use in fulfilling reporting requirements under the Act.

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4. Determine needs for adjustment to programs.
5. Evaluate Customer service and complaints.

Quarterly Report Content

Quarterly reports shall be presented by Contractor to show the following information for each month in the reported quarter and include a quarterly average. In addition, each quarterly report shall show the past four (4) quarters average for data comparison (the first three (3) quarters of the Agreement shall only include the available quarterly information).

1. Tonnage Report

- Tonnage delivered to each Approved Facility by Customer Type, subtotaling and clearly identifying those Tons that are Disposed and those that are Diverted.
- Units of Used Oil, E-Waste, U-Waste, and Bulky Items Collected by Customer Type.

2. Customer Report

- Number of Customers by Customer Type.
- Number of Containers at each Service Level by Customer Type and program. Summarizing the total gallons of Cart service, cubic yards of Bin service, and pulls and cubic yards or Tons of Drop Box and Compactor service by Customer Type. Report should calculate the average volume of service received per: Single-Family Customer; Multi-Family dwelling unit; Commercial Customer; and, C&D Customer.
- Number of Bulky Item/Reusable Materials Collection events by Customer Type.
- Participation percentage by program and Customer Type where the participation percentage is calculated as the number of Customers who have subscribed to or requested service under the program relative to the number of Customers of that Customer Type subscribing to Solid Waste service. Contractor shall not be required to submit participant Customer names and addresses as part of the regular reporting; however, such information shall be provided to the Agency Contract Manager upon request.
- List of all Commercial and Multi-Family Dwelling Unit Customers with a Solid Waste Service Level of two (2) cubic yards of service capacity per week or more. Such list shall include each such Customer's service address and Solid Waste Container, Recyclable Materials Container, and Organic Materials Container Service Levels.
- The total number of de minimis waivers and physical space constraint waivers granted in the month, including the Generator name and address for each waiver.

3. Agency Services Report

- Agency facility Diversion rate report (i.e. volume of service by Service Type received by each Agency Facility and the percentage of the total Service Levels that are for Diversion services relative to the total).

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- Summary report on the programs offered to Agency as described in Exhibit B6 focused on when each service was provided and any issues/concerns identified.

4. Customer Service Report

- Number of Customer calls listed separately by complaints and inquiries (where inquiries include requests for Recycling information, Rate information, etc.). For complaints, list the number of calls separately by category (e.g., missed pickups, scheduled cleanups, billing concerns, damage claims, etc.).
- Number of new service requests for each Customer Type and program.
- Number of events of Discarded Materials being tagged for non-Collection summarized by the reason for tagging (e.g., inclusion of non-Recyclable or non-Compostable materials, improper setout, Hazardous Waste, etc.).
- Number of hits and unique visitors to the Contractor's website.
- Contractor shall maintain a record of all SB 1383 Regulatory non-compliance complaints and responses pursuant to Section 4.9.2 of this Agreement and submit the following information:
 - a. Total number of complaints received and total number of complaints investigated
 - b. to the extent such information is provided to Contractor, Contractor shall provide copies of documentation recorded for each complaint received, which shall at a minimum include the following information:
 - i. The complaint as received;
 - ii. The name and contact information of the complainant, if the complaint is not submitted anonymously;
 - ii. The identity of the alleged violator, if known;
 - iii. A description of the alleged violation; including location(s) and all other relevant facts known to the complainant;
 - iv. Any relevant photographic or documentary evidence submitted to support the allegations in the complaint; and,
 - v. The identity of any witnesses, if known.

5. Education and Outreach Report

- The quarterly status of activities identified in the public education and outreach plan described in Exhibit C of this Agreement.
- Provide a status report of Contractor's actual activities completed compared to the annual public education plan. For each completed item, document the results including what date the activity was performed, how many Customers were targeted or participated, and what methods were used to accomplish the task, if different from the plan.
- Summarize the Recycling opportunity assessments provided to Customers (reporting Multi-Family separate from Commercial) by identifying the number of Recycling

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opportunity assessments conducted each month in the most-recently completed quarter, and contact information including address, contact names, telephone number of Persons contacted, number of units (for Multi-Family), and the Solid Waste and Recyclable Materials Service Level for each complex. Include any Service Level changes resulting from such visits.

- Dates, times, and group names of meetings and events attended.

6. Pilot and New Programs Report

For each pilot and/or new program, provide activity related and narrative reports on goals, milestones, and accomplishments. Describe problems encountered, actions taken and any recommendations to facilitate progress. Describe vehicles, personnel, and equipment utilized for each program.

7. Revenue Report

Provide a statement detailing Gross Receipts from all operations conducted or permitted pursuant to this Agreement as required by Section 7.8.

Maintain a list of Customers that are forty five (45) or more calendar days past due and include the following information for each delinquent account: name; service address; contact information; number of days the account is delinquent; method(s) the Contractor has used to attempt collection of the bad debt including date of such attempt(s); and, identification, if, and when the Contractor plans to or did stop service to a delinquent account.

8. Updated Insurance and Performance Bond

In addition to providing the Agency with Certificates of Insurance (COI) and annual performance bonds (Bonds) when renewed as provided in Sections 9.2.C and 9.3 respectively, Contractor shall also include copies of Certificates of Insurance and Performance Bonds in the quarterly report in which new COIs and Bonds are provided to the Agency.

Annual Report Content

The annual report shall be the fourth quarterly report plus the following additional information.

1. Summary Assessment

Provide a summary assessment of the programs performed under this Agreement from Contractor's perspective relative to the financial and physical status of the program. The physical status assessment shall reflect how well the program is operating in terms of efficiency, economy, and effectiveness in meeting all the goals and objectives of this Agreement, particularly the Contractor's Diversion goals. Provide recommendations and plans to improve. Highlight significant accomplishments and problems. Results shall be compared to other similar size communities served by the Contractor in the State.

2. Vehicle Inventory

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Provide a listing of all vehicles used in performing services under this Agreement including the license plate number, VIN, make, model, model year, purchase date, engine overhaul/rebuild date (if applicable), and mileage at December 31.

3. Cost-Based Rate Adjustment Data

Provide the following information only if Rates are to be determined for the upcoming Rate Period using a cost-based adjustment pursuant to Exhibit E3. With the exception of the "Financial Information" listed below, all other items listed may be requested by the Agency Contract Manager at any time during the Term of the Agreement and Contractor shall comply with that request in a timely fashion.

Contractor understands that although all materials received by the Agency in connection with this Agreement are intended for the use of the Agency, they are potentially subject to disclosure under the provisions of the Public Records Act. The Agency agrees to hold financial information delivered pursuant to the requirements of this Agreement and marked "CONFIDENTIAL" as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law. In the event such financial information is requested by any party, Agency shall notify Contractor of the request and shall thereafter disclose the requested information unless Contractor, within five (5) Business Days of receiving notice of the disclosure request: a) requests nondisclosure; b) provides Agency a legally sound basis for the nondisclosure; and, c) agrees to indemnify, defend, and hold Agency harmless in any/all actions brought to require disclosure. This provision shall not be construed to create any legal right or claim that does not exist under the operation of Applicable Law.

- a) Financial Information. Within one hundred twenty (120) calendar days after the close of the Contractor's Fiscal Year (ending September 31), Contractor shall deliver to the Agency one (1) hard copy of the audited consolidated financial statements of Contractor for the preceding Fiscal Year. Financial statements shall include a supplemental combining schedule showing Contractor's results of operations, including the specific revenues and expenses in connection with the operations provided for in this Agreement from others included in such financial statements. The financial statements and footnotes shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP) consistently applied and fairly reflecting the results of operation and Contractor's financial condition. Annual financial statements shall be audited, in accordance with Generally Accepted Auditing Standards (GAAS) by a Certified Public Accountant (CPA) licensed (in good standing) to practice public accounting in the State as determined by the State Department of Consumer Affairs Board of Accountancy, and that the CPA's opinion on Contractor's annual financial statements shall be unqualified, and shall contain the CPA's conclusions regarding the Contractor's accounting policies and procedures, internal controls, and operating policies. The CPA shall perform an evaluation and, if necessary, shall cite recommendations for improvement.
- b) Related-Party Entities. As part of the annual reporting requirement, Contractor shall provide the Agency with a copy of each Related-Party Entity's (whose cost of services are not pre-determined in this Agreement on a unit price basis or by a governmental contractor) audited annual financial statements and management letter for that fiscal year, or within ninety (90) calendar days of each Related-Party Entity's fiscal year-end, if

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timing does not coincide with the annual report date. Financial statements shall be prepared in accordance with GAAP and audited, in accordance with GAAS, by a CPA licensed in the State, and that the CPA's opinion on each Related-Party Entity's annual financial statements shall be unqualified, and that the CPA make available to the Agency (or the Agency's designated representative) such CPA's working papers related to the audit.

Contractor agrees that all financial transactions with all Related-Party Entity shall be approved in advance in writing and disclosed in a separate disclosure letter to the Agency, upon request. This letter shall include, but not be limited to, the following information:

- A general description of the nature of each Related-Party Entity transaction, or type of transaction (if many similar transactions exist) shall be provided, as applicable. Such description shall include for each (or similar) transaction, amounts, specific Related-Party Entity, basis of amount (how amount was determined), description of the allocation methodology used to allocate any common costs, and profit amount. Amounts shall be reconciled to the Related-Party Entity disclosures made in Contractor's annual audited financial statements referred to in this Exhibit.
- At the Agency's request, Contractor shall provide the Agency with copies of working papers or other documentation deemed relevant by the Contractor relating to information shown in the annual disclosure letter.

Operational Information**A. Routes by Customer Type:**

1. Number of routes per day.
2. Types of vehicles.
3. Crew size per route.
4. Number of full time equivalent (FTE) routes.
5. Number of accounts and cubic yards scheduled per route.
6. Total route hours per Customer Type per year.
7. Average cost per route.

B. Personnel:

1. Organizational chart.
2. Job classifications and number of employees (e.g., administrative, Customer service representatives, drivers, supervisors, educational staff).
3. Wages by job classification.
4. Number of FTE positions for each job classification.

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5. Number of hours per job classification per year.
- C. Productivity Statistics:
1. Average Number of accounts per route per day by Customer Type.
 2. Average number of setouts per route per day by Customer Type.
 3. Average Tons per route per day by vehicle type (i.e. side-loader, front-loader, roll-off).
 4. Average cubic yards of Collection scheduled per route.
- D. Vehicles:
1. List of collection vehicles including year purchased and mileage.
 2. Average age of mobile equipment with oldest and newest.
- E. Operational Changes:
1. Number of routes.
 2. Staffing.
 3. Supervision.
 4. Collection services.

Variance Analysis. Provide the following variance analysis for each Customer Type. For any variances greater than five percent (5%) annually, Contractor shall provide sufficient rationale to support variance:

1. Variance analysis comparing current Rate Period to each of the prior Rate Periods of Agreement
2. Variance analysis comparing current Rate Period to each of the future projected Rate Periods.

Allocations. Provide the following allocation data:

1. Provide a concise general explanation of the various allocation methodologies used for each Rate application line item.
2. Provide specific examples of each type of allocation used showing how an entry is reported in the general ledger and ties to the Rate application
3. Provide a statement indicating whether there have been any changes in allocation methods used since the last Rate application. If any allocation methods have changed clearly identify those changes.

Projections. Provide the following projection data:

1. Provide support for the basis for projected Gross Receipts and line item expenses, clearly indicate the supporting calculations and assumptions
 2. Provide support for the most-recent twelve (12) months of Tonnage data for Rate Period ending October. Clearly indicate the supporting calculations and assumptions.
4. Collection and Subscription
- The type(s) of Collection service(s) provided, a list of all Hauler Routes serviced, and a record of the addresses served on each Hauler Route.
 - A summary of Customer subscription data, including the number of accounts; the total number of Generators enrolled with Contractor for service, listed separately by Service Level and Container type (Cart, Bin, and Drop Box service), separately by Single-Family, Multi-Family, and Commercial Customers, and separately for each type of Discarded Material; and the number of Bulky Items Collections performed.
 - The number of C&D Collection sites served and Tonnage Collected.
5. Public Education and Outreach
- A copy of all education and outreach materials provided to Customers that are Generators, or Generators pursuant to Section Exhibit C, Section 1.9, or otherwise used for education and outreach efforts in accordance with Exhibit C of the Agreement, including, but not limited to: flyers, brochures, newsletters, invoice messaging/billing inserts, and website and social media postings.
 - A record of the date and to whom the information was disseminated or direct contact made, in the form of a list that includes: the Generator's address, the type of education or outreach received; the distribution date, and the method of distribution.
 - The number of Organic Waste Generators that are Customers and Commercial Edible Food Generators pursuant to Section pursuant to Section Exhibit C, Section 1.9 that received information and the type of education and outreach used.
 - For any mass distribution through mailings or bill inserts, the Contractor shall maintain a record of the date, a copy of the information distributed, and the type and number of accounts that received the information.
 - A copy of electronic media, including the dates posted of: social media posts, e-mail communications, or other electronic messages.
 - The annual public education plan required by Exhibit C of the Agreement for the upcoming then-current calendar year. For example, Contractor submittal of a 2021 annual report in February 2022 shall include Contractor submittal of the annual public education plan for calendar year 2022.

6. Compliance Monitoring and Enforcement

- A summary of the total number of SB 1383 Regulatory non-compliance complaints that were received and reported to the Agency in accordance with Section 4.9.2.
- A copy of written and/or electronic records and documentation for all audits, studies, non-collection event reviews, compliance reviews, and all other inspections conducted pursuant to Section 4.12 of the Agreement.”

Exhibit G6 SB 1383 Implementation Plan and Schedule

36. Exhibit G of the Agreement is hereby amended to add the content of Attachment 1 to this Amendment upon review and approval by the Agency Contract Manager:

“Contractor must provide the SB 1383 Implementation Plan and Schedule by January 31, 2021.”

III. AMENDMENTS TO AGREEMENT RELATED TO COSTS OF SB 1383 PROGRAMS

Article 7. Franchise Fees and Other Fees

7.3 AB 939/SB 1383 Fee

37. Article 7, Section 7.3 of the Agreement is hereby amended to read as follows:

“The Contractor shall pay an AB 939/ SB1383 Fee to Agency each quarter. The amount of the AB 939/SB 1383 Fee shall be Zero Dollars (\$0) in Rate Period One and shall be paid in equal quarterly installments. The amount of the AB 939/SB 1383 Fee shall be Zero Dollars (\$0) in Rate Period Seven and shall be paid in equal quarterly installments. Agency shall use the AB 939/SB 1383 Fee to offset expenses for Agency and/or the MRWMD programs, pilot studies, education and outreach campaigns, reporting, compliance, or other activities involved in compliance with AB 939 and/or SB 1383. The Agency shall retain the sole right to set priorities for the use of its AB 939/SB 1383 Fee. This fee shall be a pass-through cost.”

7.7 Adjustment to Fees

38. Article 7, Section 7.7 of the Agreement is hereby amended to read as follows:

“Agency may set other fees or adjust the fees established in this Article from time-to-time during the Term of this Agreement and such adjustments shall be included in the adjustment of Rates as described in Exhibit E.

The amounts of the Administrative Fee, AB 939/SB 1383 Fee, Vehicle Impact Fee, and Litter Abatement Fee for subsequent Rate Periods shall be adjusted annually in accordance with the adjustment method described in Exhibit E, or shall be the amount specified by the Agency.”

Exhibit E1 Multi-Index Rate Adjustment Methodology

39. Exhibit E1 of the Agreement is hereby amended to read as follows:

“1. GENERAL

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

The purpose of this Exhibit E1 is to describe and illustrate the method by which the Agency will calculate the annual adjustment to Rates to reflect changes in various cost indices and changes to Disposal and Processing costs based on Tonnages of materials Collected and changes in Tipping Fees.

The index-based adjustment involves application of indices to various costs that comprise the Total Proposed Annual Costs for Rate Period One (and to Total Calculated Costs for future Rate Periods) to determine the Total Calculated Costs for the coming Rate Period. In addition, Processing and Disposal costs shall be adjusted to reflect actual Tonnage Collected during the most-recently completed Rate Period.

The amount equal to the Total Calculated Costs for the coming Rate Period divided by the Total Calculated Costs for the then-current Rate Period is the Rate Adjustment Factor. The Rate Adjustment Factor is applied to the current Rates to determine the Rates for the coming Rate Period.

The calculation to determine the Rate Adjustment Factor pursuant to this Exhibit E1 is subject to review for accuracy only. Approval of the Rate Adjustment Factor and its application to determine the new Rates is not subject to discretionary approval by the Agency Contract Manager or the City Council. In the event that a calculation is in dispute on the basis of mathematical accuracy or compliance with the terms of this Agreement, Contractor shall not implement new Rates until such dispute is resolved.

In the event that the Annual Percentage Change in the index-based adjustment as calculated by this Exhibit E1 results in a negative Rate Adjustment Factor, the Agency reserves the right to "roll-under" the Rate reduction, such that there is no Rate adjustment in the Rate Period for which the negative Annual Percentage Change Rate Adjustment Factor would have been applied and defer the dollar value of a negative Rate Adjustment Factor to a subsequent Rate Period(s), using an "Other Adjustment", as a credit against future Rate increase(s).

2. ADJUSTMENT OF TOTAL CALCULATED COSTS

The cost categories of the main components of Total Calculated Costs are presented in detail in Exhibit G2. Adjustments to these components to calculate costs for the coming Rate Period shall be calculated as follows:

A. Total Annual Cost of Operations

1. Labor-Related Costs. The Labor-Related Costs component of Total Calculated Costs for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the ECI.

For example, in Rate Period Five when calculating the Labor-Related Costs for Rate Period Six, the Labor-Related Costs of Rate Period Five shall be multiplied by one plus the Annual Percentage change in the ECI.

2. Vehicle-Related Costs (excluding Fuel). The Vehicle-Related Costs component of Total Calculated Costs for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the CPI.

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

3. CNG Fuel Costs. The CNG Fuel Cost component of Total Calculated Costs for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the CNG Fuel Index.
4. Other Costs. The Other Costs component of the Total Calculated Costs for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the CPI.
5. Direct Depreciation. Direct Depreciation is Three Hundred Twenty Nine Thousand Five Hundred Five Dollars (\$329,505) per year through Rate Period Fifteen and is not annually adjusted. If the Agreement is extended beyond Rate Period Fifteen, direct depreciation shall be zero in any subsequent Rate Periods unless Parties mutually agree to a different amount. Direct Depreciation is a fixed cost and is not subject to inflation.
6. Allocated Costs (Labor, Vehicle, Fuel, and Other Costs). The Allocated Costs (Labor, Vehicle, Fuel, and Other Costs) component for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the CPI.
7. Allocated Depreciation and Start-Up Costs. The Allocated Depreciation and Start-Up Costs shall be Sixty One Thousand Three Hundred Sixty-Seven Dollars (\$61,367) per year through Rate Period Fifteen, and are not adjusted annually. If the Agreement is extended beyond Rate Period Fifteen, direct depreciation shall be zero in any subsequent Rate Periods unless Parties mutually agree to a different amount. Allocated Depreciation and Start-Up Costs are fixed costs and are not subject to inflation.
8. Total Annual Cost of Operations. The Total Annual Cost of Operations for the coming Rate Period equals the sum of the costs calculated in subsections (1) through (7) above.

B. Profit

Profit for the coming Rate Period shall be calculated by dividing the Total Annual Cost of Operations for the coming Rate Period (the value calculated in 2.A.8 above) by an operating ratio and subtracting from the result the Total Annual Cost of Operations for the coming year. The operating ratio shall equal eighty-nine and three tenths percent (89.3%) for Rate Periods Two through Fifteen and in any extension period.

$$\text{Profit} = \frac{\text{Total Annual Cost of Operations for Coming Rate Period}}{\text{Operating Ratio}} - \text{Total Annual Cost of Operations for Coming Rate Period}$$

C. Pass-Through Costs (Costs which are Excluded from the Calculation of Profit)

1. General. Processing Costs for Recyclable Materials, Food Scraps, Yard Trimmings, Residue, Reusable, and C&D, and Disposal Costs shall each be calculated independently by multiplying the per-Ton Tipping Fee of each material type at the Approved Facilities for the coming Rate Period by the total Tons of material

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Collected for the most-recently completed 12-month period. It is possible that the Processing/Disposal Tipping Fees may adjust at different times than the Rates under this Agreement. In the event that such timing differences occur, Contractor shall include in its Rate application an adjustment to the Processing/Disposal costs for the incremental change in Tipping Fees multiplied by the actual Tonnage Processed/Disposed for that same period.

2. Disposal Costs. The Disposal Costs shall be calculated by multiplying the per-Ton Disposal fee at the Approved Disposal Facility for the coming Rate Period by the total Tons of Solid Waste Collected for the most-recently completed calendar year.
3. Recyclable Materials Processing Costs. The Recyclable Materials Processing Costs shall be calculated by multiplying the Recyclable material per-Ton Tip Fee at the Approved Recyclable Materials Processing Facility for the coming Rate Period by the total Tons of Recyclable Materials Collected for the most-recently completed calendar year.
4. Food Scraps Processing Costs. The Food Scraps Processing Cost shall be calculated by multiplying the per-Ton Food Scraps Processing fee at the Approved Organic Materials processing Facility for the coming Rate Period by the total Tons of Food Scraps Collected for the most-recently completed calendar year.
5. Yard Trimmings Processing Costs. The Yard Trimmings Processing Costs shall be calculated by multiplying the per-Ton Yard Trimmings Processing fee at the Approved Organic Materials Processing Facility for the coming Rate Period by the total Ton of Yard Trimmings Collected for the most-recently completed calendar year.
6. Residue Processing Costs. The Residue Processing Costs shall be calculated by multiplying the per-Ton residue Processing fee at the Approved Disposal Facility for the coming Rate Period by the total Tons of Residue processed for the most-recently completed calendar year as reported by the Facility. Should the MRWMD perform an audit more than once per year or change the annual Residue audit at any time that does not coincide with a Rate Period, any interim rate applied as residue processing costs will be multiplied by the tons charged at this rate and added to the Residue Processing Costs for the coming Rate Period.
7. Reusable Materials Costs. The Reusable Materials Costs (for charges by the operator of Approved Reusable Materials Processing Facility for acceptance of Bulky Items and Reusable Materials) shall be calculated as the Reusable Materials processing fee for the coming Rate Period multiplied by the tons/units of reusable materials processed for the most-recently completed calendar year as reported by the Facility.
8. C&D Materials Processing Costs. The C&D Materials Processing Costs shall be calculated by multiplying the per-Ton Tip Fee at the Approved C&D Processing Facility for the coming Rate Period by the total Tons of C&D Materials Collected for the most-recently completed calendar year.

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9. Curbside Supplemental Payment. The Curbside Supplemental Payment shall be reported as a revenue based on the prior year's receipts granted by the State.
10. Interest Expense. The Interest Expense amount is Ninety Seven Thousand Eighty-Six Dollars (\$97,086) per year. Interest Expense is a fixed cost and is not subject to inflation.
11. Direct Lease Costs. The Direct Lease Costs amount is Zero Dollars (\$0) per year and shall not be adjusted over the Term of the Agreement.
12. Allocated Lease Costs. The Allocated Lease Costs amount is Eighty Six Thousand Eight Hundred Forty-Five Dollars (\$86,845) for Rate Period Two through Fifteen is not annually adjusted, and shall remain unadjusted in any subsequent Rate Period unless Parties mutually agree to a different amount.
13. Total Pass-Through Costs. Total Pass-Through Costs for the coming Rate Period are the sum of the amounts in subsections (2) through (12) above.

D. Total Calculated Costs before Agency Fees

The Total Calculated Costs before Agency Fees shall be the sum of the Total Annual Cost of Operations, Profit, and Total Pass-Through Costs for the coming Rate Period.

E. Agency Fees (Pass-Through Fees)

1. Franchise Fee. Franchise Fees for the coming Rate Period, which shall equal fifteen percent (15%) of the Total Calculated Costs, shall be calculated as follows: ((Total Calculated Costs Before Fees + the sum of other Agency Fees) divided by minus (Total Calculated Costs Before Fees + the sum of other Agency Fees) with Agency Fees/Payments specified in Sections 2.E.2 through 2.E.7) and other adjustments, if any, pursuant to Section F).
2. Administrative Fee. The Administrative Fee shall be in an amount prescribed by the Agency. If no revised Administrative Fee is provided by the Agency, the Administrative Fee paid to the Agency during the prior Rate Period shall remain in effect.
3. AB 939 Fee. The AB 939 Fee for the coming Rate Period shall be in an amount prescribed by the Agency. If no revised AB 939 Fee is provided by the Agency, the AB 939 Fee paid to the Agency during the prior Rate Period shall remain in effect.
4. HHW Fee. The HHW Fee for the coming Rate Period shall be in an amount prescribed by the Agency. If no revised HHW Fee is provided by the Agency, the HHW Fee paid to the Agency during the prior Rate Period shall remain in effect.
5. Vehicle Impact Fee. The Vehicle Impact Fee for the coming Rate Period shall be in an amount prescribed by the Agency. If no revised Vehicle Impact Fee is provided by the Agency, the Vehicle Impact Fee paid to the Agency during the prior Rate Period shall remain in effect.

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6. Litter Abatement Fee. The Litter Abatement Fee for the coming Rate Period shall be in an amount presided by the Agency. If no revised Litter Abatement Fee is provided by the Agency, the Litter Abatement Fee paid to the Agency during the prior Rate Period shall remain in effect.
7. Rate Application Review Costs. An amount determined by the Agency to reimburse the Contractor for payment of the Agency's costs, including consulting and legal fees associated with determination of Rates under this Exhibit. Such Rate application review costs may or may not be one-time costs and shall be included in subsequent Rate Periods if it is not a one-time cost.
8. Total Agency Fees/Payments. The Total Agency Fees/Payments for the coming Rate Period shall equal costs calculated in Section 2.E.1 through 2.E.7 above; provided, however, that any adjustment in any such fee, whether pursuant to the relevant index or as the result of the decision of Agency, shall be pass-through fees (which are excluded from the calculation of profit) and reflected in the Total Agency Fees/Payments.

F. Other Adjustments

From time to time during the Term of the Agreement, it may be necessary to make other adjustments to the compensation calculations. These adjustments to the compensation calculations are intended to allow for one-time adjustments for items including, but not necessarily limited to: costs of professional services for Rate reviews, performance reviews, and/or audits; "roll-unders" of Rates from one Rate Period to the next; and, one time programs or services that are mutually agreed upon by the Parties.

As part of this Amendment, Contractor and Agency have agreed to include depreciation and interest costs associated with new SB1383 routes as described in Exhibit 2 of this Amendment and exclude labor associated costs required to operate new routes. To the extent Contractor demonstrates additional labor costs and other operational costs associated with building routes for new Collection services provided by Contractor for SB1383 compliance, Contractor may recover such eligible costs, up to \$42,399 in Rate Year 7 and annualized and adjusted annually thereafter, as one-time adjustments until full routes are established and additional route positions and other operational expenses associated with these new routes are incorporated into Contractors' compensation on an ongoing basis.

G. Total Calculated Costs

The Total Calculated Costs for the coming Rate Period shall equal the sum of the Total Annual Cost of Operations, Profit, Total Pass-Through Costs, Total Agency Fees, and Other Adjustments (if applicable), for the coming Rate Period.

3. RATE ADJUSTMENT FACTOR

The Rate Adjustment Factor shall equal the Total Calculated Costs for the coming Rate Period divided by the Total Calculated Costs for the then-current Rate Period, which shall be rounded to the nearest thousandth.

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4. ADJUSTMENT OF RATES

Each then-current Rate shall be multiplied by the Rate Adjustment Factor to calculate the effective Rate for the coming Rate Period. The adjustment to each Rate shall be rounded to the nearest cent.

5. EXAMPLES

The following example illustrates the index-based adjustment method for determining Rates for Rate Period Seven. The dollar amounts shown are hypothetical amounts for Total Calculated Costs for Rate Period Six (July 1, 2020 through June 30, 2021) and the adjustment factors are based on assumed changes in the various indices between the average index values for the twelve (12) months ending December 2019 and for the twelve (12) months ending December 2020.

A. Assumptions for Example Adjustment to Contractor's Compensation:

Most-Recently Completed Rate Period = Rate Period Five (July 1, 2019 through June 30, 2020)

Then-current Rate Period = Rate Period Six (July 1, 2020 through June 30, 2021)

Coming Rate Period = Rate Period Seven (July 1, 2021 through June 30, 2022)

Disposal cost for the coming Rate Period = \$65.00 per Ton

Recyclable Materials Processing costs for the coming Rate Period = \$40.00 per Ton

Yard Trimmings Materials Processing Cost for the coming Rate Period = \$42.00 per Ton

Food Scraps Processing cost for the coming Rate Period = \$57.00 per Ton

C&D Processing Cost for the coming Rate Period = \$57.63 per Ton

Annual Percentage Change in the CPI-U = 0.017

Annual Percentage Change in the ECI = 0.027

Annual Percentage Change in the District Rate for CNG = 0.00

Tonnages for the most-recently completed Rate Period:

Solid Waste – 14,370.20 Tons

Yard Trimmings Materials – 2,623.54 Tons

Food Scraps – 343.21 Tons

Recyclable Materials – 3,955.68 Tons

C&D – 22.33 Tons

Residue – 799.05 Tons

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Note: All values presented in this table are hypothetical and used for illustrative purposes only.

TABLE 1
Calculation of Total Calculated Costs for Rate Period Seven

	Rate Period Six	Adjustment Factor	Rate Period Seven
Annual Cost of Operations			
Labor-Related Costs	\$ 738,839	1.027	\$ 758,787
Vehicle-Related Costs	\$ 173,798	1.017	\$ 176,752
Fuel Costs	\$ 158,200	1.00	\$ 158,200
Other Costs	\$ 582,680	1.017	\$ 592,586
Direct Depreciation	\$ 285,780	N.A.	\$ 285,780
Total Allocated Costs - Labor, Vehicle, Fuel & Other	\$ 1,003,117	1.017	\$ 1,020,170
Total Allocated Costs - Depreciation & Start-Up	\$ 61,367	N.A.	\$ 61,367
Total Annual Cost of Operations	\$ 3,003,781	N.A.	\$ 3,053,643
Profit	\$ 359,916	OR=89.3	\$ 365,890
Pass-Through Costs			
Disposal Costs	\$ 926,074	\$65.00 * 14,370.20	\$ 934,063
Curbside Supplemental	\$ (6,390)	1.00	\$ (6,390)
Recycling Processing Costs	\$ 153,319	\$40.00 * 3,955.68	\$ 158,227
Residue Processing Costs	\$ 23,620	\$65.00 * 799.05	\$ 51,938
Yard Trimmings Processing Costs	\$ 105,163	\$42.00 * 2,623.54	\$ 110,189
Food Scraps Processing Costs	\$ 26,346	\$57.00 * 343.21	\$ 19,563
C&D Processing Costs	\$ 1,063	\$57.63 * 22.33	\$ 1,287
Interest Expense	\$ 90,508	N.A.	\$ 90,508
Direct Lease Costs	\$ -	N.A.	\$ -
Total Allocated Costs - Lease	\$ 86,845	N.A.	\$ 86,845
Total Pass-Through Costs	\$ 1,406,546	N.A.	\$ 1,446,230
Total Costs before Agency Fees	\$ 4,770,243	N.A.	\$ 4,865,763
Agency Fees/Payments			
Franchise Fee	\$ 848,518	15.00%	\$ 867,966
Rate Application Review and District Costs	\$ 15,713	Actual	\$ 53,831
Other Adjustments (as needed from time to time)			
Residue Processing Costs (Back Pay for 2019-2020)	\$ 14,283	N.A.	
Mailer	\$ 8,031	N.A.	
Adjustment from MRWMD Tip Fee Estimates			\$ (1,121)
Total Calculated Costs	\$ 5,656,789		\$ 5,786,438

A. Example Calculation of the Rate Adjustment Factor and Adjusted Rate for Rate Period Seven

As Seen in Table 1 - Rate Adjustment Factor = \$5,786,438/\$5,656,789 = 1.023

32-gallon Single-Family Rate for Rate Period Seven = \$22.47 x 1.023 = \$22.98, which shall be effective July 1, 2021.

6. OTHER

If an index described in Exhibit E, Definitions Section is discontinued, the successor index with which it is replaced shall be used for subsequent calculations. If no successor index is identified by the Bureau of Labor Statistics, the index published by the organization which is most comparable shall be used.”

Exhibit E2 Cost-Based Rate Adjustment Methodology

40. Exhibit E2 of the Agreement is hereby amended to read as follows:

“1. GENERAL

The cost-based adjustment involves review of the Contractor’s actual cost of operations and operational statistics (staffing levels, routes, route hours, Customers and their service levels, etc.) to determine the actual Total Contractor’s Compensation for the most-recently completed Rate Period and to forecast the Total Contractor’s Compensation for the coming Rate Period. The difference (measured as a percentage) between the Total Contractor’s Compensation for the coming Rate Period and the Gross Receipts most-recently reported calendar year is the “Rate Adjustment Factor”. The Rate Adjustment Factor is applied to the then-current Rates to determine the Rates for the coming Rate Period.

The intent of performing the cost-based adjustment is to examine the actual impact of changes in inflation, the number of Customers, and the Service Level of Customers.

In the event that the cost-based adjustment calculated in accordance with this Exhibit E2 results in a negative Rate Adjustment Factor, the Agency reserves the right to “roll-under” the Rate reduction, such that there is no Rate adjustment in the Rate Period for which the negative Rate Adjustment Factor was calculated, but the calculated Rate reduction may be deferred to the following Rate Period, as a credit against future Rate increases.

2. FORECASTING TOTAL CONTRACTOR’S COMPENSATION

A. Forecasting Total Annual Cost of Operations

1. Determine Actual Allowable Total Annual Cost of Operations. Contractor's financial statement, books, and records shall be reviewed to determine Contractor's “Actual Allowable Total Annual Cost of Operations” for the most-recently completed Rate Period to perform all the services in the manner required by this Agreement for each of the following cost categories:

- a. Actual labor-related costs
- b. Actual vehicle-related costs (excluding fuel and depreciation)
- c. Actual fuel costs
- d. Actual other costs (as defined on Form 6D of Exhibit G2)
- e. Direct depreciation costs (in the amount specified in Exhibit E1)
- f. Actual allocated costs (labor, vehicle, general and administrative, and other costs)
- g. Actual allocated costs (depreciation and start-up) (in the amount stated in Exhibit E1)

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

2. Non-Allowable Costs. The following list of non-allowable costs shall be deducted from the Contractor's actual costs when determining the Actual Allowable Total Annual Cost of Operations.
 - a. Labor, equipment, fuel, and start-up costs for personnel and vehicles that are not specified in the Contractor's Proposal forms contained in Exhibit G2.
 - b. Payments to directors and/or owners of Contractor unless the amount paid is reasonable compensation for services actually rendered. Reasonableness shall be determined based on available market pricing for similar services and shall be in the sole discretion of the Agency.
 - c. Travel expenses and entertainment (above Five Thousand Dollars (\$5,000) annually in total) expenses, unless authorized in advance by the Agency.
 - d. Payments to repair damage to public or private property for which Contractor is legally liable.
 - e. Fines or penalties of any nature.
 - f. Liquidated Damages assessed under this Agreement.
 - g. Federal or State income taxes.
 - h. Charitable or political donations unless such donation is to a youth, civic, or charitable organization and has been previously approved in writing as an allowable expense by the Agency Contract Manager.
 - i. Depreciation or interest expense for Collection vehicles, Containers, other equipment, offices and other facilities if such items are leased as specified in Exhibit G.
 - j. Attorney's fees and other expenses incurred by Contractor in any court proceeding in which the Agency and Contractor are adverse Parties.
 - k. Attorney's fees and other expenses incurred by Contractor arising from any act or omission in violation of this Agreement.
 - l. Attorneys' fees and other expenses incurred by Contractor in any court proceeding in which Contractor's own negligence, violation of law or regulation, or wrong doing are in issue and occasion, in whole or in part, the attorneys' fees and expenses claimed; and attorneys' fees and expenses incurred by Contractor in a court proceeding in which the legal theory or statute providing a basis of liability against Contractor also provides for separate potential liability for the Agency derived from the action of its citizens or Rate payers (such as in a CERCLA lawsuit) unless the Contractor is found not liable in such claims and such claims arise from acts or occurrences within the Term of the Agreement.

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- m. Payments to Related-Party Entities for products or services, in excess of the cost to the Related-Party Entities for those products or services.
 - n. Goodwill.
 - o. Unreasonable profit sharing distributions.
 - p. Replacement costs for Containers that need to be replaced because the useful life of such Container was less than the Term.
 - q. Administrative costs greater than the general and administrative costs presented in Contractor's Proposal (Exhibit G2) adjusted annually by one plus the Annual Percentage Change in the CPI.
 - r. Bad debt write-offs in excess of two percent (2%) of annual Gross Receipts.
3. Forecast Total Annual Costs of Operations. Forecasted Total Annual Cost of Operations for the coming Rate Period shall be calculated based on Actual Allowed Total Cost of Operations for the most-recently completed Rate Period determined in accordance with Sections 2.A.1 and 2.A.2 above. The forecasts shall be performed in the following manner:
- a. Forecasted labor-related costs shall be calculated for the coming Rate Period by (i) multiplying the allowed labor-related costs, both direct and allocated, for the most-recently completed Rate Period by one plus the Annual Percentage Change in the ECI, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in the ECI.
 - b. Forecasted vehicle-related costs (excluding fuel and depreciation costs) shall be calculated for the coming Rate Period by (i) multiplying the allowed vehicle-related costs, both direct and allocated, for the most-recently completed Rate Period by one plus the Annual Percentage Change in the CPI, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in the CPI.
 - c. Forecasted fuel costs shall be calculated for the coming Rate Period by (i) multiplying the allowed fuel costs, both direct and allocated, for the most-recently completed Rate Period by one plus the Annual Percentage Change in the District Rate for CNG, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in the District Rate for CNG.
 - d. Forecasted other costs shall be calculated for the coming Rate Period by (i) multiplying the allowed other-related costs for the most-recently completed Rate Period by one plus the Annual Percentage Change in CPI, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in the CPI.
 - e. Forecasted direct depreciation expense shall be the amount specified in

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

Exhibit G2 for vehicles, Containers, and facilities. Direct depreciation expense is a fixed cost and is not subject to inflation.

- f. Forecasted allocated costs (labor, vehicle, fuel, and other) shall be calculated for the coming Rate Period by (i) multiplying the allowed allocated costs (labor, vehicle, fuel, and other) for the most-recently completed Rate Period by one plus the Annual Percentage Change in CPI, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in the CPI.
- g. Forecasted allocated depreciation and start-up expense shall be the amount specified in Exhibit G2 for vehicles, Containers, and facilities.
- h. Forecasted Total Annual Cost of Operations for the coming Rate Period shall equal the sum of the following costs, which shall have been calculated in accordance with the procedures in this Exhibit E2:
 - (1) Forecasted labor-related costs
 - (2) Forecasted vehicle-related costs (excluding fuel costs)
 - (3) Forecasted fuel costs
 - (4) Forecasted other costs
 - (5) Forecasted direct depreciation expense
 - (6) Forecasted allocated costs (labor, vehicle, fuel, and other)
 - (7) Forecasted allocated costs (depreciation and start-up)

B. Forecast Profit

Contractor shall be entitled to Profit on Forecasted Total Annual Cost of Operations. Profit shall be calculated using an operating ratio of eighty-nine and three tenths percent (89.3%) as proposed by Contractor and described in Exhibit G2. Profit shall be calculated using the following formula:

Profit = (Forecasted Total Annual Cost of Operations / Operating Ratio) – Forecasted Total Annual Cost of Operations

For example:

- 1. Assuming an operating ratio of 92%
- 2. Assuming a Forecasted Total Annual Cost of Operations of \$1,000,000
- 3. Profit = (\$1,000,000 / 0.92) – \$1,000,000 = \$86,956.52

C. Forecast Pass-Through Costs (Costs which are excluded from the calculation of Profit)

Pass-Through Costs for the coming Rate Period shall be forecasted in the manner described in Section 2.E of Exhibit E1.

D. Forecast Agency Fees

Agency fees shall be calculated in the manner described in Section 2.E of Exhibit E1.

Amendment #1 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

E. Other Adjustments

Other adjustments may be included in the manner described in Section 2.F of Exhibit E1.

3. PROJECTED GROSS RECEIPTS

Projected Gross Receipts at then-current Rates shall reflect projected annual Gross Receipts from all Customers based on then-current Rates and then-current Customer Service Levels.

4. RATE ADJUSTMENT FACTOR

The Rate Adjustment Factor shall equal the Forecasted Total Calculated Costs for the coming Rate Period divided by the Projected Gross Receipts calculated in accordance with Sections 2 and 3 of this Exhibit E2. The Rate Adjustment Factor shall be rounded to the nearest thousandth.

5. ADJUSTMENT OF RATES

Each then-current Rate shall be multiplied by the Rate Adjustment Factor to calculate the effective Rate for the coming Rate Period."

Exhibit G2 Cost Basis for Proposal

41. Exhibit G2 of the Agreement is hereby amended to add the content of Attachment 2 to this Amendment.

City of Seaside

GREENWASTE RECOVERY, INC.

BY: _____

BY: _____

ITS: _____

ITS: _____

APPROVED AS TO FORM

BY: _____

City Attorney

**ATTACHMENT 1:
CONTRACTOR'S IMPLEMENTATION PLAN**

**(to be provided by GreenWaste Recovery, Inc. on or before
January 31, 2022)**

**ATTACHMENT 2:
CLARIFICATION OF CONTRACTOR'S COMPENSATION
- ALLOWABLE SB 1383 COSTS**

RESOLUTION NO. XX-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

ADOPTING THE AMENDMENT TO THE FRANCHISE AGREEMENT WITH GREENWASTE RECOVERY, INC. (GWR) AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE ATTACHED AMENDMENT TO THE FRANCHISE AGREEMENT SUBJECT TO REVIEW AND APPROVAL BY THE CITY ATTORNEY

WHEREAS, on May 1, 2015 the City of Seaside entered into a Solid Waste, Recycling, and Organics Collection Services Agreement with GreenWaste Recovery (GWR); and

WHEREAS, the Agreement provides GWR with the exclusive right to collect residential, multi-family, and commercial discarded materials from the City, subject to the limitations of that Agreement and applicable law. The Agreement is scheduled to terminate April 30, 2030; and

WHEREAS, an amendment to the Agreement has been negotiated and includes:

1. Provisions bringing the City and Contractor into compliance with the requirements of SB 1383;
2. Resolving GreenWaste Recovery's claims for extraordinary rate adjustment related to unanticipated events that impacted the franchise agreement;
3. Clarifying the process and results of the cost-based rate adjustment;
4. Approving an assignment of the franchise agreement resulting from a change in ownership of GreenWaste Recovery; and

WHEREAS, SB 1383 is the most significant state level waste management legislation to affect local governments in over 30 years. The focus of the legislation is to dramatically reduce the amount of methane generated from California landfills by reducing organic waste to landfill by 75% by 2025; and

WHEREAS, the prescriptive programmatic requirements of SB 1383 extend penalties for non-compliance to jurisdictions, generators, facilities, and haulers. As a result, the franchise agreement required updates to service, reporting, and customer service provisions of the Agreement to achieve compliance and support the rest of the community in achieving compliance; and

WHEREAS, HF&F Consultants LLC (HF&H) retained by the Monterey Regional Waste Management District on behalf of all its member jurisdictions to assist with a review of GWR rates. The rate review resulted in a one-time rate increase of 5.2%. The rate adjustment coincides with the expanded provision of services. Nearly all of the proposed increases are related to the implementation of SB 1383; effective January 1, 2022.

WHEREAS, In September 2021, GWR notified the City of their intent to sell their company to an investment fund operated by Macquarie (a global financial services and investment bank) with a closing date in December 2021; and

WHEREAS, the due diligence report identified a few performance gaps related to insurance, performance bonds, billing, public education, and diversion. For each area where a performance gap was identified, HF&H consultants worked with GWR to agree on enhanced contract language and processes to provide greater control over these issues going forward and minimize the likelihood that the errors are repeated; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Seaside do hereby direct the City of Seaside City Manager to accept and execute on behalf of the City Council, the adoption the amendment to the franchise agreement with GreenWaste Recovery, Inc. (GWR).

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 18th day of November 2021 by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

Ian N. Oglesby, Mayor

ATTEST:

Dominique L. Davis, City Clerk