



LEMOORE CITY COUNCIL
COUNCIL CHAMBER
429 C STREET
May 21, 2019

AMENDED AGENDA

Changes are italicized

Please silence all electronic devices as a courtesy to those in attendance. Thank you.

5:30 pm STUDY SESSION

SS-1 Biennial Ethics and Brown Act Training – Part 2 (Van Bindsbergen)

PUBLIC COMMENT ON CLOSED SESSION

This portion of the meeting is reserved for persons desiring to address the Council on an item which is to be considered during closed session. Speakers should limit their comments to three (3) minutes.

CLOSED SESSION

This item has been set aside for the City Council to meet in a closed session to discuss matters pursuant to Government Code Section 54956.9(d)(4). The Mayor will provide an oral report regarding the Closed Session at the beginning of the next regular City Council meeting.

1. Conference with Real Property Negotiators
Government Code Section 54956.8
Property: "Lot 4" APN 024-051-013, "Lot 14" APN 024-051-015, "Lot 15" APN 024-051-019, "Lot 16" APN 024-051-018
Agency Negotiator: Nathan Olson, City Manager
Negotiating Parties: Tom Vorhees
Under Negotiation: Price and Terms

In the event that all the items on the closed session agenda have not been deliberated in the time provided, the City Council may continue the closed session at the end of the regularly scheduled Council Meeting.

7:30 pm REGULAR SESSION

- a. CALL TO ORDER
- b. PLEDGE OF ALLEGIANCE
- c. INVOCATION
- d. ROLL CALL
- e. AGENDA APPROVAL, ADDITIONS, AND/OR DELETIONS

PUBLIC COMMENT

This time is reserved for members of the audience to address the City Council on items of interest that are not on the Agenda and are within the subject matter jurisdiction of the Council. It is recommended that speakers limit their comments to three (3) minutes each and it is requested that no comments be made during this period on items on the Agenda. The Council is prohibited by law from taking any action on matters discussed that are not on the Agenda. Prior to addressing the Council, any handouts for Council will be provided to the City Clerk for distribution to the Council and appropriate staff.

CEREMONIAL / PRESENTATION – Section 1

No Ceremonial / Presentation

DEPARTMENT AND CITY MANAGER REPORTS – Section 2

2-1 Department & City Manager Reports

CONSENT CALENDAR – Section 3

Items considered routine in nature are placed on the Consent Calendar. They will all be considered and voted upon in one vote as one item unless a Council member or member of the public requests individual consideration.

- 3-1 Approval – Minutes – Regular Meeting – May 7, 2019
- 3-2 Approval – Contract Modifications with J.R Filanc Construction for Water Treatment Plant Design-Build

PUBLIC HEARINGS – Section 4

Report, discussion and/or other Council action will be taken.

No Public Hearings

NEW BUSINESS – Section 5

Report, discussion and/or other Council action will be taken.

- 5-1 Report and Recommendation – Single Audit Report for Year Ended June 30, 2018 (Speer)
- 5-2 Report and Recommendation – American Legion Post 100's Request to Rename City Park to Veterans Park (Glick)
- ~~5-3 Report and Recommendation – Memorandum of Understanding between the City of Lemoore and Tim Welsh – Skate Park Concession (Glick) Item will be rescheduled~~
- 5-4 Report and Recommendation – Tract 839 - Resolution 2019-17 of Intention to (i) Annex and Include Additional Territories in Landscape and Lighting Maintenance District No. 1 in the City of Lemoore, and (ii) Levy and Collect Annual Assessments in Such Annexed Territories for Fiscal Year 2019/2020 and Thereafter (Rivera)

CITY COUNCIL REPORTS AND REQUESTS – Section 6

6-1 City Council Reports / Requests

ADJOURNMENT

Upcoming Council Meetings

- City Council Regular Meeting, Tuesday, June 4, 2019
- City Council Regular Meeting, Tuesday, June 18, 2019

Agendas for all City Council meetings are posted at least 72 hours prior to the meeting at the City Hall, 119 Fox St., Written communications from the public for the agenda must be received by the City Clerk's Office no less than seven (7) days prior to the meeting date. The City of Lemoore complies with the Americans with Disabilities Act (ADA of 1990). The Council Chamber is accessible to the physically disabled. Should you need special assistance, please call (559) 924-6705, at least 4 business days prior to the meeting.

PUBLIC NOTIFICATION

I, Marisa Avalos, City Clerk for the City of Lemoore, declare under penalty of perjury that I posted the above City Council Amended Agenda for the meeting of May 21, 2019 at City Hall, 119 Fox Street, Lemoore, CA on May 17, 2019.

Marisa Avalos, City Clerk



119 Fox Street • Lemoore, California 93245 • (559) 924-6700 • Fax (559) 924-9003

Staff Report

Item No: SS-1

To: Lemoore City Council
From: Jenell Van Bindsbergen, City Attorney
Date: April 25, 2019 **Meeting Date:** May 21, 2019
Subject: Biennial Ethics and Brown Act Training – Part 2
Strategic Initiative:

- | | |
|--|--|
| <input type="checkbox"/> Safe & Vibrant Community | <input type="checkbox"/> Growing & Dynamic Economy |
| <input type="checkbox"/> Fiscally Sound Government | <input checked="" type="checkbox"/> Operational Excellence |
| <input type="checkbox"/> Community & Neighborhood Livability | <input type="checkbox"/> Not Applicable |

Proposed Motion:

Information Only.

Subject/Discussion:

AB 1234 and Government Code Section §52325 require biennial ethics training for all legislative bodies and public officials. The City Attorney will be providing training on council and board roles and duties, as well as ethics training for all public officials.

Financial Consideration(s):

None noted.

Alternatives or Pros/Cons:

None noted.

Commission/Board Recommendation:

None noted.

Staff Recommendation:

Information Only.

“In God We Trust”

Attachments:

- ☐ Resolution:
- ☐ Ordinance:
- ☐ Map
- ☐ Contract
- ☐ Other
- List:

Review:

- ☒ Asst. City Manager
- ☒ City Attorney
- ☒ City Manager
- ☒ City Clerk

Date:

05/14/19

05/15/19
05/16/19

**May 7, 2019 Minutes
Study Session
City Council Regular Meeting**

CALL TO ORDER:

At 5:30 p.m., the meeting was called to order.

ROLL CALL: Mayor: NEAL
Mayor Pro Tem: BILLINGSLEY
Council Members: BROWN, LYONS
Absent: BLAIR

City Staff and contract employees present: City Manager Olson; Assistant City Manager Speer; City Attorney Van Bindsbergen; Police Chief Smith; Community Development Director Holwell; Parks and Recreation Director Glick; Public Works Director Rivera; City Clerk Avalos.

AGENDA APPROVAL, ADDITIONS, AND/OR DELETIONS:

City Manager Olson asked Council to move item SS-1 to the next Council meeting, proceed to Closed Session, and have Study Session at 6:30 p.m.

Motion by Mayor Pro Tem Billingsley, seconded by Council Member Brown, to move Ethics and Brown Act Training to the May 21st meeting, proceed to Closed Session, and continue Study Session at 6:30 p.m.

Ayes: Billingsley, Brown, Lyons, Neal

PUBLIC COMMENT

Brian Castadio stated that after the last meeting there was a discussion that was unprofessional. He was advised by City Attorney Van Bindsbergen that this time is for public comment in regards to closed session items only.

Council adjourned to Closed Session at 5:34 p.m.

CLOSED SESSION

This item has been set aside for the City Council to meet in a closed session to discuss matters pursuant to Government Code Section 54956.9(d)(4). The Mayor will provide an oral report regarding the Closed Session at the beginning of the next regular City Council meeting.

1. Conference with Real Property Negotiators
Government Code Section 54956.8
Property: "Lot 4" APN 024-051-013, "Lot 14" APN 024-051-015, "Lot 15" APN 024-051-019, "Lot 16" APN 024-051-018
Agency Negotiator: Nathan Olson, City Manager
Negotiating Parties: Tom Vorhees
Under Negotiation: Price and Terms
2. Conference with Legal Counsel – Existing Litigation

- Government Code Section 54956.9(d)(1)
City of Lemoore v. Holly Andrade Blair
Case No. 19C-0043
3. Conference with Legal Counsel – Anticipated Litigation
Government Code Section 54956.9
Significant Exposure to Litigation Pursuant to Paragraph (2) or (3) of Subdivision (d)
of Section 54956.9
Two Cases

ADJOURNMENT

At 6:36 p.m., Council adjourned.

6:30 p.m. STUDY SESSION

SS-1 Biennial Ethics and Brown Act Training – Part 2

Item was moved to the May 21, 2019 meeting.

SS-2 Draft Cannabis Ordinance

City Manager Olson discussed a Cannabis Ordinance Proposal:

- *Why Now?*
 - *CA State Law has allowed the legal use of cannabis.*
 - *Home deliveries*
 - *General Fund Opportunities*
 - *Heightened interest*
- *Public Benefit*
 - *Additional foot traffic to downtown*
 - *General fund revenues*
 - *Additional jobs in both public and private sectors*
- *Fees*
 - *Business License*
 - *Regulatory License*
 - *Revenue raising*
- *Proposed Ordinance Highlights*
 - *Allows medicinal/commercial cannabis*
 - *Manufacturing @ \$15/sqft*
 - *Cultivation @ \$6/cubic ft.*
 - *Nurseries @ \$2/cubic ft.*
- *Other Considerations*
 - *Kmart – Potential opportunity*
 - *CMC – Potential opportunity*
- *Public Safety*
 - *Comparable cities do not show negative impact on City*
 - *24/7 surveillance of all cannabis*
 - *100% employee background checks*
 - *Administrative fines for non-compliance*
- *Plan for Revenues*
 - *Shore up general fund deficit*
 - *Replenish Reserves*
 - *Community beautification*

- *Public Safety*

*Spoke: Kevin Burdacky, Valley Pure
Jay Kelly,
Mariela Childress
Dr. Crystal Jackson
Connie Wlaschin*

Consensus was received from Council to direct staff to look into potential grants or programs that are available for Veterans business owners.

Consensus was received from City Council for a zoning text amendment be presented to the Planning Commission in regards to Cannabis.

Study Session was adjourned at 7:39 p.m.

May 7, 2019 Minutes Lemoore City Council Regular City Council Meeting

CALL TO ORDER:

At 7:40 p.m., the meeting was called to order.

ROLL CALL: Mayor: NEAL
Mayor Pro Tem: BILLINGSLEY
Council Members: BLAIR, BROWN, LYONS

City Staff and contract employees present: City Manager Olson; Assistant City Manager Speer; City Attorney Van Bindsbergen; Public Works Director Rivera; Parks and Recreation Director Glick; Community Development Director Holwell; Police Chief Smith; City Clerk Avalos; Management Analyst Champion.

REPORT OUT OF CLOSED SESSION

There was no report out.

PUBLIC COMMENT

Tom Reed stated that the Lemoore High School softball team won their playoff game. He visited Mississippi for a couple of weeks and received a police shoulder patch. He read a written statement in regards to the agreement between the City and Council Member Blair. He stated that the City has expended \$100,000 for this agreement and \$38,000 of which has been paid to cover legal expenses of Council Member Blair. He explained that the City has been having issues with the phone system and the chambers could benefit from having a better sound and video system. The money expended on this agreement could have been used to resolve these issues.

Brian Castadio explained that he has four businesses in the City of Lemoore and he is best friends with Ray Madrigal. He loves Lemoore and states that this has become a circus. He explained that there was a situation that was on camera that was very unprofessional. He looks at those situations and thinks they can be handled better. He suggested looking into positions on the Council for the betterment of Lemoore and it is time to make changes for the good.

Connie Wlaschin asked if the settlement agreement with Council Member Blair allowed her to talk trash about the Council Members on Facebook but not on the dais. She counted two instances on Council Member Blair's Facebook page where she called out other Council Members. She is wondering if this is considered a violation of the agreement.

Kristen Curcio requested that the City create some type of policy that protects the citizens of Lemoore from slander. She stated it is time the City of Lemoore takes a stand.

Susie Banuelos stated that she has been contacted by a few fellow citizens and they feel the same way in regards to being slandered and labeled by a certain Council Member. She would like the City Council to consider something be done.

Shelly Reese feels that this back and forth needs to stop and some point need to move forward with what needs to be done in the City. She attended the Pizza Festival and stated it was a good turnout, but she believes Lemoore has more. She sees more houses, but Lemoore needs more activities and things to do.

Connie J. Willis submitted a letter to be read during public comment. It stated that she is concerned citizen and outlined an instance that happened on Council Member Blair's face book page. She states that she has given Council Member Blair respect and the opposite was given to her.

CEREMONIAL / PRESENTATION – Section 1

1-1 Lemoore Middle College Academic Decathlon Team

The Lemoore Middle College High School Academic Decathlon team was recognized for their achievement of winning National Division IV Championship in Minnesota.

DEPARTMENT AND CITY MANAGER REPORTS – Section 2

2-1 Department & City Manager Reports

Chief Smith informed Council of two upcoming events. Wednesday, May 15th all law enforcement officers who were killed in the line of duty in 2018 will be honored at the Kings County Government Center. The Kings County Probation Department will be hosting the event. May 31st is the annual PAL golf tournament. The Lemoore Volunteer Fire Department will be providing lunch. He stated there was an emergency medical response call at the Police Department. He recognized Mayor Pro Tem Billingsley and Council Member Lyons for being the first to respond. The next two Volunteer Firefighters were local business owners who dropped everything they were doing to respond to the Police Department. He thanked the Volunteer Fire Department for their response and service to the community.

Parks and Recreation Director Glick invited the community to upcoming events. National Senior Health Fitness Day is Thursday, May 29th at 9:00 a.m. Elvis will be performing. A time capsule will be opened at Heritage Park on Friday, June 14th at 12:00 p.m. Prop 68 meetings have been held at Heritage Park. The last meeting at Heritage Park will be June 14th. Youth Spring Indoor Soccer

finished with 700 participants. Mother Son Camp Out had 50 couples. The department is helping with the Brew Fest being held at Kings Lions Park.

City Manager Olson presented Council with samples of water that have gone through laboratory testing at the Wastewater Treatment plant. The system is currently running at 2/3 of the technology. He presented one jar of water that comes from citizens household to be treated. And the second jar with water was passed through 2/3 technology and and still had a final clarifier to go through. Three million gallons of water in a day will be processed.

CONSENT CALENDAR – Section 3

- 3-1 Approval – Minutes – Regular Meeting – April 16, 2019
- 3-2 Approval – Minutes – Special Meeting – April 25, 2019
- 3-3 Approval – Change Order No. 2 for CIP 5203 – Test Hole Drilling and Construction of Production Well 15
- 3-4 Approval – Award Bid – 2019 Slurry Seal and Approve Budget Amendment

Council Member Blair pulled items 3-1, 3-2, 3-3, and 3-4 for separate consideration.

- 3-1 Approval – Minutes – Regular Meeting – April 16, 2019

Motion by Mayor Pro Tem Billingsley, seconded by Council Member Brown, to approve Consent Calendar item 3-1.

Ayes: Billingsley, Brown, Lyons, Neal
Noes: Blair

Tom Reed Spoke.

- 3-2 Approval – Minutes – Special Meeting – April 25, 2019

Motion by Council Member Brown, seconded by Council Member Lyons, to approve Consent Calendar Item 3-2.

Ayes: Brown, Lyons, Billingsley, Neal
Noes: Blair

Tom Reed Spoke.

- 3-3 Approval – Change Order No. 2 for CIP 5203 – Test Hole Drilling and Construction of Production Well 15

Motion by Council Member Brown, seconded by Council Member Lyons, to approve Consent Calendar Item 3-3.

Ayes: Brown, Lyons, Blair, Billingsley, Lyons

Chris Johnson spoke.

- 3-4 Approval – Award Bid – 2019 Slurry Seal and Approve Budget Amendment

Motion by Mayor Pro Tem Billingsley, seconded by Council Member Brown, to approve Consent Calendar Item 3-4.

Ayes: Billingsley, Brown, Lyons, Neal
Noes: Blair

PUBLIC HEARINGS – Section 4

- 4-1 Abatement of Public Nuisances - Properties located at 234 'G' Street (APN 020-021-006) and Empty Lot located West of Cottonwood Lane and East of 19th Avenue between Cherry Lane and Tammy Lane (APN 023-290-030) (Rivera)

Public Hearing was opened at 9:15 p.m.

*Spoke: Judy Middleton
Bruce German*

Public Hearing was closed at 9:20 p.m.

Motion by Council Member Blair, seconded by Council Member Brown, to proceed with the abatement of the properties located at 234 "G" Street and Empty Lot located West of Cottonwood Lane and East of 19th Avenue between Cherry Lane and Tammy Lane and allow the Public Works Director to have purview to work with the property owners at APN 023-290-030 thirty days and the property owners at APN 020-021-006 ninety days to fix the issue.

Ayes: Blair, Brown, Lyons, Billingsley, Neal

NEW BUSINESS – Section 5

- 5-1 Report and Recommendation – Resolution No. 2019-16 – A Resolution of the Lemoore City Council Declaring Emergency and Authorizing Repairs for Well 10 and Approving a Budget Amendment for CIP 5227 – Mechanical Rehabilitation of City Wells (Rivera)

Motion by Council Member Blair, seconded by Council Member Brown, to approve Resolution No. 2019-16 – A Resolution of the Lemoore City Council Declaring Emergency and Authorizing Repairs for Well 10 and approving a Budget Amendment for CIP 5227 – Mechanical Rehabilitation of City Wells.

Ayes: Blair, Brown, Lyons, Billingsley, Neal

*Spoke: Chris Johnson
Tom Reed*

CITY COUNCIL REPORTS AND REQUESTS – Section 6

- 6-1 City Council Reports / Requests

Council Member Lyons stated all is well with KCAO and the Commission on Aging. Provided a flyer for the Senior Health Day hosted by Commission on Aging on May 22, 2019 at the Hanford Civic Auditorium.

Council Member Blair asked for consensus on two items. She stated she would like to have a detailed map on the Council webpage and Facebook to inform constituents which Council Members are represent each district. She would like a listing of all the City of Lemoore fees to

review if they are appropriate costs. She is requesting all fees be cut in half. Consensus was not received for both requests.

Mayor Pro Tem Billingsley thanked the Lemoore Police Department for all they do in the community.

Mayor Neal stated he has lived in Lemoore all his life. He does not agree with a lot of people but that does not mean he goes bashing. He supports LVFD and LPD. He stated the way that he got treated this evening was disheartening. He does not have any hard feelings.

ADJOURNMENT

At 9:45 p.m., Council adjourned.

Approved the 21st day of May 2019.

APPROVED:

Edward Neal, Mayor

ATTEST:

Marisa Avalos, City Clerk



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Staff Report

Item No: 3-2

To: Lemoore City Council
From: Frank Rivera, Public Works Director
Date: April 3, 2019 **Meeting Date:** May 21, 2019
Subject: Contract Modifications with J.R. Filanc Construction for Water Treatment Plant Design-Build

Strategic Initiative:

- | | |
|---|--|
| <input type="checkbox"/> Safe & Vibrant Community | <input type="checkbox"/> Growing & Dynamic Economy |
| <input type="checkbox"/> Fiscally Sound Government | <input type="checkbox"/> Operational Excellence |
| <input checked="" type="checkbox"/> Community & Neighborhood Livability | <input type="checkbox"/> Not Applicable |

Proposed Motion:

Approve contract modifications with J.R. Filanc Construction to assist the city in the Design-Build of the Water Treatment Plant and authorize for the City Manager to execute required and finalized contract documentation.

Subject/Discussion:

At the April 16, 2019, the Council approved the contract and authorized the City Manager to execute the contract documentation for J.R. Filanc Construction to provide Design-Build services for the Water Treatment Plants required for the City to comply with all Compliance Orders for control of Total Trihalomethans (TTHMs).

Upon further consideration of the approved contract, three general modifications were considered advisable and in the best interest of the City:

1. The oversight and approval process for the design phase services were reduced to a single and final submittal at the 60% completion level for design. At this point, the Guaranteed Maximum Price (GMP) for the project would be submitted for review and approval by the City Council. Construction will begin after approval of the 60% design documents to reduce the time required to finalize construction as the remaining design efforts are progressively completed as required for

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sequencing construction of the plants. Further, the time to submittal of the 60% design has been reduced from 90 days to 60 days to assure the delivery of the plant in a timely manner and meet the Compliance Order mandate of June 30, 2020 for completion.

2. The Intellectual Property provisions were modified to reflect the appropriate ownership and licensure of the technology delivered through this project.
3. The oversight and management of the project will be performed by the Owner's Representative for the City and not the Architect. The contract has been modified to reflect this change in project oversight and management.

Financial Consideration(s):

No changes are made to the financial considerations of the project.

Alternatives or Pros/Cons:

Pros:

- City becomes compliant with Compliance Order NO. 03-12-14R-004.
- Water quality increases for residents.

Cons:

- None noted.

Commission/Board Recommendation:

Not applicable.

Staff Recommendation:

Staff recommends that City Council approve the contract modifications as provided and authorize the City Manager to execute the required contract documents.

Attachments:

- ☐ Resolution:
 - ☐ Ordinance:
 - ☐ Map
 - ☒ Contract
 - ☒ Other
- List: Amended Contract

Review:

- ☒ Asst. City Manager
- ☒ City Attorney
- ☒ City Clerk
- ☒ City Manager

Date:

- 05/15/19
- 05/16/19
- 05/16/19
- 05/15/19

AGREEMENT BETWEEN OWNER AND DESIGN-BUILDER

This agreement is effective ~~May~~^{April} ~~16~~¹⁶, 2019, by and between the City of Lemoore, Kings County, California, hereinafter called the "City" or "Owner," and J.R. Filanc Construction, hereinafter called the "Design-Builder" (the "Agreement").

WITNESSETH: That the Design-Builder and the Owner for the consideration hereinafter named agree to enter into this Agreement for design and construction of the Project pursuant to Public Contract Code sections 22160 et seq., as follows:

ARTICLE I. SCOPE OF WORK. For the Owner's Water Treatment Plant Project in Lemoore, California (the "Project"), the Design-Builder agrees to furnish all labor, equipment, and materials, including tools, implements, and appliances required, and to perform all the Work in a good and workmanlike manner, free from any and all liens and claims from mechanics, material suppliers, subcontractors, artisans, machinists, teamsters, freight carriers, and laborers. The Work includes all obligations of the Design-Builder under this Agreement, the Contract, and the Contract Documents (see Article II, below), including all design and construction services necessary to complete the Project.

A. Design Services

The Design-Builder shall complete the design of the Project within the parameters of the approved pilot program and Owner's requirements for design of the Project (the "Design Requirements," or "Bridging Documents") that were included in the Request for Qualifications ("RFQ") and on which the Design-Builder based its SOQ, and within the other requirements of the Contract Documents (including Article VI, below).

The Design-Builder shall prepare a ~~70~~⁶⁰% complete design and Guaranteed Maximum Price (GMP) proposal for final design and construction for the Owner's review and approval, ~~and then prepare a 100% complete design for the Owner's review and approval.~~

Constructability review of the design and value engineering are the responsibility of the Design-Builder, but Owner may provide its own constructability or value engineering comments when reviewing the ~~70~~⁶⁰% ~~or 100%~~ designs. Once the 60% design and associated GMP are approved by the Owner, a Notice to Proceed (NTP) for final design and construction phase services will be issued to the Design-Builder. Final 100% design will be completed by discipline or work package to support construction phasing and expedite completion.

After obtaining Owner ~~approval of NTP for the initial 60~~¹⁰⁰% ~~complete design and GMP development phase~~, the Design-Builder shall ~~submit it to the~~^{coordinate with the} California Division of Drinking Water ("DDW") for review to support permitting of the facilities. The Design-Builder shall make all changes in the design as may be required by DDW and shall obtain all necessary permits from the City Building Department, local fire department, and Kings County ("Design"). If any such changes reduce the scope of the Design Requirements, then the Owner shall be entitled to a deductive change order. If any such changes are outside the scope of the Design Requirements, then the Design-Builder shall be entitled to a change order to the extent that the change increases the Design-Builder's design costs.

B. Construction Services

~~The Design Builder may not commence construction until it obtains all required permits for the Design.~~ The Design-Builder shall perform all construction necessary to construct the Work in

compliance with the Design and the Contract Documents, including the General Conditions.

ARTICLE II. CONTRACT DOCUMENTS. The Design-Builder and the Owner agree that the following documents form the Contract Documents:

- A. The RFQ, including all attachments, appendices and addenda.
- B. The Design-Builder's statement of qualifications in response to the RFQ ("SOQ"), including all attachments, certifications and declarations required to be submitted with the SOQ.
- C. This Agreement.
- D. The General Conditions.
- E. Any written and City Council-approved agreement to modify this Agreement, such as an amendment or change order.
- F. The payment bond.
- G. The performance bond.
- H. The documents listed in Article 1.1.1 of the General Conditions.

This Agreement incorporates the above Contract Documents by reference, and together they constitute the "Contract."

ARTICLE III. TIME TO COMPLETE AND LIQUIDATED DAMAGES.

Time is of the essence in this Contract, and the time of Completion for the Work (the "Contract Time") shall be four hundred sixty (460) calendar days duration from ~~(a) the date of commencement of the Work as established in the Owner's Notice to Proceed~~ for 60% design and GMP phase services, or ~~(b) if no such date is established in a Notice to Proceed from Owner, the date ten (10) calendar days after award of the Contract.~~

In addition, the Design-Builder shall meet the following milestone deadlines:

- Submittal for City Council approval of the ~~6070%~~ 60% design of the Project within ~~sixty (60) calendar days from (a) the date of commencement of the Work as established in the Owner's Notice to Proceed~~ for design phase services, or (b) if no other date is established in a Notice to Proceed from Owner, the date ten (10) calendar days after award of the Contract; and
- ~~City Council approval of the Final 100% Plans and Specifications of the Project within thirty (30) calendar days from approval of the 70% design; and~~
- Completion of the construction of the Project within ~~four (4) hundred and forty (40) calendar days from~~ four (4) hundred and forty (40) calendar days from Notice of Proceed with final design and construction approval of the Final 100% Plans and Specifications.

The time period between substantial completion and DDW approval of permit to operate, (a) Design-Builder's submission of the City Council approved Final 100% Plans and Specifications to DDW, and (b) DDW's response to the Final 100% Plans and Specifications, shall not count against the Contract Time, and the Design-Builder shall be entitled to a time extension for such time period.

Failure to Complete the Work within the Contract Time, or by the milestone deadlines noted above, in the manner provided for by the Contract Documents shall subject the Design-Builder to liquidated damages. For purposes of liquidated damages, the concept of "substantial completion" shall constitute Completion and is part of the Contract Documents. Substantial completion is defined as when the new facilities are producing water and Owner has beneficial use of them. All sites and plants must meet Substantial Completion within the Contract Time. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if the Work were not Substantially Completed within the Contract Time, or by the milestone deadlines noted above, are dependent upon many

circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of delay include, but are not limited to, loss of the use of the Work, disruption of activities, costs of administration, supervision, and the incalculable inconvenience and loss suffered by the public.

Accordingly, the Parties agree that the amount of damages which the Owner shall directly incur upon failure of the Design-Builder to Complete the Work within the Contract Time, or by the milestone deadlines noted above, shall be \$1,000 for each calendar day of delay of such Completion.

If the Design-Builder becomes liable under this section, the Owner, in addition to all other remedies provided by law, shall have the right to withhold any and all retained percentages of payments and/or progress payments, and to collect the interest thereon, which would otherwise be or become due the Design-Builder until the liability of the Design-Builder under this section has been finally determined. If the retained percentages and withheld progress payments appear insufficient to discharge all liabilities of the Design-Builder incurred under this Article, the Design-Builder and its sureties shall continue to remain liable to the Owner for such liabilities until all such liabilities are satisfied in full.

If the Owner accepts any work or makes any payment under this Agreement after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any Agreement provisions regarding time for Completion and liquidated damages.

ARTICLE IV. PAYMENT AND RETENTION. Owner shall pay Design-Builder a total amount for the Work ("GMP or "Contract Sum") which shall be made up of two components: (i) the Design Fee; and (ii) the Construction Fee. The Design Fee shall compensate Design-Builder for the design services as set forth in Article VI. Consistent with the SOQ, the Design Fee shall be \$525,260, and shall be paid in ~~threefour~~ equal monthly installments of \$175,086~~131,315~~.

The Construction Fee will be calculated following: (i) Design-Builder's sufficient completion of its Design Services in accordance with Article VI; (ii) ~~final~~ approval of the Designs and GMP; and (iii) the selection of all subcontractors in accordance with Public Contract Code section 22166(b). Design-Builder shall provide Owner with objectively verifiable information of its costs to perform the Work and a written rationale for the proposed GMP, including documentation sufficient to support the calculation. Design-Builder's written rationale shall detail the construction cost for the Project, consisting of (a) all subcontracts to be awarded by Design-Builder for the Project, (b) any separately awarded contracts for materials and supplies for the Project, and (c) and all related overhead and profit.

The proposed Construction Fee shall be approved or rejected by the Owner at a public meeting before Design-Builder may proceed with construction of the Project. Once approved, the Parties shall execute **Exhibit B** of this Agreement, setting forth the GMP, whereupon **Exhibit B** shall be incorporated into, and become part of the Contract Documents. If mutually acceptable, the GMP may be converted to a fixed, lump sum Construction Fee. If the Owner rejects the Construction Fee and requests another calculation from Design-Builder, then Design-Builder shall submit another calculation complying with this Section's procedures. If the Owner rejects the Construction Fee and does not request another calculation from Design-Builder, then such rejection will act as a Termination for Convenience pursuant to the General Conditions. In such event, Design-Builder shall be entitled to payment for design, estimating and project management services satisfactorily completed, in an amount not to exceed the Design Fee. In the event of Termination for Convenience, the City reserves the absolute right to use the plans in accordance with Article VI(f), and bid the Project. In such event, the City reserves the right to request Design-Builder to act as the Project engineer~~architect~~ at an additional cost to be agreed upon in writing.

Except as otherwise provided in the General Conditions, the Design-Builder shall assume the risk of all
RFQ City of Lemoore
Water Treatment Plant Project

costs in excess of the Contract Sum~~GMP~~ in the performance of such work and shall not be entitled to additional payments because of such excess costs. Should the Design-Builder believe that it is entitled to an increase in the Contract Sum~~GMP~~ or a time extension for completion, it must request it pursuant to the procedures in the General Conditions for change orders and claims. The Design-Builder shall submit monthly payment applications based upon the progress of the Work (Schedule of Values), as described in the Contract Documents, including Article 9 of the General Conditions.

ARTICLE V. CHANGES. Changes in this Agreement or in the Work to be done under this Agreement shall be made as provided in the General Conditions, and shall be in the form of a written amendment or change order to this Agreement approved by the Owner's governing body.

ARTICLE VI. DESIGN RESPONSIBILITIES OF THE DESIGN-BUILDER.

A. Definitions.

1. Design Services. "Design Services" shall mean the Design-Builder's design services, including landscaping architectural services and landscape irrigation design, civil, treatment process, hydraulic, structural, mechanical, instrumentation, controls and electrical engineering services, foreseeably required under law, the standard of care, and this Agreement, to complete the design of the Work, obtain all necessary permits for the Design, and administer the construction of the Work, as further defined in this Article.

2. Wrongful Acts or Omissions. "Wrongful Acts or Omissions" shall mean Design-Builder's acts or omissions in breach of this Agreement, the applicable standard of care, or law.

B. Standard of Care.

City retains Design-Builder to perform, and Design-Builder agrees to provide to City, for the consideration and upon the terms and conditions set forth below, the architectural and engineering services specified in this Agreement and related incidental services. The Design-Builder agrees to perform such services as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. All services performed by the Design-Builder under or required by this Agreement shall be performed (a) in compliance with this Agreement, and (b) in a manner consistent with the level of care and skill ordinarily exercised by architects or engineers in the same discipline, on similar projects in California with similar complexity and with similar agreements, who are specially qualified to provide the services required by the City; and all such services shall be conducted in conformance to, and compliance with, all applicable Federal, State and local laws, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, and the Americans with Disabilities Act ("ADA"). Design-Builder shall be responsible for the completeness and accuracy of the plans and specifications.

C. Design Services.

1. General.

The Design-Builder shall complete the design for the Project in conformance to the Contract Documents, including the Bridging Documents, and applicable law.

The City shall have the right to add or delete from the Design-Builder's scope of Design Services as it may determine is necessary for the best interests of the Project and/or the City. Design-Builder shall expeditiously and diligently perform all of its work and obligations under this Agreement. Design-Builder may not cease, delay or reduce, or threaten to cease, delay or reduce, its performance based on a payment dispute with City.

All personnel provided by Design-Builder shall be qualified to perform the services for which they
RFQ City of Lemoore
Water Treatment Plant Project

are provided. Design-Builder shall obtain City's written approval of each employee of Design-Builder who provides services under this Agreement, and written approval of each change of employees who are providing such services. City may, upon thirty (30) days' written notice, cause Design-Builder to remove a person from the Project if he/she has failed to perform to City's satisfaction. Should additional employees be required to timely perform all of the services required under this Agreement and/or to avoid delay, Design-Builder shall provide them immediately.

Design-Builder is an agent of City and shall reasonably represent the City at all times in relation to the Project.

Design-Builder shall be fully licensed as required by law at all times when providing services under this Agreement.

2. Consultants.

The Design-Builder shall employ or retain at Design-Builder's own expense, engineers and other consultants necessary to Design-Builder's performance of this Agreement and licensed to practice in their respective professions in the State of California. Engineers and consultants retained or employed by Design-Builder for this Project shall be approved by City prior to their commencement of work. The Design-Builder's consultants shall be employed or retained to provide assistance during all aspects of performance of the Design Services for the Project, including but not limited to review of schedules, shop drawings, samples, submittals, and requests for information. The Design-Builder's consultants shall also conduct periodic inspections of the site to determine conformance with the approved design and shall participate in the final inspections and development of any "punch list" items. Design-Builder must disclose to City all such consultants employed or retained, and the compensation paid to those retained.

Design-Builder shall confer and cooperate with consultants retained by City as may be requested by City or as reasonably necessary. City may retain an ~~engineer~~~~architect~~ or construction manager to assist City in performance of City's duties for the Project.

If not done by the City's ~~architect representative~~ for the Project ("~~Architect~~Owner's Representative"), the Design-Builder shall procure a certified survey of the site if required, including grades and lines of streets, alleys, pavements, adjoining properties and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the building site, locations, dimensions and floor elevations of existing buildings, other improvements and trees; and full information as to available utility services and lines, both public and private above and below grade, including inverts and depths. All the information on the survey customarily referenced to a project benchmark shall be referenced to a Project benchmark. The cost of any such survey shall be borne by the City, and the City shall own and, upon termination of this Agreement or Completion of the Project, shall have returned to it by Design-Builder any designs, plans, specifications, studies, drawings, estimates or other documents prepared as part of the survey.

If not done by the ArchitectOwner's Representative, Design-Builder shall procure chemical, mechanical or other tests required for proper design, tests for hazardous materials and borings or test pits necessary for determining subsoil conditions. The cost of any such tests shall be borne by the City, and the City shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by Design-Builder any designs, plans, specifications, studies, drawings, estimates or other documents prepared as part of the testing.

3. Schematic Design Phase.

The Design-Builder shall treat the Bridging Documents as the schematic design for the Project. The Design-Builder shall complete the design of the Project in conformance with the Bridging Documents, as described in this Agreement.

4. Design Development Phase.

Design-Builder shall provide all necessary architectural and engineering services to prepare design development documents for the City Council's written approval, which fix and describe the size and character of the Project and shall outline the specifications of the entire Project as to kind and quality of materials, categories of proposed work such as architectural, structural, mechanical and electrical systems, types of structures and all such other work as may be required. The design development documents shall represent a ~~6070~~6070% complete design, and shall conform to the Bridging Documents and other Contract Documents. Design-Builder shall submit the ~~6070~~6070% development design to the City for its review and for Council approval. Design-Builder is encouraged to make recommendations to City regarding benefits that could be realized by altering the scope of work or completion deadlines. If City incorporates any recommended changes or otherwise does not approve the submitted design development documents, then Design-Builder shall revise the design development documents as necessary until the City Council approves them in writing. Design-Builder shall attend, and present at up to three (3) meetings of the City Council as may be necessary to obtain the Council's approval of the design development documents.

Design-Builder shall prepare necessary documents for and oversee the processing of City's application for and obtaining of required approvals from the DDW, the City Building Department, local fire department, Kings County and other agencies exercising jurisdiction over the Project. Design-Builder shall also be responsible for the preparation and submission of any required applications, notices or certificates to public agencies as required by law. Design-Builder shall provide a copy of all such documents to the City.

5. Completion of Design Phase.

Following the City Council's written approval of the design development documents, the Design-Builder shall prepare ~~for the written approval of the City Council the 100%~~ complete working drawings and specifications in a progressive manner to support construction sequencing detailed in the baseline construction schedule, setting forth the work to be done in detail sufficient for construction, including but not limited to the materials, workmanship, finishes and equipment required for the architectural, structural, mechanical, electrical system, instrumentation and controls and utility-service-connected equipment and site work. The 100% complete design shall conform to, comply with, and satisfy the Bridging Documents and other Contract Documents, as well as all applicable Federal, State and local laws, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, and the ADA. As part of the 100% complete design, Design-Builder shall prepare an accurate set of drawings indicating dimensions and locations of existing buried utility lines, ~~which shall be included in the bid packages~~.

~~Prior to submission of the 100% complete design, the Design Builder shall submit the design to the City for review and for Council approval. Design Builder shall attend, and present at three (3) meetings of the City Council as may be necessary to obtain written approval of the 100% complete design. After approval by the City Council, the Design Builder shall submit the 100% complete design, and make the necessary corrections to secure all required approval.~~

6. Construction Phase.

The construction phase shall begin on the date that Design-Builder obtains the Notice to Proceed for construction following City Council~~complete~~ approval of the ~~60100~~60100% complete design.

GMP and baseline schedule.

The Design-Builder shall be responsible for the preparation and submission of any notifications regarding excavation in areas which are known or suspected to contain subsurface installations under Government Code section 4216, *et seq.* Design-Builder shall provide a copy of all such notifications to the City.

After approval of the design, the Design-Builder may select subcontractors for performance of construction work, and if the scope of a subcontractor's construction work is greater than 0.5% of the total value of the contract price allocable to construction work, then the Design-Builder shall use the procedures specified in Public Contract Code section 22166(b) to select that construction subcontractor. The Design-Builder shall award each construction subcontract on a best value basis.

The Design-Builder shall submit to the City and its [Architect/Owner's Representative](#) all schedules, shop drawings, samples and other submissions as set forth in the Contract Documents. The City and its [Architect/Owner's Representative](#) shall take action within fourteen (14) days of receipt of the submittals, unless the critical path of the Project is impacted in which case the City and its [Architect/Owner's Representative](#) shall take such action as soon as possible. If the City and its [Architect/Owner's Representative](#) are not able to take such action within the required time due to reasons beyond their control, they may take action within a reasonable period of time under the circumstances; however, they shall make such determination within four (4) calendar days of receipt of the submission, and shall notify the Design-Builder immediately after such determination with an explanation as to why they cannot take action within the time required, what they are doing to expedite its response, when they expect to be able to issue a response, and what action, if any, should be taken by the Design-Builder in the meantime to mitigate delays and/or costs. The City and its [Architect/Owner's Representative](#) will have the authority to reject work and materials which do not conform to the Contract Documents, including the Bridging Documents. The approval of a specific item shall not be an approval of an assembly of which the item is a component. Whenever, in the reasonable judgment of the City, it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the City and its [Architect/Owner's Representative](#) will have authority to require special inspection or testing of the work or materials in accordance with the Contract Documents whether or not such work or materials be then fabricated, installed or completed. The City and its [Architect/Owner's Representative](#) will also recommend substitution of materials or equipment when, in their reasonable judgment, such action is necessary to the accomplishment of the intent and purpose of the Contract Documents. Such actions as are described in this paragraph shall be taken with reasonable promptness.

The Design-Builder shall make such regular reports as shall be required by agencies having jurisdiction over the Project and keep the City informed in writing of the progress of the Project.

The Design-Builder will, consistent with standards of due care, make reasonable professional efforts to exclude hazardous materials from new construction. In the event the City or Design-Builder is or becomes aware of the presence of, or exposure of persons to, asbestos, polychlorinated biphenyl (PCB) or any other toxic or hazardous contaminants, materials, air pollutants or water pollutants at the Project site ("Hazardous Substances"), or the substantial risk thereof, each shall have a duty immediately to notify the other in writing. The Parties recognize, however, that neither Design-Builder nor the City is trained or licensed in the recognition or remediation of Hazardous Substances.

Design-Builder shall prepare an accurate set of as-built record drawings indicating dimensions and locations of all work, including but not limited to buried utility lines and mechanical, electrical, [instrumentation, controls](#) and plumbing layouts, which shall be forwarded to the City upon Completion of the Project. Design-Builder shall also assemble and deliver to the City all written guarantees, instruction books, operation and maintenance manuals, diagrams, charts and other documents required under the Contract Documents.

When construction is properly completed, Design-Builder shall provide such certification as to Hazardous Substances as is required ~~of architects~~ for such projects.

Notwithstanding any other provision of this Agreement, the Design-Builder will not be entitled to a change order or additional payment if the underlying issue was caused by a Wrongful Act or Omission. At its own expense, the Design-Builder shall perform all Work caused or necessitated by the Wrongful Act or Omissions. Design-Builder is responsible to ensure that the 100% complete design, and the finished Project based on that design, comply with all standards imposed by the ADA, section 504 of the Rehabilitation Act of 1973, disability access requirements of the State Building Code and any other laws applicable to disability access. If a court, administrative agency or other trier of fact later determines that Design-Builder has violated any of the above-referenced laws, or the City, because of Design-Builder's Wrongful Acts or Omissions, has violated any of the above-referenced laws, Design-Builder shall remedy the violation at its own cost. **Design-Builder shall indemnify, defend and hold the City harmless under Section VI.G of this Agreement for any breach of this paragraph due to Design-Builder's negligence, recklessness or willful misconduct.** In the event that the Design-Builder is or becomes aware of possible non-compliance with the foregoing standards, Design-Builder shall have a duty immediately to notify the City in writing of the possible non-compliance.

7. Use of Previously Prepared Materials. In the event that there exist previously prepared designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings, that were prepared by design professionals other than Design-Builder, whether supplied by the City or by others, which are relied upon, altered or otherwise utilized by Design-Builder, Design-Builder shall be responsible for giving appropriate recognition to such other design professionals in any materials prepared by Design-Builder under this Agreement.

D. Errors and Omissions Insurance.

Prior to the commencement of services under this Agreement, the Design-Builder shall furnish to the City satisfactory proof that the Design-Builder has, for the period covered by this Agreement, errors and omissions insurance on an occurrence basis, with limits of at least Five Million Dollars (\$5,000,000) and with a deductible in an amount not to exceed the sum of Ten Thousand Dollars (\$10,000). If errors and omissions insurance is not reasonably available on an occurrence basis, Design-Builder shall provide errors and omissions insurance on a claims-made basis.

Each of Design-Builder's professional sub-consultants (including consultants of Design-Builder) shall comply with this Section, and Design-Builder shall include such provisions in its contracts with them.

Said insurance shall provide that the coverage afforded thereby shall be primary coverage (and non-contributory to any other existing valid and collectable insurance) to the full limit of liability stated in the Declarations Page and such insurance shall apply separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one (1) insured shall not operate to increase the insurer's limits of liability.

Should any of the required insurance be provided under a claims-made form, Design-Builder shall maintain coverage continuously throughout the term of this Agreement, and without lapse, for a period of at least ten (10) years beyond the Agreement expiration or the completion of construction (whichever is later), to the effect that, should occurrences during the Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policy. Nothing herein shall in any way limit

or diminish Design-Builder's obligations to the City under any provision, including any duty to indemnify and defend the City.

Design-Builder shall not commence work under this Agreement until all required insurance certificates, declarations pages and additional insured endorsements have been obtained and delivered in duplicate to the City for approval. Thereafter Design-Builder shall produce a certified copy of any insurance policy required under this Article upon written request of the City.

At the time of making application for any extension of time, Design-Builder shall submit evidence that all required insurance policies will be in effect during the requested additional period of time.

If the Design-Builder fails to maintain such insurance, the City may, but shall not be required to, take out such insurance, and may deduct and retain the amount of the premiums from any sums due the Design-Builder under this Agreement.

Nothing contained in this Agreement shall be construed as limiting, in any way, the extent to which the Design-Builder may be held responsible for the payment of damages resulting from the Design-Builder's operations.

Each of Design-Builder's consultants shall comply with this Article, and Design-Builder shall include such provisions in its contracts with them.

Insurance companies providing the above policies shall be legally authorized, licensed and admitted through the California Department of Insurance to engage in the business of furnishing insurance in the State of California. All such insurance companies shall have no lower than an "A-, VIII" in Best's Rating Guide and shall be satisfactory to the City.

Any failure to maintain any item of the required insurance may, at the City's sole option, be sufficient cause for termination of this Agreement.

E. Compliance with Laws.

Design-Builder shall be familiar with, and Design-Builder and Design-Builder's design shall comply with, all State and Federal laws and regulations applicable to the Project or lawfully imposed upon the Project by agencies having jurisdiction over the Project, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, prevailing wage law, and the ADA.

F. Ownership of Documents; Licensing of Intellectual Property.

All designs, plans, specifications, studies, drawings, estimates and other documents or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Design-Builder under this Agreement shall be and shall remain the property of the City for all purposes, ~~not only~~ as they relate or may relate to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) ~~but as they relate or may relate to any other project, provided that any invalidity of such ownership in relation to any other project shall not affect the validity of such ownership in relation to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project).~~

The Design-Builder will provide the City with a complete set of reproducible designs, plans, specifications, studies, drawings, estimates and other documents or any other works of authorship fixed in any tangible

medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Design- Builder under this Agreement, and will retain, on the City's behalf, the original documents or reproducible copies of all such original documents, however stored, in the Design-Builder's files for a period of no less than fifteen (15) years. Design-Builder shall promptly make available to the City any original documents it has retained under this Agreement upon request by the City.

This Agreement creates a non-exclusive ~~and perpetual~~ license for the City to copy, use, modify ~~or~~; reuse ~~or sublicense~~ any and all copyrights, designs and other intellectual property embodied in plans, specifications, studies, drawings, estimates and other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Design-Builder under this Agreement, not only as they relate or may relate to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) but as they relate or may relate to other projects, provided that any invalidity of such license in relation to such other projects shall not affect the validity of such license in relation to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project). The Design-Builder shall require any and all subcontractors and consultants to agree in writing that the City is granted a similar non-exclusive ~~and perpetual~~ license for the work of such subcontractors or consultants performed under this Agreement. Prior to copying, using, modifying, or otherwise distributing to third parties any copyrights, designs or other intellectual property created by AdEdge Water Technology, the City will provide Design-Builder and AdEdge Water Technology with reasonable advanced notice to the extent practicable. In the event of an objection, the parties shall meet and confer as to the merits of AdEdge Water Technology's objection.

~~The compensation for this Project includes compensation not only for any use in connection with this Project and use or re-use for repair, maintenance, renovation, modernization or other alterations or revisions to this Project, but also for any re-use by the City in relation to other projects. The only other term or condition of such re-use shall be that if~~

In the event the City reuses the plans prepared by the Design-Builder and retains another certified architect or structural engineer for the preparation of those plans for the re-use, the City shall indemnify and hold harmless the Design-Builder and its consultants, agents, and employees from and against any claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting from, in whole or in part, the re-use to the extent required by law. _

~~Design-Builder represents and warrants that Design-Builder has the legal right to license any and all copyrights, designs and other intellectual property embodied in plans, specifications, studies, drawings, estimates or other documents that Design-Builder or its consultants prepares or causes to be prepared under this Agreement. Design-Builder shall indemnify, defend and hold the City harmless under Section VI.G of this Agreement for any breach of this Section due to Design-Builder's negligence, recklessness or willful misconduct. The Design-Builder makes no such representation and warranty in regard to previously prepared designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings, that were prepared by design professionals other than Design-Builder and provided to Design- Builder by the City.~~

G. Indemnity Regarding Design.

Design-Builder Indemnification – **To the fullest extent permitted by law, including California Civil Code section 2782.8, the Design-Builder shall defend, indemnify, and hold harmless the City, the City**

Council, each member of the Council, and their officers, agents and employees (“City Indemnitees”) against claims arising out of, pertaining to, or relating to negligence, recklessness or willful misconduct of the Design-Builder, the Design-Builder’s officers, employees, or consultants in performing or failing to perform any design work, services, or functions provided for, referred to, or in any way connected with any design work, services, or functions to be performed under this Agreement.

For purposes of this Section VI.G only, (a) “claims” means all claims, demands, actions and suits brought by third parties against the City Indemnitees for any and all losses, liabilities, costs, expenses, damages and obligations, and (b) the Design-Builder’s defense obligation shall include but not be limited to (i) provision of a full and complete defense of the City Indemnitees by an attorney chosen or approved by the City, and (ii) payment of the City’s attorneys’ fees, experts’ fees, and all other litigation costs incurred in the City’s defense (“Defense Costs”) within thirty (30) days of Design-Builder’s receipt of each invoice for such Defense Costs. After conclusion of the action against the City Indemnitees (including all appeals), the City shall reimburse Design-Builder for the portion of the Defense Costs proportionate to the percentage of fault of parties other than the Design-Builder (“Other Parties”) for the amounts paid or owed to the third party by the City Indemnitees, but this duty of reimbursement shall only be owed by the City if there are specific findings in a settlement agreement, arbitration award, or verdict as to the Other Parties’ percentage of fault, and the Design-Builder’s percentage of fault, for those amounts paid or owed to the third party.

If one or more defendants is/are unable to pay its/their share of Defense Costs due to bankruptcy or dissolution of the business, the Design-Builder shall meet and confer with the Other Parties regarding unpaid Defense Costs.

This indemnification shall apply to all liability, as provided for above, regardless of whether any insurance policies are applicable, and insurance policy limits do not act as a limitation upon the amount of the indemnification to be provided by the Design-Builder.

City Indemnification for Use of Third Party Materials – The City shall defend, indemnify, and hold harmless the Design-Builder and its employees against any and all copyright infringement claims by any design professional formerly retained by the City arising out of Design-Builder’s completion, use or re- use of that former design professional’s designs or contract documents in performing this Agreement. Design-Builder shall be entitled to such indemnification only if each of the following conditions are met:

(a) Design-Builder actually re-draws or completes such other designs or contract documents; (b) Design-Builder complies with the provisions of this Agreement regarding use of materials prepared by other design professionals; (c) the City has supplied Design-Builder with the previously prepared documents or materials; and (d) the City expressly requests that the Design-Builder utilize the designs or contract documents in question. By providing this or any other indemnification in this Agreement, the City does not waive any immunities.

ARTICLE VII. TERMINATION. The Owner or Design-Builder may terminate the Contract as provided in the General Conditions.

ARTICLE VIII. PREVAILING WAGES. The Project is a public work. The Work shall be performed as a public work and pursuant to the provisions of section 1770 et seq. of the Labor Code of the State of California, which are hereby incorporated by reference and made a part hereof, the Director of Industrial Relations has determined the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the Work is to be performed, for each craft, classification or type of worker needed to execute this Contract. Per diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, apprenticeship or other training

programs, and similar purposes. Copies of the rates are on file at the Owner's principal office. The rate of prevailing wage for any craft, classification or type of workmanship to be employed on this Project is the rate established by the applicable collective bargaining agreement which rate so provided is hereby adopted by reference and shall be effective for the life of this Agreement or until the Director of the Department of Industrial Relations determines that another rate be adopted. It shall be mandatory upon the Design-Builder and on any subcontractor to pay not less than the said specified rates to all workers employed in the execution of this Agreement.

The Design-Builder and any subcontractor under the Design-Builder as a penalty to the Owner shall forfeit not more than Two Hundred Dollars (\$200.00) for each calendar day or portion thereof for each worker paid less than the stipulated prevailing rates for such work or craft in which such worker is employed. The difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Design-Builder.

The Design-Builder and each Subcontractor shall keep or cause to be kept an accurate record for Work on this Contract showing the names, addresses, social security numbers, work classification, straight time and overtime hours worked and occupations of all laborers, workers and mechanics employed by them in connection with the performance of this Contract or any subcontract thereunder, and showing also the actual per diem wage paid to each of such workers, which records shall be open at all reasonable hours to inspection by the Owner, its officers and agents and to the representatives of the Division of Labor Law Enforcement of the State Department of Industrial Relations. The Design-Builder and each subcontractor shall furnish a certified copy of all payroll records directly to the Labor Commissioner at least monthly.

Public works projects shall be subject to compliance monitoring and enforcement by the Department of Industrial Relations. A contractor or subcontractor shall not be qualified to submit a bid or to be listed in a bid proposal subject to the requirements of Public Contract Code section 4104 unless currently registered and qualified under Labor Code section 1725.5 to perform public work as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code. A contractor or subcontractor shall not be qualified to enter into, or engage in the performance of, any contract of public work (as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code) unless currently registered and qualified under Labor Code section 1725.5 to perform public work.

ARTICLE IX. WORKING HOURS. In accordance with the provisions of sections 1810 to 1815, inclusive, of the Labor Code of the State of California, which are hereby incorporated and made a part hereof, the time of service of any worker employed by the Design-Builder or a subcontractor doing or contracting to do any part of the Work contemplated by this Agreement is limited and restricted to eight hours during any one calendar day and forty hours during any one calendar week, provided, that work may be performed by such employee in excess of said eight hours per day or forty hours per week provided that compensation for all hours worked in excess of eight hours per day, and forty hours per week, is paid at a rate not less than one and one-half (1½) times the basic rate of pay. The Design-Builder and every subcontractor shall keep an accurate record showing the name of and the actual hours worked each calendar day and each calendar week by each worker employed by them in connection with the Work. The records shall be kept open at all reasonable hours to inspection by representatives of the Owner and the Division of Labor Standards Enforcement. The Design-Builder shall as a penalty to the Owner forfeit Twenty-five Dollars (\$25.00) for each worker employed in the execution of this Agreement by the Design-Builder or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day, and forty hours in any one calendar week, except as herein provided.

ARTICLE X. APPRENTICES. The Design-Builder agrees to comply with Chapter 1, Part 7, Division

2, sections 1777.5 and 1777.6 of the California Labor Code, which are hereby incorporated and made a part hereof. These sections require that contractors and subcontractors employ apprentices in apprenticeable occupations in a ratio of not less than one hour of apprentice's work for each five hours of work performed by a journeyman (unless an exemption is granted in accordance with section 1777.5) and that contractors and subcontractors shall not discriminate among otherwise qualified employees as indentured apprentices on any public works solely on the ground of sex, race, religious creed, national origin, ancestry or color. Only apprentices as defined in Labor Code section 3077, who are in training under apprenticeship standards and who have signed written apprentice agreements, will be employed on public works in apprenticeable occupations. The responsibility for compliance with these provisions is fixed with the Design-Builder for all apprenticeable occupations.

ARTICLE XI. SKILLED AND TRAINED WORKFORCE. The Design-Builder and its subcontractors at every tier shall comply with Public Contract Code sections 2600-2602 and 22164, which require the Design-Builder and its subcontractors at every tier to employ a skilled and trained workforce, as defined herein, to perform all Work that falls within an apprenticeable occupation in the building and construction trades.

For the purpose of this Article, the following definitions apply:

- A. "Apprenticeable occupation" means an occupation for which the Division of Apprenticeship Standards of the DIR had approved an apprenticeship program before January 1, 2014.
- B. "Graduate of an apprenticeship program" means either (a) an individual that has been issued a certificate of completion under the authority of the California Apprenticeship Council for completing an apprenticeship program approved by the DIR pursuant to

section 3075 of the Labor Code, or (b) an individual that has completed an apprenticeship program located outside California and approved for federal purposes pursuant to apprenticeship regulations adopted by the federal Secretary of Labor. (See Public Contract Code §2601(c).)

- C. “Skilled and trained workforce” means that all of the workers are either apprentices registered in an apprenticeship program approved by the DIR, or skilled journeypersons, with at least 30 percent of the skilled journeypersons employed on the Project in the following occupations must be graduates of an apprenticeship program: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher. At least 50 percent of the skilled journeypersons employed on the Project in all other apprenticeable occupations must be graduates of an apprenticeship program for work performed on or after January 1, 2019 and before January 1, 2020. The 50 percent requirement will increase over time (see details in Public Contract Code §2601(d)(2)). Pursuant to sections 2600-2602 of the Public Contract Code, the percentage requirement may be partially met in some apprenticeable occupations by skilled journeypersons who commenced working before an apprenticeship program existed, may be met by the hours performed by the skilled journeypersons, need not be met if less than ten (10) hours of work were performed, and need not be met by some subcontractors.
- D. “Skilled journeyperson” means any of the following: (i) a person who has graduated from an apprenticeship program for the applicable occupation that was approved by the DIR, (ii) a person who has graduated from an apprenticeship program for the applicable occupation that was located outside of California and approved for federal purposes in accordance with regulations adopted by the federal Secretary of Labor, or (iii) a person who has at least as many hours of on-the-job experience in the applicable occupation as would be required to graduate from an apprenticeship program approved by the DIR.

For each calendar month during the Work, Design-Builder shall provide a compliance report to the Owner for each contractor or subcontractor before the fifth day of each month, using the format attached hereto as ***Exhibit A***, or in a substantially similar format, demonstrating compliance with this Article, ***except that*** a compliance report is not required for any occupation exempted under Public Contract Code §2601(d)(2)(B)-(D). Such monthly compliance reports shall be subject to the California Public Records Act (commencing with Government Code section 6250), and shall be open to public inspection.

If Contractor fails to comply with this Section 13 then Owner, at its sole discretion, may terminate the Agreement pursuant to Article 14 of the General Conditions, in addition to any other rights or remedies provided to Owner in the Contract Documents. Notwithstanding any other provision of the Agreement or the General Conditions if Contractor fails to provide any required monthly compliance report pursuant to this Section 13 on or before the fifth day of the following month, or provides an incomplete report, Owner shall withhold further payments to Contractor that would otherwise be due and payable consistent with Public Contract Code section 2602(b).

ARTICLE XII. DDW REVIEW PROCESS. The Design-Builder must comply with the applicable requirements of the DDW review process. Design-Builder shall be responsible for any additional fees related to review of proposed changes. If inspected Work is found to be in non-compliance with the construction documents or the DDW-approved testing and inspection, then it must be removed and corrected. Any construction that covers unapproved or uninspected Work is subject to removal and correction, at Design-Builder’s expense, in order to permit inspection and approval of the covered work in accordance with the DDW Review Process.

ARTICLE XIII. INDEMNIFICATION AND INSURANCE. The Design-Builder will defend, indemnify and hold harmless the Owner, its City Council, officers, agents, trustees, employees and others as provided in the Contract Documents, including the General Conditions.

By this statement the Design-Builder represents that it has secured the payment of Workers' Compensation in compliance with the provisions of the Labor Code of the State of California and during the performance of the work contemplated herein will continue so to comply with said provisions of said Code. The Design-Builder shall supply the Owner with certificates of insurance evidencing that Workers' Compensation Insurance is in effect and providing that the Owner will receive thirty (30) days' notice of cancellation.

Design-Builder shall provide the insurance set forth in the General Conditions. The amount of general liability insurance shall be \$4,000,000 per occurrence for bodily injury, personal injury and property damage and the amount of automobile liability insurance shall be \$2,000,000 per accident for bodily injury and property damage combined single limit.

ARTICLE XIV. ENTIRE AGREEMENT. The Contract constitutes the entire agreement between the Parties relating to the Work, and supersedes any prior or contemporaneous agreement between the Parties, oral or written, including the Owner's award of the Contract to Design-Builder, unless such agreement is expressly incorporated herein. The Owner makes no representations or warranties, express or implied, not specified in the Contract. The Contract is intended as the complete and exclusive statement of the Parties' agreement pursuant to Code of Civil Procedure section 1856.

ARTICLE XV. EXECUTION OF OTHER DOCUMENTS. The Parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of the Contract.

ARTICLE XVI. EXECUTION IN COUNTERPARTS. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed Agreement.

ARTICLE XVII. BINDING EFFECT. Design-Builder, by execution of this Agreement, acknowledges that Design-Builder has read this Agreement and the other Contract Documents, understands them, and agrees to be bound by their terms and conditions. The Contract shall inure to the benefit of and shall be binding upon the Design-Builder and the Owner and their respective successors and assigns.

ARTICLE XVIII. SEVERABILITY; GOVERNING LAW; CHOICE OF FORUM. If any provision of the Contract shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. The Contract shall be governed by the laws of the State of California. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County of Kings, subject to transfer of venue under applicable State law, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by Owner.

ARTICLE XIX. AMENDMENTS. The terms of the Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement, including a change order, signed by the Parties and approved or ratified by the City Council.

ARTICLE XX. ASSIGNMENT OF CONTRACT. The Design-Builder shall not assign or transfer by

operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the surety on the payment bond, the surety on the performance bond and the Owner.

ARTICLE XXI. WRITTEN NOTICE. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified or overnight mail to the last business address known to the person who gives the notice.

DESIGN-BUILDER:

a California corporation

BY: _____

TITLE: President, Vice President, or Chairman

BY: _____
TITLE: Secretary, Assistant Secretary, CFO,
or Assistant Treasurer

OWNER:

City of Lemoore

BY: _____

TITLE: City Manager

CALIFORNIA ARCHITECT LICENSE

NO. LICENSE EXPIRATION DATE

CALIFORNIA CONTRACTOR'S LICENSE NO.

LICENSE EXPIRATION DATE

NOTE: Design-Builder must give the full business address of the Design-Builder and sign with Design-Builder's usual signature. Partnerships must furnish the full name of all partners and the Agreement must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature. Corporations must sign with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and

designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of the officer signing on behalf of a corporation shall be furnished.

EXHIBIT A

**FORM FOR MONTHLY REPORTING OF
SKILLED AND TRAINED WORKFORCE**

SKILLED AND TRAINED WORKFORCE COMPLIANCE REPORT
(Public Contract Code §§2600 et seq.)

Owner: City of Lemoore

Contract: Water Treatment Plant Project

Lemoore, Kings County, California

The undersigned declares:

I am the _____ of _____, the “Design-Builder” on the Project identified above. I hereby certify that during the month of _____, 20__, there were a total of _____ workers employed in the apprenticeable occupations designated under Public Contract Code section 2600 *et seq.* and these workers performed a total of _____ hours of work within an apprenticeable occupation. I certify that all of these workers in an apprenticeable occupation are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the Department of Industrial Relations (DIR), and that all of these hours performed in this apprenticeable occupation were performed by such skilled journeypersons and apprentices. I certify that each subcontractor who performed work during the aforementioned month has provided to Contractor a Skilled and Trained Workforce Compliance Report consistent with Public Contract Code section 2602.

Following review of all Skilled and Trained Workforce Compliance Reports, I also certify as follows [*check applicable box(es)*]:

☐ **A. Exemption from Percentage Compliance**

Of the above total number of hours of work performed by workers employed in an apprenticeable occupation this month, _____ were performed by skilled journeypersons, which is less than the statutory threshold of ten (10) hours.

☐ **B. Percentage Compliance by Number of Workers**

1. Of the above total number of workers employed in an apprenticeable occupation this month, _____ were apprentices registered in an apprenticeship program approved by the DIR.
2. Of the above total number of workers employed in an apprenticeable occupation in this month, _____ were skilled journeypersons. Included in these skilled journeypersons are the following:
 - a. _____ who are graduates of an apprenticeship program for the following occupations: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile drive, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher;

- b. [REDACTED] who are graduates of another apprenticeship program not listed in subsection (a) for the applicable occupation; and
- c. [REDACTED] who are not graduates of an approved apprenticeship program for this apprenticeable occupation, but (a) no apprenticeship program had been approved by the DIR before January 1, 1995, for this apprenticeable occupation; and (b) these workers commenced working in this apprenticeable occupation before DIR approval of an apprenticeship program for that occupation in the county in which the Project is located.

The combined number of skilled journeypersons listed in Section B.1 and Section B.2 meets the requirements as contained in Education Code section 17407.5 and Public Contract Code sections 2600-2602, with no more than half of this percentage requirement being satisfied by the number of skilled journeypersons listed in Section B.2.c.

☐ **C. Percentage Compliance by Number of Hours**

- 1. Of the above total number of hours of work performed by workers employed in this apprenticeable occupation this month, [REDACTED] hours were performed by apprentices registered in an apprenticeship program approved by the DIR.
- 2. Of the above total number of hours of work performed by workers employed in this apprenticeable occupation in this month, [REDACTED] hours were performed by skilled journeypersons. Included in these hours are the following:
 - a. [REDACTED] hours performed by graduates of an apprenticeship program for the following occupations: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher;
 - b. [REDACTED] hours performed by graduates of another apprenticeship program not listed in subsection (a) for the applicable occupation; and
 - c. [REDACTED] hours performed by skilled journeypersons who are not graduates of an approved apprenticeship program for this apprenticeable occupation, but (a) no apprenticeship program had been approved by the DIR before January 1, 1995, for this apprenticeable occupation; and (b) these workers commenced working in this apprenticeable occupation before DIR approval of an apprenticeship program for that occupation in the county in which the Project is located.

The combined hours of work performed by skilled journeypersons listed in Section C.1 and Section C.2 meets the percentage requirements as set forth in Education Code section 17407.5 and Public Contract Code sections 2600-2602, with no more than half of this percentage requirement being satisfied by the hours performed by skilled journeypersons listed in Section C.2.c.

☐ **D. Failure of a Subcontractor to Demonstrate Compliance**

This Skilled and Trained Workforce Compliance Report does not demonstrate compliance with the graduate percentage requirement due to the failure of the following subcontractor(s):

RFQ City of Lemoore
Water Treatment Plant Project

The value of the monthly billing for the listed subcontractor(s) is \$. I have attached sufficient information to document to value of the monthly billing and understand that the District will withhold 150 percent of the aforementioned amount until a plan to achieve substantial compliance is approved by the District consistent with Public Contract Code section 2602(c).

I certify that the subcontractor(s) will be substituted pursuant to Public Contract Code section 4100 *et seq.*, unless that subcontractor provides a plan to achieve compliance consistent with Public Contract Code section 2602(c).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 20_ , at _____[city], California.

[Name]

EXHIBIT B

FINAL GMP AND CONSTRUCTION FEE

[TO BE COMPLETED AND EXECUTED FOLLOWING COUNCIL APPROVAL]

The GMP shall be \$ _____. The GMP consists of: (i) the Design Fee of \$ _____; and (ii) the Construction Fee of _____, and shall be paid in accordance with Article IV. Except as otherwise provided in the General Conditions, the Design-Builder shall assume the risk of all costs in excess of the GMP in the performance of such work and shall not be entitled to additional payments because of such excess costs.

DESIGN-BUILDER:

a California corporation

BY: _____

TITLE: President, Vice President, or Chairman

BY: _____
TITLE: Secretary, Assistant Secretary, CFO,
or Assistant Treasurer

OWNER:

City of Lemoore

BY: _____

TITLE: City Manager

EXHIBIT E

GENERAL CONDITIONS

ARTICLE 1

GENERAL CONDITIONS

1.1 BASIC DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The “Contract Documents” consist of the Agreement between Owner and Design-Builder (hereinafter the Agreement), all attachments and exhibits to the Agreement, Conditions of the Contract (General, Supplementary, and any other Conditions), the Request for Proposal including all design requirements and the pilot program summary (i.e., “Bridging Documents”), Design-Builder’s proposal, Payment Bond, Performance Bond, required insurance certificates, additional insured endorsement and declarations page, Designation of Subcontractors, Noncollusion Declaration, Roof Project Certification (where applicable), Sufficient Funds Declaration (Labor Code section 2810), Workers’ Compensation Certification, Drug-Free Workplace Certification, Iran Contracting Act Certification, other documents referred to in the Agreement, and Modifications issued after execution of the Agreement. A Modification is a written amendment to the Contract signed by both parties, a Change Order, a Construction Change Directive, or a written order for a minor change in the Work issued by the Owner. The Contract Documents are complementary, and each obligation of the Design-Builder, Subcontractors, material or equipment suppliers in any one shall be binding as if specified in all.

1.1.2 THE CONTRACT

The Contract Documents form the Contract. The “Contract” represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a written Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind between the ~~Architect~~[Owner’s Representative](#) and Design-Builder, between the Owner and any Subcontractor or Sub-subcontractor, or between any persons or entities other than the Owner and the Design-Builder. The terms of the Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by the parties and approved or ratified by the City Council.

1.1.3 THE WORK

The “Work” shall include all labor, materials, services and equipment necessary for the Design-Builder to fulfill all of its obligations pursuant to the Contract Documents, including but not limited to preparation of the 100% complete design of the Project (the “Design”), performance of all construction work, including punch list items, and submission of documents to Owner. It shall include the initial obligation of any Design-Builder or Subcontractor, who performs any portion of the Work, to visit the Site of the proposed Work with Owner’s representatives, a continuing obligation after the commencement of the Work to fully acquaint and familiarize itself with the conditions as they exist and the character of the operations to be carried on under the Contract Documents, and make such investigation as it may see fit so that it shall fully

understand the facilities, physical conditions, and restrictions attending the Work under the Contract Documents. Each such Design-Builder or Subcontractor shall also thoroughly examine and become familiar with the Drawings, Specifications, and associated bid documents. The “Site” refers to the grounds of the Project as defined in the Contract Documents and such adjacent lands as may be directly affected by the performance of the Work. The Work shall constitute a “work of improvement” under Civil Code section 8050 and Public Contract Code section 7107.

1.1.4 THE PROJECT

The “Project” is the total design and construction of the work of improvement, and includes the Work performed in accordance with the Contract Documents.

1.1.5 THE DRAWINGS

The “Drawings” are graphic and pictorial portions of the Contract Documents prepared for the Project and approved changes thereto, wherever located and whenever issued, showing the design, location, and scope of the Work, generally including plans, elevations, sections, details, schedules, and diagrams as drawn or approved by the ~~Architect~~[Owner’s Representative](#).

1.1.6 THE SPECIFICATIONS

The “Specifications” are that portion of the Contract Documents consisting of the written requirements for material, equipment, construction systems, instructions, quality assurance standards, workmanship, and performance of related services.

1.1.7 THE PROJECT MANUAL

The “Project Manual” is the volume usually assembled for the Work which may include, without limitation, the bidding requirements, sample forms, Agreement, Conditions of the Contract, and Specifications.

1.1.8 OR

“Or” shall include “and/or.”

1.1.9 COMPLETION AND COMPLETE

Statutory definitions of “Completion” and “Complete” shall apply for those statutory purposes. For all other purposes, including accrual of liquidated damages, Claims, and warranties, “Completion” and “Complete” mean the point in the Work where (1) Design-Builder has fully and correctly performed all Work in all parts and requirements, including design, construction, and corrective and punch list work, and (2) Owner’s representatives have conducted a final inspection that confirmed this performance. Substantial, or any other form of partial or non-compliant, performance shall not constitute “Completion” or “Complete.”

1.2 EXECUTION, CORRELATION AND INTENT

1.2.1 CORRELATION AND INTENT

1.2.1.1 *Documents Complementary and Inclusive.* The Contract Documents are complementary and are intended to include all items required for the proper execution and Completion of the Work.

1.2.1.2 *Coverage of the Contract Documents.* The Contract Documents generally describe the work to be performed by Design-Builder. It is not intended to mention every item of Work. All materials or labor for Work, which are required by the Contract Documents or the Design (or is reasonably inferable therefrom as being necessary to Complete the Work), shall be provided by the Design-Builder whether or not the Work is expressly covered in the Contract Documents. It is intended that the Work be of sound, quality construction, and the Design-Builder shall be responsible for the inclusion of adequate amounts to cover installation of all items indicated, described, or implied in the portion of the Work to be performed by Design-Builder.

1.2.1.3 *Conflicts.* Without limiting Design-Builder's obligation to identify conflicts in the Contract Documents for resolution by the Owner, it is intended that the more stringent, higher quality, and greater quantity of Work shall apply.

1.2.1.4 *Conformance With Laws.* Each and every provision of law required by law to be inserted in this Contract shall be deemed to be inserted herein, and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon application of either party the Contract shall be amended in writing to make such insertion or correction.

Before commencing any portion of the Work, Design-Builder shall check and review the Contract Documents for conformance and compliance with all laws, ordinances, codes, rules and regulations of all governmental authorities and public utilities affecting the construction and operation of the physical plant of the Project, all quasi-governmental and other regulations affecting the construction and operation of the physical plant of the Project, and other special requirements, if any, designated in the Contract Documents. In the event Design-Builder observes any violation of any law, ordinance, code, rule or regulation, or inconsistency with any such restrictions or special requirements of the Contract Documents, Design-Builder shall promptly notify Owner in writing of same and shall ensure that any such violation or inconsistency shall be corrected in the manner provided hereunder prior to the construction of that portion of the Work. Where requirements of the Contract Documents exceed those of the applicable building codes and ordinances, the Contract Documents shall govern. Design-Builder shall comply with all applicable Federal, State and local laws.

If, as, and to the extent that Public Contract Code section 1104 is deemed to apply after the award of the Contract, Design-Builder shall not be required to assume responsibility for the completeness and accuracy of the Contract Documents, notwithstanding any other provision in the Contract Documents, except to the extent that Design-Builder discovered or should have

discovered and reported any errors and omissions to the Owner, including but not limited to as the result of any review of the plans and specifications by Design-Builder required by the Instructions to Bidders or other Contract Documents, whether or not actually performed by Design-Builder.

1.2.1.5 **Ambiguity.** Before commencing any portion of the Work, Design-Builder shall carefully examine all Contract Documents and other information given to Design-Builder as to materials and methods of construction and other Project requirements. Design-Builder shall immediately notify [Architect/Owner's Representative](#) and Owner in writing of any perceived or alleged error, inconsistency, ambiguity, or lack of detail or explanation in the Contract Documents in the manner provided herein. If the Design-Builder or its Subcontractors, material or equipment suppliers, or any of their officers, agents, and employees performs, permits, or causes the performance of any Work under the Contract Documents, which it knows or should have known to be in error, inconsistent, or ambiguous, or not sufficiently detailed or explained, Design-Builder shall bear any and all costs arising therefrom including, without limitation, the cost of correction thereof without increase or adjustment to the Contract Sum or the time for performance. If Design-Builder performs, permits, or causes the performance of any Work under the Contract Documents prepared by or on behalf of Design-Builder which is in error, inconsistent or ambiguous, or not sufficiently detailed or explained, Design-Builder shall bear any and all resulting costs, including, without limitation, the cost of correction, without increase to or adjustment in the Contract Sum or the time for performance. In no case shall any Subcontractor proceed with the Work if uncertain without the Design-Builder's written direction and/or approval.

1.2.1.6 **Execution.** Execution of the Agreement Between Owner and Design-Builder by the Design-Builder is a representation that the Design-Builder has visited the site, become familiar with the local conditions under which the Work is to be performed and has correlated personal observations with the requirements of the Contract Documents.

1.2.3 INTERPRETATION

1.2.3.1 **Titles.** Organization of the Contract Documents into divisions, sections and articles shall not control the Design-Builder in dividing the Work among Subcontractors or in establishing the extent of work to be performed.

1.2.3.2 **As Shown, Etc.** Where "as shown," "as indicated," "as detailed," or words of similar import are used, reference is made to the Contract Documents unless otherwise stated. Where "as directed," "as required," "as permitted," "as authorized," "as accepted," "as selected," or words of similar import are used, the direction, requirement, permission, authorization, approval, acceptance, or selection by [Architect/Owner's Representative](#) is intended unless otherwise stated.

1.2.3.3 **Provide.** "Provide" means "provided complete in place," that is, furnished, installed, tested, and ready for operation and use.

1.2.3.4 **General Conditions.** The General Conditions and any Supplementary or other Conditions are a part of each and every section of the Contract Documents.

1.2.3.5 **Abbreviations.** In the interest of brevity, the Contract Documents may be written in an abbreviated form and may not include complete sentences. Omission of words or phrases such as “Design-Builder shall,” “shall be,” etc., are intentional. Nevertheless, the requirements of the Contract Documents are mandatory. Omitted words or phrases shall be supplied by inference.

1.2.3.6 **Plural.** Words in the singular shall include the plural whenever applicable or the context so indicates.

1.2.3.7 **Metric.** The Contract Documents may indicate metric units of measurement as a supplement to U.S. customary units. When indicated thus: 1” (25 mm), the U. S. customary unit is specific, and the metric unit is nonspecific. When not shown with parentheses, the unit is specific. The metric units correspond to the “International System of Units” (SI) and generally follow ASTM E 380, “Standard for Metric Practice.”

1.2.3.8 **Standard Specifications.** Any reference to standard specifications of any society, institute, association, or governmental authority is a reference to the organization’s standard specifications, which are in effect as of the date the Notice to Bidders is first published. If applicable specifications are revised prior to Completion of any part of the Work, the Design-Builder may, if acceptable to Owner and [Architect/Owner’s Representative](#), perform such Work in accordance with the revised specifications. The standard specifications, except as modified in the Contract Documents, shall have full force and effect as though printed in the Contract Documents. [Architect/Owner’s Representative](#) will furnish, upon request, information as to how copies of the standard specifications referred to may be obtained.

1.2.3.9 **Absence of Modifiers.** In the interest of brevity, the Contract Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

1.3 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

The Contract Documents prepared on behalf of the Owner are instruments of the services of the [Architect/Design-Builder](#) and its consultants and are the property of the Owner. The Design-Builder may retain one contract record set. Neither the Design-Builder nor any Subcontractor, Sub-subcontractor, or material or equipment supplier shall own or claim a copyright in the Contract. ~~Documents prepared by the Architect, and unless otherwise indicated the Architect shall be deemed the author of them.~~ All copies of them, except the Design-Builder’s record set, shall be returned or suitably accounted for to the Owner, upon request upon Completion of the Work. The Contract Documents ~~prepared by the Architect,~~ and copies thereof furnished to the Design-Builder, are for use solely with respect to this Contract. They are not to be used by the Design-Builder or any Subcontractor, Sub-subcontractor, or material or equipment supplier on other contracts or for additions to this Contract outside the scope of the Work without the specific written consent of the Owner ~~and the Architect.~~ The Design-Builder, Subcontractors, ~~Sub-subcontractors,~~ and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the Contract Documents ~~prepared by the Architect~~ appropriate

to and for use in the execution of their Work under the Contract Documents. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Owner's property interest or other reserved right. All copies made under this license shall bear appropriate attribution and the statutory copyright notice, if any, shown on the Contract Documents ~~prepared by the Architect~~.

ARTICLE 2

OWNER

2.1 DEFINITION

The term "Owner" means the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner and/or the Owner's authorized representatives, including but not limited to architects and construction managers. To the extent the Contract Documents indicate that Owner has assigned duties to particular representatives of the Owner (such as the ~~Architect~~Owner's Representative, or Construction Manager), Owner reserves the right at all times to reassign such duties to different Owner representatives.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

2.2.1 INTENTIONALLY LEFT BLANK

2.2.2 SITE SURVEY

When required by the scope of the Project, the Owner will furnish, at its expense, a legal description or a land survey of the Site, giving, as applicable, grades and lines of streets, alleys, pavements, adjoining property, rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the Site. Surveys to determine locations of construction, grading, and site work shall be provided by the Design-Builder.

2.2.3 SOILS

2.2.3.1 Owner Furnished Services. When required by the scope of the Project, the Owner will furnish, at its expense, the services of geotechnical engineers or consultants when reasonably required or as required by local or state codes. Such services with reports and appropriate professional recommendations shall include test boring, test pits, soil bearing values, percolation tests, air and water pollution tests, and ground corrosion and resistivity tests, including necessary operations for determining subsoil, air, and water conditions.

2.2.3.2 Design-Builder Reliance. Test borings and soils reports for the Project have been made for the Owner to indicate the subsurface materials that might be encountered at particular locations on the Project. The Owner has made these documents available to the

Design-Builder and the Design-Builder has studied the results of such test borings and information that it has as to the subsurface conditions and Site geology as set forth in the test borings and soils reports. The Owner does not assume any responsibility whatsoever with respect to the sufficiency or accuracy of the borings made, or of the logs of the test borings, or of other investigations, or of the soils reports furnished pursuant hereto, or of the interpretations to be made beyond the location or depth of the borings. There is no warranty or guarantee, either express or implied that the conditions indicated by such investigations, borings, logs, soil reports or other information are representative of those existing throughout the Site of the Project, or any part thereof, or that unforeseen developments may not occur. At the Owner's request, the Design-Builder shall make available to the Owner the results of any Site investigation, test borings, analyses, studies or other tests conducted by or in the possession of the Design-Builder of any of its agents. Nothing herein contained shall be deemed a waiver by the Design-Builder to pursue any available legal right or remedy it may have at any time against any third party who may have prepared any report and/or test relied upon by the Design-Builder.

2.2.4 UTILITY SURVEY

When required by the scope of the Project, the Owner will furnish, at its expense, all information regarding known existing utilities on or adjacent to the Site, including location, size, inverts, and depths.

2.2.5 INFORMATION

Upon the request of the Design-Builder, Owner will make available such existing information regarding utility services and Site features, including existing construction, related to the Project as is available from Owner's records. The Design-Builder may not rely upon the accuracy of any such information, other than that provided under Sections 2.2.2 and 2.2.4 (except that the Design-Builder may not rely upon, and must question in writing to the Owner and the [Architect/Owner's Representative](#), any information which appears incorrect based upon Design-Builder's Site inspection, knowledge of the Work, and prior experience with similar projects), unless specifically stated in writing that the Design-Builder may rely upon the designated information.

2.2.6 EXISTING UTILITY LINES; REMOVAL, RELOCATION

2.2.6.1 Removal, Relocation. Pursuant to Government Code section 4215, the Owner assumes the responsibility for removal, relocation, and protection of utilities located on the Site at the time of commencement of construction under this Contract with respect to any such utility facilities which are not identified in the drawings and specifications made part of the invitation to bid. The Design-Builder shall not be assessed for liquidated damages for delay in Completion of the Work caused by failure of the Owner to provide for removal or relocation of such utility facilities. Owner shall compensate the Design-Builder for the costs of locating, repairing damage not due to the failure of the Design-Builder to exercise reasonable care, removing or relocating such utility facilities, and for equipment necessarily idle during such work.

2.2.6.2 Assessment. These subparagraphs shall not be construed to preclude assessment against the Design-Builder for any other delays in Completion of the Work. Nothing in these subparagraphs shall be deemed to require the Owner to indicate the presence of existing service

laterals or appurtenances whenever the presence of such utilities on the Site can be inferred from the presence of other visible facilities, such as buildings, or meter junction boxes on or adjacent to the Site.

2.2.6.3 Notification. If the Design-Builder, while performing work under this Contract, discovers utility facilities not identified by the Owner in the Contract plans or specifications, Design-Builder shall immediately notify the Owner and the utility in writing.

2.2.6.4 Underground Utility Clearance. It shall be Design-Builder's sole responsibility to timely notify all public and private utilities serving the Site prior to commencing work. The Design-Builder shall notify and receive clearance from any cooperative agency, such as Underground Service Alert, in accordance with Government Code section 4216, et seq. Design-Builder shall promptly provide a copy of all such notifications to the Owner.

2.2.7 EASEMENTS

Owner shall secure and pay for easements for permanent structures or permanent changes in existing facilities, if any, unless otherwise specified in the Contract or Contract Documents.

2.2.8 REASONABLE PROMPTNESS

Information or services under Owner's control will be furnished by the Owner with reasonable promptness. The Owner shall not be liable for any delays caused by factors beyond the Owner's control including but not limited to any other local, State or federal agency's review of bids, change order requests, RFI's or any other documents.

2.2.9 COPIES FURNISHED

The Design-Builder will be furnished such copies of Drawings and Project Manuals as are stated in the Contract Documents.

2.2.10 DUTIES CUMULATIVE

The foregoing are in addition to other duties and responsibilities of the Owner enumerated herein, and especially those in Article 6 (Construction by Owner or by Separate Design-Builders), Article 9 (Payments and Completion), and Article 11 (Insurance and Bonds).

2.3 OWNER'S RIGHT TO STOP THE WORK

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Contract Documents or the Design, or persistently fails to carry out Work in accordance with the Contract Documents or the Design, the Owner, after providing Notice pursuant to paragraph 2.4, may order the Design-Builder to stop the Work or any portion thereof, until the Design-Builder corrects the deficiencies. The right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any

other person or entity, except to the extent required by Article 6.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Design-Builder fails or refuses to carry out the Work in accordance with the Contract Documents or the Design, Owner may correct such deficiencies by whatever reasonable method the Owner may deem expedient without prejudice to other remedies the Owner may have, including but not limited to having another contractor perform some or all of the Work without terminating the Contract with Design-Builder. Owner may exercise this right at any time during the Design-Builder's Work.

Owner shall first provide written notice to Design-Builder of Design-Builder's failure or refusal to perform. The notice will provide the time period within which Design-Builder must begin correction of the failure or refusal to perform. If the Design-Builder fails to begin correction within the stated time, or fails to continue correction, the Owner may proceed to correct the deficiencies. In the event the Owner bids the work, Design-Builder shall not be eligible for the award of the contract. The Design-Builder may be invoiced the cost to Owner of the work, including compensation for additional professional and internally generated services and expenses made necessary by Design-Builder's failure or refusal to perform. Owner may withhold that amount from the retention, or progress payments due the Design-Builder, pursuant to Section 9.5. If retention and payments withheld then or thereafter due the Design-Builder are not sufficient to cover that amount, the Design-Builder shall pay the difference to the Owner.

ARTICLE 3

THE DESIGN-BUILDER

3.1 DEFINITION

The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative. To the extent that any portion of the Work is provided with the Design-Builder's own forces, any reference to Subcontractors shall be equally applicable to the Design-Builder.

3.2 SUPERVISION AND CONSTRUCTION PROCEDURES

3.2.1 DESIGN-BUILDER

The Design-Builder shall supervise and direct the Work using the Design-Builder's best skill and attention, which shall meet or exceed the standards in the industry. The Design-Builder shall be solely responsible for and have control over construction means, methods, techniques, sequences, procedures, and coordinating all portions of the Work under the Contract, unless Contract Documents give other specific instructions concerning these matters. Owner and Construction Manager shall schedule and coordinate the activities of Design-Builder with the other contractors and Owner. Design-Builder agrees to accept the Owner's and Construction

Manager's construction schedules, schedule updates, overall sequence and coordination of construction for the Project. Design-Builder realizes that work by other contractors or Owner may occur simultaneously with Design-Builder's Work in any given area. Design-Builder is responsible for its own sequences that may occur within a given activity or set of activities. Design-Builder shall not commit or permit any act which will adversely affect the work of any other contractor or Owner. Design-Builder shall provide layout of its Work at the request of any other contractor or Owner.

3.2.2 DESIGN-BUILDER RESPONSIBILITY

The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Subcontractors, material and equipment suppliers, and their agents, employees, invitees, and other persons performing portions of the Work under direct or indirect contract with the Design-Builder or any of its Subcontractors.

3.2.3 OBLIGATIONS NOT CHANGED BY OTHER'S ACTIONS

The Design-Builder shall not be relieved of obligations to perform the Work in accordance with the Contract Documents by the activities or duties of the Owner's representatives, including but not limited to any construction manager and the [Architect/Owner's Representative](#), or the Inspector of Record; or by tests, inspections, or approvals required or performed by persons other than the Design-Builder.

3.2.4 DESIGN-BUILDER RESPONSIBILITY FOR READINESS FOR WORK

The Design-Builder shall be responsible for inspection of Work already performed under the Contract Documents to determine that such portions are in proper condition to receive subsequent work.

3.2.5 PROJECT MEETINGS

During its Work, Design-Builder shall attend Owner's Project meetings as scheduled by the Contract Documents, or as otherwise instructed by Owner, to discuss the current status of the Work and the Project, and the future progress of the Work and the Project. Design-Builder shall have five (5) days after receipt of [Owner's Design-Builder's](#) Project meeting minutes to provide written objections and suggested corrections.

3.3 SUPERINTENDENT

3.3.1 FULL TIME SUPERINTENDENT

The Design-Builder shall provide a competent superintendent and assistants as necessary, all of whom shall be reasonably proficient in speaking, reading and writing English and, who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Design-Builder, and communications given to the superintendent shall be as binding as if given to the Design-Builder.

3.3.2 STAFF

The Design-Builder and each Subcontractor shall: furnish a competent and adequate staff as necessary for the proper administration, coordination, supervision, and superintendence of its portion of the Work; organize the procurement of all materials and equipment so that the materials and equipment will be available at the time they are needed for the Work; and keep an adequate force of skilled workers on the job to Complete the Work in accordance with all requirements of the Contract Documents.

3.3.3 RIGHT TO REMOVE

Owner shall have the right, but not the obligation, to require the removal from the Project of any superintendent, staff member, agent, or employee of any Design-Builder, Subcontractor, material or equipment supplier, etc., for cause.

3.4 LABOR AND MATERIALS

3.4.1 DESIGN-BUILDER TO PROVIDE

Unless otherwise provided in the Contract Documents, the Design-Builder shall provide and pay for labor, material, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and Completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

3.4.2 QUALITY

Unless otherwise specified, all materials and equipment to be permanently installed in the Project shall be new and shall be of such quality as required to satisfy the standards of the Contract Documents and the Design. The Design-Builder shall, if requested, promptly furnish satisfactory evidence as to kind and quality of all materials and equipment. All labor shall be performed by workers skilled in their respective trades, and the quality of their work shall meet whichever is the higher standard for their work: the standard in the industry or the standard in the Contract Documents.

3.4.3 REPLACEMENT

Any work, materials, or equipment, which does not conform to these standards may be disapproved and rejected by the Owner, in which case, they shall be removed and replaced by the Design-Builder at no cost to the Owner.

3.4.4 DISCIPLINE

The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Contract in accordance with paragraph 5.5.1 including, but not limited to, Subcontractors, and material or equipment suppliers retained for the

Project.

3.5 WARRANTY

For the period of one (1) year after Completion of the Work (see Sections 9.7.1, 12.2.5, and 12.2.6), the Design-Builder warrants to the Owner that material and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents and the Design, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents and the Design. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Design-Builder's warranty does not cover damage or defect caused by abuse, modifications not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

3.6 TAXES

Design-Builder will pay all applicable Federal, State, and local taxes on all materials, labor, or services furnished by it, and all taxes arising out of its operations under the Contract Documents. Owner is exempt from Federal Excise Tax, and a Certificate of Exemption shall be provided upon request.

3.7 PERMITS, FEES ANDNOTICES

3.7.1 PAYMENT

The Design-Builder shall secure and pay for all permits and governmental fees, licenses, and inspections necessary for proper execution and Completion of the Work which are customarily secured after execution of the Contract and are legally required by any authority having jurisdiction over the Project. Owner shall be responsible for all testing and inspection on-Site or within the distance limitations set forth in paragraph 13.5.2, unless a different mileage range is specified in the Contract Documents.

3.7.2 COMPLIANCE

The Design-Builder shall comply with and give notices required by any law, ordinance, rule, regulation, and lawful order of public authorities bearing on performance of the Work.

3.7.3 CONTRACT DOCUMENTS

It is not the Design-Builder's responsibility to ascertain that the Contract Documents are in accordance with any applicable law, statute, ordinance, building codes, rule, or regulation. However, if the Design-Builder knew, or should have known, or observes that portions of the Contract Document are at variance therewith, the Design-Builder shall promptly notify the [Architect/Owner's Representative](#), any construction manager, and Owner in writing, and necessary changes shall be

accomplished by appropriate modification.

3.7.4 RESPONSIBILITY

If the Design-Builder performs Work that it knows, or should have known, is contrary to any law, statute, ordinance, building code, rule or regulation, the Design-Builder shall assume full responsibility for such Work, and shall bear the attributable cost of correction and delay to the Work, other contractor's work, and the Project.

3.8 ALLOWANCES

3.8.1 CONTRACT

The Design-Builder shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Design-Builder shall not be required to employ persons or entities against whom the Design-Builder makes reasonable and timely objection.

3.8.2 SCOPE

3.8.2.1 ***Prompt Selection.*** Materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay to the Work.

3.8.2.2 ***Cost.*** Allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the Site and all required taxes, less applicable trade discounts, etc., as delineated in paragraph 7.7.4.

3.8.2.3 ***Cost Included in Contract Sum.*** Design-Builder's costs for unloading and handling at the Site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum and not in the allowances.

3.8.2.4 ***Contract Sum Adjustment.*** Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect the difference between actual cost and the allowances under paragraph 3.8.2.2 and the change in the Design-Builder's costs under paragraph 3.8.2.3.

3.9 DESIGN-BUILDER'S CONSTRUCTION SCHEDULES

3.9.1 REQUIREMENTS

Before the Design-Builder's commencement of Work or within two (2) weeks of issuance of all required permits, whichever is earlier, Design-Builder shall prepare and submit for the Owner's, and any construction manager's, information the baseline construction schedule for the Work, which shall conform to the Contract Documents' requirements.

Design-Builder shall submit an updated schedule by the first day of every month, and whenever else requested by the Owner. Each schedule update must include an accurate as-built schedule and the current as-planned schedule, both of which shall conform to the Contract Documents' requirements. Design-Builder shall submit its daily logs for the prior month with the updated schedule.

The schedule and updates shall conform, at a minimum, to industry standards for (a) critical path scheduling and (b) facilitation of Owner's Project management and evaluation of Design-Builder Claims for additional money or time.

The schedule and updates shall not exceed time limits (including milestone deadlines) under the Contract Documents and shall comply with the Contract Documents scheduling requirements and with any scheduling requirements the Owner provides to the Design-Builder at the beginning of the Work. The original schedule and all updates shall accurately reflect Work performed to date, reasonable dates for future Work, all construction tasks (including procurement), the critical path schedule for Completion of the remainder of the Project, and the percentage of the Work Completed. The original schedule and updates shall include all delay days for weather not unusually severe, even though that weather will not entitle Design-Builder to additional time or money.

The construction schedule shall be in the form of either a tabulation, chart, or graph, unless otherwise stated in the Contract Documents, and shall be in sufficient detail to show the chronological relationship of all activities of the Project including, but not limited to, estimated starting and Completion dates of various activities, (including early and late dates and reasonable float for each activity), procurement of materials, the critical path, and scheduling of equipment. Float suppression techniques such as preferential sequencing, special lead/lag logic restraints, extended activity durations, or imposed dates shall be apportioned for the benefit of the Project. Whenever in the Contract Documents Design-Builder is required to provide a schedule and/or schedule updates, the Design-Builder shall provide the schedule and updates in electronic format as well as hard copy. Design-Builder shall be solely responsible for the accuracy, utility and reasonableness of all of its schedules. Owner's acceptance, approval or non-rejection of Design-Builder's schedules shall not affect Design-Builder's responsibility for its schedules.

The Design-Builder and Owner shall use any float on a "first come, first served" basis. The original schedule and updates shall reflect Design-Builder's and Owner's use of float. Float is not for the exclusive use or benefit of either Owner or Design-Builder, but it is a jointly owned expiring Project resource available to both parties as needed to meet schedule milestones. For the original schedule and updates, Design-Builder shall use a critical path network format with the critical paths clearly indicated. Design-Builder shall use an MS Project, Primavera, or an equivalent or better program. Design-Builder shall include reports that sort and list the activities in order of increasing float and by early and late start dates. Design-Builder shall endeavor to label ten to thirty percent (10-30%) of the tasks as critical, but shall not label less than five (5%) or more than fifty (50%) as critical. Design-Builder shall use calendar days.

If any change in Design-Builder's method of operations will cause a change in the construction schedule, Design-Builder shall submit to Owner, [Architect/Owner's Representative](#), and any construction manager, a revised construction schedule within seven (7) days of the change,

unless a different time period is stated in the Contract Documents.

If, in the Owner's opinion, the Design-Builder is not prosecuting the Work at a rate sufficient to meet the Work schedule or a contractual milestone, or to Complete the Work within the Contract Time as adjusted by change orders, or if the Design-Builder's actual progress falls behind the Work schedule or it is apparent to Owner that Design-Builder will not meet contractual milestones or Complete the Work within the Contract Time as adjusted by change orders, the Owner may require that the Design-Builder prepare and submit a recovery plan. Design-Builder must submit a recovery plan within seven (7) days of a demand for the plan, unless a different time period is stated in the Contract Documents. At a minimum, the recovery plan must include a revised schedule that gets the Work back on schedule and Completes all Work by the contractual milestones and within the Contract Time as adjusted by change orders or by other dates Owner specifies in the demand for a recovery plan. The recovery plan shall state the corrective actions Design-Builder will undertake to implement it. The recovery plan shall also list any additional money that Design-Builder believes it should receive if Owner orders Design-Builder to fully or partially implement the recovery plan. If the Owner orders Design-Builder to implement the recovery plan, Design-Builder shall do so, but the order shall not act constitute an admission by Owner that Design-Builder is entitled to additional money. To recover additional money, Design-Builder must comply with General Conditions Articles 4.5, 7 and 8.

All schedules Design-Builder submits shall be certified as true and correct, as follows:

I, _____ [name of declarant], declare the following:

_____ [Design-Builder company name] has contracted with _____ [public entity name] for the _____ [name of project] Project. _____ [Design-Builder company name] authorized me to prepare schedules for _____ [public entity name] for this Project, and I prepared the attached schedule. I am the most knowledgeable person at _____ [Design-Builder company name] regarding the scheduling of this Project.

The attached schedule does not breach the Contract between _____ [Design-Builder company name] and _____ [public entity name] for this Project, does not violate any applicable law, satisfies all provisions of the Contract applicable to submission of the Claim, only contains truthful and accurate as-built and as-planned dates of work on the Project (including supporting data), and is not a false claim.

The attached schedule is submitted in compliance with all laws applicable to submission of a Claim, including but not limited to California Penal Code section 72 (Fraudulent Claims), Government Code sections 12650 et seq. (False Claims Act; for example, Government Code section 12651(a)(7)), and Business and Professions Code sections 17200 et seq. (Unfair Business Practices Act). I am aware that submission or certification of false claims, or other Claims that violate law or the Contract, may lead to fines, imprisonment,

and/or other serious legal consequences for myself and/or _____[Design-Builder company name].

While preparing this declaration and schedule I consulted with others (including attorneys, consultants, or others who work for _____[Design-Builder company name]) when necessary to ensure that the statements were true and correct.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed _____, 20 , at _____, California.

_____ [name of declarant]

3.9.2 DDW REVIEW PROCESS

In connection with the DDW Review Process which includes inspection cards and review of changes to the construction documents, the Design-Builder must (a) include specific tasks in its baseline schedule to take into account these procedures since they are critical path issues; and (b) include a reasonable amount of float in the baseline schedule to accommodate the additional time required by these DDW procedures.

3.9.3 FAILURE TO MEET REQUIREMENTS

Failure of the Design-Builder to provide proper schedules may, at the sole discretion of Owner, constitute either grounds to withhold, in whole or in part, progress payments to the Design-Builder, or a breach of contract allowing Owner to terminate the Contract.

3.10 DOCUMENTS AND SAMPLES AT THE SITE

The Design-Builder shall maintain at the Site for the Owner one applicable copy of Titles 19 and 24 and record copy of the Design, Addenda, Change Orders, and other Modifications, in good order and marked currently to record changes and selections made during construction. In addition, the Design-Builder shall maintain at the Site approved Shop Drawings, Product Data, Samples, and similar required submittals. These documents shall be available to the Owner and shall be delivered to the Owner, or the ~~Architect~~Owner's Representative for delivery to the Owner, upon Completion of the Work.

3.11 SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES

3.11.1 SUBMITTALS DEFINED

3.11.1.1 *Shop Drawings.* The term “shop drawings” as used herein means drawings, diagrams, schedules, and other data, which are prepared by Design-Builder, Subcontractors, manufacturers, suppliers, or distributors illustrating some portion of the Work, and includes:

illustrations; fabrication, erection, layout and setting drawings; manufacturer's standard drawings; schedules; descriptive literature, instructions, catalogs, and brochures; performance and test data including charts; wiring and control diagrams; and all other drawings and descriptive data pertaining to materials, equipment, piping, duct and conduit systems, and methods of construction as may be required to show that the materials, equipment, or systems and their position conform to the requirements of the Contract Documents. The Design-Builder shall obtain and submit with the shop drawings all seismic and other calculations and all product data from equipment manufacturers. "Product data" as used herein are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Design-Builder to illustrate a material, product, or system for some portion of the Work. As used herein, the term "manufactured" applies to standard units usually mass-produced, and "fabricated" means items specifically assembled or made out of selected materials to meet individual design requirements. Shop drawings shall: establish the actual detail of all manufactured or fabricated items, indicate proper relation to adjoining work, amplify design details of mechanical and electrical systems and equipment in proper relation to physical spaces in the structure, and incorporate minor changes of design or construction to suit actual conditions.

3.11.1.2 **Samples.** The term "samples" as used herein are physical examples furnished by Design-Builder to illustrate materials, equipment, or quality and includes natural materials, fabricated items, equipment, devices, appliances, or parts thereof as called for in the Specifications, and any other samples as may be required by the Owner to determine whether the kind, quality, construction, finish, color, and other characteristics of the materials, etc., proposed by the Design-Builder conform to the required characteristics of the various parts of the Work. All Work shall be in accordance with the approved samples.

3.11.1.3 **Design-Builder's Responsibility.** Design-Builder shall obtain and shall submit to [Architect/Owner's Representative](#) all required shop drawings and samples in accordance with Design-Builder's "Schedule for Submission of Shop Drawings and Samples" provisions in the Contract Documents and in accordance with the Design-Builder's original and updated schedules, and with such promptness as to cause no delay in its own Work or in that of any other contractor, Owner or subcontractor but in no event later than ninety (90) days after the execution of the Agreement. No extensions of time will be granted to Design-Builder or any Subcontractor because of its failure to have shop drawings and samples submitted in accordance with the Schedule. Each Subcontractor shall submit all shop drawings, samples, and manufacturer's descriptive data for the review of the Owner, the Design-Builder, and the [Architect/Owner's Representative](#) through the Design-Builder. By submitting shop drawings, product data, and samples, the Design-Builder or submitting party (if other than Design-Builder) represents that it has determined and verified all materials, field measurements, field conditions, catalog numbers, related field construction criteria, and other relevant data in connection with each such submission, and that it has checked, verified, and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. At the time of submission, any deviation in the shop drawings, product data, or samples from the requirements of the Contract Documents shall be narratively described in a transmittal accompanying the submittal. However, submittals shall not be used as a means of requesting a

substitution, the procedure for which is defined in paragraph 3.11.4, "Substitutions." Review by Owner and [ArchitectOwner's Representative](#) shall not relieve the Design-Builder or any Subcontractor from its responsibility in preparing and submitting proper shop drawings in accordance with the Contract Documents. Design-Builder shall stamp, sign, and date each submittal indicating its representation that the submittal meets all of the requirements of the Contract Documents. Any submission, which in Owner's or [ArchitectOwner's Representative](#)'s opinion is incomplete, contains numerous errors, or has been checked only superficially by Design-Builder will be returned unreviewed for resubmission by the Design-Builder.

3.11.1.4 **Extent of Review.** In reviewing shop drawings, the Owner will not verify dimensions and field conditions. The [ArchitectOwner's Representative](#) will review and approve shop drawings, product data, and samples for aesthetics and for conformance with the design concept of the Work and the information given in the Contract Documents. The [ArchitectOwner's Representative](#)'s review shall neither be construed as a complete check nor relieve the Design-Builder, Subcontractor, manufacturer, fabricator, or supplier from responsibility for any deficiency that may exist or from any departures or deviations from the requirements of the Contract Documents unless the Design-Builder has, in writing, called the [ArchitectOwner's Representative](#)'s attention to the deviations at the time of submission and the [ArchitectOwner's Representative](#) has given specific written approval. The [ArchitectOwner's Representative](#)'s review shall not relieve the Design-Builder or Subcontractors from responsibility for errors of any sort in shop drawings or schedules, for proper fitting of the Work, or from the necessity of furnishing any Work required by the Contract Documents, which may not be indicated on shop drawings when reviewed. Design-Builder and Subcontractors shall be solely responsible for determining any quantities, whether or not shown on the shop drawings.

3.11.2 DRAWING SUBMISSION PROCEDURE

3.11.2.1 **Transmittal Letter and Other Requirements.** All shop drawings must be properly identified with the name of the Contract and dated, and each lot submitted must be accompanied by a letter of transmittal referring to the name of the Contract and to the Specification section number for identification of each item clearly stating in narrative form, as well as "clouding" on the submissions, all qualifications, departures, or deviations from the Contract Documents, if any. Shop drawings, for each section of the Work, shall be numbered consecutively, and the numbering system shall be retained throughout all revisions. All Subcontractor submissions shall be made through the Design-Builder. Each drawing shall have a clear space for the stamps of [ArchitectOwner's Representative](#) and Design-Builder. Only shop drawings required to be submitted by the Contract Documents shall be reviewed.

3.11.2.2 **Copies Required.** Each submittal shall include one (1) legible, reproducible sepia and five (5) legible prints of each drawing, including fabrication, erection, layout and setting drawings, and such other drawings as required under the various sections of the Specifications until final acceptance thereof is obtained. Subcontractor shall submit copies, in an amount as requested by the Design-Builder, of: manufacturers' descriptive data for materials, equipment, and fixtures, including catalog sheets showing dimensions, performance, characteristics, and capacities; wiring diagrams and controls; schedules; all seismic calculations and other calculations; and other pertinent information as required.

3.11.2.3 **Corrections.** The Design-Builder shall make any corrections required by [ArchitectOwner's Representative](#) and shall resubmit as required by [ArchitectOwner's Representative](#) the required number of corrected copies of shop drawings or new samples until approved. Design-Builder shall direct specific attention in writing or on resubmitted shop drawings to revisions other than the corrections required by the [ArchitectOwner's Representative](#) on previous submissions. Professional services required for more than one (1) re- review of required submittals of shop drawings, product data, or samples are subject to charge to the Design-Builder pursuant to paragraph 4.4.

3.11.2.4 **Approval Prior to Commencement of Work.** No portion of the Work requiring a shop drawing or sample submission shall be commenced until the submission has been reviewed by Owner and approved by [ArchitectOwner's Representative](#) unless specifically directed in writing by the Owner. All such portions of the Work shall be in accordance with approved shop drawings and samples.

3.11.3 SAMPLE SUBMISSIONS PROCEDURE

3.11.3.1 **Samples Required.** In case a considerable range of color, graining, texture, or other characteristics may be anticipated in finished products, a sufficient number of samples of the specified materials shall be furnished by the Design-Builder to indicate the full range of characteristics, which will be present in the finished products; and products delivered or erected without submittal and approval of full range samples shall be subject to rejection. Except for range samples, and unless otherwise called for in the various sections of the Specifications, samples shall be submitted in duplicate. All samples shall be marked, tagged, or otherwise properly identified with the name of the submitting party, the name of the Contract, the purpose for which the samples are submitted, and the date and shall be accompanied by a letter of transmittal containing similar information, together with identification of each item. Each tag or sticker shall have clear space for the review stamps of Design-Builder and [ArchitectOwner's Representative](#).

3.11.3.2 **Labels and Instructions.** Samples of materials, which are generally furnished in containers bearing the manufacturers' descriptive labels and printed application instructions, shall, if not submitted in standard containers, be supplied with such labels and application instructions.

3.11.3.3 **[ArchitectOwner's Representative's Review.](#)** The [ArchitectOwner's Representative](#) will review and, if appropriate, approve submissions and will return them to the Design-Builder with the [ArchitectOwner's Representative's](#) stamp and signature applied thereto, indicating the appropriate action in compliance with the [ArchitectOwner's Representative's](#) standard procedures.

3.11.3.4 **Record Drawings and Annotated Specifications.** The Design-Builder will prepare and maintain on a current basis an accurate and complete set of Record Drawings showing clearly all changes, revisions, and substitutions during construction, including, without limitation, field changes and the final location of all mechanical equipment, utility lines, ducts, outlets, structural members, walls, partitions, and other significant features, and Annotated Specifications showing clearly all changes, revisions, and substitutions during

construction. A copy of such Record Drawings and Annotated Specifications will be delivered to Owner in accordance with the schedule prepared by Design-Builder. In the event of a specification that allows Design-Builder to elect one of several brands, makes, or types of material or equipment, the annotations shall show which of the allowable items the Design-Builder has furnished. The Design-Builder will update the Record Drawings and Annotated Specifications as often as necessary to keep them current but no less often than weekly. The Record Drawings and Annotated Specifications shall be kept at the Site and available for inspection by the Owner, Inspector of Record and the [Architect/Owner's Representative](#). On Completion of the Design-Builder's Work and prior to Application for Final Progress Payment, the Design-Builder will provide one complete set of Record Drawings and Annotated Specifications to the Owner, certifying them to be a complete and accurate reflection of the actual construction conditions of the Work.

3.11.3.5 Equipment Manuals. Design-Builder shall obtain and furnish to the Owner three (3) complete sets of manuals containing the manufacturers' instructions for maintenance and operation of each item of equipment and apparatus furnished under the Contract Documents and any additional data specifically requested for each division of the Work. The manuals shall be arranged in proper order, indexed, and placed in three-ring binders. At the Completion of its Work, the Design-Builder shall certify, by endorsement thereon, that each of the manuals is complete, accurate, and covers all of its Work. Prior to submittal of Design-Builder's Application for Final Progress Payment, and as a further condition to its approval by the [Architect/Owner's Representative](#), each Subcontractor shall deliver the manuals, arranged in proper order, indexed, endorsed, and placed in three-ring binders, to the Design-Builder, who shall assemble these manuals for all divisions of the Work, review them for completeness, and submit them to the Owner through the [Architect/Owner's Representative](#).

3.11.3.6 Owner's Property. All shop drawings and samples submitted shall become the Owner's property.

3.11.4 SUBSTITUTIONS

3.11.4.1 One Product Specified. Unless the Contract Documents state that no substitution is permitted, whenever in the Contract Documents any specific article, device, equipment, product, material, fixture, patented process, form, method, or type of construction is indicated or specified by name, make, trade name, or catalog number, with or without the words "or equal," such specification shall be deemed to be used for the purpose of facilitating description of material, process, or article desired and shall be deemed to be followed by the words "or equal." Design-Builder may, unless otherwise stated, offer any material, process, or article, which shall be substantially equal or better in every respect to that so indicated or specified and will completely accomplish the purpose of the Contract Documents.

3.11.4.2 Two or More Products Specified. When two or more acceptable products are specified for an item of the Work, the choice will be up to the Design-Builder. Design-Builder shall utilize the same product throughout the Project. If a timely substitution request as set forth in Section 3.11.4.3 is not provided and an "or equal" substitution is requested, the Owner may consider the substitution if the product specified is no longer commercially available. If the Owner allows the substitution to be proposed pursuant to such an untimely

request, the Design- Builder will be responsible for the professional fees incurred by the [Architect/Owner's Representative](#) or [Architect/Owner's Representative](#)'s consultants in reviewing the proposed substitution which fees may be withheld from progress payments and/or retention.

3.11.4.3 Substitution Request Form. Requests for substitutions of products, materials, or processes other than those specified must be made on the Substitution Request form available from the Owner prior to the deadline for submittal of proposals. Any Requests submitted less than fourteen (14) days prior to the deadline for submittal of proposals will not be considered, except as noted in paragraph 3.11.4.2. A Substitution Request must be accompanied by evidence as to whether or not the proposed substitution: is equal in quality and serviceability to the specified item; will entail no changes in detail and construction of related work; will be acceptable in consideration of the required design and artistic effect; will provide no cost disadvantage to Owner; and will require no excessive or more expensive maintenance, including adequacy and availability of replacement parts. The burden of proof of these facts shall be upon the Design-Builder. The Design-Builder shall furnish with its request sufficient information to determine whether the proposed substitution is equivalent including but not limited to all drawings, specifications, samples, performance data, calculations, and other information as may be required to assist the [Architect/Owner's Representative](#) and the Owner in determining whether the proposed substitution is acceptable. The final decision shall be the Owner's. The written approval of the Owner, consistent with the procedure for Change Orders, shall be required for the use of a proposed substitute material. Owner may condition its approval of the substitution upon delivery to Owner of an extended warranty or other assurances of adequate performance of the substitution. All risks of delay due to DDW review, or the approval of any other governmental agency having jurisdiction, of a requested substitution shall be on the requesting party.

3.11.4.4 List of Manufacturers and Products Required. The Subcontractor shall prepare and submit to the Design-Builder within thirty (30) days of execution of the Subcontract comprehensive lists, in quadruplicate, of the manufacturers and products proposed for the Project, including information on materials, equipment, and fixtures required by the Contract Documents, as may be required for Design-Builder's or [Architect/Owner's Representative](#)'s preliminary approval. Approval of such lists of products shall not be construed as a substitute for the shop drawings, manufacturer's descriptive data, and samples, which are required by the Contract Documents, but rather as a base from which more detailed submittals shall be developed for the final review of the Design-Builder and the [Architect/Owner's Representative](#).

3.11.5 DEFERRED APPROVALS

Deferred approvals shall be submitted and processed pursuant to the requirements of Contract Documents. All risks of delay due to the Division of the State [Architect/Owner's Representative](#)'s, or any other governmental agency having jurisdiction, approval of a deferred approval shall be on the requesting party.

3.12 CUTTING AND PATCHING

3.12.1 SCOPE

The Design-Builder shall be responsible for cutting, fitting, or patching required to Complete the Work or to make its parts fit together properly.

3.12.2 CONSENT

The Design-Builder shall not damage or endanger a portion of the Work or fully or partially Completed construction of the Owner or a separate contractor by cutting, patching, or otherwise altering such construction, or by excavation. The Design-Builder shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work. All cutting shall be done promptly, and all repairs shall be made as necessary.

3.12.3 STRUCTURAL MEMBERS

New or existing structural members and elements, including reinforcing bars and seismic bracing, shall not be cut, bored, or drilled except by written authority of the [ArchitectOwner's Representative](#). Work done contrary to such authority is at the Design-Builder's risk, subject to replacement at its own expense and without reimbursement under the Contract. Agency approvals shall be obtained by the [ArchitectOwner's Representative](#), not by the Design-Builder.

3.12.4 SUBSEQUENT REMOVAL

Permission to patch any areas or items of the Work shall not constitute a waiver of the Owner's or the [ArchitectOwner's Representative](#)'s right to require complete removal and replacement of the areas or items of the Work if, in the opinion of the [ArchitectOwner's Representative](#) or the Owner, the patching does not satisfactorily restore quality and appearance of the Work or does not otherwise conform to the Contract Documents. Any costs caused by defective or ill-timed cutting or patching shall be borne by the person or entity responsible.

3.13 CLEANING UP

3.13.1 DESIGN-BUILDER'S RESPONSIBILITY

The Design-Builder shall keep the Site and surrounding area free from accumulation of waste material or rubbish caused by operations under the Contract. The Site shall be maintained in a neat and orderly condition. All crates, cartons, paper, and other flammable waste materials shall be removed from Work areas and properly disposed of at the end of each day. The Design-Builder shall continuously remove from and about the Site the waste materials, rubbish, tools, construction equipment, machinery, and materials no longer required for the Work.

3.13.2 FAILURE TO CLEANUP

If the Design-Builder fails to clean up as provided in the Contract Documents, the Owner may do so, without prior notice to the Design-Builder and the cost thereof shall be invoiced to the Design-Builder and withheld from progress payments and/or retention. Each Subcontractor shall have the responsibility for the cleanup of its own Work. If the Subcontractor fails to clean up, the

Design-Builder must do so.

3.13.3 CONSTRUCTION BUILDINGS

When directed by the Owner or the [ArchitectOwner's Representative](#), Design-Builder and Subcontractor shall dismantle temporary structures, if any, and remove from the Site all construction and installation equipment, fences, scaffolding, surplus materials, rubbish, and supplies belonging to Design- Builder or Subcontractor. If the Design-Builder does not remove the tools, equipment, machinery, and materials within fifteen (15) days after Completion of its Work, then they shall be deemed abandoned, and the Owner can dispose of them for its own benefit in whatever way it deems appropriate. Design-Builder shall pay for any costs to dispose of the items.

3.14 ACCESS TO WORK

The Design-Builder shall provide the Owner, the [ArchitectOwner's Representative](#), and the Inspector of Record, access to the Work in preparation and progress wherever located.

3.15 ROYALTIES AND PATENTS

3.15.1 PAYMENT AND INDEMNITY

The Design-Builder shall pay all royalties and license fees. The Design-Builder shall defend suits or claims of infringement of patent rights and shall hold the Owner and the [ArchitectOwner's Representative](#) harmless and indemnify them, to the extent not caused by the Owner's active negligence, sole negligence or willful misconduct, from loss on account thereof but shall not be responsible for such defense or loss when a particular design, process, or product of a particular manufacturer is required by the Contract Documents. However, if the Design-Builder has reason to believe the required design, process, or product is an infringement of a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner and [ArchitectOwner's Representative](#).

3.15.2 REVIEW

The review by the Owner or [ArchitectOwner's Representative](#) of any method of construction, invention, appliance, process, article, device, or material of any kind shall be for its adequacy for the Work and shall not be an approval for the use by the Design-Builder in violation of any patent or other rights of any person or entity.

3.16 INDEMNIFICATION

3.16.1 SCOPE: DESIGN-BUILDER

To the fullest extent permitted by law, the Design-Builder shall defend, indemnify, and hold harmless the Owner, the ~~Construction Manager, Architect, ArchitectOwner's Representative's-~~[consultants](#), the Inspector of Record, City Council, members of the Council, and directors ("Indemnitees"), from and against claims, actions, damages, liabilities, losses (including but not limited to injury or death of persons, property damage, and compensation owed to other parties),

and expenses (including but not limited to attorneys' fees and costs including fees of consultants) alleged by third parties against Indemnitees arising out of or resulting from the following: Design-Builder's, its Subcontractors', or its suppliers' performance of the Work, including but not limited to the Design-Builder's or its Subcontractors' use of the Site; the Design-Builder's or its Subcontractors' construction of the Project, or failure to construct the Project, or any portion thereof; the use, misuse, erection, maintenance, operation, or failure of any machinery or equipment including, but not limited to, scaffolds, derricks, ladders, hoists, and rigging supports, whether or not such machinery or equipment was furnished, rented, or loaned by any of the Indemnitees; or any act, omission, negligence, or willful misconduct of the Design-Builder or its Subcontractors or their respective agents, employees, material or equipment suppliers, invitees, or licensees but only to the extent caused in whole or in part by the acts or omissions of the Design-Builder, its Subcontractors, its suppliers, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph. The obligation to defend, indemnify and hold harmless includes any claims or actions by third parties arising out of or resulting from Labor Code section 2810. Design-Builder shall have no obligation to defend or indemnify the Indemnitees against claims, actions, damages, liabilities, losses, and expenses caused by the active negligence, sole negligence or willful misconduct of Indemnitees. This indemnification shall apply to all liability, as provided for above, regardless of whether any insurance policies are applicable, and insurance policy limits do not act as a limitation upon the amount of the indemnification to be provided by the Design-Builder.

3.16.2 SCOPE: SUBCONTRACTORS

3.16.2.1 **Indemnity.** The Subcontractors shall defend, indemnify, and hold harmless the Indemnitees from and against claims, actions, damages, liabilities, and losses (including but not limited to injury or death of persons, property damage, and compensation owed to other parties), and expenses (including but not limited to attorneys' fees and costs including fees of consultants) alleged by third parties against Indemnitees arising out of or resulting from the following: Subcontractors' performance of the Work, including but not limited to the Subcontractors' use of the Site; the Subcontractors' construction of the Project or failure to construct the Project or any portion thereof; the use, misuse, erection, maintenance, operation, or failure of any machinery or equipment, including, but not limited to, scaffolds, derricks, ladders, hoists, and rigging supports, whether or not such machinery or equipment was furnished, rented, or loaned by any of the Indemnitees; or any act, omission, negligence, or willful misconduct of the Subcontractors or their respective agents, employees, material or equipment suppliers, invitees, or licensees but only to the extent caused in whole or in part by the acts or omissions of the Subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph. This obligation to defend, indemnify and hold

harmless includes any claims or actions by third parties arising out of or resulting from Labor Code section 2810. Subcontractors shall have no obligation to defend or indemnify the Indemnitees against claims, actions, damages, liabilities, losses, and expenses caused by the active negligence, sole negligence or willful misconduct of Indemnitees. This indemnification shall apply to all liability, as provided for above, regardless of whether any insurance policies are applicable, and insurance policy limits do not act as a limitation upon the amount of the indemnification to be provided by the Subcontractors.

3.16.2.2 Joint and Several Liability. In the event more than one Subcontractor is connected with an accident or occurrence covered by this indemnification, then all such Subcontractors shall be jointly and severally responsible to each of the Indemnitees for indemnification, and the ultimate responsibility among such indemnifying Subcontractors for the loss and expense of any such indemnification shall be resolved without jeopardy to any Indemnatee. The provisions of the indemnity provided for herein shall not be construed to indemnify any Indemnatee for its own negligence if not permitted by law or to eliminate or reduce any other indemnification or right which any Indemnatee has by law or equity.

3.16.3 NO LIMITATION

The Design-Builder's and the Subcontractor's obligation to indemnify and defend the Indemnitees hereunder shall include, without limitation, any and all claims, damages, and costs: for injury to persons and property (including loss of use), and sickness, disease or death of any person; for breach of any warranty, express or implied; for failure of the Design-Builder or the Subcontractor to comply with any applicable governmental law, rule, regulation, or other requirement; and for products installed in or used in connection with the Work.

3.17 OWNER AS INTENDED BENEFICIARY

The Owner is an intended beneficiary of any architectural or engineering work secured by, or performed by, the Design-Builder to fulfill its obligations under the Contract. Design-Builder shall state in its contracts with architectural or engineering consultants that their work is for the intended benefit of the Owner.

3.18 NOTICE OF EXCUSE FOR NONPERFORMANCE

If Design-Builder believes that acts or omissions of Owner (including but not limited to Owner caused delay) have prevented Design-Builder from performing the Work as required by the Contract Documents and Design-Builder intends to rely on Owner's acts or omissions and Civil Code section 1511(1) as reasons to excuse Design-Builder's nonperformance or to support, among other things, Design-Builder's requests for time extensions under Section 4.5, below, Design-Builder shall provide written notice of the excuse within five (5) days of the Owner's acts or omissions. If Design-Builder fails to timely submit the written notice, Design-Builder shall have waived any right to later rely on the acts or omissions as a defense to Design-Builder's nonperformance or as the basis for a time extension, regardless of the merits of the defense or time extension. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies. Design-Builder acknowledges that these written notices are of critical

importance to the Owner's management of the Work and Project and the mitigation of costs and delays to the Work and Project.

ARTICLE 4

ADMINISTRATION OF THE CONTRACT

4.1 OWNER'S REPRESENTATIVE~~ARCHITECT~~

4.1.1 DEFINITION

The Owner's Representative is the person or an entity that provides contract administration services on behalf of the Owner throughout the contract period. The term "Owner's Representative" means the authorized representative of the Owner, and shall also refer to all consultants under the Owner's Representative's direction and control~~lawfully licensed to practice architecture or an entity lawfully practicing architecture identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect" means the Owner's Representative or the Owner's Representative's authorized representative, and shall also refer to all consultants under the Owner's Representative's direction and control.~~

4.1.2 MODIFICATION

To the extent the Contract Documents indicate that Owner has assigned duties or responsibilities to the Owner's Representative, Owner reserves the right at all times to reassign such duties or responsibilities to different agents or Owner representatives of the Owner.

4.1.3 TERMINATION

In the case of the termination of the Owner's Representative, the Owner may appoint another construction professional or may perform such functions with its own licensed professional personnel. The status of the replacement of Owner's Representative under the Contract Documents shall be that of the former Owner's Representative~~an architect or another construction professional or may perform such functions with its own licensed professional personnel. The status of the replacement Owner's Representative under the Contract Documents shall be that of the former architect.~~

4.2 OWNER'S REPRESENTATIVE~~ARCHITECT~~'S ADMINISTRATION OF THE CONTRACT

4.2.1 STATUS

The ~~Architect~~Owner's Representative will provide administration of the Contract and may be one of several Owner's representatives during construction, through release of all retention, and during the one (1) year period following the commencement of any warranties. The ~~Architect~~Owner's Representative will advise and consult with the Owner. The ~~Architect~~Owner's Representative will have authority to act on behalf of the Owner only to the extent set forth in the Owner/ArchitectOwner's Representative agreement.

4.2.2 SITE VISITS

The [ArchitectOwner's Representative](#) will visit the Site at intervals necessary in the judgment of the [ArchitectOwner's Representative](#) or as otherwise agreed by the Owner and the [ArchitectOwner's Representative](#) in writing to become generally familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in a manner indicating that the Work, when Completed, will be in accordance with the Contract Documents.

4.2.3 LIMITATIONS OF CONSTRUCTION RESPONSIBILITY

The Design-Builder shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the [ArchitectOwner's Representative](#) in the [ArchitectOwner's Representative](#)'s administration of the Contract Documents, or by tests, inspections, or approvals required or performed by persons other than the Design-Builder.

4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

The Owner and the Design-Builder shall communicate through the [ArchitectOwner's Representative](#), unless there is a construction manager for the Project or the Owner directs otherwise. Communications between Owner and Subcontractors or material or equipment suppliers shall be through the Design-Builder.

4.2.5 PAYMENT APPLICATIONS

The Design-Builder shall submit payment applications to the [ArchitectOwner's Representative](#), unless there is a construction manager for the Project or the Owner directs otherwise.

4.2.6 REJECTION OF WORK

The [ArchitectOwner's Representative](#), Inspector of Record, any construction manager and others may recommend to the Owner that the Owner reject Work which does not conform to the Contract Documents or that the Owner require additional inspection or testing of the Work in accordance with paragraph 13.5.5, whether or not the Work is fabricated, installed, or completed. However, no recommendation shall create a duty or responsibility to the Design-Builder, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

4.2.7 CHANGE ORDERS

The [ArchitectOwner's Representative](#) will prepare change orders and construction change directives and may authorize minor changes in the Work.

4.2.8 WARRANTIES UPON COMPLETION

The [ArchitectOwner's Representative](#) in conjunction with the Inspector of Record, or as
RFQ City of Lemoore
Water Treatment Plant Project

otherwise directed by Owner, will conduct field reviews of the Work to determine the date of Completion, shall receive and forward to the Owner for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Design-Builder. The handling by the [ArchitectOwner's Representative](#) of such warranties, maintenance manuals, or similar documents shall not diminish or transfer to the [ArchitectOwner's Representative](#) any responsibilities or liabilities required by the Contract Documents of the Design-Builder or other entities, parties, or persons performing or supplying the Work.

Except as may be otherwise directed by Owner, the [ArchitectOwner's Representative](#) will conduct a field review of the Design-Builder's comprehensive list of items to be completed or corrected for development of a punch list and one (1) follow-up field review if required. The cost incurred by the Owner for further field reviews or the preparation of further punch lists by the [ArchitectOwner's Representative](#) shall be invoiced to the Design-Builder and withheld from payment and/or retention.

4.2.9 INTERPRETATION

The [ArchitectOwner's Representative](#), Inspector of Record, any construction manager, the Owner or any independent consultant of Owner, as Owner deems appropriate, will interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of the Design-Builder. The Owner's response to such requests will be made with reasonable promptness, while allowing sufficient time to permit adequate review and evaluation of the request.

4.2.10 ADDITIONAL INSTRUCTIONS

4.2.10.1 [ArchitectOwner's Representative's Interpretations and Decisions.](#)

Interpretations and decisions of the [ArchitectOwner's Representative](#) will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations of and decisions regarding the Contract Documents, the [ArchitectOwner's Representative](#) will endeavor to secure faithful performance under the Contract Documents by both the Owner and the Design-Builder and will not show partiality to either. The Work shall be executed in conformity with, and the Design-Builder shall do no work without, approved drawings, [ArchitectOwner's Representative's](#) clarifying instructions, and/or submittals [from the Owner's Representative and Engineer of Record for the project.](#)

4.2.10.2 *Typical Parts and Sections.* Whenever typical parts or sections of the Work are completely detailed on the Drawings, and other parts or sections which are essentially of the same construction are shown in outline only, the complete details shall apply to the Work which is shown in outline.

4.2.10.3 *Dimensions.* Dimensions of Work shall not be determined by scale or rule. Figured dimensions shall be followed at all times. If figured dimensions are lacking on Drawings, [ArchitectDesign-Builder](#) shall supply them on request. The Owner's decisions on matters relating to aesthetic effect will be final if consistent with the Contract Documents.

4.3 INSPECTOR OF RECORD

4.3.1 GENERAL

One or more Project inspectors (“Inspector of Record”) may be employed by the Owner to inspect the Work.

4.3.2 INSPECTOR OF RECORD’S DUTIES

All Work shall be under the observation of or with the knowledge of the Inspector of Record. The Inspector of Record shall have free access to any or all parts of the Work at any time. The Design-Builder shall furnish the Inspector of Record such information as may be necessary to keep the Inspector of Record fully informed regarding progress and manner of work and character of materials. Such observations shall not, in any way, relieve the Design-Builder from responsibility for full compliance with all terms and conditions of the Contract, or be construed to lessen to any degree the Design-Builder’s responsibility for providing efficient and capable superintendence. The Inspector of Record is not authorized to make changes in the drawings or specifications nor shall the Inspector of Record’s approval of the Work and methods relieve the Design-Builder of responsibility for the correction of subsequently discovered defects, or from its obligation to comply with the Contract Documents.

4.3.3 INSPECTOR OF RECORD’S AUTHORITY TO REJECT OR STOP WORK

The Inspector of Record shall have the authority to reject work that does not comply with the provisions of the Contract Documents. In addition, the Inspector of Record may stop any work which poses a probable risk of harm to persons or property. The Design-Builder shall instruct its employees, Subcontractors, material and equipment suppliers, etc., accordingly. The absence of any Stop Work order or rejection of any portion of the Work shall not relieve the Design-Builder from any of its obligations pursuant to the Contract Documents.

4.3.4 INSPECTOR OF RECORD’S FACILITIES

Within seven (7) days after notice to proceed, the Design-Builder shall provide the Inspector of Record with the temporary facilities as required under Division 1 of the Specifications.

4.4 RESPONSIBILITY FOR ADDITIONAL CHARGES INCURRED BY THE OWNER FOR PROFESSIONAL SERVICES

If at any time prior to the Completion of the requirements under the Contract Documents, through no fault of its own, the Owner is required to provide or secure additional professional services for any reason by any act or omission of the Design-Builder, the Design-Builder shall be invoiced by the Owner for any actual costs incurred for any such additional services, which costs may, among other remedies, be withheld from the progress payments and/or retention. Such invoicing shall be independent from any other Owner remedies, including but not limited to liquidated damages. If payments then or thereafter due to the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner. Additional services shall include, but shall not be limited to, the following:

- A. Services made necessary by the default of the Design-Builder.
- B. Services made necessary due to the defects or deficiencies in the Work of the Design-Builder.
- C. Services required by failure of the Design-Builder to perform according to any provision of the Contract Documents.
- D. Services in connection with evaluating substitutions of products, materials, equipment, Subcontractors proposed by the Design-Builder, and making subsequent revisions to drawings, specifications, and providing other documentation required (except for the situation where the specified item is no longer manufactured or available).
- E. Services for evaluating and processing Claims submitted by the Design-Builder in connection with the Work outside the established Change Order process.
- F. Services required by the failure of the Design-Builder to prosecute the Work in a timely manner in compliance within the specified time for Completion.
- G. Services in conjunction with the testing, adjusting, balancing and start-up of equipment other than the normal amount customarily associated for the type of Work involved.
- H. Services in conjunction with more than one (1) re-review of required submittals of shop drawings, product data, and samples.

4.5 NOTICES OF POTENTIAL CHANGE, CHANGE ORDER REQUESTS, AND CLAIMS

If the Design-Builder identifies the potential for extra work, delay in the critical path schedule, or the need for additional money or time, or if the Design-Builder requests additional money or time, or if the Design-Builder believes that Owner has failed to pay amounts due or otherwise breached the Contract, or otherwise believes that it is entitled to a modification of the Contract terms and conditions, then Design-Builder shall follow the procedures in this Section 4.5 and Article 7, otherwise Design-Builder shall have waived its rights to pursue those issues and any later attempts to recover money or obtain a modification shall be barred. Design-Builder specifically acknowledges the Owner's and public's interest in, and need to know of, potential changes and disputes as early as possible so Owner can investigate, mitigate and resolve adverse cost and time impacts, if any. It is Design-Builder's obligation to know and comply with the requirements of the Contract Documents, including but not limited to Section 4.5 and Articles 7-9, and Owner has no obligation to notify Design-Builder of any failure to comply with those requirements.

4.5.1 NOTICE OF POTENTIAL CHANGE

Design-Builder shall submit a written Notice of Potential Change for extra work, critical path delay, or additional money or time. Design-Builder shall submit written Notices of Potential

Change to Owner within ten (10) days of Design-Builder becoming aware of the issues creating the potential for change, unless the issues are, or may soon be, adversely affecting the costs or critical path of the Work, in which case the Design-Builder must submit the written notice without delay so the Owner may take immediate action to mitigate cost and schedule impacts of the change, if any. The written notice shall explain the nature of the potential change so the Owner may take action to mitigate costs and schedule impacts, if necessary.

When submitting a written Notice of Potential Change based on extra work, Design-Builder shall not perform the extra work until directed in writing to do so by Owner. When submitting a written Notice of Potential Change for an issue of critical path delay, Design-Builder shall proactively mitigate the effects of the alleged delay as much as reasonably possible so as to minimize any impact to the schedule, until otherwise directed by Owner. If Design-Builder intends to rely on Owner's acts or omissions in support of a request for a time extension, then Design-Builder must also provide the notice set forth in section 3.18, above.

Failure to timely submit a written Notice of Potential Change shall constitute a complete waiver by Design-Builder of any right to later submit a change order request or pursue a Claim on that issue, or to later pursue any additional money or time extensions in any manner related to that issue, regardless of the merits. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies. Design-Builder acknowledges that these written notices are of critical importance to the Owner's Work and Project management and the mitigation of Work and Project costs and delays.

4.5.2 CHANGE ORDERS REQUESTS

If, after submitting a written Notice of Potential Change pursuant to Section 4.5.1, Design-Builder continues to believe that it is entitled to additional money or time (including but not limited to grant of a time extension; payment of money or damages arising from work done by, or on behalf of, the Design-Builder, payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to; or an amount the payment of which is disputed by the Owner) based on an issue, then Design-Builder shall submit a Change Order Request ("COR") to Owner within twenty (20) days of the earlier of (i) becoming aware of the issues creating a potential change, or (ii) the date by which it should have become aware of the issues creating a potential change. If the COR is not submitted within 20 days, a reasonable explanation shall be provided. A rejection at any time or a lack of a rejection by Owner of a Notice of Potential Change does not affect the timeline for submitting a COR.

Failure to timely submit a COR related to an issue, or failure to comply with any of the COR requirements in the Contract shall constitute a complete waiver by Design-Builder of any right to later submit a COR or Claim on that issue, or to later pursue any additional money (including time extensions) in any manner related to that issue, regardless of the merits. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies.

The COR shall state the grounds for the additional money or time requested and the amount of money or time requested, and Design-Builder shall include all information supporting the COR.

Design-Builder shall certify the COR using the form set forth in Section 4.5.5.1, except that every reference to "Claim" shall be changed to "COR." If a COR is submitted without

certification, a certification can still be submitted within the timelines set forth in the first paragraph of section 4.5.2. If the COR is not timely certified, Design-Builder will have completely waived its rights to any money or time for that issue. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies.

The Owner may accept the entire COR, accept part of the COR and reject the remainder, reject the entire COR, or request additional information. If the Owner does not respond within thirty (30) days by accepting the entire COR, accepting part of the COR and rejecting the remainder, or requesting additional information, the entire COR shall be deemed rejected as of the thirtieth (30th) day. If the Owner requests additional information, then the Design-Builder shall submit the information within fifteen (15) days of the date of the request and the Owner shall have fifteen (15) days after the receipt of the additional information to accept or reject (in whole or in part) the COR. If the Owner fails to respond within fifteen (15) days after the submission of additional information, the entire COR shall be deemed rejected as of the fifteenth (15th) day.

4.5.3 DEFINITION OF CLAIM

A “Claim” is a separate demand by the Design-Builder sent by registered mail or certified mail for (a) a time extension, including, without limitation, a request for relief from damages or penalties for delay assessed by Owner under the Contract Documents, (b) payment by Owner of money or damages arising from work done by, or on behalf of, the Design-Builder pursuant to the Contract Documents, and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (c) an amount the payment of which is disputed by the Owner. A claim includes any claim within the scope of Public Contract Code section 20104 et seq. Resubmittal in any manner of a COR which was previously rejected under Section 4.5.2 constitutes a Claim, whether the COR was rejected in whole or in part, and whether the COR was rejected expressly or deemed rejected by Owner inaction. A Claim includes any dispute Design-Builder may have with the Owner, including one which does not require a Notice of Potential Change or COR under Sections 4.5.1 and 4.5.2, and includes an alleged breach of contract by the Owner. A Claim under this Article 4.5 shall also constitute a claim for purposes of the California False Claims Act. In the event of a conflict between a Claims provision in Division 1 of the Specifications and Section 4.5, Section 4.5 shall take precedence.

The Notice of Potential Change and COR procedures above are less formal procedures which precede the more formal Claim. A Notice of Potential Change does not constitute a Claim. A COR does not constitute a Claim; **except that** if insufficient time remains before the Claim deadline (see Article 4.5.4) for Design-Builder to submit a COR and for Owner to process and reject the COR under Article 4.5.2, then either (1) Design-Builder may submit a COR which Owner shall treat as a Claim, but only if the COR complies with all requirements in this Article 4.5 and Article 7 for COR’s and Claims, or (2) a COR is not required so long as a Claim complying with this Article 4.5 is timely submitted.

A Claim does not include vouchers, invoices, progress payment applications, or other routine or authorized forms of requests for progress payments on the Contract; however, those documents remain “claims” for purposes of the California False Claims Act. A Claim does not include a Government Code Claim. (“Government Code Claim” means a claim under Government Code sections 900 et seq. and 910 et seq.)

4.5.4 TIME FOR SUBMITTING CLAIM; WAIVER

Design-Builder shall submit all Claims to the Owner's Construction Manager ~~(or in the absence of a Construction Manager, to Architect Owner's Representative and Owner)~~ within fifteen (15) days of the earliest of the following events: (a) The Completion of the Work; (b) the thirtieth (30th) continuous day without labor by Design-Builder; and (c) Design-Builder's submission of a final progress payment application. Owner's rejection, or lack of rejection, of a COR at any time does not affect the deadline for filing a Claim.

In addition, on or before submitting its request for a final progress payment based on 100% Completion of the Work, Design-Builder shall submit to Owner, in writing, a summary of all Claims for money or time extensions under or arising out of this Contract which were timely filed and which were fully compliant with the Contract's requirements for Claims. The submission of an Application for Payment for the Final Progress Payment shall constitute a complete waiver of all Claims against Owner under or arising out of this Contract, except those identified in the above summary, as Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies. This Claim summary requirement shall not extend the time for submitting a Claim.

Failure to timely submit a Claim, failure to include a Claim in the Claim summary, or failure to comply with any of the Claim requirements in the Contract, including but not limited to this Article 4, will act as a complete waiver of Design-Builder's rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim for the money or time (see Section 4.5.6.4), and (c) initiate any action, proceeding or litigation for the money or time, regardless of the merits. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies. Owner does not have an obligation to reject the Claim for a failure to comply with any of the Claim requirements in the Contract, including the lack of certification, and any failure by Owner to reject, or any delay in rejecting, a Claim on that basis does not waive the Owner's right to reject the Claim on that basis at a later time. In no event may the Design-Builder reserve its rights to assert a Claim for a time extension or additional money beyond the timelines set forth in this provision unless the Owner agrees in writing to allow the reservation.

4.5.5 CONTENT OF CLAIM

4.5.5.1 *Claim Format; Waiver*

Every Claim shall be in writing. All money or time extensions sought must be stated and itemized in the Claim at the time submitted. The responsibility to substantiate Claims shall rest with the Design-Builder, and the Design-Builder shall furnish reasonable documentation to support each Claim.

In addition, the Design-Builder shall include a certification with each and every Claim at the time of submission, as follows:

I, _____ [name of declarant], declare the following:

_____ [Design-Builder company name] has contracted with _____ [public entity name] for the _____ [name of Contract] Contract. _____ [Design-Builder company name] authorized me to prepare the attached Claim for money and/or time extension for _____ [public entity name] regarding this Contract (dated _____, 20__, entitled _____, and requesting \$ _____ and/or ____ additional days), and I prepared the attached Claim. I am the most knowledgeable person at _____ [Design-Builder company name] regarding this Claim.

The attached Claim complies with all laws applicable to submission of a Claim, including but not limited to California Penal Code section 72, Government Code sections 12650 et seq. (False Claims Act), and Business and Professions Code sections 17200 et seq. (Unfair Business Practices Act). I am aware that submission or certification of false claims, or other claims that violate law or the Contract, may lead to fines, imprisonment, and/or other serious legal consequences for myself or _____ [Design-Builder company name].

The attached Claim does not breach the Contract, is not a false claim, does not violate any applicable law, satisfies all provisions of the Contract applicable to submission of the Claim, only contains truthful and accurate supporting data, and only requests money and/or time extensions that accurately reflect the adjustments to money and time for which I believe that [public entity name] is responsible under its Contract with _____ [Design-Builder company name].

While preparing this declaration and Claim I consulted with others (including attorneys, consultants, or others who work for _____ [Design-Builder company name]) when necessary to ensure that the statements were true and correct.

Design-Builder understands and agrees that any Claim submitted without this certification does not meet the terms of the Contract Documents; that Owner, or Owner's representatives, may reject the Claim on that basis; and that unless Design-Builder properly and timely files the Claim with the certification, Design-Builder cannot further pursue the Claim in any forum and all rights to additional money or time for the issues covered by the Claim are waived due to a condition precedent not having been satisfied.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed _____, 2____, at _____, California.

_____ [name of declarant]

Design-Builder's failure to timely submit a certification will constitute a complete waiver of Design-Builder's rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim (see Section 4.5.6.4) for the money or time, and (c) initiate any action, proceeding or litigation for the money or time. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies.

4.5.5.2 *Claims for Additional Money*

Each Claim for additional money (including but not limited to those described in (b) and (c) of the first paragraph of Section 4.5.3) must include all facts supporting the Claim, including but not limited to all supporting documentation plus a written analysis as to (a) why the claimed cost was incurred, (b) why Design-BUILDER could not mitigate its costs, (c) why the claimed cost is the responsibility of the Owner, and (d) why the claimed cost is a reasonable amount. In no event will the Design-BUILDER be allowed to reserve its rights to assert a Claim for money at a later time, unless the Owner expressly agrees in writing to allow the reservation. Any costs, direct or indirect, not asserted shall be waived. A Claim may not include any costs incurred in preparation of the Claim or in preparation of any underlying COR, including but not limited to costs of delay analysis.

4.5.5.3 Claims for Additional Time

4.5.5.3.1 Notice of Extent of Claim

If the Design-Builder wishes to make a Claim for an increase in the Contract Time (including but not limited to Section 4.5.3(a)), the Claim shall include, but not be limited to, all facts supporting the Claim, all documentation of such facts, all information required by the Contract Documents, and a current schedule and delay analysis explaining (a) the nature of the delay, (b) the Owner's responsibility for the claimed delay, (c) the claimed delay's impact on the critical path, (d) the claimed delay's impact on the date of Completion (including an analysis of any float still remaining and whether the alleged delay in work exceeds such remaining float), and (e) why Design-Builder could not mitigate the delay impacts.

In the case of a continuing delay, only one (1) initial Claim is necessary that is based on estimates of when the continuing delay will end, but within thirty (30) days of the end of the continuing delay an updated final Claim must be submitted, which shall also be certified. In no event will the Design-Builder be allowed to reserve its rights to assert a Claim for a time extension, unless the Owner expressly agrees in writing to allow the reservation. Any time extension not asserted shall be waived.

4.5.5.3.2 Unusually Severe Weather Claims

If unusually severe weather is the basis for a Claim for additional time, Design-BUILDER must provide Owner data and facts showing that the weather conditions were abnormal for the period

of time, could not have been reasonably anticipated or mitigated, and had an adverse effect on the critical path of the scheduled construction.

4.5.5.4 “Pass Through” Claims

A Subcontractor or supplier to Design-Builder may not submit a request for additional time or money directly to the Owner. If a subcontractor or supplier submits a request for additional money or time to Design-Builder and Design-Builder wishes to pass it through to Owner, then Design-Builder must comply with all requirements of Section 4.5, including Notices of Potential Change, Change Order Requests, and Claims. Design-Builder must prepare and submit its own analysis of the Subcontractor’s request, and the Claim must include a copy of the Subcontractor’s request along with any other necessary supporting documentation.

In addition to other requirements in the Contract Documents, including but not limited to this Section 4.5, the Design-Builder’s analysis of the Subcontractor’s request must include Design-Builder’s detailed explanation as to why the Subcontractor or supplier’s request is the Owner’s responsibility, including Design-Builder’s analysis of (a) why the amount of damages the Subcontractor or supplier requests is justified and appropriate, (b) how Design-Builder’s breach of the subcontract caused the Subcontractor or supplier to incur these damages, and (c) how the Owner’s breach of the Contract caused the Design-Builder’s breach of the subcontract. Any Design-Builder Claim that fails to include the above information, or that states that Owner is responsible for the Subcontractor’s request only in the event that Design-Builder is found to owe money to Subcontractor, shall act as a complete waiver of Design-Builder’s rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim (see Section 4.5.6.4) for the money or time, and (c) initiate any action, proceeding or litigation for the money or time. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies.

4.5.6 PROCEDURES FOR CLAIMS (PUBLIC CONTRACT CODE SECTION 9204)

Claims are subject to this section 4.5.6 and Public Contract Code section 9204, as well as the separate procedures and substantive provisions of Sections 4.5.1 through 4.5.5 and the rest of the Contract Documents. Claims of \$375,000 or less must also comply with Public Contract Code sections 20104 et seq., but to the extent that one of the procedures in Sections 20104 et seq. conflicts with the procedures in Section 9204, the requirements of Section 9204 shall control.

4.5.6.1 Claims

The Owner shall conduct a reasonable review of the Claim and shall respond in writing to any written Claim within 45 days of receipt of the Claim. During that 45-day period, plus any extension, Owner may request, in writing, additional documentation supporting the Claim or relating to defenses to the Claim the Owner may have against the Design-Builder. Owner shall review any additional documentation Design-Builder supplies in response to that request within the 45 day, plus any extension, timeline.

After receipt of a Claim, the 45-day period may be extended by Owner and Design-Builder. The

written response shall identify which portion of the Claim is disputed and what portion is undisputed. If Owner needs approval from its City Council to provide the written response, and the City Council does not meet within the 45 days or any extended period of time, then the Owner shall have up to three days after the next publicly noticed meeting of the City Council to provide the written response. Any payment due on an undisputed portion of the Claim shall be processed and made within sixty (60) days after the Owner issues the written response. Owner's failure to respond to a Claim within the above time periods or to otherwise meet the above time requirements shall result in the Claim being deemed rejected in its entirety.

4.5.6.2 Meet and Confer

If the Design-Builder disputes the Owner's written response, or the Owner fails to respond within the time prescribed, the Design-Builder may so notify the Owner, in writing, either within 15 days of receipt of the Owner's response or within 15 days of the Owner's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a written demand sent by registered or certified mail return receipt requested, the Owner shall schedule a meet and confer conference for settlement of the dispute, which shall take place within 30 days of the demand. Upon written agreement of the Owner and Design-Builder, the conference may take place during regularly scheduled Project meetings.

If Design-Builder fails to timely notify the Owner that it wishes to meet and confer pursuant to the previous paragraph, then Design-Builder will have waived all rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim (see Section 4.5.6) for such money or time, and (c) initiate any action, proceeding or litigation for such money or time. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies.

Within ten (10) business days after the conclusion of the meet and confer conference, the Owner shall give a written statement to the Design-Builder identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the Claim shall be processed and made within sixty (60) days after the Owner issues the written statement. Within ten (10) business days of issuance of Owner's written statement, Design-Builder shall identify in writing the disputed portion of the Claim that shall be submitted to non-binding mediation (which may consist of any nonbinding process, including but not limited to neutral evaluation or a dispute review board), with the Owner and Design-Builder sharing the costs equally. The Owner and Design-Builder shall mutually agree to a mediator within ten (10) business days after the Design-Builder has identified in writing the disputed portion of the Claim. If they cannot agree upon a mediator, then each shall select a mediator and those two mediators shall select a qualified neutral third party to mediate the disputed portion of the Claim. (Each party shall bear the fees and costs its respective mediator charged in connection with the selection of the neutral mediator). The parties may mutually waive in writing the requirement for mediation. If Design-Builder fails to timely notify the Owner in writing that it wishes to mediate pursuant to this paragraph, Design-Builder will have waived all right to further pursue the Claim pursuant to section 4.5.4. The parties shall reasonably cooperate to schedule and attend a mediation as soon as reasonably possible. Owner's failure to respond to the Claim

within the above time periods or to otherwise meet the above time requirements shall result in the Claim being deemed rejected in its entirety.

4.5.6.3 Government Code Claim

If the Claim or any portion remains in dispute after the mediation and Design-Builder wishes to pursue it, the Contractor **must** file a timely and proper Government Code Claim. The filing of a Government Code Claim is specifically required in addition to all contractual procedures described in Sections 4.5 through 4.5.6.2. The above contractual procedures do not act as a substitute for the Government Code Claim process, and the two sets of procedures shall be sequential with the contractual procedures coming first.

Failure to timely file a Government Code Claim shall act as complete waiver of Design-Builder's rights to (a) recover money or time on the issues for which a Government Code Claim was required, and (b) initiate any action, proceeding or litigation for such money or time. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies.

Owner and Design-Builder shall proceed with the Government Code Claim according to Government Code, Section 900 et seq., and as otherwise permitted by law. For purposes of the applicable Government Code provisions, and as provided in Public Contract Code section 20104.2(e), the running of the time period within which a Contractor must file a Government Code Claim shall be tolled from the time the Design-Builder submits a written Claim under Article 4.5 until the time that the Claim is denied, in whole or in part, as a result of the meet and confer process in Section 4.5.6.2, including any period of time utilized by the meet and confer process.

4.5.7 CONTINUING CONTRACT PERFORMANCE

Despite submission or rejection of a Notice of Potential Change, COR or Claim, the Design-Builder shall proceed diligently with performance of the Contract as directed by Owner, and the Owner shall continue to make any undisputed payments in accordance with the Contract.

4.5.8 CLAIMS FOR CONCEALED OR UNKNOWN CONDITIONS

4.5.8.1 Trenches or Excavations Less Than Four Feet Below the Surface

If Design-Builder encounters conditions at the Site which are subsurface or otherwise concealed physical conditions, which differ materially from those indicated in the Contract Documents, or unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Design-Builder shall give notice to the Owner promptly before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. If Design-Builder believes that such conditions differ materially and will cause an increase in the Design-Builder's cost of, time required for, or performance of

any part of the Work, Design-Builder must comply with the provisions above for Notice of Potential Change, Change Order Request, and Claims (beginning with Section 4.5.1).

4.5.8.2 Trenches or Excavations Greater Than Four Feet Below the Surface

Pursuant to Public Contract Code section 7104, when any excavation or trenching extends greater than four feet below the surface:

4.5.8.2.1 The Design-Builder shall promptly, and before the following conditions are disturbed, notify the public entity, in writing, of any:

(1) Material that the Design-Builder believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing law.

(2) Subsurface or latent physical conditions at the site differing from those indicated by information about the site made available to bidders prior to the deadline for submitting bids.

(3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

4.5.8.2.2 The public entity shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Design-Builder's cost of, or the time required for, performance of any part of the Work shall issue a change order under the procedures described in the Contract.

4.5.8.2.3 In the event that a dispute arises between the public entity and the Design-Builder whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Design-Builder's cost of, or time required for, performance of any part of the Work, the Design-Builder shall not be excused from any deadline for Completion provided for by the Contract, but shall proceed with all Work to be performed under the Contract. The Design-Builder shall retain any and all rights provided either by Contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

4.5.9 INJURY OR DAMAGE TO PERSON OR PROPERTY

If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, any of the other party's employees or agents, or others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the

matter. For a Notice of Potential Change, COR and Claim for additional cost or time related to this injury or damage, Design-Builder shall follow Section 4.5.

ARTICLE 5

SUBCONTRACTORS

5.1 DEFINITIONS

5.1.1 SUBCONTRACTOR

A Subcontractor is a person or entity, who has a contract with the Design-Builder 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 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. To the extent that the term Trade Design-Builder is utilized in the Contract Documents, it shall have the same meaning as the term “Subcontractor.”

5.1.2 SUB-SUBCONTRACTOR

A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the Site. The term “Sub-subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.1.3 SPECIALTY CONTRACTORS

If a Subcontractor is designated as a “Specialty Contractor” as defined in section 7058 of the Business and Professions Code, all of the Work outside of that Subcontractor’s specialty shall be performed in compliance with the Subletting and Subcontracting Fair Practices Act, Public Contract Code sections 4100, et seq.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 ASSIGNMENT OR SUBSTITUTION - CONSENT OF OWNER

In accordance with Public Contract Code sections 4107 and 4107.5, no Design-Builder whose bid is accepted shall, without the written consent of the Owner: substitute any person or entity as a Subcontractor in place of the Subcontractor designated in the original bid; permit any such Subcontract to be assigned or transferred, or allow it to be performed by any person or entity other than the original Subcontractor listed in the original bid; sublet or subcontract any portion of the Work in excess of one-half of one percent (0.5%) of the Design-Builder’s total bid as to which its original bid did not designate a Subcontractor. Any assignment or substitution made without the prior written consent of the awarding authority shall be void, and the assignees shall acquire no rights in the Contract. Any consent, if given, shall not relieve Design-Builder or its

Subcontractors from their obligations under the terms of the Contract Documents.

5.2.2 GROUNDS FOR SUBSTITUTION

Pursuant to Public Contract Code section 4107 and the procedure set forth therein, no Design-Builder whose bid is accepted may request to substitute any person or entity as a Subcontractor in place of a Subcontractor listed in the original bid except in the following instances:

- A. When the Subcontractor listed in the bid after having a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the subcontractor's bid and at the price specified in the subcontractor's bid, when that written contract, based upon the general terms, conditions, plans and specifications for the Project involved or the terms of that Subcontractor's written bid, is presented to the Subcontractor by the Design-Builder;
- B. When the listed Subcontractor becomes insolvent or the subject of an order for relief in bankruptcy;
- C. When the listed Subcontractor fails or refuses to perform his or her Subcontract;
- D. When the listed Subcontractor fails or refuses to meet the bond requirements of the Design-Builder set forth in Public Contract Code section 4108.
- E. When the Design-Builder demonstrates to the awarding authority, or its duly authorized officer, subject to the further provisions of Public Contract Code section 4107.5, that the name of the Subcontractor was listed as the result of inadvertent clerical error;
- F. When the listed Subcontractor is not licensed pursuant to the Contractors License Law; or
- G. When the awarding authority, or its duly authorized officer, determines that the Work being performed by the listed Subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or the Subcontractor is substantially delaying or disrupting the progress of the Work.
- H. When the listed Subcontractor is ineligible to work on a public works project pursuant to Section 1777.1 of the Labor Code.
- I. When the awarding authority determines that a listed Subcontractor is not a responsible contractor.

5.2.2.1 **No Change in Contract.** Any substitutions of Subcontractors shall not result in any increase in the Contract Sum or result in the granting of any extension of time for the Completion of the Work.

5.2.2.2 Substitution Due to Clerical Error. The Design-Builder, as a condition of asserting a claim of inadvertent clerical error in the listing of a Subcontractor, shall, pursuant to Public Contract Code section 4107.5, within two (2) working days after the time of the prime bid opening by the awarding authority, give written notice to the awarding authority and copies of such notice to both the Subcontractor it claims to have listed in error, and the intended Subcontractor who had bid to the Design-Builder prior to bid opening. Any listed Subcontractor who has been notified by the Design-Builder in accordance with the provisions of this section as to an inadvertent clerical error, shall be allowed six (6) working days from the time of the prime bid opening within which to submit to the awarding authority and to the Design-Builder written objection to the Design-Builder's claim of inadvertent clerical error.

In all other cases, the Design-Builder must make a request in writing to the awarding authority for the substitution of a subcontractor, giving reasons therefore. The awarding authority shall mail a written notice to the listed Subcontractor giving reasons for the proposed substitution. The listed Subcontractor shall have five (5) working days from the date of such notice within which to file with the awarding authority written objections to the substitution.

Failure to file written objections pursuant to the provisions of this section within the times specified herein shall constitute a complete waiver of objection to the substitution by the listed Subcontractor and, where the ground for substitution is an inadvertent clerical error, an agreement by the listed Subcontractor that an inadvertent clerical error was made.

If written objections are filed, the awarding authority shall give five (5) days' notice to the Design-Builder and to the listed Subcontractor of a hearing by the awarding authority on the Design-Builder's request for substitution as provided in Public Contract Code section 4107. The determination by the awarding authority shall be final.

5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Design-Builder shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Design-Builder by terms of the Contract Documents, and to assume toward the Design-Builder all obligations and responsibilities, which the Design-Builder, by the Contract Documents, assumes toward the Owner. Each subcontract agreement shall preserve and protect the rights of the Owner under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Design-Builder that the Design-Builder, by the Contract Documents, has against the Owner. Where appropriate, the Design-Builder shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Design-Builder shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound. Upon written request of the Subcontractor, the Design-Builder shall identify to the Subcontractor the terms and conditions of the proposed subcontract agreement, which may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable

portions of such documents available to their respective proposed Sub-subcontractors.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

Each subcontract agreement for a portion of the Work is assigned by the Design-Builder to the Owner provided that:

- A. Assignment is effective only after termination of the Contract with the Design-Builder by the Owner for cause pursuant to Article 14 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor in writing; and
- B. Assignment is subject to the prior rights of the surety, if any, obligated under any bond relating to the Contract.

5.5 SUBCONTRACTOR'S RESPONSIBILITIES

Every Subcontractor is bound to the following provisions, unless specifically noted to the contrary in the Subcontractor's contract subject to the limitations of section 5.3.

5.5.1 SUPERVISION BY SUBCONTRACTORS

Subcontractors shall efficiently supervise their Work, using their best skill and attention. Each of them shall carefully study and compare all Drawings, Specifications, and other instructions, shall at once report to Design-Builder any error or omission which any of them may discover, and shall subsequently proceed with the Work in accordance with instructions from the Design-Builder concerning such error or omission. Each Subcontractor shall be fully responsible for and shall bear the full risk of loss of all of its property.

5.5.2 DISCIPLINE AND ORDER

Each Subcontractor shall at all times enforce strict discipline and good order among its Subcontractors, material or equipment suppliers, or their agents, employees, and invitees, and shall establish and maintain surveillance over the activities of each of the foregoing to minimize any disturbance, damage, pollution, or unsightly conditions relative to property areas adjacent to or in the vicinity of the Site. The Design-Builder shall have the right to remove from the Work any employee of a Subcontractor for any reason including, without limitation, incompetence or carelessness.

5.5.3 DEFECTS DISCOVERED

Should the proper and accurate performance of the Work depend upon the proper and accurate performance of other work not included in its Contract, each Subcontractor shall use all necessary means to discover any defect in such other work and shall allow the Design-Builder, the Owner and Architect, or other Subcontractors as Design-Builder elects, a reasonable amount of time to remedy such defects. If the Subcontractor should proceed with its Work, it shall be

considered to have accepted such other work, unless the Subcontractor shall have proceeded pursuant to instructions in writing by the Design-Builder over its written objection.

5.5.4 SUBCONTRACTOR INFORMATION

Each Subcontractor shall submit to the Owner, the Design-Builder, ~~or, or the Architect,~~ as the case may be, promptly when requested by any of the foregoing, information with respect to the names, responsibilities, and titles of the principal members of its staff, the adequacy of the Subcontractor's equipment and the availability of necessary materials and supplies.

Subcontractor shall fully cooperate with Design-Builder in its periodic review of the adequacy of Subcontractor's supervision, personnel, and equipment, and the availability of necessary materials and supplies and shall promptly comply with the requirements of the Design-Builder with respect thereto.

5.5.5 TEMPORARY STRUCTURES

Each Subcontractor shall furnish at its expense its own temporary facilities and storage except those specifically agreed to be furnished to it by the Design-Builder in the Subcontract Agreement. Subcontractor's material storage rooms and field offices, etc., will be placed in locations designated by the Design-Builder. When it becomes necessary due to the progress of the Work for the Subcontractor to relocate its field operations, it will do so in an expeditious manner and at no additional cost to Design-Builder or Owner. The construction of material storage rooms and field offices, etc., will be of fire resistive material only, such as concrete or gypsum block, rated drywall, or sheet metal.

5.5.6 CHARGES TO SUBCONTRACTOR

Each Subcontractor may be subject to the Design-Builder's reasonable charges for hoisting, repair to other work caused by the fault or negligence of Subcontractor, removal of Subcontractor's rubbish, and clean-up occasioned by Subcontractor.

5.5.7 FINES IMPOSED

Subcontractor shall comply with and pay any fines or penalties imposed for violation of any applicable law, ordinance, rule, regulation, Environmental Impact Report mitigation requirement, and lawful order of any public authority, including, without limitation, all OSHA and California OSHA requirements and those of other authorities having jurisdiction of the safety of persons or property.

5.5.8 PROJECT SIGNS

Each Subcontractor shall not display on or about the Project any sign, trademark, or other advertisement. The Owner will permit a single Project sign, which shall be subject to the Owner's prior and sole discretion and approval, as to all matters including, without limitation, size, location, material, colors, style and size of printing, logos and trademarks (if any), text, and

selection of names to be displayed.

5.5.9 REMEDIES FOR FAILURE TO PERFORM

Without limitation of any other right or remedy available to Design-Builder under the Contract Documents or at law, should: the Subcontractor fail to perform its portion of the Work in a skilled and expeditious manner in accordance with the terms of the Contract Documents with sufficient labor, materials, equipment, and facilities; delays the progress of the job or otherwise fail in any of its obligations; or either a receiver is appointed for the Subcontractor or the Subcontractor is declared to be bankrupt or insolvent, and such appointment, bankruptcy, or insolvency proceedings or declaration is not set aside within thirty (30) days, then the Design-Builder, upon three (3) days' notice to the Subcontractor (subject to the requirements of Pub. Contracts Code, § 4107), may provide such labor, materials, or perform such work and recover the cost plus profit and overhead from monies due or to become due thereafter to the Subcontractor. The Design-Builder may terminate the employment of the Subcontractor, taking possession of its tools, materials, and equipment related to the Work and cause the entire portion of the Subcontractor's Work to be finished either by another Subcontractor or through the Design-Builder's own forces.

5.5.10 DISPUTES NOT TO AFFECT WORK

In the event of any dispute as to whether or not any portion of the Work is within the scope of the Work to be performed by a Subcontractor, or any dispute as to whether or not the Subcontractor is entitled to a Change Order for any Work requested of it or entitled to payment, the Subcontractor shall continue to proceed diligently with the performance of the Work. Regardless of the size or nature of the dispute, the Subcontractor shall not under any circumstances cease or delay performance of its portion of the Work during the existence of the dispute. The Design-Builder shall continue to pay the undisputed amounts called for under the Subcontract Agreement during the existence of the dispute. Any party stopping or delaying the progress of the Work because of a dispute shall be responsible in damages to the Owner, the [Architect/Owner's Representative](#), and the Design-Builder for any losses suffered as a result of the delay.

5.5.11 APPLICATION FOR PAYMENT

Design-Builder agrees to advise the Subcontractor if any documentation in connection with the Subcontractor's application for payment has not been accepted or is in any way unsatisfactory.

5.5.12 COMPLIANCE WITH PROCEDURES

Each Subcontractor shall comply with all procedures established by the Design-Builder for coordination among the Owner, the Owner's consultants, [Architect/Owner's Representative](#), Design-Builder, and the various Subcontractors for coordination of the Work with all local municipal authorities, government agencies, utility companies, and any other agencies with jurisdiction over all or any portion of the Work. The Subcontractor shall cooperate fully with all of the foregoing parties and authorities.

5.5.13 ON-SITE RECORD KEEPING

Subcontractor shall comply with all on-Site record keeping systems established by the Design-Builder and shall, upon the request of the Design-Builder, provide the Design-Builder with such information and reports as the Design-Builder may deem appropriate. Without limitation of the foregoing, the Subcontractor shall assemble all required permits and certificates so that they are readily accessible at the Site.

5.5.14 NON-EXCLUSIVE OBLIGATIONS

The specific requirements of Article 5 are not intended to exclude the obligation of the Subcontractor to comply with any of the other provisions of the General Conditions and the other Contract Documents which are relevant to the proper performance of its portion of the Work.

ARTICLE 6

CONSTRUCTION BY OWNER OR BY SEPARATE DESIGN-BUILDERS

6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

6.1.1 OWNER'S RIGHTS

The Owner reserves the right to perform Project work related to the Contract with the Owner's own forces, or to award separate contracts in connection with such other work or other construction or operations on the Site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance. Upon the election to perform such work with its own forces or by separate contracts, the Owner shall notify the Design-Builder. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall proceed pursuant to Section 4.5 in the Contract Documents.

6.1.2 DESIGNATION AS DESIGN-BUILDER

When separate contracts are awarded for different portions of the Project or other construction or operations on the Site, the term "Design-Builder" in the Contract Documents in each of those contracts shall mean the contractor who executes each separate Owner/Design-Builder Agreement.

6.1.3 DESIGN-BUILDER DUTIES

The Design-Builder shall have overall responsibility for coordination and scheduling of the activities of the Owner's own forces and of each separate contractor with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Design-Builder shall make any revisions to the construction schedule and Contract Sum deemed necessary after a joint review and mutual agreement. The construction schedules shall

then constitute the schedules to be used by the Design-Builder, separate contractors, and the Owner until subsequently revised.

6.1.4 OWNER OBLIGATIONS

Unless otherwise provided in the Contract Documents, when the Owner performs work related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, which apply to the Design-Builder under the General Conditions, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10 and 12.

6.2 MUTUAL RESPONSIBILITY

6.2.1 DELIVERY AND STORAGE

The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for delivery and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the separate contractors' construction and operations with theirs as required by the Contract Documents.

6.2.2 NOTICE BY DESIGN-BUILDER

If part of the Design-Builder's Work depends upon proper execution or results from work by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, promptly report to the Owner patent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Design-Builder to so report shall constitute an acknowledgment that the Owner's or separate contractors' completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

6.2.3 COSTS INCURRED

Costs, expenses, and damages caused by delays, improperly timed activities, defective construction, or damages to another's work/Work or property shall be borne by the party responsible. Should Design-Builder cause damage to the work/Work or property of any other contractor on the Project, or to the Project or property of a third party, or cause any delay to any such contractor or third party, the Design-Builder shall defend, indemnify and hold Owner harmless for such damage or delay under Section 3.16, below, and the Design-Builder shall be liable to Owner for any damages suffered by Owner, including liquidated damages for delay. Owner may withhold from progress payments and/or retention the cost of delay or damage to another contractor's work or damage to another contractor's property, and Owner's damages, caused by Design-Builder.

6.2.4 CORRECTION OF DAMAGE

The Design-Builder shall promptly remedy damage wrongfully caused by the Design-Builder to

completed or partially completed construction or to property of the Owner or separate contractors.

6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Design-Builder, separate contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.13, the Owner may clean up and allocate the cost among those responsible as the Owner determines to be just.

ARTICLE 7

CHANGES IN THE WORK

7.1 CHANGES

7.1.1 NO CHANGES WITHOUT AUTHORIZATION

The Owner reserves the right to change the Work by making such alterations, deviations, additions to, or deletions from the plans and specifications, as may be deemed by the Owner to be necessary or advisable for the proper Completion or construction of the Work contemplated, and Owner reserves the right to require Design-Builder to perform such work. No adjustment will be made in the Contract unit price of any Contract item regardless of the quantity ultimately required.

Owner shall compensate Design-Builder with money or grant extra time for any extra work ordered by the Owner to be performed. Design-Builder shall follow the provisions of 7.6 and 7.7 when requesting additional money or additional time. Design-Builder shall expeditiously perform all extra work upon direction, even if no agreement has been reached on extra time or money. For all such changes resulting in a credit to Owner, Design-Builder shall follow 7.5 and 7.7 in providing the credit to Owner. Design-Builder shall bring all potential credits to the Owner's attention.

There shall be no change whatsoever in the drawings, specifications, or in the Work or payments under the Contract Documents without an executed Change Order, Construction Change Directive, or order by the Owner pursuant to Section 7.1.2. Owner shall not be liable for the cost of any extra work or any substitutions, changes, additions, omissions, or deviations from the Drawings and Specifications unless the same shall have been properly requested under Section 4.5 and authorized by, and the cost thereof approved in writing by, Change Order or Construction Change Directive. No extension of time for performance of the Work shall be allowed hereunder unless request for such extension is properly made under Section 4.5 and such time is thereof approved in writing by Change Order or Construction Change Directive. The provisions of the Contract Documents shall apply to all such changes, additions, and omissions with the same effect as if originally embodied in the Drawings and Specifications.

7.1.2 AUTHORITY TO ORDER MINOR CHANGES

The Owner has authority to order minor changes in the Work not involving any adjustment in the Contract Sum, an extension of the Contract Time, or a change which is inconsistent with the intent of the Contract Documents. Such changes shall be effected by written Construction Change Directive and shall be binding on the Design-Builder. The Design-Builder shall carry out such written orders promptly.

7.2 CHANGE ORDERS (“CO”)

A CO is a written instrument signed by the Owner and the Design-Builder, stamped (or sealed) and signed by ~~Architect~~[Owner’s Representative](#), and approved by the Owner’s City Council, stating the agreement of Owner and Design-Builder 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 extent of the adjustment in the Contract Time, if any.

Unless expressly stated otherwise in the CO, any CO executed by Owner and Design-Builder constitutes and includes full and complete money and time (including but not limited to, adjustments to money and time) for all costs and effects caused by any of the changes described within it. Unless expressly stated otherwise in the CO, in consideration for the money received for the changes described in the CO, Design-Builder waives all Claims for all costs and effects caused by any of the changes, including but not limited to labor, equipment, materials, delay, extra work, overhead (home and field), profit, direct costs, indirect costs, acceleration, disruption, impaired productivity, time extensions, and any the costs and effects on Subcontractors and suppliers of any tier.

7.3 CONSTRUCTION CHANGE DIRECTIVES (“CCD”)

7.3.1 DEFINITION

A CCD is a written unilateral order signed by the Owner, and if necessary by the ~~Architect~~[Owner’s Representative](#), directing a change in the Work and stating an adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by CCD, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions pursuant to Section 7.1.1.

7.3.2 USE TO DIRECT CHANGE

A CCD shall be used in the absence of agreement on the terms of a CO. If Design-Builder disagrees with the terms of a CCD, it shall nevertheless perform the work directed by the CCD, but it may pursue the Notice of Potential Change, COR and Claim procedures of Section 4.5 if

Design-Builder believes it is entitled to changes in the Contract Sum or Contract Time.

7.4 REQUEST FOR INFORMATION (“RFI”)

7.4.1 DEFINITION

An RFI is a written request prepared by the Design-Builder asking the Owner to provide additional information necessary to clarify an item which the Design-Builder feels is not clearly shown or called for in the Contract Documents, or to address problems which have arisen under field conditions.

7.4.2 SCOPE

The RFI shall reference all portions of the applicable Contract Documents. The Design-Builder shall make suggestions and/or interpretations of the issue raised by the RFI. An RFI cannot modify the Contract Sum, Contract Time, or the Contract Documents.

7.4.3 RESPONSE TIME

Unless Owner expressly directs otherwise in writing, Design-Builder shall submit RFI’s directly to the [Architect/Owner’s Representative](#), with copies forwarded to the Owner. Design-Builder shall submit a revised and updated priority schedule with each RFI. The [Architect/Owner’s Representative](#) shall endeavor to follow the Design-Builder’s requested order of priorities. The Owner and Design-Builder agree that an adequate time period for the [Architect/Owner’s Representative](#) (or other designated recipient of the RFI) to respond to an RFI is generally fourteen (14) calendar days after the [Architect/Owner’s Representative](#)’s receipt of an RFI, unless the Owner and Design-Builder agree otherwise in writing. However, in all cases, the [Architect/Owner’s Representative](#) shall take such time, whether more or less than 14 days, as is necessary in the [Architect/Owner’s Representative](#)’s professional judgment to permit adequate review and evaluation of the RFI. If Design-Builder informs the [Architect/Owner’s Representative](#) that it needs a response to an RFI expedited to avoid delay to the critical path, the [Architect/Owner’s Representative](#) shall provide a response as quickly as reasonably possible. The total time required for the [Architect/Owner’s Representative](#) to respond is subject to the complexity of the RFI, the number of RFI’s submitted concurrently and the reprioritization of pending RFI’s submitted by the Design-Builder, among other things. If Design-Builder believes that the [Architect/Owner’s Representative](#)’s response results in a change in the Work that warrants additional money or time, or that [Architect/Owner’s Representative](#)’s response was unreasonably delayed and caused delay to the Work’s critical path, Design-Builder shall follow the procedures for additional money or time under Section 4.5. No presumption shall arise as to the timeliness of the response if the response is more than fourteen (14) days after the [Architect/Owner’s Representative](#)’s receipt of the RFI. Design-Builder shall review the Contract Documents before submitting an RFI to ensure that the information is not already in the Contract Documents. To compensate the Owner for time and costs incurred for each time the information was already in the Contract Documents, Owner may withhold \$100 from progress payments or retention in addition to any other remedies which Owner may have the right to pursue.

7.4.4 COSTS INCURRED

The Design-Builder shall be invoiced by the Owner for any costs incurred for professional services, which shall be withheld from progress payments or retention, if an RFI requests an interpretation or decision of a matter where the information sought is equally available to the party making such request.

7.5 REQUEST FOR PROPOSAL(“RFP”)

7.5.1 DEFINITION

An RFP is Owner’s written request asking the Design-Builder to submit to the Owner an estimate of the effect, including credits, of a proposed change on the Contract Sum and the Contract Time.

7.5.2 SCOPE

An RFP shall contain adequate information, including any necessary drawings and specifications, to enable Design-Builder to provide the cost breakdowns required by section 7.7. The Design-Builder shall not be entitled to any additional money for preparing a response to an RFP, whether ultimately accepted or not.

7.6 CHANGE ORDER REQUEST(“COR”)

7.6.1 DEFINITION

A COR is a written request prepared by the Design-Builder asking the Owner for additional money or time. The COR shall include all information necessary to establish the Design-Builder’s entitlement to additional money or time.

7.6.2 CHANGES IN PRICE

A COR shall include breakdowns per section 7.7 to validate any proposed change in Contract Sum.

7.6.3 CHANGES IN TIME

Where a change in Contract Time is requested, a COR shall also include delay analysis to validate any proposed change to the Contract Time, and shall meet all requirements in these General Conditions, including but not limited to Section 8.4. Any additional time requested shall not be the number of days to make the proposed change, but must be based upon the impact to the Work schedule as defined in section 3.9 and Division 1 of the Specifications.

7.7 PRICE OF CHANGE ORDERS

7.7.1 SCOPE

Any COR shall provide in writing to the Owner, the [Architect/Owner’s Representative](#) and any construction manager, the effect of the proposed CO upon the Contract Sum and the actual cost

of construction, which shall include a complete itemized cost breakdown of all labor and material showing actual quantities, hours, unit prices, wage rates, required for the change, and the effect upon the Contract Time of such CO.

7.7.2 DETERMINATION OF COST

The amount of the increase or decrease in the Contract Sum resulting from a CO, if any, shall be determined in one or more of the following ways as applicable to a specific situation:

- A. Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- B. Unit prices stated in the Design-Builder's original bid, the Contract Documents, or subsequently agreed upon between the Owner and the Design-Builder;
- C. Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- D. By cost of material and labor and percentage of overhead and profit. If the value is determined by this method the following requirements shall apply:

1. Daily Reports by Design-Builder.

a) General: At the close of each working day, the Design-Builder shall submit a daily report to the Inspector of Record and any construction manager, on forms approved by the Owner, together with applicable delivery tickets, listing all labor, materials, and equipment involved for that day, the location of the work, and for other services and expenditures when authorized concerning extra work items. An attempt shall be made to reconcile the report daily, and it shall be signed by the Inspector of Record and the Design-Builder. In the event of disagreement, pertinent notes shall be entered by each party to explain points which cannot be resolved immediately. Each party shall retain a signed copy of the report. Reports by Subcontractors or others shall be submitted through the Design-Builder.

b) Labor: Show names of workers, classifications, and hours worked.

c) Materials: Describe and list quantities of materials used.

d) Equipment: Show type of equipment, size, identification number, and hours of operation, including, if applicable, loading and transportation.

e) Other Services and Expenditures: Describe in such detail as the Owner may require.

2. **Basis for Establishing Costs.**

a) Labor will be the actual cost for wages prevailing locally for each craft or type of workers at the time the extra work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from Federal, State, or local laws, as well as assessments or benefits required by lawful collective bargaining agreements. The use of a labor classification, which would increase the extra work cost, will not be permitted unless the Design-Builder establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.

b) Materials shall be at invoice or lowest current price at which such materials are locally available and delivered to the Site in the quantities involved, plus sales tax, freight, and delivery.

The Owner reserves the right to approve materials and sources of supply or to supply materials to the Design-Builder if necessary for the progress of the Work. No markup shall be applied to any material provided by the Owner.

c) Tool and Equipment Rental. No payment will be made for the use of tools which have a replacement value of \$100 or less.

Regardless of ownership, the rates to be used in determining equipment rental costs shall not exceed listed rates prevailing locally at equipment rental agencies or distributors at the time the work is performed.

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

Necessary loading and transportation costs for equipment used on the extra work shall be included. If equipment is used intermittently and, when not in use, could be returned to its rental source at less expense to the Owner than holding it at the work Site, it shall be returned unless the Design-Builder elects to keep it at the work Site at no expense to the Owner.

All equipment shall be acceptable to the Inspector of Record, in good working condition, and suitable for the purpose for which it is to be used. Manufacturer's ratings and modifications shall be used to classify equipment, and equipment shall be powered by a unit of at least the minimum rating recommended by the manufacturer.

d) Other Items. The Owner may authorize other items which may be

required on the extra work. Such items include labor, services, material, and equipment which are different in their nature from those required by the Work, and which are of a type not ordinarily available from the Design-Builder or any of the Subcontractors. Invoices covering all such items in detail shall be submitted with the Application for Payment.

e) Invoices. Vendors' invoices for material, equipment rental, and other expenditures shall be submitted with the COR. If the Application for Payment is not substantiated by invoices or other documentation, the Owner may establish the cost of the item involved at the lowest price which was current at the time of the Daily Report.

f) Overhead, premiums and profit. For overhead, including direct and indirect costs, submit with the COR and include: home office overhead, off-Site supervision, CO preparation/negotiation/research for Owner initiated changes, time delays, project interference and disruption, additional guaranty and warranty durations, on-Site supervision, additional temporary protection, additional temporary utilities, additional material handling costs, and additional safety equipment costs.

7.7.3 FORMAT FOR PROPOSED COST CHANGE

The following format shall be used as applicable by the Owner and the Design-Builder to communicate proposed additions and deductions to the Contract.

	<u>EXTRA</u>	<u>CREDIT</u>
A. Material (attach itemized quantity and unit cost plus sales tax, invoices, receipts, truck tags, etc., for force account work)	_____	_____
B. Labor (attach itemized hours and rates, daily logs, certified payroll, etc.)	_____	_____
C. Equipment (attach any invoices)	_____	_____
D. Subtotal	_____	_____
E. If Subcontractor performed Work, add Subcontractor's overhead and profit to portions performed by Subcontractor, not to exceed fifteen percent (15%) of item D.	_____	_____

F.	Liability and Property Damage Insurance, Worker's Compensation Insurance, Social Security, and Unemployment Taxes, not to exceed twenty-five percent (25%) of Item B.	_____	_____
G.	Subtotal	_____	_____
H.	General Design-Builder's Overhead and Profit, not to exceed fifteen percent (15%) of Item G; and for work performed by subcontractors, not to exceed five percent (5%).	_____	_____
I.	Subtotal	_____	_____
J.	Bond not to exceed one percent (1%) of Item I.	_____	_____
K.	TOTAL	_____	_____

It is expressly understood that the value of such extra work or changes, as determined by any of the aforementioned methods, expressly includes (1) any and all of the Design-Builder's costs and expenses, both direct and indirect, resulting from additional time required on the project or resulting from delay to the project, and (2) any costs of preparing a COR, including but not limited to delay analysis. Any costs or expenses not included are deemed waived.

7.7.4 DISCOUNTS, REBATES, AND REFUNDS

For purposes of determining the cost, if any, of any change, addition, or omission to the Work hereunder, all trade discounts, rebates, refunds, and all returns from the sale of surplus materials and equipment shall accrue and be credited to the Design-Builder, and the Design-Builder shall make provisions so that such discounts, rebates, refunds, and returns may be secured, and the amount thereof shall be allowed as a reduction of the Design-Builder's cost in determining the actual cost of construction for purposes of any change, addition, or omissions in the Work as provided herein.

7.7.5 ACCOUNTING RECORDS

With respect to portions of the Work performed by COs and CCDs on a time-and-materials, unit-cost, or similar basis, the Design-Builder shall keep and maintain cost-accounting records satisfactory to the Owner, which shall be available to the Owner on the same terms as any other books and records the Design-Builder is required to maintain under the Contract Documents.

7.7.6 NOTICE REQUIRED

Design-Builder shall submit a written Notice of Potential Change for additional money or time pursuant to section 4.5.1.

7.7.7 APPLICABILITY TO SUBCONTRACTORS

Any requirements under this Article 7 shall be equally applicable to COs or CCDs issued to Subcontractors by the Design-Builder to the same extent required of the Design-Builder.

7.8 WAIVER OF RIGHT TO CLAIM MONEY OR TIME

Failure to demand money based on costs, or time extensions, as part of a COR constitutes a complete waiver of Design-Builder's right to claim the omitted money or time. All money or time for an issue must be included in the COR at the time submitted.

ARTICLE 8

TIME

8.1 DEFINITIONS

8.1.1 CONTRACT TIME

Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Completion of the Work.

8.1.2 NOTICE TO PROCEED

Design-Builder shall not commence the Work until it receives a Notice to Proceed from Owner. The date of commencement of the Work is the date established in the Notice to Proceed. The date of commencement shall not be postponed by the failure to act of the Design-Builder or of persons or entities for whom the Design-Builder is responsible.

8.1.3 DAYS

The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

8.2 HOURS OF WORK

8.2.1 SUFFICIENT FORCES

Design-Builders and Subcontractors shall furnish sufficient forces to ensure the prosecution of the Work in accordance with the Construction Schedule.

8.2.2 PERFORMANCE DURING WORKING HOURS

Work shall be performed during regular working hours except that in the event of an emergency or when required to complete the Work in accordance with job progress, work may be performed outside of regular working hours with the advance written consent of the Owner.

8.2.3 LABOR CODE APPLICATION

As provided in Article 3 (commencing at § 1810), Chapter 1, Part 7, Division 2 of the Labor Code, eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Design-Builder or by any Subcontractor on any subcontract under this Contract, upon the work or upon any part of the work contemplated by this Contract, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as hereinafter provided. Notwithstanding the provision hereinabove set forth, work performed by employees of Design-Builders in excess of eight (8) hours per day and forty (40) hours during any one week shall be permitted upon this public work with compensation provided for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1-1/2) times the basic rate of pay.

Design-Builder or subcontractor shall pay to the Owner a penalty of Twenty-five Dollars (\$25.00) for each worker employed in the execution of this Contract by the Design-Builder, or by any Subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one (1) calendar week, in violation of the provisions of Article 3 (commencing at § 1810), Chapter 1, Part 7, Division 2 of the Labor Code, unless compensation for the workers so employed by Design-Builder is not less than one and one-half (1-1/2) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

8.2.4 COSTS FOR AFTER HOURS INSPECTIONS

If the work done after hours is required by the Contract Documents to be done outside the Design-Builder's or the Inspector of Record's regular working hours, the costs of any inspections, if required to be done outside normal working hours, shall be borne by the Owner.

If the Owner allows the Design-Builder to do work outside regular working hours for the Design-Builder's own convenience, the costs of any inspections required outside regular working hours, among other remedies, shall be invoiced to the Design-Builder by the Owner and withheld from progress payments and/or retention. Design-Builder shall give Owner at least 48 hours' notice prior to working outside regular working hours.

If the Design-Builder elects to perform work outside the Inspector of Record's regular working hours, costs of any inspections required outside regular working hours, among other remedies, may be invoiced to the Design-Builder by the Owner and withheld from progress payments and/or retention.

8.2.5 TIME FOR COMMENCEMENT BY SUBCONTRACTORS

Unless otherwise provided in the Contract Documents, all Subcontractors shall commence their Work within two (2) consecutive business days after notice to them by the Design-Builder and shall prosecute their Work in accordance with the progress of the Work.

8.3 PROGRESS AND COMPLETION

8.3.1 TIME OF THE ESSENCE

Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

8.3.2 NO COMMENCEMENT WITHOUT INSURANCE

The Design-Builder shall not knowingly, except by agreement or instruction of the Owner, in writing, commence operations on the Site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Design-Builder. The date of commencement of the Work shall not be changed by the effective date of such insurance.

8.3.3 EXPEDITIOUS COMPLETION

The Design-Builder shall proceed expeditiously to perform the Work, with adequate forces, labor, materials, equipment, services and management, and shall achieve Completion within the Contract Time.

8.4 EXTENSIONS OF TIME - LIQUIDATED DAMAGES

8.4.1 CONDITIONS ALLOWING FOR EXTENSIONS OF TIME TO COMPLETE THE WORK, ONLY (EXCUSABLE DELAY)

The Design-Builder shall be granted a reasonable time extension under the Contract Documents, including but not limited to Sections 3.18 and 4.5 and Article 7, for excusable delays, which are those delays that meet each and every of the following conditions:

- (a) The delay was beyond the control of Design-Builder and its subcontractors and material suppliers;
- (b) The delay was caused by events about which Design-Builder was not advised at or before the time of bidding;
- (c) All float in the schedule had been used, and the delay impacted and delayed (i) the controlling items of Work (i.e., the as-built critical path, as determined from the as-planned schedule and the actual progress of the Work), or (ii) the achievement of a Milestone Deadline, or the Completion of the whole Work within the Contract Time;
- (d) The delay was not caused by Design-Builder or its subcontractors or suppliers, including but not limited to their breaches of contract or the standard of care;

(e) The delay was not associated with loss of time resulting from the necessity of submittals to Owner for approval, or from necessary Owner surveys, measurements, inspections and testing;

(f) The delay was not caused by usual or common weather for the time of year, including usual or common severe weather; and

(g) The delay could not have been prevented by the exercise of care, prudence, foresight, and diligence by Design-Builder.

Excusable delays may include acts of God, acts of public enemy, acts of the Owner or anyone employed by it, acts of another contractor in performance of a contract (other than this Contract) with the Owner, fires, floods, epidemics, quarantine restrictions, labor disputes, unusually and uncommonly severe weather for the time of year, unforeseen site conditions, or delays of subcontractors due to such causes. Owner shall take into consideration other relevant factors such as concurrent delays. Design-Builder has the burden of proving that any delay was excusable.

8.4.2 COMPENSABLE DELAY (TIME AND MONEY)

Compensable delays are those excusable delays for which Design-Builder is also entitled to money. To be compensable, an excusable delay must be one for which the Owner is responsible, where the delay was unreasonable under the circumstances involved, and where the delay was not within the contemplation of the parties; *however*, Design-Builder shall not be entitled to monetary compensation when (a) Design-Builder could have reasonably anticipated the delay and avoided or minimized the cost impacts of it, (b) there was a concurrent delay which does not qualify for monetary compensation under this paragraph, (c) the cause of the delay was reasonably unforeseen by the Owner or the delay was caused by factors beyond the control of the Owner, including but not limited to a delay under Section 2.2.8 above or a delay caused by a utility company's failure to perform despite Owner's reasonable arrangements for such performance; or (d) any other defense available to Owner under law or equity applies. Design-Builder has the burden of proving that any delay was excusable and compensable, including an analysis that establishes non-concurrency.

8.4.3 NOTICE BY DESIGN-BUILDER REQUIRED; PROCEDURES FOR DEMANDING ADDITIONAL TIME OR MONEY

For notice and other required procedures related to requests by Design-Builder for additional time or money related to delay, Design-Builder shall comply with the Contract Documents, including but not limited to Sections 3.18 and 4.5, and Article 7, above.

8.4.4 EARLY COMPLETION

Regardless of the cause therefore, the Design-Builder may not maintain any Claim or cause of action against the Owner for damages incurred as a result of its failure or inability to Complete its Work on the Project in a shorter period than established in the Contract Documents, the parties stipulating that the period set forth in the Contract Documents is a reasonable time within

which to perform the Work on the Project.

8.4.5 LIQUIDATED DAMAGES

Failure to Complete the Work within the time and in the manner provided for by the Contract Documents, or delaying another contractor's work on the Project, shall subject the Design-Builder to liquidated damages as described in Article III of the Agreement. For purposes of liquidated damages, the concept of "substantial completion" shall not constitute Completion and is not part of the Contract. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if the Work were not Completed within the Contract Time, or if another contractor on the Project were to fail to timely Complete its work, are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of delay include, but are not limited to, loss of the use of the Work or other contractors' work on the Project, disruption of activities, costs of administration, supervision, the incalculable inconvenience and loss suffered by the public, and Owner's inability to recover its delay damages from other contractors whose work was delayed by Design-Builder.

Accordingly, the parties agree that the amount set forth in the Agreement shall be presumed to be the amount of damages which the Owner shall directly incur as a result of each calendar day by which Completion of the Work, or other contractors' work, is delayed beyond the Contract Time as adjusted by Change Orders.

If the Design-Builder fails to complete the Work within the Contract Time as adjusted by Change Orders, or another contractor cannot timely Complete its work due to Design-Builder, and liquidated damages therefore accrue, the Owner, in addition to all other remedies provided by law, shall have the right to assess liquidated damages at any time, and to withhold liquidated damages (and any interest thereon) at any time from any and all retention or progress payments, which would otherwise be or become due the Design-Builder. In addition, if it is reasonably apparent to the Owner before expiration of the Contract Time (as adjusted by Change Orders) that the Design-Builder cannot or will not complete the Work within the Contract Time, or that another contractor cannot timely Complete its work due to Design-Builder, Owner may assess and withhold, from retention or progress payments, the estimated amount of liquidated damages that will accrue in the future. If the retained percentage or withheld progress payments are not sufficient to discharge all liabilities of the Design-Builder incurred under this Article, the Design-Builder and its sureties shall continue to remain liable to the Owner until all such liabilities are satisfied in full.

If the Owner accepts any work or makes any payment under this Agreement after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any Agreement provisions regarding time of Completion and liquidated damages.

8.5 GOVERNMENT APPROVALS

Owner shall not be liable for any delays or damages related to the time required to obtain

government approvals.

ARTICLE 9

PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

The Contract Sum or GMP is stated in the Agreement, later adjusted by Change Orders and Construction Change Directives, and is the total amount payable by the Owner to the Design-Builder for performance of the Work under the Contract Documents. The Contract Sum shall be made up of two components: (i) the Design Fee; and (ii) the Construction Fee. These two components are separately stated in the Agreement.

9.2 COST BREAKDOWN

9.2.1 REQUIRED INFORMATION

On forms approved by the Owner, the Design-Builder shall furnish the following:

- A. Prior to approving the proposed Construction Fee, a detailed breakdown of the Contract Sum (Schedule of Values) for each Project or Site. Each item in the schedule of values shall include its proper share of the overhead and profit.
- B. Within ten (10) days of approving the Construction Fee, a schedule of estimated monthly payment requests (cash flow) due the Design-Builder showing the values and construction time of the various portions of the Work to be performed by it and by its Subcontractors or material and equipment suppliers containing such supporting evidence as to its correctness as the Owner may require;
- C. Five (5) days prior to the submission of a pay request, an itemized breakdown of work done for the purpose of requesting partial payments;
- D. Within ten (10) days of approving the Construction Fee, the name, address, telephone number, fax number, license number and classification, and public works contractor registration number of all of its Subcontractors and of all other parties furnishing labor, material, or equipment for its Contract, along with the amount of each such subcontract or the price of such labor, material, and equipment needed for its entire portion of the Work.

9.2.2 OWNER ACCEPTANCE REQUIRED

The Owner shall review all submissions received pursuant to paragraph 9.2.1 in a timely manner. All submissions must be accepted by the Owner before becoming the basis of any payment.

9.3 APPLICATIONS FOR PAYMENT

9.3.1 PROCEDURE

On or before the fifth (5th) day of each calendar month during the progress of the portion of the Work for which payment is being requested, the Design-Builder shall submit to the ~~Architect~~[Owner's Representative](#), unless there is a construction manager for the Project or the Owner directs otherwise, an itemized Application for Payment for operations completed in accordance with the Schedule of Values through the end of the previous calendar month. Such application shall be notarized, if required, and supported by the following or such portion thereof as the applicable entity requires:

- A. The amount paid to the date of the Application to the Design-Builder, to all its Subcontractors, and all others furnishing labor, material, or equipment for its Contract;
- B. The amount being requested with the Application for Payment by the Design-Builder on its own behalf and separately stating the amount requested on behalf of each of the Subcontractors and all others furnishing labor, material, and equipment under the Contract;
- C. The balance that will be due to each of such entities after said payment is made;
- D. A certification that the Record Drawings and Annotated Specifications are current;
- E. The Owner approved additions to and subtractions from the Contract Sum and Time;
- F. A summary of the retentions (each Application related to the Construction Fee shall provide for retention, as set out in Article 9.6);
- G. Material invoices, evidence of equipment purchases, rentals, and other support and details of cost as the Owner may require from time to time;
- H. The percentage of Completion of the Design-Builder's Work by line item;
- I. A statement showing all payments made by the Design-Builder for labor and materials on account of the Work covered in the preceding Application for Payment. Such applications shall not include requests for payment of amounts the Design-Builder does not intend to pay to subcontractors or others because of a dispute or other reason; and
- J. Design-Builder's monthly reports, daily reports, and monthly schedule updates for all months of Work prior to the Application for Payment that Design-Builder has not previously submitted.

9.3.2 PURCHASE OF MATERIALS AND EQUIPMENT

As the Design-Builder is required to order, obtain, and store materials and equipment sufficiently in advance of its Work at no additional cost or advance payment from Owner, to assure that there will be no delays, payment by the Owner for stored material shall be made only in unusual circumstances where the ~~Architect~~[Owner's Representative](#) specifically recommends, and Owner specifically approves the payment in writing. If payments are to be made on account of materials and equipment not incorporated in the Work, but delivered and suitably stored at the Site or at some other location agreed upon in writing by the Owner, the payments shall be conditioned upon submission by the Design-Builder, Subcontractor, or vendor of bills of sale and such other documents satisfactory to the Owner to establish the Owner's title to such materials or equipment free of all liens and encumbrances, and otherwise protect the Owner's interest, including, without limitation, provision of applicable insurance and transportation to the Site. All stored items shall be inventoried, specified by identification numbers (if applicable), released to the Owner by sureties of the Design-Builder and the Subcontractor and, if stored off-Site, stored only in a bonded warehouse.

9.3.3 WARRANTY OF TITLE

The Design-Builder warrants that title to all work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that upon submittal of an Application for Payment all work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances in favor of the Design-Builder, Subcontractors, material and equipment suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work. Transfer of title to Work does not constitute a waiver by Owner of any defects in the Work.

9.4 REVIEW OF PROGRESS PAYMENT

9.4.1 OWNER ACCEPTANCE

The Owner will, within seven (7) days after receipt of the Design-Builder's Application for Payment, either accept such payment or notify the Design-Builder in writing of the Owner's reasons for withholding acceptance in whole or in part as provided in paragraph 9.5.1.

9.4.2 OWNER'S REVIEW

The review of the Design-Builder's Application for Payment by the Owner will be based, at least in part, on the Owner's observations at the Site and the data comprising the Application for Payment that the Work has progressed to the point indicated. The review is also subject to an evaluation of the Work for conformance with the Contract Documents, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to Completion, and to specific qualifications expressed by the Owner. The Owner may reject the Application for Payment if it is not complete under section 9.3. The issuance of a Certificate for

Payment will constitute a representation that the Design-Builder is entitled to payment in the amount certified, subject to any specific qualifications Owner expresses in the Certificate for Payment. However, Design-Builder's entitlement to payment may be affected by subsequent evaluations of the Work for conformance with the Contract Documents, test and inspections and discovery of minor deviations from the Contract Documents correctable prior to Completion. The issuance of a Certificate for Payment will not be a waiver by the Owner of any defects in the Work covered by the Application for Payment, nor will it be a representation that the Owner has:

- A. Made exhaustive or continuous on-Site inspections to check the quality or quantity of the Work;
- B. Reviewed construction means, methods, techniques, sequences, or procedures;
- C. Reviewed copies of requisitions received from Subcontractors, material and equipment suppliers, and other data requested by the Owner to substantiate the Design-Builder's right to payment; or
- D. Made an examination to ascertain how or for what purpose the Design-Builder has used money previously paid on account of the Contract Sum.

9.5 DECISIONS TO WITHHOLD PAYMENT

9.5.1 REASONS TO WITHHOLD PAYMENT

The Owner may withhold from a progress payment, in whole or in part, to such extent as may be necessary to protect the Owner due to any of the following:

- A. Defective or incomplete Work not remedied;
- B. Stop Payment Notices. For any stop payment notice, the Owner shall withhold the amount stated in the stop payment notice, the stop notice claimant's anticipated interest and court costs and an amount to provide for the public entity's reasonable cost of any litigation pursuant to the stop payment notice. For any stop payment notice action the parties resolve before judgment is entered, Owner has the right to permanently withhold for any reasonable cost of litigation for that stop payment notice, even if it exceeds the amount originally withheld by Owner for the estimated reasonable cost of litigation. However, if (1) the Design-Builder at its sole expense provides a bond or other security satisfactory to the Owner in the amount of at least one hundred twenty-five percent (125%) of the claim, in a form satisfactory to the Owner, which protects the Owner against such claim, and (2) the Owner chooses to accept the bond, then Owner would release the withheld stop payment notice funds to the Design-Builder, except that Owner may permanently withhold for any reasonable cost of litigation. Any stop payment notice release bond shall be executed by a California admitted, fiscally solvent surety, completely unaffiliated with and separate from the surety on the payment and performance bonds, that does not have any assets pooled with the payment

and performance bond sureties.

- C. Liquidated damages against the Design-Builder, whether already accrued or estimated to accrue in the future;
- D. Reasonable doubt that the Work can be Completed for the unpaid balance of any Contract Sum or by the Completion deadline;
- E. Damage to the property or work of the Owner, another contractor, or subcontractor;
- F. Unsatisfactory prosecution of the Work by the Design-Builder;
- G. Failure to store and properly secure materials;
- H. Failure of the Design-Builder to submit on a timely basis, proper and sufficient documentation required by the Contract Documents, including, without limitation, monthly progress schedules, shop drawings, submittal schedules, schedule of values, product data and samples, proposed product lists, executed change orders, and verified reports;
- I. Failure of the Design-Builder to maintain record drawings;
- J. Erroneous estimates by the Design-Builder of the value of the Work performed, or other false statements in an Application for Payment;
- K. Unauthorized deviations from the Contract Documents;
- L. Failure of the Design-Builder to prosecute the Work in a timely manner in compliance with established progress schedules and Completion deadlines;
- M. Subsequently discovered evidence or observations nullifying the whole or part of a previously issued Certificate for Payment;
- N. Failure by Design-Builder to pay Subcontractors or material suppliers as required by Contract or law, which includes but is not limited to Design-Builder's failure to pay prevailing wage and any assessment of statutory penalties;
- O. Overpayment to Design-Builder on a previous payment;
- P. Credits owed to Owner for reduced scope of work or work that Design-Builder will not perform;
- Q. The estimated cost of performing work pursuant to Section 2.4;
- R. Actual damages related to false claims by Design-Builder;

- S. Breach of any provision of the Contract Documents;
- T. Owner's potential or actual loss, liability or damages caused by the Design-Builder; and
- U. As permitted by other provisions in the Contract or as otherwise allowed by law, including statutory penalties Owner or other entities assessed against Design-Builder. (See e.g., Labor Code section 1813 (working hours) or Public Contract Code section 4110 (subcontractor listings and substitutions))

Owner may, but is not required to, provide to Design-Builder with the progress payment written notice of the items for which Owner is withholding amounts from the payment. To claim wrongful withholding by the Owner, or if Design-Builder otherwise disputes any amount being withheld, Design-Builder must submit an inquiry in writing to Owner within thirty (30) days of receipt of the notice, and Owner shall respond within fifteen (15) days of receipt of the inquiry. If any disputed issues remain unresolved after Owner's response, Design-Builder shall timely submit a Claim pursuant to Section 4.5.

For any withhold amount based on an estimate where the actual amount later becomes known and certain, no later than the final accounting for the Contract the Owner will release any amount withheld over that certain and known amount. If the certain and known amount exceeds the amount previously withheld, Owner may withhold additional amounts from Design-Builder to cover the excess amount. If available funds are not sufficient, Design-Builder shall pay Owner the difference.

9.5.2 PAYMENT AFTER CURE

When Design-Builder removes or cures the grounds for withholding amounts, payment shall be made for amounts withheld because of them. No interest shall be paid on any retainage or amounts withheld due to the failure of the Design-Builder to perform in accordance with the terms and conditions of the Contract Documents.

9.5.3 OVERPAYMENT AND/OR FAILURE TO WITHHOLD

Neither Owner's overpayment to Design-Builder, nor Owner's failure to withhold an amount from payment that Owner had the right to withhold, shall constitute a waiver by Owner of its rights to withhold those amounts from future payments to Design-Builder or to otherwise pursue recovery of those amounts from Design-Builder.

9.6 PROGRESS PAYMENTS

9.6.1 PAYMENTS TO DESIGN-BUILDER

Unless otherwise stated in the Contract Documents, within thirty (30) days after receipt of an undisputed and properly submitted Application for Payment for the Construction Fee, Design-

Builder shall be paid a sum equal to ninety-five percent (95%) of the undisputed value of the Work performed up to the last day of the previous month, less the aggregate of previous payments; and Owner shall retain the other five percent (5%) of the undisputed value of the Work. The value of the Work completed shall be an estimate only, no inaccuracy or error in said estimate shall operate to release the Design-Builder, or any bondsman, from damages arising from such Work or from enforcing each and every provision of this Contract, and the Owner shall have the right subsequently to correct any error made in any estimate for payment. Design-Builder shall base an Application for Payment only on the original Contract Sum plus any fully executed and Council-approved Change Orders. Design-Builder shall not include Notices of Potential Claims, CORs, Claims or disputed amounts.

The Design-Builder shall not be entitled to have any payment requests processed, or be entitled to have any payment made for work performed, so long as any lawful or proper direction given by the Owner concerning the Work, or any portion thereof, remains uncomplished with. Payment shall not be a waiver of any such direction.

9.6.2 PAYMENTS TO SUBCONTRACTORS

No later than ten (10) days after receipt of payment from Owner, pursuant to Business and Professions Code section 7108.5, the Design-Builder shall pay to each Subcontractor, out of the amount paid to the Design-Builder on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of such Subcontractor's portion of the Work. The Design-Builder shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

9.6.3 PERCENTAGE OF COMPLETION OR PAYMENT INFORMATION

The Owner will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of Completion or amounts applied for by the Design-Builder, and action taken thereon by the Owner, on account of portions of the Work done by such Subcontractor.

9.6.4 NO OBLIGATION OF OWNER FOR SUBCONTRACTOR PAYMENT

The Owner shall have no obligation to pay, or to see to the payment of, money to a Subcontractor except as may otherwise be required by law.

9.6.5 PAYMENT TO SUPPLIERS

Payment to material or equipment suppliers shall be treated in a manner similar to that provided in paragraphs 9.6.2, 9.6.3 and 9.6.4.

9.6.6 PAYMENT NOT CONSTITUTING APPROVAL OR ACCEPTANCE

An accepted Application for Payment, issuance of a Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance

or approval of any portion of the Work, especially any Work not in accordance with the Contract Documents.

9.6.7 JOINT CHECKS

Owner shall have the right, if necessary for the protection of the Owner, to issue joint checks made payable to the Design-Builder and Subcontractors and/or material or equipment suppliers. The joint check payees shall be responsible for the allocation and disbursement of funds included as part of any such joint payment. However, Owner has no duty to issue joint checks. In no event shall any joint check payment be construed to create any contract between the Owner and a Subcontractor of any tier, any obligation from the Owner to such Subcontractor, or rights in such Subcontractor against the Owner.

9.7 COMPLETION OF THE WORK

9.7.1 CLOSE-OUT PROCEDURES

When the Design-Builder considers that the Work is Complete and submits a written notice to Owner requesting an inspection of the Work, the Owner shall review the Work and prepare and submit to the Design-Builder a comprehensive list of items to be Completed or corrected (the “Punch List”). The Punch List shall include all outstanding obligations of Design-Builder, including training, start-up, testing, and submission to Owner of all required documentation (e.g., written guarantees, warranties, invoices, as-built drawings, manuals, bonds, and the documents described in Section 9.3 and 9.9). The Design-Builder and/or its Subcontractors shall proceed promptly to Complete and correct items on the Punch List. Failure to include an item on the Punch List does not alter the responsibility of the Design-Builder to Complete all Work (including the omitted item) in accordance with the Contract Documents, and to Complete or correct the Work so long as the statute of limitations (or repose) has not run.

When the Design-Builder believes the Punch List Work is Complete and in accordance with the Contract Documents, it shall then submit a request for an additional inspection by the Owner to determine Completion. Owner shall again inspect the Work and inform the Design-Builder of any items that are not Complete or correct. Design-Builder shall promptly Complete or correct items until no items remain.

After the Work, including all Punch List Work, is inspected and informally deemed by the Owner to be Complete, the Owner’s governing body may formally accept the Work as Complete at a meeting of the governing body. Warranties required by the Contract Documents shall commence on the date of Design-Builder’s Completion of the Work (see Sections 3.5, 12.2.5, and 12.2.6).

9.7.2 COSTS OF MULTIPLE INSPECTIONS

More than two (2) requests by Design-Builder to make inspections to confirm Completion as required under paragraph 9.7.1 shall be considered an additional service of Owner, and all

subsequent costs will be invoiced to Design-Builder and withheld from remaining payments.

9.8 PARTIAL OCCUPANCY OR USE

The Owner may occupy or use any Completed, or partially Completed, portion of the Work at any stage prior to acceptance, or prior to Completion if there is no formal acceptance. Occupancy or use of any portion of the Work, or the whole Work, shall not constitute approval or acceptance of it, nor shall such occupancy or use relieve Design-Builder of any of its obligations under the Contract Documents regarding that portion of, or the whole, Work.

The Owner and the Design-Builder shall agree in writing to the responsibilities assigned to each of them for payments, security, maintenance, heat, utilities, damage to the Work, insurance, the period for correction of the Work, and the commencement of warranties required by the Contract Documents. When the Design-Builder considers a portion complete, the Design-Builder may request an inspection of that portion and preparation of a Punch List by the Owner for that portion, as set forth for the entire Work under paragraph 9.7.1; however, such inspection and Punch List shall not act as any form of approval or acceptance of that portion of the Work, or of any Work not complying with the requirements of the Contract, and that portion shall be subject to subsequent inspections and Punch Lists.

Immediately prior to such partial occupancy or use, the Owner, the [Architect/Owner's Representative](#) and the Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

9.9 FINAL PROGRESS PAYMENT AND RELEASE OF RETENTION

9.9.1 FINAL APPLICATION FOR PROGRESS PAYMENT

When, pursuant to Section 9.7.1, the Owner finds all of the Work is Completed in accordance with the Contract Documents, it shall so notify Design-Builder, who shall then submit to the Owner its final Application for Payment.

Upon receipt and approval of such final Application for Payment, the Owner shall issue a final Certificate of Payment, based on its knowledge, information, and belief, and on the basis of its observations, inspections, and all other data accumulated or received by the Owner in connection with the Work, that such Work has been Completed in accordance with the Contract Documents. If required to do so under Labor Code section 1773.3(d), Owner shall withhold final payment.

9.9.2 PROCEDURES FOR APPLICATION FOR FINAL PROGRESS PAYMENT

The Application for Final Progress Payment pursuant to Section 9.9.1 shall be accompanied by the same details as set forth in paragraph 9.3, and in addition, the following conditions must be fulfilled:

- A. The Work shall be Complete, and the Design-Builder shall have made, or caused to have been made, all corrections to the Work which are required to remedy any

defects therein, to obtain compliance with the Contract Documents or any requirements of applicable codes and ordinances, or to fulfill any of the orders or directions of Owner required under the Contract.

- B. Each Subcontractor shall have delivered to the Design-Builder all written guarantees, warranties, applications, and bonds required by the Contract Documents for its portion of the Work, and Design-Builder delivered them to the Owner.
- C. The Design-Builder shall deliver to the Owner (i) reproducible final Record Drawings and Annotated Specifications showing the Design-Builder's Work "as built," with the Design-Builder's certification of the accuracy of the Record Drawings and Annotated Specifications, (ii) all warranties and guarantees, (iii) operation and maintenance instructions, manuals and materials for equipment and apparatus, and (iv) all other documents required by the Contract Documents.
- D. Design-Builder shall provide extensive assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals and training personnel for operation and maintenance.

Acceptance of Final Progress Payment shall constitute a complete waiver of Claims except for those previously identified in writing and identified by that payee as unsettled at the time of Final Progress Payment.

9.9.3 RELEASE OF RETAINAGE

Owner may withhold from release or payment of retainage (or "retention") up to 150% of disputed amounts listed in Section 9.5. If retainage is held in an escrow account pursuant to an escrow agreement under Public Contract Code section 22300 (see Section 9.10) and Owner withholds from release of retainage based on a breach of the Contract, or other default, by Design-Builder, Owner may withdraw the withheld retainage from the escrow account. Owner shall release the undisputed retainage within sixty (60) days after Completion of the Work. For this purpose, "Completion" is defined in Public Contract Code section 7107(c). No interest shall be paid on any retainage, or on any amounts withheld, except as provided to the contrary in any Escrow Agreement and General Conditions between the Owner and the Design-Builder under Public Contract Code section 22300.

9.10 SUBSTITUTION OF SECURITIES

In accordance with section 22300 of the Public Contract Code, the Owner will permit the substitution of securities for any retention monies withheld by the Owner to ensure performance under the Contract. At the request and expense of the Design-Builder, securities equivalent to the amount withheld shall be deposited with the Owner, or with a state or federally chartered bank as the escrow agent, who shall then pay such retention monies to the Design-Builder. Upon completion of the Contract, the securities shall be returned to the Design-Builder if Owner has no

basis to withhold under the Contract Documents.

Securities eligible for investment under this section shall include those listed in Government Code section 16430, bank or savings and loan certificates of deposit, interest-bearing, demand-deposit accounts, standby letters of credit, or any other security mutually agreed to by the Design-Builder and the Owner.

The Design-Builder shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

Any escrow agreement entered by Owner and Design-Builder pursuant to Public Contract Code section 22300, shall be substantially similar to the form set forth in Public Contract Code section 22300.

ARTICLE 10

PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 DESIGN-BUILDER RESPONSIBILITY

The Design-Builder shall have responsibility for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. Each Design-Builder shall designate a responsible member of its organization whose duties shall include loss and accident prevention, and who shall have the responsibility and full authority to enforce the program. This person shall attend meetings with the representatives of the various Subcontractors employed to ensure that all employees understand and comply with the programs. Design-Builder will ensure that his employees and Subcontractors cooperate and coordinate safety matters with any other contractors on the Project to form a joint safety effort.

10.1.2 SUBCONTRACTOR RESPONSIBILITY

Subcontractors have the responsibility for participating in, and enforcing, the safety and loss prevention programs established by the Design-Builder for the Project, which will cover all Work performed by the Design-Builder and its Subcontractors. Each Subcontractor shall designate a responsible member of its organization whose duties shall include loss and accident prevention, and who shall have the responsibility and full authority to enforce the program. This person shall attend meetings with the representatives of the various Subcontractors employed to ensure that all employees understand and comply with the programs.

10.1.3 COOPERATION

All Subcontractors and material or equipment suppliers, shall cooperate fully with Design-Builder, the Owner, and all insurance carriers and loss prevention engineers.

10.1.4 ACCIDENT REPORTS

Subcontractors shall promptly report in writing to the Design-Builder all accidents whatsoever arising out of, or in connection with, the performance of the Work, whether on or off the Site, which caused death, personal injury, or property damage, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger. Design-Builder shall thereafter promptly report the facts in writing to the Owner giving full details of the accident.

10.1.5 FIRST-AID SUPPLIES AT SITE

The Design-Builder will provide and maintain at the Site first-aid supplies for minor injuries.

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.1 THE DESIGN-BUILDER

The Design-Builder shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:

- A. Employees on the Work and other persons who may be affected thereby;
- B. The Work, material, and equipment to be incorporated therein, whether in storage on or off the Site, under the care, custody, or control of the Design-Builder or the Design-Builder's Subcontractors or Sub-subcontractors; and
- C. Other property at the Site or adjacent thereto such as trees, shrubs, lawns, walks, pavement, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

10.2.2 DESIGN-BUILDER NOTICES

The Design-Builder shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on the safety of persons or property or their protection from damage, injury, or loss.

10.2.3 SAFETY BARRIERS AND SAFEGUARDS

The Design-Builder shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities.

10.2.4 USE OR STORAGE OF HAZARDOUS MATERIAL

When use or storage of explosives, other hazardous materials or equipment, or unusual methods

are necessary for execution of the Work, the Design-Builder shall exercise utmost care and carry on such activities under supervision of properly qualified personnel. The Design-Builder shall notify the Owner any time that explosives or hazardous materials are expected to be stored on Site. Location of storage shall be coordinated with the Owner and local fire authorities.

10.3 PROTECTION OF WORK AND PROPERTY

10.3.1 PROTECTION OF WORK

The Design-Builder and Subcontractors shall continuously protect the Work, the Owner's property, and the property of others, from damage, injury, or loss until the earlier of formal acceptance of the Work, or 30 days after Completion of the Work. The Design-Builder and Subcontractors shall make good any such damage, injury, or loss, except such as may be solely due to, or caused by, agents or employees of the Owner.

10.3.2 PROTECTION FOR ELEMENTS

The Design-Builder will remove all mud, water, or other elements as may be required for the proper protection and prosecution of its Work. The Design-Builder shall at all times provide heat, coverings, and enclosures necessary to maintain adequate protection against weather so as to preserve the Work, materials, equipment, apparatus, and fixtures free from injury or damage.

10.3.3 SHORING AND STRUCTURAL LOADING

The Design-Builder shall not impose structural loading upon any part of the Work under construction or upon existing construction on or adjacent to the Site in excess of safe limits, or loading such as to result in damage to the structural, architectural, mechanical, electrical, or other components of the Work. The design of all temporary construction equipment and appliances used in construction of the Work and not a permanent part thereof, including, without limitation, hoisting equipment, cribbing, shoring, and temporary bracing of structural steel, is the sole responsibility of the Design-Builder. All such items shall conform to the requirements of governing codes and all laws, ordinances, rules, regulations, and orders of all authorities having jurisdiction. The Design-Builder shall take special precautions, such as shoring of masonry walls and temporary tie bracing of structural steel work, to prevent possible wind damage during construction of the Work. The installation of such bracing or shoring shall not damage or cause damage to the Work in place or the Work installed by others. Any damage which does occur shall be promptly repaired by the Design-Builder at no cost to the Owner.

10.3.4 CONFORMANCE WITHIN ESTABLISHED LIMITS

The Design-Builder and Subcontractors shall confine their construction equipment, the storage of materials, and the operations of workers to the limits indicated by laws, ordinances, permits, and the limits established by the Owner, and shall not unreasonably encumber the premises with construction equipment or materials.

10.3.5 SUBCONTRACTOR ENFORCEMENT OF RULES

Subcontractors shall enforce the Owner's and the Design-Builder's instructions, laws, and regulations regarding signs, advertisements, fires, smoking, the presence of liquor, and the presence of firearms by any person at the Site.

10.3.6 SITE ACCESS

The Design-Builder and the Subcontractors shall use only those ingress and egress routes designated by the Owner, observe the boundaries of the Site designated by the Owner, park only in those areas designated by the Owner, which areas may be on or off the Site, and comply with any parking control program established by the Owner such as furnishing license plate information and placing identifying stickers on vehicles.

10.3.7 PROTECTION OF MATERIALS

The Design-Builder and the Subcontractors shall receive, count, inspect for damage, record, store, and protect construction materials for the Work and Subcontractors shall promptly send to the Design-Builder evidence of receipt of such materials, indicating thereon any shortage, change, or damage (failure to so note shall constitute acceptance by the Subcontractor of financial responsibility for any shortage).

10.4 EMERGENCIES

10.4.1 EMERGENCY ACTION

In an emergency affecting the safety of persons or property, the Design-Builder shall take any action necessary, at the Design-Builder's discretion, to prevent threatened damage, injury, or loss. Additional money or extension of time claimed by the Design-Builder on account of an emergency shall be determined as provided in Section 4.5 and Article 7.

10.4.2 ACCIDENT REPORTS

The Design-Builder shall promptly report in writing to the Owner all accidents arising out of or in connection with the Work, which caused death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious personal injuries, or serious property damages are caused, the accident shall be reported immediately by telephone or messenger to the Owner.

10.5 HAZARDOUS MATERIALS

10.5.1 DISCOVERY OF HAZARDOUS MATERIALS

In the event the Design-Builder encounters or suspects the presence on the Site material reasonably believed to be asbestos, polychlorinated biphenyl (PCB), or any other material

defined as being hazardous by section 25249.5 of the California Health and Safety Code, which (a) has not been rendered harmless, and (b) the handling or removal of which is not within the scope of the Work, the Design-Builder shall immediately stop Work in the area affected and report the condition to the Owner and the ~~Architect~~Owner's Representative in writing, whether such material was generated by the Design-Builder, another contractor, or the Owner. The Work in the affected area shall not thereafter be resumed, except by written agreement of the Owner and the Design-Builder, if in fact the material is asbestos, polychlorinated biphenyl (PCB), or other hazardous material, and has not been rendered harmless. The Work in the affected area shall be resumed only in the absence of asbestos, polychlorinated biphenyl (PCB), or other hazardous material, or when it has been rendered harmless by written agreement of the Owner and the Design-Builder.

10.5.2 HAZARDOUS MATERIAL WORK LIMITATIONS

In the event that the presence of hazardous materials is suspected or discovered on the Site, the Owner shall retain an independent testing laboratory to determine the nature of the material encountered and whether corrective measures or remedial action is required. The Design-Builder shall not be required pursuant to Article 7 to perform without consent any Work in the affected area of the Site relating to asbestos, polychlorinated biphenyl (PCB), or other hazardous material, until any known or suspected hazardous material has been removed, or rendered harmless, or determined to be harmless by Owner, as certified by an independent testing laboratory and/or approved by the appropriate government agency.

10.5.3 INDEMNIFICATION BY OWNER FOR HAZARDOUS MATERIAL NOT CAUSED BY DESIGN-BUILDER

In the event the presence of hazardous materials on the Site is not caused by the Design-Builder, Owner shall pay for all costs of testing and remediation, if any, and shall compensate Design-Builder for any delay or additional costs incurred in accordance with the applicable provisions of Articles 7 and 8 herein. Owner shall defend, indemnify and hold harmless the Design-Builder and its agents, officers, directors and employees from and against any and all claims, damages, losses, costs and expenses incurred in connection with or arising out of, or relating to, the performance of the Work in the area affected by the hazardous material, except to the extent the claims, damages, losses, costs, or expenses were caused by Design-Builder's active negligence, sole negligence or willful misconduct. By providing this indemnification, District does not waive any immunities.

10.5.4 NATURALLY OCCURRING ASBESTOS

If the Site is found to contain naturally occurring asbestos (asbestos naturally contained in rocks which can become airborne when released "NOA"), in addition to complying with applicable provisions in sections 10.5.1-10.5.3 above, Contractor shall comply with, and be solely responsible for, all applicable NOA requirements of the California Air Resources Board (CARB), California Department of Industrial Relations, California Division of Occupational Safety and Health (Cal/OSHA), any local air quality management district with jurisdiction over the Site, the County, and all other applicable federal, State and local governmental entities. This compliance and responsibility includes, but is not limited to, dust control mitigation measures

and a monitoring plan.

10.5.5 INDEMNIFICATION BY DESIGN-BUILDER FOR HAZARDOUS MATERIAL CAUSED BY DESIGN-BUILDER

In the event the presence of hazardous materials on the Site is caused by Design-Builder, Subcontractors, materialmen or suppliers, the Design-Builder shall pay for all costs of testing and remediation, if any, and shall compensate the Owner for any additional costs incurred as a result of the generation of hazardous material on the Project Site. In addition, the Design-Builder shall defend, indemnify and hold harmless Owner and its agents, officers, and employees from and against any and all claims, damages, losses, costs and expenses incurred in connection with, arising out of, or relating to, the presence of hazardous material on the Site, except to the extent the claims, damages, losses, costs, or expenses were caused by Owner's active negligence, sole negligence or willful misconduct.

10.5.6 TERMS OF HAZARDOUS MATERIAL PROVISION

The terms of this Hazardous Material provision shall survive the Completion of the Work and/or any termination of this Contract.

10.5.7 ARCHEOLOGICAL MATERIALS

In the event the Design-Builder encounters or reasonably suspects the presence on the Site of archeological materials, the Design-Builder shall immediately stop Work in the area affected and report the condition to the Owner and the [Architect/Owner's Representative](#) in writing. The Work in the affected area shall not thereafter be resumed, except after Design-Builder's receipt of written notice from the Owner.

ARTICLE 11

INSURANCE AND BONDS

11.1. DESIGN-BUILDER'S LIABILITY INSURANCE

11.1.1 LIABILITY INSURANCE REQUIREMENTS

11.1.1 By the earlier of the deadline set forth in the Instructions to Bidders or the commencement of the Work and within limits acceptable to the Owner, the Design-Builder shall purchase from and maintain in a company or companies lawfully authorized to do business in California as admitted carriers with a financial rating of at least A+, Class XII status as rated in the most recent edition of Best's Insurance Reports such commercial general liability insurance per occurrence for bodily injury, personal injury and property damage as set forth in the Agreement and automobile liability insurance per accident for bodily injury and property damage combined single limit as set forth in the Agreement as will protect the Design-Builder from claims set forth below, which may arise out of or result from the Design-Builder's operations under the Contract and for which the Design-Builder may be legally liable, whether such

operations are by the Design-Builder, by a Subcontractor, by Sub-subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- 11.1.1.1** claims for damages because of bodily injury (including emotional distress), sickness, disease, or death of any person other than the Design-Builder's employees. This coverage shall be provided in a form at least as broad as Insurance Services Office (ISO) Form CG 0001 11188;
- 11.1.1.2** claims for damages arising from personal or advertising injury in a form at least as broad as ISO Form CG 0001 11188;
- 11.1.1.3** claims for damages because of injury or destruction of tangible property, including loss of use resulting therefrom, arising from operations under the Contract Documents; and
- 11.1.1.4** claims for damages because of bodily injury, death of a person, or property damage arising out of the ownership, maintenance, or use of a motor vehicle, all mobile equipment, and vehicles moving under their own power and engaged in the Work; and
- 11.1.1.5** claims involving blanket contractual liability applicable to the Design-Builder's obligations under the Contract Documents, including liability assumed by and the indemnity and defense obligations of the Design-Builder and the Subcontractors; and
- 11.1.1.6** claims involving Completed Operations, Independent Design-Builders' coverage, and Broad Form property damage, without any exclusions for collapse, explosion, demolition, underground coverage, and excavating. (XCU)

If commercial general liability insurance or another insurance form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project location (with the ISO CG 2501 or insurer's equivalent endorsement provided to the Owner) or the general aggregate limit shall be twice the required occurrence limit.

Any deductible or self-insured retention must be declared to and approved by the Owner. At the option of the Owner, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Owner, its City Council, members of its Council, officers, employees, agents and volunteers; or the Design-Builder shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

11.1.2 SUBCONTRACTOR INSURANCE REQUIREMENTS

The Design-Builder shall require its Subcontractors and any Sub-subcontractors to take out and maintain similar public liability insurance and property damage insurance, in a company or companies lawfully authorized to do business in California as admitted carriers with a financial rating of at least A+, Class XII status as rated in the most recent edition of Best's Insurance Reports, in like amounts and scope of coverage.

11.1.3 OWNER'S INSURANCE

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self protection against claims which may arise from operations under the Contract. The Design-Builder shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

11.1.4 ADDITIONAL INSURED ENDORSEMENT REQUIREMENTS

The Design-Builder shall name, on any policy of insurance, the Owner and the [ArchitectOwner's Representative](#) as additional insureds. Subcontractors shall name the Design-Builder, the Owner and the [ArchitectOwner's Representative](#) as additional insureds. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

11.1.5 WORKERS' COMPENSATION INSURANCE

During the term of this Contract, the Design-Builder shall provide workers' compensation insurance for all of the Design-Builder's employees engaged in Work under this Contract on or at the Site of the Project and, in case any of the Design-Builder's work is sublet, the Design-Builder shall require the Subcontractor to provide workers' compensation insurance for all the Subcontractor's employees engaged in Work under the subcontract. Any class of employee or employees not covered by a Subcontractor's insurance shall be covered by the Design-Builder's insurance. In case any class of employees engaged in Work under this Contract on or at the Site of the Project is not protected under the Workers' Compensation laws, the Design-Builder shall provide or cause a Subcontractor to provide adequate insurance coverage for the protection of those employees not otherwise protected. The Design-Builder shall file with the Owner certificates of insurance as required under this Article and in compliance with Labor Code section 3700.

If the Design-Builder fails to maintain such insurance, the Owner may take out compensation insurance which the Owner might be liable to pay under the provisions of the Act by reason of an employee of the Design-Builder being injured or killed, and withhold from progress payments and/or retention the amount of the premium for such insurance.

11.1.6 BUILDER'S RISK/"ALL RISK" INSURANCE

11.1.6.1 COURSE-OF-CONSTRUCTION INSURANCE REQUIREMENTS

Unless provided by Owner at Owner's sole discretion, Design-Builder, during the progress of the Work and until final acceptance of the Work by Owner upon Completion of the entire Contract, shall maintain Builder's Risk/Course-of-Construction insurance satisfactory to the Owner, issued on a completed value basis on all insurable Work included under the Contract Documents. This insurance shall insure against all risks, including but not limited to the following perils: vandalism, theft, malicious mischief, fire, sprinkler leakage, civil authority, sonic boom, explosion, collapse, flood, earthquake (for projects not solely funded through revenue bonds, limited to earthquakes equivalent to or under 3.5 on the Richter Scale in magnitude), wind, hail, lightning, smoke, riot or civil commotion, debris removal (including demolition) and reasonable compensation for the ~~Architect~~Owner's Representative's services and expenses required as a result of such insured loss. This insurance shall provide coverage in an amount not less than the full cost to repair, replace or reconstruct the Work. Such insurance shall include the Owner, the ~~Architect~~Owner's Representative, and any other person or entity with an insurable interest in the Work as an additional named insured.

The Design-Builder shall submit to the Owner for its approval all items deemed to be uninsurable under the Builder's Risk/Course-of Construction insurance. The risk of the damage to the Work due to the perils covered by the Builder's Risk/Course-of-Construction insurance, as well as any other hazard which might result in damage to the Work, is that of the Design-Builder and the surety, and no claims for such loss or damage shall be recognized by the Owner, nor will such loss or damage excuse the Complete and satisfactory performance of the Contract by the Design-Builder.

11.1.7 CONSENT OF INSURER FOR PARTIAL OCCUPANCY OR USE

Partial occupancy or use in accordance with the Contract Documents shall not commence until the insurance company providing property insurance has consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Design-Builder shall take reasonable steps to obtain consent of the insurance company and shall, without mutual consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of the insurance.

11.1.8 FIRE INSURANCE

Before the commencement of the Work, the Design-Builder shall procure, maintain, and cause to be maintained at the Design-Builder's expense, fire insurance on all Work included under the Contract Documents, insuring the full replacement value of such Work as well as the cost of any removal and demolition necessary to replace or repair all Work damaged by fire. The amount of fire insurance shall be subject to approval by the Owner and shall be sufficient to protect the Work against loss or damage in full until the Work is accepted by the Owner. Should the Work being constructed be damaged by fire or other causes during construction, it shall be replaced in accordance with the requirements of the drawings and specifications without additional expense

to the Owner.

11.1.9 OTHER INSURANCE

The Design-Builder shall provide all other insurance required to be maintained under applicable laws, ordinances, rules, and regulations.

11.1.10 PROOF OF CARRIAGE OF INSURANCE

The Design-Builder shall not commence Work nor shall it allow any Subcontractor to commence Work under this Contract until all required insurance, certificates, and an Additional Insured Endorsement and Declarations Page have been obtained and delivered in duplicate to the Owner for approval subject to the following requirements:

- (a) Certificates and insurance policies shall include the following clause:

This policy shall not be non-renewed, canceled, or reduced in required limits of liability or amounts of insurance until notice has been mailed to the Owner. Date of cancellation or reduction may not be less than thirty (30) days after the date of mailing notice.

- (b) Certificates of insurance shall state in particular those insured, the extent of insurance, location and operation to which the insurance applies, the expiration date, and cancellation and reduction notices.
- (c) Certificates of insurance shall clearly state that the Owner and the ~~Architect~~[Owner's Representative](#) are named as additional insureds under the policy described and that such insurance policy shall be primary to any insurance or self-insurance maintained by Owner and any other insurance carried by the Owner with respect to the matters covered by such policy shall be excess and non-contributing.
- (d) The Design-Builder and its Subcontractors shall produce a certified copy of any insurance policy required under this Section upon written request of the Owner.

11.1.11 COMPLIANCE

In the event of the failure of any Design-Builder to furnish and maintain any insurance required by this Article, the Design-Builder shall be in default under the Contract. Compliance by Design-Builder with the requirement to carry insurance and furnish certificates, policies, Additional Insured Endorsement and Declarations Page evidencing the same shall not relieve the Design-Builder from liability assumed under any provision of the Contract Documents, including, without limitation, the obligation to defend and indemnify the Owner and the ~~Architect~~[Owner's Representative](#).

11.2 PERFORMANCE AND PAYMENT BONDS

11.2.1 BOND REQUIREMENTS

Unless otherwise specified in the Contract Documents, prior to commencing any portion of the Work, the Design-Builder shall apply for and furnish Owner separate payment and performance bonds for its portion of the Work which shall cover 100% faithful performance of and payment of all obligations arising under the Contract Documents and/or guaranteeing the payment in full of all claims for labor performed and materials supplied for the Work. All bonds shall be provided by a corporate surety authorized and admitted to transact business in California. All bonds shall be submitted on the Owner's approved form.

To the extent, if any, that the Contract Sum is increased in accordance with the Contract Documents, the Design-Builder shall cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the Owner. To the extent available, the bonds shall further provide that no change or alteration of the Contract Documents (including, without limitation, an increase in the Contract Sum, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Design-Builder will release the surety. If the Design-Builder fails to furnish the required bond, the Owner may terminate the Contract for cause.

11.2.2 SURETY QUALIFICATION

Only bonds executed by admitted Surety insurers as defined in Code of Civil Procedure section 995.120 shall be accepted. The surety insurers must, unless otherwise agreed to by Owner in writing, at the time of issuance of the bonds, have a rating not lower than "A-" as rated by A.M. Best Company, Inc. or other independent rating companies. Owner reserves the right to approve or reject the surety insurers selected by Design-Builder and to require Design-Builder to obtain bonds from surety insurers satisfactory to the Owner.

ARTICLE 12

UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK

12.1.1 UNCOVERING WORK FOR REQUIRED INSPECTIONS

If a portion of the Work is covered contrary to the Owner's request or to requirements specifically expressed in the Contract Documents, Design-Builder must, if required in writing by the Owner, uncover it for the Owner's observation and replace the removed work at the Design-Builder's expense without change in the Contract Sum or Time.

12.1.2 COSTS FOR INSPECTIONS NOT REQUIRED

If a portion of the Work has been covered which the Owner has not specifically requested to

observe prior to its being covered, the Owner may request to see such work, and it shall be uncovered by the Design-Builder. If such work is in accordance with the Contract Documents, costs of uncover and replacement shall, by appropriate Change Order, be paid by the Owner. If such work is not in accordance with Contract Documents, the Design-Builder shall pay such costs, unless the condition was caused by the Owner or a separate contractor, in which event the Owner shall be responsible for payment of such costs to the Design-Builder.

12.2 CORRECTION OF WORK; WARRANTY

12.2.1 CORRECTION OF REJECTED WORK

The Design-Builder shall promptly correct the work rejected by the Owner for failing to conform to the requirements of the Contract Documents, until the statutes of limitation (or repose) and all warranties have run, as applicable, and whether or not fabricated, installed or completed. The Design-Builder shall bear costs of correcting the rejected work, including additional testing, inspections, and compensation for the Owner's expenses and costs incurred.

12.2.2 REMOVAL OF NONCONFORMING WORK

The Design-Builder shall remove from the Site portions of the Work which are not in accordance with the requirements of the Contract Documents and are not corrected by the Design-Builder or accepted or approved by the Owner.

12.2.3 OWNER'S RIGHTS IF DESIGN-BUILDER FAILS TO CORRECT

If the Design-Builder fails to correct nonconforming work within a reasonable time, the Owner may correct it in accordance with Section 2.4. As part of Owner's correction of the work, the Owner may remove any portion of the nonconforming Work and store any salvageable materials or equipment at the Design-Builder's expense. If the Design-Builder does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days written notice sell such material or equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Design-Builder, including compensation for the ~~Architect~~[Owner's Representative's](#) and other professionals and representatives' services and expenses, made necessary thereby. If such proceeds of sale do not cover costs which the Design-Builder should have borne, the Design-Builder shall be invoiced for the deficiency or Owner may withhold such costs from payment pursuant to Section

9.5. If progress payments or retention then or thereafter due the Design-Builder are not sufficient to cover such amount, the Design-Builder shall pay the difference to the Owner.

12.2.4 COST OF CORRECTING THE WORK

The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether Completed or partially Completed, caused by the Design-Builder's correction or removal of the nonconforming work.

12.2.5 WARRANTY CORRECTIONS (INCLUDES REPLACEMENT)

Pursuant to the warranty in Sections 3.5 and 9.7.1, if within one (1) year after the Completion of the Work or within a longer time period for an applicable special warranty or guarantee required by the Contract Documents, any of the Work does not comply with the Contract Documents, the Design-Builder shall correct it after receipt of Owner's written notice to do so, unless the Owner has previously waived in writing such right to demand correction. Design-Builder shall correct the Work promptly, and passage of the applicable warranty period shall not release Design-Builder from its obligation to correct the Work if Owner provided the written notice within the applicable warranty period. Design-Builder's obligation to correct the warranty item continues until the correction is made. After the correction is made to Owner's satisfaction, a new warranty period of the same length as the original warranty period shall run on the corrected work. The obligations under this paragraph 12.2.5 shall survive acceptance of the Work under the Contract and termination of the Contract.

12.2.6 NO TIME LIMITATION

Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Design-Builder might have under the Contract Documents. Establishment of the time period of one (1) year as described in Sections 3.5, 9.7.1, and 12.2.5 relates only to the specific warranty obligation of the Design-Builder to correct the Work after the date of commencement of warranties, and has, for example, no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, or to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

12.3 NONCONFORMING WORK AND WITHHOLDING THE VALUE OF IT

If it is found at any time before Completion of the Work that the Design-Builder has varied from the Contract Documents in materials, quality, form, finish, or in the amount or value of the materials or labor used, the Owner may, in addition to other remedies in the Contract Documents or under law and as allowed by law, accept the improper Work. The Owner may withhold from any amount due or to become due Design-Builder that sum of money equivalent to the difference in value between the Work performed and that called for by the Drawings and Specifications. The Owner shall determine such difference in value. No structural related Work shall be accepted that is not in conformance with the Contract Documents.

ARTICLE 13

MISCELLANEOUS PROVISIONS

13.1 GOVERNING LAW

The Contract shall be governed by the law of the place where the Project is located.

13.2 SUCCESSORS AND ASSIGNS

The Owner and the Design-Builder respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to partners, successors, assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract as a whole or in part without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

13.3 WRITTEN NOTICE

In the absence of specific notice requirements in the Contract Documents, any written notice required by the Contract Documents shall be deemed to have been duly served if delivered in person to the individual, member of the firm or entity, or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified or overnight mail to the last business address known to the party giving notice. Owner shall, at Design-Builder's cost, timely notify Design-Builder of Owner's receipt of any third party claims relating to the Contract pursuant to Public Contract Code section 9201.

13.4 RIGHTS AND REMEDIES

13.4.1 DUTIES AND OBLIGATIONS CUMULATIVE

Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

13.4.2 NO WAIVER

No action or failure to act by the Owner, Inspector of Record, [Architect Owner's Representative](#) or any construction manager shall constitute a waiver of a right or duty afforded them under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed to in a written amendment to the Contract.

13.5 TESTS AND INSPECTIONS

13.5.1 COMPLIANCE

Tests, inspections, and approvals of portions of the Work required by the Contract Documents will comply with all requirements imposed by DDW, and with all other laws, ordinances, rules, regulations, or orders of public authorities having jurisdiction.

13.5.2 INDEPENDENT TESTING LABORATORY

The Owner will select and pay an independent testing laboratory to conduct all tests and inspections, including shipping or transportation costs or expenses (mileage and hours). Selection of the materials required to be tested shall be made by the laboratory or the Owner's representative and not by the Design-Builder. However, if Design-Builder requests that the Owner use a different testing laboratory and Owner chooses to approve such request, Design-Builder shall pay any additional shipping or transportation costs or expenses (mileage and hours). If Owner pays such additional costs or expenses instead of Design-Builder, then Owner may invoice such costs or expenses to the Design-Builder or withhold such costs or expenses from progress payments and/or retention.

13.5.3 ADVANCE NOTICE TO INSPECTOR OF RECORD

The Design-Builder shall notify the Inspector of Record a sufficient time in advance of its readiness for required observation or inspection so that the Inspector of Record may arrange for same. The Design-Builder shall notify the Inspector of Record a sufficient time in advance of the manufacture of material to be supplied under the Contract Documents which must, by terms of the Contract Documents, be tested in order that the Inspector of Record may arrange for the testing of the material at the source of supply.

13.5.4 TESTING OFF-SITE

Any material shipped by the Design-Builder from the source of supply, prior to having satisfactorily passed such testing and inspection or prior to the receipt of notice from said Inspector of Record that such testing and inspection will not be required, shall not be incorporated in the Work.

13.5.5 ADDITIONAL TESTING OR INSPECTION

If the Inspector of Record, the ~~Architect~~[Owner's Representative](#), the Owner, or public authority having jurisdiction determines that portions of the Work require additional testing, inspection, or approval not included under section 13.5.1, the Inspector of Record will, upon written authorization from the Owner, make arrangements for such additional testing, inspection, or approval. The Owner shall bear such costs except as provided in section 13.5.6.

13.5.6 COSTS FOR RETESTING

If such procedures for testing, inspection, or approval under sections 13.5.1, 13.5.2 and 13.5.5 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, the Design-Builder shall bear all costs arising from such failure, including those of re-testing, re-inspection, or re-approval, including, but not limited to, compensation for the ~~Architect~~[Owner's Representative](#)'s services and expenses. Any such costs shall be paid by the Owner, invoiced to the Design-Builder, and, among other remedies, can be withheld from progress payments and/or retention.

13.5.7 COSTS FOR PREMATURE TEST

In the event the Design-Builder requests any test or inspection for the Project and is not completely ready for the inspection, the Design-Builder shall be invoiced by the Owner for all costs and expenses resulting from that testing or inspection, including, but not limited to, the ~~Architect~~[Owner's Representative](#)'s fees and expenses, and the amount of the invoice can among other remedies, be withheld from progress payments and/or retention.

13.5.8 TESTS OR INSPECTIONS NOT TO DELAY WORK

Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

13.6 [INTENTIONALLY LEFT BLANK]

13.7 TRENCH EXCAVATION

13.7.1 TRENCHES GREATER THAN FIVE FEET

Pursuant to Labor Code section 6705, if the Contract Sum exceeds \$25,000 and involves the excavation of any trench or trenches five (5) feet or more in depth, the Design-Builder shall, in advance of excavation, submit to the Owner or a registered civil or structural engineer employed by the Owner a detailed plan showing the design of shoring for protection from the hazard of caving ground during the excavation of such trench or trenches.

13.7.2 EXCAVATION SAFETY

If such plan varies from the Shoring System Standards established by the Construction Safety Orders, the plan shall be prepared by a registered civil or structural engineer, but in no case shall such plan be less effective than that required by the Construction Safety Orders. No excavation of such trench or trenches shall be commenced until said plan has been accepted by the Owner or by the person to whom authority to accept has been delegated by the Owner.

13.7.3 NO TORT LIABILITY OF OWNER

Pursuant to Labor Code section 6705, nothing in this Article shall impose tort liability upon the Owner or any of its employees.

13.7.4 NO EXCAVATION WITHOUT PERMITS

The Design-Builder shall not commence any excavation work until it has secured all necessary permits including the required CAL OSHA excavation/shoring permit. Any permits shall be prominently displayed on the Site prior to the commencement of any excavation.

13.8 WAGE RATES

13.8.1 WAGE RATES

Pursuant to the provisions of Article 2 (commencing at § 1770), Chapter 1, Part 7, Division 2, of the Labor Code, the City Council has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this public work is to be performed for each craft, classification, or type of worker needed for this Project from the Director of Industrial Relations (“Director”). These rates are on file with the Clerk of the City Council, and copies will be made available to any interested party on request. The Design-Builder shall post a copy of such wage rates at the Site.

13.8.2 HOLIDAY AND OVERTIME PAY

Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half (1½) times the above specified rate of per diem wages, unless otherwise specified. Holidays shall be defined in the Collective Bargaining Agreement applicable to each particular craft, classification, or type of worker employed.

13.8.3 WAGE RATES NOT AFFECTED BY SUBCONTRACTS

The Design-Builder shall pay and shall cause to be paid each worker engaged in the Work not less than the general prevailing rate of per diem wages determined by the Director, regardless of any contractual relationship which may be alleged to exist between the Design-Builder or any Subcontractor and such workers.

13.8.4 CHANGE IN PREVAILING WAGE DURING BID OR CONSTRUCTION

If during the period this bid is required to remain open, the Director of Industrial Relations determines that there has been a change in any prevailing rate of per diem wages in the locality in which this public work is to be performed, such change shall not alter the wage rates discussed in the Notice to Bidders or the Contract subsequently awarded.

13.8.5 FORFEITURE AND PAYMENTS

Pursuant to Labor Code section 1775, the Design-Builder and any subcontractor under the Design-Builder shall as a penalty to the Owner, forfeit not more than two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing rate of per diem wages, determined by the Director, for such craft or classification in which such worker is employed for any public work done under the Agreement by the Design-Builder or by any Subcontractor under it. Minimum penalties shall apply, as also provided in Civil Code section 1775. The amount of the penalty shall be determined by the Labor Commissioner and shall be based on both of the following: (1) whether the failure of the Design-Builder or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected upon being brought to the attention of the Design-Builder or subcontractor; and (2) whether the Design-Builder or subcontractor has a prior record

of failing to meet its prevailing wage obligations. The difference between such prevailing rate of per diem wage and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing rate of per diem wage shall be paid to each work by the Design-Builder or subcontractor. Labor Code section 1777.1 shall also apply.

13.8.6 MINIMUM WAGE RATES

Any worker employed to perform Work, which Work is not covered by any craft or classification listed in the general prevailing rate of per diem wages determined by the Director, shall be paid not less than the minimum rate of wages specified therein for the craft or classification which most nearly corresponds to the Work to be performed by them, and such minimum wage rate shall be retroactive to time of initial employment of such person in such craft or classification.

13.8.7 PER DIEM WAGES

Pursuant to Labor Code section 1773.1, per diem wages includes employer payments for health and welfare, pension, and vacation pay.

13.8.8 POSTING OF WAGE RATES AND OTHER REQUIRED JOB SITE NOTICES

The Design-Builder shall post at appropriate conspicuous points on the Site, a schedule showing all determined minimum wage rates and all authorized deductions, if any, from unpaid wages actually earned and all other required job site notices as prescribed by regulation.

13.9 RECORD OF WAGES PAID: INSPECTION

13.9.1 APPLICATION OF LABOR CODE

Pursuant to section 1776 of the Labor Code:

(a) Each Design-Builder and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, and 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 public work. Each payroll record shall contain or be verified by a written declaration that is made under penalty of perjury, stating both of the following:

- (1) The information contained in the payroll record is true and correct.
- (2) The employer has complied with the requirements of sections 1771, 1811 and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Design-

Builder on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and as may be required by the Labor Commissioner under Labor Code section 1771.4. The Design-Builder and each subcontractor shall furnish a certified copy of all payroll records directly to the Labor Commissioner monthly or more frequently, if so specified in the Agreement and in a format the Labor Commissioner prescribes.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement of the Department of Industrial Relations ("DIR"). If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of the preparation by the Design-Builder, subcontractors, and the entity through which the request was made. The public may not be given access to such records at the principal office of the Design-Builder.

(c) Unless required as of January 1, 2015, to be furnished directly to the Labor Commissioner under Labor Code section 1771.4(a)(3), the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement of the DIR or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in (a) above.

(d) A Design-Builder or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested such records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement of the DIR shall be marked or obliterated to prevent disclosure of an individual's name, address and social security number. The name and address of the Design-Builder awarded the Contract or the subcontractor performing the Contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available

for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number. An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subsection.

(g) The Design-Builder shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The Design-Builder or subcontractor has 10 days in which to comply subsequent to receipt of written notice requesting the records enumerated in subdivision (a). In the event that the Design-Builder or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement of the DIR, these penalties shall be withheld from progress payments then due. Design-Builder is not subject to a penalty assessment pursuant to this section due to the failure of the subcontractor to comply with this section.

13.10 APPRENTICES

13.10.1 APPRENTICE WAGES AND DEFINITIONS

All apprentices employed by the Design-Builder to perform services under the Contract shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he or she is employed, and shall be employed only at the work of the craft or trade to which he or she is registered. Only apprentices, as defined in section 3077 of the Labor Code, who are in training under apprenticeship standards and written apprenticeship agreements under Chapter 4 (commencing with § 3070) of Division 3, are eligible to be employed under this Contract. The employment and training of each apprentice shall be in accordance with the apprenticeship standards and apprentice agreements under which he or she is training. Contractor shall pay apprentices for any preemployment activities, as set forth in Labor Code section 1777.5.

13.10.2 APPRENTICE LABOR POOL

When the Design-Builder to whom the Contract is awarded by the Owner, or any Subcontractor under him or her, in performing any of the Work under the Contract or subcontract, employs workers in any apprenticeable craft or trade, the Design-Builder and Subcontractor shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the Site of the Project, for a certificate approving the Design-Builder or Subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval as established by the joint apprenticeship committee or committees shall be subject to the approval of the Administrator of Apprenticeship. The joint apprenticeship committee or committees, subsequent to approving the subject Design-Builder or Subcontractor, shall arrange for the dispatch of apprentices to the Design-Builder or Subcontractor in order to comply with this section. Every Design-Builder and Subcontractor shall submit the contract award information to the applicable joint apprenticeship committee which shall include an estimate of journeyman hours to be performed under the Contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. There shall be an affirmative duty upon the joint apprenticeship committee or committees administering the apprenticeship standards of the crafts or trade in the area of the Site of the public work, to ensure equal employment and affirmative action and apprenticeship for women and minorities. Design-Builders or Subcontractors shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen, who shall be employed in the craft or trade on the Project, may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but, except as otherwise provided in this section, in no case shall the ratio be less than one (1) hour of apprentice work for every five (5) hours of labor performed by a journeyman. However, the minimum ratio for the land surveyor classification shall not be less than one (1) apprentice for each five (5) journeymen.

13.10.3 JOURNEYMAN/APPRENTICE RATIO; COMPUTATION OF HOURS

Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the joint apprenticeship committee, is employed at the job Site and shall be computed on the basis of the hours worked during the day by journeymen so employed, except for the land surveyor classification. The Design-Builder shall employ apprentices for the number of hours computed as above before the end of the Contract. However, the Design-Builder shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the job Site. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a joint apprenticeship committee, may order a minimum ratio of not less than one (1) apprentice for each five (5) journeymen in a craft or trade classification.

13.10.4 JOURNEYMAN/APPRENTICE RATIO

The Design-Builder or Subcontractor, if he or she is covered by this section upon the issuance of the approval certificate, or if he or she has been previously approved in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by the Design-Builder that he or she employs

apprentices in the craft or trade in the state on all of his or her contracts on an annual average of not less than one (1) hour of apprentice work for every five (5) hours of labor performed by a journeyman, or in the land surveyor classification, one (1) apprentice for each five (5) journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the Design-Builder from the 1-to-5 hourly ratio as set forth in this section. This section shall not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor, when the contracts of general contractors or those specialty contractors involve less than Thirty Thousand Dollars (\$30,000) or twenty (20) working days. Any work performed by a journeyman in excess of eight (8) hours per day or forty (40) hours per week, shall not be used to calculate the hourly ratio required by this section.

13.10.4.1 *Apprenticeable Craft or Trade.* “Apprenticeable craft or trade” as used in this Article means a craft or trade determined as an apprenticeable occupation in accordance with the rules and regulations prescribed by the California Apprenticeship Council. The joint apprenticeship committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting a Design-Builder from the 1-to-5 ratio set forth in this Article when it finds that any one of the following conditions is met:

- A. Unemployment for the previous three-month period in the area exceeds an average of fifteen percent (15%).
- B. The number of apprentices in training in such area exceeds a ratio of 1-to-5.
- C. There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth (1/30) of its journeymen annually through the apprenticeship training, either on a statewide basis or on a local basis.
- D. Assignment of an apprentice to any work performed under this contract would create a condition which would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

13.10.5 RATIO EXEMPTION

When exemptions are granted to an organization which represents Design-Builders in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member Design-Builders will not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

13.10.6 APPRENTICE FUND

A Design-Builder to whom the Contract is awarded or any Subcontractor under him or her, who, in performing any of the work under the Contract, employs journeymen or apprentices in any apprenticeable craft or trade and who is not contributing to a fund or funds to administer and conduct the apprenticeship program in any such craft or trade in the area of the Site of the Project, to which fund or funds other contractors in the area of the Site of the Project are contributing, shall contribute to the fund or funds in each craft or trade in which he or she

employs journeymen or apprentices on the Project in the same amount or upon the same basis and in the same manner as the other contractors do, but where the trust fund administrators are unable to accept the funds, contractors not signatory to the trust agreement shall pay a like amount to the California Apprenticeship Council. The Design-Builder or Subcontractor may add the amount of the contributions in computing his or her bid for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in the Labor Code section 227.

13.10.7 PRIME DESIGN-BUILDER COMPLIANCE

The responsibility of compliance with section 13.10 and section 1777.5 of the Labor Code for all apprenticeable occupations is with the Prime Design-Builder.

13.10.8 DECISIONS OF JOINT APPRENTICESHIP COMMITTEE

All decisions of the joint apprenticeship committee under this section 13.10 and Labor Code section 1777.5 are subject to Labor Code section 3081.

13.10.9 NO BIAS

It shall be unlawful for an employer or a labor union to refuse to accept otherwise qualified employees as registered apprentices on any public works on the grounds of race, religious creed, color, national origin, ancestry, sex, or age, except as provided in the Labor Code section 3077.

13.10.10 VIOLATION OF LABOR CODE

Pursuant to Labor Code section 1777.1, in the event a Design-Builder or Subcontractor fails to comply with the provisions of this section 13.10 and Labor Code section 1777.5, among other things:

- (a) If a Contractor or Subcontractor willfully fails to comply, the Labor Commissioner may deny to the Design-Builder or subcontractor, and to its responsible officers, the right to bid on, or be awarded or perform work as a subcontractor on, any public works project for a period of up to one year for the first violation and for a period of up to three years for the second and subsequent violation. Each period of debarment shall run from the date the determination of noncompliance by the Labor Commissioner becomes a final order.
- (b) A Design-Builder or subcontractor who violates section 1777.5 shall forfeit as a civil penalty an amount not exceeding the sum of one hundred dollars (\$100) for each full calendar day of noncompliance. Upon receipt of a determination that a civil penalty has been imposed, the awarding body shall enforce the penalty, which includes withholding the amount of the civil penalty from the contract progress payments or retention then due or to become due.
- (c) In lieu of the penalty provided, the Labor Commissioner may for a first time violation and with the concurrence of an applicable apprenticeship program, order the Design-Builder or subcontractor to provide apprentice employment equivalent to the

work hours that would have been provided for apprentices during the period of noncompliance.

(d) Any funds withheld by the awarding body pursuant to this section shall be deposited in the General Fund.

(e) The interpretation and enforcement of section 1777.5 and this section shall be in accordance with the regulations of the California Apprenticeship Council.

Pursuant to Public Contract Code section 6109, no contractor or subcontractor may bid on, be awarded, or perform work as a subcontractor on a public works project if ineligible to bid or work on, or be awarded, a public works project pursuant to section 1777.1 of the Labor Code.

13.11 ASSIGNMENT OF ANTITRUST CLAIMS

13.11.1 APPLICATION

Pursuant to Public Contract Code section 7103.5 and Government Code section 4552, in entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the Design-Builder or Subcontractor offers and agrees to assign to the Owner 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 Bus. & Prof. Code), arising from the purchase of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders Final Progress Payment to the Design-Builder, without further acknowledgment by the parties. If the Owner receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under Chapter 11 (commencing with § 4550) of Division 5 of Title 1 of the Government Code, the assignor may, upon demand, recover from the Owner any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the Owner as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

13.11.2 ASSIGNMENT OF CLAIM

Upon demand in writing by the assignor, the Owner shall, within one (1) year from such demand, reassign the cause of action assigned pursuant to this Article if the assignor has been or may have been injured by the violation of law for which the cause of action arose and the Owner has not been injured thereby or the Owner declines to file a court action for the cause of action.

13.12 AUDIT

Pursuant to and in accordance with the provisions of Government Code section 8546.7, or any amendments thereto, all books, records, and files of the Owner, the Design-Builder, or any Subcontractor connected with the performance of this Contract involving the expenditure of state funds in excess of Ten Thousand Dollars (\$10,000.00), including, but not limited to, the administration thereof, shall be subject to the examination and audit of the Office of the Auditor

General of the State of California for a period of three (3) years after release of all retention under this Contract. Design-Builder shall preserve and cause to be preserved such books, records, and files for the audit period. During the progress of the Work and for three (3) years after release of all retention under the Contract, Owner shall also have the right to an audit, and Design-Builder must cooperate by producing all information requested within seven (7) days.

13.13 STORM WATER DISCHARGE PERMIT

If applicable, the Design-Builder shall file a Notice of Intent to comply with the terms of the general permit to discharge storm water associated with construction activity (WQ Order No. 920-08-DWQ). The Notice of Intent must be sent to the following address along with the appropriate payment (warrant to be furnished by the Owner upon request by the Design-Builder, allow warrant processing time.): California State Water Resources Control Board, Division of Water Quality, Storm Water Permit Unit, P.O. Box 1977, Sacramento, CA 95812-1977. The Design-Builder may also call the State Water Board's Construction Activity Storm Water Hotline at (916) 657-1146. The Notice of Intent shall be filed prior to the start of any construction activity.

ARTICLE 14

TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 TERMINATION BY THE DESIGN-BUILDER FOR CAUSE

Design-Builder may not terminate for convenience. Design-Builder may only terminate for cause if the Work is stopped by others for a period of one hundred eighty (180) consecutive days through no act or fault of the Design-Builder, a Subcontractor of any tier, their agents or employees, or any other persons performing portions of the Work for whom the Design-Builder is contractually responsible, **and** the Work was stopped by others for one of the following reasons: (A) Issuance of an order of a court or other public authority having jurisdiction which requires Owner to stop all Work; or (B) an act of government, such as a declaration of national emergency, making material unavailable which requires Owner to stop all Work. If such grounds exist, the Design-Builder may serve written notice of such grounds on Owner and demand a meet-and-confer conference to negotiate a resolution in good faith within twenty (20) days of Owner's receipt of such notice. If such conference does not lead to resolution and the grounds for termination still exist, Design-Builder may terminate the Contract and recover from the Owner payment for Work executed and for reasonable verified costs with respect to materials, equipment, tools, construction equipment, and machinery, including reasonable overhead, profit, and damages for the Work executed, but excluding overhead (field and home office) and profit for (i) Work not performed and (ii) the period of time that the Work was stopped.

14.2 TERMINATION BY THE OWNER FOR CAUSE

14.2.1 GROUNDS FOR TERMINATION

The Owner may terminate the Contract if the Design-Builder:

- A. Refuses or fails to supply enough properly skilled workers or proper materials, or refuses or fails to take steps to adequately prosecute the Work toward Completion within the Contract Time;
- B. Fails to make payment to Subcontractors for materials or labor in accordance with Public Contract Code section 10262 or Business and Professions Code section 7108.5, as applicable;
- C. Violates Labor Code section 1771.1(a), subject to the provisions of Labor Code section 1771.1(f);
- D. Disregards laws, ordinances, rules, regulations, or orders of a public authority having jurisdiction; or
- E. Otherwise is in breach of the Contract Documents.

14.2.2 NOTIFICATION OF TERMINATION

When any of the above reasons exist, the Owner may, without prejudice to any other rights or remedies of the Owner, give notice to Design-Builder of the grounds for termination and demand cure of the grounds within seven (7) days (a "Notice of Intent to Terminate"). If Design-Builder fails to **either** (a) completely cure the grounds for termination within seven (7) days **or** (b) reasonably commence cure of the grounds for termination within seven (7) days and reasonably continue to cure the grounds for termination until such cure is complete, then Owner may terminate the Contract effective immediately upon service of written Notice of Termination and may, subject to any prior rights of Design-Builder's surety on the performance bond ("Surety"):

- A. Take possession of the Site and of all material, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
- B. Accept assignment of subcontracts pursuant to section 5.4; and
- C. Complete the Work by whatever reasonable method the Owner may deem expedient.

14.2.3 PAYMENTS WITHHELD

If the Owner terminates the Contract for one of the reasons stated in section 14.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is Complete.

14.2.4 PAYMENTS UPON COMPLETION

If the unpaid balance of the Contract Sum exceeds costs of Completing the Work, including compensation for professional services and expenses made necessary thereby, such excess shall be paid to the Design-Builder. If such costs exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. This payment obligation shall survive Completion of the Contract.

14.2.5 INCLUSION OF TERMINATION FOR CONVENIENCE

Any purported termination by Owner for cause under this section 14.2, which is revoked or determined to not have been for cause, shall be deemed to have been a termination for convenience effective as of the same date as the purported termination for cause.

14.3 SUSPENSION OR TERMINATION BY THE OWNER FOR CONVENIENCE

14.3.1 SUSPENSION BY OWNER

The Owner may, without cause, order the Design-Builder in writing to suspend, delay, or interrupt the Work in whole or in part for such period of time as the Owner may determine.

14.3.1.1 *Adjustments.* An adjustment shall be made for increases in the cost of performance of the Contract, including profit on the increased cost of performance caused by suspension, delay, or interruption. No adjustment shall be made to the extent:

- A. That performance is, was or would have been so suspended, delayed, or interrupted by another cause for which the Design-Builder is responsible; or
- B. That an equitable adjustment is made or denied under another provision of this Contract.

14.3.1.2 *Adjustments for Fixed Cost.* Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

14.3.2 TERMINATION BY THE OWNER FOR CONVENIENCE

14.3.2.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

14.3.2.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall:

1. Cease operations as directed by the Owner in the notice;
2. Take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
3. Except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

14.3.2.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination.

14.4 NOT A WAIVER

Any suspension or termination by Owner for convenience or cause under this Article 14 shall not act as a waiver of any claims by Owner against Design-Builder or others for damages based on breach of contract, negligence or other grounds.

14.5 MUTUAL TERMINATION FOR CONVENIENCE

The Design-Builder and the Owner may mutually agree in writing to terminate this Contract for convenience. The Design-Builder shall receive payment for all Work performed to the date of termination in accordance with the provisions of Article 9.

14.6 EARLY TERMINATION

Notwithstanding any provision herein to the contrary, if for any fiscal year of this Contract the governing body of the Owner fails to appropriate or allocate funds for future periodic payments under the Contract after exercising reasonable efforts to do so, the Owner may upon thirty (30) days' notice, order work on the Project to cease. The Owner will remain obligated to pay for the work already performed but shall not be obligated to pay the balance remaining unpaid beyond the fiscal period for which funds have been appropriated or allocated and for which the work has not been done.

AGREEMENT BETWEEN OWNER AND DESIGN-BUILDER

This agreement is effective May __, 2019, by and between the City of Lemoore, Kings County, California, hereinafter called the “City” or “Owner,” and J.R. Filanc Construction Company, Inc., hereinafter called the “Design-Builder” (the “Agreement”).

WITNESSETH: That the Design-Builder and the Owner for the consideration hereinafter named agree to enter into this Agreement for design and construction of the Project pursuant to Public Contract Code sections 22160 et seq., as follows:

ARTICLE I. SCOPE OF WORK. For the Owner’s Water Treatment Plant Project in Lemoore, California (the “Project”), the Design-Builder agrees to furnish all labor, equipment, and materials, including tools, implements, and appliances required, and to perform all the Work in a good and workmanlike manner, free from any and all liens and claims from mechanics, material suppliers, subcontractors, artisans, machinists, teamsters, freight carriers, and laborers. The Work includes all obligations of the Design-Builder under this Agreement, the Contract, and the Contract Documents (see Article II, below), including all design and construction services necessary to complete the Project.

A. Design Services

The Design-Builder shall complete the design of the Project within the parameters of the approved pilot program and Owner’s requirements for design of the Project (the “Design Requirements,” or “Bridging Documents”) that were included in the Request for Qualifications (“RFQ”) and on which the Design-Builder based its SOQ, and within the other requirements of the Contract Documents (including Article VI, below).

The Design-Builder shall prepare a 60% complete design and Guaranteed Maximum Price (GMP) proposal for final design and construction for the Owner’s review and approval.

Constructability review of the design and value engineering are the responsibility of the Design-Builder, but Owner may provide its own constructability or value engineering comments when reviewing the 60% design. Once the 60% design and associated GMP are approved by the Owner, a Notice to Proceed (NTP) for final design and construction phase services will be issued to the Design-Builder. Final 100% design will be completed by discipline or work package to support construction phasing and expedite completion.

After obtaining Owner NTP for the initial 60% design and GMP development phase, the Design-Builder shall coordinate with the California Division of Drinking Water (“DDW”) for review to support permitting of the facilities. The Design-Builder shall make all changes in the design as may be required by DDW and shall obtain all necessary permits from the City Building Department, local fire department, and Kings County (“Design”). If any such changes reduce the scope of the Design Requirements, then the Owner shall be entitled to a deductive change order. If any such changes are outside the scope of the Design Requirements, then the Design-Builder shall be entitled to a change order to the extent that the change increases the Design-Builder’s design costs.

B. Construction Services

The Design-Builder shall perform all construction necessary to construct the Work in compliance with the Design and the Contract Documents, including the General Conditions.

ARTICLE II. CONTRACT DOCUMENTS. The Design-Builder and the Owner agree that the following documents form the Contract Documents:

- A. The RFQ, including all attachments, appendices and addenda.
- B. The Design-Builder's statement of qualifications in response to the RFQ ("SOQ"), including all attachments, certifications and declarations required to be submitted with the SOQ.
- C. This Agreement.
- D. The General Conditions.
- E. Any written and City Council-approved agreement to modify this Agreement, such as an amendment or change order.
- F. The payment bond.
- G. The performance bond.
- H. The documents listed in Article 1.1.1 of the General Conditions.

This Agreement incorporates the above Contract Documents by reference, and together they constitute the "Contract."

ARTICLE III. TIME TO COMPLETE AND LIQUIDATED DAMAGES.

Time is of the essence in this Contract, and the time of Completion for the Work (the "Contract Time") shall be four hundred sixty (460) calendar day duration from the date of commencement of the Work as established in the Owner's Notice to Proceed for 60% design and GMP phase services.

In addition, the Design-Builder shall meet the following milestone deadlines:

- Submittal for City Council approval of the 60% design of the Project within sixty (60) calendar days from the date of commencement of the Work as established in the Owner's Notice to Proceed for design phase services; and
-
- Completion of the construction of the Project within four hundred (400) calendar days from Notice of Proceed with final design and constructions.

The time period between substantial completion and DDW approval of permit to operate, shall not count against the Contract Time, and the Design-Builder shall be entitled to a time extension for such time period.

Failure to Complete the Work within the Contract Time, or by the milestone deadlines noted above, in the manner provided for by the Contract Documents shall subject the Design-Builder to liquidated damages. For purposes of liquidated damages, the concept of "substantial completion" shall constitute Completion and is part of the Contract Documents. Substantial completion is defined as when the new facilities are producing water and Owner has beneficial use of them. All sites and plants must meet Substantial Completion within the Contract Time. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if the Work were not Substantially Completed within the Contract Time, or by the milestone deadlines noted above, are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of delay include, but are not limited to, loss of the use of the Work, disruption of activities, costs of administration, supervision, and the incalculable inconvenience and loss suffered by the public.

Accordingly, the Parties agree that the amount of damages which the Owner shall directly incur upon failure of the Design-Builder to Complete the Work within the Contract Time, or by the milestone deadlines noted above, shall be \$1,000 for each calendar day of delay of such Completion.

If the Design-Builder becomes liable under this section, the Owner, in addition to all other remedies provided by law, shall have the right to withhold any and all retained percentages of payments and/or progress payments, and to collect the interest thereon, which would otherwise be or become due the Design-Builder until the liability of the Design-Builder under this section has been finally determined. If the retained percentages and withheld progress payments appear insufficient to discharge all liabilities of the Design-Builder incurred under this Article, the Design-Builder and its sureties shall continue to remain liable to the Owner for such liabilities until all such liabilities are satisfied in full.

If the Owner accepts any work or makes any payment under this Agreement after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any Agreement provisions regarding time for Completion and liquidated damages.

ARTICLE IV. PAYMENT AND RETENTION. Owner shall pay Design-Builder a total amount for the Work (“GMP or “Contract Sum”) which shall be made up of two components: (i) the Design Fee; and (ii) the Construction Fee. The Design Fee shall compensate Design-Builder for the design services as set forth in Article VI. Consistent with the SOQ, the Design Fee shall be \$525,260, and shall be paid in three equal monthly installments of \$175,086.

The Construction Fee will be calculated following: (i) Design-Builder’s sufficient completion of its Design Services in accordance with Article VI; (ii) approval of the Design and GMP; and (iii) the selection of all subcontractors in accordance with Public Contract Code section 22166(b). Design-Builder shall provide Owner with objectively verifiable information of its costs to perform the Work and a written rationale for the proposed GMP, including documentation sufficient to support the calculation. Design-Builder’s written rationale shall detail the construction cost for the Project, consisting of (a) all subcontracts to be awarded by Design-Builder for the Project, (b) any separately awarded contracts for materials and supplies for the Project, and (c) and all related overhead and profit.

The proposed Construction Fee shall be approved or rejected by the Owner at a public meeting before Design-Builder may proceed with construction of the Project. Once approved, the Parties shall execute **Exhibit B** of this Agreement, setting forth the GMP, whereupon **Exhibit B** shall be incorporated into, and become part of the Contract Documents. If mutually acceptable, the GMP may be converted to a fixed, lump sum Construction Fee. If the Owner rejects the Construction Fee and requests another calculation from Design-Builder, then Design-Builder shall submit another calculation complying with this Section’s procedures. If the Owner rejects the Construction Fee and does not request another calculation from Design-Builder, then such rejection will act as a Termination for Convenience pursuant to the General Conditions. In such event, Design-Builder shall be entitled to payment for design, estimating and project management services satisfactorily completed, in an amount not to exceed the Design Fee. In the event of Termination for Convenience, the City reserves the absolute right to use the plans in accordance with Article VI(f) and bid the Project. In such event, the City reserves the right to request Design-Builder to act as the Project engineer at an additional cost to be agreed upon in writing.

Except as otherwise provided in the General Conditions, the Design-Builder shall assume the risk of all costs in excess of the Contract Sum in the performance of such work and shall not be entitled to additional payments because of such excess costs. Should the Design-Builder believe that it is entitled to an increase in the Contract Sum or a time extension for completion, it must request it pursuant to the procedures in the General Conditions for change orders and claims. The Design-Builder shall submit monthly payment applications based upon the progress of the Work (Schedule of Values), as described in the Contract Documents, including Article 9 of the General Conditions.

ARTICLE V. CHANGES. Changes in this Agreement or in the Work to be done under this Agreement shall be made as provided in the General Conditions and shall be in the form of a written amendment or change order to this Agreement approved by the Owner’s governing body.

ARTICLE VI. DESIGN RESPONSIBILITIES OF THE DESIGN-BUILDER.

A. Definitions.

1. Design Services. “Design Services” shall mean the Design-Builder’s design services, including landscaping architectural services and landscape irrigation design, civil, treatment process, hydraulic, structural, mechanical, instrumentation, controls and electrical engineering services, foreseeably required under law, the standard of care, and this Agreement, to complete the design of the Work, obtain all necessary permits for the Design, and administer the construction of the Work, as further defined in this Article.

2. Wrongful Acts or Omissions. “Wrongful Acts or Omissions” shall mean Design-Builder’s acts or omissions in breach of this Agreement, the applicable standard of care, or law.

B. Standard of Care.

City retains Design-Builder to perform, and Design-Builder agrees to provide to City, for the consideration and upon the terms and conditions set forth below, the architectural and engineering services specified in this Agreement and related incidental services. The Design-Builder agrees to perform such services as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. All services performed by the Design-Builder under or required by this Agreement shall be performed (a) in compliance with this Agreement, and (b) in a manner consistent with the level of care and skill ordinarily exercised by architects or engineers in the same discipline, on similar projects in California with similar complexity and with similar agreements, who are specially qualified to provide the services required by the City; and all such services shall be conducted in conformance to, and compliance with, all applicable Federal, State and local laws, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, and the Americans with Disabilities Act (“ADA”). Design-Builder shall be responsible for the completeness and accuracy of the plans and specifications.

C. Design Services.

1. General.

The Design-Builder shall complete the design for the Project in conformance to the Contract Documents, including the Bridging Documents, and applicable law.

The City shall have the right to add or delete from the Design-Builder’s scope of Design Services as it may determine is necessary for the best interests of the Project and/or the City. Design-Builder shall expeditiously and diligently perform all of its work and obligations under this Agreement. Design-Builder may not cease, delay or reduce, or threaten to cease, delay or reduce, its performance based on a payment dispute with City.

All personnel provided by Design-Builder shall be qualified to perform the services for which they are provided. Design-Builder shall obtain City’s written approval of each employee of Design-Builder who provides services under this Agreement, and written approval of each change of employees who are providing such services. City may, upon thirty (30) days’ written notice, cause Design-Builder to remove a person from the Project if he/she has failed to perform to City’s satisfaction. Should additional employees be required to timely perform all of the services required under this Agreement and/or to avoid delay, Design-Builder shall provide them immediately.

Design-Builder is an agent of City and shall reasonably represent the City at all times in relation to the Project.

Design-Builder shall be fully licensed as required by law at all times when providing services under this Agreement.

2. Consultants.

The Design-Builder shall employ or retain at Design-Builder's own expense, engineers and other consultants necessary to Design-Builder's performance of this Agreement and licensed to practice in their respective professions in the State of California. Engineers and consultants retained or employed by Design-Builder for this Project shall be approved by City prior to their commencement of work. The Design-Builder's consultants shall be employed or retained to provide assistance during all aspects of performance of the Design Services for the Project, including but not limited to review of schedules, shop drawings, samples, submittals, and requests for information. The Design-Builder's consultants shall also conduct periodic inspections of the site to determine conformance with the approved design and shall participate in the final inspections and development of any "punch list" items. Design-Builder must disclose to City all such consultants employed or retained, and the compensation paid to those retained.

Design-Builder shall confer and cooperate with consultants retained by City as may be requested by City or as reasonably necessary. City may retain an engineer or construction manager to assist City in performance of City's duties for the Project.

If not done by the City's representative for the Project ("Owner's Representative"), the Design-Builder shall procure a certified survey of the site if required, including grades and lines of streets, alleys, pavements, adjoining properties and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the building site, locations, dimensions and floor elevations of existing buildings, other improvements and trees; and full information as to available utility services and lines, both public and private above and below grade, including inverts and depths. All the information on the survey customarily referenced to a project benchmark shall be referenced to a Project benchmark. The cost of any such survey shall be borne by the City, and the City shall own and, upon termination of this Agreement or Completion of the Project, shall have returned to it by Design-Builder any designs, plans, specifications, studies, drawings, estimates or other documents prepared as part of the survey.

If not done by the Owner's Representative, Design-Builder shall procure chemical, mechanical or other tests required for proper design, tests for hazardous materials and borings or test pits necessary for determining subsoil conditions. The cost of any such tests shall be borne by the City, and the City shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by Design-Builder any designs, plans, specifications, studies, drawings, estimates or other documents prepared as part of the testing.

3. Schematic Design Phase.

The Design-Builder shall treat the Bridging Documents as the schematic design for the Project. The Design-Builder shall complete the design of the Project in conformance with the Bridging Documents, as described in this Agreement.

4. Design Development Phase.

Design-Builder shall provide all necessary architectural and engineering services to prepare design development documents for the City Council's written approval, which fix and describe the size and character of the Project and shall outline the specifications of the entire Project as to kind and quality of

materials, categories of proposed work such as architectural, structural, mechanical and electrical systems, types of structures and all such other work as may be required. The design development documents shall represent a 60% complete design and shall conform to the Bridging Documents and other Contract Documents. Design-Builder shall submit the 60% development design to the City for its review and for Council approval. Design-Builder is encouraged to make recommendations to City regarding benefits that could be realized by altering the scope of work or completion deadlines. If City incorporates any recommended changes or otherwise does not approve the submitted design development documents, then Design-Builder shall revise the design development documents as necessary until the City Council approves them in writing. Design-Builder shall attend, and present at up to three (3) meetings of the City Council as may be necessary to obtain the Council's approval of the design development documents.

Design-Builder shall prepare necessary documents for and oversee the processing of City's application for and obtaining of required approvals from the DDW, the City Building Department, local fire department, Kings County and other agencies exercising jurisdiction over the Project. Design-Builder shall also be responsible for the preparation and submission of any required applications, notices or certificates to public agencies as required by law. Design-Builder shall provide a copy of all such documents to the City.

5. Completion of Design Phase.

Following the City Council's written approval of the design development documents, the Design-Builder shall prepare complete working drawings and specifications in a progressive manner to support construction sequencing detailed in the baseline construction schedule, setting forth the work to be done in detail sufficient for construction, including but not limited to the materials, workmanship, finishes and equipment required for the architectural, structural, mechanical, electrical system, instrumentation and controls and utility-service-connected equipment and site work. The 100% complete design shall conform to, comply with, and satisfy the Bridging Documents and other Contract Documents, as well as all applicable Federal, State and local laws, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, and the ADA. As part of the 100% complete design, Design-Builder shall prepare an accurate set of drawings indicating dimensions and locations of existing buried utility lines.

6. Construction Phase.

The construction phase shall begin on the date that Design-Builder obtains the Notice to Proceed for construction following City Council approval of the 60% complete design, GMP and baseline schedule.

The Design-Builder shall be responsible for the preparation and submission of any notifications regarding excavation in areas which are known or suspected to contain subsurface installations under Government Code section 4216, *et seq.* Design-Builder shall provide a copy of all such notifications to the City.

After approval of the design, the Design-Builder may select subcontractors for performance of construction work, and if the scope of a subcontractor's construction work is greater than 0.5% of the total value of the contract price allocable to construction work, then the Design-Builder shall use the procedures specified in Public Contract Code section 22166(b) to select that construction subcontractor. The Design-Builder shall award each construction subcontract on a best value basis.

The Design-Builder shall submit to the City and its Owner's Representative all schedules, shop drawings, samples and other submissions as set forth in the Contract Documents. The City and its Owner's

Representative shall take action within fourteen (14) days of receipt of the submittals, unless the critical path of the Project is impacted in which case the City and its Owner's Representative shall take such action as soon as possible. If the City and its Owner's Representative are not able to take such action within the required time due to reasons beyond their control, they may take action within a reasonable period of time under the circumstances; however, they shall make such determination within four (4) calendar days of receipt of the submission, and shall notify the Design-Builder immediately after such determination with an explanation as to why they cannot take action within the time required, what they are doing to expedite its response, when they expect to be able to issue a response, and what action, if any, should be taken by the Design-Builder in the meantime to mitigate delays and/or costs. The City and its Owner's Representative will have the authority to reject work and materials which do not conform to the Contract Documents, including the Bridging Documents. The approval of a specific item shall not be an approval of an assembly of which the item is a component. Whenever, in the reasonable judgment of the City, it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the City and its Owner's Representative will have authority to require special inspection or testing of the work or materials in accordance with the Contract Documents whether or not such work or materials be then fabricated, installed or completed. The City and its Owner's Representative will also recommend substitution of materials or equipment when, in their reasonable judgment, such action is necessary to the accomplishment of the intent and purpose of the Contract Documents. Such actions as are described in this paragraph shall be taken with reasonable promptness.

The Design-Builder shall make such regular reports as shall be required by agencies having jurisdiction over the Project and keep the City informed in writing of the progress of the Project.

The Design-Builder will, consistent with standards of due care, make reasonable professional efforts to exclude hazardous materials from new construction. In the event the City or Design-Builder is or becomes aware of the presence of, or exposure of persons to, asbestos, polychlorinated biphenyl (PCB) or any other toxic or hazardous contaminants, materials, air pollutants or water pollutants at the Project site ("Hazardous Substances"), or the substantial risk thereof, each shall have a duty immediately to notify the other in writing. The Parties recognize, however, that neither Design-Builder nor the City is trained or licensed in the recognition or remediation of Hazardous Substances.

Design-Builder shall prepare an accurate set of as-built record drawings indicating dimensions and locations of all work, including but not limited to buried utility lines and mechanical, electrical, instrumentation, controls and plumbing layouts, which shall be forwarded to the City upon Completion of the Project. Design-Builder shall also assemble and deliver to the City all written guarantees, instruction books, operation and maintenance manuals, diagrams, charts and other documents required under the Contract Documents.

When construction is properly completed, Design-Builder shall provide such certification as to Hazardous Substances as is required for such projects.

Notwithstanding any other provision of this Agreement, the Design-Builder will not be entitled to a change order or additional payment if the underlying issue was caused by a Wrongful Act or Omission. At its own expense, the Design-Builder shall perform all Work caused or necessitated by the Wrongful Actor Omissions. Design-Builder is responsible to ensure that the 100% complete design, and the finished Project based on that design, comply with all standards imposed by the ADA, section 504 of the Rehabilitation Act of 1973, disability access requirements of the State Building Code and any other laws applicable to disability access. If a court, administrative agency or other trier of fact later determines that Design-Builder has violated any of the above-referenced laws, or the City, because of Design-Builder's Wrongful Acts or Omissions, has violated any of the above-referenced laws, Design-Builder shall remedy the violation at its own cost. **Design-Builder shall indemnify, defend and hold the City harmless under Section VI.G of this Agreement for any breach of this paragraph due to Design-Builder's negligence, recklessness or**

willful misconduct. In the event that the Design-Builder is or becomes aware of possible non-compliance with the foregoing standards, Design-Builder shall have a duty immediately to notify the City in writing of the possible non-compliance.

7. Use of Previously Prepared Materials. In the event that there exist previously prepared designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings, that were prepared by design professionals other than Design-Builder, whether supplied by the City or by others, which are relied upon, altered or otherwise utilized by Design-Builder, Design-Builder shall be responsible for giving appropriate recognition to such other design professionals in any materials prepared by Design-Builder under this Agreement.

D. Errors and Omissions Insurance.

Prior to the commencement of services under this Agreement, the Design-Builder shall furnish to the City satisfactory proof that the Design-Builder has, for the period covered by this Agreement, errors and omissions insurance on an occurrence basis, with limits of at least Five Million Dollars (\$5,000,000) and with a deductible in an amount not to exceed the sum of Ten Thousand Dollars (\$10,000). If errors and omissions insurance is not reasonably available on an occurrence basis, Design-Builder shall provide errors and omissions insurance on a claims-made basis.

Each of Design-Builder's professional sub-consultants (including consultants of Design-Builder) shall comply with this Section, and Design-Builder shall include such provisions in its contracts with them.

Said insurance shall provide that the coverage afforded thereby shall be primary coverage (and non-contributory to any other existing valid and collectable insurance) to the full limit of liability stated in the Declarations Page and such insurance shall apply separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one (1) insured shall not operate to increase the insurer's limits of liability.

Should any of the required insurance be provided under a claims-made form, Design-Builder shall maintain coverage continuously throughout the term of this Agreement, and without lapse, for a period of at least ten (10) years beyond the Agreement expiration or the completion of construction (whichever is later), to the effect that, should occurrences during the Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policy. Nothing herein shall in any way limit or diminish Design-Builder's obligations to the City under any provision, including any duty to indemnify and defend the City.

Design-Builder shall not commence work under this Agreement until all required insurance certificates, declarations pages and additional insured endorsements have been obtained and delivered in duplicate to the City for approval. Thereafter Design-Builder shall produce a certified copy of any insurance policy required under this Article upon written request of the City.

At the time of making application for any extension of time, Design-Builder shall submit evidence that all required insurance policies will be in effect during the requested additional period of time.

If the Design-Builder fails to maintain such insurance, the City may, but shall not be required to, take out such insurance, and may deduct and retain the amount of the premiums from any sums due the Design-Builder under this Agreement.

Nothing contained in this Agreement shall be construed as limiting, in any way, the extent to which the Design-Builder may be held responsible for the payment of damages resulting from the Design-Builder's operations.

Each of Design-Builder's consultants shall comply with this Article, and Design-Builder shall include such provisions in its contracts with them.

Insurance companies providing the above policies shall be legally authorized, licensed and admitted through the California Department of Insurance to engage in the business of furnishing insurance in the State of California. All such insurance companies shall have no lower than an "A-, VIII" in Best's Rating Guide and shall be satisfactory to the City.

Any failure to maintain any item of the required insurance may, at the City's sole option, be sufficient cause for termination of this Agreement.

E. Compliance with Laws.

Design-Builder shall be familiar with, and Design-Builder and Design-Builder's design shall comply with, all State and Federal laws and regulations applicable to the Project or lawfully imposed upon the Project by agencies having jurisdiction over the Project, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, prevailing wage law, and the ADA.

F. Ownership of Documents; Licensing of Intellectual Property.

All designs, plans, specifications, studies, drawings, estimates and other documents or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Design-Builder under this Agreement shall be and shall remain the property of the City for all purposes as they relate or may relate to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project).

The Design-Builder will provide the City with a complete set of reproducible designs, plans, specifications, studies, drawings, estimates and other documents or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Design-Builder under this Agreement, and will retain, on the City's behalf, the original documents or reproducible copies of all such original documents, however stored, in the Design-Builder's files for a period of no less than fifteen (15) years. Design-Builder shall promptly make available to the City any original documents it has retained under this Agreement upon request by the City.

This Agreement creates a non-exclusive license for the City to copy, use, modify or reuse any and all copyrights, designs and other intellectual property embodied in plans, specifications, studies, drawings, estimates and other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Design-Builder under this Agreement, not only as they relate or may relate to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) but as they relate or may relate to other projects, provided that any invalidity of such license in relation to such other projects shall not affect the validity of such license in relation to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project). The Design-Builder shall require any and all subcontractors and consultants to agree in writing that the City is granted

a similar non-exclusive - license for the work of such subcontractors or consultants performed under this Agreement. Prior to copying, using, modifying, or otherwise distributing to third parties any copyrights, designs or other intellectual property created by AdEdge Water Technology, the City will provide Design-Builder and AdEdge Water Technology with reasonable advanced notice to the extent practicable. In the event of an objection, the parties shall meet and confer as to the merits of AdEdge Water Technology's objection.

In the event the City reuses the plans prepared by the Design-Builder and retains another certified architect or structural engineer for the preparation of those plans for the re-use, the City shall indemnify and hold harmless the Design-Builder and its consultants, agents, and employees from and against any claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting from, in whole or in part, the re-use to the extent required by law. **Design-Builder shall indemnify, defend and hold the City harmless under Section VI.G of this Agreement for any breach of this Section due to Design-Builder's negligence, recklessness or willful misconduct.** The Design-Builder makes no such representation and warranty in regard to previously prepared designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings, that were prepared by design professionals other than Design-Builder and provided to Design-Builder by the City.

G. Indemnity Regarding Design.

Design-Builder Indemnification – **To the fullest extent permitted by law, including California Civil Code section 2782.8, the Design-Builder shall defend, indemnify, and hold harmless the City, the City Council, each member of the Council, and their officers, agents and employees (“City Indemnitees”) against claims arising out of, pertaining to, or relating to negligence, recklessness or willful misconduct of the Design-Builder, the Design-Builder's officers, employees, or consultants in performing or failing to perform any design work, services, or functions provided for, referred to, or in any way connected with any design work, services, or functions to be performed under this Agreement.**

For purposes of this Section VI.G only, (a) “claims” means all claims, demands, actions and suits brought by third parties against the City Indemnitees for any and all losses, liabilities, costs, expenses, damages and obligations, and (b) the Design-Builder's defense obligation shall include but not be limited to (i) provision of a full and complete defense of the City Indemnitees by an attorney chosen or approved by the City, and (ii) payment of the City's attorneys' fees, experts' fees, and all other litigation costs incurred in the City's defense (“Defense Costs”) within thirty (30) days of Design-Builder's receipt of each invoice for such Defense Costs. After conclusion of the action against the City Indemnitees (including all appeals), the City shall reimburse Design-Builder for the portion of the Defense Costs proportionate to the percentage of fault of parties other than the Design-Builder (“Other Parties”) for the amounts paid or owed to the third party by the City Indemnitees, but this duty of reimbursement shall only be owed by the City if there are specific findings in a settlement agreement, arbitration award, or verdict as to the Other Parties' percentage of fault, and the Design-Builder's percentage of fault, for those amounts paid or owed to the third party.

If one or more defendants is/are unable to pay its/their share of Defense Costs due to bankruptcy or dissolution of the business, the Design-Builder shall meet and confer with the Other Parties regarding unpaid Defense Costs.

This indemnification shall apply to all liability, as provided for above, regardless of whether any insurance policies are applicable, and insurance policy limits do not act as a limitation upon the

amount of the indemnification to be provided by the Design-Builder.

City Indemnification for Use of Third Party Materials – The City shall defend, indemnify, and hold harmless the Design-Builder and its employees against any and all copyright infringement claims by any design professional formerly retained by the City arising out of Design-Builder's completion, use or re- use of that former design professional's designs or contract documents in performing this Agreement. Design-Builder shall be entitled to such indemnification only if each of the following conditions are met:

(a) Design-Builder actually re-draws or completes such other designs or contract documents; (b) Design-Builder complies with the provisions of this Agreement regarding use of materials prepared by other design professionals; (c) the City has supplied Design-Builder with the previously prepared documents or materials; and (d) the City expressly requests that the Design-Builder utilize the designs or contract documents in question. By providing this or any other indemnification in this Agreement, the City does not waive any immunities.

ARTICLE VII. TERMINATION. The Owner or Design-Builder may terminate the Contract as provided in the General Conditions.

ARTICLE VIII. PREVAILING WAGES. The Project is a public work. The Work shall be performed as a public work and pursuant to the provisions of section 1770 et seq. of the Labor Code of the State of California, which are hereby incorporated by reference and made a part hereof, the Director of Industrial Relations has determined the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the Work is to be performed, for each craft, classification or type of worker needed to execute this Contract. Per diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, apprenticeship or other training programs, and similar purposes. Copies of the rates are on file at the Owner's principal office. The rate of prevailing wage for any craft, classification or type of workmanship to be employed on this Project is the rate established by the applicable collective bargaining agreement which rate so provided is hereby adopted by reference and shall be effective for the life of this Agreement or until the Director of the Department of Industrial Relations determines that another rate be adopted. It shall be mandatory upon the Design-Builder and on any subcontractor to pay not less than the said specified rates to all workers employed in the execution of this Agreement.

The Design-Builder and any subcontractor under the Design-Builder as a penalty to the Owner shall forfeit not more than Two Hundred Dollars (\$200.00) for each calendar day or portion thereof for each worker paid less than the stipulated prevailing rates for such work or craft in which such worker is employed. The difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Design-Builder.

The Design-Builder and each Subcontractor shall keep or cause to be kept an accurate record for Work on this Contract showing the names, addresses, social security numbers, work classification, straight time and overtime hours worked and occupations of all laborers, workers and mechanics employed by them in connection with the performance of this Contract or any subcontract thereunder, and showing also the actual per diem wage paid to each of such workers, which records shall be open at all reasonable hours to inspection by the Owner, its officers and agents and to the representatives of the Division of Labor Law Enforcement of the State Department of Industrial Relations. The Design-Builder and each subcontractor shall furnish a certified copy of all payroll records directly to the Labor Commissioner at least monthly.

Public works projects shall be subject to compliance monitoring and enforcement by the Department of Industrial Relations. A contractor or subcontractor shall not be qualified to submit a bid or to be listed in a bid proposal subject to the requirements of Public Contract Code section 4104 unless

currently registered and qualified under Labor Code section 1725.5 to perform public work as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code. A contractor or subcontractor shall not be qualified to enter into, or engage in the performance of, any contract of public work (as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code) unless currently registered and qualified under Labor Code section 1725.5 to perform public work.

ARTICLE IX. WORKING HOURS. In accordance with the provisions of sections 1810 to 1815, inclusive, of the Labor Code of the State of California, which are hereby incorporated and made a part hereof, the time of service of any worker employed by the Design-Builder or a subcontractor doing or contracting to do any part of the Work contemplated by this Agreement is limited and restricted to eight hours during any one calendar day and forty hours during any one calendar week, provided, that work may be performed by such employee in excess of said eight hours per day or forty hours per week provided that compensation for all hours worked in excess of eight hours per day, and forty hours per week, is paid at a rate not less than one and one-half (1½) times the basic rate of pay. The Design-Builder and every subcontractor shall keep an accurate record showing the name of and the actual hours worked each calendar day and each calendar week by each worker employed by them in connection with the Work. The records shall be kept open at all reasonable hours to inspection by representatives of the Owner and the Division of Labor Standards Enforcement. The Design-Builder shall as a penalty to the Owner forfeit Twenty-five Dollars (\$25.00) for each worker employed in the execution of this Agreement by the Design-Builder or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day, and forty hours in any one calendar week, except as herein provided.

ARTICLE X. APPRENTICES. The Design-Builder agrees to comply with Chapter 1, Part 7, Division 2, sections 1777.5 and 1777.6 of the California Labor Code, which are hereby incorporated and made a part hereof. These sections require that contractors and subcontractors employ apprentices in apprenticeable occupations in a ratio of not less than one hour of apprentice's work for each five hours of work performed by a journeyman (unless an exemption is granted in accordance with section 1777.5) and that contractors and subcontractors shall not discriminate among otherwise qualified employees as indentured apprentices on any public works solely on the ground of sex, race, religious creed, national origin, ancestry or color. Only apprentices as defined in Labor Code section 3077, who are in training under apprenticeship standards and who have signed written apprentice agreements, will be employed on public works in apprenticeable occupations. The responsibility for compliance with these provisions is fixed with the Design-Builder for all apprenticeable occupations.

ARTICLE XI. SKILLED AND TRAINED WORKFORCE. The Design-Builder and its subcontractors at every tier shall comply with Public Contract Code sections 2600-2602 and 22164, which require the Design-Builder and its subcontractors at every tier to employ a skilled and trained workforce, as defined herein, to perform all Work that falls within an apprenticeable occupation in the building and construction trades.

For the purpose of this Article, the following definitions apply:

- A. "Apprenticeable occupation" means an occupation for which the Division of Apprenticeship Standards of the DIR had approved an apprenticeship program before January 1, 2014.
- B. "Graduate of an apprenticeship program" means either (a) an individual that has been issued a certificate of completion under the authority of the California Apprenticeship Council for completing an apprenticeship program approved by the DIR pursuant to

section 3075 of the Labor Code, or (b) an individual that has completed an apprenticeship program located outside California and approved for federal purposes pursuant to apprenticeship regulations adopted by the federal Secretary of Labor. (See Public Contract Code §2601(c).)

- C. “Skilled and trained workforce” means that all of the workers are either apprentices registered in an apprenticeship program approved by the DIR, or skilled journeypersons, with at least 30 percent of the skilled journeypersons employed on the Project in the following occupations must be graduates of an apprenticeship program: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher. At least 50 percent of the skilled journeypersons employed on the Project in all other apprenticeable occupations must be graduates of an apprenticeship program for work performed on or after January 1, 2019 and before January 1, 2020. The 50 percent requirement will increase over time (see details in Public Contract Code §2601(d)(2)). Pursuant to sections 2600-2602 of the Public Contract Code, the percentage requirement may be partially met in some apprenticeable occupations by skilled journeypersons who commenced working before an apprenticeship program existed, may be met by the hours performed by the skilled journeypersons, need not be met if less than ten (10) hours of work were performed, and need not be met by some subcontractors.
- D. “Skilled journeyperson” means any of the following: (i) a person who has graduated from an apprenticeship program for the applicable occupation that was approved by the DIR, (ii) a person who has graduated from an apprenticeship program for the applicable occupation that was located outside of California and approved for federal purposes in accordance with regulations adopted by the federal Secretary of Labor, or (iii) a person who has at least as many hours of on-the-job experience in the applicable occupation as would be required to graduate from an apprenticeship program approved by the DIR.

For each calendar month during the Work, Design-Builder shall provide a compliance report to the Owner for each contractor or subcontractor before the fifth day of each month, using the format attached hereto as ***Exhibit A***, or in a substantially similar format, demonstrating compliance with this Article, ***except that*** a compliance report is not required for any occupation exempted under Public Contract Code §2601(d)(2)(B)-(D). Such monthly compliance reports shall be subject to the California Public Records Act (commencing with Government Code section 6250), and shall be open to public inspection.

If Contractor fails to comply with this Section 13 then Owner, at its sole discretion, may terminate the Agreement pursuant to Article 14 of the General Conditions, in addition to any other rights or remedies provided to Owner in the Contract Documents. Notwithstanding any other provision of the Agreement or the General Conditions if Contractor fails to provide any required monthly compliance report pursuant to this Section 13 on or before the fifth day of the following month, or provides an incomplete report, Owner shall withhold further payments to Contractor that would otherwise be due and payable consistent with Public Contract Code section 2602(b).

ARTICLE XII. DDW REVIEW PROCESS. The Design-Builder must comply with the applicable requirements of the DDW review process. Design-Builder shall be responsible for any additional fees related to review of proposed changes. If inspected Work is found to be in non-compliance with the construction documents or the DDW-approved testing and inspection, then it must be removed and corrected. Any construction that covers unapproved or uninspected Work is subject to removal and correction, at Design-Builder’s expense, in order to permit inspection and approval of the covered work in accordance with the DDW Review Process.

ARTICLE XIII. INDEMNIFICATION AND INSURANCE. The Design-Builder will defend, indemnify and hold harmless the Owner, its City Council, officers, agents, trustees, employees and others as provided in the Contract Documents, including the General Conditions.

By this statement the Design-Builder represents that it has secured the payment of Workers' Compensation in compliance with the provisions of the Labor Code of the State of California and during the performance of the work contemplated herein will continue so to comply with said provisions of said Code. The Design-Builder shall supply the Owner with certificates of insurance evidencing that Workers' Compensation Insurance is in effect and providing that the Owner will receive thirty (30) days' notice of cancellation.

Design-Builder shall provide the insurance set forth in the General Conditions. The amount of general liability insurance shall be \$4,000,000 per occurrence for bodily injury, personal injury and property damage and the amount of automobile liability insurance shall be \$2,000,000 per accident for bodily injury and property damage combined single limit.

ARTICLE XIV. ENTIRE AGREEMENT. The Contract constitutes the entire agreement between the Parties relating to the Work and supersedes any prior or contemporaneous agreement between the Parties, oral or written, including the Owner's award of the Contract to Design-Builder, unless such agreement is expressly incorporated herein. The Owner makes no representations or warranties, express or implied, not specified in the Contract. The Contract is intended as the complete and exclusive statement of the Parties' agreement pursuant to Code of Civil Procedure section 1856.

ARTICLE XV. EXECUTION OF OTHER DOCUMENTS. The Parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of the Contract.

ARTICLE XVI. EXECUTION IN COUNTERPARTS. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed Agreement.

ARTICLE XVII. BINDING EFFECT. Design-Builder, by execution of this Agreement, acknowledges that Design-Builder has read this Agreement and the other Contract Documents, understands them, and agrees to be bound by their terms and conditions. The Contract shall inure to the benefit of and shall be binding upon the Design-Builder and the Owner and their respective successors and assigns.

ARTICLE XVIII. SEVERABILITY; GOVERNING LAW; CHOICE OF FORUM. If any provision of the Contract shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. The Contract shall be governed by the laws of the State of California. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County of Kings, subject to transfer of venue under applicable State law, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by Owner.

ARTICLE XIX. AMENDMENTS. The terms of the Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement, including a change order, signed by the Parties and approved or ratified by the City Council.

ARTICLE XX. ASSIGNMENT OF CONTRACT. The Design-Builder shall not assign or transfer by

operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the surety on the payment bond, the surety on the performance bond and the Owner.

ARTICLE XXI. WRITTEN NOTICE. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified or overnight mail to the last business address known to the person who gives the notice.

DESIGN-BUILDER:

J.R. Filanc Construction Company, Inc.
a California corporation

BY: _____
Mark Filanc

TITLE: Chief Executive Officer

BY: _____
Linda Stangel

TITLE: Chief Financial Officer

OWNER:

City of Lemoore

BY: _____

TITLE: City Manager

CALIFORNIA ARCHITECT LICENSE

NO. LICENSE EXPIRATION DATE

134877
CALIFORNIA CONTRACTOR'S LICENSE NO.

9/30/2019
LICENSE EXPIRATION DATE

NOTE: Design-Builder must give the full business address of the Design-Builder and sign with Design-Builder's usual signature. Partnerships must furnish the full name of all partners and the Agreement must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature. Corporations must sign with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and

designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of the officer signing on behalf of a corporation shall be furnished.

EXHIBIT A

**FORM FOR MONTHLY REPORTING OF
SKILLED AND TRAINED WORKFORCE**

SKILLED AND TRAINED WORKFORCE COMPLIANCE REPORT
(Public Contract Code §§2600 et seq.)

Owner: City of Lemoore

Contract: Water Treatment Plant Project

Lemoore, Kings County, California

The undersigned declares:

I am the _____ of _____, the “Design-Builder” on the Project identified above. I hereby certify that during the month of _____, 20__, there were a total of _____ workers employed in the apprenticeable occupations designated under Public Contract Code section 2600 *et seq.* and these workers performed a total of _____ hours of work within an apprenticeable occupation. I certify that all of these workers in an apprenticeable occupation are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the Department of Industrial Relations (DIR), and that all of these hours performed in this apprenticeable occupation were performed by such skilled journeypersons and apprentices. I certify that each subcontractor who performed work during the aforementioned month has provided to Contractor a Skilled and Trained Workforce Compliance Report consistent with Public Contract Code section 2602.

Following review of all Skilled and Trained Workforce Compliance Reports, I also certify as follows [*check applicable box(es)*]:

☐ **A. Exemption from Percentage Compliance**

Of the above total number of hours of work performed by workers employed in an apprenticeable occupation this month, _____ were performed by skilled journeypersons, which is less than the statutory threshold of ten (10) hours.

☐ **B. Percentage Compliance by Number of Workers**

1. Of the above total number of workers employed in an apprenticeable occupation this month, _____ were apprentices registered in an apprenticeship program approved by the DIR.
2. Of the above total number of workers employed in an apprenticeable occupation in this month, _____ were skilled journeypersons. Included in these skilled journeypersons are the following:
 - a. _____ who are graduates of an apprenticeship program for the following occupations: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile drive, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher;

- b. [REDACTED] who are graduates of another apprenticeship program not listed in subsection (a) for the applicable occupation; and
- c. [REDACTED] who are not graduates of an approved apprenticeship program for this apprenticeable occupation, but (a) no apprenticeship program had been approved by the DIR before January 1, 1995, for this apprenticeable occupation; and (b) these workers commenced working in this apprenticeable occupation before DIR approval of an apprenticeship program for that occupation in the county in which the Project is located.

The combined number of skilled journeypersons listed in Section B.1 and Section B.2 meets the requirements as contained in Education Code section 17407.5 and Public Contract Code sections 2600-2602, with no more than half of this percentage requirement being satisfied by the number of skilled journeypersons listed in Section B.2.c.

☐ **C. Percentage Compliance by Number of Hours**

1. Of the above total number of hours of work performed by workers employed in this apprenticeable occupation this month, [REDACTED] hours were performed by apprentices registered in an apprenticeship program approved by the DIR.
2. Of the above total number of hours of work performed by workers employed in this apprenticeable occupation in this month, [REDACTED] hours were performed by skilled journeypersons. Included in these hours are the following:
 - a. [REDACTED] hours performed by graduates of an apprenticeship program for the following occupations: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher;
 - b. [REDACTED] hours performed by graduates of another apprenticeship program not listed in subsection (a) for the applicable occupation; and
 - c. [REDACTED] hours performed by skilled journeypersons who are not graduates of an approved apprenticeship program for this apprenticeable occupation, but (a) no apprenticeship program had been approved by the DIR before January 1, 1995, for this apprenticeable occupation; and (b) these workers commenced working in this apprenticeable occupation before DIR approval of an apprenticeship program for that occupation in the county in which the Project is located.

The combined hours of work performed by skilled journeypersons listed in Section C.1 and Section C.2 meets the percentage requirements as set forth in Education Code section 17407.5 and Public Contract Code sections 2600-2602, with no more than half of this percentage requirement being satisfied by the hours performed by skilled journeypersons listed in Section C.2.c.

☐ **D. Failure of a Subcontractor to Demonstrate Compliance**

This Skilled and Trained Workforce Compliance Report does not demonstrate compliance with the graduate percentage requirement due to the failure of the following subcontractor(s):

RFQ City of Lemoore
Water Treatment Plant Project

The value of the monthly billing for the listed subcontractor(s) is \$. I have attached sufficient information to document to value of the monthly billing and understand that the District will withhold 150 percent of the aforementioned amount until a plan to achieve substantial compliance is approved by the District consistent with Public Contract Code section 2602(c).

I certify that the subcontractor(s) will be substituted pursuant to Public Contract Code section 4100 *et seq.*, unless that subcontractor provides a plan to achieve compliance consistent with Public Contract Code section 2602(c).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 20_ , at _____[city], California.

[Name]

EXHIBIT B

FINAL GMP AND CONSTRUCTION FEE

[TO BE COMPLETED AND EXECUTED FOLLOWING COUNCIL APPROVAL]

The GMP shall be \$ _____. The GMP consists of: (i) the Design Fee of \$ _____; and (ii) the Construction Fee of _____, and shall be paid in accordance with Article IV. Except as otherwise provided in the General Conditions, the Design-Builder shall assume the risk of all costs in excess of the GMP in the performance of such work and shall not be entitled to additional payments because of such excess costs.

DESIGN-BUILDER:

a California corporation

BY: _____

TITLE: President, Vice President, or Chairman

BY: _____
TITLE: Secretary, Assistant Secretary, CFO,
or Assistant Treasurer

OWNER:

City of Lemoore

BY: _____

TITLE: City Manager

EXHIBIT E

GENERAL CONDITIONS

ARTICLE 1

GENERAL CONDITIONS

1.1 BASIC DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The “Contract Documents” consist of the Agreement between Owner and Design-Builder (hereinafter the Agreement), all attachments and exhibits to the Agreement, Conditions of the Contract (General, Supplementary, and any other Conditions), the Request for Proposal including all design requirements and the pilot program summary (i.e., “Bridging Documents”), Design-Builder’s proposal, Payment Bond, Performance Bond, required insurance certificates, additional insured endorsement and declarations page, Designation of Subcontractors, Noncollusion Declaration, Roof Project Certification (where applicable), Sufficient Funds Declaration (Labor Code section 2810), Workers’ Compensation Certification, Drug-Free Workplace Certification, Iran Contracting Act Certification, other documents referred to in the Agreement, and Modifications issued after execution of the Agreement. A Modification is a written amendment to the Contract signed by both parties, a Change Order, a Construction Change Directive, or a written order for a minor change in the Work issued by the Owner. The Contract Documents are complementary, and each obligation of the Design-Builder, Subcontractors, material or equipment suppliers in any one shall be binding as if specified in all.

1.1.2 THE CONTRACT

The Contract Documents form the Contract. The “Contract” represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a written Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind between the Owner’s Representative and Design-Builder, between the Owner and any Subcontractor or Sub-subcontractor, or between any persons or entities other than the Owner and the Design-Builder. The terms of the Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by the parties and approved or ratified by the City Council.

1.1.3 THE WORK

The “Work” shall include all labor, materials, services and equipment necessary for the Design-Builder to fulfill all of its obligations pursuant to the Contract Documents, including but not limited to preparation of the 100% complete design of the Project (the “Design”), performance of all construction work, including punch list items, and submission of documents to Owner. It shall include the initial obligation of any Design-Builder or Subcontractor, who performs any portion of the Work, to visit the Site of the proposed Work with Owner’s representatives, a continuing obligation after the commencement of the Work to fully acquaint and familiarize itself with the conditions as they exist and the character of the operations to be carried on under the Contract Documents, and make such investigation as it may see fit so that it shall fully

understand the facilities, physical conditions, and restrictions attending the Work under the Contract Documents. Each such Design-Builder or Subcontractor shall also thoroughly examine and become familiar with the Drawings, Specifications, and associated bid documents. The “Site” refers to the grounds of the Project as defined in the Contract Documents and such adjacent lands as may be directly affected by the performance of the Work. The Work shall constitute a “work of improvement” under Civil Code section 8050 and Public Contract Code section 7107.

1.1.4 THE PROJECT

The “Project” is the total design and construction of the work of improvement, and includes the Work performed in accordance with the Contract Documents.

1.1.5 THE DRAWINGS

The “Drawings” are graphic and pictorial portions of the Contract Documents prepared for the Project and approved changes thereto, wherever located and whenever issued, showing the design, location, and scope of the Work, generally including plans, elevations, sections, details, schedules, and diagrams as drawn or approved by the Owner’s Representative.

1.1.6 THE SPECIFICATIONS

The “Specifications” are that portion of the Contract Documents consisting of the written requirements for material, equipment, construction systems, instructions, quality assurance standards, workmanship, and performance of related services.

1.1.7 THE PROJECT MANUAL

The “Project Manual” is the volume usually assembled for the Work which may include, without limitation, the bidding requirements, sample forms, Agreement, Conditions of the Contract, and Specifications.

1.1.8 OR

“Or” shall include “and/or.”

1.1.9 COMPLETION AND COMPLETE

Statutory definitions of “Completion” and “Complete” shall apply for those statutory purposes. For all other purposes, including accrual of liquidated damages, Claims, and warranties, “Completion” and “Complete” mean the point in the Work where (1) Design-Builder has fully and correctly performed all Work in all parts and requirements, including design, construction, and corrective and punch list work, and (2) Owner’s representatives have conducted a final inspection that confirmed this performance. Substantial, or any other form of partial or non-compliant, performance shall not constitute “Completion” or “Complete.”

1.2 EXECUTION, CORRELATION AND INTENT

1.2.1 CORRELATION AND INTENT

1.2.1.1 ***Documents Complementary and Inclusive.*** The Contract Documents are complementary and are intended to include all items required for the proper execution and Completion of the Work.

1.2.1.2 ***Coverage of the Contract Documents.*** The Contract Documents generally describe the work to be performed by Design-Builder. It is not intended to mention every item of Work. All materials or labor for Work, which are required by the Contract Documents or the Design (or is reasonably inferable therefrom as being necessary to Complete the Work), shall be provided by the Design-Builder whether or not the Work is expressly covered in the Contract Documents. It is intended that the Work be of sound, quality construction, and the Design-Builder shall be responsible for the inclusion of adequate amounts to cover installation of all items indicated, described, or implied in the portion of the Work to be performed by Design-Builder.

1.2.1.3 ***Conflicts.*** Without limiting Design-Builder's obligation to identify conflicts in the Contract Documents for resolution by the Owner, it is intended that the more stringent, higher quality, and greater quantity of Work shall apply.

1.2.1.4 ***Conformance With Laws.*** Each and every provision of law required by law to be inserted in this Contract shall be deemed to be inserted herein, and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon application of either party the Contract shall be amended in writing to make such insertion or correction.

Before commencing any portion of the Work, Design-Builder shall check and review the Contract Documents for conformance and compliance with all laws, ordinances, codes, rules and regulations of all governmental authorities and public utilities affecting the construction and operation of the physical plant of the Project, all quasi-governmental and other regulations affecting the construction and operation of the physical plant of the Project, and other special requirements, if any, designated in the Contract Documents. In the event Design-Builder observes any violation of any law, ordinance, code, rule or regulation, or inconsistency with any such restrictions or special requirements of the Contract Documents, Design-Builder shall promptly notify Owner in writing of same and shall ensure that any such violation or inconsistency shall be corrected in the manner provided hereunder prior to the construction of that portion of the Work. Where requirements of the Contract Documents exceed those of the applicable building codes and ordinances, the Contract Documents shall govern. Design-Builder shall comply with all applicable Federal, State and local laws.

If, as, and to the extent that Public Contract Code section 1104 is deemed to apply after the award of the Contract, Design-Builder shall not be required to assume responsibility for the completeness and accuracy of the Contract Documents, notwithstanding any other provision in the Contract Documents, except to the extent that Design-Builder discovered or should have

discovered and reported any errors and omissions to the Owner, including but not limited to as the result of any review of the plans and specifications by Design-Builder required by the Instructions to Bidders or other Contract Documents, whether or not actually performed by Design-Builder.

1.2.1.5 **Ambiguity.** Before commencing any portion of the Work, Design-Builder shall carefully examine all Contract Documents and other information given to Design-Builder as to materials and methods of construction and other Project requirements. Design-Builder shall immediately notify Owner's Representative and Owner in writing of any perceived or alleged error, inconsistency, ambiguity, or lack of detail or explanation in the Contract Documents in the manner provided herein. If the Design-Builder or its Subcontractors, material or equipment suppliers, or any of their officers, agents, and employees performs, permits, or causes the performance of any Work under the Contract Documents, which it knows or should have known to be in error, inconsistent, or ambiguous, or not sufficiently detailed or explained, Design-Builder shall bear any and all costs arising therefrom including, without limitation, the cost of correction thereof without increase or adjustment to the Contract Sum or the time for performance. If Design-Builder performs, permits, or causes the performance of any Work under the Contract Documents prepared by or on behalf of Design-Builder which is in error, inconsistent or ambiguous, or not sufficiently detailed or explained, Design-Builder shall bear any and all resulting costs, including, without limitation, the cost of correction, without increase to or adjustment in the Contract Sum or the time for performance. In no case shall any Subcontractor proceed with the Work if uncertain without the Design-Builder's written direction and/or approval.

1.2.1.6 **Execution.** Execution of the Agreement Between Owner and Design-Builder by the Design-Builder is a representation that the Design-Builder has visited the site, become familiar with the local conditions under which the Work is to be performed and has correlated personal observations with the requirements of the Contract Documents.

1.2.3 INTERPRETATION

1.2.3.1 **Titles.** Organization of the Contract Documents into divisions, sections and articles shall not control the Design-Builder in dividing the Work among Subcontractors or in establishing the extent of work to be performed.

1.2.3.2 **As Shown, Etc.** Where "as shown," "as indicated," "as detailed," or words of similar import are used, reference is made to the Contract Documents unless otherwise stated. Where "as directed," "as required," "as permitted," "as authorized," "as accepted," "as selected," or words of similar import are used, the direction, requirement, permission, authorization, approval, acceptance, or selection by Owner's Representative is intended unless otherwise stated.

1.2.3.3 **Provide.** "Provide" means "provided complete in place," that is, furnished, installed, tested, and ready for operation and use.

1.2.3.4 **General Conditions.** The General Conditions and any Supplementary or other Conditions are a part of each and every section of the Contract Documents.

1.2.3.5 **Abbreviations.** In the interest of brevity, the Contract Documents may be written in an abbreviated form and may not include complete sentences. Omission of words or phrases such as “Design-Builder shall,” “shall be,” etc., are intentional. Nevertheless, the requirements of the Contract Documents are mandatory. Omitted words or phrases shall be supplied by inference.

1.2.3.6 **Plural.** Words in the singular shall include the plural whenever applicable or the context so indicates.

1.2.3.7 **Metric.** The Contract Documents may indicate metric units of measurement as a supplement to U.S. customary units. When indicated thus: 1” (25 mm), the U. S. customary unit is specific, and the metric unit is nonspecific. When not shown with parentheses, the unit is specific. The metric units correspond to the “International System of Units” (SI) and generally follow ASTM E 380, “Standard for Metric Practice.”

1.2.3.8 **Standard Specifications.** Any reference to standard specifications of any society, institute, association, or governmental authority is a reference to the organization’s standard specifications, which are in effect as of the date the Notice to Bidders is first published. If applicable specifications are revised prior to Completion of any part of the Work, the Design-Builder may, if acceptable to Owner and Owner’s Representative, perform such Work in accordance with the revised specifications. The standard specifications, except as modified in the Contract Documents, shall have full force and effect as though printed in the Contract Documents. Owner’s Representative will furnish, upon request, information as to how copies of the standard specifications referred to may be obtained.

1.2.3.9 **Absence of Modifiers.** In the interest of brevity, the Contract Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

1.3 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

The Contract Documents prepared on behalf of the Owner are instruments of the services of the Design-Builder and its consultants and are the property of the Owner. The Design-Builder may retain one contract record set. Neither the Design-Builder nor any Subcontractor, Sub-subcontractor, or material or equipment supplier shall own or claim a copyright in the Contract. All copies of them, except the Design-Builder’s record set, shall be returned or suitably accounted for to the Owner, upon request upon Completion of the Work. The Contract Documents and copies thereof furnished to the Design-Builder, are for use solely with respect to this Contract. They are not to be used by the Design-Builder or any Subcontractor, Sub-subcontractor, or material or equipment supplier on other contracts or for additions to this Contract outside the scope of the Work without the specific written consent of the Owner. The Design-Builder, Subcontractors, and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the Contract Documents appropriate to and for use in the execution of their Work under the Contract Documents. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is

not to be construed as publication in derogation of the Owner's property interest or other reserved right. All copies made under this license shall bear appropriate attribution and the statutory copyright notice, if any, shown on the Contract Documents.

ARTICLE 2

OWNER

2.1 DEFINITION

The term "Owner" means the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner and/or the Owner's authorized representatives, including but not limited to architects and construction managers. To the extent the Contract Documents indicate that Owner has assigned duties to particular representatives of the Owner (such as the Owner's Representative, or Construction Manager), Owner reserves the right at all times to reassign such duties to different Owner representatives.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

2.2.1 INTENTIONALLY LEFT BLANK

2.2.2 SITE SURVEY

When required by the scope of the Project, the Owner will furnish, at its expense, a legal description or a land survey of the Site, giving, as applicable, grades and lines of streets, alleys, pavements, adjoining property, rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the Site. Surveys to determine locations of construction, grading, and site work shall be provided by the Design-Builder.

2.2.3 SOILS

2.2.3.1 *Owner Furnished Services.* When required by the scope of the Project, the Owner will furnish, at its expense, the services of geotechnical engineers or consultants when reasonably required or as required by local or state codes. Such services with reports and appropriate professional recommendations shall include test boring, test pits, soil bearing values, percolation tests, air and water pollution tests, and ground corrosion and resistivity tests, including necessary operations for determining subsoil, air, and water conditions.

2.2.3.2 *Design-Builder Reliance.* Test borings and soils reports for the Project have been made for the Owner to indicate the subsurface materials that might be encountered at particular locations on the Project. The Owner has made these documents available to the

Design-Builder and the Design-Builder has studied the results of such test borings and information that it has as to the subsurface conditions and Site geology as set forth in the test borings and soils reports. The Owner does not assume any responsibility whatsoever with respect to the sufficiency or accuracy of the borings made, or of the logs of the test borings, or of other investigations, or of the soils reports furnished pursuant hereto, or of the interpretations to be made beyond the location or depth of the borings. There is no warranty or guarantee, either express or implied that the conditions indicated by such investigations, borings, logs, soil reports or other information are representative of those existing throughout the Site of the Project, or any part thereof, or that unforeseen developments may not occur. At the Owner's request, the Design-Builder shall make available to the Owner the results of any Site investigation, test borings, analyses, studies or other tests conducted by or in the possession of the Design-Builder of any of its agents. Nothing herein contained shall be deemed a waiver by the Design-Builder to pursue any available legal right or remedy it may have at any time against any third party who may have prepared any report and/or test relied upon by the Design-Builder.

2.2.4 UTILITY SURVEY

When required by the scope of the Project, the Owner will furnish, at its expense, all information regarding known existing utilities on or adjacent to the Site, including location, size, inverts, and depths.

2.2.5 INFORMATION

Upon the request of the Design-Builder, Owner will make available such existing information regarding utility services and Site features, including existing construction, related to the Project as is available from Owner's records. The Design-Builder may not rely upon the accuracy of any such information, other than that provided under Sections 2.2.2 and 2.2.4 (except that the Design-Builder may not rely upon, and must question in writing to the Owner and the Owner's Representative, any information which appears incorrect based upon Design-Builder's Site inspection, knowledge of the Work, and prior experience with similar projects), unless specifically stated in writing that the Design-Builder may rely upon the designated information.

2.2.6 EXISTING UTILITY LINES; REMOVAL,RELOCATION

2.2.6.1 *Removal, Relocation.* Pursuant to Government Code section 4215, the Owner assumes the responsibility for removal, relocation, and protection of utilities located on the Site at the time of commencement of construction under this Contract with respect to any such utility facilities which are not identified in the drawings and specifications made part of the invitation to bid. The Design-Builder shall not be assessed for liquidated damages for delay in Completion of the Work caused by failure of the Owner to provide for removal or relocation of such utility facilities. Owner shall compensate the Design-Builder for the costs of locating, repairing damage not due to the failure of the Design-Builder to exercise reasonable care, removing or relocating such utility facilities, and for equipment necessarily idle during such work.

2.2.6.2 *Assessment.* These subparagraphs shall not be construed to preclude assessment against the Design-Builder for any other delays in Completion of the Work. Nothing in these subparagraphs shall be deemed to require the Owner to indicate the presence of existing service

laterals or appurtenances whenever the presence of such utilities on the Site can be inferred from the presence of other visible facilities, such as buildings, or meter junction boxes on or adjacent to the Site.

2.2.6.3 Notification. If the Design-Builder, while performing work under this Contract, discovers utility facilities not identified by the Owner in the Contract plans or specifications, Design-Builder shall immediately notify the Owner and the utility in writing.

2.2.6.4 Underground Utility Clearance. It shall be Design-Builder's sole responsibility to timely notify all public and private utilities serving the Site prior to commencing work. The Design-Builder shall notify and receive clearance from any cooperative agency, such as Underground Service Alert, in accordance with Government Code section 4216, et seq. Design-Builder shall promptly provide a copy of all such notifications to the Owner.

2.2.7 EASEMENTS

Owner shall secure and pay for easements for permanent structures or permanent changes in existing facilities, if any, unless otherwise specified in the Contract or Contract Documents.

2.2.8 REASONABLE PROMPTNESS

Information or services under Owner's control will be furnished by the Owner with reasonable promptness. The Owner shall not be liable for any delays caused by factors beyond the Owner's control including but not limited to any other local, State or federal agency's review of bids, change order requests, RFI's or any other documents.

2.2.9 COPIES FURNISHED

The Design-Builder will be furnished such copies of Drawings and Project Manuals as are stated in the Contract Documents.

2.2.10 DUTIES CUMULATIVE

The foregoing are in addition to other duties and responsibilities of the Owner enumerated herein, and especially those in Article 6 (Construction by Owner or by Separate Design-Builders), Article 9 (Payments and Completion), and Article 11 (Insurance and Bonds).

2.3 OWNER'S RIGHT TO STOP THE WORK

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Contract Documents or the Design, or persistently fails to carry out Work in accordance with the Contract Documents or the Design, the Owner, after providing Notice pursuant to paragraph 2.4, may order the Design-Builder to stop the Work or any portion thereof, until the Design-Builder corrects the deficiencies. The right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any

other person or entity, except to the extent required by Article 6.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Design-Builder fails or refuses to carry out the Work in accordance with the Contract Documents or the Design, Owner may correct such deficiencies by whatever reasonable method the Owner may deem expedient without prejudice to other remedies the Owner may have, including but not limited to having another contractor perform some or all of the Work without terminating the Contract with Design-Builder. Owner may exercise this right at any time during the Design-Builder's Work.

Owner shall first provide written notice to Design-Builder of Design-Builder's failure or refusal to perform. The notice will provide the time period within which Design-Builder must begin correction of the failure or refusal to perform. If the Design-Builder fails to begin correction within the stated time, or fails to continue correction, the Owner may proceed to correct the deficiencies. In the event the Owner bids the work, Design-Builder shall not be eligible for the award of the contract. The Design-Builder may be invoiced the cost to Owner of the work, including compensation for additional professional and internally generated services and expenses made necessary by Design-Builder's failure or refusal to perform. Owner may withhold that amount from the retention, or progress payments due the Design-Builder, pursuant to Section 9.5. If retention and payments withheld then or thereafter due the Design-Builder are not sufficient to cover that amount, the Design-Builder shall pay the difference to the Owner.

ARTICLE 3

THE DESIGN-BUILDER

3.1 DEFINITION

The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative. To the extent that any portion of the Work is provided with the Design-Builder's own forces, any reference to Subcontractors shall be equally applicable to the Design-Builder.

3.2 SUPERVISION AND CONSTRUCTION PROCEDURES

3.2.1 DESIGN-BUILDER

The Design-Builder shall supervise and direct the Work using the Design-Builder's best skill and attention, which shall meet or exceed the standards in the industry. The Design-Builder shall be solely responsible for and have control over construction means, methods, techniques, sequences, procedures, and coordinating all portions of the Work under the Contract, unless Contract Documents give other specific instructions concerning these matters. Owner and Construction Manager shall schedule and coordinate the activities of Design-Builder with the other contractors and Owner. Design-Builder agrees to accept the Owner's and Construction

Manager's construction schedules, schedule updates, overall sequence and coordination of construction for the Project. Design-Builder realizes that work by other contractors or Owner may occur simultaneously with Design-Builder's Work in any given area. Design-Builder is responsible for its own sequences that may occur within a given activity or set of activities. Design-Builder shall not commit or permit any act which will adversely affect the work of any other contractor or Owner. Design-Builder shall provide layout of its Work at the request of any other contractor or Owner.

3.2.2 DESIGN-BUILDER RESPONSIBILITY

The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Subcontractors, material and equipment suppliers, and their agents, employees, invitees, and other persons performing portions of the Work under direct or indirect contract with the Design-Builder or any of its Subcontractors.

3.2.3 OBLIGATIONS NOT CHANGED BY OTHER'S ACTIONS

The Design-Builder shall not be relieved of obligations to perform the Work in accordance with the Contract Documents by the activities or duties of the Owner's representatives, including but not limited to any construction manager and the Owner's Representative, or the Inspector of Record; or by tests, inspections, or approvals required or performed by persons other than the Design-Builder.

3.2.4 DESIGN-BUILDER RESPONSIBILITY FOR READINESS FOR WORK

The Design-Builder shall be responsible for inspection of Work already performed under the Contract Documents to determine that such portions are in proper condition to receive subsequent work.

3.2.5 PROJECT MEETINGS

During its Work, Design-Builder shall attend Owner's Project meetings as scheduled by the Contract Documents, or as otherwise instructed by Owner, to discuss the current status of the Work and the Project, and the future progress of the Work and the Project. Design-Builder shall have five (5) days after receipt of Design-Builder's Project meeting minutes to provide written objections and suggested corrections.

3.3 SUPERINTENDENT

3.3.1 FULL TIME SUPERINTENDENT

The Design-Builder shall provide a competent superintendent and assistants as necessary, all of whom shall be reasonably proficient in speaking, reading and writing English and, who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Design-Builder, and communications given to the superintendent shall be as binding as if given to the Design-Builder.

3.3.2 STAFF

The Design-Builder and each Subcontractor shall: furnish a competent and adequate staff as necessary for the proper administration, coordination, supervision, and superintendence of its portion of the Work; organize the procurement of all materials and equipment so that the materials and equipment will be available at the time they are needed for the Work; and keep an adequate force of skilled workers on the job to Complete the Work in accordance with all requirements of the Contract Documents.

3.3.3 RIGHT TO REMOVE

Owner shall have the right, but not the obligation, to require the removal from the Project of any superintendent, staff member, agent, or employee of any Design-Builder, Subcontractor, material or equipment supplier, etc., for cause.

3.4 LABOR AND MATERIALS

3.4.1 DESIGN-BUILDER TO PROVIDE

Unless otherwise provided in the Contract Documents, the Design-Builder shall provide and pay for labor, material, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and Completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

3.4.2 QUALITY

Unless otherwise specified, all materials and equipment to be permanently installed in the Project shall be new and shall be of such quality as required to satisfy the standards of the Contract Documents and the Design. The Design-Builder shall, if requested, promptly furnish satisfactory evidence as to kind and quality of all materials and equipment. All labor shall be performed by workers skilled in their respective trades, and the quality of their work shall meet whichever is the higher standard for their work: the standard in the industry or the standard in the Contract Documents.

3.4.3 REPLACEMENT

Any work, materials, or equipment, which does not conform to these standards may be disapproved and rejected by the Owner, in which case, they shall be removed and replaced by the Design-Builder at no cost to the Owner.

3.4.4 DISCIPLINE

The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Contract in accordance with paragraph 5.5.1 including, but not limited to, Subcontractors, and material or equipment suppliers retained for the

Project.

3.5 WARRANTY

For the period of one (1) year after Completion of the Work (see Sections 9.7.1, 12.2.5, and 12.2.6), the Design-Builder warrants to the Owner that material and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents and the Design, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents and the Design. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Design-Builder's warranty does not cover damage or defect caused by abuse, modifications not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

3.6 TAXES

Design-Builder will pay all applicable Federal, State, and local taxes on all materials, labor, or services furnished by it, and all taxes arising out of its operations under the Contract Documents. Owner is exempt from Federal Excise Tax, and a Certificate of Exemption shall be provided upon request.

3.7 PERMITS, FEES ANDNOTICES

3.7.1 PAYMENT

The Design-Builder shall secure and pay for all permits and governmental fees, licenses, and inspections necessary for proper execution and Completion of the Work which are customarily secured after execution of the Contract and are legally required by any authority having jurisdiction over the Project. Owner shall be responsible for all testing and inspection on-Site or within the distance limitations set forth in paragraph 13.5.2, unless a different mileage range is specified in the Contract Documents.

3.7.2 COMPLIANCE

The Design-Builder shall comply with and give notices required by any law, ordinance, rule, regulation, and lawful order of public authorities bearing on performance of the Work.

3.7.3 CONTRACT DOCUMENTS

It is not the Design-Builder's responsibility to ascertain that the Contract Documents are in accordance with any applicable law, statute, ordinance, building codes, rule, or regulation. However, if the Design-Builder knew, or should have known, or observes that portions of the Contract Document are at variance therewith, the Design-Builder shall promptly notify the Owner's Representative, any construction manager, and Owner in writing, and necessary changes shall be

accomplished by appropriate modification.

3.7.4 RESPONSIBILITY

If the Design-Builder performs Work that it knows, or should have known, is contrary to any law, statute, ordinance, building code, rule or regulation, the Design-Builder shall assume full responsibility for such Work, and shall bear the attributable cost of correction and delay to the Work, other contractor's work, and the Project.

3.8 ALLOWANCES

3.8.1 CONTRACT

The Design-Builder shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Design-Builder shall not be required to employ persons or entities against whom the Design-Builder makes reasonable and timely objection.

3.8.2 SCOPE

3.8.2.1 ***Prompt Selection.*** Materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay to the Work.

3.8.2.2 ***Cost.*** Allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the Site and all required taxes, less applicable trade discounts, etc., as delineated in paragraph 7.7.4.

3.8.2.3 ***Cost Included in Contract Sum.*** Design-Builder's costs for unloading and handling at the Site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum and not in the allowances.

3.8.2.4 ***Contract Sum Adjustment.*** Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect the difference between actual cost and the allowances under paragraph 3.8.2.2 and the change in the Design-Builder's costs under paragraph 3.8.2.3.

3.9 DESIGN-BUILDER'S CONSTRUCTION SCHEDULES

3.9.1 REQUIREMENTS

Before the Design-Builder's commencement of Work or within two (2) weeks of issuance of all required permits, whichever is earlier, Design-Builder shall prepare and submit for the Owner's, and any construction manager's, information the baseline construction schedule for the Work, which shall conform to the Contract Documents' requirements.

Design-Builder shall submit an updated schedule by the first day of every month, and whenever else requested by the Owner. Each schedule update must include an accurate as-built schedule and the current as-planned schedule, both of which shall conform to the Contract Documents' requirements. Design-Builder shall submit its daily logs for the prior month with the updated schedule.

The schedule and updates shall conform, at a minimum, to industry standards for (a) critical path scheduling and (b) facilitation of Owner's Project management and evaluation of Design-Builder Claims for additional money or time.

The schedule and updates shall not exceed time limits (including milestone deadlines) under the Contract Documents and shall comply with the Contract Documents scheduling requirements and with any scheduling requirements the Owner provides to the Design-Builder at the beginning of the Work. The original schedule and all updates shall accurately reflect Work performed to date, reasonable dates for future Work, all construction tasks (including procurement), the critical path schedule for Completion of the remainder of the Project, and the percentage of the Work Completed. The original schedule and updates shall include all delay days for weather not unusually severe, even though that weather will not entitle Design-Builder to additional time or money.

The construction schedule shall be in the form of either a tabulation, chart, or graph, unless otherwise stated in the Contract Documents, and shall be in sufficient detail to show the chronological relationship of all activities of the Project including, but not limited to, estimated starting and Completion dates of various activities, (including early and late dates and reasonable float for each activity), procurement of materials, the critical path, and scheduling of equipment. Float suppression techniques such as preferential sequencing, special lead/lag logic restraints, extended activity durations, or imposed dates shall be apportioned for the benefit of the Project. Whenever in the Contract Documents Design-Builder is required to provide a schedule and/or schedule updates, the Design-Builder shall provide the schedule and updates in electronic format as well as hard copy. Design-Builder shall be solely responsible for the accuracy, utility and reasonableness of all of its schedules. Owner's acceptance, approval or non-rejection of Design-Builder's schedules shall not affect Design-Builder's responsibility for its schedules.

The Design-Builder and Owner shall use any float on a "first come, first served" basis. The original schedule and updates shall reflect Design-Builder's and Owner's use of float. Float is not for the exclusive use or benefit of either Owner or Design-Builder, but it is a jointly owned expiring Project resource available to both parties as needed to meet schedule milestones. For the original schedule and updates, Design-Builder shall use a critical path network format with the critical paths clearly indicated. Design-Builder shall use an MS Project, Primavera, or an equivalent or better program. Design-Builder shall include reports that sort and list the activities in order of increasing float and by early and late start dates. Design-Builder shall endeavor to label ten to thirty percent (10-30%) of the tasks as critical, but shall not label less than five (5%) or more than fifty (50%) as critical. Design-Builder shall use calendar days.

If any change in Design-Builder's method of operations will cause a change in the construction schedule, Design-Builder shall submit to Owner, Owner's Representative, and any construction manager, a revised construction schedule within seven (7) days of the change,

unless a different time period is stated in the Contract Documents.

If, in the Owner's opinion, the Design-Builder is not prosecuting the Work at a rate sufficient to meet the Work schedule or a contractual milestone, or to Complete the Work within the Contract Time as adjusted by change orders, or if the Design-Builder's actual progress falls behind the Work schedule or it is apparent to Owner that Design-Builder will not meet contractual milestones or Complete the Work within the Contract Time as adjusted by change orders, the Owner may require that the Design-Builder prepare and submit a recovery plan. Design-Builder must submit a recovery plan within seven (7) days of a demand for the plan, unless a different time period is stated in the Contract Documents. At a minimum, the recovery plan must include a revised schedule that gets the Work back on schedule and Completes all Work by the contractual milestones and within the Contract Time as adjusted by change orders or by other dates Owner specifies in the demand for a recovery plan. The recovery plan shall state the corrective actions Design-Builder will undertake to implement it. The recovery plan shall also list any additional money that Design-Builder believes it should receive if Owner orders Design-Builder to fully or partially implement the recovery plan. If the Owner orders Design-Builder to implement the recovery plan, Design-Builder shall do so, but the order shall not act constitute an admission by Owner that Design-Builder is entitled to additional money. To recover additional money, Design-Builder must comply with General Conditions Articles 4.5, 7 and 8.

All schedules Design-Builder submits shall be certified as true and correct, as follows:

I, _____ [name of declarant], declare the following:

_____ [Design-Builder company name] has contracted with _____ [public entity name] for the _____ [name of project] Project. _____ [Design-Builder company name] authorized me to prepare schedules for _____ [public entity name] for this Project, and I prepared the attached schedule. I am the most knowledgeable person at _____ [Design-Builder company name] regarding the scheduling of this Project.

The attached schedule does not breach the Contract between _____ [Design-Builder company name] and _____ [public entity name] for this Project, does not violate any applicable law, satisfies all provisions of the Contract applicable to submission of the Claim, only contains truthful and accurate as-built and as-planned dates of work on the Project (including supporting data), and is not a false claim.

The attached schedule is submitted in compliance with all laws applicable to submission of a Claim, including but not limited to California Penal Code section 72 (Fraudulent Claims), Government Code sections 12650 et seq. (False Claims Act; for example, Government Code section 12651(a)(7)), and Business and Professions Code sections 17200 et seq. (Unfair Business Practices Act). I am aware that submission or certification of false claims, or other Claims that violate law or the Contract, may lead to fines, imprisonment,

and/or other serious legal consequences for myself and/or _____[Design-Builder company name].

While preparing this declaration and schedule I consulted with others (including attorneys, consultants, or others who work for _____[Design-Builder company name]) when necessary to ensure that the statements were true and correct.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed _____, 20 , at _____, California.

_____ [name of declarant]

3.9.2 DDW REVIEW PROCESS

In connection with the DDW Review Process which includes inspection cards and review of changes to the construction documents, the Design-Builder must (a) include specific tasks in its baseline schedule to take into account these procedures since they are critical path issues; and (b) include a reasonable amount of float in the baseline schedule to accommodate the additional time required by these DDW procedures.

3.9.3 FAILURE TO MEET REQUIREMENTS

Failure of the Design-Builder to provide proper schedules may, at the sole discretion of Owner, constitute either grounds to withhold, in whole or in part, progress payments to the Design-Builder, or a breach of contract allowing Owner to terminate the Contract.

3.10 DOCUMENTS AND SAMPLES AT THE SITE

The Design-Builder shall maintain at the Site for the Owner one applicable copy of Titles 19 and 24 and record copy of the Design, Addenda, Change Orders, and other Modifications, in good order and marked currently to record changes and selections made during construction. In addition, the Design-Builder shall maintain at the Site approved Shop Drawings, Product Data, Samples, and similar required submittals. These documents shall be available to the Owner and shall be delivered to the Owner, or the Owner's Representative for delivery to the Owner, upon Completion of the Work.

3.11 SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES

3.11.1 SUBMITTALS DEFINED

3.11.1.1 *Shop Drawings.* The term "shop drawings" as used herein means drawings, diagrams, schedules, and other data, which are prepared by Design-Builder, Subcontractors, manufacturers, suppliers, or distributors illustrating some portion of the Work, and includes:

illustrations; fabrication, erection, layout and setting drawings; manufacturer's standard drawings; schedules; descriptive literature, instructions, catalogs, and brochures; performance and test data including charts; wiring and control diagrams; and all other drawings and descriptive data pertaining to materials, equipment, piping, duct and conduit systems, and methods of construction as may be required to show that the materials, equipment, or systems and their position conform to the requirements of the Contract Documents. The Design-Builder shall obtain and submit with the shop drawings all seismic and other calculations and all product data from equipment manufacturers. "Product data" as used herein are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Design-Builder to illustrate a material, product, or system for some portion of the Work. As used herein, the term "manufactured" applies to standard units usually mass-produced, and "fabricated" means items specifically assembled or made out of selected materials to meet individual design requirements. Shop drawings shall: establish the actual detail of all manufactured or fabricated items, indicate proper relation to adjoining work, amplify design details of mechanical and electrical systems and equipment in proper relation to physical spaces in the structure, and incorporate minor changes of design or construction to suit actual conditions.

3.11.1.2 **Samples.** The term "samples" as used herein are physical examples furnished by Design-Builder to illustrate materials, equipment, or quality and includes natural materials, fabricated items, equipment, devices, appliances, or parts thereof as called for in the Specifications, and any other samples as may be required by the Owner to determine whether the kind, quality, construction, finish, color, and other characteristics of the materials, etc., proposed by the Design-Builder conform to the required characteristics of the various parts of the Work. All Work shall be in accordance with the approved samples.

3.11.1.3 **Design-Builder's Responsibility.** Design-Builder shall obtain and shall submit to Owner's Representative all required shop drawings and samples in accordance with Design-Builder's "Schedule for Submission of Shop Drawings and Samples" provisions in the Contract Documents and in accordance with the Design-Builder's original and updated schedules, and with such promptness as to cause no delay in its own Work or in that of any other contractor, Owner or subcontractor but in no event later than ninety (90) days after the execution of the Agreement. No extensions of time will be granted to Design-Builder or any Subcontractor because of its failure to have shop drawings and samples submitted in accordance with the Schedule. Each Subcontractor shall submit all shop drawings, samples, and manufacturer's descriptive data for the review of the Owner, the Design-Builder, and the Owner's Representative through the Design-Builder. By submitting shop drawings, product data, and samples, the Design-Builder or submitting party (if other than Design-Builder) represents that it has determined and verified all materials, field measurements, field conditions, catalog numbers, related field construction criteria, and other relevant data in connection with each such submission, and that it has checked, verified, and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. At the time of submission, any deviation in the shop drawings, product data, or samples from the requirements of the Contract Documents shall be narratively described in a transmittal accompanying the submittal. However, submittals shall not be used as a means of requesting a

substitution, the procedure for which is defined in paragraph 3.11.4, "Substitutions." Review by Owner and Owner's Representative shall not relieve the Design-Builder or any Subcontractor from its responsibility in preparing and submitting proper shop drawings in accordance with the Contract Documents. Design-Builder shall stamp, sign, and date each submittal indicating its representation that the submittal meets all of the requirements of the Contract Documents. Any submission, which in Owner's or Owner's Representative's opinion is incomplete, contains numerous errors, or has been checked only superficially by Design-Builder will be returned unreviewed for resubmission by the Design-Builder.

3.11.1.4 ***Extent of Review.*** In reviewing shop drawings, the Owner will not verify dimensions and field conditions. The Owner's Representative will review and approve shop drawings, product data, and samples for aesthetics and for conformance with the design concept of the Work and the information given in the Contract Documents. The Owner's Representative's review shall neither be construed as a complete check nor relieve the Design-Builder, Subcontractor, manufacturer, fabricator, or supplier from responsibility for any deficiency that may exist or from any departures or deviations from the requirements of the Contract Documents unless the Design-Builder has, in writing, called the Owner's Representative's attention to the deviations at the time of submission and the Owner's Representative has given specific written approval. The Owner's Representative's review shall not relieve the Design-Builder or Subcontractors from responsibility for errors of any sort in shop drawings or schedules, for proper fitting of the Work, or from the necessity of furnishing any Work required by the Contract Documents, which may not be indicated on shop drawings when reviewed. Design-Builder and Subcontractors shall be solely responsible for determining any quantities, whether or not shown on the shop drawings.

3.11.2 DRAWING SUBMISSION PROCEDURE

3.11.2.1 ***Transmittal Letter and Other Requirements.*** All shop drawings must be properly identified with the name of the Contract and dated, and each lot submitted must be accompanied by a letter of transmittal referring to the name of the Contract and to the Specification section number for identification of each item clearly stating in narrative form, as well as "clouding" on the submissions, all qualifications, departures, or deviations from the Contract Documents, if any. Shop drawings, for each section of the Work, shall be numbered consecutively, and the numbering system shall be retained throughout all revisions. All Subcontractor submissions shall be made through the Design-Builder. Each drawing shall have a clear space for the stamps of Owner's Representative and Design-Builder. Only shop drawings required to be submitted by the Contract Documents shall be reviewed.

3.11.2.2 ***Copies Required.*** Each submittal shall include one (1) legible, reproducible sepia and five (5) legible prints of each drawing, including fabrication, erection, layout and setting drawings, and such other drawings as required under the various sections of the Specifications until final acceptance thereof is obtained. Subcontractor shall submit copies, in an amount as requested by the Design-Builder, of: manufacturers' descriptive data for materials, equipment, and fixtures, including catalog sheets showing dimensions, performance, characteristics, and capacities; wiring diagrams and controls; schedules; all seismic calculations and other calculations; and other pertinent information as required.

3.11.2.3 **Corrections.** The Design-Builder shall make any corrections required by Owner's Representative and shall resubmit as required by Owner's Representative the required number of corrected copies of shop drawings or new samples until approved. Design-Builder shall direct specific attention in writing or on resubmitted shop drawings to revisions other than the corrections required by the Owner's Representative on previous submissions. Professional services required for more than one (1) re- review of required submittals of shop drawings, product data, or samples are subject to charge to the Design-Builder pursuant to paragraph 4.4.

3.11.2.4 **Approval Prior to Commencement of Work.** No portion of the Work requiring a shop drawing or sample submission shall be commenced until the submission has been reviewed by Owner and approved by Owner's Representative unless specifically directed in writing by the Owner. All such portions of the Work shall be in accordance with approved shop drawings and samples.

3.11.3 SAMPLE SUBMISSIONS PROCEDURE

3.11.3.1 **Samples Required.** In case a considerable range of color, graining, texture, or other characteristics may be anticipated in finished products, a sufficient number of samples of the specified materials shall be furnished by the Design-Builder to indicate the full range of characteristics, which will be present in the finished products; and products delivered or erected without submittal and approval of full range samples shall be subject to rejection. Except for range samples, and unless otherwise called for in the various sections of the Specifications, samples shall be submitted in duplicate. All samples shall be marked, tagged, or otherwise properly identified with the name of the submitting party, the name of the Contract, the purpose for which the samples are submitted, and the date and shall be accompanied by a letter of transmittal containing similar information, together with identification of each item. Each tag or sticker shall have clear space for the review stamps of Design-Builder and Owner's Representative.

3.11.3.2 **Labels and Instructions.** Samples of materials, which are generally furnished in containers bearing the manufacturers' descriptive labels and printed application instructions, shall, if not submitted in standard containers, be supplied with such labels and application instructions.

3.11.3.3 **Owner's Representative's Review.** The Owner's Representative will review and, if appropriate, approve submissions and will return them to the Design-Builder with the Owner's Representative's stamp and signature applied thereto, indicating the appropriate action in compliance with the Owner's Representative's standard procedures.

3.11.3.4 **Record Drawings and Annotated Specifications.** The Design-Builder will prepare and maintain on a current basis an accurate and complete set of Record Drawings showing clearly all changes, revisions, and substitutions during construction, including, without limitation, field changes and the final location of all mechanical equipment, utility lines, ducts, outlets, structural members, walls, partitions, and other significant features, and Annotated Specifications showing clearly all changes, revisions, and substitutions during construction. A copy of such Record Drawings and Annotated Specifications will be delivered to Owner in accordance with the schedule prepared by Design-Builder. In the event of a

specification that allows Design-Builder to elect one of several brands, makes, or types of material or equipment, the annotations shall show which of the allowable items the Design-Builder has furnished. The Design-Builder will update the Record Drawings and Annotated Specifications as often as necessary to keep them current but no less often than weekly. The Record Drawings and Annotated Specifications shall be kept at the Site and available for inspection by the Owner, Inspector of Record and the Owner's Representative. On Completion of the Design-Builder's Work and prior to Application for Final Progress Payment, the Design-Builder will provide one complete set of Record Drawings and Annotated Specifications to the Owner, certifying them to be a complete and accurate reflection of the actual construction conditions of the Work.

3.11.3.5 *Equipment Manuals.* Design-Builder shall obtain and furnish to the Owner three (3) complete sets of manuals containing the manufacturers' instructions for maintenance and operation of each item of equipment and apparatus furnished under the Contract Documents and any additional data specifically requested for each division of the Work. The manuals shall be arranged in proper order, indexed, and placed in three-ring binders. At the Completion of its Work, the Design-Builder shall certify, by endorsement thereon, that each of the manuals is complete, accurate, and covers all of its Work. Prior to submittal of Design-Builder's Application for Final Progress Payment, and as a further condition to its approval by the Owner's Representative, each Subcontractor shall deliver the manuals, arranged in proper order, indexed, endorsed, and placed in three-ring binders, to the Design-Builder, who shall assemble these manuals for all divisions of the Work, review them for completeness, and submit them to the Owner through the Owner's Representative.

3.11.3.6 *Owner's Property.* All shop drawings and samples submitted shall become the Owner's property.

3.11.4 SUBSTITUTIONS

3.11.4.1 *One Product Specified.* Unless the Contract Documents state that no substitution is permitted, whenever in the Contract Documents any specific article, device, equipment, product, material, fixture, patented process, form, method, or type of construction is indicated or specified by name, make, trade name, or catalog number, with or without the words "or equal," such specification shall be deemed to be used for the purpose of facilitating description of material, process, or article desired and shall be deemed to be followed by the words "or equal." Design-Builder may, unless otherwise stated, offer any material, process, or article, which shall be substantially equal or better in every respect to that so indicated or specified and will completely accomplish the purpose of the Contract Documents.

3.11.4.2 *Two or More Products Specified.* When two or more acceptable products are specified for an item of the Work, the choice will be up to the Design-Builder. Design-Builder shall utilize the same product throughout the Project. If a timely substitution request as set forth in Section 3.11.4.3 is not provided and an "or equal" substitution is requested, the Owner may consider the substitution if the product specified is no longer commercially available. If the Owner allows the substitution to be proposed pursuant to such an untimely request, the Design-Builder will be responsible for the professional fees incurred by the Owner's Representative or Owner's Representative's consultants in reviewing the proposed

substitution which fees may be withheld from progress payments and/or retention.

3.11.4.3 *Substitution Request Form.* Requests for substitutions of products, materials, or processes other than those specified must be made on the Substitution Request form available from the Owner prior to the deadline for submittal of proposals. Any Requests submitted less than fourteen (14) days prior to the deadline for submittal of proposals will not be considered, except as noted in paragraph 3.11.4.2. A Substitution Request must be accompanied by evidence as to whether or not the proposed substitution: is equal in quality and serviceability to the specified item; will entail no changes in detail and construction of related work; will be acceptable in consideration of the required design and artistic effect; will provide no cost disadvantage to Owner; and will require no excessive or more expensive maintenance, including adequacy and availability of replacement parts. The burden of proof of these facts shall be upon the Design-Builder. The Design-Builder shall furnish with its request sufficient information to determine whether the proposed substitution is equivalent including but not limited to all drawings, specifications, samples, performance data, calculations, and other information as may be required to assist the Owner's Representative and the Owner in determining whether the proposed substitution is acceptable. The final decision shall be the Owner's. The written approval of the Owner, consistent with the procedure for Change Orders, shall be required for the use of a proposed substitute material. Owner may condition its approval of the substitution upon delivery to Owner of an extended warranty or other assurances of adequate performance of the substitution. All risks of delay due to DDW review, or the approval of any other governmental agency having jurisdiction, of a requested substitution shall be on the requesting party.

3.11.4.4 *List of Manufacturers and Products Required.* The Subcontractor shall prepare and submit to the Design-Builder within thirty (30) days of execution of the Subcontract comprehensive lists, in quadruplicate, of the manufacturers and products proposed for the Project, including information on materials, equipment, and fixtures required by the Contract Documents, as may be required for Design-Builder's or Owner's Representative's preliminary approval. Approval of such lists of products shall not be construed as a substitute for the shop drawings, manufacturer's descriptive data, and samples, which are required by the Contract Documents, but rather as a base from which more detailed submittals shall be developed for the final review of the Design-Builder and the Owner's Representative.

3.11.5 DEFERRED APPROVALS

Deferred approvals shall be submitted and processed pursuant to the requirements of Contract Documents. All risks of delay due to the Division of the State Owner's Representative's, or any other governmental agency having jurisdiction, approval of a deferred approval shall be on the requesting party.

3.12 CUTTING AND PATCHING

3.12.1 SCOPE

The Design-Builder shall be responsible for cutting, fitting, or patching required to Complete the Work or to make its parts fit together properly.

3.12.2 CONSENT

The Design-Builder shall not damage or endanger a portion of the Work or fully or partially Completed construction of the Owner or a separate contractor by cutting, patching, or otherwise altering such construction, or by excavation. The Design-Builder shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work. All cutting shall be done promptly, and all repairs shall be made as necessary.

3.12.3 STRUCTURAL MEMBERS

New or existing structural members and elements, including reinforcing bars and seismic bracing, shall not be cut, bored, or drilled except by written authority of the Owner's Representative. Work done contrary to such authority is at the Design-Builder's risk, subject to replacement at its own expense and without reimbursement under the Contract. Agency approvals shall be obtained by the Owner's Representative, not by the Design-Builder.

3.12.4 SUBSEQUENT REMOVAL

Permission to patch any areas or items of the Work shall not constitute a waiver of the Owner's or the Owner's Representative's right to require complete removal and replacement of the areas of items of the Work if, in the opinion of the Owner's Representative or the Owner, the patching does not satisfactorily restore quality and appearance of the Work or does not otherwise conform to the Contract Documents. Any costs caused by defective or ill-timed cutting or patching shall be borne by the person or entity responsible.

3.13 CLEANING UP

3.13.1 DESIGN-BUILDER'S RESPONSIBILITY

The Design-Builder shall keep the Site and surrounding area free from accumulation of waste material or rubbish caused by operations under the Contract. The Site shall be maintained in a neat and orderly condition. All crates, cartons, paper, and other flammable waste materials shall be removed from Work areas and properly disposed of at the end of each day. The Design-Builder shall continuously remove from and about the Site the waste materials, rubbish, tools, construction equipment, machinery, and materials no longer required for the Work.

3.13.2 FAILURE TO CLEANUP

If the Design-Builder fails to clean up as provided in the Contract Documents, the Owner may do so, without prior notice to the Design-Builder and the cost thereof shall be invoiced to the Design-Builder and withheld from progress payments and/or retention. Each Subcontractor shall have the responsibility for the cleanup of its own Work. If the Subcontractor fails to clean up, the Design-Builder must do so.

3.13.3 CONSTRUCTION BUILDINGS

When directed by the Owner or the Owner's Representative, Design-Builder and Subcontractor shall dismantle temporary structures, if any, and remove from the Site all construction and installation equipment, fences, scaffolding, surplus materials, rubbish, and supplies belonging to Design-Builder or Subcontractor. If the Design-Builder does not remove the tools, equipment, machinery, and materials within fifteen (15) days after Completion of its Work, then they shall be deemed abandoned, and the Owner can dispose of them for its own benefit in whatever way it deems appropriate. Design-Builder shall pay for any costs to dispose of the items.

3.14 ACCESS TO WORK

The Design-Builder shall provide the Owner, the Owner's Representative, and the Inspector of Record, access to the Work in preparation and progress wherever located.

3.15 ROYALTIES AND PATENTS

3.15.1 PAYMENT AND INDEMNITY

The Design-Builder shall pay all royalties and license fees. The Design-Builder shall defend suits or claims of infringement of patent rights and shall hold the Owner and the Owner's Representative harmless and indemnify them, to the extent not caused by the Owner's active negligence, sole negligence or willful misconduct, from loss on account thereof but shall not be responsible for such defense or loss when a particular design, process, or product of a particular manufacturer is required by the Contract Documents. However, if the Design-Builder has reason to believe the required design, process, or product is an infringement of a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner and Owner's Representative.

3.15.2 REVIEW

The review by the Owner or Owner's Representative of any method of construction, invention, appliance, process, article, device, or material of any kind shall be for its adequacy for the Work and shall not be an approval for the use by the Design-Builder in violation of any patent or other rights of any person or entity.

3.16 INDEMNIFICATION

3.16.1 SCOPE: DESIGN-BUILDER

To the fullest extent permitted by law, the Design-Builder shall defend, indemnify, and hold harmless the Owner, the Owner's Representative's, the Inspector of Record, City Council, members of the Council, and directors ("Indemnitees"), from and against claims, actions, damages, liabilities, losses (including but not limited to injury or death of persons, property damage, and compensation owed to other parties), and expenses (including but not limited to attorneys' fees and costs including fees of consultants) alleged by third parties against Indemnitees arising out of or resulting from the following: Design-Builder's, its Subcontractors', or its suppliers' performance of the Work, including but not limited to the Design-Builder's or its Subcontractors' use of the Site; the Design-Builder's or its

Subcontractors' construction of the Project, or failure to construct the Project, or any portion thereof; the use, misuse, erection, maintenance, operation, or failure of any machinery or equipment including, but not limited to, scaffolds, derricks, ladders, hoists, and rigging supports, whether or not such machinery or equipment was furnished, rented, or loaned by any of the Indemnites; or any act, omission, negligence, or willful misconduct of the Design-Builder or its Subcontractors or their respective agents, employees, material or equipment suppliers, invitees, or licensees but only to the extent caused in whole or in part by the acts or omissions of the Design-Builder, its Subcontractors, its suppliers, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph. The obligation to defend, indemnify and hold harmless includes any claims or actions by third parties arising out of or resulting from Labor Code section 2810. Design-Builder shall have no obligation to defend or indemnify the Indemnites against claims, actions, damages, liabilities, losses, and expenses caused by the active negligence, sole negligence or willful misconduct of Indemnites. This indemnification shall apply to all liability, as provided for above, regardless of whether any insurance policies are applicable, and insurance policy limits do not act as a limitation upon the amount of the indemnification to be provided by the Design-Builder.

3.16.2 SCOPE: SUBCONTRACTORS

3.16.2.1 **Indemnity.** The Subcontractors shall defend, indemnify, and hold harmless the Indemnites from and against claims, actions, damages, liabilities, and losses (including but not limited to injury or death of persons, property damage, and compensation owed to other parties), and expenses (including but not limited to attorneys' fees and costs including fees of consultants) alleged by third parties against Indemnites arising out of or resulting from the following: Subcontractors' performance of the Work, including but not limited to the Subcontractors' use of the Site; the Subcontractors' construction of the Project or failure to construct the Project or any portion thereof; the use, misuse, erection, maintenance, operation, or failure of any machinery or equipment, including, but not limited to, scaffolds, derricks, ladders, hoists, and rigging supports, whether or not such machinery or equipment was furnished, rented, or loaned by any of the Indemnites; or any act, omission, negligence, or willful misconduct of the Subcontractors or their respective agents, employees, material or equipment suppliers, invitees, or licensees but only to the extent caused in whole or in part by the acts or omissions of the Subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph. This obligation to defend, indemnify and hold

harmless includes any claims or actions by third parties arising out of or resulting from Labor Code section 2810. Subcontractors shall have no obligation to defend or indemnify the Indemnitees against claims, actions, damages, liabilities, losses, and expenses caused by the active negligence, sole negligence or willful misconduct of Indemnitees. This indemnification shall apply to all liability, as provided for above, regardless of whether any insurance policies are applicable, and insurance policy limits do not act as a limitation upon the amount of the indemnification to be provided by the Subcontractors.

3.16.2.2 *Joint and Several Liability.* In the event more than one Subcontractor is connected with an accident or occurrence covered by this indemnification, then all such Subcontractors shall be jointly and severally responsible to each of the Indemnitees for indemnification, and the ultimate responsibility among such indemnifying Subcontractors for the loss and expense of any such indemnification shall be resolved without jeopardy to any Indemnatee. The provisions of the indemnity provided for herein shall not be construed to indemnify any Indemnatee for its own negligence if not permitted by law or to eliminate or reduce any other indemnification or right which any Indemnatee has by law or equity.

3.16.3 NO LIMITATION

The Design-Builder's and the Subcontractor's obligation to indemnify and defend the Indemnitees hereunder shall include, without limitation, any and all claims, damages, and costs: for injury to persons and property (including loss of use), and sickness, disease or death of any person; for breach of any warranty, express or implied; for failure of the Design-Builder or the Subcontractor to comply with any applicable governmental law, rule, regulation, or other requirement; and for products installed in or used in connection with the Work.

3.17 OWNER AS INTENDED BENEFICIARY

The Owner is an intended beneficiary of any architectural or engineering work secured by, or performed by, the Design-Builder to fulfill its obligations under the Contract. Design-Builder shall state in its contracts with architectural or engineering consultants that their work is for the intended benefit of the Owner.

3.18 NOTICE OF EXCUSE FOR NONPERFORMANCE

If Design-Builder believes that acts or omissions of Owner (including but not limited to Owner caused delay) have prevented Design-Builder from performing the Work as required by the Contract Documents and Design-Builder intends to rely on Owner's acts or omissions and Civil Code section 1511(1) as reasons to excuse Design-Builder's nonperformance or to support, among other things, Design-Builder's requests for time extensions under Section 4.5, below, Design-Builder shall provide written notice of the excuse within five (5) days of the Owner's acts or omissions. If Design-Builder fails to timely submit the written notice, Design-Builder shall have waived any right to later rely on the acts or omissions as a defense to Design-Builder's nonperformance or as the basis for a time extension, regardless of the merits of the defense or time extension. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies. Design-Builder acknowledges that these written notices are of critical

importance to the Owner's management of the Work and Project and the mitigation of costs and delays to the Work and Project.

ARTICLE 4

ADMINISTRATION OF THE CONTRACT

4.1 OWNER'S REPRESENTATIVE

4.1.1 DEFINITION

The Owner's Representative is the person or an entity that provides contract administration services on behalf of the Owner throughout the contract period. The term "Owner's Representative" means the authorized representative of the Owner, and shall also refer to all consultants under the Owner's Representative's direction and control.

4.1.2 MODIFICATION

To the extent the Contract Documents indicate that Owner has assigned duties or responsibilities to the Owner's Representative, Owner reserves the right at all times to reassign such duties or responsibilities to different agents or representatives of the Owner.

4.1.3 TERMINATION

In the case of the termination of the Owner's Representative, the Owner may appoint another construction professional or may perform such functions with its own licensed professional personnel. The status of the replacement of Owner's Representative under the Contract Documents shall be that of the former Owner's Representative.

4.2 OWNER'S REPRESENTATIVE'S ADMINISTRATION OF THE CONTRACT

4.2.1 STATUS

The Owner's Representative will provide administration of the Contract and may be one of several Owner's representatives during construction, through release of all retention, and during the one (1) year period following the commencement of any warranties. The Owner's Representative will advise and consult with the Owner. The Owner's Representative will have authority to act on behalf of the Owner only to the extent set forth in the Owner/Owner's Representative agreement.

4.2.2 SITE VISITS

The Owner's Representative will visit the Site at intervals necessary in the judgment of the Owner's Representative or as otherwise agreed by the Owner and the Owner's Representative in writing to become generally familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in a manner indicating that the Work, when Completed, will be in accordance with the Contract Documents.

4.2.3 LIMITATIONS OF CONSTRUCTION RESPONSIBILITY

The Design-Builder shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Owner's Representative in the Owner's Representative's administration of the Contract Documents, or by tests, inspections, or approvals required or performed by persons other than the Design-Builder.

4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

The Owner and the Design-Builder shall communicate through the Owner's Representative, unless there is a construction manager for the Project or the Owner directs otherwise. Communications between Owner and Subcontractors or material or equipment suppliers shall be through the Design-Builder.

4.2.5 PAYMENT APPLICATIONS

The Design-Builder shall submit payment applications to the Owner's Representative, unless there is a construction manager for the Project or the Owner directs otherwise.

4.2.6 REJECTION OF WORK

The Owner's Representative, Inspector of Record, any construction manager and others may recommend to the Owner that the Owner reject Work which does not conform to the Contract Documents or that the Owner require additional inspection or testing of the Work in accordance with paragraph 13.5.5, whether or not the Work is fabricated, installed, or completed. However, no recommendation shall create a duty or responsibility to the Design-Builder, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

4.2.7 CHANGE ORDERS

The Owner's Representative will prepare change orders and construction change directives and may authorize minor changes in the Work.

4.2.8 WARRANTIES UPON COMPLETION

The Owner's Representative in conjunction with the Inspector of Record, or as otherwise directed by Owner, will conduct field reviews of the Work to determine the date of Completion, shall receive and forward to the Owner for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Design-Builder. The handling by the Owner's Representative of such warranties, maintenance manuals, or similar documents shall not diminish or transfer to the Owner's Representative any responsibilities or liabilities required by the Contract Documents of the Design-Builder or other entities, parties, or persons performing or supplying the Work.

Except as may be otherwise directed by Owner, the Owner's Representative will conduct a field review of the Design-Builder's comprehensive list of items to be completed or corrected for

development of a punch list and one (1) follow-up field review if required. The cost incurred by the Owner for further field reviews or the preparation of further punch lists by the Owner's Representative shall be invoiced to the Design-Builder and withheld from payment and/or retention.

4.2.9 INTERPRETATION

The Owner's Representative, Inspector of Record, any construction manager, the Owner or any independent consultant of Owner, as Owner deems appropriate, will interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of the Design-Builder. The Owner's response to such requests will be made with reasonable promptness, while allowing sufficient time to permit adequate review and evaluation of the request.

4.2.10 ADDITIONAL INSTRUCTIONS

4.2.10.1 *Owner's Representative's Interpretations and Decisions.* Interpretations and decisions of the Owner's Representative will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations of and decisions regarding the Contract Documents, the Owner's Representative will endeavor to secure faithful performance under the Contract Documents by both the Owner and the Design-Builder and will not show partiality to either. The Work shall be executed in conformity with, and the Design-Builder shall do no work without, approved drawings, Owner's Representative's clarifying instructions, and/or submittals from the Owner's Representative and Engineer of Record for the project.

4.2.10.2 *Typical Parts and Sections.* Whenever typical parts or sections of the Work are completely detailed on the Drawings, and other parts or sections which are essentially of the same construction are shown in outline only, the complete details shall apply to the Work which is shown in outline.

4.2.10.3 *Dimensions.* Dimensions of Work shall not be determined by scale or rule. Figured dimensions shall be followed at all times. If figured dimensions are lacking on Drawings, Design-Builder shall supply them on request. The Owner's decisions on matters relating to aesthetic effect will be final if consistent with the Contract Documents.

4.3 INSPECTOR OF RECORD

4.3.1 GENERAL

One or more Project inspectors ("Inspector of Record") may be employed by the Owner to inspect the Work.

4.3.2 INSPECTOR OF RECORD'S DUTIES

All Work shall be under the observation of or with the knowledge of the Inspector of Record. The Inspector of Record shall have free access to any or all parts of the Work at any time. The Design-Builder shall furnish the Inspector of Record such information as may be necessary to keep the

Inspector of Record fully informed regarding progress and manner of work and character of materials. Such observations shall not, in any way, relieve the Design-Builder from responsibility for full compliance with all terms and conditions of the Contract, or be construed to lessen to any degree the Design-Builder's responsibility for providing efficient and capable superintendence. The Inspector of Record is not authorized to make changes in the drawings or specifications nor shall the Inspector of Record's approval of the Work and methods relieve the Design-Builder of responsibility for the correction of subsequently discovered defects, or from its obligation to comply with the Contract Documents.

4.3.3 INSPECTOR OF RECORD'S AUTHORITY TO REJECT OR STOP WORK

The Inspector of Record shall have the authority to reject work that does not comply with the provisions of the Contract Documents. In addition, the Inspector of Record may stop any work which poses a probable risk of harm to persons or property. The Design-Builder shall instruct its employees, Subcontractors, material and equipment suppliers, etc., accordingly. The absence of any Stop Work order or rejection of any portion of the Work shall not relieve the Design-Builder from any of its obligations pursuant to the Contract Documents.

4.3.4 INSPECTOR OF RECORD'S FACILITIES

Within seven (7) days after notice to proceed, the Design-Builder shall provide the Inspector of Record with the temporary facilities as required under Division 1 of the Specifications.

4.4 RESPONSIBILITY FOR ADDITIONAL CHARGES INCURRED BY THE OWNER FOR PROFESSIONAL SERVICES

If at any time prior to the Completion of the requirements under the Contract Documents, through no fault of its own, the Owner is required to provide or secure additional professional services for any reason by any act or omission of the Design-Builder, the Design-Builder shall be invoiced by the Owner for any actual costs incurred for any such additional services, which costs may, among other remedies, be withheld from the progress payments and/or retention. Such invoicing shall be independent from any other Owner remedies, including but not limited to liquidated damages. If payments then or thereafter due to the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner. Additional services shall include, but shall not be limited to, the following:

- A. Services made necessary by the default of the Design-Builder.
- B. Services made necessary due to the defects or deficiencies in the Work of the Design-Builder.
- C. Services required by failure of the Design-Builder to perform according to any provision of the Contract Documents.
- D. Services in connection with evaluating substitutions of products, materials, equipment, Subcontractors proposed by the Design-Builder, and making subsequent revisions to drawings, specifications, and providing other

documentation required (except for the situation where the specified item is no longer manufactured or available).

- E. Services for evaluating and processing Claims submitted by the Design-Builder in connection with the Work outside the established Change Order process.
- F. Services required by the failure of the Design-Builder to prosecute the Work in a timely manner in compliance within the specified time for Completion.
- G. Services in conjunction with the testing, adjusting, balancing and start-up of equipment other than the normal amount customarily associated for the type of Work involved.
- H. Services in conjunction with more than one (1) re-review of required submittals of shop drawings, product data, and samples.

4.5 NOTICES OF POTENTIAL CHANGE, CHANGE ORDER REQUESTS, AND CLAIMS

If the Design-Builder identifies the potential for extra work, delay in the critical path schedule, or the need for additional money or time, or if the Design-Builder requests additional money or time, or if the Design-Builder believes that Owner has failed to pay amounts due or otherwise breached the Contract, or otherwise believes that it is entitled to a modification of the Contract terms and conditions, then Design-Builder shall follow the procedures in this Section 4.5 and Article 7, otherwise Design-Builder shall have waived its rights to pursue those issues and any later attempts to recover money or obtain a modification shall be barred. Design-Builder specifically acknowledges the Owner's and public's interest in, and need to know of, potential changes and disputes as early as possible so Owner can investigate, mitigate and resolve adverse cost and time impacts, if any. It is Design-Builder's obligation to know and comply with the requirements of the Contract Documents, including but not limited to Section 4.5 and Articles 7-9, and Owner has no obligation to notify Design-Builder of any failure to comply with those requirements.

4.5.1 NOTICE OF POTENTIAL CHANGE

Design-Builder shall submit a written Notice of Potential Change for extra work, critical path delay, or additional money or time. Design-Builder shall submit written Notices of Potential Change to Owner within ten (10) days of Design-Builder becoming aware of the issues creating the potential for change, unless the issues are, or may soon be, adversely affecting the costs or critical path of the Work, in which case the Design-Builder must submit the written notice without delay so the Owner may take immediate action to mitigate cost and schedule impacts of the change, if any. The written notice shall explain the nature of the potential change so the Owner may take action to mitigate costs and schedule impacts, if necessary.

When submitting a written Notice of Potential Change based on extra work, Design-Builder shall not perform the extra work until directed in writing to do so by Owner. When submitting a written Notice of Potential Change for an issue of critical path delay, Design-Builder shall proactively mitigate the effects of the alleged delay as much as reasonably possible so as to

minimize any impact to the schedule, until otherwise directed by Owner. If Design-Builder intends to rely on Owner's acts or omissions in support of a request for a time extension, then Design-Builder must also provide the notice set forth in section 3.18, above.

Failure to timely submit a written Notice of Potential Change shall constitute a complete waiver by Design-Builder of any right to later submit a change order request or pursue a Claim on that issue, or to later pursue any additional money or time extensions in any manner related to that issue, regardless of the merits. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies. Design-Builder acknowledges that these written notices are of critical importance to the Owner's Work and Project management and the mitigation of Work and Project costs and delays.

4.5.2 CHANGE ORDERS REQUESTS

If, after submitting a written Notice of Potential Change pursuant to Section 4.5.1, Design-Builder continues to believe that it is entitled to additional money or time (including but not limited to grant of a time extension; payment of money or damages arising from work done by, or on behalf of, the Design-Builder, payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to; or an amount the payment of which is disputed by the Owner) based on an issue, then Design-Builder shall submit a Change Order Request ("COR") to Owner within twenty (20) days of the earlier of (i) becoming aware of the issues creating a potential change, or (ii) the date by which it should have become aware of the issues creating a potential change. If the COR is not submitted within 20 days, a reasonable explanation shall be provided. A rejection at any time or a lack of a rejection by Owner of a Notice of Potential Change does not affect the timeline for submitting a COR.

Failure to timely submit a COR related to an issue, or failure to comply with any of the COR requirements in the Contract shall constitute a complete waiver by Design-Builder of any right to later submit a COR or Claim on that issue, or to later pursue any additional money (including time extensions) in any manner related to that issue, regardless of the merits. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies.

The COR shall state the grounds for the additional money or time requested and the amount of money or time requested, and Design-Builder shall include all information supporting the COR.

Design-Builder shall certify the COR using the form set forth in Section 4.5.5.1, except that every reference to "Claim" shall be changed to "COR." If a COR is submitted without certification, a certification can still be submitted within the timelines set forth in the first paragraph of section 4.5.2. If the COR is not timely certified, Design-Builder will have completely waived its rights to any money or time for that issue. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies.

The Owner may accept the entire COR, accept part of the COR and reject the remainder, reject the entire COR, or request additional information. If the Owner does not respond within thirty (30) days by accepting the entire COR, accepting part of the COR and rejecting the remainder, or requesting additional information, the entire COR shall be deemed rejected as of the thirtieth (30th) day. If the Owner requests additional information, then the Design-Builder shall submit the information within fifteen (15) days of the date of the request and the Owner shall have

fifteen (15) days after the receipt of the additional information to accept or reject (in whole or in part) the COR. If the Owner fails to respond within fifteen (15) days after the submission of additional information, the entire COR shall be deemed rejected as of the fifteenth (15th) day.

4.5.3 DEFINITION OF CLAIM

A “Claim” is a separate demand by the Design-Builder sent by registered mail or certified mail for (a) a time extension, including, without limitation, a request for relief from damages or penalties for delay assessed by Owner under the Contract Documents, (b) payment by Owner of money or damages arising from work done by, or on behalf of, the Design-Builder pursuant to the Contract Documents, and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (c) an amount the payment of which is disputed by the Owner. A claim includes any claim within the scope of Public Contract Code section 20104 et seq. Resubmittal in any manner of a COR which was previously rejected under Section 4.5.2 constitutes a Claim, whether the COR was rejected in whole or in part, and whether the COR was rejected expressly or deemed rejected by Owner inaction. A Claim includes any dispute Design-Builder may have with the Owner, including one which does not require a Notice of Potential Change or COR under Sections 4.5.1 and 4.5.2, and includes an alleged breach of contract by the Owner. A Claim under this Article 4.5 shall also constitute a claim for purposes of the California False Claims Act. In the event of a conflict between a Claims provision in Division 1 of the Specifications and Section 4.5, Section 4.5 shall take precedence.

The Notice of Potential Change and COR procedures above are less formal procedures which precede the more formal Claim. A Notice of Potential Change does not constitute a Claim. A COR does not constitute a Claim; **except that** if insufficient time remains before the Claim deadline (see Article 4.5.4) for Design-Builder to submit a COR and for Owner to process and reject the COR under Article 4.5.2, then either (1) Design-Builder may submit a COR which Owner shall treat as a Claim, but only if the COR complies with all requirements in this Article 4.5 and Article 7 for COR’s and Claims, or (2) a COR is not required so long as a Claim complying with this Article 4.5 is timely submitted.

A Claim does not include vouchers, invoices, progress payment applications, or other routine or authorized forms of requests for progress payments on the Contract; however, those documents remain “claims” for purposes of the California False Claims Act. A Claim does not include a Government Code Claim. (“Government Code Claim” means a claim under Government Code sections 900 et seq. and 910 et seq.)

4.5.4 TIME FOR SUBMITTING CLAIM; WAIVER

Design-Builder shall submit all Claims to the Owner’s Construction Manager within fifteen (15) days of the earliest of the following events: (a) The Completion of the Work; (b) the thirtieth (30th) continuous day without labor by Design-Builder; and (c) Design-Builder’s submission of a final progress payment application. Owner’s rejection, or lack of rejection, of a COR at any time does not affect the deadline for filing a Claim.

In addition, on or before submitting its request for a final progress payment based on 100% Completion of the Work, Design-Builder shall submit to Owner, in writing, a summary of all Claims for money or time extensions under or arising out of this Contract which were timely filed and which were fully compliant with the Contract’s requirements for Claims. The

submission of an Application for Payment for the Final Progress Payment shall constitute a complete waiver of all Claims against Owner under or arising out of this Contract, except those identified in the above summary, as Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies. This Claim summary requirement shall not extend the time for submitting a Claim.

Failure to timely submit a Claim, failure to include a Claim in the Claim summary, or failure to comply with any of the Claim requirements in the Contract, including but not limited to this Article 4, will act as a complete waiver of Design-Builder's rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim for the money or time (see Section 4.5.6.4), and (c) initiate any action, proceeding or litigation for the money or time, regardless of the merits. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies. Owner does not have an obligation to reject the Claim for a failure to comply with any of the Claim requirements in the Contract, including the lack of certification, and any failure by Owner to reject, or any delay in rejecting, a Claim on that basis does not waive the Owner's right to reject the Claim on that basis at a later time. In no event may the Design-Builder reserve its rights to assert a Claim for a time extension or additional money beyond the timelines set forth in this provision unless the Owner agrees in writing to allow the reservation.

4.5.5 CONTENT OF CLAIM

4.5.5.1 Claim Format; Waiver

Every Claim shall be in writing. All money or time extensions sought must be stated and itemized in the Claim at the time submitted. The responsibility to substantiate Claims shall rest with the Design-Builder, and the Design-Builder shall furnish reasonable documentation to support each Claim.

In addition, the Design-Builder shall include a certification with each and every Claim at the time of submission, as follows:

I, _____ [name of declarant], declare the following:

_____ [Design-Builder company name] has contracted with _____ [public entity name] for the _____ [name of Contract] Contract. _____ [Design-Builder company name] authorized me to prepare the attached Claim for money and/or time extension for _____ [public entity name] regarding this Contract (dated _____, 20__, entitled _____, and requesting \$ _____ and/or ____ additional days), and I prepared the attached Claim. I am the most knowledgeable person at _____ [Design-Builder company name] regarding this Claim.

The attached Claim complies with all laws applicable to submission of a Claim, including but not limited to California Penal Code section 72, Government Code sections 12650 et seq. (False Claims Act), and Business and Professions Code sections 17200 et seq. (Unfair Business Practices Act). I am aware that submission or certification of false claims, or other claims that violate law or the Contract, may lead to fines, imprisonment, and/or other serious legal consequences for myself or _____ [Design-Builder company name].

The attached Claim does not breach the Contract, is not a false claim, does not violate any applicable law, satisfies all provisions of the Contract applicable to submission of the Claim, only contains truthful and accurate supporting data, and only requests money and/or time extensions that accurately reflect the adjustments to money and time for which I believe that [public entity name] is responsible under its Contract with _____ [Design-Builder company name].

While preparing this declaration and Claim I consulted with others (including attorneys, consultants, or others who work for _____ [Design-Builder company name]) when necessary to ensure that the statements were true and correct.

Design-Builder understands and agrees that any Claim submitted without this certification does not meet the terms of the Contract Documents; that Owner, or Owner's representatives, may reject the Claim on that basis; and that unless Design-Builder properly and timely files the Claim with the certification, Design-Builder cannot further pursue the Claim in any forum and all rights to additional money or time for the issues covered by the Claim are waived due to a condition precedent not having been satisfied.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed _____, 2__, at _____, California.

_____ [name of declarant]

Design-Builder's failure to timely submit a certification will constitute a complete waiver of Design-Builder's rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim (see Section 4.5.6.4) for the money or time, and (c) initiate any action, proceeding or litigation for the money or time. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies.

4.5.5.2 *Claims for Additional Money*

Each Claim for additional money (including but not limited to those described in (b) and (c) of the first paragraph of Section 4.5.3) must include all facts supporting the Claim, including but not limited to all supporting documentation plus a written analysis as to (a) why the claimed cost was incurred, (b) why Design-BUILDER could not mitigate its costs, (c) why the claimed cost is the responsibility of the Owner, and (d) why the claimed cost is a reasonable amount. In no event will the Design-BUILDER be allowed to reserve its rights to assert a Claim for money at a later time, unless the Owner expressly agrees in writing to allow the reservation. Any costs, direct or indirect, not asserted shall be waived. A Claim may not include any costs incurred in preparation of the Claim or in preparation of any underlying COR, including but not limited to costs of delay analysis.

4.5.5.3 Claims for Additional Time

4.5.5.3.1 Notice of Extent of Claim

If the Design-Builder wishes to make a Claim for an increase in the Contract Time (including but not limited to Section 4.5.3(a)), the Claim shall include, but not be limited to, all facts supporting the Claim, all documentation of such facts, all information required by the Contract Documents, and a current schedule and delay analysis explaining (a) the nature of the delay, (b) the Owner's responsibility for the claimed delay, (c) the claimed delay's impact on the critical path, (d) the claimed delay's impact on the date of Completion (including an analysis of any float still remaining and whether the alleged delay in work exceeds such remaining float), and (e) why Design-Builder could not mitigate the delay impacts.

In the case of a continuing delay, only one (1) initial Claim is necessary that is based on estimates of when the continuing delay will end, but within thirty (30) days of the end of the continuing delay an updated final Claim must be submitted, which shall also be certified. In no event will the Design-Builder be allowed to reserve its rights to assert a Claim for a time extension, unless the Owner expressly agrees in writing to allow the reservation. Any time extension not asserted shall be waived.

4.5.5.3.2 Unusually Severe Weather Claims

If unusually severe weather is the basis for a Claim for additional time, Design-BUILDER must provide Owner data and facts showing that the weather conditions were abnormal for the period

of time, could not have been reasonably anticipated or mitigated, and had an adverse effect on the critical path of the scheduled construction.

4.5.5.4 “Pass Through” Claims

A Subcontractor or supplier to Design-Builder may not submit a request for additional time or money directly to the Owner. If a subcontractor or supplier submits a request for additional money or time to Design-Builder and Design-Builder wishes to pass it through to Owner, then Design-Builder must comply with all requirements of Section 4.5, including Notices of Potential Change, Change Order Requests, and Claims. Design-Builder must prepare and submit its own analysis of the Subcontractor's request, and the Claim must include a copy of the Subcontractor's request along with any other necessary supporting documentation.

In addition to other requirements in the Contract Documents, including but not limited to this Section 4.5, the Design-Builder's analysis of the Subcontractor's request must include Design-Builder's detailed explanation as to why the Subcontractor or supplier's request is the Owner's responsibility, including Design-Builder's analysis of (a) why the amount of damages the Subcontractor or supplier requests is justified and appropriate, (b) how Design-Builder's breach of the subcontract caused the Subcontractor or supplier to incur these damages, and (c) how the Owner's breach of the Contract caused the Design-Builder's breach of the subcontract. Any Design-Builder Claim that fails to include the above information, or that states that Owner is responsible for the Subcontractor's request only in the event that Design-Builder is found to owe money to Subcontractor, shall act as a complete waiver of Design-Builder's rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim (see Section 4.5.6.4) for the money or time, and (c) initiate any action, proceeding or litigation for the money or time. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies.

4.5.6 PROCEDURES FOR CLAIMS (PUBLIC CONTRACT CODE SECTION 9204)

Claims are subject to this section 4.5.6 and Public Contract Code section 9204, as well as the separate procedures and substantive provisions of Sections 4.5.1 through 4.5.5 and the rest of the Contract Documents. Claims of \$375,000 or less must also comply with Public Contract Code sections 20104 et seq., but to the extent that one of the procedures in Sections 20104 et seq. conflicts with the procedures in Section 9204, the requirements of Section 9204 shall control.

4.5.6.1 Claims

The Owner shall conduct a reasonable review of the Claim and shall respond in writing to any written Claim within 45 days of receipt of the Claim. During that 45-day period, plus any extension, Owner may request, in writing, additional documentation supporting the Claim or relating to defenses to the Claim the Owner may have against the Design-Builder. Owner shall review any additional documentation Design-Builder supplies in response to that request within the 45 day, plus any extension, timeline.

After receipt of a Claim, the 45-day period may be extended by Owner and Design-Builder. The

written response shall identify which portion of the Claim is disputed and what portion is undisputed. If Owner needs approval from its City Council to provide the written response, and the City Council does not meet within the 45 days or any extended period of time, then the Owner shall have up to three days after the next publicly noticed meeting of the City Council to provide the written response. Any payment due on an undisputed portion of the Claim shall be processed and made within sixty (60) days after the Owner issues the written response. Owner's failure to respond to a Claim within the above time periods or to otherwise meet the above time requirements shall result in the Claim being deemed rejected in its entirety.

4.5.6.2 Meet and Confer

If the Design-Builder disputes the Owner's written response, or the Owner fails to respond within the time prescribed, the Design-Builder may so notify the Owner, in writing, either within 15 days of receipt of the Owner's response or within 15 days of the Owner's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a written demand sent by registered or certified mail return receipt requested, the Owner shall schedule a meet and confer conference for settlement of the dispute, which shall take place within 30 days of the demand. Upon written agreement of the Owner and Design-Builder, the conference may take place during regularly scheduled Project meetings.

If Design-Builder fails to timely notify the Owner that it wishes to meet and confer pursuant to the previous paragraph, then Design-Builder will have waived all rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim (see Section 4.5.6) for such money or time, and (c) initiate any action, proceeding or litigation for such money or time. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies.

Within ten (10) business days after the conclusion of the meet and confer conference, the Owner shall give a written statement to the Design-Builder identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the Claim shall be processed and made within sixty (60) days after the Owner issues the written statement. Within ten (10) business days of issuance of Owner's written statement, Design-Builder shall identify in writing the disputed portion of the Claim that shall be submitted to non-binding mediation (which may consist of any nonbinding process, including but not limited to neutral evaluation or a dispute review board), with the Owner and Design-Builder sharing the costs equally. The Owner and Design-Builder shall mutually agree to a mediator within ten (10) business days after the Design-Builder has identified in writing the disputed portion of the Claim. If they cannot agree upon a mediator, then each shall select a mediator and those two mediators shall select a qualified neutral third party to mediate the disputed portion of the Claim. (Each party shall bear the fees and costs its respective mediator charged in connection with the selection of the neutral mediator). The parties may mutually waive in writing the requirement for mediation. If Design-Builder fails to timely notify the Owner in writing that it wishes to mediate pursuant to this paragraph, Design-Builder will have waived all right to further pursue the Claim pursuant to section 4.5.4. The parties shall reasonably cooperate to schedule and attend a mediation as soon as reasonably possible. Owner's failure to respond to the Claim

within the above time periods or to otherwise meet the above time requirements shall result in the Claim being deemed rejected in its entirety.

4.5.6.3 Government Code Claim

If the Claim or any portion remains in dispute after the mediation and Design-Builder wishes to pursue it, the Contractor **must** file a timely and proper Government Code Claim. The filing of a Government Code Claim is specifically required in addition to all contractual procedures described in Sections 4.5 through 4.5.6.2. The above contractual procedures do not act as a substitute for the Government Code Claim process, and the two sets of procedures shall be sequential with the contractual procedures coming first.

Failure to timely file a Government Code Claim shall act as complete waiver of Design-Builder's rights to (a) recover money or time on the issues for which a Government Code Claim was required, and (b) initiate any action, proceeding or litigation for such money or time. Design-Builder will not have satisfied a condition precedent or exhausted administrative remedies.

Owner and Design-Builder shall proceed with the Government Code Claim according to Government Code, Section 900 et seq., and as otherwise permitted by law. For purposes of the applicable Government Code provisions, and as provided in Public Contract Code section 20104.2(e), the running of the time period within which a Contractor must file a Government Code Claim shall be tolled from the time the Design-Builder submits a written Claim under Article 4.5 until the time that the Claim is denied, in whole or in part, as a result of the meet and confer process in Section 4.5.6.2, including any period of time utilized by the meet and confer process.

4.5.7 CONTINUING CONTRACT PERFORMANCE

Despite submission or rejection of a Notice of Potential Change, COR or Claim, the Design-Builder shall proceed diligently with performance of the Contract as directed by Owner, and the Owner shall continue to make any undisputed payments in accordance with the Contract.

4.5.8 CLAIMS FOR CONCEALED OR UNKNOWN CONDITIONS

4.5.8.1 Trenches or Excavations Less Than Four Feet Below the Surface

If Design-Builder encounters conditions at the Site which are subsurface or otherwise concealed physical conditions, which differ materially from those indicated in the Contract Documents, or unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Design-Builder shall give notice to the Owner promptly before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. If Design-Builder believes that such conditions differ materially and will cause an increase in the Design-Builder's cost of, time required for, or performance of

any part of the Work, Design-Builder must comply with the provisions above for Notice of Potential Change, Change Order Request, and Claims (beginning with Section 4.5.1).

4.5.8.2 Trenches or Excavations Greater Than Four Feet Below the Surface

Pursuant to Public Contract Code section 7104, when any excavation or trenching extends greater than four feet below the surface:

4.5.8.2.1 The Design-Builder shall promptly, and before the following conditions are disturbed, notify the public entity, in writing, of any:

(1) Material that the Design-Builder believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing law.

(2) Subsurface or latent physical conditions at the site differing from those indicated by information about the site made available to bidders prior to the deadline for submitting bids.

(3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

4.5.8.2.2 The public entity shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Design-Builder's cost of, or the time required for, performance of any part of the Work shall issue a change order under the procedures described in the Contract.

4.5.8.2.3 In the event that a dispute arises between the public entity and the Design-Builder whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Design-Builder's cost of, or time required for, performance of any part of the Work, the Design-Builder shall not be excused from any deadline for Completion provided for by the Contract, but shall proceed with all Work to be performed under the Contract. The Design-Builder shall retain any and all rights provided either by Contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

4.5.9 INJURY OR DAMAGE TO PERSON OR PROPERTY

If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, any of the other party's employees or agents, or others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the

matter. For a Notice of Potential Change, COR and Claim for additional cost or time related to this injury or damage, Design-Builder shall follow Section 4.5.

ARTICLE 5

SUBCONTRACTORS

5.1 DEFINITIONS

5.1.1 SUBCONTRACTOR

A Subcontractor is a person or entity, who has a contract with the Design-Builder 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 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. To the extent that the term Trade Design-Builder is utilized in the Contract Documents, it shall have the same meaning as the term “Subcontractor.”

5.1.2 SUB-SUBCONTRACTOR

A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the Site. The term “Sub-subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.1.3 SPECIALTY CONTRACTORS

If a Subcontractor is designated as a “Specialty Contractor” as defined in section 7058 of the Business and Professions Code, all of the Work outside of that Subcontractor’s specialty shall be performed in compliance with the Subletting and Subcontracting Fair Practices Act, Public Contract Code sections 4100, et seq.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 ASSIGNMENT OR SUBSTITUTION - CONSENT OF OWNER

In accordance with Public Contract Code sections 4107 and 4107.5, no Design-Builder whose bid is accepted shall, without the written consent of the Owner: substitute any person or entity as a Subcontractor in place of the Subcontractor designated in the original bid; permit any such Subcontract to be assigned or transferred, or allow it to be performed by any person or entity other than the original Subcontractor listed in the original bid; sublet or subcontract any portion of the Work in excess of one-half of one percent (0.5%) of the Design-Builder’s total bid as to which its original bid did not designate a Subcontractor. Any assignment or substitution made without the prior written consent of the awarding authority shall be void, and the assignees shall acquire no rights in the Contract. Any consent, if given, shall not relieve Design-Builder or its

Subcontractors from their obligations under the terms of the Contract Documents.

5.2.2 GROUNDS FOR SUBSTITUTION

Pursuant to Public Contract Code section 4107 and the procedure set forth therein, no Design-Builder whose bid is accepted may request to substitute any person or entity as a Subcontractor in place of a Subcontractor listed in the original bid except in the following instances:

- A. When the Subcontractor listed in the bid after having a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the subcontractor's bid and at the price specified in the subcontractor's bid, when that written contract, based upon the general terms, conditions, plans and specifications for the Project involved or the terms of that Subcontractor's written bid, is presented to the Subcontractor by the Design-Builder;
- B. When the listed Subcontractor becomes insolvent or the subject of an order for relief in bankruptcy;
- C. When the listed Subcontractor fails or refuses to perform his or her Subcontract;
- D. When the listed Subcontractor fails or refuses to meet the bond requirements of the Design-Builder set forth in Public Contract Code section 4108.
- E. When the Design-Builder demonstrates to the awarding authority, or its duly authorized officer, subject to the further provisions of Public Contract Code section 4107.5, that the name of the Subcontractor was listed as the result of inadvertent clerical error;
- F. When the listed Subcontractor is not licensed pursuant to the Contractors License Law; or
- G. When the awarding authority, or its duly authorized officer, determines that the Work being performed by the listed Subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or the Subcontractor is substantially delaying or disrupting the progress of the Work.
- H. When the listed Subcontractor is ineligible to work on a public works project pursuant to Section 1777.1 of the Labor Code.
- I. When the awarding authority determines that a listed Subcontractor is not a responsible contractor.

5.2.2.1 **No Change in Contract.** Any substitutions of Subcontractors shall not result in any increase in the Contract Sum or result in the granting of any extension of time for the Completion of the Work.

5.2.2.2 Substitution Due to Clerical Error. The Design-Builder, as a condition of asserting a claim of inadvertent clerical error in the listing of a Subcontractor, shall, pursuant to Public Contract Code section 4107.5, within two (2) working days after the time of the prime bid opening by the awarding authority, give written notice to the awarding authority and copies of such notice to both the Subcontractor it claims to have listed in error, and the intended Subcontractor who had bid to the Design-Builder prior to bid opening. Any listed Subcontractor who has been notified by the Design-Builder in accordance with the provisions of this section as to an inadvertent clerical error, shall be allowed six (6) working days from the time of the prime bid opening within which to submit to the awarding authority and to the Design-Builder written objection to the Design-Builder's claim of inadvertent clerical error.

In all other cases, the Design-Builder must make a request in writing to the awarding authority for the substitution of a subcontractor, giving reasons therefore. The awarding authority shall mail a written notice to the listed Subcontractor giving reasons for the proposed substitution. The listed Subcontractor shall have five (5) working days from the date of such notice within which to file with the awarding authority written objections to the substitution.

Failure to file written objections pursuant to the provisions of this section within the times specified herein shall constitute a complete waiver of objection to the substitution by the listed Subcontractor and, where the ground for substitution is an inadvertent clerical error, an agreement by the listed Subcontractor that an inadvertent clerical error was made.

If written objections are filed, the awarding authority shall give five (5) days' notice to the Design-Builder and to the listed Subcontractor of a hearing by the awarding authority on the Design-Builder's request for substitution as provided in Public Contract Code section 4107. The determination by the awarding authority shall be final.

5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Design-Builder shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Design-Builder by terms of the Contract Documents, and to assume toward the Design-Builder all obligations and responsibilities, which the Design-Builder, by the Contract Documents, assumes toward the Owner. Each subcontract agreement shall preserve and protect the rights of the Owner under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Design-Builder that the Design-Builder, by the Contract Documents, has against the Owner. Where appropriate, the Design-Builder shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Design-Builder shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound. Upon written request of the Subcontractor, the Design-Builder shall identify to the Subcontractor the terms and conditions of the proposed subcontract agreement, which may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable

portions of such documents available to their respective proposed Sub-subcontractors.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

Each subcontract agreement for a portion of the Work is assigned by the Design-Builder to the Owner provided that:

- A. Assignment is effective only after termination of the Contract with the Design-Builder by the Owner for cause pursuant to Article 14 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor in writing; and
- B. Assignment is subject to the prior rights of the surety, if any, obligated under any bond relating to the Contract.

5.5 SUBCONTRACTOR'S RESPONSIBILITIES

Every Subcontractor is bound to the following provisions, unless specifically noted to the contrary in the Subcontractor's contract subject to the limitations of section 5.3.

5.5.1 SUPERVISION BY SUBCONTRACTORS

Subcontractors shall efficiently supervise their Work, using their best skill and attention. Each of them shall carefully study and compare all Drawings, Specifications, and other instructions, shall at once report to Design-Builder any error or omission which any of them may discover, and shall subsequently proceed with the Work in accordance with instructions from the Design-Builder concerning such error or omission. Each Subcontractor shall be fully responsible for and shall bear the full risk of loss of all of its property.

5.5.2 DISCIPLINE AND ORDER

Each Subcontractor shall at all times enforce strict discipline and good order among its Subcontractors, material or equipment suppliers, or their agents, employees, and invitees, and shall establish and maintain surveillance over the activities of each of the foregoing to minimize any disturbance, damage, pollution, or unsightly conditions relative to property areas adjacent to or in the vicinity of the Site. The Design-Builder shall have the right to remove from the Work any employee of a Subcontractor for any reason including, without limitation, incompetence or carelessness.

5.5.3 DEFECTS DISCOVERED

Should the proper and accurate performance of the Work depend upon the proper and accurate performance of other work not included in its Contract, each Subcontractor shall use all necessary means to discover any defect in such other work and shall allow the Design-Builder, the Owner, or other Subcontractors as Design-Builder elects, a reasonable amount of time to remedy such defects. If the Subcontractor should proceed with its Work, it shall be

considered to have accepted such other work, unless the Subcontractor shall have proceeded pursuant to instructions in writing by the Design-Builder over its written objection.

5.5.4 SUBCONTRACTOR INFORMATION

Each Subcontractor shall submit to the Owner, the Design-Builder, or as the case may be, promptly when requested by any of the foregoing, information with respect to the names, responsibilities, and titles of the principal members of its staff, the adequacy of the Subcontractor's equipment and the availability of necessary materials and supplies. Subcontractor shall fully cooperate with Design-Builder in its periodic review of the adequacy of Subcontractor's supervision, personnel, and equipment, and the availability of necessary materials and supplies and shall promptly comply with the requirements of the Design-Builder with respect thereto.

5.5.5 TEMPORARY STRUCTURES

Each Subcontractor shall furnish at its expense its own temporary facilities and storage except those specifically agreed to be furnished to it by the Design-Builder in the Subcontract Agreement. Subcontractor's material storage rooms and field offices, etc., will be placed in locations designated by the Design-Builder. When it becomes necessary due to the progress of the Work for the Subcontractor to relocate its field operations, it will do so in an expeditious manner and at no additional cost to Design-Builder or Owner. The construction of material storage rooms and field offices, etc., will be of fire resistive material only, such as concrete or gypsum block, rated drywall, or sheet metal.

5.5.6 CHARGES TO SUBCONTRACTOR

Each Subcontractor may be subject to the Design-Builder's reasonable charges for hoisting, repair to other work caused by the fault or negligence of Subcontractor, removal of Subcontractor's rubbish, and clean-up occasioned by Subcontractor.

5.5.7 FINES IMPOSED

Subcontractor shall comply with and pay any fines or penalties imposed for violation of any applicable law, ordinance, rule, regulation, Environmental Impact Report mitigation requirement, and lawful order of any public authority, including, without limitation, all OSHA and California OSHA requirements and those of other authorities having jurisdiction of the safety of persons or property.

5.5.8 PROJECT SIGNS

Each Subcontractor shall not display on or about the Project any sign, trademark, or other advertisement. The Owner will permit a single Project sign, which shall be subject to the Owner's prior and sole discretion and approval, as to all matters including, without limitation, size, location, material, colors, style and size of printing, logos and trademarks (if any), text, and

selection of names to be displayed.

5.5.9 REMEDIES FOR FAILURE TO PERFORM

Without limitation of any other right or remedy available to Design-Builder under the Contract Documents or at law, should: the Subcontractor fail to perform its portion of the Work in a skilled and expeditious manner in accordance with the terms of the Contract Documents with sufficient labor, materials, equipment, and facilities; delays the progress of the job or otherwise fail in any of its obligations; or either a receiver is appointed for the Subcontractor or the Subcontractor is declared to be bankrupt or insolvent, and such appointment, bankruptcy, or insolvency proceedings or declaration is not set aside within thirty (30) days, then the Design-Builder, upon three (3) days' notice to the Subcontractor (subject to the requirements of Pub. Contracts Code, § 4107), may provide such labor, materials, or perform such work and recover the cost plus profit and overhead from monies due or to become due thereafter to the Subcontractor. The Design-Builder may terminate the employment of the Subcontractor, taking possession of its tools, materials, and equipment related to the Work and cause the entire portion of the Subcontractor's Work to be finished either by another Subcontractor or through the Design-Builder's own forces.

5.5.10 DISPUTES NOT TO AFFECT WORK

In the event of any dispute as to whether or not any portion of the Work is within the scope of the Work to be performed by a Subcontractor, or any dispute as to whether or not the Subcontractor is entitled to a Change Order for any Work requested of it or entitled to payment, the Subcontractor shall continue to proceed diligently with the performance of the Work. Regardless of the size or nature of the dispute, the Subcontractor shall not under any circumstances cease or delay performance of its portion of the Work during the existence of the dispute. The Design-Builder shall continue to pay the undisputed amounts called for under the Subcontract Agreement during the existence of the dispute. Any party stopping or delaying the progress of the Work because of a dispute shall be responsible in damages to the Owner, the Owner's Representative, and the Design-Builder for any losses suffered as a result of the delay.

5.5.11 APPLICATION FOR PAYMENT

Design-Builder agrees to advise the Subcontractor if any documentation in connection with the Subcontractor's application for payment has not been accepted or is in any way unsatisfactory.

5.5.12 COMPLIANCE WITH PROCEDURES

Each Subcontractor shall comply with all procedures established by the Design-Builder for coordination among the Owner, the Owner's consultants, Owner's Representative, Design-Builder, and the various Subcontractors for coordination of the Work with all local municipal authorities, government agencies, utility companies, and any other agencies with jurisdiction over all or any portion of the Work. The Subcontractor shall cooperate fully with all of the foregoing parties and authorities.

5.5.13 ON-SITE RECORD KEEPING

Subcontractor shall comply with all on-Site record keeping systems established by the Design-Builder and shall, upon the request of the Design-Builder, provide the Design-Builder with such information and reports as the Design-Builder may deem appropriate. Without limitation of the foregoing, the Subcontractor shall assemble all required permits and certificates so that they are readily accessible at the Site.

5.5.14 NON-EXCLUSIVE OBLIGATIONS

The specific requirements of Article 5 are not intended to exclude the obligation of the Subcontractor to comply with any of the other provisions of the General Conditions and the other Contract Documents which are relevant to the proper performance of its portion of the Work.

ARTICLE 6

CONSTRUCTION BY OWNER OR BY SEPARATE DESIGN-BUILDERS

6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

6.1.1 OWNER'S RIGHTS

The Owner reserves the right to perform Project work related to the Contract with the Owner's own forces, or to award separate contracts in connection with such other work or other construction or operations on the Site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance. Upon the election to perform such work with its own forces or by separate contracts, the Owner shall notify the Design-Builder. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall proceed pursuant to Section 4.5 in the Contract Documents.

6.1.2 DESIGNATION AS DESIGN-BUILDER

When separate contracts are awarded for different portions of the Project or other construction or operations on the Site, the term "Design-Builder" in the Contract Documents in each of those contracts shall mean the contractor who executes each separate Owner/Design-Builder Agreement.

6.1.3 DESIGN-BUILDER DUTIES

The Design-Builder shall have overall responsibility for coordination and scheduling of the activities of the Owner's own forces and of each separate contractor with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Design-Builder shall make any revisions to the construction schedule and Contract Sum deemed necessary after a joint review and mutual agreement. The construction schedules shall

then constitute the schedules to be used by the Design-Builder, separate contractors, and the Owner until subsequently revised.

6.1.4 OWNER OBLIGATIONS

Unless otherwise provided in the Contract Documents, when the Owner performs work related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, which apply to the Design-Builder under the General Conditions, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10 and 12.

6.2 MUTUAL RESPONSIBILITY

6.2.1 DELIVERY AND STORAGE

The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for delivery and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the separate contractors' construction and operations with theirs as required by the Contract Documents.

6.2.2 NOTICE BY DESIGN-BUILDER

If part of the Design-Builder's Work depends upon proper execution or results from work by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, promptly report to the Owner patent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Design-Builder to so report shall constitute an acknowledgment that the Owner's or separate contractors' completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

6.2.3 COSTS INCURRED

Costs, expenses, and damages caused by delays, improperly timed activities, defective construction, or damages to another's work/Work or property shall be borne by the party responsible. Should Design-Builder cause damage to the work/Work or property of any other contractor on the Project, or to the Project or property of a third party, or cause any delay to any such contractor or third party, the Design-Builder shall defend, indemnify and hold Owner harmless for such damage or delay under Section 3.16, below, and the Design-Builder shall be liable to Owner for any damages suffered by Owner, including liquidated damages for delay. Owner may withhold from progress payments and/or retention the cost of delay or damage to another contractor's work or damage to another contractor's property, and Owner's damages, caused by Design-Builder.

6.2.4 CORRECTION OF DAMAGE

The Design-Builder shall promptly remedy damage wrongfully caused by the Design-Builder to

completed or partially completed construction or to property of the Owner or separate contractors.

6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Design-Builder, separate contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.13, the Owner may clean up and allocate the cost among those responsible as the Owner determines to be just.

ARTICLE 7

CHANGES IN THE WORK

7.1 CHANGES

7.1.1 NO CHANGES WITHOUT AUTHORIZATION

The Owner reserves the right to change the Work by making such alterations, deviations, additions to, or deletions from the plans and specifications, as may be deemed by the Owner to be necessary or advisable for the proper Completion or construction of the Work contemplated, and Owner reserves the right to require Design-Builder to perform such work. No adjustment will be made in the Contract unit price of any Contract item regardless of the quantity ultimately required.

Owner shall compensate Design-Builder with money or grant extra time for any extra work ordered by the Owner to be performed. Design-Builder shall follow the provisions of 7.6 and 7.7 when requesting additional money or additional time. Design-Builder shall expeditiously perform all extra work upon direction, even if no agreement has been reached on extra time or money. For all such changes resulting in a credit to Owner, Design-Builder shall follow 7.5 and 7.7 in providing the credit to Owner. Design-Builder shall bring all potential credits to the Owner's attention.

There shall be no change whatsoever in the drawings, specifications, or in the Work or payments under the Contract Documents without an executed Change Order, Construction Change Directive, or order by the Owner pursuant to Section 7.1.2. Owner shall not be liable for the cost of any extra work or any substitutions, changes, additions, omissions, or deviations from the Drawings and Specifications unless the same shall have been properly requested under Section 4.5 and authorized by, and the cost thereof approved in writing by, Change Order or Construction Change Directive. No extension of time for performance of the Work shall be allowed hereunder unless request for such extension is properly made under Section 4.5 and such time is thereof approved in writing by Change Order or Construction Change Directive. The provisions of the Contract Documents shall apply to all such changes, additions, and omissions with the same effect as if originally embodied in the Drawings and Specifications.

7.1.2 AUTHORITY TO ORDER MINOR CHANGES

The Owner has authority to order minor changes in the Work not involving any adjustment in the Contract Sum, an extension of the Contract Time, or a change which is inconsistent with the intent of the Contract Documents. Such changes shall be effected by written Construction Change Directive and shall be binding on the Design-Builder. The Design-Builder shall carry out such written orders promptly.

7.2 CHANGE ORDERS (“CO”)

A CO is a written instrument signed by the Owner and the Design-Builder, stamped (or sealed) and signed by Owner’s Representative, and approved by the Owner’s City Council, stating the agreement of Owner and Design-Builder 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 extent of the adjustment in the Contract Time, if any.

Unless expressly stated otherwise in the CO, any CO executed by Owner and Design-Builder constitutes and includes full and complete money and time (including but not limited to, adjustments to money and time) for all costs and effects caused by any of the changes described within it. Unless expressly stated otherwise in the CO, in consideration for the money received for the changes described in the CO, Design-Builder waives all Claims for all costs and effects caused by any of the changes, including but not limited to labor, equipment, materials, delay, extra work, overhead (home and field), profit, direct costs, indirect costs, acceleration, disruption, impaired productivity, time extensions, and any the costs and effects on Subcontractors and suppliers of any tier.

7.3 CONSTRUCTION CHANGE DIRECTIVES (“CCD”)

7.3.1 DEFINITION

A CCD is a written unilateral order signed by the Owner, and if necessary by the Owner’s Representative, directing a change in the Work and stating an adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by CCD, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions pursuant to Section 7.1.1.

7.3.2 USE TO DIRECT CHANGE

A CCD shall be used in the absence of agreement on the terms of a CO. If Design-Builder disagrees with the terms of a CCD, it shall nevertheless perform the work directed by the CCD, but it may pursue the Notice of Potential Change, COR and Claim procedures of Section 4.5 if

Design-Builder believes it is entitled to changes in the Contract Sum or Contract Time.

7.4 REQUEST FOR INFORMATION (“RFI”)

7.4.1 DEFINITION

An RFI is a written request prepared by the Design-Builder asking the Owner to provide additional information necessary to clarify an item which the Design-Builder feels is not clearly shown or called for in the Contract Documents, or to address problems which have arisen under field conditions.

7.4.2 SCOPE

The RFI shall reference all portions of the applicable Contract Documents. The Design-Builder shall make suggestions and/or interpretations of the issue raised by the RFI. An RFI cannot modify the Contract Sum, Contract Time, or the Contract Documents.

7.4.3 RESPONSE TIME

Unless Owner expressly directs otherwise in writing, Design-Builder shall submit RFI’s directly to the Owner’s Representative, with copies forwarded to the Owner. Design-Builder shall submit a revised and updated priority schedule with each RFI. The Owner’s Representative shall endeavor to follow the Design-Builder’s requested order of priorities. The Owner and Design-Builder agree that an adequate time period for the Owner’s Representative (or other designated recipient of the RFI) to respond to an RFI is generally fourteen (14) calendar days after the Owner’s Representative’s receipt of an RFI, unless the Owner and Design-Builder agree otherwise in writing. However, in all cases, the Owner’s Representative shall take such time, whether more or less than 14 days, as is necessary in the Owner’s Representative’s professional judgment to permit adequate review and evaluation of the RFI. If Design-Builder informs the Owner’s Representative that it needs a response to an RFI expedited to avoid delay to the critical path, the Owner’s Representative shall provide a response as quickly as reasonably possible. The total time required for the Owner’s Representative to respond is subject to the complexity of the RFI, the number of RFI’s submitted concurrently and the reprioritization of pending RFI’s submitted by the Design-Builder, among other things. If Design-Builder believes that the Owner’s Representative’s response results in a change in the Work that warrants additional money or time, or that Owner’s Representative’s response was unreasonably delayed and caused delay to the Work’s critical path, Design-Builder shall follow the procedures for additional money or time under Section 4.5. No presumption shall arise as to the timeliness of the response if the response is more than fourteen (14) days after the Owner’s Representative’s receipt of the RFI. Design-Builder shall review the Contract Documents before submitting an RFI to ensure that the information is not already in the Contract Documents. To compensate the Owner for time and costs incurred for each time the information was already in the Contract Documents, Owner may withhold \$100 from progress payments or retention in addition to any other remedies which Owner may have the right to pursue.

7.4.4 COSTS INCURRED

The Design-Builder shall be invoiced by the Owner for any costs incurred for professional services, which shall be withheld from progress payments or retention, if an RFI requests an interpretation or decision of a matter where the information sought is equally available to the party making such request.

7.5 REQUEST FOR PROPOSAL(“RFP”)

7.5.1 DEFINITION

An RFP is Owner’s written request asking the Design-Builder to submit to the Owner an estimate of the effect, including credits, of a proposed change on the Contract Sum and the Contract Time.

7.5.2 SCOPE

An RFP shall contain adequate information, including any necessary drawings and specifications, to enable Design-Builder to provide the cost breakdowns required by section 7.7. The Design-Builder shall not be entitled to any additional money for preparing a response to an RFP, whether ultimately accepted or not.

7.6 CHANGE ORDER REQUEST(“COR”)

7.6.1 DEFINITION

A COR is a written request prepared by the Design-Builder asking the Owner for additional money or time. The COR shall include all information necessary to establish the Design-Builder’s entitlement to additional money or time.

7.6.2 CHANGES IN PRICE

A COR shall include breakdowns per section 7.7 to validate any proposed change in Contract Sum.

7.6.3 CHANGES IN TIME

Where a change in Contract Time is requested, a COR shall also include delay analysis to validate any proposed change to the Contract Time, and shall meet all requirements in these General Conditions, including but not limited to Section 8.4. Any additional time requested shall not be the number of days to make the proposed change, but must be based upon the impact to the Work schedule as defined in section 3.9 and Division 1 of the Specifications.

7.7 PRICE OF CHANGE ORDERS

7.7.1 SCOPE

Any COR shall provide in writing to the Owner, the Owner’s Representative and any construction manager, the effect of the proposed CO upon the Contract Sum and the actual cost of construction, which shall include a complete itemized cost breakdown of all labor and

material showing actual quantities, hours, unit prices, wage rates, required for the change, and the effect upon the Contract Time of such CO.

7.7.2 DETERMINATION OF COST

The amount of the increase or decrease in the Contract Sum resulting from a CO, if any, shall be determined in one or more of the following ways as applicable to a specific situation:

- A. Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- B. Unit prices stated in the Design-Builder's original bid, the Contract Documents, or subsequently agreed upon between the Owner and the Design-Builder;
- C. Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- D. By cost of material and labor and percentage of overhead and profit. If the value is determined by this method the following requirements shall apply:

1. Daily Reports by Design-Builder.

a) General: At the close of each working day, the Design-Builder shall submit a daily report to the Inspector of Record and any construction manager, on forms approved by the Owner, together with applicable delivery tickets, listing all labor, materials, and equipment involved for that day, the location of the work, and for other services and expenditures when authorized concerning extra work items. An attempt shall be made to reconcile the report daily, and it shall be signed by the Inspector of Record and the Design-Builder. In the event of disagreement, pertinent notes shall be entered by each party to explain points which cannot be resolved immediately. Each party shall retain a signed copy of the report. Reports by Subcontractors or others shall be submitted through the Design-Builder.

b) Labor: Show names of workers, classifications, and hours worked.

c) Materials: Describe and list quantities of materials used.

d) Equipment: Show type of equipment, size, identification number, and hours of operation, including, if applicable, loading and transportation.

e) Other Services and Expenditures: Describe in such detail as the Owner may require.

2. **Basis for Establishing Costs.**

a) Labor will be the actual cost for wages prevailing locally for each craft or type of workers at the time the extra work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from Federal, State, or local laws, as well as assessments or benefits required by lawful collective bargaining agreements. The use of a labor classification, which would increase the extra work cost, will not be permitted unless the Design-Builder establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.

b) Materials shall be at invoice or lowest current price at which such materials are locally available and delivered to the Site in the quantities involved, plus sales tax, freight, and delivery.

The Owner reserves the right to approve materials and sources of supply or to supply materials to the Design-Builder if necessary for the progress of the Work. No markup shall be applied to any material provided by the Owner.

c) Tool and Equipment Rental. No payment will be made for the use of tools which have a replacement value of \$100 or less.

Regardless of ownership, the rates to be used in determining equipment rental costs shall not exceed listed rates prevailing locally at equipment rental agencies or distributors at the time the work is performed.

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

Necessary loading and transportation costs for equipment used on the extra work shall be included. If equipment is used intermittently and, when not in use, could be returned to its rental source at less expense to the Owner than holding it at the work Site, it shall be returned unless the Design-Builder elects to keep it at the work Site at no expense to the Owner.

All equipment shall be acceptable to the Inspector of Record, in good working condition, and suitable for the purpose for which it is to be used. Manufacturer's ratings and modifications shall be used to classify equipment, and equipment shall be powered by a unit of at least the minimum rating recommended by the manufacturer.

d) Other Items. The Owner may authorize other items which may be

required on the extra work. Such items include labor, services, material, and equipment which are different in their nature from those required by the Work, and which are of a type not ordinarily available from the Design-Builder or any of the Subcontractors. Invoices covering all such items in detail shall be submitted with the Application for Payment.

e) Invoices. Vendors' invoices for material, equipment rental, and other expenditures shall be submitted with the COR. If the Application for Payment is not substantiated by invoices or other documentation, the Owner may establish the cost of the item involved at the lowest price which was current at the time of the Daily Report.

f) Overhead, premiums and profit. For overhead, including direct and indirect costs, submit with the COR and include: home office overhead, off-Site supervision, CO preparation/negotiation/research for Owner initiated changes, time delays, project interference and disruption, additional guaranty and warranty durations, on-Site supervision, additional temporary protection, additional temporary utilities, additional material handling costs, and additional safety equipment costs.

7.7.3 FORMAT FOR PROPOSED COST CHANGE

The following format shall be used as applicable by the Owner and the Design-Builder to communicate proposed additions and deductions to the Contract.

	<u>EXTRA</u>	<u>CREDIT</u>
A. Material (attach itemized quantity and unit cost plus sales tax, invoices, receipts, truck tags, etc., for force account work)	_____	_____
B. Labor (attach itemized hours and rates, daily logs, certified payroll, etc.)	_____	_____
C. Equipment (attach any invoices)	_____	_____
D. Subtotal	_____	_____
E. If Subcontractor performed Work, add Subcontractor's overhead and profit to portions performed by Subcontractor, not to exceed fifteen percent (15%) of item D.	_____	_____

F.	Liability and Property Damage Insurance, Worker's Compensation Insurance, Social Security, and Unemployment Taxes, not to exceed twenty-five percent (25%) of Item B.	_____	_____
G.	Subtotal	_____	_____
H.	General Design-Builder's Overhead and Profit, not to exceed fifteen percent (15%) of Item G; and for work performed by subcontractors, not to exceed five percent (5%).	_____	_____
I.	Subtotal	_____	_____
J.	Bond not to exceed one percent (1%) of Item I.	_____	_____
K.	TOTAL	_____	_____

It is expressly understood that the value of such extra work or changes, as determined by any of the aforementioned methods, expressly includes (1) any and all of the Design-Builder's costs and expenses, both direct and indirect, resulting from additional time required on the project or resulting from delay to the project, and (2) any costs of preparing a COR, including but not limited to delay analysis. Any costs or expenses not included are deemed waived.

7.7.4 DISCOUNTS, REBATES, AND REFUNDS

For purposes of determining the cost, if any, of any change, addition, or omission to the Work hereunder, all trade discounts, rebates, refunds, and all returns from the sale of surplus materials and equipment shall accrue and be credited to the Design-Builder, and the Design-Builder shall make provisions so that such discounts, rebates, refunds, and returns may be secured, and the amount thereof shall be allowed as a reduction of the Design-Builder's cost in determining the actual cost of construction for purposes of any change, addition, or omissions in the Work as provided herein.

7.7.5 ACCOUNTING RECORDS

With respect to portions of the Work performed by COs and CCDs on a time-and-materials, unit-cost, or similar basis, the Design-Builder shall keep and maintain cost-accounting records satisfactory to the Owner, which shall be available to the Owner on the same terms as any other books and records the Design-Builder is required to maintain under the Contract Documents.

7.7.6 NOTICE REQUIRED

Design-Builder shall submit a written Notice of Potential Change for additional money or time pursuant to section 4.5.1.

7.7.7 APPLICABILITY TO SUBCONTRACTORS

Any requirements under this Article 7 shall be equally applicable to COs or CCDs issued to Subcontractors by the Design-Builder to the same extent required of the Design-Builder.

7.8 WAIVER OF RIGHT TO CLAIM MONEY OR TIME

Failure to demand money based on costs, or time extensions, as part of a COR constitutes a complete waiver of Design-Builder's right to claim the omitted money or time. All money or time for an issue must be included in the COR at the time submitted.

ARTICLE 8

TIME

8.1 DEFINITIONS

8.1.1 CONTRACT TIME

Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Completion of the Work.

8.1.2 NOTICE TO PROCEED

Design-Builder shall not commence the Work until it receives a Notice to Proceed from Owner. The date of commencement of the Work is the date established in the Notice to Proceed. The date of commencement shall not be postponed by the failure to act of the Design-Builder or of persons or entities for whom the Design-Builder is responsible.

8.1.3 DAYS

The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

8.2 HOURS OF WORK

8.2.1 SUFFICIENT FORCES

Design-Builders and Subcontractors shall furnish sufficient forces to ensure the prosecution of the Work in accordance with the Construction Schedule.

8.2.2 PERFORMANCE DURING WORKING HOURS

Work shall be performed during regular working hours except that in the event of an emergency or when required to complete the Work in accordance with job progress, work may be performed outside of regular working hours with the advance written consent of the Owner.

8.2.3 LABOR CODE APPLICATION

As provided in Article 3 (commencing at § 1810), Chapter 1, Part 7, Division 2 of the Labor Code, eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Design-Builder or by any Subcontractor on any subcontract under this Contract, upon the work or upon any part of the work contemplated by this Contract, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as hereinafter provided. Notwithstanding the provision hereinabove set forth, work performed by employees of Design-Builders in excess of eight (8) hours per day and forty (40) hours during any one week shall be permitted upon this public work with compensation provided for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1-1/2) times the basic rate of pay.

Design-Builder or subcontractor shall pay to the Owner a penalty of Twenty-five Dollars (\$25.00) for each worker employed in the execution of this Contract by the Design-Builder, or by any Subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one (1) calendar week, in violation of the provisions of Article 3 (commencing at § 1810), Chapter 1, Part 7, Division 2 of the Labor Code, unless compensation for the workers so employed by Design-Builder is not less than one and one-half (1-1/2) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

8.2.4 COSTS FOR AFTER HOURS INSPECTIONS

If the work done after hours is required by the Contract Documents to be done outside the Design-Builder's or the Inspector of Record's regular working hours, the costs of any inspections, if required to be done outside normal working hours, shall be borne by the Owner.

If the Owner allows the Design-Builder to do work outside regular working hours for the Design-Builder's own convenience, the costs of any inspections required outside regular working hours, among other remedies, shall be invoiced to the Design-Builder by the Owner and withheld from progress payments and/or retention. Design-Builder shall give Owner at least 48 hours' notice prior to working outside regular working hours.

If the Design-Builder elects to perform work outside the Inspector of Record's regular working hours, costs of any inspections required outside regular working hours, among other remedies, may be invoiced to the Design-Builder by the Owner and withheld from progress payments and/or retention.

8.2.5 TIME FOR COMMENCEMENT BY SUBCONTRACTORS

Unless otherwise provided in the Contract Documents, all Subcontractors shall commence their Work within two (2) consecutive business days after notice to them by the Design-Builder and shall prosecute their Work in accordance with the progress of the Work.

8.3 PROGRESS AND COMPLETION

8.3.1 TIME OF THE ESSENCE

Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

8.3.2 NO COMMENCEMENT WITHOUT INSURANCE

The Design-Builder shall not knowingly, except by agreement or instruction of the Owner, in writing, commence operations on the Site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Design-Builder. The date of commencement of the Work shall not be changed by the effective date of such insurance.

8.3.3 EXPEDITIOUS COMPLETION

The Design-Builder shall proceed expeditiously to perform the Work, with adequate forces, labor, materials, equipment, services and management, and shall achieve Completion within the Contract Time.

8.4 EXTENSIONS OF TIME - LIQUIDATED DAMAGES

8.4.1 CONDITIONS ALLOWING FOR EXTENSIONS OF TIME TO COMPLETE THE WORK, ONLY (EXCUSABLE DELAY)

The Design-Builder shall be granted a reasonable time extension under the Contract Documents, including but not limited to Sections 3.18 and 4.5 and Article 7, for excusable delays, which are those delays that meet each and every of the following conditions:

- (a) The delay was beyond the control of Design-Builder and its subcontractors and material suppliers;
- (b) The delay was caused by events about which Design-Builder was not advised at or before the time of bidding;
- (c) All float in the schedule had been used, and the delay impacted and delayed (i) the controlling items of Work (i.e., the as-built critical path, as determined from the as-planned schedule and the actual progress of the Work), or (ii) the achievement of a Milestone Deadline, or the Completion of the whole Work within the Contract Time;
- (d) The delay was not caused by Design-Builder or its subcontractors or suppliers, including but not limited to their breaches of contract or the standard of care;

(e) The delay was not associated with loss of time resulting from the necessity of submittals to Owner for approval, or from necessary Owner surveys, measurements, inspections and testing;

(f) The delay was not caused by usual or common weather for the time of year, including usual or common severe weather; and

(g) The delay could not have been prevented by the exercise of care, prudence, foresight, and diligence by Design-Builder.

Excusable delays may include acts of God, acts of public enemy, acts of the Owner or anyone employed by it, acts of another contractor in performance of a contract (other than this Contract) with the Owner, fires, floods, epidemics, quarantine restrictions, labor disputes, unusually and uncommonly severe weather for the time of year, unforeseen site conditions, or delays of subcontractors due to such causes. Owner shall take into consideration other relevant factors such as concurrent delays. Design-Builder has the burden of proving that any delay was excusable.

8.4.2 COMPENSABLE DELAY (TIME AND MONEY)

Compensable delays are those excusable delays for which Design-Builder is also entitled to money. To be compensable, an excusable delay must be one for which the Owner is responsible, where the delay was unreasonable under the circumstances involved, and where the delay was not within the contemplation of the parties; *however*, Design-Builder shall not be entitled to monetary compensation when (a) Design-Builder could have reasonably anticipated the delay and avoided or minimized the cost impacts of it, (b) there was a concurrent delay which does not qualify for monetary compensation under this paragraph, (c) the cause of the delay was reasonably unforeseen by the Owner or the delay was caused by factors beyond the control of the Owner, including but not limited to a delay under Section 2.2.8 above or a delay caused by a utility company's failure to perform despite Owner's reasonable arrangements for such performance; or (d) any other defense available to Owner under law or equity applies. Design-Builder has the burden of proving that any delay was excusable and compensable, including an analysis that establishes non-concurrency.

8.4.3 NOTICE BY DESIGN-BUILDER REQUIRED; PROCEDURES FOR DEMANDING ADDITIONAL TIME OR MONEY

For notice and other required procedures related to requests by Design-Builder for additional time or money related to delay, Design-Builder shall comply with the Contract Documents, including but not limited to Sections 3.18 and 4.5, and Article 7, above.

8.4.4 EARLY COMPLETION

Regardless of the cause therefore, the Design-Builder may not maintain any Claim or cause of action against the Owner for damages incurred as a result of its failure or inability to Complete its Work on the Project in a shorter period than established in the Contract Documents, the parties stipulating that the period set forth in the Contract Documents is a reasonable time within

which to perform the Work on the Project.

8.4.5 LIQUIDATED DAMAGES

Failure to Complete the Work within the time and in the manner provided for by the Contract Documents, or delaying another contractor's work on the Project, shall subject the Design-Builder to liquidated damages as described in Article III of the Agreement. For purposes of liquidated damages, the concept of "substantial completion" shall not constitute Completion and is not part of the Contract. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if the Work were not Completed within the Contract Time, or if another contractor on the Project were to fail to timely Complete its work, are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of delay include, but are not limited to, loss of the use of the Work or other contractors' work on the Project, disruption of activities, costs of administration, supervision, the incalculable inconvenience and loss suffered by the public, and Owner's inability to recover its delay damages from other contractors whose work was delayed by Design-Builder.

Accordingly, the parties agree that the amount set forth in the Agreement shall be presumed to be the amount of damages which the Owner shall directly incur as a result of each calendar day by which Completion of the Work, or other contractors' work, is delayed beyond the Contract Time as adjusted by Change Orders.

If the Design-Builder fails to complete the Work within the Contract Time as adjusted by Change Orders, or another contractor cannot timely Complete its work due to Design-Builder, and liquidated damages therefore accrue, the Owner, in addition to all other remedies provided by law, shall have the right to assess liquidated damages at any time, and to withhold liquidated damages (and any interest thereon) at any time from any and all retention or progress payments, which would otherwise be or become due the Design-Builder. In addition, if it is reasonably apparent to the Owner before expiration of the Contract Time (as adjusted by Change Orders) that the Design-Builder cannot or will not complete the Work within the Contract Time, or that another contractor cannot timely Complete its work due to Design-Builder, Owner may assess and withhold, from retention or progress payments, the estimated amount of liquidated damages that will accrue in the future. If the retained percentage or withheld progress payments are not sufficient to discharge all liabilities of the Design-Builder incurred under this Article, the Design-Builder and its sureties shall continue to remain liable to the Owner until all such liabilities are satisfied in full.

If the Owner accepts any work or makes any payment under this Agreement after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any Agreement provisions regarding time of Completion and liquidated damages.

8.5 GOVERNMENT APPROVALS

Owner shall not be liable for any delays or damages related to the time required to obtain

government approvals.

ARTICLE 9

PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

The Contract Sum or GMP is stated in the Agreement, later adjusted by Change Orders and Construction Change Directives, and is the total amount payable by the Owner to the Design-Builder for performance of the Work under the Contract Documents. The Contract Sum shall be made up of two components: (i) the Design Fee; and (ii) the Construction Fee. These two components are separately stated in the Agreement.

9.2 COST BREAKDOWN

9.2.1 REQUIRED INFORMATION

On forms approved by the Owner, the Design-Builder shall furnish the following:

- A. Prior to approving the proposed Construction Fee, a detailed breakdown of the Contract Sum (Schedule of Values) for each Project or Site. Each item in the schedule of values shall include its proper share of the overhead and profit.
- B. Within ten (10) days of approving the Construction Fee, a schedule of estimated monthly payment requests (cash flow) due the Design-Builder showing the values and construction time of the various portions of the Work to be performed by it and by its Subcontractors or material and equipment suppliers containing such supporting evidence as to its correctness as the Owner may require;
- C. Five (5) days prior to the submission of a pay request, an itemized breakdown of work done for the purpose of requesting partial payments;
- D. Within ten (10) days of approving the Construction Fee, the name, address, telephone number, fax number, license number and classification, and public works contractor registration number of all of its Subcontractors and of all other parties furnishing labor, material, or equipment for its Contract, along with the amount of each such subcontract or the price of such labor, material, and equipment needed for its entire portion of the Work.

9.2.2 OWNER ACCEPTANCE REQUIRED

The Owner shall review all submissions received pursuant to paragraph 9.2.1 in a timely manner. All submissions must be accepted by the Owner before becoming the basis of any payment.

9.3 APPLICATIONS FOR PAYMENT

9.3.1 PROCEDURE

On or before the fifth (5th) day of each calendar month during the progress of the portion of the Work for which payment is being requested, the Design-Builder shall submit to the Owner's Representative, unless there is a construction manager for the Project or the Owner directs otherwise, an itemized Application for Payment for operations completed in accordance with the Schedule of Values through the end of the previous calendar month. Such application shall be notarized, if required, and supported by the following or such portion thereof as the applicable entity requires:

- A. The amount paid to the date of the Application to the Design-Builder, to all its Subcontractors, and all others furnishing labor, material, or equipment for its Contract;
- B. The amount being requested with the Application for Payment by the Design-Builder on its own behalf and separately stating the amount requested on behalf of each of the Subcontractors and all others furnishing labor, material, and equipment under the Contract;
- C. The balance that will be due to each of such entities after said payment is made;
- D. A certification that the Record Drawings and Annotated Specifications are current;
- E. The Owner approved additions to and subtractions from the Contract Sum and Time;
- F. A summary of the retentions (each Application related to the Construction Fee shall provide for retention, as set out in Article 9.6);
- G. Material invoices, evidence of equipment purchases, rentals, and other support and details of cost as the Owner may require from time to time;
- H. The percentage of Completion of the Design-Builder's Work by line item;
- I. A statement showing all payments made by the Design-Builder for labor and materials on account of the Work covered in the preceding Application for Payment. Such applications shall not include requests for payment of amounts the Design-Builder does not intend to pay to subcontractors or others because of a dispute or other reason; and
- J. Design-Builder's monthly reports, daily reports, and monthly schedule updates for all months of Work prior to the Application for Payment that Design-Builder has not previously submitted.

9.3.2 PURCHASE OF MATERIALS AND EQUIPMENT

As the Design-Builder is required to order, obtain, and store materials and equipment sufficiently in advance of its Work at no additional cost or advance payment from Owner, to assure that there will be no delays, payment by the Owner for stored material shall be made only in unusual circumstances where the Owner's Representative specifically recommends, and Owner specifically approves the payment in writing. If payments are to be made on account of materials and equipment not incorporated in the Work, but delivered and suitably stored at the Site or at some other location agreed upon in writing by the Owner, the payments shall be conditioned upon submission by the Design-Builder, Subcontractor, or vendor of bills of sale and such other documents satisfactory to the Owner to establish the Owner's title to such materials or equipment free of all liens and encumbrances, and otherwise protect the Owner's interest, including, without limitation, provision of applicable insurance and transportation to the Site. All stored items shall be inventoried, specified by identification numbers (if applicable), released to the Owner by sureties of the Design-Builder and the Subcontractor and, if stored off-Site, stored only in a bonded warehouse.

9.3.3 WARRANTY OF TITLE

The Design-Builder warrants that title to all work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that upon submittal of an Application for Payment all work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances in favor of the Design-Builder, Subcontractors, material and equipment suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work. Transfer of title to Work does not constitute a waiver by Owner of any defects in the Work.

9.4 REVIEW OF PROGRESS PAYMENT

9.4.1 OWNER ACCEPTANCE

The Owner will, within seven (7) days after receipt of the Design-Builder's Application for Payment, either accept such payment or notify the Design-Builder in writing of the Owner's reasons for withholding acceptance in whole or in part as provided in paragraph 9.5.1.

9.4.2 OWNER'S REVIEW

The review of the Design-Builder's Application for Payment by the Owner will be based, at least in part, on the Owner's observations at the Site and the data comprising the Application for Payment that the Work has progressed to the point indicated. The review is also subject to an evaluation of the Work for conformance with the Contract Documents, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to Completion, and to specific qualifications expressed by the Owner. The Owner may reject the Application for Payment if it is not complete under section 9.3. The issuance of a Certificate for

Payment will constitute a representation that the Design-Builder is entitled to payment in the amount certified, subject to any specific qualifications Owner expresses in the Certificate for Payment. However, Design-Builder's entitlement to payment may be affected by subsequent evaluations of the Work for conformance with the Contract Documents, test and inspections and discovery of minor deviations from the Contract Documents correctable prior to Completion. The issuance of a Certificate for Payment will not be a waiver by the Owner of any defects in the Work covered by the Application for Payment, nor will it be a representation that the Owner has:

- A. Made exhaustive or continuous on-Site inspections to check the quality or quantity of the Work;
- B. Reviewed construction means, methods, techniques, sequences, or procedures;
- C. Reviewed copies of requisitions received from Subcontractors, material and equipment suppliers, and other data requested by the Owner to substantiate the Design-Builder's right to payment; or
- D. Made an examination to ascertain how or for what purpose the Design-Builder has used money previously paid on account of the Contract Sum.

9.5 DECISIONS TO WITHHOLD PAYMENT

9.5.1 REASONS TO WITHHOLD PAYMENT

The Owner may withhold from a progress payment, in whole or in part, to such extent as may be necessary to protect the Owner due to any of the following:

- A. Defective or incomplete Work not remedied;
- B. Stop Payment Notices. For any stop payment notice, the Owner shall withhold the amount stated in the stop payment notice, the stop notice claimant's anticipated interest and court costs and an amount to provide for the public entity's reasonable cost of any litigation pursuant to the stop payment notice. For any stop payment notice action the parties resolve before judgment is entered, Owner has the right to permanently withhold for any reasonable cost of litigation for that stop payment notice, even if it exceeds the amount originally withheld by Owner for the estimated reasonable cost of litigation. However, if (1) the Design-Builder at its sole expense provides a bond or other security satisfactory to the Owner in the amount of at least one hundred twenty-five percent (125%) of the claim, in a form satisfactory to the Owner, which protects the Owner against such claim, and (2) the Owner chooses to accept the bond, then Owner would release the withheld stop payment notice funds to the Design-Builder, except that Owner may permanently withhold for any reasonable cost of litigation. Any stop payment notice release bond shall be executed by a California admitted, fiscally solvent surety, completely unaffiliated with and separate from the surety on the payment and performance bonds, that does not have any assets pooled with the payment

and performance bond sureties.

- C. Liquidated damages against the Design-Builder, whether already accrued or estimated to accrue in the future;
- D. Reasonable doubt that the Work can be Completed for the unpaid balance of any Contract Sum or by the Completion deadline;
- E. Damage to the property or work of the Owner, another contractor, or subcontractor;
- F. Unsatisfactory prosecution of the Work by the Design-Builder;
- G. Failure to store and properly secure materials;
- H. Failure of the Design-Builder to submit on a timely basis, proper and sufficient documentation required by the Contract Documents, including, without limitation, monthly progress schedules, shop drawings, submittal schedules, schedule of values, product data and samples, proposed product lists, executed change orders, and verified reports;
- I. Failure of the Design-Builder to maintain record drawings;
- J. Erroneous estimates by the Design-Builder of the value of the Work performed, or other false statements in an Application for Payment;
- K. Unauthorized deviations from the Contract Documents;
- L. Failure of the Design-Builder to prosecute the Work in a timely manner in compliance with established progress schedules and Completion deadlines;
- M. Subsequently discovered evidence or observations nullifying the whole or part of a previously issued Certificate for Payment;
- N. Failure by Design-Builder to pay Subcontractors or material suppliers as required by Contract or law, which includes but is not limited to Design-Builder's failure to pay prevailing wage and any assessment of statutory penalties;
- O. Overpayment to Design-Builder on a previous payment;
- P. Credits owed to Owner for reduced scope of work or work that Design-Builder will not perform;
- Q. The estimated cost of performing work pursuant to Section 2.4;
- R. Actual damages related to false claims by Design-Builder;

- S. Breach of any provision of the Contract Documents;
- T. Owner's potential or actual loss, liability or damages caused by the Design-Builder; and
- U. As permitted by other provisions in the Contract or as otherwise allowed by law, including statutory penalties Owner or other entities assessed against Design-Builder. (See e.g., Labor Code section 1813 (working hours) or Public Contract Code section 4110 (subcontractor listings and substitutions))

Owner may, but is not required to, provide to Design-Builder with the progress payment written notice of the items for which Owner is withholding amounts from the payment. To claim wrongful withholding by the Owner, or if Design-Builder otherwise disputes any amount being withheld, Design-Builder must submit an inquiry in writing to Owner within thirty (30) days of receipt of the notice, and Owner shall respond within fifteen (15) days of receipt of the inquiry. If any disputed issues remain unresolved after Owner's response, Design-Builder shall timely submit a Claim pursuant to Section 4.5.

For any withhold amount based on an estimate where the actual amount later becomes known and certain, no later than the final accounting for the Contract the Owner will release any amount withheld over that certain and known amount. If the certain and known amount exceeds the amount previously withheld, Owner may withhold additional amounts from Design-Builder to cover the excess amount. If available funds are not sufficient, Design-Builder shall pay Owner the difference.

9.5.2 PAYMENT AFTER CURE

When Design-Builder removes or cures the grounds for withholding amounts, payment shall be made for amounts withheld because of them. No interest shall be paid on any retainage or amounts withheld due to the failure of the Design-Builder to perform in accordance with the terms and conditions of the Contract Documents.

9.5.3 OVERPAYMENT AND/OR FAILURE TO WITHHOLD

Neither Owner's overpayment to Design-Builder, nor Owner's failure to withhold an amount from payment that Owner had the right to withhold, shall constitute a waiver by Owner of its rights to withhold those amounts from future payments to Design-Builder or to otherwise pursue recovery of those amounts from Design-Builder.

9.6 PROGRESS PAYMENTS

9.6.1 PAYMENTS TO DESIGN-BUILDER

Unless otherwise stated in the Contract Documents, within thirty (30) days after receipt of an undisputed and properly submitted Application for Payment for the Construction Fee, Design-

Builder shall be paid a sum equal to ninety-five percent (95%) of the undisputed value of the Work performed up to the last day of the previous month, less the aggregate of previous payments; and Owner shall retain the other five percent (5%) of the undisputed value of the Work. The value of the Work completed shall be an estimate only, no inaccuracy or error in said estimate shall operate to release the Design-Builder, or any bondsman, from damages arising from such Work or from enforcing each and every provision of this Contract, and the Owner shall have the right subsequently to correct any error made in any estimate for payment. Design-Builder shall base an Application for Payment only on the original Contract Sum plus any fully executed and Council-approved Change Orders. Design-Builder shall not include Notices of Potential Claims, CORs, Claims or disputed amounts.

The Design-Builder shall not be entitled to have any payment requests processed, or be entitled to have any payment made for work performed, so long as any lawful or proper direction given by the Owner concerning the Work, or any portion thereof, remains uncomplied with. Payment shall not be a waiver of any such direction.

9.6.2 PAYMENTS TO SUBCONTRACTORS

No later than ten (10) days after receipt of payment from Owner, pursuant to Business and Professions Code section 7108.5, the Design-Builder shall pay to each Subcontractor, out of the amount paid to the Design-Builder on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of such Subcontractor's portion of the Work. The Design-Builder shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

9.6.3 PERCENTAGE OF COMPLETION OR PAYMENT INFORMATION

The Owner will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of Completion or amounts applied for by the Design-Builder, and action taken thereon by the Owner, on account of portions of the Work done by such Subcontractor.

9.6.4 NO OBLIGATION OF OWNER FOR SUBCONTRACTOR PAYMENT

The Owner shall have no obligation to pay, or to see to the payment of, money to a Subcontractor except as may otherwise be required by law.

9.6.5 PAYMENT TO SUPPLIERS

Payment to material or equipment suppliers shall be treated in a manner similar to that provided in paragraphs 9.6.2, 9.6.3 and 9.6.4.

9.6.6 PAYMENT NOT CONSTITUTING APPROVAL OR ACCEPTANCE

An accepted Application for Payment, issuance of a Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance

or approval of any portion of the Work, especially any Work not in accordance with the Contract Documents.

9.6.7 JOINT CHECKS

Owner shall have the right, if necessary for the protection of the Owner, to issue joint checks made payable to the Design-Builder and Subcontractors and/or material or equipment suppliers. The joint check payees shall be responsible for the allocation and disbursement of funds included as part of any such joint payment. However, Owner has no duty to issue joint checks. In no event shall any joint check payment be construed to create any contract between the Owner and a Subcontractor of any tier, any obligation from the Owner to such Subcontractor, or rights in such Subcontractor against the Owner.

9.7 COMPLETION OF THE WORK

9.7.1 CLOSE-OUT PROCEDURES

When the Design-Builder considers that the Work is Complete and submits a written notice to Owner requesting an inspection of the Work, the Owner shall review the Work and prepare and submit to the Design-Builder a comprehensive list of items to be Completed or corrected (the “Punch List”). The Punch List shall include all outstanding obligations of Design-Builder, including training, start-up, testing, and submission to Owner of all required documentation (e.g., written guarantees, warranties, invoices, as-built drawings, manuals, bonds, and the documents described in Section 9.3 and 9.9). The Design-Builder and/or its Subcontractors shall proceed promptly to Complete and correct items on the Punch List. Failure to include an item on the Punch List does not alter the responsibility of the Design-Builder to Complete all Work (including the omitted item) in accordance with the Contract Documents, and to Complete or correct the Work so long as the statute of limitations (or repose) has not run.

When the Design-Builder believes the Punch List Work is Complete and in accordance with the Contract Documents, it shall then submit a request for an additional inspection by the Owner to determine Completion. Owner shall again inspect the Work and inform the Design-Builder of any items that are not Complete or correct. Design-Builder shall promptly Complete or correct items until no items remain.

After the Work, including all Punch List Work, is inspected and informally deemed by the Owner to be Complete, the Owner’s governing body may formally accept the Work as Complete at a meeting of the governing body. Warranties required by the Contract Documents shall commence on the date of Design-Builder’s Completion of the Work (see Sections 3.5, 12.2.5, and 12.2.6).

9.7.2 COSTS OF MULTIPLE INSPECTIONS

More than two (2) requests by Design-Builder to make inspections to confirm Completion as required under paragraph 9.7.1 shall be considered an additional service of Owner, and all

subsequent costs will be invoiced to Design-Builder and withheld from remaining payments.

9.8 PARTIAL OCCUPANCY OR USE

The Owner may occupy or use any Completed, or partially Completed, portion of the Work at any stage prior to acceptance, or prior to Completion if there is no formal acceptance. Occupancy or use of any portion of the Work, or the whole Work, shall not constitute approval or acceptance of it, nor shall such occupancy or use relieve Design-Builder of any of its obligations under the Contract Documents regarding that portion of, or the whole, Work.

The Owner and the Design-Builder shall agree in writing to the responsibilities assigned to each of them for payments, security, maintenance, heat, utilities, damage to the Work, insurance, the period for correction of the Work, and the commencement of warranties required by the Contract Documents. When the Design-Builder considers a portion complete, the Design-Builder may request an inspection of that portion and preparation of a Punch List by the Owner for that portion, as set forth for the entire Work under paragraph 9.7.1; however, such inspection and Punch List shall not act as any form of approval or acceptance of that portion of the Work, or of any Work not complying with the requirements of the Contract, and that portion shall be subject to subsequent inspections and Punch Lists.

Immediately prior to such partial occupancy or use, the Owner, the Owner's Representative and the Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

9.9 FINAL PROGRESS PAYMENT AND RELEASE OF RETENTION

9.9.1 FINAL APPLICATION FOR PROGRESS PAYMENT

When, pursuant to Section 9.7.1, the Owner finds all of the Work is Completed in accordance with the Contract Documents, it shall so notify Design-Builder, who shall then submit to the Owner its final Application for Payment.

Upon receipt and approval of such final Application for Payment, the Owner shall issue a final Certificate of Payment, based on its knowledge, information, and belief, and on the basis of its observations, inspections, and all other data accumulated or received by the Owner in connection with the Work, that such Work has been Completed in accordance with the Contract Documents. If required to do so under Labor Code section 1773.3(d), Owner shall withhold final payment.

9.9.2 PROCEDURES FOR APPLICATION FOR FINAL PROGRESS PAYMENT

The Application for Final Progress Payment pursuant to Section 9.9.1 shall be accompanied by the same details as set forth in paragraph 9.3, and in addition, the following conditions must be fulfilled:

- A. The Work shall be Complete, and the Design-Builder shall have made, or caused to have been made, all corrections to the Work which are required to remedy any

defects therein, to obtain compliance with the Contract Documents or any requirements of applicable codes and ordinances, or to fulfill any of the orders or directions of Owner required under the Contract.

- B. Each Subcontractor shall have delivered to the Design-Builder all written guarantees, warranties, applications, and bonds required by the Contract Documents for its portion of the Work, and Design-Builder delivered them to the Owner.
- C. The Design-Builder shall deliver to the Owner (i) reproducible final Record Drawings and Annotated Specifications showing the Design-Builder's Work "as built," with the Design-Builder's certification of the accuracy of the Record Drawings and Annotated Specifications, (ii) all warranties and guarantees, (iii) operation and maintenance instructions, manuals and materials for equipment and apparatus, and (iv) all other documents required by the Contract Documents.
- D. Design-Builder shall provide extensive assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals and training personnel for operation and maintenance.

Acceptance of Final Progress Payment shall constitute a complete waiver of Claims except for those previously identified in writing and identified by that payee as unsettled at the time of Final Progress Payment.

9.9.3 RELEASE OF RETAINAGE

Owner may withhold from release or payment of retainage (or "retention") up to 150% of disputed amounts listed in Section 9.5. If retainage is held in an escrow account pursuant to an escrow agreement under Public Contract Code section 22300 (see Section 9.10) and Owner withholds from release of retainage based on a breach of the Contract, or other default, by Design-Builder, Owner may withdraw the withheld retainage from the escrow account. Owner shall release the undisputed retainage within sixty (60) days after Completion of the Work. For this purpose, "Completion" is defined in Public Contract Code section 7107(c). No interest shall be paid on any retainage, or on any amounts withheld, except as provided to the contrary in any Escrow Agreement and General Conditions between the Owner and the Design-Builder under Public Contract Code section 22300.

9.10 SUBSTITUTION OF SECURITIES

In accordance with section 22300 of the Public Contract Code, the Owner will permit the substitution of securities for any retention monies withheld by the Owner to ensure performance under the Contract. At the request and expense of the Design-Builder, securities equivalent to the amount withheld shall be deposited with the Owner, or with a state or federally chartered bank as the escrow agent, who shall then pay such retention monies to the Design-Builder. Upon completion of the Contract, the securities shall be returned to the Design-Builder if Owner has no

basis to withhold under the Contract Documents.

Securities eligible for investment under this section shall include those listed in Government Code section 16430, bank or savings and loan certificates of deposit, interest-bearing, demand-deposit accounts, standby letters of credit, or any other security mutually agreed to by the Design-Builder and the Owner.

The Design-Builder shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

Any escrow agreement entered by Owner and Design-Builder pursuant to Public Contract Code section 22300, shall be substantially similar to the form set forth in Public Contract Code section 22300.

ARTICLE 10

PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 DESIGN-BUILDER RESPONSIBILITY

The Design-Builder shall have responsibility for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. Each Design-Builder shall designate a responsible member of its organization whose duties shall include loss and accident prevention, and who shall have the responsibility and full authority to enforce the program. This person shall attend meetings with the representatives of the various Subcontractors employed to ensure that all employees understand and comply with the programs. Design-Builder will ensure that his employees and Subcontractors cooperate and coordinate safety matters with any other contractors on the Project to form a joint safety effort.

10.1.2 SUBCONTRACTOR RESPONSIBILITY

Subcontractors have the responsibility for participating in, and enforcing, the safety and loss prevention programs established by the Design-Builder for the Project, which will cover all Work performed by the Design-Builder and its Subcontractors. Each Subcontractor shall designate a responsible member of its organization whose duties shall include loss and accident prevention, and who shall have the responsibility and full authority to enforce the program. This person shall attend meetings with the representatives of the various Subcontractors employed to ensure that all employees understand and comply with the programs.

10.1.3 COOPERATION

All Subcontractors and material or equipment suppliers, shall cooperate fully with Design-Builder, the Owner, and all insurance carriers and loss prevention engineers.

10.1.4 ACCIDENT REPORTS

Subcontractors shall promptly report in writing to the Design-Builder all accidents whatsoever arising out of, or in connection with, the performance of the Work, whether on or off the Site, which caused death, personal injury, or property damage, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger. Design-Builder shall thereafter promptly report the facts in writing to the Owner giving full details of the accident.

10.1.5 FIRST-AID SUPPLIES AT SITE

The Design-Builder will provide and maintain at the Site first-aid supplies for minor injuries.

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.1 THE DESIGN-BUILDER

The Design-Builder shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:

- A. Employees on the Work and other persons who may be affected thereby;
- B. The Work, material, and equipment to be incorporated therein, whether in storage on or off the Site, under the care, custody, or control of the Design-Builder or the Design-Builder's Subcontractors or Sub-subcontractors; and
- C. Other property at the Site or adjacent thereto such as trees, shrubs, lawns, walks, pavement, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

10.2.2 DESIGN-BUILDER NOTICES

The Design-Builder shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on the safety of persons or property or their protection from damage, injury, or loss.

10.2.3 SAFETY BARRIERS AND SAFEGUARDS

The Design-Builder shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities.

10.2.4 USE OR STORAGE OF HAZARDOUS MATERIAL

When use or storage of explosives, other hazardous materials or equipment, or unusual methods

are necessary for execution of the Work, the Design-Builder shall exercise utmost care and carry on such activities under supervision of properly qualified personnel. The Design-Builder shall notify the Owner any time that explosives or hazardous materials are expected to be stored on Site. Location of storage shall be coordinated with the Owner and local fire authorities.

10.3 PROTECTION OF WORK AND PROPERTY

10.3.1 PROTECTION OF WORK

The Design-Builder and Subcontractors shall continuously protect the Work, the Owner's property, and the property of others, from damage, injury, or loss until the earlier of formal acceptance of the Work, or 30 days after Completion of the Work. The Design-Builder and Subcontractors shall make good any such damage, injury, or loss, except such as may be solely due to, or caused by, agents or employees of the Owner.

10.3.2 PROTECTION FOR ELEMENTS

The Design-Builder will remove all mud, water, or other elements as may be required for the proper protection and prosecution of its Work. The Design-Builder shall at all times provide heat, coverings, and enclosures necessary to maintain adequate protection against weather so as to preserve the Work, materials, equipment, apparatus, and fixtures free from injury or damage.

10.3.3 SHORING AND STRUCTURAL LOADING

The Design-Builder shall not impose structural loading upon any part of the Work under construction or upon existing construction on or adjacent to the Site in excess of safe limits, or loading such as to result in damage to the structural, architectural, mechanical, electrical, or other components of the Work. The design of all temporary construction equipment and appliances used in construction of the Work and not a permanent part thereof, including, without limitation, hoisting equipment, cribbing, shoring, and temporary bracing of structural steel, is the sole responsibility of the Design-Builder. All such items shall conform to the requirements of governing codes and all laws, ordinances, rules, regulations, and orders of all authorities having jurisdiction. The Design-Builder shall take special precautions, such as shoring of masonry walls and temporary tie bracing of structural steel work, to prevent possible wind damage during construction of the Work. The installation of such bracing or shoring shall not damage or cause damage to the Work in place or the Work installed by others. Any damage which does occur shall be promptly repaired by the Design-Builder at no cost to the Owner.

10.3.4 CONFORMANCE WITHIN ESTABLISHED LIMITS

The Design-Builder and Subcontractors shall confine their construction equipment, the storage of materials, and the operations of workers to the limits indicated by laws, ordinances, permits, and the limits established by the Owner, and shall not unreasonably encumber the premises with construction equipment or materials.

10.3.5 SUBCONTRACTOR ENFORCEMENT OF RULES

Subcontractors shall enforce the Owner's and the Design-Builder's instructions, laws, and regulations regarding signs, advertisements, fires, smoking, the presence of liquor, and the presence of firearms by any person at the Site.

10.3.6 SITE ACCESS

The Design-Builder and the Subcontractors shall use only those ingress and egress routes designated by the Owner, observe the boundaries of the Site designated by the Owner, park only in those areas designated by the Owner, which areas may be on or off the Site, and comply with any parking control program established by the Owner such as furnishing license plate information and placing identifying stickers on vehicles.

10.3.7 PROTECTION OF MATERIALS

The Design-Builder and the Subcontractors shall receive, count, inspect for damage, record, store, and protect construction materials for the Work and Subcontractors shall promptly send to the Design-Builder evidence of receipt of such materials, indicating thereon any shortage, change, or damage (failure to so note shall constitute acceptance by the Subcontractor of financial responsibility for any shortage).

10.4 EMERGENCIES

10.4.1 EMERGENCY ACTION

In an emergency affecting the safety of persons or property, the Design-Builder shall take any action necessary, at the Design-Builder's discretion, to prevent threatened damage, injury, or loss. Additional money or extension of time claimed by the Design-Builder on account of an emergency shall be determined as provided in Section 4.5 and Article 7.

10.4.2 ACCIDENT REPORTS

The Design-Builder shall promptly report in writing to the Owner all accidents arising out of or in connection with the Work, which caused death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious personal injuries, or serious property damages are caused, the accident shall be reported immediately by telephone or messenger to the Owner.

10.5 HAZARDOUS MATERIALS

10.5.1 DISCOVERY OF HAZARDOUS MATERIALS

In the event the Design-Builder encounters or suspects the presence on the Site material reasonably believed to be asbestos, polychlorinated biphenyl (PCB), or any other material

defined as being hazardous by section 25249.5 of the California Health and Safety Code, which (a) has not been rendered harmless, and (b) the handling or removal of which is not within the scope of the Work, the Design-Builder shall immediately stop Work in the area affected and report the condition to the Owner and the Owner's Representative in writing, whether such material was generated by the Design-Builder, another contractor, or the Owner. The Work in the affected area shall not thereafter be resumed, except by written agreement of the Owner and the Design-Builder, if in fact the material is asbestos, polychlorinated biphenyl (PCB), or other hazardous material, and has not been rendered harmless. The Work in the affected area shall be resumed only in the absence of asbestos, polychlorinated biphenyl (PCB), or other hazardous material, or when it has been rendered harmless by written agreement of the Owner and the Design-Builder.

10.5.2 HAZARDOUS MATERIAL WORK LIMITATIONS

In the event that the presence of hazardous materials is suspected or discovered on the Site, the Owner shall retain an independent testing laboratory to determine the nature of the material encountered and whether corrective measures or remedial action is required. The Design-Builder shall not be required pursuant to Article 7 to perform without consent any Work in the affected area of the Site relating to asbestos, polychlorinated biphenyl (PCB), or other hazardous material, until any known or suspected hazardous material has been removed, or rendered harmless, or determined to be harmless by Owner, as certified by an independent testing laboratory and/or approved by the appropriate government agency.

10.5.3 INDEMNIFICATION BY OWNER FOR HAZARDOUS MATERIAL NOT CAUSED BY DESIGN-BUILDER

In the event the presence of hazardous materials on the Site is not caused by the Design-Builder, Owner shall pay for all costs of testing and remediation, if any, and shall compensate Design-Builder for any delay or additional costs incurred in accordance with the applicable provisions of Articles 7 and 8 herein. Owner shall defend, indemnify and hold harmless the Design-Builder and its agents, officers, directors and employees from and against any and all claims, damages, losses, costs and expenses incurred in connection with or arising out of, or relating to, the performance of the Work in the area affected by the hazardous material, except to the extent the claims, damages, losses, costs, or expenses were caused by Design-Builder's active negligence, sole negligence or willful misconduct. By providing this indemnification, District does not waive any immunities.

10.5.4 NATURALLY OCCURRING ASBESTOS

If the Site is found to contain naturally occurring asbestos (asbestos naturally contained in rocks which can become airborne when released "NOA"), in addition to complying with applicable provisions in sections 10.5.1-10.5.3 above, Contractor shall comply with, and be solely responsible for, all applicable NOA requirements of the California Air Resources Board (CARB), California Department of Industrial Relations, California Division of Occupational Safety and Health (Cal/OSHA), any local air quality management district with jurisdiction over the Site, the County, and all other applicable federal, State and local governmental entities. This compliance and responsibility includes, but is not limited to, dust control mitigation measures

and a monitoring plan.

10.5.5 INDEMNIFICATION BY DESIGN-BUILDER FOR HAZARDOUS MATERIAL CAUSED BY DESIGN-BUILDER

In the event the presence of hazardous materials on the Site is caused by Design-Builder, Subcontractors, materialmen or suppliers, the Design-Builder shall pay for all costs of testing and remediation, if any, and shall compensate the Owner for any additional costs incurred as a result of the generation of hazardous material on the Project Site. In addition, the Design-Builder shall defend, indemnify and hold harmless Owner and its agents, officers, and employees from and against any and all claims, damages, losses, costs and expenses incurred in connection with, arising out of, or relating to, the presence of hazardous material on the Site, except to the extent the claims, damages, losses, costs, or expenses were caused by Owner's active negligence, sole negligence or willful misconduct.

10.5.6 TERMS OF HAZARDOUS MATERIAL PROVISION

The terms of this Hazardous Material provision shall survive the Completion of the Work and/or any termination of this Contract.

10.5.7 ARCHEOLOGICAL MATERIALS

In the event the Design-Builder encounters or reasonably suspects the presence on the Site of archeological materials, the Design-Builder shall immediately stop Work in the area affected and report the condition to the Owner and the Owner's Representative in writing. The Work in the affected area shall not thereafter be resumed, except after Design-Builder's receipt of written notice from the Owner.

ARTICLE 11

INSURANCE AND BONDS

11.1. DESIGN-BUILDER'S LIABILITY INSURANCE

11.1.1 LIABILITY INSURANCE REQUIREMENTS

11.1.1 By the earlier of the deadline set forth in the Instructions to Bidders or the commencement of the Work and within limits acceptable to the Owner, the Design-Builder shall purchase from and maintain in a company or companies lawfully authorized to do business in California as admitted carriers with a financial rating of at least A+, Class XII status as rated in the most recent edition of Best's Insurance Reports such commercial general liability insurance per occurrence for bodily injury, personal injury and property damage as set forth in the Agreement and automobile liability insurance per accident for bodily injury and property damage combined single limit as set forth in the Agreement as will protect the Design-Builder from claims set forth below, which may arise out of or result from the Design-Builder's operations under the Contract and for which the Design-Builder may be legally liable, whether such

operations are by the Design-Builder, by a Subcontractor, by Sub-subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- 11.1.1.1** claims for damages because of bodily injury (including emotional distress), sickness, disease, or death of any person other than the Design-Builder's employees. This coverage shall be provided in a form at least as broad as Insurance Services Office (ISO) Form CG 0001 11188;
- 11.1.1.2** claims for damages arising from personal or advertising injury in a form at least as broad as ISO Form CG 0001 11188;
- 11.1.1.3** claims for damages because of injury or destruction of tangible property, including loss of use resulting therefrom, arising from operations under the Contract Documents; and
- 11.1.1.4** claims for damages because of bodily injury, death of a person, or property damage arising out of the ownership, maintenance, or use of a motor vehicle, all mobile equipment, and vehicles moving under their own power and engaged in the Work; and
- 11.1.1.5** claims involving blanket contractual liability applicable to the Design-Builder's obligations under the Contract Documents, including liability assumed by and the indemnity and defense obligations of the Design-Builder and the Subcontractors; and
- 11.1.1.6** claims involving Completed Operations, Independent Design-Builders' coverage, and Broad Form property damage, without any exclusions for collapse, explosion, demolition, underground coverage, and excavating. (XCU)

If commercial general liability insurance or another insurance form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project location (with the ISO CG 2501 or insurer's equivalent endorsement provided to the Owner) or the general aggregate limit shall be twice the required occurrence limit.

Any deductible or self-insured retention must be declared to and approved by the Owner. At the option of the Owner, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Owner, its City Council, members of its Council, officers, employees, agents and volunteers; or the Design-Builder shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

11.1.2 SUBCONTRACTOR INSURANCE REQUIREMENTS

The Design-Builder shall require its Subcontractors and any Sub-subcontractors to take out and maintain similar public liability insurance and property damage insurance, in a company or companies lawfully authorized to do business in California as admitted carriers with a financial rating of at least A+, Class XII status as rated in the most recent edition of Best's Insurance Reports, in like amounts and scope of coverage.

11.1.3 OWNER'S INSURANCE

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self protection against claims which may arise from operations under the Contract. The Design-Builder shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

11.1.4 ADDITIONAL INSURED ENDORSEMENT REQUIREMENTS

The Design-Builder shall name, on any policy of insurance, the Owner and the Owner's Representative as additional insureds. Subcontractors shall name the Design-Builder, the Owner and the Owner's Representative as additional insureds. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

11.1.5 WORKERS' COMPENSATION INSURANCE

During the term of this Contract, the Design-Builder shall provide workers' compensation insurance for all of the Design-Builder's employees engaged in Work under this Contract on or at the Site of the Project and, in case any of the Design-Builder's work is sublet, the Design-Builder shall require the Subcontractor to provide workers' compensation insurance for all the Subcontractor's employees engaged in Work under the subcontract. Any class of employee or employees not covered by a Subcontractor's insurance shall be covered by the Design-Builder's insurance. In case any class of employees engaged in Work under this Contract on or at the Site of the Project is not protected under the Workers' Compensation laws, the Design-Builder shall provide or cause a Subcontractor to provide adequate insurance coverage for the protection of those employees not otherwise protected. The Design-Builder shall file with the Owner certificates of insurance as required under this Article and in compliance with Labor Code section 3700.

If the Design-Builder fails to maintain such insurance, the Owner may take out compensation insurance which the Owner might be liable to pay under the provisions of the Act by reason of an employee of the Design-Builder being injured or killed, and withhold from progress payments and/or retention the amount of the premium for such insurance.

11.1.6 BUILDER'S RISK/"ALL RISK" INSURANCE

11.1.6.1 COURSE-OF-CONSTRUCTION INSURANCE REQUIREMENTS

Unless provided by Owner at Owner's sole discretion, Design-Builder, during the progress of the Work and until final acceptance of the Work by Owner upon Completion of the entire Contract, shall maintain Builder's Risk/Course-of-Construction insurance satisfactory to the Owner, issued on a completed value basis on all insurable Work included under the Contract Documents. This insurance shall insure against all risks, including but not limited to the following perils: vandalism, theft, malicious mischief, fire, sprinkler leakage, civil authority, sonic boom, explosion, collapse, flood, earthquake (for projects not solely funded through revenue bonds, limited to earthquakes equivalent to or under 3.5 on the Richter Scale in magnitude), wind, hail, lightning, smoke, riot or civil commotion, debris removal (including demolition) and reasonable compensation for the Owner's Representative's services and expenses required as a result of such insured loss. This insurance shall provide coverage in an amount not less than the full cost to repair, replace or reconstruct the Work. Such insurance shall include the Owner, the Owner's Representative, and any other person or entity with an insurable interest in the Work as an additional named insured.

The Design-Builder shall submit to the Owner for its approval all items deemed to be uninsurable under the Builder's Risk/Course-of Construction insurance. The risk of the damage to the Work due to the perils covered by the Builder's Risk/Course-of-Construction insurance, as well as any other hazard which might result in damage to the Work, is that of the Design-Builder and the surety, and no claims for such loss or damage shall be recognized by the Owner, nor will such loss or damage excuse the Complete and satisfactory performance of the Contract by the Design-Builder.

11.1.7 CONSENT OF INSURER FOR PARTIAL OCCUPANCY OR USE

Partial occupancy or use in accordance with the Contract Documents shall not commence until the insurance company providing property insurance has consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Design-Builder shall take reasonable steps to obtain consent of the insurance company and shall, without mutual consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of the insurance.

11.1.8 FIRE INSURANCE

Before the commencement of the Work, the Design-Builder shall procure, maintain, and cause to be maintained at the Design-Builder's expense, fire insurance on all Work included under the Contract Documents, insuring the full replacement value of such Work as well as the cost of any removal and demolition necessary to replace or repair all Work damaged by fire. The amount of fire insurance shall be subject to approval by the Owner and shall be sufficient to protect the Work against loss or damage in full until the Work is accepted by the Owner. Should the Work being constructed be damaged by fire or other causes during construction, it shall be replaced in accordance with the requirements of the drawings and specifications without additional expense

to the Owner.

11.1.9 OTHER INSURANCE

The Design-Builder shall provide all other insurance required to be maintained under applicable laws, ordinances, rules, and regulations.

11.1.10 PROOF OF CARRIAGE OF INSURANCE

The Design-Builder shall not commence Work nor shall it allow any Subcontractor to commence Work under this Contract until all required insurance, certificates, and an Additional Insured Endorsement and Declarations Page have been obtained and delivered in duplicate to the Owner for approval subject to the following requirements:

- (a) Certificates and insurance policies shall include the following clause:

This policy shall not be non-renewed, canceled, or reduced in required limits of liability or amounts of insurance until notice has been mailed to the Owner. Date of cancellation or reduction may not be less than thirty (30) days after the date of mailing notice.

- (b) Certificates of insurance shall state in particular those insured, the extent of insurance, location and operation to which the insurance applies, the expiration date, and cancellation and reduction notices.
- (c) Certificates of insurance shall clearly state that the Owner and the Owner's Representative are named as additional insureds under the policy described and that such insurance policy shall be primary to any insurance or self-insurance maintained by Owner and any other insurance carried by the Owner with respect to the matters covered by such policy shall be excess and non-contributing.
- (d) The Design-Builder and its Subcontractors shall produce a certified copy of any insurance policy required under this Section upon written request of the Owner.

11.1.11 COMPLIANCE

In the event of the failure of any Design-Builder to furnish and maintain any insurance required by this Article, the Design-Builder shall be in default under the Contract. Compliance by Design-Builder with the requirement to carry insurance and furnish certificates, policies, Additional Insured Endorsement and Declarations Page evidencing the same shall not relieve the Design-Builder from liability assumed under any provision of the Contract Documents, including, without limitation, the obligation to defend and indemnify the Owner and the Owner's Representative.

11.2 PERFORMANCE AND PAYMENT BONDS

11.2.1 BOND REQUIREMENTS

Unless otherwise specified in the Contract Documents, prior to commencing any portion of the Work, the Design-Builder shall apply for and furnish Owner separate payment and performance bonds for its portion of the Work which shall cover 100% faithful performance of and payment of all obligations arising under the Contract Documents and/or guaranteeing the payment in full of all claims for labor performed and materials supplied for the Work. All bonds shall be provided by a corporate surety authorized and admitted to transact business in California. All bonds shall be submitted on the Owner's approved form.

To the extent, if any, that the Contract Sum is increased in accordance with the Contract Documents, the Design-Builder shall cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the Owner. To the extent available, the bonds shall further provide that no change or alteration of the Contract Documents (including, without limitation, an increase in the Contract Sum, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Design-Builder will release the surety. If the Design-Builder fails to furnish the required bond, the Owner may terminate the Contract for cause.

11.2.2 SURETY QUALIFICATION

Only bonds executed by admitted Surety insurers as defined in Code of Civil Procedure section 995.120 shall be accepted. The surety insurers must, unless otherwise agreed to by Owner in writing, at the time of issuance of the bonds, have a rating not lower than "A-" as rated by A.M. Best Company, Inc. or other independent rating companies. Owner reserves the right to approve or reject the surety insurers selected by Design-Builder and to require Design-Builder to obtain bonds from surety insurers satisfactory to the Owner.

ARTICLE 12

UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK

12.1.1 UNCOVERING WORK FOR REQUIRED INSPECTIONS

If a portion of the Work is covered contrary to the Owner's request or to requirements specifically expressed in the Contract Documents, Design-Builder must, if required in writing by the Owner, uncover it for the Owner's observation and replace the removed work at the Design-Builder's expense without change in the Contract Sum or Time.

12.1.2 COSTS FOR INSPECTIONS NOT REQUIRED

If a portion of the Work has been covered which the Owner has not specifically requested to

observe prior to its being covered, the Owner may request to see such work, and it shall be uncovered by the Design-Builder. If such work is in accordance with the Contract Documents, costs of uncover and replacement shall, by appropriate Change Order, be paid by the Owner. If such work is not in accordance with Contract Documents, the Design-Builder shall pay such costs, unless the condition was caused by the Owner or a separate contractor, in which event the Owner shall be responsible for payment of such costs to the Design-Builder.

12.2 CORRECTION OF WORK; WARRANTY

12.2.1 CORRECTION OF REJECTED WORK

The Design-Builder shall promptly correct the work rejected by the Owner for failing to conform to the requirements of the Contract Documents, until the statutes of limitation (or repose) and all warranties have run, as applicable, and whether or not fabricated, installed or completed. The Design-Builder shall bear costs of correcting the rejected work, including additional testing, inspections, and compensation for the Owner's expenses and costs incurred.

12.2.2 REMOVAL OF NONCONFORMING WORK

The Design-Builder shall remove from the Site portions of the Work which are not in accordance with the requirements of the Contract Documents and are not corrected by the Design-Builder or accepted or approved by the Owner.

12.2.3 OWNER'S RIGHTS IF DESIGN-BUILDER FAILS TO CORRECT

If the Design-Builder fails to correct nonconforming work within a reasonable time, the Owner may correct it in accordance with Section 2.4. As part of Owner's correction of the work, the Owner may remove any portion of the nonconforming Work and store any salvageable materials or equipment at the Design-Builder's expense. If the Design-Builder does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days written notice sell such material or equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Design-Builder, including compensation for the Owner's Representative's and other professionals and representatives' services and expenses, made necessary thereby. If such proceeds of sale do not cover costs which the Design-Builder should have borne, the Design-Builder shall be invoiced for the deficiency or Owner may withhold such costs from payment pursuant to Section

9.5. If progress payments or retention then or thereafter due the Design-Builder are not sufficient to cover such amount, the Design-Builder shall pay the difference to the Owner.

12.2.4 COST OF CORRECTING THE WORK

The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether Completed or partially Completed, caused by the Design-Builder's correction or removal of the nonconforming work.

12.2.5 WARRANTY CORRECTIONS (INCLUDES REPLACEMENT)

Pursuant to the warranty in Sections 3.5 and 9.7.1, if within one (1) year after the Completion of the Work or within a longer time period for an applicable special warranty or guarantee required by the Contract Documents, any of the Work does not comply with the Contract Documents, the Design-Builder shall correct it after receipt of Owner's written notice to do so, unless the Owner has previously waived in writing such right to demand correction. Design-Builder shall correct the Work promptly, and passage of the applicable warranty period shall not release Design-Builder from its obligation to correct the Work if Owner provided the written notice within the applicable warranty period. Design-Builder's obligation to correct the warranty item continues until the correction is made. After the correction is made to Owner's satisfaction, a new warranty period of the same length as the original warranty period shall run on the corrected work. The obligations under this paragraph 12.2.5 shall survive acceptance of the Work under the Contract and termination of the Contract.

12.2.6 NO TIME LIMITATION

Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Design-Builder might have under the Contract Documents. Establishment of the time period of one (1) year as described in Sections 3.5, 9.7.1, and 12.2.5 relates only to the specific warranty obligation of the Design-Builder to correct the Work after the date of commencement of warranties, and has, for example, no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, or to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

12.3 NONCONFORMING WORK AND WITHHOLDING THE VALUE OF IT

If it is found at any time before Completion of the Work that the Design-Builder has varied from the Contract Documents in materials, quality, form, finish, or in the amount or value of the materials or labor used, the Owner may, in addition to other remedies in the Contract Documents or under law and as allowed by law, accept the improper Work. The Owner may withhold from any amount due or to become due Design-Builder that sum of money equivalent to the difference in value between the Work performed and that called for by the Drawings and Specifications. The Owner shall determine such difference in value. No structural related Work shall be accepted that is not in conformance with the Contract Documents.

ARTICLE 13

MISCELLANEOUS PROVISIONS

13.1 GOVERNING LAW

The Contract shall be governed by the law of the place where the Project is located.

13.2 SUCCESSORS AND ASSIGNS

The Owner and the Design-Builder respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to partners, successors, assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract as a whole or in part without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

13.3 WRITTEN NOTICE

In the absence of specific notice requirements in the Contract Documents, any written notice required by the Contract Documents shall be deemed to have been duly served if delivered in person to the individual, member of the firm or entity, or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified or overnight mail to the last business address known to the party giving notice. Owner shall, at Design-Builder's cost, timely notify Design-Builder of Owner's receipt of any third party claims relating to the Contract pursuant to Public Contract Code section 9201.

13.4 RIGHTS AND REMEDIES

13.4.1 DUTIES AND OBLIGATIONS CUMULATIVE

Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

13.4.2 NO WAIVER

No action or failure to act by the Owner, Inspector of Record, Owner's Representative or any construction manager shall constitute a waiver of a right or duty afforded them under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed to in a written amendment to the Contract.

13.5 TESTS AND INSPECTIONS

13.5.1 COMPLIANCE

Tests, inspections, and approvals of portions of the Work required by the Contract Documents will comply with all requirements imposed by DDW, and with all other laws, ordinances, rules, regulations, or orders of public authorities having jurisdiction.

13.5.2 INDEPENDENT TESTING LABORATORY

The Owner will select and pay an independent testing laboratory to conduct all tests and inspections, including shipping or transportation costs or expenses (mileage and hours). Selection of the materials required to be tested shall be made by the laboratory or the Owner's representative and not by the Design-Builder. However, if Design-Builder requests that the Owner use a different testing laboratory and Owner chooses to approve such request, Design-Builder shall pay any additional shipping or transportation costs or expenses (mileage and hours). If Owner pays such additional costs or expenses instead of Design-Builder, then Owner may invoice such costs or expenses to the Design-Builder or withhold such costs or expenses from progress payments and/or retention.

13.5.3 ADVANCE NOTICE TO INSPECTOR OF RECORD

The Design-Builder shall notify the Inspector of Record a sufficient time in advance of its readiness for required observation or inspection so that the Inspector of Record may arrange for same. The Design-Builder shall notify the Inspector of Record a sufficient time in advance of the manufacture of material to be supplied under the Contract Documents which must, by terms of the Contract Documents, be tested in order that the Inspector of Record may arrange for the testing of the material at the source of supply.

13.5.4 TESTING OFF-SITE

Any material shipped by the Design-Builder from the source of supply, prior to having satisfactorily passed such testing and inspection or prior to the receipt of notice from said Inspector of Record that such testing and inspection will not be required, shall not be incorporated in the Work.

13.5.5 ADDITIONAL TESTING OR INSPECTION

If the Inspector of Record, the Owner's Representative, the Owner, or public authority having jurisdiction determines that portions of the Work require additional testing, inspection, or approval not included under section 13.5.1, the Inspector of Record will, upon written authorization from the Owner, make arrangements for such additional testing, inspection, or approval. The Owner shall bear such costs except as provided in section 13.5.6.

13.5.6 COSTS FOR RETESTING

If such procedures for testing, inspection, or approval under sections 13.5.1, 13.5.2 and 13.5.5 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, the Design-Builder shall bear all costs arising from such failure, including those of re-testing, re-inspection, or re-approval, including, but not limited to, compensation for the Owner's Representative's services and expenses. Any such costs shall be paid by the Owner, invoiced to the Design-Builder, and, among other remedies, can be withheld from progress payments and/or retention.

13.5.7 COSTS FOR PREMATURE TEST

In the event the Design-Builder requests any test or inspection for the Project and is not completely ready for the inspection, the Design-Builder shall be invoiced by the Owner for all costs and expenses resulting from that testing or inspection, including, but not limited to, the Owner's Representative's fees and expenses, and the amount of the invoice can among other remedies, be withheld from progress payments and/or retention.

13.5.8 TESTS OR INSPECTIONS NOT TO DELAY WORK

Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

13.6 [INTENTIONALLY LEFT BLANK]

13.7 TRENCH EXCAVATION

13.7.1 TRENCHES GREATER THAN FIVE FEET

Pursuant to Labor Code section 6705, if the Contract Sum exceeds \$25,000 and involves the excavation of any trench or trenches five (5) feet or more in depth, the Design-Builder shall, in advance of excavation, submit to the Owner or a registered civil or structural engineer employed by the Owner a detailed plan showing the design of shoring for protection from the hazard of caving ground during the excavation of such trench or trenches.

13.7.2 EXCAVATION SAFETY

If such plan varies from the Shoring System Standards established by the Construction Safety Orders, the plan shall be prepared by a registered civil or structural engineer, but in no case shall such plan be less effective than that required by the Construction Safety Orders. No excavation of such trench or trenches shall be commenced until said plan has been accepted by the Owner or by the person to whom authority to accept has been delegated by the Owner.

13.7.3 NO TORT LIABILITY OF OWNER

Pursuant to Labor Code section 6705, nothing in this Article shall impose tort liability upon the Owner or any of its employees.

13.7.4 NO EXCAVATION WITHOUT PERMITS

The Design-Builder shall not commence any excavation work until it has secured all necessary permits including the required CAL OSHA excavation/shoring permit. Any permits shall be prominently displayed on the Site prior to the commencement of any excavation.

13.8 WAGE RATES

13.8.1 WAGE RATES

Pursuant to the provisions of Article 2 (commencing at § 1770), Chapter 1, Part 7, Division 2, of the Labor Code, the City Council has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this public work is to be performed for each craft, classification, or type of worker needed for this Project from the Director of Industrial Relations (“Director”). These rates are on file with the Clerk of the City Council, and copies will be made available to any interested party on request. The Design-Builder shall post a copy of such wage rates at the Site.

13.8.2 HOLIDAY AND OVERTIME PAY

Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half (1½) times the above specified rate of per diem wages, unless otherwise specified. Holidays shall be defined in the Collective Bargaining Agreement applicable to each particular craft, classification, or type of worker employed.

13.8.3 WAGE RATES NOT AFFECTED BY SUBCONTRACTS

The Design-Builder shall pay and shall cause to be paid each worker engaged in the Work not less than the general prevailing rate of per diem wages determined by the Director, regardless of any contractual relationship which may be alleged to exist between the Design-Builder or any Subcontractor and such workers.

13.8.4 CHANGE IN PREVAILING WAGE DURING BID OR CONSTRUCTION

If during the period this bid is required to remain open, the Director of Industrial Relations determines that there has been a change in any prevailing rate of per diem wages in the locality in which this public work is to be performed, such change shall not alter the wage rates discussed in the Notice to Bidders or the Contract subsequently awarded.

13.8.5 FORFEITURE AND PAYMENTS

Pursuant to Labor Code section 1775, the Design-Builder and any subcontractor under the Design-Builder shall as a penalty to the Owner, forfeit not more than two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing rate of per diem wages, determined by the Director, for such craft or classification in which such worker is employed for any public work done under the Agreement by the Design-Builder or by any Subcontractor under it. Minimum penalties shall apply, as also provided in Civil Code section 1775. The amount of the penalty shall be determined by the Labor Commissioner and shall be based on both of the following: (1) whether the failure of the Design-Builder or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected upon being brought to the attention of the Design-Builder or subcontractor; and (2) whether the Design-Builder or subcontractor has a prior record

of failing to meet its prevailing wage obligations. The difference between such prevailing rate of per diem wage and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing rate of per diem wage shall be paid to each work by the Design-Builder or subcontractor. Labor Code section 1777.1 shall also apply.

13.8.6 MINIMUM WAGE RATES

Any worker employed to perform Work, which Work is not covered by any craft or classification listed in the general prevailing rate of per diem wages determined by the Director, shall be paid not less than the minimum rate of wages specified therein for the craft or classification which most nearly corresponds to the Work to be performed by them, and such minimum wage rate shall be retroactive to time of initial employment of such person in such craft or classification.

13.8.7 PER DIEM WAGES

Pursuant to Labor Code section 1773.1, per diem wages includes employer payments for health and welfare, pension, and vacation pay.

13.8.8 POSTING OF WAGE RATES AND OTHER REQUIRED JOB SITE NOTICES

The Design-Builder shall post at appropriate conspicuous points on the Site, a schedule showing all determined minimum wage rates and all authorized deductions, if any, from unpaid wages actually earned and all other required job site notices as prescribed by regulation.

13.9 RECORD OF WAGES PAID: INSPECTION

13.9.1 APPLICATION OF LABOR CODE

Pursuant to section 1776 of the Labor Code:

(a) Each Design-Builder and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, and 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 public work. Each payroll record shall contain or be verified by a written declaration that is made under penalty of perjury, stating both of the following:

- (1) The information contained in the payroll record is true and correct.
- (2) The employer has complied with the requirements of sections 1771, 1811 and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Design-

Builder on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and as may be required by the Labor Commissioner under Labor Code section 1771.4. The Design-Builder and each subcontractor shall furnish a certified copy of all payroll records directly to the Labor Commissioner monthly or more frequently, if so specified in the Agreement and in a format the Labor Commissioner prescribes.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement of the Department of Industrial Relations ("DIR"). If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of the preparation by the Design-Builder, subcontractors, and the entity through which the request was made. The public may not be given access to such records at the principal office of the Design-Builder.

(c) Unless required as of January 1, 2015, to be furnished directly to the Labor Commissioner under Labor Code section 1771.4(a)(3), the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement of the DIR or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in (a) above.

(d) A Design-Builder or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested such records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement of the DIR shall be marked or obliterated to prevent disclosure of an individual's name, address and social security number. The name and address of the Design-Builder awarded the Contract or the subcontractor performing the Contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available

for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number. An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subsection.

(g) The Design-Builder shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The Design-Builder or subcontractor has 10 days in which to comply subsequent to receipt of written notice requesting the records enumerated in subdivision (a). In the event that the Design-Builder or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement of the DIR, these penalties shall be withheld from progress payments then due. Design-Builder is not subject to a penalty assessment pursuant to this section due to the failure of the subcontractor to comply with this section.

13.10 APPRENTICES

13.10.1 APPRENTICE WAGES AND DEFINITIONS

All apprentices employed by the Design-Builder to perform services under the Contract shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he or she is employed, and shall be employed only at the work of the craft or trade to which he or she is registered. Only apprentices, as defined in section 3077 of the Labor Code, who are in training under apprenticeship standards and written apprenticeship agreements under Chapter 4 (commencing with § 3070) of Division 3, are eligible to be employed under this Contract. The employment and training of each apprentice shall be in accordance with the apprenticeship standards and apprentice agreements under which he or she is training. Contractor shall pay apprentices for any preemployment activities, as set forth in Labor Code section 1777.5.

13.10.2 APPRENTICE LABOR POOL

When the Design-Builder to whom the Contract is awarded by the Owner, or any Subcontractor under him or her, in performing any of the Work under the Contract or subcontract, employs workers in any apprenticeable craft or trade, the Design-Builder and Subcontractor shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the Site of the Project, for a certificate approving the Design-Builder or Subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval as established by the joint apprenticeship committee or committees shall be subject to the approval of the Administrator of Apprenticeship. The joint apprenticeship committee or committees, subsequent to approving the subject Design-Builder or Subcontractor, shall arrange for the dispatch of apprentices to the Design-Builder or Subcontractor in order to comply with this section. Every Design-Builder and Subcontractor shall submit the contract award information to the applicable joint apprenticeship committee which shall include an estimate of journeyman hours to be performed under the Contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. There shall be an affirmative duty upon the joint apprenticeship committee or committees administering the apprenticeship standards of the crafts or trade in the area of the Site of the public work, to ensure equal employment and affirmative action and apprenticeship for women and minorities. Design-Builders or Subcontractors shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen, who shall be employed in the craft or trade on the Project, may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but, except as otherwise provided in this section, in no case shall the ratio be less than one (1) hour of apprentice work for every five (5) hours of labor performed by a journeyman. However, the minimum ratio for the land surveyor classification shall not be less than one (1) apprentice for each five (5) journeymen.

13.10.3 JOURNEYMAN/APPRENTICE RATIO; COMPUTATION OF HOURS

Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the joint apprenticeship committee, is employed at the job Site and shall be computed on the basis of the hours worked during the day by journeymen so employed, except for the land surveyor classification. The Design-Builder shall employ apprentices for the number of hours computed as above before the end of the Contract. However, the Design-Builder shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the job Site. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a joint apprenticeship committee, may order a minimum ratio of not less than one (1) apprentice for each five (5) journeymen in a craft or trade classification.

13.10.4 JOURNEYMAN/APPRENTICE RATIO

The Design-Builder or Subcontractor, if he or she is covered by this section upon the issuance of the approval certificate, or if he or she has been previously approved in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by the Design-Builder that he or she employs

apprentices in the craft or trade in the state on all of his or her contracts on an annual average of not less than one (1) hour of apprentice work for every five (5) hours of labor performed by a journeyman, or in the land surveyor classification, one (1) apprentice for each five (5) journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the Design-Builder from the 1-to-5 hourly ratio as set forth in this section. This section shall not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor, when the contracts of general contractors or those specialty contractors involve less than Thirty Thousand Dollars (\$30,000) or twenty (20) working days. Any work performed by a journeyman in excess of eight (8) hours per day or forty (40) hours per week, shall not be used to calculate the hourly ratio required by this section.

13.10.4.1 *Apprenticeable Craft or Trade.* “Apprenticeable craft or trade” as used in this Article means a craft or trade determined as an apprenticeable occupation in accordance with the rules and regulations prescribed by the California Apprenticeship Council. The joint apprenticeship committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting a Design-Builder from the 1-to-5 ratio set forth in this Article when it finds that any one of the following conditions is met:

- A. Unemployment for the previous three-month period in the area exceeds an average of fifteen percent (15%).
- B. The number of apprentices in training in such area exceeds a ratio of 1-to-5.
- C. There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth (1/30) of its journeymen annually through the apprenticeship training, either on a statewide basis or on a local basis.
- D. Assignment of an apprentice to any work performed under this contract would create a condition which would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

13.10.5 RATIO EXEMPTION

When exemptions are granted to an organization which represents Design-Builders in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member Design-Builders will not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

13.10.6 APPRENTICE FUND

A Design-Builder to whom the Contract is awarded or any Subcontractor under him or her, who, in performing any of the work under the Contract, employs journeymen or apprentices in any apprenticeable craft or trade and who is not contributing to a fund or funds to administer and conduct the apprenticeship program in any such craft or trade in the area of the Site of the Project, to which fund or funds other contractors in the area of the Site of the Project are contributing, shall contribute to the fund or funds in each craft or trade in which he or she

employs journeymen or apprentices on the Project in the same amount or upon the same basis and in the same manner as the other contractors do, but where the trust fund administrators are unable to accept the funds, contractors not signatory to the trust agreement shall pay a like amount to the California Apprenticeship Council. The Design-Builder or Subcontractor may add the amount of the contributions in computing his or her bid for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in the Labor Code section 227.

13.10.7 PRIME DESIGN-BUILDER COMPLIANCE

The responsibility of compliance with section 13.10 and section 1777.5 of the Labor Code for all apprenticeable occupations is with the Prime Design-Builder.

13.10.8 DECISIONS OF JOINT APPRENTICESHIP COMMITTEE

All decisions of the joint apprenticeship committee under this section 13.10 and Labor Code section 1777.5 are subject to Labor Code section 3081.

13.10.9 NO BIAS

It shall be unlawful for an employer or a labor union to refuse to accept otherwise qualified employees as registered apprentices on any public works on the grounds of race, religious creed, color, national origin, ancestry, sex, or age, except as provided in the Labor Code section 3077.

13.10.10 VIOLATION OF LABOR CODE

Pursuant to Labor Code section 1777.1, in the event a Design-Builder or Subcontractor fails to comply with the provisions of this section 13.10 and Labor Code section 1777.5, among other things:

- (a) If a Contractor or Subcontractor willfully fails to comply, the Labor Commissioner may deny to the Design-Builder or subcontractor, and to its responsible officers, the right to bid on, or be awarded or perform work as a subcontractor on, any public works project for a period of up to one year for the first violation and for a period of up to three years for the second and subsequent violation. Each period of debarment shall run from the date the determination of noncompliance by the Labor Commissioner becomes a final order.
- (b) A Design-Builder or subcontractor who violates section 1777.5 shall forfeit as a civil penalty an amount not exceeding the sum of one hundred dollars (\$100) for each full calendar day of noncompliance. Upon receipt of a determination that a civil penalty has been imposed, the awarding body shall enforce the penalty, which includes withholding the amount of the civil penalty from the contract progress payments or retention then due or to become due.
- (c) In lieu of the penalty provided, the Labor Commissioner may for a first time violation and with the concurrence of an applicable apprenticeship program, order the Design-Builder or subcontractor to provide apprentice employment equivalent to the

work hours that would have been provided for apprentices during the period of noncompliance.

(d) Any funds withheld by the awarding body pursuant to this section shall be deposited in the General Fund.

(e) The interpretation and enforcement of section 1777.5 and this section shall be in accordance with the regulations of the California Apprenticeship Council.

Pursuant to Public Contract Code section 6109, no contractor or subcontractor may bid on, be awarded, or perform work as a subcontractor on a public works project if ineligible to bid or work on, or be awarded, a public works project pursuant to section 1777.1 of the Labor Code.

13.11 ASSIGNMENT OF ANTITRUST CLAIMS

13.11.1 APPLICATION

Pursuant to Public Contract Code section 7103.5 and Government Code section 4552, in entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the Design-Builder or Subcontractor offers and agrees to assign to the Owner 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 Bus. & Prof. Code), arising from the purchase of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders Final Progress Payment to the Design-Builder, without further acknowledgment by the parties. If the Owner receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under Chapter 11 (commencing with § 4550) of Division 5 of Title 1 of the Government Code, the assignor may, upon demand, recover from the Owner any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the Owner as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

13.11.2 ASSIGNMENT OF CLAIM

Upon demand in writing by the assignor, the Owner shall, within one (1) year from such demand, reassign the cause of action assigned pursuant to this Article if the assignor has been or may have been injured by the violation of law for which the cause of action arose and the Owner has not been injured thereby or the Owner declines to file a court action for the cause of action.

13.12 AUDIT

Pursuant to and in accordance with the provisions of Government Code section 8546.7, or any amendments thereto, all books, records, and files of the Owner, the Design-Builder, or any Subcontractor connected with the performance of this Contract involving the expenditure of state funds in excess of Ten Thousand Dollars (\$10,000.00), including, but not limited to, the administration thereof, shall be subject to the examination and audit of the Office of the Auditor

General of the State of California for a period of three (3) years after release of all retention under this Contract. Design-Builder shall preserve and cause to be preserved such books, records, and files for the audit period. During the progress of the Work and for three (3) years after release of all retention under the Contract, Owner shall also have the right to an audit, and Design-Builder must cooperate by producing all information requested within seven (7) days.

13.13 STORM WATER DISCHARGE PERMIT

If applicable, the Design-Builder shall file a Notice of Intent to comply with the terms of the general permit to discharge storm water associated with construction activity (WQ Order No. 920-08-DWQ). The Notice of Intent must be sent to the following address along with the appropriate payment (warrant to be furnished by the Owner upon request by the Design-Builder, allow warrant processing time.): California State Water Resources Control Board, Division of Water Quality, Storm Water Permit Unit, P.O. Box 1977, Sacramento, CA 95812-1977. The Design-Builder may also call the State Water Board's Construction Activity Storm Water Hotline at (916) 657-1146. The Notice of Intent shall be filed prior to the start of any construction activity.

ARTICLE 14

TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 TERMINATION BY THE DESIGN-BUILDER FOR CAUSE

Design-Builder may not terminate for convenience. Design-Builder may only terminate for cause if the Work is stopped by others for a period of one hundred eighty (180) consecutive days through no act or fault of the Design-Builder, a Subcontractor of any tier, their agents or employees, or any other persons performing portions of the Work for whom the Design-Builder is contractually responsible, **and** the Work was stopped by others for one of the following reasons: (A) Issuance of an order of a court or other public authority having jurisdiction which requires Owner to stop all Work; or (B) an act of government, such as a declaration of national emergency, making material unavailable which requires Owner to stop all Work. If such grounds exist, the Design-Builder may serve written notice of such grounds on Owner and demand a meet-and-confer conference to negotiate a resolution in good faith within twenty (20) days of Owner's receipt of such notice. If such conference does not lead to resolution and the grounds for termination still exist, Design-Builder may terminate the Contract and recover from the Owner payment for Work executed and for reasonable verified costs with respect to materials, equipment, tools, construction equipment, and machinery, including reasonable overhead, profit, and damages for the Work executed, but excluding overhead (field and home office) and profit for (i) Work not performed and (ii) the period of time that the Work was stopped.

14.2 TERMINATION BY THE OWNER FOR CAUSE

14.2.1 GROUNDS FOR TERMINATION

The Owner may terminate the Contract if the Design-Builder:

- A. Refuses or fails to supply enough properly skilled workers or proper materials, or refuses or fails to take steps to adequately prosecute the Work toward Completion within the Contract Time;
- B. Fails to make payment to Subcontractors for materials or labor in accordance with Public Contract Code section 10262 or Business and Professions Code section 7108.5, as applicable;
- C. Violates Labor Code section 1771.1(a), subject to the provisions of Labor Code section 1771.1(f);
- D. Disregards laws, ordinances, rules, regulations, or orders of a public authority having jurisdiction; or
- E. Otherwise is in breach of the Contract Documents.

14.2.2 NOTIFICATION OF TERMINATION

When any of the above reasons exist, the Owner may, without prejudice to any other rights or remedies of the Owner, give notice to Design-Builder of the grounds for termination and demand cure of the grounds within seven (7) days (a "Notice of Intent to Terminate"). If Design-Builder fails to **either** (a) completely cure the grounds for termination within seven (7) days **or** (b) reasonably commence cure of the grounds for termination within seven (7) days and reasonably continue to cure the grounds for termination until such cure is complete, then Owner may terminate the Contract effective immediately upon service of written Notice of Termination and may, subject to any prior rights of Design-Builder's surety on the performance bond ("Surety"):

- A. Take possession of the Site and of all material, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
- B. Accept assignment of subcontracts pursuant to section 5.4; and
- C. Complete the Work by whatever reasonable method the Owner may deem expedient.

14.2.3 PAYMENTS WITHHELD

If the Owner terminates the Contract for one of the reasons stated in section 14.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is Complete.

14.2.4 PAYMENTS UPON COMPLETION

If the unpaid balance of the Contract Sum exceeds costs of Completing the Work, including compensation for professional services and expenses made necessary thereby, such excess shall be paid to the Design-Builder. If such costs exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. This payment obligation shall survive Completion of the Contract.

14.2.5 INCLUSION OF TERMINATION FOR CONVENIENCE

Any purported termination by Owner for cause under this section 14.2, which is revoked or determined to not have been for cause, shall be deemed to have been a termination for convenience effective as of the same date as the purported termination for cause.

14.3 SUSPENSION OR TERMINATION BY THE OWNER FOR CONVENIENCE

14.3.1 SUSPENSION BY OWNER

The Owner may, without cause, order the Design-Builder in writing to suspend, delay, or interrupt the Work in whole or in part for such period of time as the Owner may determine.

14.3.1.1 *Adjustments.* An adjustment shall be made for increases in the cost of performance of the Contract, including profit on the increased cost of performance caused by suspension, delay, or interruption. No adjustment shall be made to the extent:

- A. That performance is, was or would have been so suspended, delayed, or interrupted by another cause for which the Design-Builder is responsible; or
- B. That an equitable adjustment is made or denied under another provision of this Contract.

14.3.1.2 *Adjustments for Fixed Cost.* Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

14.3.2 TERMINATION BY THE OWNER FOR CONVENIENCE

14.3.2.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

14.3.2.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall:

1. Cease operations as directed by the Owner in the notice;
2. Take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
3. Except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

14.3.2.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination.

14.4 NOT A WAIVER

Any suspension or termination by Owner for convenience or cause under this Article 14 shall not act as a waiver of any claims by Owner against Design-Builder or others for damages based on breach of contract, negligence or other grounds.

14.5 MUTUAL TERMINATION FOR CONVENIENCE

The Design-Builder and the Owner may mutually agree in writing to terminate this Contract for convenience. The Design-Builder shall receive payment for all Work performed to the date of termination in accordance with the provisions of Article 9.

14.6 EARLY TERMINATION

Notwithstanding any provision herein to the contrary, if for any fiscal year of this Contract the governing body of the Owner fails to appropriate or allocate funds for future periodic payments under the Contract after exercising reasonable efforts to do so, the Owner may upon thirty (30) days' notice, order work on the Project to cease. The Owner will remain obligated to pay for the work already performed but shall not be obligated to pay the balance remaining unpaid beyond the fiscal period for which funds have been appropriated or allocated and for which the work has not been done.



119 Fox Street • Lemoore, California 93245 • (559) 924-6700 • Fax (559) 924-9003

Staff Report

Item No: 5-1

To: Lemoore City Council
From: Michelle Speer, Assistant City Manager/Admin. Services Director
Date: May 14, 2019 **Meeting Date:** May 21, 2019
Subject: Single Audit Report for Year Ended June 30, 2018
Strategic Initiative:

- | | |
|---|--|
| <input type="checkbox"/> Safe & Vibrant Community | <input type="checkbox"/> Growing & Dynamic Economy |
| <input checked="" type="checkbox"/> Fiscally Sound Government | <input type="checkbox"/> Operational Excellence |
| <input type="checkbox"/> Community & Neighborhood Livability | <input type="checkbox"/> Not Applicable |

Proposed Motion:

Receive and file the Single Audit Report and Financial Statements for year ended June 30, 2018.

Subject/Discussion:

City staff and consultants from Price Paige & Company (auditors) will present the City's Single Audit Report for fiscal year ending June 30, 2018.

The financial results and analysis related to the financial statements of June 30, 2018, were reviewed and discussed with Price, Page and Company to ensure accuracy.

Financial Consideration(s):

None

Alternatives or Pros/Cons:

None

Commission/Board Recommendation:

None

Staff Recommendation:

Staff recommends that City Council receive and file the Single Audit for year ended June 30, 2018.

Attachments:

- ☐ Resolution:
- ☐ Ordinance:
- ☐ Map
- ☐ Contract
- ☒ Other

List: Financial Statements, June 30, 2018
Single Audit

Review:

- ☒ Asst. City Manager
- ☒ City Attorney
- ☒ City Clerk
- ☒ City Manager

Date:

05/14/19
05/15/19
05/16/19
05/15/19

CITY OF LEMOORE
CALIFORNIA

FINANCIAL STATEMENTS

**FOR THE YEAR ENDED
JUNE 30, 2018**

CITY OF LEMOORE
FOR THE YEAR ENDED JUNE 30, 2018

TABLE OF CONTENTS

	<u>PAGE</u>
FINANCIAL SECTION	
Independent Auditor's Report	1
Basic Financial Statements:	
Government-Wide Financial Statements:	
Statement of Net Position.....	4
Statement of Activities	5
Fund Financial Statements:	
Balance Sheet – Governmental Funds	8
Reconciliation of the Balance Sheet of Governmental Funds to the Statement of Net Position	9
Statement of Revenues, Expenditures and Changes in Fund Balances – Governmental Funds.....	10
Reconciliation of the Statement of Revenues, Expenditures and Changes in Fund Balances of Governmental Funds to the Statement of Activities	11
Statement of Net Position – Proprietary Funds.....	13
Statement of Revenues, Expenses and Changes in Net Position – Proprietary Funds	14
Statement of Cash Flows – Proprietary Funds	15
Statement of Fiduciary Net Position – Fiduciary Funds	18
Statement of Changes in Fiduciary Net Position – Fiduciary Funds.....	19
Notes to the Basic Financial Statements	20
REQUIRED SUPPLEMENTARY INFORMATION	
Schedule of Revenues, Expenditures and Changes in Fund Balance – Budget and Actual – General Fund	56
Cost-Sharing Multiple-Employer Defined Benefit Pension Plan Schedule of the City's Proportionate Share of the Net Pension Liability – Defined Benefit Pension Plan	57
Schedule of Contributions – Defined Benefit Pension Plans	58

CITY OF LEMOORE
FOR THE YEAR ENDED JUNE 30, 2018

TABLE OF CONTENTS

	<u>PAGE</u>
SUPPLEMENTARY INFORMATION	
Combining Balance Sheet – Nonmajor Governmental Funds	62
Combining Statement of Revenues, Expenditures and Changes in Fund Balances – Nonmajor Governmental Funds.....	63
Combining Balance Sheet – Nonmajor Special Revenue Funds	64
Combining Statement of Revenues, Expenditures and Changes in Fund Balances – Nonmajor Special Revenue Funds	65
Combining Balance Sheet – Nonmajor Capital Projects Funds	66
Combining Statement of Revenues, Expenditures and Changes in Fund Balances – Nonmajor Capital Projects Funds	67
Combining Statement of Fiduciary Net Position – Private Purpose Trust Funds	70
Combining Statement of Changes in Fiduciary Net Position – Private Purpose Trust Funds	71
Combining Statement of Assets and Liabilities – Agency Funds.....	72
Statement of Changes in Assets and Liabilities – Agency Funds	73



INDEPENDENT AUDITOR'S REPORT

To the Honorable Mayor and
Members of the City Council
City of Lemoore, California

Report on the Financial Statements

We have audited the accompanying financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Lemoore, California (the City) as of and for the year ended June 30, 2018, and the related notes to the financial statements, which collectively comprise the City's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the City's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Lemoore, California, as of June 30, 2018, and the respective changes in financial position, and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

677 Scott Avenue
Clovis, CA 93612

tel 559.299.9540

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Other Matters

Required Supplementary Information

Management has omitted management's discussion and analysis that accounting principles generally accepted in the United States of America require to be presented to supplement the basic financial statements. Such missing information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. Our opinion on the basic financial statements is not affected by this missing information.

Accounting principles generally accepted in the United States of America require that the budgetary comparison information on pages 56, the Proportionate Share of Net Pension Liability on page 57, and the Schedule of Contributions on page 58 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Supplementary Information

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the City's basic financial statements. The introductory section, combining and individual nonmajor fund financial statements, the related budgetary comparison schedules and statistical section are presented for purposes of additional analysis and are not a required part of the basic financial statements.

The combining nonmajor fund financial statements are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the combining nonmajor fund financial statements are fairly stated in all material respects, in relation to the basic financial statements as a whole.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated March 29, 2019, on our consideration of the City's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering City's internal control over financial reporting and compliance.

Price Pange & Company

Clovis, California
March 29, 2019

BASIC FINANCIAL STATEMENTS

CITY OF LEMOORE
STATEMENT OF NET POSITION
JUNE 30, 2018

	Governmental Activities	Business-Type Activities	Total
ASSETS			
Cash and investments	\$ 24,551,776	\$ 18,957,917	\$ 43,509,693
Restricted cash and investments	81,753	-	81,753
Receivables:			
Accounts, net	20,928	1,168,608	1,189,536
Notes	5,456,487	-	5,456,487
Intergovernmental	1,644,354	-	1,644,354
Prepaid expenses	30,165	46,337	76,502
Internal balances	1,057,419	(1,057,419)	-
Inventory	-	56,294	56,294
Assets held for resale	1,485,564	-	1,485,564
Other assets	40,000	-	40,000
Capital assets:			
Nondepreciable	4,569,152	3,504,253	8,073,405
Depreciable, net of accumulated depreciation	60,091,866	31,554,540	91,646,406
Total assets	<u>99,029,464</u>	<u>54,230,530</u>	<u>153,259,994</u>
DEFERRED OUTFLOWS OF RESOURCES			
Deferred outflows of resources from pensions	<u>2,954,737</u>	<u>1,052,778</u>	<u>4,007,515</u>
Total deferred outflows of resources	<u>2,954,737</u>	<u>1,052,778</u>	<u>4,007,515</u>
LIABILITIES			
Accounts payable	700,980	473,440	1,174,420
Accrued interest payable	-	12,052	12,052
Deposits and other liabilities	25,401	36,193	61,594
Unearned revenue	52,581	-	52,581
Advances from Successor Agency	-	1,865,449	1,865,449
Noncurrent liabilities:			
Due within one year	122,049	475,308	597,357
Due in more than one year	488,199	5,080,305	5,568,504
Net pension liability	<u>9,039,851</u>	<u>3,307,573</u>	<u>12,347,424</u>
Total liabilities	<u>10,429,061</u>	<u>11,250,320</u>	<u>21,679,381</u>
DEFERRED INFLOWS OF RESOURCES			
Deferred inflows of resources from pensions	<u>383,417</u>	<u>350,013</u>	<u>733,430</u>
Total deferred inflows of resources	<u>383,417</u>	<u>350,013</u>	<u>733,430</u>
NET POSITION			
Net investment in capital assets	64,661,018	29,660,441	94,321,459
Restricted for:			
Public safety	518,941	-	518,941
Public works	8,002,709	-	8,002,709
Community development	9,449,990	-	9,449,990
Parks and recreation	41,159	-	41,159
Capital projects and improvements	6,664,438	-	6,664,438
Unrestricted	<u>1,833,468</u>	<u>14,022,534</u>	<u>15,856,002</u>
Total net position	<u>\$ 91,171,723</u>	<u>\$ 43,682,975</u>	<u>\$ 134,854,698</u>

The accompanying notes are an integral part of these financial statements.

**CITY OF LEMOORE
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2018**

	Program Revenues				Net (Expense) Revenue and Changes in Net Position		
	Expenses	Charges for Services	Operating Grants and Contributions	Capital Grants and Contributions	Governmental Activities	Business-Type Activities	Total
Functions/programs:							
Primary government:							
Governmental activities:							
General government	\$ 1,145,987	\$ 212,476	\$ -	\$ -	\$ (933,511)	\$ -	\$ (933,511)
Public safety	7,182,259	408,890	567,152	-	(6,206,217)	-	(6,206,217)
Public works	4,140,812	733,417	1,260,939	1,166,460	(979,996)	-	(979,996)
Community development	263,308	685,246	1,734,224	-	2,156,162	-	2,156,162
Parks and recreation	<u>1,280,087</u>	<u>336,703</u>	<u>-</u>	<u>86,202</u>	<u>(857,182)</u>	<u>-</u>	<u>(857,182)</u>
Total governmental activities	<u>14,012,453</u>	<u>2,376,732</u>	<u>3,562,315</u>	<u>1,252,662</u>	<u>(6,820,744)</u>	<u>-</u>	<u>(6,820,744)</u>
Business-type activities:							
Water	4,825,828	5,610,676	-	97,214	-	882,062	882,062
Sewer	3,482,643	3,505,867	-	276,380	-	299,604	299,604
Refuse	3,149,147	3,050,488	-	6,857	-	(91,802)	(91,802)
Golf Course	<u>1,243,815</u>	<u>1,120,043</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(123,772)</u>	<u>(123,772)</u>
Total business-type activities	<u>12,701,433</u>	<u>13,287,074</u>	<u>-</u>	<u>380,451</u>	<u>-</u>	<u>966,092</u>	<u>966,092</u>
Total primary government	<u>\$ 26,713,886</u>	<u>\$ 15,663,806</u>	<u>\$ 3,562,315</u>	<u>\$ 1,633,113</u>	<u>(6,820,744)</u>	<u>966,092</u>	<u>(5,854,652)</u>
General revenues:							
Property taxes					2,557,324	-	2,557,324
Sales taxes					1,842,411	-	1,842,411
Franchise taxes					597,203	-	597,203
Transient taxes					244,765	-	244,765
Motor vehicle in-lieu					2,105,483	-	2,105,483
Unrestricted investment earnings					351,959	110,084	462,043
Other revenue					341,897	577,046	918,943
Gain on sale of assets					<u>4,926</u>	<u>13,600</u>	<u>18,526</u>
Total general revenues and transfers					<u>8,045,968</u>	<u>700,730</u>	<u>8,746,698</u>
Changes in net position					1,225,224	1,666,822	2,892,046
Net position - beginning, restated					<u>89,946,499</u>	<u>42,016,153</u>	<u>131,962,652</u>
Net position - ending					<u>\$ 91,171,723</u>	<u>\$ 43,682,975</u>	<u>\$ 134,854,698</u>

The accompanying notes are an integral part of these financial statements.

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FUND FINANCIAL STATEMENTS

The funds described below were determined to be Major Funds by the City in fiscal year 2018. Individual nonmajor funds may be found in the supplemental section.

GENERAL FUND

This fund is the primary operating fund of the City. It accounts for normal recurring activities traditionally associated with governments, which are not required to be accounted for in another fund. These activities are funded primarily by property taxes, sales and use taxes, interest and rental income, charges for services, and grants.

GRANTS SPECIAL REVENUE FUND

This fund is used to account for the City's receipts and expenditures of the state, federal, and other grants.

LEMOORE HOUSING AUTHORITY SPECIAL REVENUE FUND

This fund has taken over the assets and associated functions of the Low/Moderate Income Housing Fund of the former Lemoore Redevelopment Agency and is used to account for current and future low-income households for the acquisition, rehabilitation, or new construction of single-family homes.

CITY OF LEMOORE
BALANCE SHEET – GOVERNMENTAL FUNDS
JUNE 30, 2018

	Special Revenue Funds				
	General Fund	Grants Fund	Lemoore Housing Authority Fund	Other Governmental Funds	Total Governmental Funds
ASSETS					
Cash and investments	\$ 6,388,326	\$ 482,241	\$ 1,722,530	\$ 15,958,679	\$ 24,551,776
Restricted cash and investments	81,753	-	-	-	81,753
Receivables:					
Accounts	-	-	-	20,928	20,928
Notes	6,675	651,200	4,798,612	-	5,456,487
Intergovernmental	1,434,035	-	-	210,319	1,644,354
Interfund receivables	1,103,528	-	-	-	1,103,528
Advances to other funds	566,757	-	-	-	566,757
Prepaid items	30,165	-	-	-	30,165
Other assets	40,000	-	-	-	40,000
Assets held for resale	-	-	1,485,564	-	1,485,564
Total assets	<u>\$ 9,651,239</u>	<u>\$ 1,133,441</u>	<u>\$ 8,006,706</u>	<u>\$ 16,189,926</u>	<u>\$ 34,981,312</u>
LIABILITIES					
Accounts payable	\$ 553,473	\$ -	\$ 2,192	\$ 81,197	\$ 636,862
Deposits and other liabilities	25,401	-	-	-	25,401
Unearned revenue	52,581	-	-	-	52,581
Total liabilities	<u>631,455</u>	<u>-</u>	<u>2,192</u>	<u>81,197</u>	<u>714,844</u>
DEFERRED INFLOWS OF RESOURCES					
Unavailable revenue	-	651,200	200,000	-	851,200
Total deferred inflows of resources	<u>-</u>	<u>651,200</u>	<u>200,000</u>	<u>-</u>	<u>851,200</u>
FUND BALANCES					
Nonspendable:					
Prepaid items	30,165	-	-	-	30,165
Notes receivable	6,675	651,200	4,598,612	-	5,256,487
Long-term interfund advances	566,757	-	-	-	566,757
Restricted:					
Public safety	40,594	-	-	478,347	518,941
Public works	-	482,241	-	7,520,468	8,002,709
Community development	-	-	3,205,902	1,445,476	4,651,378
Parks and recreation	41,159	-	-	-	41,159
Capital projects and improvements	-	-	-	6,664,438	6,664,438
Assigned:					
Subsequent year's budget:					
Appropriation of fund balance	1,965,890	-	-	-	1,965,890
Unassigned	6,368,544	(651,200)	-	-	5,717,344
Total fund balances	<u>9,019,784</u>	<u>482,241</u>	<u>7,804,514</u>	<u>16,108,729</u>	<u>33,415,268</u>
Total liabilities, deferred inflows of resources, and fund balances	<u>\$ 9,651,239</u>	<u>\$ 1,133,441</u>	<u>\$ 8,006,706</u>	<u>\$ 16,189,926</u>	<u>\$ 34,981,312</u>

CITY OF LEMOORE
RECONCILIATION OF THE BALANCE SHEET OF GOVERNMENTAL FUNDS
TO THE STATEMENT OF NET POSITION
JUNE 30, 2018

Amounts reported for governmental activities in the statement of net position are different because:

Total fund balances - governmental funds	\$ 33,415,268
Capital assets, net of accumulated depreciation, used in governmental activities are not current financial resources; therefore, they are not reported in the governmental funds.	64,620,569
Compensated absences are not due and payable in the current period, and therefore are not reported in the funds.	(597,737)
Net pension liability and pension related deferred outflows and inflows of resources are not due in the current period and therefore are not reported in the funds. These amounts consist of:	
Net pension liability	(8,825,797)
Deferred outflows of resources	2,884,407
Deferred inflows of resources	(352,962)
	(6,294,352)
Certain assets are not available to pay for current period expenditures; therefore, they are unavailable in the governmental funds.	851,200
Internal service funds are used by management to charge the costs of fleet maintenance services to individual funds. The assets and liabilities of the internal revenue service funds are included in the governmental activities in the statement of net position.	(823,225)
Net position of governmental activities	<u>\$ 91,171,723</u>

CITY OF LEMOORE
STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES – GOVERNMENTAL FUNDS
FOR THE YEAR ENDED JUNE 30, 2018

	Special Revenue Funds				
	General Fund	Grants Fund	Lemoore Housing Authority Fund	Other Governmental Funds	Total Governmental Funds
REVENUES					
Property taxes	\$ 2,464,254	\$ -	\$ -	\$ -	\$ 2,464,254
Other taxes	2,648,759	-	-	-	2,648,759
Licenses and permits	1,278,297	-	-	9,555	1,287,852
Charges for services	619,751	-	-	45,000	664,751
Intergovernmental	2,556,396	1,516,474	-	1,741,062	5,813,932
Fees and assessments	45,517	-	-	1,450,473	1,495,990
Loan repayments	-	-	217,750	82,832	300,582
Use of money and property	139,898	-	129,989	-	269,887
Other revenue	285,141	-	1,603	-	286,744
Total revenues	<u>10,038,013</u>	<u>1,516,474</u>	<u>349,342</u>	<u>3,328,922</u>	<u>15,232,751</u>
EXPENDITURES					
Current:					
General government	937,399	-	-	5,725	943,124
Public safety	6,472,587	-	-	-	6,472,587
Public works	967,956	-	-	757,432	1,725,388
Community development	322,809	-	39,864	-	362,673
Parks and recreation	1,167,121	12,103	-	-	1,179,224
Capital outlay	<u>339,044</u>	<u>1,314,546</u>	<u>-</u>	<u>762,166</u>	<u>2,415,756</u>
Total expenditures	<u>10,206,916</u>	<u>1,326,649</u>	<u>39,864</u>	<u>1,525,323</u>	<u>13,098,752</u>
Excess (deficiency) of revenues over (under) expenditures	<u>(168,903)</u>	<u>189,825</u>	<u>309,478</u>	<u>1,803,599</u>	<u>2,133,999</u>
OTHER FINANCING SOURCES (USES)					
Sale of capital assets	<u>4,926</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>4,926</u>
Total other financing sources (uses)	<u>4,926</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>4,926</u>
Net changes in fund balances	(163,977)	189,825	309,478	1,803,599	2,138,925
Fund balances - beginning	<u>9,183,761</u>	<u>292,416</u>	<u>7,495,036</u>	<u>14,305,130</u>	<u>31,276,343</u>
Fund balances - ending	<u>\$ 9,019,784</u>	<u>\$ 482,241</u>	<u>\$ 7,804,514</u>	<u>\$ 16,108,729</u>	<u>\$ 33,415,268</u>

CITY OF LEMOORE
RECONCILIATION OF THE STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES OF GOVERNMENTAL FUNDS TO THE
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2018

Amounts reported for governmental activities in the statement of activities are different because:

Net change in fund balances - total governmental funds	\$ 2,138,925
Governmental funds report capital outlays as expenditures; however, in the statement of activities, the cost of those assets is capitalized. This is the amount of capital assets recorded.	1,933,323
Depreciation expense on capital assets is reported on the government-wide statement of activities, but it does not require the use of current financial resources; therefore, depreciation expense is not reported as an expenditure in the governmental funds.	(2,265,081)
The net effect of various miscellaneous transactions involving capital assets (i.e., sales, trade-ins, and donations) is a decrease in net position.	(49,028)
Compensated absences expense reported in the statement of activities does not require the use of current financial resources; therefore, it is not reported as an expenditure in the governmental funds.	(100,336)
Changes to net pension liability and pension related deferred outflows and inflows of resources do not require the use of current financial resources, and therefore are not reported as expenditures in governmental funds.	(408,952)
Internal service funds are used by management to change the costs of fleet maintenance, employee benefits, liability and property insurance and general services to individual funds. The change in net position of certain activities of internal service funds is reported with governmental activities.	(23,627)
Change in net position of governmental activities	<u>\$ 1,225,224</u>

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MAJOR PROPRIETARY FUNDS

Proprietary funds account for the City operations financed and operated in a manner similar to a private business enterprise. The intent of the City is that the cost of providing goods and services be financed primarily through user charges.

The City reported all of its Enterprise Funds and its Internal Service Fund as major funds in fiscal year 2018.

ENTERPRISE FUNDS

WATER FUND

This fund accounts for activities associated with the acquisition or construction of water facilities and the production, distribution, and transmission of potable water to users.

SEWER FUND

This fund accounts for activities associated with the acquisition or construction, and operations and maintenance of the City's sewer system, including drainage, treatment, and disposal of sanitary wastewater.

REFUSE FUND

This fund accounts for activities associated with the acquisition of refuse and disposal equipment and vehicles, and the collection and disposal of refuse throughout the City.

GOLF COURSE FUND

This fund accounts for the resources provided and used in the City's public golf course.

INTERNAL SERVICE FUND

FLEET MAINTENANCE FUND

This fund is used for the maintenance, service, and repair of the City's fleet. These services are provided to other departments or agencies of the City on a cost reimbursement basis.

CITY OF LEMOORE
STATEMENT OF NET POSITION
PROPRIETARY FUNDS
JUNE 30, 2018

	Business-type Activities				Governmental Activities Internal Service Fund
	Water Fund	Sewer Fund	Refuse Fund	Golf Course Fund	Total
ASSETS					
Current assets:					
Cash and investments	\$ 5,078,333	\$ 11,895,133	\$ 1,984,451	\$ -	\$ 18,957,917
Receivables:					
Accounts	740,415	513,300	371,315	-	1,625,030
Less: allowance for doubtful accounts	(194,396)	(137,615)	(124,411)	-	(456,422)
Inventory	-	-	-	56,294	56,294
Prepaid expenses	-	-	-	46,337	46,337
Total current assets	<u>5,624,352</u>	<u>12,270,818</u>	<u>2,231,355</u>	<u>102,631</u>	<u>20,229,156</u>
Noncurrent assets:					
Advances to other funds	-	1,021,883	-	-	1,021,883
Capital assets:					
Nondepreciable	1,689,354	938,381	252,505	624,013	3,504,253
Depreciable, net of accumulated depreciation	<u>20,112,311</u>	<u>9,375,588</u>	<u>595,260</u>	<u>1,471,381</u>	<u>31,554,540</u>
Total noncurrent assets	<u>21,801,665</u>	<u>11,335,852</u>	<u>847,765</u>	<u>2,095,394</u>	<u>36,080,676</u>
Total assets	<u>27,426,017</u>	<u>23,606,670</u>	<u>3,079,120</u>	<u>2,198,025</u>	<u>56,309,832</u>
DEFERRED OUTFLOWS OF RESOURCES					
Deferred outflows from pensions	<u>405,406</u>	<u>302,362</u>	<u>345,010</u>	<u>-</u>	<u>1,052,778</u>
Total deferred outflows of resources	<u>405,406</u>	<u>302,362</u>	<u>345,010</u>	<u>-</u>	<u>1,052,778</u>
LIABILITIES					
Current liabilities:					
Accounts payable	161,121	174,642	93,177	44,500	473,440
Deposits and other liabilities	25,871	1	-	10,321	36,193
Compensated absences	9,703	8,175	13,574	-	31,452
Interfund payables	-	-	-	477,900	477,900
Accrued interest payable	12,052	-	-	-	12,052
Current portion of long-term liabilities	<u>443,856</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>443,856</u>
Total current liabilities	<u>652,603</u>	<u>182,818</u>	<u>106,751</u>	<u>532,721</u>	<u>1,474,893</u>
Noncurrent liabilities:					
Long-term liabilities	4,954,496	-	-	-	4,954,496
Advances from other funds	1,021,883	-	-	566,757	1,588,640
Advances from Successor Agency	-	148,380	-	1,717,069	1,865,449
Compensated absences	38,809	32,702	54,298	-	125,809
Net pension liability	<u>1,278,459</u>	<u>941,251</u>	<u>1,087,863</u>	<u>-</u>	<u>3,307,573</u>
Total noncurrent liabilities	<u>7,293,647</u>	<u>1,122,333</u>	<u>1,142,161</u>	<u>2,283,826</u>	<u>11,841,967</u>
Total liabilities	<u>7,946,250</u>	<u>1,305,151</u>	<u>1,248,912</u>	<u>2,816,547</u>	<u>13,316,860</u>
DEFERRED INFLOWS OF RESOURCES					
Deferred inflows from pensions	<u>130,139</u>	<u>109,748</u>	<u>110,126</u>	<u>-</u>	<u>350,013</u>
Total deferred inflows of resources	<u>130,139</u>	<u>109,748</u>	<u>110,126</u>	<u>-</u>	<u>350,013</u>
NET POSITION (DEFICIT)					
Net investment in capital assets	15,381,430	11,335,852	847,765	2,095,394	29,660,441
Unrestricted	<u>4,373,604</u>	<u>11,158,281</u>	<u>1,217,327</u>	<u>(2,713,916)</u>	<u>14,035,296</u>
Total net position (deficit)	<u>\$ 19,755,034</u>	<u>\$ 22,494,133</u>	<u>\$ 2,065,092</u>	<u>\$ (618,522)</u>	<u>\$ 43,695,737</u>
Adjustments to reflect the consolidation of internal service fund activities related to enterprise funds					<u>(12,762)</u>
Net position of business-type activities					<u>\$ 43,682,975</u>

The accompanying notes are an integral part of these financial statements.

CITY OF LEMOORE
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN
FUND NET POSITION – PROPRIETARY FUNDS
FOR THE YEAR ENDED JUNE 30, 2018

	Business-type Activities					Governmental Activities Internal Service Fund
	Water Fund	Sewer Fund	Refuse Fund	Golf Course Fund	Total	
Operating revenues:						
Charges for services	\$ 5,612,760	\$ 3,552,091	\$ 2,985,585	\$ 1,120,016	\$ 13,270,452	\$ 827,645
Fines and forfeitures	95,554	66,477	60,419	-	222,450	-
Other revenues	-	163,679	4,484	27	168,190	-
Total operating revenues	<u>5,708,314</u>	<u>3,782,247</u>	<u>3,050,488</u>	<u>1,120,043</u>	<u>13,661,092</u>	<u>827,645</u>
Operating expenses:						
Salaries and benefits	1,100,719	631,084	913,653	-	2,645,456	157,408
Materials and supplies	448,810	202,806	109,278	307,117	1,068,011	349,501
Utilities	885,634	589,712	374,061	132,624	1,982,031	322
Contractual services	505,290	928,484	1,181,312	514,130	3,129,216	52,099
Repairs and maintenance	582,081	420,561	12,933	24,484	1,040,059	320,735
Other expenses	176,326	165,333	391,927	92,989	826,575	-
Depreciation and amortization	980,919	517,405	157,416	132,978	1,788,718	12,742
Total operating expenses	<u>4,679,779</u>	<u>3,455,385</u>	<u>3,140,580</u>	<u>1,204,322</u>	<u>12,480,066</u>	<u>892,807</u>
Operating income (loss)	<u>1,028,535</u>	<u>326,862</u>	<u>(90,092)</u>	<u>(84,279)</u>	<u>1,181,026</u>	<u>(65,162)</u>
Nonoperating revenues (expenses):						
Intergovernmental - capital	-	-	6,857	-	6,857	-
Use of money and property	30,739	67,733	11,612	-	110,084	-
Interest expense	(140,762)	-	-	(39,493)	(180,255)	-
Solar rebate	577,046	-	-	-	577,046	-
Gain (loss) on asset disposal	-	13,600	-	-	13,600	-
Total nonoperating revenues (expenses)	<u>467,023</u>	<u>81,333</u>	<u>18,469</u>	<u>(39,493)</u>	<u>527,332</u>	<u>-</u>
Changes in net position	1,495,558	408,195	(71,623)	(123,772)	1,708,358	(65,162)
Net position, beginning, restated	<u>18,259,476</u>	<u>22,085,938</u>	<u>2,136,715</u>	<u>(494,750)</u>		<u>(770,825)</u>
Net position (deficit) - ending	<u>\$ 19,755,034</u>	<u>\$ 22,494,133</u>	<u>\$ 2,065,092</u>	<u>\$ (618,522)</u>		<u>\$ (835,987)</u>
Adjustments to reflect consolidation of internal service fund activities related to enterprise funds					<u>(41,536)</u>	
Change in net position of business-type activities					<u>\$ 1,666,822</u>	

The accompanying notes are an integral part of these financial statements.

**CITY OF LEMOORE
STATEMENT OF CASH FLOWS
PROPRIETARY FUNDS
FOR THE YEAR ENDED JUNE 30, 2018**

	Business-type Activities				Governmental Activities Internal Service Funds
	Water Fund	Sewer Fund	Refuse Fund	Golf Course Fund	Total
CASH FLOWS FROM OPERATING ACTIVITIES					
Receipt from customers and users	\$ 6,301,831	\$ 3,848,146	\$ 3,068,273	\$ 1,114,430	\$ 14,332,680
Payments to suppliers and service providers	(2,637,349)	(2,175,852)	(2,061,434)	(1,091,926)	(7,966,561)
Payments to employees for salaries and benefits	(957,927)	(725,827)	(784,653)	-	(2,468,407)
Other receipts	-	163,679	4,484	27	168,190
Net cash provided (used) by operating activities	<u>2,706,555</u>	<u>1,110,146</u>	<u>226,670</u>	<u>22,531</u>	<u>4,065,902</u>
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES					
Loans to (from) other funds	(450,000)	450,000	-	16,962	16,962
Net cash provided (used) by noncapital financing activities	<u>(450,000)</u>	<u>450,000</u>	<u>-</u>	<u>16,962</u>	<u>16,962</u>
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES					
Capital grants and rebates	577,046	-	6,857	-	583,903
Principal paid on capital debt	(433,017)	-	-	-	(433,017)
Interest paid on capital debt	(140,762)	-	-	(39,493)	(180,255)
Acquisition and construction of capital assets	(656,066)	(1,675,038)	(28,763)	-	(2,359,867)
Proceeds from the sale of capital assets	-	13,600	-	-	13,600
Net cash provided (used) by capital and related financing activities	<u>(652,799)</u>	<u>(1,661,438)</u>	<u>(21,906)</u>	<u>(39,493)</u>	<u>(2,375,636)</u>
CASH FLOWS FROM INVESTING ACTIVITIES					
Interest received	30,739	67,733	11,612	-	110,084
Net cash provided (used) by investing activities	<u>30,739</u>	<u>67,733</u>	<u>11,612</u>	<u>-</u>	<u>110,084</u>
Increase (decrease) in cash and cash equivalents	1,634,495	(33,559)	216,376	-	1,817,312
Cash and cash investments, July 1	<u>3,443,838</u>	<u>11,928,692</u>	<u>1,768,075</u>	<u>-</u>	<u>17,140,605</u>
Cash and cash investments, June 30	<u>\$ 5,078,333</u>	<u>\$ 11,895,133</u>	<u>\$ 1,984,451</u>	<u>\$ -</u>	<u>\$ 18,957,917</u>
Cash and investments	<u>\$ 5,078,333</u>	<u>\$ 11,895,133</u>	<u>\$ 1,984,451</u>	<u>\$ -</u>	<u>\$ 18,957,917</u>
Total cash and investments	<u>\$ 5,078,333</u>	<u>\$ 11,895,133</u>	<u>\$ 1,984,451</u>	<u>\$ -</u>	<u>\$ 18,957,917</u>

The accompanying notes are an integral part of these financial statements.

CITY OF LEMOORE
STATEMENT OF CASH FLOWS
PROPRIETARY FUNDS
FOR THE YEAR ENDED JUNE 30, 2018
(Continued)

Reconciliation of Operating Income (Loss) to Net Cash Provided (Used) by Operating Activities

	Business-type Activities					Governmental Activities Internal Service Funds
	Water Fund	Sewer Fund	Refuse Fund	Golf Course Fund	Total	
Operating income (loss)	\$ 1,028,535	\$ 326,862	\$ (90,092)	\$ (84,279)	\$ 1,181,026	\$ (65,162)
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities:						
Depreciation	980,919	517,405	157,416	132,978	1,788,718	12,742
Changes in assets and liabilities:						
(Increase) decrease in accounts receivable	596,783	229,578	22,269	17	848,647	39
(Increase) decrease in inventory	-	-	-	5,761	5,761	-
(Increase) decrease in deferred outflows of resources	(157,647)	(64,515)	(134,247)	-	(356,409)	6,347
Increase (decrease) in accounts payable	(39,208)	131,044	8,077	(26,343)	73,570	30,343
Increase (decrease) in deposits and other liabilities	(3,266)	-	-	(5,603)	(8,869)	-
Increase (decrease) in compensated absences	6,919	(1,138)	13,310	-	19,091	1,559
Increase (decrease) in deferred inflows of resources	7,264	(16,372)	8,862	-	(246)	(12,975)
Increase (decrease) in net pension liability	286,256	(12,718)	241,075	-	514,613	(93,071)
Net cash provided (used) by operating activities	<u>\$ 2,706,555</u>	<u>\$ 1,110,146</u>	<u>\$ 226,670</u>	<u>\$ 22,531</u>	<u>\$ 4,065,902</u>	<u>\$ (120,178)</u>

The accompanying notes are an integral part of these financial statements.

FIDUCIARY FUNDS

Fiduciary funds are used to account for resources held for the benefit of parties outside the government. The City administers the activity of a private purpose trust fund. The City uses an agency fund to account for assets which are custodial in nature and does not involve measurement of results of the operations. Fiduciary funds are not reflected in the government-wide statements because the resources of those funds are not available to support the City's own programs.

LEMOORE REDEVELOPMENT SUCCESSOR AGENCY PRIVATE PURPOSE TRUST FUND

This fund is used to account for assets and liabilities of the former Lemoore Redevelopment Agency until they are distributed to other units of state and local government as a result of the dissolution of the redevelopment agency.

AGENCY FUNDS

These funds are used to account for assets held by the City as an agent for the Irrigation District, individuals, private organizations, other governments and/or other funds. The funds are custodial in nature and do not involve measurement of results in operations.

**CITY OF LEMOORE
STATEMENT OF FIDUCIARY NET POSITION
FIDUCIARY FUNDS
JUNE 30, 2018**

	Lemoore Redevelopment Successor Agency Private Purpose Trust Fund	Agency Funds
ASSETS		
Cash and investments	\$ 3,123,976	\$ 539,863
Restricted cash with fiscal agent	2,342,401	155,006
Advances to City of Lemoore	1,865,449	-
Notes receivable	1,191,657	-
Land held for resale	524,058	-
Other assets	<u>-</u>	<u>28,800</u>
Total assets	<u>\$ 9,047,541</u>	<u>\$ 723,669</u>
LIABILITIES		
Accounts payable	\$ 23,455	\$ 200,346
Payable to State Department of Finance	18,050	-
Interest payable	256,357	-
Deposits and other liabilities	-	523,323
Long-term liabilities:		
Due within one year	1,863,963	-
Due in more than one year	<u>14,861,513</u>	<u>-</u>
Total liabilities	<u>\$ 17,023,338</u>	<u>\$ 723,669</u>
NET POSITION		
Net position held in trust for the retirement of obligations of the Lemoore Successor Agency to the former Lemoore Redevelopment Agency	<u>\$ (7,975,797)</u>	

The accompanying notes are an integral part of these financial statements.

CITY OF LEMOORE
STATEMENT OF CHANGES IN FIDUCIARY NET POSITION
FIDUCIARY FUNDS
FOR THE YEAR ENDED JUNE 30, 2018

	Lemoore Redevelopment Successor Agency Private Purpose Trust Fund
	<u> </u>
ADDITIONS	
Taxes	\$ 1,588,576
Investment earnings	96,146
Intrafund transfers	<u>1,418,742</u>
Total additions	<u>3,103,464</u>
DEDUCTIONS	
Community development	250,840
Intrafund transfers	1,418,742
Interest expense	648,198
Bad debt	<u>100,000</u>
Total deductions	<u>2,417,780</u>
Change in net position	685,684
Net position (deficit) - beginning	<u>(8,661,481)</u>
Net position (deficit) - ending	<u>\$ (7,975,797)</u>

The accompanying notes are an integral part of these financial statements.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Reporting Entity

The City of Lemoore, California (the “City”) is a charter city operating under a Council-Member form of government. During the year ended June 30, 2000, the voters of the City approved a Charter which gives the City Council greater self-rule, and the Charter was accepted by the California Secretary of State.

The accompanying basic financial statements include the financial activities of the City, the primary government and its component units, the Lemoore Financing Authority (Financing Authority) and the Lemoore Housing Authority (Housing Authority). Financial information for the City and its component units are accounted for in the accompanying financial statements in accordance with principles defining the governmental reporting entity adopted by the Governmental Accounting Standards Board. The City Council members, in separate sessions, serve as the governing board of the component units. These entities are presented on a blended basis.

The **Lemoore Financing Authority** (Financing Authority) was formed in August 1989 for the purpose of assisting the financing or refinancing of certain public capital facilities within the City. The Financing Authority is governed by a five-member board of directors, which consists of the members of the City Council with the City Manager as the Executive Director. The financial transactions for the Financing Authority are recorded in the Water, Sewer, and Golf Course enterprise funds. The Financing Authority does not issue separate financial statements.

The **Lemoore Housing Authority** (Housing Authority) was formed in February 2011 for the purpose of providing sanitary and safe housing for people of very low, low, or moderate income within the City's territorial jurisdiction. The Housing Authority is governed by a five-member board of directors, which consists of the members of the City Council with the City Manager as the Executive Director. The financial transactions for the Housing Authority are recorded in the Lemoore Housing Authority special revenue fund. The Housing Authority does not issue separate financial statements.

The financial statements of the City have been prepared in conformity with accounting principles generally accepted in the United States of America as applied to governmental audits. The Governmental Accounting Standards Board is the accepted standard setting body for governmental accounting and financial reporting principles. The more significant of the City's accounting policies are described below.

Basis of Presentation

The accounts of the City are organized on the basis of funds. A fund is an independent fiscal and accounting entity with a self-balancing set of accounts. Fund accounting segregates funds according to their intended purpose and is used to aid management in demonstrating compliance with finance-related legal and contractual provisions. The minimum number of funds is maintained consistent with legal and managerial requirements.

Government-Wide Financial Statements – The statement of net position and the statement of activities display information about the primary government (the City) and its component unit. These statements include the financial activities of the overall government, except for fiduciary activities. Eliminations have been made to minimize the double-counting of internal activities. These statements distinguish between the *governmental and business-type activities* of the City. Governmental activities generally are financed through taxes, intergovernmental revenues, and other non-exchange transactions. Business-type activities are financed in whole or in part by fees charged to external parties.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Basis of Presentation (Continued)

The statement of activities presents a comparison between direct expenses and program revenues for each different identifiable activity of the City's *business-type activities* and for each function of the City's *governmental activities*. Direct expenses are those that are specifically associated with a program or function and, therefore, are included in the program expense reported for individual function. Certain indirect costs, which cannot be identified and broken down, are included in the program expense reported for individual functions and activities. Program revenues include, 1) fines, fees, and charges paid by the recipients of goods and services offered by the programs and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular program. Revenues that are not classified as program revenues, including all taxes, are presented instead as general revenues.

Certain eliminations have been made as prescribed by GASB Statement No. 34 in regards to interfund activities, payables and receivables. All internal balances in the statement of net position have been eliminated except those representing balances between the governmental activities and the business-type activities, which are presented as internal balances and eliminated in the total primary government column. In the statement of activities those transactions between governmental and business-type activities have not been eliminated. The following interfund activities have been eliminated: due to/due from other funds, interfund note receivable/interfund long-term debt, and transfers in/transfers out.

Fund Financial Statements – The fund financial statements provide information about the City's funds. Separate statements for each fund category – *governmental, proprietary, and fiduciary* – are presented. The emphasis of fund financial statements is on major governmental and enterprise funds, each displayed in a separate column. All remaining governmental and enterprise funds are aggregated and reported as nonmajor funds. An accompanying schedule is presented to reconcile and explain the differences in funds and changes in fund balances as presented in these statements to the net position and changes in net position presented in the government-wide financial statements.

Proprietary fund operating revenues, such as charges for services, result from exchange transactions associated with the principal activity of the fund. Exchange transactions are those in which party receives and gives up essentially equal values. Nonoperating revenues, such as subsidies and investment earnings, result from nonexchange transactions or ancillary activities. Operating expenses are those expenses that are essential to the primary operations of the fund. All other expenses are reported as nonoperating expenses.

Major funds are defined as funds that have either assets, liabilities, revenues or expenditures/expenses equal to ten percent fund type total and five percent of the City's funds. The General Fund is always a major fund. The City may also select other funds it believes should be presented as major funds. The City reports the following major governmental funds:

The **General Fund** is the primary operating fund of the City. It accounts for normal recurring activities traditionally associated with government, which are not required to be accounted for in another fund. These activities are funded primarily by property taxes, sales and use taxes, interest and rental income, charges for services, and grants.

The **Grants Fund** is used to account for the City's receipts and expenditures of the state, federal, and other grants.

The **Lemoore Housing Authority Fund** has taken over the assets and associated functions of the Low/Moderate Income Housing Fund of the former Lemoore Redevelopment Agency and is used to account for current and future low-income households for the acquisition, rehabilitation, or new construction of single-family homes.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Basis of Presentation (Continued)

Enterprise fund financial statements include a statement of net position, statement of revenues, expenses and changes in net position, a statement of cash flows for each major enterprise fund and nonmajor funds aggregated.

The City has four major enterprise funds, the Water Fund, Sewer Fund, Refuse Fund, and Golf Course Fund, which are used to account for operations that are financed and operated in a manner similar to private business enterprise. In an enterprise fund, the intent of the City Council is that costs (expenses, including depreciation) of providing services to the general public, on a continuing basis, be financed or recovered primarily through user charges.

The City reports the following major enterprise funds:

The **Water Fund** accounts for the activities of the City's water production and distribution operations.

The **Sewer Fund** accounts for the activities of the City's sanitary sewer system operations.

The **Refuse Fund** accounts for the activities of the City's refuse collection and disposal operations.

The **Golf Course Fund** accounts for the resources provided and used in the golf course.

The City's fiduciary funds are used to account for resources held for the benefit of parties outside the government. The fund's activities are reported in a separate statement of fiduciary net position and a statement of changes in fiduciary net position. The City uses an agency fund to account for assets which are custodial in nature and does not involve measurement of results of operations. Accordingly, it presents only a statement of fiduciary net position and does not present a statement of changes in fiduciary net position. Fiduciary funds are not reflected in the government-wide statements because the resources of those funds are not available to support the City's own programs. Fiduciary funds are presented on an economic resources measurement focus and the accrual basis of accounting, similar to the government-wide financial statements.

The City reports the following fiduciary funds:

Lemoore Redevelopment Successor Agency Private Purpose Trust Fund is used to account for assets and liabilities of the former redevelopment agency until they are distributed to other units of state and local government as a result of the dissolution of the redevelopment agency.

Agency Funds are used to account for assets held by the City as an agent for the Irrigation District, individuals, private organizations, other governments and/or other funds. The funds are custodial in nature and do not involve measurement of results of operations.

Additionally, the City reports the following fund type:

Internal Service Funds are used to account for fleet maintenance services provided to other departments or agencies of the City on a cost reimbursement basis.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Measurement Focus, Basis of Accounting

The accounting and financial reporting treatment is determined by the applicable measurement focus and basis of accounting. Measurement focus indicates the type of resources being measured such as *current financial resources* or *economic resources*. The basis of accounting indicates the timing of transactions or events for recognition in the financial statements.

The government-wide financial statements are reported using the *economic resources measurement focus* and the *accrual basis of accounting*. Revenues are recorded when earned and expenses are recorded when a liability is incurred regardless of the timing of related cash flows. Property taxes are recognized as revenues in the year for which they are levied. Grants and similar items are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met.

The governmental fund financial statements are reported using the *current financial resources measurement focus* and the *modified basis of accounting*. Revenues, except for grants, are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the City considers revenues to be available if they are collected within 60 days of the end of the current fiscal year. Expenditures generally are recorded when a liability is incurred as under accrual accounting. However, debt service expenditures, as well as expenditures related to compensated absences, are recorded only when payment is due. General capital asset acquisitions are reported as expenditures in governmental funds. Issuance of long-term debt and acquisitions under capital leases are reported as other financing sources.

Property taxes, sales taxes, franchise taxes, licenses, and interest associated with the current fiscal period are all considered to be susceptible to accrual and so have been recognized as revenue of the current fiscal year. Entitlements are recorded as revenues when all eligibility requirements are met, including any time requirement, and the amount is received during the period or within the availability period for this revenue resource (within 60 days of year-end). Expenditure-driven grants are recognized as revenue when the qualifying expenditures have been incurred and all other eligibility requirements have been met. All other revenues items are considered to be measurable and available only when cash is received by the City.

The proprietary and private-purpose trust funds are reported using the *economic resources measurement focus* and the *accrual basis of accounting*. The agency fund has no measurement focus but utilizes the *accrual basis of accounting* for reporting its assets and liabilities.

Proprietary funds distinguish *operating* revenues and expenses from *nonoperating* items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. The principal operating revenues of the City's proprietary funds are charges to customers for sales and services. Operating expenses for proprietary funds include the cost of sales and services, administrative expenses, and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

The City applies all applicable GASB pronouncements in accounting and reporting for its proprietary operations as well as the following private sector standards issued on or before November 30, 1989, unless these pronouncements conflict with or contradict GASB pronouncements. Governments have the option of following subsequent private sector guidance for their business-type activities and enterprise funds, subject to the same limitation. The City has elected not to follow subsequent private sector guidance.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position/Fund Balances

Cash and Cash Equivalents

For the purposes of the statement of cash flows, the City considered all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents.

Deposits and Investments

The City maintains a cash and investment pool that is available for use by all funds. This pool utilizes investments authorized by the Government Code and is further defined by the City's investment policy that is approved by the City Council.

Authorized investments include deposits in the State of California administered Local Agency Investment Fund (LAIF), insured certificates of deposits, collateralized certificates of deposits, commercial paper, money market mutual funds, federally sponsored credit agency securities, and securities backed by the U.S. Government. All investments are stated at fair value.

Interest income earned as a result of pooling is distributed to the appropriate funds based on month end cash balances in each fund. Interest income from cash and investments with fiscal agents is credited directly to the related fund.

Restricted Assets

Certain proceeds of general obligation debt and enterprise debt are classified as restricted assets on the balance sheet because their use is limited by applicable debt covenants. "Cash with fiscal agent" is used to report resources set aside for potential deficiencies in the repayment ability of the enterprise funds, and for payment of construction projects undertaken by the City.

Interfund Transactions

Interfund transactions are reflected as loans, services provided or used, reimbursements or transfers. Loans reported as receivables and payables, as appropriate, are subject to elimination upon consolidation and are referred to as either "due to/from other funds" (i.e. the current portion of interfund loans) or "advances to/from other funds" (i.e. the noncurrent portion of interfund loans). Any residual balances outstanding between the *governmental activities* and the *business-type activities* are reported in the fund financial statements, and are offset by a fund balance reserve account in applicable governmental funds to indicate that they are not available for appropriation and are not available financial resources.

Services provided or used, deemed to be at market or near market rates, are treated as revenues and expenditures or expenses. Reimbursements occur when one fund incurs a cost, charges the appropriate benefiting fund and reduces its related cost as a reimbursement. All other interfund transactions are treated as transfers. Transfers between governmental or proprietary funds are netted as part of the reconciliation to the government-wide presentation.

Receivables

Enterprise fund statements report an allowance for uncollectible accounts against the account receivables. All customers are billed monthly. The estimated value of services provided, but unbilled at year-end, has been included in the accompanying financial statements.

**CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018**

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position/Fund Balances
(Continued)

Property Tax Calendar

Property taxes are assessed, collected and allocated by Kings County throughout the fiscal year according to the following property tax calendar:

Lien Date	January 1
Levy Date	July 1 to June 30
Due Dates	November 1, 1 st installment; February 1, 2 nd installment
Delinquent Dates	December 10, 1 st installment; April 10, 2 nd installment

Revenues from taxpayer-assessed taxes (sales and use, business license, transient occupancy, utility users, gas, and franchise fees) are accrued in the governmental funds when they are both measurable and available. The City considers these revenues available if they are received during the period when settlement of prior fiscal year accounts payable occurs. Historically, the majority of these taxes are received within 60 days of the fiscal year-end.

The City accrues as receivable all property taxes received during the first (60) days of the new fiscal year.

Inventory of Supplies and Prepaid Items

Inventory is valued at the lower of cost, determined by the first-in, first-out method, or market and consists primarily of golf merchandise and food and beverage items sold at the golf course. The cost of such inventories is recorded as expenditures/expenses when consumed rather than when purchased.

Certain payments to vendors reflect costs applicable to future accounting periods and are recorded as prepaid items in both government-wide and fund financial statements. The cost of prepaid items is recorded as expenditures/expenses when consumed rather than when purchased.

Assets Held for Resale

Land and improvements held by the City for the purpose of improving and reselling are accounted for in the account. Property is valued at the lower of cost or net realizable value.

Capital Assets

The City's assets are categorized at historical cost or estimated historical cost. City policy has set the capitalization threshold for reporting capital assets at \$5,000. Gifts or contributions of capital assets are recorded at fair value when received. Depreciation is recorded on a straight-line basis over the useful lives of the assets as follows:

Buildings and improvements	40 years
Machinery and equipment	5-15 years
Road network.....	25-50 years
Infrastructure.....	10-15 years

In accordance with GASB Statement No. 34, the City is required to account for and report infrastructure capital assets. The City's road network consists of seven subsystems which include sidewalk, curb and gutter, pavement, landscape zones, streetlights, railroad crossings, and traffic signals. Subsystem detail is not presented in these basic financial statements; however, the City maintains detailed information on these subsystems. The assets in these subsystems are depreciated using the straight-line method.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position/Fund Balances
(Continued)

Risk Management

The City participates with other public entities in a joint venture under a joint powers agreement which establishes the Central San Joaquin Valley Risk Management Authority (CSJVRMA). The relationship between the City and CSJVRMA is such that CSJVRMA is not a component unit of the City for financial reporting purposes.

Interest Payable

In the government-wide financial statements, interest payable for long-term debt is recognized as the liability is incurred for the governmental fund-types and proprietary-fund types.

In the fund financial statements, proprietary fund-types recognize the interest payable when the liability is incurred.

Compensated Absences Payable

City employees are granted vacation and sick leave in varying amounts depending on the number of years of service. City employees also accumulate hours of overtime as compensated time off. For governmental funds, earned but unused, vested leave (vacation, compensated time off, holiday) is expensed and established as a liability and is reported in the government-wide statement of net position in the governmental activities column. Vested leave for enterprise funds is recorded as an expense and liability of those funds as the benefits accrue. No liability is recorded for non-vesting leave such as sick leave.

Unearned Revenue

Unearned revenue is that for which asset recognition criteria have been met, but for which asset revenue recognition criteria have not been met. The City typically records intergovernmental revenues (primary grants and subventions) received but not earned (qualifying expenditures not yet incurred) as unearned revenue.

Unavailable Revenue

In the fund financial statements, unavailable revenue is recorded when transactions have not yet met the revenue recognition criteria based on the modified accrual basis of accounting. The City records unavailable revenue for transactions for which revenues have been earned, but for which funds are not available to meet current financial obligations.

Long-Term Debt

In the government-wide financial statements and enterprise fund type statements, long-term debt and other long-term obligations are reported as liabilities in the applicable governmental activities, business-type activities, or enterprise fund type statement of net position. Bond premiums and discounts are deferred and amortized over the life of the bonds using the straight-line method. Bonds payable are reported net of the applicable bond premiums or discount.

In the fund financial statements, governmental fund types recognize bond premiums and discounts, as well as bond issuance costs, during the current period. The face amount of debt issued is reported as other financing sources. Premiums received on debt issuances are reported as other financing sources while discounts on debt issuances are reported as other financing uses. Issuance costs, whether or not withheld from the actual debt proceeds received, are reported as debt service expenditures.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position/Fund Balances
(Continued)

Pensions

In government-wide financial statements, pensions are recognized and disclosed using the accrual basis of accounting (see Note 12 and the RSI section immediately following the notes to financial statements), regardless of the amount recognized as pension expenditures on the modified accrual basis of accounting. The City recognizes a net pension liability of the qualified pension plan in which it participates, which represents the excess of the total pension liability over the fiduciary net position of the qualified pension plan, measured as of the City's fiscal year-end or the City's proportionate share thereof in the case of a cost-sharing multiple-employer plan. Changes in the net pension liability during the period are recorded as pension expense, or as deferred inflows of resources or deferred outflows of resources depending on the nature of the change, in the period incurred. Those changes in net pension liability that are recorded as deferred inflows of resources or deferred outflows of resources that arise from changes in actuarial assumptions or other inputs and differences between expected or actual experience are amortized over the weighted average remaining service life of all participants including retirees, in the respective qualified pension plan and recorded as a component of pension expense beginning with the period in which they arose. Projected earnings on qualified pension plan investments are recognized as a component of pension expense. Differences between projected and actual investment earnings are reported as deferred inflows of resources or deferred outflows of resources and amortized as a component of pension expense on a closed basis over a five-year period beginning with the period in which the difference occurred.

For purposes of measuring the net pension liability and deferred outflows/inflows of resources related to pensions, and pension expense, information about the fiduciary net position of the City of Lemoore California Public Employees' Retirement System (CalPERS) plan (Plan) and additions to/deductions from the Plan's fiduciary net position have been determined on the same basis as they are reported by CalPERS. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value.

Deferred Outflows and Inflows of Resources

Pursuant to GASB Statement No. 63 and GASB Statement No. 65, the City recognizes deferred outflows and inflows of resources. A deferred outflow of resources is defined as a consumption of net position by the government that is applicable to a future reporting period. A deferred inflow of resources is defined as an acquisition of net position by the government that is applicable to a future reporting period. Refer to Notes 9 and 11 for a detailed listing of the deferred outflows and deferred inflows of resources the City has recognized.

Budgetary Information

Budgetary and Budgetary Accounting

Budgets are established by department and approved by the City Council. The budgets are then managed and controlled by department heads under the supervision of the City Manager. Budgets are adopted annually for the general funds, some of the special revenue funds, enterprise funds, and internal service funds. Formal budgetary integration is employed as a management control device during the year for these funds. The annual budgets are prepared on the basis of accounting utilized by the fund.

A two-year capital projects budget is prepared in even years for approval by the City Council, and updated in odd years. Capital projects are funded by capital projects funds, impact fees, operating accounts, grant proceeds or loan proceeds.

Expenditures may not legally exceed budgeted appropriations at the fund level. The City Manager is authorized to make budget transfers between accounts within any department. The City Council may transfer funds from reserves to departments or enterprise activities as deemed appropriate during the fiscal year.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position/Fund Balances
(Continued)

Excess of Expenditures Over Appropriations

Under GASB No. 34, budgetary comparison information is required to be presented for the general fund and each major special revenue fund with a legally adopted budget. The City only adopts annual operating budgets for the General Fund, Gasoline Tax Fund, Traffic Safety Fund, Maintenance Assessment District Fund, Downtown Improvement Fund, and Facility Infrastructure Fund. Therefore, budget comparison information for all other special revenue and capital projects funds is not included in the City's financial statements.

The following funds incurred expenditures in excess of appropriations in the following amounts for the year ended June 30, 2018:

Major Funds:

General Fund:

Current:

General government	\$ 135,289
Public safety	361,211
Community development	24,227
Parks and recreation	79,064

The excess expenditures were covered by available fund balance in the funds.

Use of Estimates

The preparation of the financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Classification of Net Position

In the government-wide financial statements, net position is classified in the following categories:

- ***Net investment in capital assets*** – This category groups all capital assets, including infrastructure, into one component of net position. Accumulated depreciation and the outstanding balances of debt that are attributable to the acquisition, construction or improvement of these assets reduce this category.
- ***Restricted net position*** – This category presents external restrictions imposed by creditors, grantors, contributors or laws or regulations of other governments and restrictions imposed by law through constitutional provisions or enabling legislation.
- ***Unrestricted net position*** – This category represents the net position of the City, which is not restricted for any project or other purpose.

When both restricted and unrestricted net position are available, restricted resources are depleted first before the unrestricted resources are used.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position/Fund Balances
(Continued)

Fund Balances

The governmental fund financial statements present fund balances based on classifications that comprise a hierarchy that is based primarily on the extent to which the City is bound to honor constraints on the specific purposes for which amounts in the respective governmental funds can be spent. The classifications used in the governmental fund financial statements are as follows:

- Nonspendable: This classification includes amounts that cannot be spent because they are either (a) not in spendable form or (b) are legally or contractually required to be maintained intact.
- Restricted: This classification includes amounts for which constraints have been placed on the use of the resources either (a) externally imposed by creditors (such as through a debt covenant), grantors, contributors, or laws or regulations of other governments, or (b) imposed by law through constitutional provisions or enabling legislation.
- Committed: This classification includes amounts that can be used only for specific purposes pursuant to constraints imposed by formal action of the City Council. These amounts cannot be used for any other purpose unless the City Council removes or changes the specified use by taking the same type of action (ordinance or resolution) that was employed when the funds were initially committed. This classification also includes contractual obligations to the extent that existing resources have been specifically committed for use in satisfying those contractual requirements.
- Assigned: This classification includes amounts that are constrained by the City's intent to be used for a specific purpose but are neither restricted nor committed. This intent can be expressed by the City Council or through the City Council delegating this responsibility to the City manager through the budgetary process. This classification also includes the remaining positive fund balance for all governmental funds except for the General Fund.
- Unassigned: This classification includes amounts that have not been assigned to other funds or restricted, committed or assigned to a specific purpose within the City.

The City would typically use restricted fund balances first, followed by committed resources, and then assigned resources, as appropriate opportunities arise, but reserves the right to selectively spend unassigned resources first to defer the use of these other classified funds.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 2 – CASH AND INVESTMENTS

Cash and investments as of June 30, 2018 are classified in the accompanying financial statements as follows:

Statement of Net Position:	
Cash and investments	\$ 43,509,693
Restricted cash and investments	81,753
Fiduciary funds:	
Cash and investments	3,663,839
Restricted cash with fiscal agents	<u>2,497,407</u>
 Total cash and investments	 <u><u>\$ 49,752,692</u></u>

Cash and investments as of June 30, 2018 consist of the following:

Cash on hand	\$ 6,050
Deposits with financial institutions	22,202,728
Investments	<u>27,543,914</u>
 Total cash and investments	 <u><u>\$ 49,752,692</u></u>

Investments Authorized by the California Government Code and the City's Investment Policy

The table below identifies the investment types that are authorized for the City by the California Government Code (or the City's investments policy, where more restrictive). The table also identifies certain provisions of the California Government Code (or the City's investment policy, where more restrictive) that address interest rate risk, credit risk, and concentration of credit risk. The City's investment policy does not contain any specific provisions intended to limit the City's exposure to interest rate risk, credit risk, and concentration of credit risk. This table does not address investments of debts proceeds held by bond trustee that are governed by the provisions of debt agreements of the City, rather than the general provisions of the California Government Code or the City's investment policy.

Authorized Investment Type	Maximum Maturity	Maximum Percentage of Portfolio or Amount	Maximum Investment of One Issuer or Amount
U.S. Treasury obligations	5 years	None	None
U.S. Agency securities	5 years	None	None
Bankers acceptances	180 days	40%	30%
Commercial paper	270 days	25%	10%
National certificates of deposit	5 years	30%	Legal Limit
Repurchase agreements	1 year	None	None
Medium-term notes	5 years	30%	None
Mutual accounts	N/A	20%	10%
Money market accounts	N/A	20%	10%
Local agency investment fund (LAIF)	N/A	None	None

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 2 – CASH AND INVESTMENTS (Continued)

Investments Authorized by Debt Agreements

Investments of debt proceeds held by the bond trustee are governed by provisions of the debt agreements rather than the general provisions of the California Government Code or the City's investment policy. The table below identifies the investment types that are authorized for investments held by bond trustee. The table also identifies certain provisions of these debt agreements that address interest rate risks, credit risk, and concentration of credit risk.

Authorized Investment Type	Maximum Maturity	Maximum Percentage of Portfolio or Amount	Maximum Investment of One Issuer or Amount
U.S. Treasury obligations	None	None	None
U.S. Agency securities	None	None	None
Bankers acceptances	180 days	None	None
Commercial paper	270 days	None	None
Money market mutual funds	N/A	None	None
Investment contracts	30 years	None	None

Disclosures Relating to Interest Rate Risk

Interest rate risk is the risk that changes in market interest rates will adversely affect the fair value of an investment. Generally, the longer the maturity of an investment, the greater the sensitivity of its fair value to changes in market interest rates. One of the ways that the City manages its exposure to interest rate risk is by maintaining funds in liquid, short-term investments which can be converted to cash when necessary to meet disbursement requirements.

Information about the sensitivity of the fair values of the City's investments (including investments held by bond trustee) to market interest rate fluctuations is provided by the following table that shows the distribution of the City's investments by maturity:

Investment Type	Fair Value	Remaining Maturity (in months)			
		12 Months or Less	13 to 24 Months	25 to 60 Months	More Than 60 Months
State Investment Pool	\$ 16,299,387	\$ 16,299,387	\$ -	\$ -	\$ -
Federal agency securities:					
Federal Home Loan Mortgage Company	4,939,061	-	-	4,939,061	-
Certificates of Deposits	3,964,980	860,023	1,424,286	1,680,671	-
Held by Bond Trustee:					
Money Market Funds	<u>2,340,486</u>	<u>2,340,486</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total	<u>\$ 27,543,914</u>	<u>\$ 19,499,896</u>	<u>\$ 1,424,286</u>	<u>\$ 6,619,732</u>	<u>\$ -</u>

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 2 – CASH AND INVESTMENTS (Continued)

Disclosures Relating to Credit Risk

Generally, credit risk is the risk that an issuer of an investment will not fulfill its obligation to the holder of the investment. This is measured by the assignment of a rating by a nationally recognized statistical rating organization. Presented below is the minimum rating required by (where applicable) the California Government Code, the City's investment policy, or debt agreements, and the actual rating as of year-end for each investment type.

Investment Type	Amount	Minimum Legal Rating	Ratings as of Year-End		
			AAAm	AA+	Not Rated
State Investment Pool	\$ 16,299,387	N/A	\$ -	\$ -	\$ 16,299,387
Federal agency securities:					
Federal Home Loan Mortgage Corporation	4,939,061	N/A	-	4,939,061	-
Certificates of Deposits	3,964,980	N/A	-	-	3,964,980
Held by Bond Trustee:					
Money Market Funds	<u>2,340,486</u>	A	<u>880,823</u>	<u>240,805</u>	<u>1,218,858</u>
Total	<u>\$ 27,543,914</u>		<u>\$ 880,823</u>	<u>\$ 5,179,866</u>	<u>\$ 21,483,225</u>

Concentration of Credit Risk

Concentration of credit risk is the risk that the failure of any one issuer would place an undue financial burden on the City. The investment policy of the City contains no limitations on the amount that can be invested in any one issuer beyond that stipulated in the California Government Code. As of June 30, 2018, investments in any one issuer (other than U.S. Treasury securities, mutual funds, and external investment pools) that represents 5% or more of the total pooled investment in the following:

Issuer	Investment Type	Reported Amount
Federal Home Loan Mortgage Corporation	Federal agency securities	\$ 4,939,061

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 2 – CASH AND INVESTMENTS (Continued)

Custodial Credit Risk

Custodial credit risk for *deposits* is the risk that, in the event of the failure of a depository financial institution, a city will not be able to recover its deposits or will not be able to recover collateral securities that are in possession of an outside party. The custodial credit risk for investments is the risk that, in the event of the failure of the counterpart (e.g. broker-dealer) to a transaction, a city will not be able to recover the value of its investment or collateral securities that are in the possession of another party. The California Government Code and the City's investment policy do not contain legal or policy requirements that would limit the exposure to custodial credit risk for deposits or investments, other than the following provision for deposits: the California Government Code requires that a financial institution secure deposits made by the state or local government units by pledging securities in an undivided collateral pool held by a depository regulated under the state law (unless so waived by the government unit). The market value of the pledged securities in the collateral pool must equal at least 110% of the total amount deposited by the public agencies. California law also allows financial institutions to secure City deposits by pledging first trust deed mortgage notes having a value of 150% of the secured public deposits.

As of June 30, 2018, the carrying amount of the City's bank deposits was \$22,202,728, and the respective bank balances totaled \$22,358,604, the total amount of which was collateralized with pooled securities held by the financial institution's trust department. These securities are held in the name of the financial institution and not in the name of the City.

In addition, as of June 30, 2018, none of the City's investments with financial institutions were held in uncollateralized accounts.

Custodial credit risk does not apply to a local government's indirect investment in securities through the use of mutual funds or government investment pools (such as LAIF).

Local Agency Investment Fund

The City of Lemoore is a voluntary participant in the Local Agency Investment Fund (LAIF) that is regulated by the California Government Code under the oversight of the Treasurer of the State of California. The fair value of the City's investment in this pool is reported in the accompanying financial statements at amounts based upon the City's pro-rata share of the fair value provided by LAIF for the entire LAIF portfolio (in relation to the amortized cost of that portfolio). The balance available for withdrawal is based on the accounting records maintained by LAIF, which are recorded on an amortized cost basis. LAIF is not registered with the Securities and Exchange Commission and is not rated. Deposits and withdrawals to and from LAIF are transferred on the basis of \$1 and not fair value. Accordingly, under the fair value hierarchy, LAIF is uncategorized.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 2 – CASH AND INVESTMENTS (Continued)

Fair Value Hierarchy

The City categorizes its fair value measurements within the fair value hierarchy established by generally accepted accounting principles. The City has the following recurring fair value measurements as of June 30, 2018:

Investments by Fair Value Level	Amount	Fair Value Measurements Using		
		Level 1 Inputs	Level 2 Inputs	Level 3 Inputs
Certificates of Deposit	\$ 3,964,980	\$ -	\$ 3,964,980	\$ -
Federal agency securities:				
Federal Home Loan Mortgage Corporation	4,939,061	-	4,939,061	-
	<u>8,904,041</u>	<u>\$ -</u>	<u>\$ 8,904,041</u>	<u>\$ -</u>
State Investment Pool	16,299,387			
Money Market Funds	<u>2,340,486</u>			
	<u>\$ 27,543,914</u>			

In determining fair value, the City's custodians use various methods including market and income approaches. Based on these approaches, the City's custodians utilize certain assumptions that market participants would use in pricing the asset or liability. The City's custodians utilize valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs.

Various inputs are used in determining the value of the City's investments and other financial instruments. The inputs or methodology used for valuing securities are not necessarily an indication of the risk associated with investing in those securities. These inputs are summarized in the three broad levels: Level 1 – quoted prices in active markets for identical investments, Level 2 - other significant observable inputs (including quoted prices for similar securities, interest rates, prepayment speeds, credit risk, etc.) and Level 3 – significant unobservable inputs (including the district's own assumptions in determining the fair value of investments).

NOTE 3 – FORGIVABLE LOANS

The City administers a housing rehabilitation loan program. Under this program, individuals with incomes below certain levels are eligible to receive low interest loans for rehabilitation work on their homes. These performing loans are secured by deeds of trust on the rehabilitation properties.

Forgivable loans are not required to be paid back unless the participating homeowner sells, transfers title to the rehabilitated property, or discontinues residence in the dwelling at which time the full amount of the deferred loan is due. These loans are "non-performing loans" and are not recorded as loans receivable in the financial statements. Such loans totaled \$1,778,417 as of June 30, 2018.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 4 – INTERFUND ACTIVITIES

Interfund balances for the purpose of the government-wide statements have been eliminated. The composition of interfund balances in the fund level statements as of June 30, 2018, is as follows:

Current Interfund Receivables/Payables

Current interfund balances are generally short-term loans to cover temporary cash deficits in various funds and are expected to be repaid shortly after the end of the fiscal year. The City's interfund receivables and payables consisted of the following at June 30, 2018.

	Due from Other Funds	Due to Other Funds
Governmental Funds		
Major Funds:		
General Fund	\$ 1,103,528	\$ -
Golf Course Fund	-	477,900
Internal Service Funds		
Fleet Maintenance Fund	-	625,628
Totals	<u>\$ 1,103,528</u>	<u>\$ 1,103,528</u>

Long-Term Interfund Advances

Long-term interfund advances are advances to other funds that are not expected to be repaid in one year or less. The City's long-term interfund advances consisted of the following at June 30, 2018:

	Advances to Other Funds	Advances from Other Funds
Governmental Funds		
Major Funds:		
General Fund	\$ 566,757	\$ -
Enterprise Funds		
Major Funds:		
Water Fund	-	1,021,883
Sewer Fund	1,021,883	148,380
Golf Course Fund	-	2,283,826
Fiduciary Funds		
Successor Agency Private Purpose Trust Fund	1,865,449	-
Totals	<u>\$ 3,454,089</u>	<u>\$ 3,454,089</u>

On August 5, 2013, the City's General Fund loaned \$1,439,128 to the Golf Course enterprise fund to pay off the 1995 Golf Course Bonds and related expenses. The loan bears 1.35% interest, payable quarterly over an eight-year term. The final payment of the loan is scheduled for June 30, 2021. The loan balance is \$566,757 as of June 30, 2018.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 4 – INTERFUND ACTIVITIES (Continued)

Long-Term Interfund Advances (Continued)

On May 7, 2013, the City's Sewer Fund loaned \$2,371,883 to the Water Fund for the solar project. The loan is payable annually over a five-year term. The final payment of the loan is scheduled for June 30, 2020. The loan balance is \$1,021,883 as of June 30, 2018.

On June 30, 2005, the City's Golf Course Fund obtained a loan from the Lemoore Redevelopment Successor Agency for \$1,039,850 bearing 2.38% interest. This loan incurred interest beginning July 1, 2005. Payments of approximately \$300,000 per year will begin in fiscal year 2021. The loan was obtained to cover both direct expenses and debt service of the golf course. The final payment of the loan is scheduled for June 30, 2027. The loan balance is \$1,717,069 as of June 30, 2018.

On March 21, 2006, the City's Sewer Fund obtained a loan from the Lemoore Redevelopment Successor Agency for \$148,380. The loan was obtained for the installation of the oversized storm sewer improvements along 19½ Avenue. During the ten years immediately following payment of the loan, any new adjoining property development will reimburse the City its prorated share for oversizing; and the City will then reimburse the Successor Agency of the City of Lemoore annually for all funds collected for such oversizing. Any balance remaining on the loan to the Successor Agency, after the ten-year period, will be forgiven to the City, provided the non-payment is due to lack of development. The loan balance is \$148,380 as of June 30, 2018.

NOTE 5 – ASSETS HELD FOR RESALE

The following is a summary of changes in the assets held for resale during the year ended June 30, 2018:

	Balance June 30, 2017	Additions	Reductions	Balance June 30, 2018
Land held for resale	\$ 1,485,564	\$ -	\$ -	\$ 1,485,564

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 6 – CAPITAL ASSETS

Capital assets activity of the governmental activities for the year ended June 30, 2018 is as follows:

Governmental Activities

	Balance June 30, 2017	Additions	Reductions	Transfers/ Adjustments	Balance June 30, 2018
Capital assets, not being depreciated:					
Land	\$ 2,815,713	\$ -	\$ -	\$ -	\$ 2,815,713
Construction in progress	<u>1,845,318</u>	<u>1,679,635</u>	<u>(1,771,514)</u>	<u>-</u>	<u>1,753,439</u>
Total capital assets, not being depreciated	<u>4,661,031</u>	<u>1,679,635</u>	<u>(1,771,514)</u>	<u>-</u>	<u>4,569,152</u>
Capital assets, being depreciated					
Buildings and improvements	16,649,529	1,355,195	-	-	18,004,724
Machinery and equipment	7,252,388	229,709	(109,874)	39,377	7,411,600
Road network	46,373,361	367,782	-	-	46,741,143
Infrastructure	<u>4,797,484</u>	<u>24,000</u>	<u>-</u>	<u>-</u>	<u>4,821,484</u>
Total capital assets, being depreciated	<u>75,072,762</u>	<u>1,976,686</u>	<u>(109,874)</u>	<u>39,377</u>	<u>76,978,951</u>
Less accumulated depreciation for:					
Buildings and improvements	(5,060,871)	(469,216)	-	-	(5,530,087)
Machinery and equipment	(4,470,714)	(560,653)	109,362	(39,377)	(4,961,382)
Road network	(2,735,409)	(927,467)	-	-	(3,662,876)
Infrastructure	<u>(2,412,253)</u>	<u>(320,487)</u>	<u>-</u>	<u>-</u>	<u>(2,732,740)</u>
Total accumulated depreciated, net	<u>(14,679,247)</u>	<u>(2,277,823)</u>	<u>109,362</u>	<u>(39,377)</u>	<u>(16,887,085)</u>
Total capital assets, being depreciated, net	<u>60,393,515</u>	<u>(301,137)</u>	<u>(512)</u>	<u>-</u>	<u>60,091,866</u>
Governmental activities capital assets, net	<u>\$ 65,054,546</u>	<u>\$ 1,378,498</u>	<u>\$ (1,772,026)</u>	<u>\$ -</u>	<u>\$ 64,661,018</u>

Depreciation expense was charged to the functions/programs of the governmental activities of the primary government as follows:

General government	\$ 29,094
Public safety	390,369
Public works	1,780,265
Parks and recreation	63,218
Community development	2,135
Capital assets held by the Internal Service Funds were charged to the various functions based on their usage	<u>12,742</u>
Total depreciation expense - governmental activities	<u>\$ 2,277,823</u>

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 6 – CAPITAL ASSETS (Continued)

Capital assets activity of the business-type activities for the year ending June 30, 2018 is as follows:

Business-Type Activities

	Balance June 30, 2017 (Restated)	Additions	Reductions	Transfers/ Adjustments	Balance June 30, 2018
Water Fund:					
Capital Assets, not being depreciated:					
Land	\$ 427,232	\$ -	\$ -	\$ -	\$ 427,232
Construction in progress	631,843	641,838	(11,559)	-	1,262,122
Total capital assets, not being depreciated	1,059,075	641,838	(11,559)	-	1,689,354
Capital assets, being depreciated:					
Buildings and improvements	16,795,957	-	-	-	16,795,957
Machinery and equipment	14,305,742	25,787	-	-	14,331,529
Total capital assets, being depreciated	31,101,699	25,787	-	-	31,127,486
Less accumulated depreciation for:					
Buildings and improvements	(7,176,122)	(395,999)	-	-	(7,572,121)
Machinery and equipment	(2,858,134)	(584,920)	-	-	(3,443,054)
Total accumulated depreciation, net	(10,034,256)	(980,919)	-	-	(11,015,175)
Total capital assets, being depreciated, net	21,067,443	(955,132)	-	-	20,112,311
Water fund capital assets, net	<u>\$ 22,126,518</u>	<u>\$ (313,294)</u>	<u>\$ (11,559)</u>	<u>\$ -</u>	<u>\$ 21,801,665</u>
Sewer Fund:					
Capital assets, not being depreciated:					
Land	\$ 749,841	\$ -	\$ -	\$ -	\$ 749,841
Construction in progress	118,466	1,547,546	(1,477,472)	-	188,540
Total capital assets, not being depreciated	868,307	1,547,546	(1,477,472)	-	938,381
Capital assets, being depreciated:					
Buildings and improvements	8,142,916	1,477,472	-	-	9,620,388
Machinery and equipment	5,856,058	127,492	(125,000)	-	5,858,550
Total capital assets, being depreciated	13,998,974	1,604,964	(125,000)	-	15,478,938
Less accumulated depreciation for:					
Buildings and improvements	(2,761,135)	(264,050)	-	-	(3,025,185)
Machinery and equipment	(2,949,810)	(253,355)	125,000	-	(3,078,165)
Total accumulated depreciation, net	(5,710,945)	(517,405)	125,000	-	(6,103,350)
Total capital assets, being depreciated, net	8,288,029	1,087,559	-	-	9,375,588
Sewer fund capital assets, net	<u>\$ 9,156,336</u>	<u>\$ 2,635,105</u>	<u>\$ (1,477,472)</u>	<u>\$ -</u>	<u>\$ 10,313,969</u>

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 6 – CAPITAL ASSETS (Continued)

Business-Type Activities (Continued)

	June 30, 2017 (Restated)	Additions	Reductions	Transfers/ Adjustments	Balance June 30, 2018
Refuse Fund:					
Capital assets, not being depreciated:					
Land	\$ 252,505	\$ -	\$ -	\$ -	\$ 252,505
Total capital assets, not being depreciated	252,505	-	-	-	252,505
Capital assets, being depreciated:					
Machinery and equipment	2,494,182	28,763	(39,378)	-	2,483,567
Total capital assets, being depreciated	2,494,182	28,763	(39,378)	-	2,483,567
Less accumulated depreciation for:					
Machinery and equipment	(1,770,269)	(157,416)	39,378	-	(1,888,307)
Total accumulated depreciation, net	(1,770,269)	(157,416)	39,378	-	(1,888,307)
Total capital assets, being depreciated, net	723,913	(128,653)	-	-	595,260
Refuse fund capital assets, net	\$ 976,418	\$ (128,653)	\$ -	\$ -	\$ 847,765
Golf Course Fund:					
Capital assets, not being depreciated:					
Land	\$ 624,013	\$ -	\$ -	\$ -	\$ 624,013
Total capital assets, not being depreciated	624,013	-	-	-	624,013
Capital assets, being depreciated					
Buildings and improvements	4,428,991	-	-	-	4,428,991
Machinery and equipment	603,216	-	-	-	603,216
Total capital assets, being depreciated	5,032,207	-	-	-	5,032,207
Less accumulated depreciation for:					
Buildings and improvements	(2,918,361)	(108,033)	-	-	(3,026,394)
Machinery and equipment	(509,487)	(24,945)	-	-	(534,432)
Total accumulated depreciation, net	(3,427,848)	(132,978)	-	-	(3,560,826)
Total capital assets, being depreciated, net	1,604,359	(132,978)	-	-	1,471,381
Golf course fund capital assets, net	\$ 2,228,372	\$ (132,978)	\$ -	\$ -	\$ 2,095,394

Depreciation expense was charged to the functions/programs of the business-type activities of the primary government as follows:

Water	\$ 980,919
Sewer	517,405
Refuse	157,416
Golf Course	132,978
Total	<u>\$ 1,788,718</u>

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 7 – COMPENSATED ABSENCES

The City's policy relating to compensated absences is described in Note 1. As shown in long-term liabilities (Note 8), the noncurrent portion of this debt at fiscal year-end was \$488,199 and \$125,809, for governmental activities and business-type activities, respectively. This obligation is expected to be paid in future years from the available resources derived from the respective funds to which the employee services are rendered.

Because of the nature of compensated absences and uncertainty over when vacations will be taken, a statement of debt service requirements to maturity of compensated absences has not been presented. At June 30, 2018, the balance is \$610,248 for governmental activities and \$157,261 for business-type activities.

NOTE 8 – LONG-TERM LIABILITIES

The following is a summary of the long-term liabilities transactions of the City for governmental activities for the year ended June 30, 2018:

	Balance June 30, 2017	Incurred or Issued	Satisfied or Matured	Balance June 30, 2018	Due Within One Year
Governmental Activities:					
Compensated absences	\$ 508,352	\$ 426,640	\$ (324,744)	\$ 610,248	\$ 122,049
Governmental activities long-term liabilities	<u>\$ 508,352</u>	<u>\$ 426,640</u>	<u>\$ (324,744)</u>	<u>\$ 610,248</u>	<u>\$ 122,049</u>

The following is a summary of the long-term liabilities transactions of the City for business-type activities for the year ended June 30, 2018:

	Balance June 30, 2017	Incurred or Issued	Satisfied or Matured	Balance June 30, 2018	Due Within One Year
Business-Type Activities:					
Series 2013 water revenue loan	\$ 5,831,369	\$ -	\$ (433,017)	\$ 5,398,352	\$ 443,856
Compensated absences	<u>138,170</u>	<u>102,778</u>	<u>(83,687)</u>	<u>157,261</u>	<u>31,452</u>
Business-type activities long-term liabilities	<u>\$ 5,969,539</u>	<u>\$ 102,778</u>	<u>\$ (516,704)</u>	<u>\$ 5,555,613</u>	<u>\$ 475,308</u>

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 8 – LONG-TERM LIABILITIES (Continued)

Series 2013 Water Revenue Loan

In May 2013, the City obtained a water revenue loan from Pinnacle Public Finance, Inc. for \$7,068,000 bearing 2.48% interest, payable quarterly over a fifteen-year term. The loan was obtained to finance the acquisition and construction of various capital improvements, which primarily consists of photovoltaic water wells water systems throughout the City, as well as the expansion of a parking complex. The City irrevocably pledged all of the net revenues of the water fund to the punctual payment of the loan. After September 1, 2018, the City has the option to prepay the unpaid principal of the loan in whole or in part on any loan payment date. The final payment of the loan is scheduled for March 1, 2029.

The following is a schedule of the future estimated minimum payments related to the Series 2013 Water Revenue Loan at June 30, 2018:

Fiscal Years Ending June 30	Series 2013 Water Revenue Loan		
	Principal	Interest	Total
2019	\$ 443,856	\$ 129,773	\$ 573,629
2020	454,967	118,662	573,629
2021	466,355	107,274	573,629
2022	478,029	95,600	573,629
2023	489,995	83,634	573,629
2024-2028	2,640,210	227,934	2,868,144
2029	<u>424,940</u>	<u>5,280</u>	<u>430,220</u>
Totals	<u>\$ 5,398,352</u>	<u>\$ 768,157</u>	<u>\$ 6,166,509</u>

NOTE 9 – DEFERRED OUTFLOWS/INFLOWS OF RESOURCES

In addition to assets, the statement of net position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption of net position or fund balance that applies to a future period(s) and thus, will not be recognized as an outflow of resources (expense/expenditure) until then. The City has pension related items that qualify to be reported in deferred outflows of resources. The pension related deferred outflows of resources are described in detail in Note 11.

In addition to liabilities, the statement of net position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents an acquisition of net position or fund balance that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time. The City has two types of items that qualify for reporting in this category and they are unavailable revenues and pension deferrals.

- Unavailable revenues arise only under a modified accrual basis of accounting and are reported only in the governmental funds balance sheet. Deferred inflows of resources reported in the governmental funds for unavailable revenues are as follows:

	Grants Fund	Lemoore Housing Authority	Other Governmental Funds	Total Governmental Funds
Deferred housing loans	\$ 651,200	\$ 200,000	\$ -	\$ 851,200
Total	<u>\$ 651,200</u>	<u>\$ 200,000</u>	<u>\$ -</u>	<u>\$ 851,200</u>

- The City has pension related items that qualify to be reported in deferred inflows of resources. The pension related deferred inflows of resources are described in detail in Note 11.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 10 – POST-RETIREMENT BENEFITS

The City allows its retirees who retire under provisions of a regular service retirement to have the opportunity to continue enrollment in the City's health insurance program. The retirees have the same choice of insurance plans as those of current employees. The retirees are pooled together separately from the active employee pool and pay the full cost of the insurance premiums without cost to the City.

NOTE 11 – DEFINED BENEFIT PENSION PLAN

California Public Employees' Retirement Plan (CalPERS)

A. General Information about the Pension Plan

Plan Description – All qualified permanent and probationary employees are eligible to participate in the Public Agency Cost Sharing Multiple-Employer Plan (Plan) administered by the California Public Employees' Retirement System (CalPERS). The Plan consists of individual rate plans (benefit tiers) within a safety risk pool (police and fire) and a miscellaneous risk pool (all other.) Plan assets may be used to pay benefits for any employer rate plan of the safety and miscellaneous pools. Accordingly, rate plans within the safety or miscellaneous pools are not separate plans under GASB Statement No. 68. Individual employers may sponsor more than one rate plan in the miscellaneous or safety risk pools. The City of Lemoore's (City) sponsors four rate plans (two miscellaneous and two safety.) Benefit provisions under the Plan are established by State statute and City resolution. CalPERS issues publicly available reports that include a full description of the pension plan regarding benefit provisions, assumptions and membership information that can be found on the CalPERS website.

Benefits Provided – CalPERS provides service retirement and disability benefits, annual cost of living adjustments and death benefits to plan members, who must be public employees and beneficiaries. Benefits are based on years of credited service, equal to one year of full time employment. Members with five years of total service are eligible to retire at age 50 with statutorily reduced benefits. All members are eligible for non-duty disability benefits after 10 years of service. The death benefit is one of the following: the Basic Death Benefit, the 1957 Survivor Benefit, or the Optional Settlement 2W Death Benefit. The cost of living adjustments for the Plan are applied as specified by the Public Employees' Retirement Law.

The rate plan provisions and benefits in effect at June 30, 2018 are summarized as follows:

	Miscellaneous	
	Prior to January 1, 2013	On or after January 1, 2013
Hire date		
Benefit formula	2% @ 55	2% @ 62
Benefit vesting schedule	5 years service	5 years service
Benefit payments	monthly for life	monthly for life
Retirement age	50 - 63	52 - 67
Monthly benefits, as a % of eligible compensation	1.426% to 2.418%	1.0% to 2.5%
Required employee contribution rates	7.00%	6.25%
Required employer contribution rates	8.418%	6.533%
	Safety	
	Prior to January 1, 2013	On or after January 1, 2013
Hire date		
Benefit formula	2% @ 50	2.7% @ 57
Benefit vesting schedule	5 years service	5 years service
Benefit payments	monthly for life	monthly for life
Retirement age	50 - 55	50 - 57
Monthly benefits, as a % of eligible compensation	2.0% to 2.7%	2.0% to 2.7%
Required employee contribution rates	9.00%	11.50%
Required employer contribution rates	14.971%	11.990%

**CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018**

NOTE 11 – DEFINED BENEFIT PENSION PLAN (Continued)

California Public Employees' Retirement Plan (CalPERS) (Continued)

A. General Information about the Pension Plans (Continued)

Benefits Provided (Continued)

Beginning in fiscal year 2016, CalPERS collects employer contributions for the Plan as a percentage of payroll for the normal cost portion as noted in the rates above and as a dollar amount for contributions toward the unfunded liability. The dollar amounts are billed on a monthly basis. The City's required contribution for the unfunded liability was \$554,461 for the fiscal year ended June 30, 2018.

Contributions – Section 20814(c) of the California Public Employees' Retirement Law requires that the employer contribution rates for all public employers be determined on an annual basis by the actuary and shall be effective on the July 1 following notice of a change in the rate. Funding contributions for the Plan are determined annually on an actuarial basis as of June 30 by CalPERS. The actuarially determined rate is the estimated amount necessary to finance the costs of benefits earned by employees during the year, with an additional amount to finance any unfunded accrued liability. The City is required to contribute the difference between the actuarially determined rate and the contribution rate of employees.

The City's contributions to the plan recognized as pension expense for the year ended June 30, 2018 were \$1,035,775.

B. Pension Liabilities, Pension Expenses and Deferred Outflows/Inflows of Resources Related to Pensions

As of June 30, 2018, the City reported a net pension liability for its proportionate share of the net pension liability of the Plan of \$12,347,424.

The City's net pension liability for the Plan is measured as the proportionate share of the net pension liability. The net pension liability of the Plan is measured as of June 30, 2017, and the total pension liability for the Plan used to calculate the net pension liability was determined by an actuarial valuation as of June 30, 2016, rolled forward to June 30, 2017, using standard update procedures. The City's proportion of the net pension liability was based on a projection of the City's long-term share of contributions to the pension plan relative to the projected contributions of all participating employers, actuarially determined. The City's proportionate share of the net pension liability for the Plan as of June 30, 2016 and 2017 was as follows:

Proportion - June 30, 2016	0.1224%
Proportion - June 30, 2017	0.1245%
Change - Increase (Decrease)	0.0021%

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 11 – DEFINED BENEFIT PENSION PLAN (Continued)

California Public Employees' Retirement Plan (CalPERS) (Continued)

B. Pension Liabilities, Pension Expenses and Deferred Outflows/Inflows of Resources Related to Pensions (Continued)

For the year ended June 30, 2018, the City recognized pension expense of \$1,783,737. At June 30, 2018, the City reported deferred outflows of resources and deferred inflows of resources related to pensions from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Pension contributions subsequent to measurement date	\$ 1,316,527	\$ -
Changes of assumptions	2,070,243	158,251
Differences between actual and expected experience	4,788	95,096
Net differences between projected and actual earnings on plan investments	461,434	-
Change in employer's proportion	154,523	169,065
Differences between the employer's actual contributions and the employer's proportionate share of contributions	-	311,018
Total	<u>\$ 4,007,515</u>	<u>\$ 733,430</u>

\$1,316,527 reported as deferred outflows of resources related to contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability in the year ended June 30, 2019. Other amounts reported as deferred outflow of resources and deferred inflows of resources related to pensions will be recognized as pension expense as follows:

Year Ended June 30	
2019	\$ 324,778
2020	1,208,417
2021	696,766
2022	(272,403)
2023	-
Thereafter	-

C. Actuarial Assumptions

The total pension liabilities in the June 30, 2016 actuarial valuations were determined using the following actuarial assumptions:

Valuation Date	June 30, 2016
Measurement Date	June 30, 2017
Actuarial Cost Method	Entry-Age Normal Cost Method
Actuarial Assumptions:	
Discount Rate	7.15%
Inflation	2.75%
Payroll Growth	3.00%
Projected Salary Increase	3.3% - 14.2% ⁽¹⁾
Investment Rate of Return	7.00% ⁽²⁾
Mortality	Derived using CalPERS' Membership Data for all Funds ⁽³⁾

⁽¹⁾ Depending on age, service and type of employment

⁽²⁾ Net of pension plan investment expenses, including inflation

⁽³⁾ The mortality table was developed based on CalPERS specific data.
The table includes 20 years of mortality improvements using Society of Actuaries Scale BB

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 11 – DEFINED BENEFIT PENSION PLAN (Continued)

California Public Employees' Retirement Plan (CalPERS) (Continued)

C. Actuarial Assumptions (Continued)

The underlying mortality assumptions and all other actuarial assumptions used in the June 30, 2014 valuation were based on the results of January 2014 actuarial experience study for the period 1997 to 2011. Further details of the Experiences Study can be found on the CalPERS website.

Change of Assumptions – In 2017, the accounting discount rate was reduced from 7.65 percent to 7.15 percent.

D. Discount Rate

The discount rate used to measure the total pension liability was 7.15 percent. To determine whether the municipal bond rate should be used in the calculation of the discount rate for each plan, CalPERS stress tested plans that would most likely result in a discount rate that would be different from the actuarially assumed discount rate. The tests revealed the assets would not run out. Therefore, the current 7.15 percent discount rate is appropriate and the use of the municipal bond rate calculation is not deemed necessary. The long-term expected discount rate of 7.15 percent is applied to all plans in the Public Employees' Retirement Fund (PERF). The cash flows used in the testing were developed assuming that both members and employers will make their required contributions on time and as scheduled in all future years. The stress test results are presented in a detailed report called "GASB Crossover Testing Report" that can be obtained at CalPERS website under the GASB 68 section.

The long-term expected rate of return on pension plan investments was determined using a building-block method in which expected future real rates of return (expected returns, net of pension plan investment expense and inflation) are developed for each major asset class.

In determining the long-term expected rate of return, staff took into account both short-term and long-term market return expectations as well as the expected pension fund (PERF) cash flows. Taking into account historical returns of all the Public Employees Retirement Funds' asset classes (which includes the agent plan and two cost-sharing plans or PERF A, B, and C funds), expected compound (geometric) returns were calculated over the short-term (first 10 years) and the long-term (11-60 years) using a building-block approach. Using the expected nominal returns for both short-term and long-term, the present value of benefits was calculated for each PERF fund. The expected rate of return was set by calculating the single equivalent expected return that arrived at the same present value of benefits for cash flows as the one calculated using both short-term and long-term returns. The expected rate of return was then set equal to the single equivalent rate calculated above and rounded down to the nearest one quarter of one percent.

The table below reflects the long-term expected real rate of return by asset class. The rate of return was calculated using the capital market assumptions applied to determine the discount rate and asset allocation. The target allocation shown was adopted by the Board effective on July 1, 2014.

Asset Class	New Strategic Allocation	Real Return Years 1-10 ^(a)	Real Return Years 11+ ^(b)
Global Equity	47.00%	4.90%	5.38%
Global Fixed Income	19.00%	0.80%	2.27%
Inflation Sensitive	6.00%	0.60%	1.39%
Private Equity	12.00%	6.60%	6.63%
Real Estate	11.00%	2.80%	5.21%
Infrastructure and Forestland	3.00%	3.90%	5.36%
Liquidity	2.00%	-0.40%	-0.90%
Total	<u>100.00%</u>		

^(a)An expected inflation of 2.5% used for this period.

^(b)An expected inflation of 3.0% used for this period.

**CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018**

NOTE 11 – DEFINED BENEFIT PENSION PLAN (Continued)

California Public Employees' Retirement Plan (CalPERS) (Continued)

D. Discount Rate (Continued)

Sensitivity of the Proportionate Share of the Net Pension Liability to Changes in the Discount Rate –

The following presents the City's proportionate share of the net pension liability for each Plan, calculated using the discount rate for each Plan, as well as what the City's proportionate share of the net pension liability would be if it were calculated using a discount rate that is 1-percentage point lower or 1-percentage point higher than the current rate:

Discount Rate -1%	Current Discount Rate	Discount Rate +1%
6.15%	7.15%	8.15%
<hr/>	<hr/>	<hr/>
\$19,177,623	\$12,347,424	\$6,720,189

E. Pension Plan Fiduciary Net Position

Detailed information about each pension plan's fiduciary net position is available in the separately issued CalPERS financial reports.

F. Payable to the Pension Plan

There was no outstanding amount of contributions to the pension plan required for the year ended June 30, 2018.

NOTE 12 – DEFERRED COMPENSATION

The City has established a deferred compensation plan in accordance with Internal Revenue Code Section 457. The plan, available to all full-time employees, permits them to defer a portion of their salary until future years. Participation in the plan is optional. The deferred compensation is not available to employees until termination, retirement, death, or unforeseeable emergency. All amounts deferred under the plan and all income attributable to those amounts are solely the property and rights of the plan participants. The City has no liability for losses under the plan. The assets and related liabilities are not reported on the City's financial statements in accordance with Governmental Accounting Standards Board Statement No. 32, "Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans."

NOTE 13 – EMPLOYEE LOAN PROGRAM

In March 2004, the City Council approved the Homebuyer Assistance Program (Program), which provides interest-free, forgivable loans to full-time, permanent City employees for the purchase of a single family residence. The amount available to borrow is \$15,000 for sworn personnel and \$10,000 for all other employees and are forgiven incrementally over ten years, beginning at the time of disbursement. All loans are secured by a deed of trust on the property and must be repaid upon the termination of the employee, whether voluntary or involuntary, with certain exceptions, or a lien is placed on the property. It is the expectation at the time of disbursement that the employee will remain in the City's employ and in the purchased home; therefore, the City expects no repayment will be necessary. Accordingly, the City has decided to immediately write off all loan balances. During the fiscal year ended June 30, 2018, the City entered into six new loan agreements totaling \$70,000 and made collections on one loan totaling \$1,500. At June 30, 2018, the remaining balance of open loans is \$282,472.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 14 – RISK MANAGEMENT

The City is a member of the Central San Joaquin Valley Risk Management Authority (CSJVRMA), a public entity risk pool for workers' compensation and general liability insurance. The CSJVRMA is a consortium of 54 cities located in California's San Joaquin Valley. It was established under the provisions of California Government Code Section 6500 et. seq. CSJVRMA is governed by a Board of Directors consisting of one member appointed by each member city. The day-to-day business operations are handled by a management group employed by CSJVRMA. The relationship between the City and CSJVRMA is such that CSJVRMA is not considered a component unit of the City for financial reporting purposes.

For liability insurance, the risk pool covers the City above its self-insurance retention level of \$50,000 up to \$1,000,000. CSJVRMA participates in the excess pool, which provides general liability coverage from \$1,000,000 to \$29,000,000.

The City maintains a self-insured retention level of \$50,000 for workers' compensation insurance. Coverage between \$50,000 and \$500,000 is provided through the risk pool. CSJVRMA participates in an excess pool, which provides workers' compensation coverage from \$500,000 to \$5,000,000 and purchases excess insurance above \$5,000,000 to the statutory limit.

At the termination of the joint venture agreement and after all claims have been settled, any excess or deficit will be divided among the cities in proportion to the aggregate amount of contribution made by each.

The annual financial report may be obtained from the consortium's executive office at 1750 Creekside Oaks Drive, Suite 200, Sacramento, CA 95833. The following is a summary of financial information of the CSJVRMA as of and for the fiscal year ended June 30, 2018:

Total assets	\$ 110,234,633
Total liabilities	<u>92,209,231</u>
Member's equity	<u>\$ 18,025,402</u>
Total revenue for year	\$ 46,669,852
Total expenses for year	<u>46,619,021</u>
Change in net position	<u>\$ 50,831</u>

NOTE 15 – CONTINGENT LIABILITIES AND COMMITMENTS

General Liability

There are various claims and legal actions pending against the City for which no provision has been made in the financial statements. In the opinion of the City Attorney and City Management, liabilities arising from these claims and legal actions, if any, will not be material to these financial statements.

Federal Awards

The City has received federal awards for specific purposes that are subject to review and audit by the federal government. Although such audits could result in expenditure disallowances under award terms, any required reimbursements are not expected to be material.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 16 – SEGMENT INFORMATION FOR WATER FUND

The Water Fund is an enterprise fund that accounts for the City's water utility operations and collection and administration of water fees. Segment information for the utility operations is as follows:

	<u>Water Fund</u>
CONDENSED STATEMENT OF NET POSITION	
Assets:	
Current assets	\$ 5,624,352
Noncurrent assets	<u>21,801,665</u>
Total assets	<u>27,426,017</u>
Deferred Outflows of Resources	<u>405,406</u>
Liabilities:	
Current liabilities	652,603
Noncurrent liabilities	<u>7,293,647</u>
Total liabilities	<u>7,946,250</u>
Deferred Inflows of Resources	<u>130,139</u>
Net Position:	
Net investment in capital assets	15,381,430
Unrestricted	<u>4,373,604</u>
Total net position	<u><u>\$ 19,755,034</u></u>
CONDENSED STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION	
Operating revenues	\$ 5,708,314
Depreciation expenses	(980,919)
Other operating expenses	<u>(3,698,860)</u>
Operating income (loss)	<u>1,028,535</u>
Nonoperating revenues (expenses)	
Other nonoperating revenue	577,046
Investing income	30,739
Interest expense	<u>(140,762)</u>
Total nonoperating revenues (expenses)	<u>467,023</u>
Changes in net position	1,495,558
Beginning net position	<u>18,259,476</u>
Ending net position	<u><u>\$ 19,755,034</u></u>
CONDENSED STATEMENT OF CASH FLOWS	
Net cash provided (used) by:	
Operating activities	\$ 2,706,555
Noncapital financing activities	(450,000)
Capital and related financing activities	(652,799)
Investing activities	<u>30,739</u>
Net increase (decrease) in cash and investments	1,634,495
Beginning cash and investments	<u>3,443,838</u>
Ending cash and investments	<u><u>\$ 5,078,333</u></u>

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 17 – LEMOORE REDEVELOPMENT SUCCESSOR AGENCY PRIVATE PURPOSE TRUST FUND

On January 30, 2012, the City Council elected to become the Successor Agency for the former redevelopment agency in accordance with Assembly Bill 1X26 (the “Bill”) which dissolved all redevelopment agencies in the State of California.

Under the control of an oversight board, remaining assets can only be used to pay enforceable obligations in existence at the date of dissolution of the redevelopment agency (including the completion of any unfinished projects that were subject to legally enforceable contractual commitments).

Successor agencies are only allocated revenue in the amount that is necessary to pay estimated annual installment payments on enforceable obligations of the former redevelopment agency until all enforceable obligations of the prior redevelopment agency have been paid in full and all assets have been liquidated.

Cash and Investments

A reconciliation of the Lemoore Redevelopment Successor Agency Private Purpose Trust Fund's cash and investments as of June 30, 2018 is as follows:

Cash on hand	\$ 3,123,976
Cash with fiscal agents	<u>2,342,401</u>
Total cash and investments	<u><u>\$ 5,466,377</u></u>

Receivables

A reconciliation of the Lemoore Redevelopment Successor Agency Private Purpose Trust Fund's receivables balances as of June 30, 2018 is as follows:

Advances to the City of Lemoore	\$ 1,865,449
Note receivable	<u>1,191,657</u>
Total receivables	<u><u>\$ 3,057,106</u></u>

Long-term Liabilities

The following is a summary of long-term liabilities transactions for the Lemoore Redevelopment Successor Agency Private Purpose Trust Fund at June 30, 2018:

	Balance June 30, 2017	Incurred or Issued	Satisfied or Matured	Balance June 30, 2018	Amounts Due Within One Year	Amounts Due in More Than One Year
Bonds payable:						
2011 RDA Tax Allocation	\$ 1,165,000	\$ -	\$ 180,000	\$ 985,000	\$ 180,000	\$ 805,000
Less: bond discount	(184,138)	-	(26,305)	(157,833)	-	(157,833)
2014 RDA Tax Allocation Refunding	<u>14,726,064</u>	<u>-</u>	<u>626,612</u>	<u>14,099,452</u>	<u>653,805</u>	<u>13,445,647</u>
Total bonds payable	<u>15,706,926</u>	<u>-</u>	<u>780,307</u>	<u>14,926,619</u>	<u>833,805</u>	<u>14,092,814</u>
Leprino Owner Participation Agreement Obligation	<u>1,798,857</u>	<u>-</u>	<u>-</u>	<u>1,798,857</u>	<u>1,030,158</u>	<u>768,699</u>
Business-type activities long-term liabilities	<u><u>\$ 17,505,783</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 780,307</u></u>	<u><u>\$ 16,725,476</u></u>	<u><u>\$ 1,863,963</u></u>	<u><u>\$ 14,861,513</u></u>

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 17 – LEMOORE REDEVELOPMENT SUCCESSOR AGENCY PRIVATE PURPOSE TRUST FUND
(Continued)

Tax Allocation Refunding Bonds

2011 Tax Allocation Bonds

On March 4, 2011, the Agency issued \$19,150,000 of its 2011 Tax Allocation Bonds (the 2011 Bonds) bearing interest of 3.0% to 7.375%, payable semi-annually on February 1 and August 1, commencing August 1, 2011. Beginning August 2, 2012, principal comes due annually in various sums through August 1, 2040, subject to optimal redemption by the Agency, on whole or in part on August 1, 2018. The 2011 Bonds are payable from and secured by incremental property tax revenue (Pledged Tax Revenues).

On December 5, 2016, the Agency participated in a partial defeasance of the 2011 Tax Allocation Bonds by placing cash in irrevocable escrow accounts held and managed by bank trustees. Accordingly, the escrow account and the defeased portion of the bonds are not included on the Agency's financial statements. The Agency's remaining bonds are payable through August 1, 2024.

The following is a schedule of the future estimated minimum payments related to the 2011 Bonds at June 30, 2018:

Fiscal Years Ending June 30	2011 Tax Allocation Refunding Bond		
	Principal	Interest	Total
2019	\$ 180,000	\$ 52,306	\$ 232,306
2020	195,000	42,453	237,453
2021	195,000	31,728	226,728
2022	200,000	20,244	220,244
2023	70,000	11,925	81,925
2024-2025	145,000	9,772	154,772
Totals	<u>\$ 985,000</u>	<u>\$ 168,428</u>	<u>\$ 1,153,428</u>

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 17 – LEMOORE REDEVELOPMENT SUCCESSOR AGENCY PRIVATE PURPOSE TRUST FUND
(Continued)

Long-term Liabilities (Continued)

2014 RDA Tax Allocation Refunding Bonds

The Agency issued \$15,855,465 of its Tax Allocation Refunding Bonds on June 27, 2014 (the 2014 Bonds) to currently fund \$4,160,427 and \$10,269,654 of the Agency's remaining issuances of the 1998 RDA Tax Allocation Refunding Bond and the 2003 RDA Tax Allocations Refunding Bonds, and to fund issuance costs and a reserve account. Beginning February 1, 2015, interest and principal on the 2014 Bonds is payable semi-annually on February 1 and August 1 of each year at an interest rate of 3.960% per annum. Debt Service payments of the 2014 Bonds are secured by a pledge of the property tax revenue increments collected on properties within the redevelopment project area. The debt agreement requires a reserve account to be held by the trustee. The final payment of the loan is scheduled for August 1, 2033.

The following is a schedule of the future estimated minimum payments related to the 2014 Bonds at June 30, 2018:

Fiscal Years Ending June 30	2014 Tax Allocation Refunding Bond		
	Principal	Interest	Total
2019	\$ 653,805	\$ 545,393	\$ 1,199,198
2020	675,446	519,074	1,194,520
2021	706,474	491,712	1,198,186
2022	736,800	463,135	1,199,935
2023	761,297	433,473	1,194,770
2024-2028	4,270,985	1,680,709	5,951,694
2029-2033	5,143,391	753,265	5,896,656
2034	1,151,254	22,795	1,174,049
Totals	<u>\$ 14,099,452</u>	<u>\$ 4,909,556</u>	<u>\$ 19,009,008</u>

Leprino Owner Participation Agreement Obligation

On March 7, 2000, the Agency entered into an owner participation agreement with Leprino Foods Company (Leprino) whereby Leprino was to construct a dairy and related products manufacturing and storage facility within the redevelopment project area. The City was to reimburse Leprino \$3 million for the cost of the infrastructure improvements which contributed to the elimination of blight in the project area. Subsequently, due to an expansion of the project scope requiring Leprino to increase its investment from \$125 million to more the \$250 million, the Agency's reimbursement obligation increased to \$6 million, payable in 10 annual installments of \$600,000 each year, subject to the Leprino facility having an assessed value in excess of \$250 million and verification of actual infrastructure costs incurred by Leprino. During the June 30, 2013 fiscal year, a final payment of \$1,613,666 was made. This payment was adjusted from \$600,000 because the facility's assessed value was \$413 million.

On September 4, 2007, the Agency entered into an amendment to the Owner Participation Agreement with Leprino Foods Company (Leprino). Leprino has decided to expand the production capacity of the plant to permit the increase in the milk received on a daily basis from its current level of 6,000,000 pounds of milk per day, to install additional packaging capacity and make other process improvements. The 2007 Expansion Project includes the completion of the addition work at the Expanded Wastewater Pretreatment System.

The City will incurred an additional liability of approximately \$6 million for wastewater improvements at the Leprino plant and this liability will be paid from the additional tax increments that the plant would generate based on this expansion.

The total liability to Leprino Foods Company at June 30, 2018 was \$1,798,857.

CITY OF LEMOORE
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2018

NOTE 18 – RESTATEMENT OF BEGINNING NET POSITION/FUND BALANCE

Prior Period Adjustments

Business-type Activities

Beginning net position of the Business-type Activities in the Government-Wide Statement of Activities has been restated to record a prior period adjustment as presented in the reconciliation below:

<u>Description</u>	<u>Business-Type Activities</u>
Beginning net position	\$ 41,978,430
Prior period adjustment:	
Understatement of capital assets	<u>37,723</u>
Beginning net position, as restated	<u>\$ 42,016,153</u>

Fund Financial Statements

The City has determined that certain transactions were recorded incorrectly in the prior year. The beginning fund balance of the General Fund has been restated as presented in the reconciliation below:

<u>Description</u>	<u>Golf Course Fund</u>
Beginning fund balance	\$ (532,473)
Prior period adjustment:	
Understatement of capital assets	<u>37,723</u>
Beginning fund balance, as restated	<u>\$ (494,750)</u>

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REQUIRED SUPPLEMENTARY INFORMATION

**CITY OF LEMOORE
GENERAL FUND
SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN
FUND BALANCE – BUDGET AND ACTUAL
FOR THE YEAR ENDED JUNE 30, 2018**

	Budgeted Amount			Variance with
	Original	Final	Actual	Final Budget
REVENUES				
Property taxes	\$ 2,354,700	\$ 2,354,700	\$ 2,464,254	\$ 109,554
Other taxes	2,627,700	2,627,700	2,648,759	21,059
Licenses and permits	765,800	870,800	1,278,297	407,497
Charges for services	667,700	667,700	619,751	(47,949)
Intergovernmental	2,347,600	2,347,600	2,556,396	208,796
Fees and assessments	22,900	22,900	45,517	22,617
Use of money and property	162,500	162,500	139,898	(22,602)
Other revenue	158,140	170,264	285,141	114,877
Total revenues	9,107,040	9,224,164	10,038,013	813,849
EXPENDITURES				
Current:				
General government	723,140	802,110	937,399	(135,289)
Public safety	6,015,074	6,111,376	6,472,587	(361,211)
Public works	1,143,245	1,197,285	967,956	229,329
Community development	298,582	298,582	322,809	(24,227)
Parks and recreation	1,069,683	1,088,057	1,167,121	(79,064)
Capital outlay	6,754,200	6,970,137	339,044	6,631,093
Total expenditures	16,003,924	16,467,547	10,206,916	6,260,631
Excess (deficiency) of revenues over (under) expenditures	(6,896,884)	(7,243,383)	(168,903)	7,074,480
OTHER FINANCING SOURCES (USES)				
Sale of capital assets	-	-	4,926	4,926
Total other financing sources (uses)	-	-	4,926	4,926
Net changes in fund balances	(6,896,884)	(7,243,383)	(163,977)	7,079,406
Fund balances - beginning	9,183,761	9,183,761	9,183,761	-
Fund balances - ending	\$ 2,286,877	\$ 1,940,378	\$ 9,019,784	\$ 7,079,406

CITY OF LEMOORE
REQUIRED SUPPLEMENTARY INFORMATION (UNAUDITED)
COST-SHARING MULTIPLE-EMPLOYER DEFINED BENEFIT PENSION PLAN
PROPORTIONATE SHARE OF NET PENSION LIABILITY
LAST 10 YEARS*
AS OF JUNE 30, 2018

	2015	2016	2017	2018
Proportion of the net pension liability	0.1197%	0.1160%	0.1224%	0.1245%
Proportionate share of the net pension liability	\$ 7,519,752	\$ 7,960,168	\$ 10,592,376	\$ 12,347,424
Covered payroll	\$ 5,076,165	\$ 5,273,173	\$ 5,467,395	\$ 5,850,364
Proportionate Share of the net pension liability as percentage of covered payroll	148.14%	150.96%	193.74%	211.05%
Plan fiduciary net position as a percentage of the total pension liability	81.49%	80.97%	76.05%	74.96%

Notes to Schedule:

Change in Benefit Terms None

Change in Assumptions

The discount rate decreased from 7.65 percent to 7.15 percent.

*Schedule is intended to show information for ten years. Additional years will be displayed as they become available.

CITY OF LEMOORE
REQUIRED SUPPLEMENTARY INFORMATION (UNAUDITED)
COST-SHARING MULTIPLE-EMPLOYER DEFINED BENEFIT PENSION PLAN
SCHEDULE OF CONTRIBUTIONS
LAST 10 YEARS*
AS OF JUNE 30, 2018

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Actuarially determined contribution	\$ 1,048,489	\$ 1,067,105	\$ 1,088,741	\$ 1,035,775	\$ 1,316,527
Contributions in relation to the actuarially determined contributions	<u>1,048,489</u>	<u>1,067,105</u>	<u>1,088,741</u>	<u>1,035,775</u>	<u>1,316,527</u>
Contribution deficiency (excess)	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Covered payroll	\$ 5,076,165	\$ 5,273,173	\$ 5,467,395	\$ 5,850,364	\$ 6,279,086
Contributions as a percentage of covered payroll	20.66%	20.24%	19.91%	17.70%	20.97%

*Schedule is intended to show information for ten years. Additional years will be displayed as they become available

SUPPLEMENTARY INFORMATION

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**CITY OF LEMOORE
NONMAJOR GOVERNMENTAL FUNDS
JUNE 30, 2018**

Nonmajor Special Revenue Funds

The **Special Revenue Funds** are used to account for the proceeds of specific revenue sources (other than expendable trusts or major capital projects) that are legally restricted to expenditure for specified purposes.

The **Gasoline Tax Fund** accounts for revenues and expenditures apportioned to the City under the Streets and Highway Code, Sections 2103, 2105, 2106, 2107, and 2107.5 of the State of California. Expenditures for administration, maintenance, and construction must be street related.

The **Traffic Safety Fund** is used to account for proceeds of traffic citations, which may be used for programs promoting traffic safety, such as street improvements, striping, and the like.

The **Local Transportation Fund** is used to account for the maintenance and construction of roadways and for specialized engineering services using transportation development act funds.

The **Grants Fund** is used to account for the City's receipts and expenditures of the state, federal, and other grants.

The **Maintenance Assessment District Fund** is used to account for City maintenance costs relating to the public improvements within the assessment district area.

The **TE/STP Exchange Fund** is used to account for projects undertaken with federal streets transportation and planning funds received by the City through the State of California.

The **Downtown Improvement Fund** is used to account for economic development and revitalization endeavors by local businesses in the downtown area.

The **Streets Grant Fund** is used to account for the City's street improvements using miscellaneous state and federal grants.

Nonmajor Capital Projects Funds

The **Capital Projects Funds** are established to account for resources used for the acquisition and constructions of capital facilities by the City, except for those financed for enterprise funds.

The **Street Improvement Fund** is used to account for improvements to local streets and roads using developer fees, grant proceeds, and other sources designated by the City Council for this purpose.

The **Recreation Improvement Fund** is used to account for the revenue from developer fees to be used for acquisition and development of parks and recreation facilities.

The **Facility Infrastructure Fund** is used to account for improvements to City buildings and improvements using developer fees, grant proceeds, and other sources designated by the City Council for this purpose.

The **Capital Improvement Fees Fund** is used to account for miscellaneous capital projects using developer fees.

**CITY OF LEMOORE
COMBINING BALANCE SHEET
NONMAJOR GOVERNMENTAL FUNDS
JUNE 30, 2018**

	Combined Special Revenue Funds	Combined Capital Projects Funds	Total Nonmajor Governmental Funds
ASSETS			
Cash and investments	\$ 9,326,643	\$ 6,632,036	\$ 15,958,679
Receivables:			
Accounts	-	20,928	20,928
Intergovernmental	<u>210,319</u>	<u>-</u>	<u>210,319</u>
Total assets	<u><u>\$ 9,536,962</u></u>	<u><u>\$ 6,652,964</u></u>	<u><u>\$ 16,189,926</u></u>
LIABILITIES			
Accounts payable	<u>\$ 79,134</u>	<u>\$ 2,063</u>	<u>\$ 81,197</u>
Total liabilities	<u>79,134</u>	<u>2,063</u>	<u>81,197</u>
FUND BALANCES			
Restricted:			
Public safety	478,347	-	478,347
Public works	7,520,468	-	7,520,468
Capital projects and improvements	<u>13,537</u>	<u>6,650,901</u>	<u>6,664,438</u>
Total fund balances	<u>9,457,828</u>	<u>6,650,901</u>	<u>16,108,729</u>
Total liabilities, deferred inflows of resources, and fund balances	<u><u>\$ 9,536,962</u></u>	<u><u>\$ 6,652,964</u></u>	<u><u>\$ 16,189,926</u></u>

CITY OF LEMOORE
COMBINING STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES
NONMAJOR GOVERNMENTAL FUNDS
FOR THE YEAR ENDED JUNE 30, 2018

	Combined Special Revenue Funds	Combined Capital Projects Funds	Total Nonmajor Governmental Funds
REVENUES			
Licenses and permits	\$ 9,555	\$ -	\$ 9,555
Charges for services	45,000	-	45,000
Intergovernmental	1,741,062	-	1,741,062
Fees and assessments	677,934	772,539	1,450,473
Use of money and property	<u>47,486</u>	<u>35,346</u>	<u>82,832</u>
Total revenues	<u>2,521,037</u>	<u>807,885</u>	<u>3,328,922</u>
EXPENDITURES			
Current:			
General government	5,725	-	5,725
Public works	728,893	28,539	757,432
Capital outlay	<u>595,228</u>	<u>166,938</u>	<u>762,166</u>
Total expenditures	<u>1,329,846</u>	<u>195,477</u>	<u>1,525,323</u>
Net changes in fund balances	1,191,191	612,408	1,803,599
Fund balances - beginning	<u>8,266,637</u>	<u>6,038,493</u>	<u>14,305,130</u>
Fund balances - end of year	<u>\$ 9,457,828</u>	<u>\$ 6,650,901</u>	<u>\$ 16,108,729</u>

**CITY OF LEMOORE
COMBINING BALANCE SHEET
NONMAJOR SPECIAL REVENUE FUNDS
JUNE 30, 2018**

	Gasoline Tax Fund	Traffic Safety	Local Transportation	Maintenance Assessment District	TE/STP Exchange Fund	Downtown Improvement	Streets Grants Fund	Totals
ASSETS								
Cash and investments	\$ 1,457,735	\$ 478,347	\$ 3,037,347	\$ 3,118,987	\$ 850,100	\$ 15,102	\$ 369,025	\$ 9,326,643
Receivables:								
Intergovernmental	<u>33,161</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>177,158</u>	<u>210,319</u>
Total assets	<u>\$ 1,490,896</u>	<u>\$ 478,347</u>	<u>\$ 3,037,347</u>	<u>\$ 3,118,987</u>	<u>\$ 850,100</u>	<u>\$ 15,102</u>	<u>\$ 546,183</u>	<u>\$ 9,536,962</u>
LIABILITIES								
Accounts payable	<u>\$ 45,420</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 16,716</u>	<u>\$ 106</u>	<u>\$ 1,565</u>	<u>\$ 15,327</u>	<u>\$ 79,134</u>
Total liabilities	<u>45,420</u>	<u>-</u>	<u>-</u>	<u>16,716</u>	<u>106</u>	<u>1,565</u>	<u>15,327</u>	<u>79,134</u>
FUND BALANCES								
Restricted:								
Public safety	-	478,347	-	-	-	-	-	478,347
Public works	-	-	3,037,347	3,102,271	849,994	-	530,856	7,520,468
Community development	1,445,476	-	-	-	-	-	-	1,445,476
Capital projects and improvements	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>13,537</u>	<u>-</u>	<u>13,537</u>
Total fund balances	<u>1,445,476</u>	<u>478,347</u>	<u>3,037,347</u>	<u>3,102,271</u>	<u>849,994</u>	<u>13,537</u>	<u>530,856</u>	<u>9,457,828</u>
Total liabilities, deferred inflows of resources, and fund balances	<u>\$ 1,490,896</u>	<u>\$ 478,347</u>	<u>\$ 3,037,347</u>	<u>\$ 3,118,987</u>	<u>\$ 850,100</u>	<u>\$ 15,102</u>	<u>\$ 546,183</u>	<u>\$ 9,536,962</u>

CITY OF LEMOORE
COMBINING STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES
NONMAJOR SPECIAL REVENUE FUNDS
FOR THE YEAR ENDED JUNE 30, 2018

	Gasoline Tax	Traffic Safety	Local Transportation	Maintenance Assessment District	TE/STP Exchange	Downtown Improvement	Streets Grants	Totals
REVENUES								
Licenses and permits	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,555	\$ -	\$ 9,555
Charges for services	-	45,000	-	-	-	-	-	45,000
Intergovernmental	688,931	-	572,008	-	170,047	-	310,076	1,741,062
Fees and assessments	-	2,243	-	675,691	-	-	-	677,934
Use of money and property	7,656	2,387	13,981	17,732	4,324	85	1,321	47,486
Total revenues	<u>696,587</u>	<u>49,630</u>	<u>585,989</u>	<u>693,423</u>	<u>174,371</u>	<u>9,640</u>	<u>311,397</u>	<u>2,521,037</u>
EXPENDITURES								
Current:								
General government	-	-	-	-	-	5,725	-	5,725
Public works	292,009	-	-	419,696	17,188	-	-	728,893
Capital outlay	65,395	-	-	14	286,723	-	243,096	595,228
Total expenditures	<u>357,404</u>	<u>-</u>	<u>-</u>	<u>419,710</u>	<u>303,911</u>	<u>5,725</u>	<u>243,096</u>	<u>1,329,846</u>
Net change in fund balance	339,183	49,630	585,989	273,713	(129,540)	3,915	68,301	1,191,191
Fund balances - beginning	<u>1,106,293</u>	<u>428,717</u>	<u>2,451,358</u>	<u>2,828,558</u>	<u>979,534</u>	<u>9,622</u>	<u>462,555</u>	<u>8,266,637</u>
Fund balances - ending	<u>\$ 1,445,476</u>	<u>\$ 478,347</u>	<u>\$ 3,037,347</u>	<u>\$ 3,102,271</u>	<u>\$ 849,994</u>	<u>\$ 13,537</u>	<u>\$ 530,856</u>	<u>\$ 9,457,828</u>

**CITY OF LEMOORE
COMBINING BALANCE SHEET
NONMAJOR CAPITAL PROJECT FUNDS
JUNE 30, 2018**

	Street Improvement	Recreation Improvement	Facility Infrastructure	Capital Improvement Fees	Totals
ASSETS					
Cash and investments	\$ 122,471	\$ 2,362,712	\$ 445,483	\$ 3,701,370	\$ 6,632,036
Receivables:					
Accounts	<u>-</u>	<u>9,258</u>	<u>-</u>	<u>11,670</u>	<u>20,928</u>
Total assets	<u>\$ 122,471</u>	<u>\$ 2,371,970</u>	<u>\$ 445,483</u>	<u>\$ 3,713,040</u>	<u>\$ 6,652,964</u>
LIABILITIES					
Accounts payable	<u>-</u>	<u>-</u>	<u>-</u>	<u>2,063</u>	<u>2,063</u>
Total liabilities	<u>-</u>	<u>-</u>	<u>-</u>	<u>2,063</u>	<u>2,063</u>
FUND BALANCES					
Restricted:					
Capital projects and improvements	<u>122,471</u>	<u>2,371,970</u>	<u>445,483</u>	<u>3,710,977</u>	<u>6,650,901</u>
Total fund balances	<u>122,471</u>	<u>2,371,970</u>	<u>445,483</u>	<u>3,710,977</u>	<u>6,650,901</u>
Total liabilities, deferred inflows of resources, and fund balances	<u>\$ 122,471</u>	<u>\$ 2,371,970</u>	<u>\$ 445,483</u>	<u>\$ 3,713,040</u>	<u>\$ 6,652,964</u>

CITY OF LEMOORE
COMBINING STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES
NONMAJOR CAPITAL PROJECTS FUNDS
FOR THE YEAR ENDED JUNE 30, 2018

	Street Improvement	Recreation Improvement	Facility Infrastructure	Capital Improvement Fees	Totals
REVENUES					
Fees and assessments	\$ -	\$ 201,761	\$ -	\$ 570,778	\$ 772,539
Use of money and property	<u>677</u>	<u>12,727</u>	<u>2,464</u>	<u>19,478</u>	<u>35,346</u>
Total revenues	<u>677</u>	<u>214,488</u>	<u>2,464</u>	<u>590,256</u>	<u>807,885</u>
EXPENDITURES					
Current:					
Public works	-	-	-	28,539	28,539
Capital outlay	<u>-</u>	<u>-</u>	<u>-</u>	<u>166,938</u>	<u>166,938</u>
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>	<u>195,477</u>	<u>195,477</u>
Net change in fund balances before extra ordinary item	<u>677</u>	<u>214,488</u>	<u>2,464</u>	<u>394,779</u>	<u>612,408</u>
Net change in fund balances	677	214,488	2,464	394,779	612,408
Fund balances - beginning	<u>121,794</u>	<u>2,157,482</u>	<u>443,019</u>	<u>3,316,198</u>	<u>6,038,493</u>
Fund balances - ending	<u>\$ 122,471</u>	<u>\$ 2,371,970</u>	<u>\$ 445,483</u>	<u>\$ 3,710,977</u>	<u>\$ 6,650,901</u>

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**CITY OF LEMOORE
FIDUCIARY FUNDS
JUNE 30, 2018**

Fiduciary Funds

The **Trust and Agency Funds** are used to account for assets held by a governmental unit in a trustee capacity and/or as an agent for individuals, private organizations, other governmental units, and /or other funds. These include Successor Agency private purpose trust funds and agency funds.

Private Purpose Trust Funds

The **Lemoore Redevelopment Successor Agency Debt Service Fund** is used to retire debt obligations.

The **Lemoore Redevelopment Successor Agency Capital Projects Fund** is used to account for Successor Agency activities approved in the ROPS.

Agency Funds

The **Laguna Irrigation Fund** is used to account for an agreement to benefit water recharge or to purchase water.

The **Other Agency Funds** is used to account for development deposit amounts and a trust account for contributions to be used for special activities.

The **Insurance Fund** is used to account for dental benefits for employees.

CITY OF LEMOORE
COMBINING STATEMENT OF FIDUCIARY NET POSITION
PRIVATE PURPOSE TRUST FUNDS
JUNE 30, 2018

	Lemoore Redevelopment Successor Agency Debt Service	Lemoore Redevelopment Successor Agency Capital Projects	Total Lemoore Redevelopment Successor Agency Private-Purpose Trust Fund
ASSETS			
Cash and investments	\$ -	\$ 3,123,976	\$ 3,123,976
Restricted cash with fiscal agents	2,342,401	-	2,342,401
Advances to City of Lemoore	-	1,865,449	1,865,449
Notes receivable	-	1,191,657	1,191,657
Assets held for resale	-	524,058	524,058
	<u> </u>	<u> </u>	<u> </u>
Total assets	<u>\$ 2,342,401</u>	<u>\$ 6,705,140</u>	<u>\$ 9,047,541</u>
LIABILITIES			
Accounts payable	\$ 23,455	\$ -	\$ 23,455
Intergovernmental payable	-	18,050	18,050
Interest payable	256,357	-	256,357
Long-term liabilities:			
Due within one year	833,805	1,030,158	1,863,963
Due in more than one year	14,092,814	768,699	14,861,513
	<u> </u>	<u> </u>	<u> </u>
Total liabilities	<u>15,206,431</u>	<u>1,816,907</u>	<u>17,023,338</u>
NET POSITION			
Held in trust for the retirement of obligations of the former Lemoore Redevelopment Agency	<u>(12,864,030)</u>	<u>4,888,233</u>	<u>(7,975,797)</u>
	<u> </u>	<u> </u>	<u> </u>
Total net position (deficit)	<u>\$ (12,864,030)</u>	<u>\$ 4,888,233</u>	<u>\$ (7,975,797)</u>

**CITY OF LEMOORE
COMBINING STATEMENT OF
CHANGES IN FIDUCIARY NET POSITION
PRIVATE PURPOSE TRUST FUNDS
FOR THE YEAR ENDED JUNE 30, 2018**

	Lemoore Redevelopment Successor Agency Debt Service	Lemoore Redevelopment Successor Agency Capital Projects	Total Lemoore Redevelopment Successor Agency Private-Purpose Trust Fund
ADDITIONS			
Taxes	\$ -	\$ 1,588,576	\$ 1,588,576
Investment earnings	6,647	89,499	96,146
Intrafund transfers	<u>1,418,742</u>	<u>-</u>	<u>1,418,742</u>
Total additions	<u>1,425,389</u>	<u>1,678,075</u>	<u>3,103,464</u>
DEDUCTIONS			
Community development	690	250,150	250,840
Intrafund transfers	-	1,418,742	1,418,742
Interest expense	648,198	-	648,198
Bad debt	<u>-</u>	<u>100,000</u>	<u>100,000</u>
Total deductions	<u>648,888</u>	<u>1,768,892</u>	<u>2,417,780</u>
Changes in net position	776,501	(90,817)	685,684
Net position (deficit) - beginning	<u>(13,640,531)</u>	<u>4,979,050</u>	<u>(8,661,481)</u>
Net position (deficit) - ending	<u>\$ (12,864,030)</u>	<u>\$ 4,888,233</u>	<u>\$ (7,975,797)</u>

CITY OF LEMOORE
COMBINING STATEMENT OF ASSETS AND LIABILITIES
AGENCY FUNDS
JUNE 30, 2018

	<u>Laguna Irrigation</u>	<u>Other Agency Funds</u>	<u>Insurance</u>	<u>Totals</u>
ASSETS				
Cash and investments	\$ 74,404	\$ 465,459	\$ -	\$ 539,863
Cash with fiscal agent - restricted	-	-	155,006	155,006
Other assets	<u>28,800</u>	<u>-</u>	<u>-</u>	<u>28,800</u>
Total assets	<u>\$ 103,204</u>	<u>\$ 465,459</u>	<u>\$ 155,006</u>	<u>\$ 723,669</u>
LIABILITIES				
Accounts payable	\$ -	\$ 200,346	\$ -	\$ 200,346
Due to others	103,204	236,970	155,006	495,180
Deposits	<u>-</u>	<u>28,143</u>	<u>-</u>	<u>28,143</u>
Total liabilities	<u>\$ 103,204</u>	<u>\$ 465,459</u>	<u>\$ 155,006</u>	<u>\$ 723,669</u>

CITY OF LEMOORE
STATEMENT OF CHANGES IN ASSETS AND LIABILITIES
AGENCY FUNDS
JUNE 30, 2018

Laguna Irrigation

	Balance July 1, 2017	Additions	Deletions	Balance June 30, 2018
ASSETS				
Cash and investments	\$ 64,404	\$ 10,000	\$ -	\$ 74,404
Other assets	<u>28,800</u>	<u>-</u>	<u>-</u>	<u>28,800</u>
Total assets	<u>\$ 93,204</u>	<u>\$ 10,000</u>	<u>\$ -</u>	<u>\$ 103,204</u>
LIABILITIES				
Due to others	<u>\$ 93,204</u>	<u>\$ 10,000</u>	<u>\$ -</u>	<u>\$ 103,204</u>
Total liabilities	<u>\$ 93,204</u>	<u>\$ 10,000</u>	<u>\$ -</u>	<u>\$ 103,204</u>

Other Agency Funds

	Balance July 1, 2017	Additions	Deletions	Balance June 30, 2018
ASSETS				
Cash and investments	\$ 257,552	\$ 1,187,452	\$ 979,545	\$ 465,459
Accounts receivable	<u>305,858</u>	<u>-</u>	<u>305,858</u>	<u>-</u>
Total assets	<u>\$ 563,410</u>	<u>\$ 1,187,452</u>	<u>\$ 1,285,403</u>	<u>\$ 465,459</u>
LIABILITIES				
Accounts payable	\$ 323,758	\$ 866,621	\$ 990,033	\$ 200,346
Due to others	202,577	274,172	239,779	236,970
Deposits	<u>37,075</u>	<u>46,659</u>	<u>55,591</u>	<u>28,143</u>
Total liabilities	<u>\$ 563,410</u>	<u>\$ 1,187,452</u>	<u>\$ 1,285,403</u>	<u>\$ 465,459</u>

CITY OF LEMOORE
STATEMENT OF CHANGES IN ASSETS AND LIABILITIES
AGENCY FUNDS
JUNE 30, 2018
(Continued)

Insurance

	Balance July 1, 2017	Additions	Deletions	Balance June 30, 2018
ASSETS				
Cash with fiscal agent - restricted	\$ 129,549	\$ 90,435	\$ 64,978	\$ 155,006
Total assets	<u>\$ 129,549</u>	<u>\$ 90,435</u>	<u>\$ 64,978</u>	<u>\$ 155,006</u>
LIABILITIES				
Due to others	\$ 129,549	\$ 90,435	\$ 64,978	\$ 155,006
Total liabilities	<u>\$ 129,549</u>	<u>\$ 90,435</u>	<u>\$ 64,978</u>	<u>\$ 155,006</u>

Total

	Balance July 1, 2017	Additions	Deletions	Balance June 30, 2018
ASSETS				
Cash and investments	\$ 321,956	\$ 1,197,452	\$ 979,545	\$ 539,863
Cash with fiscal agent - restricted	129,549	90,435	64,978	155,006
Accounts receivable	305,858	-	305,858	-
Other assets	<u>28,800</u>	<u>-</u>	<u>-</u>	<u>28,800</u>
Total assets	<u>\$ 786,163</u>	<u>\$ 1,287,887</u>	<u>\$ 1,350,381</u>	<u>\$ 723,669</u>
LIABILITIES				
Accounts payable	\$ 323,758	\$ 866,621	\$ 990,033	\$ 200,346
Due to others	425,330	374,607	304,757	495,180
Deposits	<u>37,075</u>	<u>46,659</u>	<u>55,591</u>	<u>28,143</u>
Total liabilities	<u>\$ 786,163</u>	<u>\$ 1,287,887</u>	<u>\$ 1,350,381</u>	<u>\$ 723,669</u>

**CITY OF LEMOORE
CALIFORNIA
SINGLE AUDIT REPORT
FOR THE YEAR ENDED
JUNE 30, 2018**

**CITY OF LEMOORE
CALIFORNIA
SINGLE AUDIT REPORT
JUNE 30, 2018**

TABLE OF CONTENTS

	<u>Page</u>
Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with <i>Government Auditing Standards</i>	1
Independent Auditor's Report on Compliance for Each Major Program and on Internal Control Over Compliance Required by the Uniform Guidance.....	3
Schedule of Expenditures of Federal Awards.....	5
Notes to the Schedule of Expenditures of Federal Awards	6
Schedule of Findings and Questioned Costs.....	7
Summary Schedule of Prior Audit Findings	10
Corrective Action Plan.....	13



INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN
ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

To the Honorable Mayor and
Members of the City Council
City of Lemoore, California

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Lemoore, California (the City), as of and for the year ended June 30, 2018, and the related notes to the financial statements, which collectively comprise the City's basic financial statements, and have issued our report thereon dated March 29, 2019.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered the City's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the City's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that have not been identified. We did identify certain deficiencies in internal control, described in the accompanying schedules of findings and questioned costs as items 2018-001 and 2018-002 that we consider to be material weaknesses.

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Compliance and Other Matters

As part of obtaining reasonable assurance about whether the City's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

City's Response to Findings

The City's response to the findings identified in our audit are described in the management's response to findings following the schedule of prior year findings. The City's responses were not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the City's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the City's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Price Pange & Company

Clovis, California
March 29, 2019



INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR
EACH MAJOR PROGRAM AND ON INTERNAL CONTROL OVER
COMPLIANCE REQUIRED BY THE UNIFORM GUIDANCE

To the Members of City Council of the
City of Lemoore
Lemoore, California

Report on Compliance for Each Major Federal Program

We have audited the City of Lemoore's (the City) compliance with the types of compliance requirements described in the *OMB Compliance Supplement* that could have a direct and material effect on each of the City's major federal programs for the year ended June 30, 2018. The City's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

Management's Responsibility

Management is responsible for compliance with federal statutes, regulations, and the terms and conditions of its federal awards applicable to its federal programs.

Auditor's Responsibility

Our responsibility is to express an opinion on compliance for each of the City's major federal programs based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the City's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for each major federal program. However, our audit does not provide a legal determination of the City's compliance.

Opinion on Each Major Federal Program

In our opinion, the City, complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2018.

Report on Internal Control over Compliance

Management of the City of Lemoore is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit of compliance, we considered the City's internal control over compliance with the types of requirements

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that could have a direct and material effect on each major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the City's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Lemoore, as of and for the year ended June 30, 2018, and the related notes to the financial statements, which collectively comprise the City's basic financial statements. We issued our report thereon dated March 29, 2019, which contained unmodified opinions on those financial statements. Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the basic financial statements. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the Uniform Guidance and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the schedule of expenditures of federal awards is fairly stated in all material respects in relation to the basic financial statements as a whole.

Price Pange & Company

Clovis, California
March 29, 2019

**CITY OF LEMOORE
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED JUNE 30, 2018**

<u>Federal Grantor/Pass-Through Grantor/Program Title</u>	<u>Federal CFDA Number</u>		<u>Pass-Through Entity Identifying Number</u>	<u>Federal Expenditures</u>
U.S. Department of Housing and Urban Development				
Passed through the California Department of Housing and Urban Development				
Community Development Block Grants	14.228	*	14-CDBG-9884	<u>\$ 1,326,650</u>
Total U.S. Department of Housing and Urban Development				<u>1,326,650</u>
U.S. Department of Transportation				
Passed through State of California Department of Transportation				
Highway Planning and Construction	20.205		CML-5115-(028)	182,518
Highway Planning and Construction	20.205		CML-5115-(034)	<u>84,214</u>
Total U.S. Department of Transportation				<u>266,732</u>
U.S. Department of Justice				
Direct Award:				
Public Safety Partnership and Community Policing Grants	16.710		2016UMWX0130	<u>52,982</u>
Total U.S. Department of Justice				<u>52,982</u>
TOTAL EXPENDITURES OF FEDERAL AWARDS				<u>\$ 1,646,364</u>

*Denotes a major program per Uniform Guidance.

CITY OF LEMOORE
NOTES TO THE SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED JUNE 30, 2018

NOTE 1 – REPORTING ENTITY

The accompanying Schedule of Expenditures of Federal Awards presents the activity of all federal awards programs of the City of Lemoore. The City of Lemoore reporting entity is defined in Note 1 to the City's basic financial statements. All federal awards received directly from federal agencies as well as federal awards passed through other government agencies are included in the schedule. The information in this schedule is presented in accordance with the requirements of Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance).

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Accounting

The accompanying Schedule of Expenditures of Federal Awards is prepared using the modified accrual basis of accounting for program expenditures accounted for in governmental funds and the accrual basis of accounting for expenditures accounted for in proprietary funds, as described in Note 1 of the City's basic financial statements.

Relationship to the Basic Financial Statements

The amounts reported in the accompanying Schedule of Expenditures of Federal Awards agree, in all material respects, to amounts reported within the City's financial statements.

Indirect Cost Rate

The City has elected not to use the 10 percent *de minimis* indirect cost rate as allowed under the Uniform Guidance.

**CITY OF LEMOORE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED JUNE 30, 2018**

SECTION I – SUMMARY OF AUDITOR'S RESULTS

FINANCIAL STATEMENTS

Type of auditor's report issued:

Unmodified

Internal control over financial reporting:

Material weakness identified?

 X Yes No

Significant deficiencies identified that are not considered
to be material weaknesses?

 Yes X None reported

Noncompliance material to financial statements noted?

 Yes X No

FEDERAL AWARDS

Internal control over major programs:

Material weakness identified?

 Yes X No

Significant deficiencies identified that are not considered
to be material weaknesses?

 Yes X None reported

Type of auditor's report issued on compliance for
major programs:

Unmodified

Any audit findings disclosed that are required to be reported
in accordance with 2CFR section 200.516(a)?

 Yes X No

IDENTIFICATION OF MAJOR PROGRAMS

CFDA Number

Name of Federal Program or Cluster

14.228

Community Development Block Grants

Dollar threshold used to distinguish between
Type A and Type B programs:

\$ 750,000

Auditee qualified as low-risk auditee?

 Yes X No

**CITY OF LEMOORE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED JUNE 30, 2018**

SECTION II – FINANCIAL STATEMENT FINDINGS

Finding 2018-001 - Year-End Closing Process (Material Weakness)

Condition:	During the audit of the City's financial statements, we identified material misstatements in the City's general ledger account balance which necessitated the proposal of numerous audit adjustments. Additionally, the City identified an excessive amount of misstatements to the general ledger account balances subsequent to providing us with the final trial balance for the audit.
Criteria:	A strong system of internal controls and management review requires that general ledger account balances be properly reconciled to a subsidiary ledger or other adequate supporting documentation on a periodic basis, as well as during the year-end financial close process in order to accurately and completely close the current year general ledger in a timely manner. Management is responsible for maintaining its accounting records in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP.)
Cause:	The City's Finance Department did not perform an adequate year-end closing process.
Effect:	Almost all areas were misstated resulting in numerous adjusting journal entries which included entries proposed by the City and proposed by us subsequent to receiving the City's final trial balance.
Recommendation:	<p>We recommend that the City perform the following steps in order to address the matters described above:</p> <ol style="list-style-type: none">1. Create a closing checklist to assist with the preparation of audit schedules that are complete, accurate, and reconcile to the City's general ledger account balances. Additionally, ensure that a system is in place to allow the City to perform this in a timely manner.2. Provide additional assistance to the Finance Department through the hiring of additional competent personnel.3. Provide additional training in accounting specific to government entities to Finance Department staff in order to ensure that they are current with all financial accounting and reporting requirements as directed by the Governmental Accounting Standards Board.

CITY OF LEMOORE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED JUNE 30, 2018

Finding 2018-002 - Journal Entries (Material Weakness)

Condition:	During a review of the City's general ledger, we noted that an excessive amount of journal entries were recorded in the accounting system. Additionally, we noted that journal entries were being posted to the accounting system prior to being adequately reviewed.
Criteria:	A strong system of internal control and management review is necessary in order to ensure that the City transactions are correctly recorded into the City's accounting system and do not require additional subsequent adjustments.
Cause:	Controls, although designed appropriately, were not being adhered to in order to ensure that all transactions or journal entries were reviewed in a timely manner and correctly posted to the City accounting system, requiring an excessive amount of corrective journal entries.
Effect:	Posting more journal entries than would normally be necessary, or have not been properly reviewed by appropriate personnel, increases the risk of material misstatements due to error or fraud.
Recommendation:	<p>We recommend that the City perform the following steps in order to address the matters described above:</p> <ol style="list-style-type: none">1. Adhere to its current internal control policies and ensure all transactions and journal entries are reviewed and approved by appropriate personnel prior to being posted to the City's accounting system.2. Provide additional assistance to the Finance Department through the hiring of additional competent personnel.3. Provide training to all department heads responsible for authorizing disbursements on methods to accurately classify all disbursements to the appropriate budget line items.

SECTION III – FEDERAL AWARDS FINDINGS

None reported.

**CITY OF LEMOORE
SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS
FOR THE YEAR ENDED JUNE 30, 2018**

FINANCIAL STATEMENT FINDINGS

Finding 2017-001 - Loan Payments (Material Weakness)

Condition:	The City improperly recorded a payment made on long-term debt relating to the Golf Course (Proprietary Fund) as an expense, instead of a reduction to the associated debt balance.
Criteria:	Government Accounting Standards Board requires that proprietary funds should be accounted for on an accrual basis. In accrual basis accounting, payments made on capitalized debt should be recorded as a reduction to the associated liability (debt), and not expensed in the period paid.
Cause:	The City improperly coded the payment as an expense in the current fiscal year. Current processes did not identify the loan payment as such and was never reclassified as a reduction to the associated debt balance.
Effect:	As a result of this condition, long-term debt and expenses relating to the Golf Course Fund were overstated by \$94,596 at year-end.
Recommendation:	We recommend that the City establish a process to identify all loan payments and ensure that the applicable classification is made for accrual basis funds.
Status:	Implemented

Finding 2017-002 - Revenues Being Recorded as Deposits (Significant Deficiency)

Condition:	The City improperly recorded receipts received as a deposit (liability) instead of revenue.
Criteria:	Governmental Accounting Standards Board Statement No. 33 requires that derived tax revenues should be recognized when the resources are received.
Cause:	The City maintains certain funding sources as liabilities in its trial balance for internal tracking purposes.
Effect:	As a result of this condition, deposits were overstated by \$201,196, expenses were understated by \$47,340, revenues were understated by \$107,920 and fund balance was overstated by \$140,616 in the General Fund.
Recommendation:	We recommend that the City implement a process to prepare a year-end entry to reclassify the activity recorded in the deposit account from liability to revenues and expenses, respectively.
Status:	Implemented

**CITY OF LEMOORE
SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS
FOR THE YEAR ENDED JUNE 30, 2018**

FINANCIAL STATEMENT FINDINGS (Continued)

Finding 2017-003 - Golf Course Inventory (Significant Deficiency)

Condition:	The physical count performed for inventory balances at the golf course was not adequately performed, which led to a misstated inventory balance at year-end.
Criteria:	A strong system of internal controls and management review should ensure that accurate and complete financial information is provided to the Finance Department in a timely manner and assets are being adequately safeguarded from theft.
Cause:	The system of internal control over the year-end closing process for the physical count of inventory at the golf course was not sufficient to produce accurate financial information and safeguarding of golf course assets.
Effect:	The effect of the lack of controls over inventory at the golf course, although immaterial in the current year, could result in a material misstatement of inventory and related cost of goods sold. Additionally, it exposed the golf course to the risk of stolen inventory.
Recommendation:	We recommend that the City implement a policy in which inventory balances are physically counted monthly by Finance Department staff and adjusted to actual with any variances promptly investigated. Additionally, we recommend that the City create a system to accurately track inventory purchases and sales so inventory balances remain accurate. Finally, once the system has been put in place, we recommend that adequate training is provided to golf course employees.
Status:	Implemented

Finding 2017-004 - Fund Balance/Net Position (Significant Deficiency)

Condition:	Fund balance and net position in various funds did not reconcile to the prior year financial statements.
Criteria:	A strong system of internal controls and management review should ensure that the financial records are adequately closed each year and reconciled to the City's prior year financial statements.
Cause:	An audit adjustment from the prior year audit was not recorded in the City's accounting system. Additionally, multiple journal entries recorded by the City during the 2018 fiscal year were incorrectly recorded to fund balance/net position.
Effect:	Fund balance/net position in total was understated by \$263,527.
Recommendation:	We recommend that the City create and implement controls to ensure that the City's fund balance and net position reconcile to the prior year financial records. Additionally, we recommend that the City create a method whereby all journal entries are reviewed by an appropriate level of management to ensure that fund balance/net position is not effected as a result of the journal entries.
Status:	Implemented

FEDERAL AWARDS FINDINGS

None reported.

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119 Fox Street • Lemoore, California 93245 • (559) 924-6715 • Fax (559) 924-9003
Finance Department

CITY OF LEMOORE
CORRECTIVE ACTION PLAN
Fiscal Year End 2018

The City of Lemoore is in receipt of the findings with regards to the annual audit for fiscal year end 2018. Below, is the corrective action plan submitted by the City in response.

Finding Number	Planned Corrective Action	Anticipated Completion Date	Responsible Contact Person
2018-001	The City will create a checklist of procedures for year-end close processes.	06/30/2019	L. Beyersdorf
2018-001 2018-002	The City has reorganized the Finance Department; creating a Finance Manager position to increase effectiveness in general oversight of the Finance Department personnel and processes/procedures	03/25/19	N. Olson/M. Speer
2018-001 2018-002	The City is seeking to partner with a financial consultant (if financially feasible) to assist in developing internal procedures/practices to enhance financial reporting	06/30/19	M.Speer
2018-001 2018-002	The City will seek to engage in accounting specific training for all Finance Department staff to ensure compliance with all reporting requirements and internal control policies	Ongoing	M.Speer
2018-002	The Finance Department reorganization and creating of a Finance Manager will help to ensure compliance with existing policies/procedures	03/25/19	L. Beyersdorf/M. Speer
2018-002	The Finance Director and Finance Manager will conduct training with each department head regarding methods for classifying disbursements, as well as other City policies and procedures	09/01/2019	L. Beyersdorf/M. Speer

Sincerely,

Michelle Speer
Assistant City Manager/
Administrative Services Director

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Staff Report

Item No: 5-2

To: Lemoore City Council Members
From: Jason Glick, Parks and Recreation Director
Date: April 29, 2019 Meeting Date: May 21, 2019
Subject: American Legion Post 100's Request to Rename City Park to Veterans Park

Strategic Initiative:

- | | |
|---|--|
| <input type="checkbox"/> Safe & Vibrant Community | <input type="checkbox"/> Growing & Dynamic Economy |
| <input type="checkbox"/> Fiscally Sound Government | <input type="checkbox"/> Operational Excellence |
| <input checked="" type="checkbox"/> Community & Neighborhood Livability | <input type="checkbox"/> Not Applicable |

Proposed Motion:

Approve the petition from American Legion Post 100 requesting to rename City Park to Lemoore Veterans Park with additional service projects and the provision of a new park sign to their current sponsorship of the Veterans Flag Memorial.

Subject/Discussion:

The Lemoore Park known as "City Park" is located at the corner of Fox and Bush Streets. In 1906, the Lemoore Public Park Association owned and maintained the parcel currently described as APN 20-141-01. The Park was deeded to the City to be forever purposed as a Public Park on August 1, 1906 and it was recorded at the Kings County Recorder's Office on July 8, 1907.

Over the years, two parks have been re-named: the first was Westfield Park now known as Lemoore Lions Park and 19th Avenue Park as Kings Lions Park. With the renaming of a park, the entities adopted the park and provided additional service projects and monetary commitments to the park locations.

On December 4, 2007, the American Legion Post 100 petitioned the Parks and Recreation Commission and City Council to construct the Veterans Memorial. The

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American Legion post was responsible for all cost associated with the construction and ongoing maintenance. The American Legion provides new flags as needed throughout the year.

Recently, the American Legion Post 100 requested the City rename City Park to Lemoore Veterans Park to honor all Veterans. In turn, the American Legion Post 100 would perform a yearly service project and replace the existing sign at the Veterans Memorial in City Park with a sign entitled Lemoore Veterans Park.

If approved by City Council, a renaming ceremony will take place following the July 4th Celebration Run/Walk at 9:00 am on Thursday, July 4, 2019.

Financial Consideration(s):

None noted.

Commission/Board Recommendation:

The Lemoore Parks and Recreation Commission members reviewed the request to rename the park at their April 9, 2019 meeting and voted 5-0 to recommend to City Council rename City Park to Lemoore Veterans Park.

Alternatives or Pros/Cons:

Pros: Potential for additional funding and projects at City Park and the possibility of new features that honor Veterans.

Cons: Loss of well-known location reference.

Staff Recommendation:

Staff recommends City Council approve the Park and Recreation Commission's recommendation to re-name City Park to Lemoore Veterans Park.

Attachments:

- ☐ Resolution:
- ☐ Ordinance:
- ☐ Map
- ☐ Contract
- ☐ Other
- List:

Review:

- ☒ Asst. City Manager
- ☒ City Attorney
- ☒ City Clerk
- ☒ City Manager

Date:

- 05/14/19
- 05/15/19
- 05/16/19
- 05/15/19



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Staff Report

Item No: 5-4

To: Lemoore City Council
From: Frank Rivera, Public Works Director
Date: May 9, 2019 **Meeting Date:** May 21, 2019
Subject: Tract 839 – Resolution 2019-17 – A Resolution of Intention to (i) Annex and Include Additional Territories in Landscape and Lighting Maintenance District No. 1 in the City of Lemoore, and (ii) Levy and Collect Annual Assessments in Such Annexed Territories for Fiscal Year 2019/2020 and Thereafter

Strategic Initiative:

<input type="checkbox"/> Safe & Vibrant Community	<input type="checkbox"/> Growing & Dynamic Economy
<input checked="" type="checkbox"/> Fiscally Sound Government	<input type="checkbox"/> Operational Excellence
<input type="checkbox"/> Community & Neighborhood Livability	<input type="checkbox"/> Not Applicable

Proposed Motion:

Adoption of Resolution 2019-17 declaring the City's intention to annex and include additional territories in Landscape and Lighting Maintenance District No. 1 in the City of Lemoore, and levy and collect annual assessments in such annexed territories for fiscal year 2019-2020 and thereafter.

Subject/Discussion:

The resolution for City Council consideration is to declare the intention to annex Tract 839 (GJ Gardner) into Zone 11 of the Landscape and Lighting Maintenance District No. 1 (LLMD). The proposed annexation territory consists of the planned 36 residential parcels within the development identified as Tract No. 839, and is located west of Vine Street and the existing Zone No. 11 boundaries (Tract No. 656); and is generally southeast of Highway 198 and north of Iona Avenue. Willdan Financial Services prepared and filed with the City Clerk a report entitled "City of Lemoore Landscape and Lighting Maintenance District No. 1, Zone No. 11 Annexation of Territory and Improvements; and Establishment of New Annual Assessments Commencing in Fiscal Year 2019-2020". The report

contains a description of the existing facilities and improvements, the boundaries of the LLMD and any zones therein, including the boundaries of the territories proposed to be annexed to the LLMD in these proceedings, the facilities and improvements proposed for Zone 11, and the general location and proposed assessments on the assessable lots and parcels of land within the Added Territories of LLMD No.1.

The attached Resolution of Intention will preliminarily approve the Engineer's Report and set the required public hearing on the proposed annexation and assessment of the Added Territories for Tuesday, July 16, 2019. Notice of the public hearing will be published 10 days before the hearing and sent by mail, at least 45 days before the hearing, to the owners of lots and parcels in the adjoining and Added Territories, along with a ballot for them to vote for or against the annexation and assessment.

In order for the annexation to be approved and the assessments levied on the lots in the Added Territories, the majority of the ballots submitted by property owners within the boundary of the adjoining and Added Territories must consent to the annexation and levy of the assessment. Votes will be tabulated after close of the public hearing on July 16, 2019. If the resolution is approved, a maximum assessment of \$115.43 will be applied on an annual per lot basis, beginning in fiscal year 2019-2020, to each lot within the newly Added Territory.

Financial Consideration(s):

Should the assessment not be approved, the General Fund will maintain maintenance of the streetlights and common area landscaping.

Alternatives or Pros/Cons:

Pros:

- Ensures the benefiting property owners cover the costs of their neighborhood infrastructure, avoiding an unjust burden on the General Fund to subsidize the maintenance of the neighborhood.

Cons:

- None noted.

Commission/Board Recommendation:

Not applicable.

Staff Recommendation:

Staff recommends City Council adopt Resolution 2019-17 declaring the City's intention to annex and include additional territories in Landscape and Lighting Maintenance District No. 1 in the City of Lemoore, and levy and collect annual assessments in such annexed territories for fiscal year 2019-2020 and thereafter.

Attachments:

- ☐ Resolution: 2019-17
 - ☐ Ordinance:
 - ☐ Map
 - ☐ Contract
 - ☒ Other
- List: Engineer's Report

Review:

- ☒ Asst. City Manager
- ☒ City Attorney
- ☒ City Clerk
- ☒ City Manager

Date:

- 05/14/19
- 05/15/19
- 05/16/19
- 05/15/19

RESOLUTION NO. 2019-17

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMOORE
WITH INTENTION TO (i) ANNEX AND INCLUDE ADDITIONAL
TERRITORIES IN LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT
NO. 1 IN THE CITY OF LEMOORE, AND (ii) LEVY AND COLLECT
ANNUAL ASSESSMENTS IN SUCH ANNEXED TERRITORIES
FOR FISCAL YEAR 2019-2020 AND THEREAFTER**

WHEREAS, it is the intention of the City Council of the City of Lemoore to order annexation of Territories to City of Lemoore Landscape and Lighting Maintenance District No. 1 (“LLMD”), as Zone 11 thereof, and to order levy and collection of annual assessments in such annexed Territories for fiscal year 2019-2020 and thereafter, under Chapter 10 of Title 7 of the Lemoore Municipal Code, as enacted by Ordinance No. 2006-01 (the “Ordinance”), and according the procedures set forth in the Proposition 218 Omnibus Implementation Act (Government Code Sections 53750-53753.5, inclusive) (the “Implementation Act”), Article XIII D of the California Constitution (“Proposition 218”) and, to the extent not inconsistent with the Ordinance, the procedures specified in the State Landscaping and Lighting Act of 1972 (Chapter 2 of Part 2 of Division 15 of the California Streets & Highways Code) (the “LLMD Act”); and

WHEREAS, the Territories to be annexed to the LLMD (the “Added Territories”) is comprised of the real property to be benefited and to be assessed for the maintenance, operation, repair and periodic replacement of landscaping, street lights, and appurtenant facilities described as follows:

Plants, shrubbery, trees, turf, irrigation systems, entry monuments, hardscapes, walls, fencing, street lights and appurtenant facilities in public rights-of-way and easements within or appurtenant to the boundaries of the applicable benefit Zone of said District;

The Added Territories is generally described in the map(s) attached hereto as Exhibit A and incorporated herein; and

WHEREAS, the City Engineer has prepared and filed with the City Clerk a report entitled “City of Lemoore Landscape and Lighting Maintenance District No. 1, Zone No. 11 Annexation of Territory and Improvements; and Establishment of New Annual Assessments Commencing in Fiscal Year 2019-2020” dated April 2019 (the “Engineer’s Report”), to which reference is hereby made, which Engineer’s Report contains a description of the existing facilities and improvements, the boundaries of the LLMD and any zones therein, the boundaries of the Territories proposed to be annexed to the LLMD in these proceedings, the facilities and improvements proposed for the Added Territories, and the general location and proposed assessments on the assessable lots and parcels of land within the LLMD, including the Added Territories; and

WHEREAS, the Engineer’s Report is on file in the office of the City Clerk and is available for inspection during regular business hours;

WHEREAS, the City Engineer also has prepared and filed with the City Clerk an amended map of the boundaries of the LLMD, incorporating the Added Territories within such boundaries as Zone 11, as proposed in these proceedings; and

WHEREAS, the proceeds of the annual assessments to be levied on the parcels within the LLMD, including the Added Territories, for fiscal year 2019-2020 and for each fiscal year thereafter will be used exclusively to finance the expenses for maintenance, operation, repair and periodic replacement of the improvements and facilities described in the Engineer's Report for that fiscal year, which maintenance, operation, repair and periodic replacement will provide direct, particular and distinct special benefits to the various parcels assessed, over and above the benefits conferred on the public at large; and

WHEREAS, the amount of the assessment to be levied on each parcel in the LLMD, including the Added Territories, for the 2019-2020 fiscal year, as proposed in the Engineer's Report, is proportional to and no greater than the special benefits conferred on such parcel from maintenance, operation, repair and periodic replacement of the improvements and facilities described in the Engineer's Report;

THEREFORE, the City Council of the City of Lemoore resolves, finds and determines as follows:

1. The above recitals are true.
2. The Engineer's Report of the City Engineer as filed with the City Clerk is preliminarily approved. Reference is hereby made to the Engineer's Report for a full and detailed description of the improvements and facilities, and the proposed assessment upon assessable lots and parcels of land within the Added Territories.
3. The City Council declares its intention to annex and make part of the LLMD, as Zone 11 thereof, all Territories with the Added Territories, whose boundaries are set forth in the Engineer's Report and the amended map of the boundaries of the LLMD on file with the City Clerk. The amended map of the boundaries of the LLMD, showing the proposed annexation of the Added Territories, is preliminary approved.
4. The City Council further declares its intention to levy and collect annual assessments within the Added Territories for fiscal year 2019-2020 and thereafter, as stated in the Engineer's Report, under the authority of and according to the procedures set forth in the Ordinance, including without limitation the procedures in the Implementation Act, Proposition 218 and, the extent not inconsistent with the Ordinance, the procedures specified in the LLMD Act.
5. The City Council incorporates into this Resolution by reference the general description of the facilities and improvements existing in or proposed for the Added Territories, all as detailed in the Engineer's Report.

6. Notice is further hereby given that on July 16, 2019 at the hour of 7:30 p.m. or as soon thereafter as possible, in the regular meeting place of the City Council, Council Chambers, 429 C Street, Lemoore, California, is hereby fixed as the time and place for public hearing when and where all interested persons may be heard regarding the question of annexation of the Added Territories to the LLMD and the levy and collection of the proposed assessments therein. At the hearing, any interested person shall be permitted to present written or oral testimony. Also, prior to the conclusion of public testimony at the hearing, the record owner(s) of each lot or parcel in the Added Territories identified in the Engineer's Report as having special benefit conferred on it and on which an assessment is proposed to be imposed may submit, change or withdraw an assessment ballot as provided in Section 7 below, the Engineer's Report and the Implementation Act. The hearing shall be conducted, and assessment ballots tabulated, as described in Section 7, the Engineer's Report and the Implementation Act.
7. The City Clerk is hereby authorized and directed to give notice of the public hearing in accord with Section 53753 of the Implementation Act. The City Clerk shall mail notice to the record owner(s), as shown in the last equalized assessment roll of the County of Kings, the State Board of Equalization assessment roll or as known to the City Clerk, of each lot or parcel in the Added Territories and identified in the Engineer's Report as having special benefit conferred on it and on which an assessment is proposed to be imposed. Each notice shall include (i) the name and the proposed levy and collection of assessments therein. Each notice shall include (i) the name and address of the City, (ii) the reason for assessment, (iii) the total amount of the assessment chargeable to the entire Territories within the Added Territories boundaries and the maximum assessment, (iv) the amount of initial assessment chargeable to the record owner's lot or parcel and the maximum assessment chargeable to such lot or parcel, (v) the duration of the payments, (vi) the basis on which the amount of the proposed assessment was and will be calculated for each fiscal year, (vii) in a conspicuous place, a summary of the procedures for completion, return and tabulation of assessment ballots, including a statement that the assessment shall not be imposed if the ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment, with ballots weighted according to the proportional financial obligation of the affected lots or parcels, (viii) the date, time and place of the public hearing, and (ix) the name and telephone number of the person designated by the Council to answer inquiries regarding the protest and assessment ballot proceedings.

Each notice also shall contain an assessment ballot that includes the City's address for receipt of the form and a place where the person returning the assessment ballot may indicate his or her name, a reasonable identification of the lot or parcel, and his or her support of or opposition to the proposed assessment. An envelope for the return of the assessment ballot shall be included with each notice. All assessment ballots shall be signed and returned by mail or otherwise delivered at the address indicated in the assessment ballot, or the site of the public hearing, prior to the date and hour set for the hearing. An assessment ballot may be submitted, changed or withdrawn prior to the conclusion of the public testimony on the proposed assessment at the hearing.

At the time, date and place stated in the notice, the Council shall conduct a public hearing on the proposed assessment and, at the hearing, shall consider all objections and protests, if any, to the proposed assessment and shall consider the adoption of a resolution ordering annexation of the Added Territories to the LLMD as Zone 11 and the maintenance, operation, repair and periodic replacement of the specified improvements and facilities, finally approving the Engineer's Report, and confirming the diagram and assessment, either as originally proposed or as changed by the Council. Any interested person shall be permitted to present written or oral testimony at the hearing. The Council may continue the hearing from time to time.

At the conclusion of the public hearing, an impartial person designated by the Council, who does not have a vested interest in the outcome of the proposed assessment and who may be the City Clerk, will tabulate the assessment ballots submitted and not withdrawn in support of or in opposition to the proposed assessment. If the assessment ballots submitted and not withdrawn in opposition to the proposed assessment exceed the assessment ballots submitted and withdrawn in favor of the proposed assessment (weighting the assessment ballots by the amount of the proposed assessment to be imposed on the lot or parcel for which each assessment ballot was submitted), a majority protest shall exist and the Council shall not impose the assessment. If a majority protest (determined as described above) does not exist, the Council intends to proceed with annexation of the Added Territories to the LLMD and to levy and impose the assessments in the Added Territories in accordance with applicable law.

8. This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Lemoore at a regular meeting held on the 21st day of May 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

ATTEST:

APPROVED:

Marisa Avalos
City Clerk

Eddie Neal
Mayor



City of Lemoore

Landscape and Lighting Maintenance District No. 1

Engineer's Report

**Annexation of Territory and Improvements to Zone No. 11; and
Establishment of New Annual Assessments for Zone No. 11**

Commencing Fiscal Year 2019/2020

Intent Meeting: May 21, 2019

Public Hearing: July 16, 2019

**CITY OF LEMOORE
119 FOX STREET
LEMOORE, CA 93245**

**APRIL 2019
PREPARED BY
WILLDAN FINANCIAL SERVICES**

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ENGINEER'S ANNEXATION REPORT AFFIDAVIT

City of Lemoore

Landscape and Lighting Maintenance District No. 1

Zone No. 11

Annexation of Territory and Improvements; and,

Establishment of New Annual Assessments

Commencing in Fiscal Year 2019/2020

City of Lemoore, Kings County, State of California

As part of the Resolution of Intention packet presented to the Lemoore City Council for its consideration, this Report and the enclosed budgets, diagrams, and descriptions outline specific proposed changes to Zone No. 11 within the Lemoore Landscape and Lighting Maintenance District No. 1 (LLMD No. 1) for fiscal year 2019/2020, including the annexation of territory to Zone No. 11; the annexation and expansion of the improvements to be maintained within Zone No. 11, and the proposed new annual assessments for all parcels within Zone No. 11 related thereto commencing in fiscal year 2019/2020. Reference is hereby made to the Kings County Assessor's Parcel Maps for a detailed description of the lines and dimensions of parcels within LLMD No.1, Zone No. 11 and the annexation of territory known as GJ Gardener (Tract No. 839) that collectively will be subject to the proposed annual assessments.

The undersigned respectfully submits the enclosed Report as directed by the City Council.

Dated this _____ day of _____, 2019.

Willdan Financial Services
Assessment Engineer
On Behalf of the City of Lemoore

By: _____

Jim McGuire
Principal Consultant, Project Manager

By: _____

Richard Kopecky
R. C. E. # 16742

Table of Contents

Introduction.....	1
Proposed District Changes Fiscal Year 2019/2020	3
Annexation Territory	3
Proposed Zone Structure and Improvement Changes	4
Report Content and Proceedings.....	4
Ballot Proceedings	5
Report Content	6
Part I - Plans and Specifications.....	8
Description of the District.....	8
Zones and Improvements	9
Zones 01, 03, 05 through 10, 12, and 13.....	9
Zone No. 11 and Annexation No. 2019-1	11
Part II - Method of Apportionment	13
Legislative Requirements for Assessments	13
Benefit Analysis.....	13
Special Benefits	13
General Benefit	14
Assessment Methodology	16
Land Use Classifications	17
Part III - Estimate of Costs.....	19
Calculation of Assessments.....	19
Proposed Budget and Assessments	20
Zone No. 11 Budgets and Assessments Fiscal Year 2019/2020.....	21
Annual Inflationary Adjustment (Assessment Range Formula).....	22
Part IV - Boundary Diagram	23
Part V - Assessment Roll.....	25

Introduction

The City of Lemoore (“City”), under the provisions of the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (“1972 Act”) established the assessment district designated as:

Landscape and Lighting Maintenance District No. 1

(hereinafter referred to as “LLMD” or “District”) and in accordance with the provisions of the 1972 Act, the City has annually levied special benefit assessments on parcels within the District.

For fiscal year 2019/2020, pursuant to Chapter 2, Article 2 of the 1972 Act, the City Council proposes to annex Tract No. 839 (GJ Gardener) to the existing Zone No. 11 (Tract No. 656) of the District, and expand the improvements to be provided and maintained within Zone No. 11 of the LLMD, and to conduct a protest ballot proceeding for new special benefit assessments to be levied and collected annually on the parcels within the annexation territory as well as those parcels which were previously part Zone No. 11 in order to fund in whole or in part the maintenance and operation of certain public improvements that may include but are not limited to landscaping, street lights, parks and appurtenant facilities that provide special benefits to those properties commencing in fiscal year 2019/2020.

The proposed annexation territory addressed in this Report consists of the planned 36 residential parcels within the development identified as Tract No. 839 (GJ Gardener). Tract No 839 is located west of Vine Street and the existing Zone No. 11 boundaries (Tract No. 656); and is generally southeast of Highway 198 and north of Iona Avenue. This annexation territory is referred to hereafter as:

“Annexation No. 2019-1” or “Annexation Territory”

The City Council proposes to annex to the District the territory within Annexation No. 2019-1 and collect annual assessments on the County tax rolls commencing in fiscal year 2019/2020, to provide funding for the ongoing special benefit costs and expenses required to service, maintain and operate the landscaping and street lighting improvements within the public rights-of-ways and/or dedicated public areas associated with and resulting from the development and planned development of properties within Zone No. 11 and Annexation No. 2019-1.

As required pursuant to Chapter 1, Article 4 of the 1972 Act, this Report shall serve as the detailed engineer’s report for the annexation of territory to Landscape and Lighting Maintenance District No. 1, Zone No. 11 and the establishment of new annual assessments to be levied and collected upon properties within the existing LLMD Zone No. 11 boundaries and the Annexation Territory in connection with the special benefits each property receives from the maintenance and servicing of the improvements to be provided by the City through the District. The assessments described herein will provide an annual funding source to adequately support the ongoing maintenance, servicing, operation, and incidental expenses associated with the landscape improvements, street lighting improvements and appurtenant facilities and amenities that benefit the identified properties within the new boundaries of LLMD Zone No. 11 established herein. The new boundaries of Zone No. 11 as shown on the diagram contained in Part IV of this Report, encompass all lots and parcels of land within a defined area of the City that will receive special benefits from the ongoing servicing, maintenance, operation and incidental expenses associated the improvements to be funded by the assessments. The parcels within Zone No. 11 (including the Annexation Territory) will be assessed for their proportionate special benefit of the shared perimeter and entryway landscaping improvements, and the street lighting within the developments.

The City Council of the City of Lemoore adopted its General Plan with various elements to provide guidelines for orderly development of property within the City. The City Council further adopted ordinances and regulations governing the development of land providing for the installation and construction of certain lighting, landscaping, parks and appurtenant facilities to enhance the quality of life and to benefit the value of property.

The requirement for the installation of lighting, landscaping, streets and appurtenant facilities is a condition of development provided for in the City's Subdivision Ordinance and is a requirement for issuance of a permit for construction of commercial, residential, and planned unit development. These improvements generally include but are not limited to street lights and related equipment and fixtures; various landscape materials such as trees, turf, shrubs, vines, and ground cover; irrigation and drainage systems; structural amenities such as monuments, block walls, retaining walls, or other fencing; hardscapes including mulch, trail and path surfaces, stamped concrete and pavers; recreational amenities such as benches, picnic facilities, play structures; signage, and related appurtenances.

The installation of street lights, landscaping and appurtenant facilities is the responsibility of the subdivider or other development/applicant, triggered by the approval of a tentative subdivision map or other development application. After installation, it is City policy that the servicing, operation, maintenance, repair and replacement of the street lighting, landscaping, parks and appurtenant facilities in turn become the financial responsibility of the properties that specially benefit from the facilities.

In accordance with the 1972 Act, the District utilizes benefit zones ("Zones") to address variations in the nature, location, and extent of the improvements that provide special benefits to parcels in the District. Within the boundaries of the District, parcels are assigned to a Zone, each of which is associated with specific improvements that provide special benefit to properties within that Zone.

As of fiscal year 2018/2019 the District was comprised of the following Zones and developments:

Zone No. 01 - Westfield Park/Windsor Court/Cambridge Park

Zone No. 03 - Silva Estates

Zone No. 05 - Wildflower Meadows

Zone No. 06 - Capistrano

Zone No. 07 - Silverado Estates

Zone No. 08 - County Club Villas

Zone No. 09 - Manzanita at Lemoore and La Dante Rose Subdivision

Zone No. 10 - Avalon

Zone No. 11 - Self Help

Zone No. 12 - Summerwind and College Park

Zone No. 13 - Covington Place

Proposed District Changes Fiscal Year 2019/2020

To adequately provide and fund the landscaping and street lighting improvements that are considered special benefits to properties within LLMD Zone No. 11 and Annexation 2019-1, the City Council has determined that it is appropriate and in the public's best interest to annex the properties within Tract No. 839 to LLMD Zone No. 11 and to together ballot the existing properties within Zone No. 11 (Tract No. 656 -Self Help) and Tract No. 839 (GJ Gardener) for new annual assessments that reflect the proportional special benefit each property receives from the improvements to be maintained by the District and related improvement costs as authorized by the 1972 Act.

By resolution, the City Council has ordered the preparation of this Engineer's Report ("Report") in connection with the proceedings for the annexation of territory and improvements into Zone No. 11 of the District and establishment of a new maximum assessment for both the Annexation Territory and existing LLMD Zone No. 11 parcels commencing in fiscal year 2019/2020.

Currently LLMD Zone No. 11 incorporates the development areas known as Self Help (Tract No. 656), which includes 36 single-family residential parcels, a non-assessed drainage basin parcel at the corner of Vine Street and Cabrillo Street which is maintained by the City of Lemoore from other funding sources, and a non-assessed pump station parcels which has no other development potential.

Annexation Territory

The proposed annexation territory addressed in this Report consists of the planned 36 residential parcels within the development identified as Tract No. 839 (GJ Gardener). Tract No 839 is located west of Vine Street and the existing Zone No. 11 boundaries (Tract No. 656); and is generally southeast of Highway 198 and north of Iona Avenue.

Although the 36 residential lots of Tract No. 839 (Annexation No. 2019-1) are being developed after the single-family residential parcels that comprises the existing LLMD Zone No. 11 (Tract No. 656 - Self Help), the public improvements being installed as part of the development of parcels within Annexation No. 2019-1 (eight new street lights) are considered a continuation and extension of the existing residential development and improvements of Tract No. 656. In order to access the residential parcels in both tracts, property owners must utilize both Vine Street and Cabrillo Street where the Zone landscape improvements are located. These improvements are clearly considered shared perimeter and entryway landscaping amenities as are the street lights on Vine Street. Therefore, based on proximity and similarity in the nature of the improvements, it is reasonable to conclude that the parcels within Tract No. 839 (Annexation No. 2019-1) and the parcels in Tract No. 656 (Existing Zone No. 11) proportionately share and benefit from the landscaping improvements on Vine Street and Cabrillo Street and all the street lights within and adjacent to the two tracts.

Proposed Zone Structure and Improvement Changes

Historically, the 36 single-family residential properties (Tract No. 656) that comprises the existing LLMD Zone No. 11 have been proportionately assessed for the special benefits received from the landscape improvements on the perimeter of the development, namely the parkway/streetscape side-panel landscaping on Vine Street, the median/entryway landscaping at Vine Street and Cabrillo Street, and the parkway/streetscape side-panel landscape area adjacent to the drainage basin along Vine Street and Cabrillo Street. These improvements are also associated with and will provide a special benefit to the 36 single-family residential parcels within Annexation No. 2019-1 and the cost of maintaining these improvements should be proportionately shared by the benefiting parcels within the existing LLMD Zone No. 11 parcels and Annexation No. 2019-1 as well.

Historically, street lighting has not been assessed in most of the LLMD Zones, but it has been the City's policy in recent years to include street lighting as part of the improvements to be funded by the special benefit assessments established for new developments. Because Tract No. 839 incorporates public street lights, the special benefit costs associated with those street lights are being included as part of the special benefit assessments for which the parcels within Annexation No. 2019-1 will be assessed and balloted. However, in conjunction with the annexation of Tract No. 839 and the inclusion of that development's public street lights as part of the Zone improvements, the City concluded that the street lights within the adjacent existing residential development (Tract No. 656) should also be included as part of the Zone improvements (particularly the perimeter lights on Vine Street which are shared by both developments) and that collectively, the shared special benefits provided to each parcel from these public street lights should be assessed proportionately to all parcels within LLMD Zone No. 11. Therefore, since both developments (Tract No. 656 and Tract No. 839) proportionately benefit from the same shared improvements, although Tract No. 839 is being annexed to Zone No. 11 (Annexation Territory), the parcels representing both Tract No. 656 and Tract No. 839 will be balloted for a new maximum assessment that is intended to fund the special benefit costs associated with full maintenance of the Zones landscaping and lighting improvements. The new boundaries of Zone No. 11 and the location and extent of the improvements is depicted in the Zone No. 11 Assessment Diagram contained in Part IV of this Report.

Report Content and Proceedings

This Engineer's Report (the "Report") has been prepared pursuant to Chapter 1, Article 4 and Chapter 3 of the 1972 Act, and is presented to the City Council for their consideration and approval of the proposed improvements and services to be provided within LLMD Zone No. 11 including the annexation territory (Annexation No. 2019-1) and the proposed annual assessments related thereto commencing in fiscal year 2019/2020.

This Report specifically addresses LLMD Zone No. 11, including the proposed annexation of territory to the Zone; the resulting new Zone boundaries; the various improvements within the Zone; and the proposed new assessments proposed to be levied in connection with the special benefits the properties will receive from the maintenance and servicing of the improvements based on the estimated operating and maintenance expenses. The proposed annual assessments to be levied on properties within LLMD Zone No. 11 including the Annexation Territory will provide a source of funding for the continued operation, maintenance and servicing of the landscaping, street lighting, and appurtenant facilities (collectively referred to as improvements) to be provided by the District for the special benefit of properties within the Zone.

The District assessments as described herein are based on the City's estimate of the costs to maintain, operate and service the improvements as well as available revenues including fund

balances, general benefit contributions and/or additional City contributions. The costs of the improvements and the proposed annual assessments budgeted and assessed against properties within the LLMD Zone No. 11 may include, but are not limited to the estimated expenditures for regular annual maintenance and repairs; incidental expenditures related to the operation and administration of the District; deficits or surpluses from prior years; revenues from other sources; and the collection of funds for operational reserves and/or periodic repairs, replacements and rehabilitation projects as authorized by the 1972 Act. The net annual cost to provide the improvements for each Zone and/or Sub-Zone within the District are allocated to the benefiting properties within each respective Zone and/or Sub-Zone using a weighted method of apportionment (refer to Assessment Methodology in Section II, Method of Apportionment) that calculates the proportional special benefit and assessment for each parcel as compared to other properties that benefit from the District improvements and services. Thus, each Zone and the parcels therein are assessed proportionately for only those improvements, services and expenses for which the parcel will receive special benefit.

The word “parcel,” for the purposes of this Report, refers to an individual property assigned its own Assessment Number (Assessor’s Parcel Number “APN”) by the Kings County Assessor’s Office. The County Auditor/Controller uses Assessment Numbers and specific District Fund Numbers, to identify on the tax roll, properties assessed for special district assessments. Each parcel within LLMD Zone No. 11 including Annexation No. 2019-1 shall be assessed proportionately for only those improvements for which the parcel receives a special benefit.

Ballot Proceedings

As part of these proceedings, the City shall conduct a property owner protest ballot proceeding (“Ballot Proceeding”) for the proposed levy of a new assessment pursuant to the provisions of the California Constitution, Article XIID Section 4, and in accordance with the provisions of Government Code, Section 53753. In conjunction with this Ballot Proceeding, the City Council will conduct a noticed public hearing to consider public testimonies, comments and written protests regarding the annexation, the resulting new Zone boundaries, and the new assessments described herein. Upon conclusion of the public hearing, property owner protest ballots received will be opened and tabulated to determine whether majority protest exists as defined in Article XIID of the California Constitution.

As specified by the California Constitution, Article XIID Section 4e:

“A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.”

After completion of the ballot tabulation, the City Council will confirm the results of the balloting. If majority protest exists for the proposed new Zone No. 11 assessments, further proceedings to annex the parcels within Annexation No. 2019-1 to the District and implementation of the new Zone boundaries and new assessments for Zone No. 11 shall be abandoned at this time. However, the City Council may continue to levy and collect annual assessments for the improvements provided within the previously established Zone No. 11 at an assessment rate less than or equal to the previously approved maximum assessment rate adopted by the City Council.

If tabulation of the ballots indicate that majority protest does not exist for the proposed new assessments and the assessment range formula presented and described herein, the City Council by resolution may adopt this Report (as submitted or amended); approve the assessment diagram (Boundary Diagram) contained herein; order the annexation of the parcels within

Annexation No. 2019-1 to LLMD Zone No. 11 and the improvements to be made; and confirm the new assessments as outlined in this Report for fiscal year 2019/2020.

The new Zone No. 11 diagram, parcels, budget, and assessments as approved herein by these proceedings shall supersede any previous diagram, parcels, budget, and assessments approved by the City Council for fiscal year 2019/2020 and such assessments as approved shall be levied and collected on the County tax rolls commencing in fiscal year 2019/2020 together with the assessments for other properties in the District. For each subsequent fiscal year, an engineer's annual levy report for the District shall be prepared and presented to the City Council to address any proposed changes to the District, including Zone No. 11 as modified by this annexation, as well as any proposed changes to the improvements, budgets and assessments for that fiscal year. The City Council shall hold a noticed public hearing regarding these matters prior to approving and ordering the levy of annual assessments for the District.

If in any fiscal year, the proposed annual assessments for parcels with the District and specifically Zone No. 11 exceed the maximum assessment described herein, such an assessment would be considered a new or increased assessment and must be confirmed through a mailed property owner protest ballot proceeding for the affected parcels before that new or increased assessment may be imposed.

Report Content

This Report has been prepared in connection with the annexation of parcels within Tract No. 839 (Annexation No. 2019-1) to LLMD Zone No. 11 and the resulting new assessments for the parcels within Zone No. 11 established herein in connection with the annexation of territory for fiscal year 2019/2020, pursuant to a resolution of the City Council and consists of five (5) parts:

Part I - Plans and Specifications:

Contains a general description of the District and zones of benefit ("Zones"), and specifically addresses the improvements and services that provide special benefits to the parcels within Zone No. 11 and Annexation No. 2019-1 which include, but is not limited to local landscaping, street lights, and related amenities including operational expenses and fund balances authorized by the 1972 Act. The plans and specifications contained in this Report generally describe the nature and extent of the improvements. In conjunction with these general descriptions of the improvements a visual depiction of the improvements is provided in the Boundary Diagram contained in Part IV of this Report. The detailed plans and specifications for the improvements for LLMD Zone No. 11 and Annexation No. 2019-1 are on file in the Public Works Department of the City of Lemoore and by reference are made part of this Report.

Part II - Method of Apportionment:

Outlines the special and general benefits associated with the improvements to be provided within Zone No. 11 and Annexation No. 2019-1, and the basis upon which the estimated costs to provide such improvements has been apportioned to each parcel of land therein in proportion to the special benefits to be received.

Part III - Estimate of Costs

Identifies the estimated annual funding costs (Budget) required for the maintenance and operation of the improvements including, but not limited to, annual maintenance and service expenses, utility costs, related incidental expenses, and fund balances authorized by the 1972 Act and deemed appropriate to fully support the improvements. Those improvements and/or costs determined to be of general benefit shall be funded by a City contribution. This budget establishes the maximum assessments to be approved by the property owner(s) of record within Zone No. 11 and Annexation No. 2019-1 as part of the Ballot Proceeding.

This section also identifies and outlines an Assessment Range Formula (inflationary adjust) that provides for an annual adjustment to the maximum assessment rate that establishes limits on future assessments, but also provides for reasonable cost adjustments due to inflation.

Part IV - Boundary Diagram

A diagram showing the new Zone No. 11 boundaries (incorporating Annexation No. 2019-1) based on the parcels that receive special benefits from the improvements to be provided and maintained as part of Zone No. 11 established herein. The lines and dimensions of each lot, parcel, and subdivision of land contained in this diagram are inclusive of all parcels listed in “Part V – Assessment Roll” of this Report and the corresponding County Assessor’s Parcel Maps for said parcels as they existed at the time this Report was prepared and shall include all subsequent subdivisions, lot-line adjustments, or parcel changes therein. Reference is hereby made to the Kings County Assessor’s maps for a detailed description of the lines and dimensions of each lot and parcel of land within Annexation No. 2019-1 and Zone No. 11 of the District.

Part V - Assessment Roll:

A listing of the proposed new assessment amounts for parcel within Zone No. 11 (incorporating Annexation No. 2019-1). The “Balloted Maximum Assessment” amount for each parcel represents that parcel’s proposed new maximum assessment amount for each parcel within Zone No. 11 commencing in fiscal year 2019/2020 and is based on the parcel’s calculated proportional special benefit as outlined in “Part II - Method of Apportionment”, and calculated assessment rate established by the budget in “Part III —Estimate of Costs”. The assessment amount identified as the “FY 2019/2020 Estimated Assessment” represent the assessment amounts to be levied and collected on the County Tax Rolls for fiscal year 2019/2020 if the annexation is approved.

If any section, subsection, sentence, clause, phrase, portion, or zone of this Report is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the Report and each section, subsection, subdivision, sentence, clause, phrase, portion, zone, or subzone thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, portions, zones, or subzones might subsequently be declared invalid or unconstitutional.

Part I - Plans and Specifications

Description of the District

The purpose of this District and specifically Zone No. 11 and Annexation No. 2019-1 is to provide in part through annual assessments, funding for the ongoing operation, maintenance, and servicing of local landscaping, public street lighting, and related appurtenant facilities and services in specified areas of the City. The territory within the District consists of those lots or parcels of land within the City of Lemoore for which the City, through the District maintains these local improvements and related amenities installed in connection with the development of those properties and for the benefit of those lots or parcels.

As authorized by the 1972 Act, the improvements provided by the District and associated with each Zone incorporate various local improvements and related amenities installed in connection with the development of those properties and are maintained and serviced for the benefit of real property within those Zones. The maintenance of the improvements may also include various appurtenances including, but not limited to block walls, retaining walls or other fencing, trail and path surfaces, stamped concrete, pavers, mulch or other hardscapes, irrigation and related electrical equipment and drainage systems, benches, play structures, picnic or other recreational facilities, monuments, signage, ornamental lighting, street lighting, and related equipment. The work to be performed within each respective Zone may include but is not limited to (as applicable), the personnel, materials, equipment, electricity, water, contract services, repair and rehabilitation of the improvements and incidental expenses required to operate the District and provide the improvements and services.

Improvements provided within the District may include but are not limited to:

- Landscaping and related facilities and amenities located within designated street medians, parkway and streetscape side-panels, and entryways within the public right of ways or easements adjacent to public right of ways; and within public places including greenbelt areas, open spaces, and neighborhood parks within each respective Zone. These improvements may include, but are not limited to:
 - various landscape materials such as trees, turf, shrubs, vines, ground cover, annual or perineal plantings;
 - irrigation and drainage systems;
 - structural amenities such as monuments, block walls, retaining walls, or other fencing;
 - hardscapes including mulch, trail and path surfaces, stamped concrete and pavers;
 - recreational amenities within the parks or greenbelts that may include benches, play structures, picnic or other recreational facilities, signage, and related appurtenances.

The maintenance of these improvements may include, but is not limited to the regularly scheduled mowing, trimming, pruning, fertilization, pest control, weed and graffiti abatement; installation, replacement and rehabilitation of the landscaping, repair or replacement of irrigation or drainage systems; repair or replacement of hardscape improvements and recreational amenities. The City Public Works Department shall authorize and schedule such maintenance and servicing as need and based on available Zone funding.

- Street lighting improvements located in the public right of ways within and on the perimeter of the developments and associated with each Zone, Sub-Zone, and the parcels therein. Street light improvements include energy costs and maintenance of the lighting facilities including,

but not limited to the removal, repair, replacement or relocation of light standards, poles, bulbs, fixtures, and related equipment and materials.

Zones and Improvements

In accordance with the 1972 Act, the District utilizes Zones and/or Sub-Zones (collectively referred to as Zones) to address variations in the nature, location, and extent of the improvements that provide special benefits to parcels in the District. Each Zone is associated with specific improvements and/or types of improvements that provide special benefit to properties within that Zone. The boundaries of each Zone is based on the improvements to be maintained and the relationship and proximity of the developments and properties that derive special benefits from those specific improvements.

For fiscal year 2018/2019 the District was comprised of the following Zones and developments:

Zones 01, 03, 05 through 10, 12, and 13

The following is a brief description and summary of the Zones and improvement that are part of the District but not directly associated with this Report and proceedings for annexation of territory and establishing new Zone assessments.

Zone 01 - Westfield Park, Windsor Court, and Cambridge Park:

Comprised of the development area previously referred to as Westfield Park and designated as Zone 1, which includes the eighty (80) multi-family residential unit parcel for the Alderwood Apartments; the fifteen (15) non-residential parcels (17.47 acres) of the Lemoore Plaza Shopping Center; and the four hundred sixty (460) single-family residential parcels within Tract No. 616 (Windsor Court Unit No. 1), Tract No. 640 (Windsor Court Unit No. 2), Tract No. 630 (Cambridge Park), Tract No. 630 (Cambridge Park Unit No. 2), Tract No. 685 (Windsor Court Unit No. 3), Tract No. 686 (Windsor Court Unit No. 4), Tract No. 691 (Cambridge Park Unit No. 3, Phase 1), and Tract No. 707 (Windsor Court Unit No. 5, Phase 1); and,

The residential developments previously referred to as Windsor Court 5 and Cambridge Park 3 and designated as Zone 2, which includes the ninety (90) single-family residential parcels within Tract No. 707 (Windsor Court Unit No. 5, Phase 2) and Tract No. 692 (Cambridge Park Unit No. 3, Phase 2).

Zone 03 - Silva Estates:

Comprised of the two hundred seventy (270) single-family residential parcels within Tract No. 639 (Silva Estates Unit No. 1), Tract No. 639 (Silva Estates Unit No. 2), Tract No. 666 (Silva Estates Unit No. 3), Tract No. 714 (Silva Estates Unit No. 4), Tract No. 731 (Silva Estates Unit No. 5), Tract No. 748 (Silva Estates Unit No. 6), Tract No. 773 (Silva Estates Unit No. 7), and Tract No. 793 (Silva Estates Unit No. 9); and the nineteen (19) parcels within Tract No. 781 (Silva Estates Unit No. 8) currently comprised of nine (9) developed multi-family residential parcels (4-units each) and ten (10) undeveloped multi-family residential parcels (each to be developed as 4-unit multi-family residential properties).

Zone 05 - Wildflower Meadows:

Comprised of twenty-nine (29) single-family residential parcels within Tract No. 668 (Wildflower Meadows).

Zone 06 - Capistrano:

Comprised of one hundred twenty-six (126) single-family residential parcels within Tract No. 700 (Capistrano Phases 1, 2, 3, and 4).

Zone 07 - Silverado Estates:

Comprised of fifty-three (53) single-family residential parcels within Tract No. 687 (Silverado Estates).

Zone 08 - County Club Villas and the Greens:

Zone 08 is comprised of the development areas referred to as Country Club Villas and the Greens. These two development areas receive special benefits from landscaping improvements that are proportionately shared by all properties in the Zone, but properties in Tract Nos. 758 and 752 also receive special benefits and are assessed for a neighborhood park and street light improvements. Therefore, parcels in Zone 08 are further identified as either Zone 08A or Zone 08B.

Zone 08A is comprised of the one hundred thirty-two (132) single-family residential lots within Tract No. 704 (Country Club Villas Phase 1) and Tract No. 783 (Country Club Villas 2 Phase 1).

Zone 08B is comprised of the one hundred forty (140) single-family residential lots within Tract No. 758 (Phases 1 and 2) and Tract No. 752 (the Greens) which was annexed to Zone 08 in May 2017.

Zone 9 - Manzanita at Lemoore and La Dante Rose Subdivision:

Comprised of one hundred thirty-four (134) single-family residential parcels within Tract No. 369 (Manzanita at Lemoore Phase 1A, Unit No. 2, and Unit No. 3), and Tract No. 763 (La Dante Rose Subdivision).

Zone 10 - Avalon:

Comprised of one hundred fifty-one (151) single-family residential parcels within Tract No. 717 (Avalon Phases 1, 2A, 2B, and 3).

Zone 11 - Self Help:

Comprised of thirty-six (36) single-family residential parcels within Tract No. 656 (Self Help).

Zone 12 - Summerwind and College Park:

Comprised of the development area previously referred to as Summerwind and College Park Phases 1-6, and designated as Zone 12, which collectively includes four hundred fifty-six (456) single-family residential parcels within Tract No. 751 (Summerwind Unit 1), Tract No. 739 (College Park Phases 1 and 2), Tract No. 782 (College Park Phase 3), Tract No. 789 (College Park Phases 4, 5, and 6); and

The residential development previously referred to as College Park Phase 7 and designated as Zone 12A, which includes ninety-six (96) single-family residential parcels within Tract No. 789 (College Park Phase 7).

Zone 13 - Covington Place:

Comprised of thirty-three (33) single-family residential parcels within Tract No. 733 (Covington Place).

Zone No. 11 and Annexation No. 2019-1

As directed by the City Council, this Report addresses the proposed annexation of territory (Annexation No. 2019-1) and related improvements to Zone No. 11 of the District for fiscal year 2019/2020, consisting of the lots, parcels and subdivisions of land that will receive a particular and distinct benefit from specific landscaping and street lighting improvements associated with Zone No. 11 and Tract No. 839 (Annexation No. 2019-1), as well as the establishment of new proportional assessments for both the existing parcels within Zone No. 11 and the parcels within Annexation No. 2019-1.

Existing Zone No. 11 - County Club Villas:

Comprised of the development area referred to as Tract No. 656 (Self-Help) which includes thirty-six (36) single-family residential parcels; one non-assessed drainage basin parcel at the southwest corner of Vine Street and Cabrillo Street which is maintained by the City of Lemoore from other funding sources; and one other non-assessed parcels which is identified as a pump station area which has no other development potential. These parcels are identified by the King's County Assessor's Office as parcels (023-160-001 through 023-160-038)

Annexation No. 2019-1 - GJ Gardener:

Comprised of 36 single-family residential parcels within Tract No 839 and identified by the King's County Assessor's Office as parcels (023-160-039 through 023-160-074), which was previously identified as parcel 023-170-013.

As part of the development of the residential properties within Tract No. 839 (Annexation No. 2019-1), additional public street lighting will be installed (eight new street lights). Although Tract No. 839 is being developed after Tract No. 656 (the existing residential tract comprising Zone No. 11), the additional street light improvements being installed as part of Tract No. 839 are considered to be a continuation and extension of the improvements associate with the adjacent existing residential development (Tract No. 656 of LLMD Zone No. 11). It is therefore reasonable to conclude that the parcels within Annexation No. 2019-1 and the parcels in Tract No. 656 proportionately share the special benefits associated with the improvements installed independently for both developments.

Hence, the landscaping and street lighting improvements on the perimeter of Tract No. 656 and Zone No. 11, namely the parkway/streetscape side-panel landscaping on Vine Street, and the four street lights on Vine Street, as well as the median/ entryway landscaping on Cabrillo Street at Vine Street, the parkway/streetscape side-panel landscaping adjacent to the drainage basin (along Vine Street and Cabrillo Street), and the fifteen internal street lights within both developments are considered shared special benefit improvements and the funding required to operate, maintain and service these improvements should be proportionately assessed to each residential property within the two tracts.

As previously indicated, street lighting has historically not been assessed in LLMD Zone No. 11. Although street lights were installed in connection with development of Tract No. 656 (eleven lights in total) these lights were not funded by the District special benefit assessments for unknown reasons. With the development of properties within Tract 839, eight additional street lights are being installed and the City is proposing to include the annual costs associated with maintaining, servicing, and operating the street lights installed in connection with both developments as part of the new special benefit assessments for which the parcels within Annexation No. 2019-1 and Tract No. 656 are proposed to be assessed and balloted.

While no new landscape improvement areas are proposed within Tract 839, the landscaping improvements located on Vine Street and Cabrillo Street that were previously included as part of Zone No. 11 (installed in connection with Tract No. 656) are improvements that would have been

required and installed as part of Tract No. 839 if those improvements had otherwise not been installed as part of Tract No. 656. Therefore, these landscape improvement areas are reasonably considered improvements that provide proportionately shared special benefits to the parcels within both developments, based on the location of those improvements and proximity to each of the existing Zone No. 11 parcels and parcels in Annexation 2019-1. Therefore, similar to the street lighting improvements, the cost of maintaining the landscape areas within Zone No. 11 shall be proportionately allocated to the parcels within Tract No. 656 and Tract No. 839.

New Zone No. 11 – Self-Help and GJ Gardener:

With the inclusion of the properties in Annexation No. 2019-1 into Zone No. 11, the seventy-two (72) residential parcels within the Zone (Tract No. 656 and Tract No. 839) shall collectively and proportionately share and receive special benefit from the maintenance, servicing, and operation of approximately 10,611 square feet of landscaping and/or related improvement areas that includes the following:

- 1,361 square feet of median/entryway landscaping on Cabrillo Street at Vine Street, which is currently comprised of hardscape material and trees;
- 6,379 square feet of minimally maintained parkway and streetscape side-panel landscaping surrounding the drainage basin, including 1,725 square feet on Vine Street and 4,654 square feet on Cabrillo Street. This landscape area is comprised of turf and trees but is minimally maintained at present;
- 2,871 square feet of parkway and streetscape side-panel minimal landscaped area with trees Vine Street north of Cabrillo Street.

In addition to the above proportionately shared special benefit improvements, the parcels within Tract no. 656 and Tract No. 839 receive special benefit from the maintenance, servicing, and operation of the following improvements:

- Nineteen (19) street lights including:
 - 4 street light on the perimeter of the development located on the west side of Vine Street, three north of Cabrillo Street and one south of Cabrillo Street.
 - 5 street light on Cabrillo Street, three within Tract No. 656 and two within Tract No. 839.
 - 10 street internal street lights within Tract No. 656 and Tract No. 839 located on, but not limited to: Flores Street, Otero Street, Brisca Court, Lazo Court, and Aliso Avenue.

Part II - Method of Apportionment

Legislative Requirements for Assessments

The costs of the proposed improvements have been identified and allocated to properties within Zone No. 11 including Annexation No. 2019-1 based on proportional special benefit, consistent with the provisions of the 1972 Act and the assessment provisions of Proposition 218 (being contained in Article XIII D of the California Constitution). The improvements provided by this District and for which properties within Zone No. 11 are assessed, are identified as local landscaping improvements, street lighting improvements, and related amenities that were either installed in direct connection with the development of properties to be included within Zone No. 11 or were installed for the benefit of those properties as a result of property development or potential development of those properties and were considered necessary elements for the development of such properties to their full and best use. The formulas used for calculating assessments herein reflect the composition of parcels within LLMD Zone No. 11 (including Annexation No. 2019-1), and the improvements and activities to be provided, and have been designed to fairly apportion the cost of providing those improvements based on a determination of the proportional special benefits to each parcel.

In addition to the provisions of the 1972 Act, Article XIII D of the California Constitution outlines specific requirements regarding assessments including the following:

Article XIII D Section 2d defines District as follows:

“District means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service”;

Article XIII D Section 2i defines Special Benefit as follows:

“Special benefit” means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute “special benefit.”

Article XIII D Section 4a defines proportional special benefit assessments as follows:

“An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel.”

Benefit Analysis

Special Benefits

Landscaping Special Benefit

The ongoing maintenance of landscaped areas within the District (specifically Zone No. 11 as addressed in this Report), provide aesthetic benefits to the properties and a more pleasant environment to walk, drive, live, and/or work. The primary function of these landscape improvements and related amenities is to serve as an aesthetically pleasing enhancement and green space for the benefit of the immediately surrounding properties and developments for which the improvements were constructed and installed and/or were facilitated by the development or potential development of properties within each respective Zone. These landscape improvements

are an integral part of the physical environment associated with the parcels in each Zone and while some of the improvements may in part be visible to properties outside the Zone, collectively if these Zone improvements are not properly maintained, it is the parcels within the Zone and/or Sub-Zone (as may be applicable), that would be aesthetically burdened. Additionally, the street landscaping in these Zones serves as both a physical buffer as well as a sound reduction buffer between the roadways and the properties in the District and serve as a pleasant aesthetic amenity that enhances the approach to the parcels. In some District zones, the landscaped areas may include green space areas (neighborhood parks, greenbelts, open space and/or trails) that may provide a physical buffer between properties, overall open space within a development, and/or recreational areas and that serve as an extension of the physical attributes of the parcels assessed, such as their front or rear yards. As a result, the maintenance of these landscaped improvements and the related amenities provide particular and distinct benefits to the properties and developments associated with those improvements within each Zone.

Street Lighting Special Benefit

The street lighting (localized street lighting), is primarily useful for illuminating the sidewalks and parking lanes on the streets used specifically to access the properties and/or is adjacent to those properties that comprise a particular Zone or Sub-Zone. This lighting is distinct from lights that may be installed that serve in large part to enhance traffic safety, such as traffic signals and intersection safety lights or the more sporadic lighting found on major thoroughfares outside the more concentrated development areas. These localized streetlights tend to be more closely spaced and of a lower intensity than streetlights installed primarily for traffic safety. These low-level, lower-intensity streetlights within a designated Zone or Sub-Zone provide three main special benefits: (i) property security benefit, (ii) pedestrian safety benefit, and (iii) parkway/roadway egress benefit. Because traffic to and from these parcels is largely limited to the residents and residents' guests, it is reasonable to assume that essentially all pedestrians and parking vehicles in the lit areas will, after dark, be directly associated with the properties in that area and that the vehicular traffic within the internal streets of that Zone or Sub-Zone is primarily for accessing the properties within that area. Therefore, street lighting on such streets is entirely a special benefit to those properties. While lighting located on the perimeter of a development also serves primarily for accessing the properties within that Zone or Sub-Zone, it is recognized that such lighting may benefit pass-through traffic as well and inherently there is some general benefits associated with those streetlights.

In addition, the streetlights for which properties within the District may be assessed, are consistent with the City's typical intensity and spacing standards for areas zoned for residential development and each parcel to be assessed is served directly by the system of streetlights providing appropriate lighting within these respective development areas. Furthermore, the cost of maintaining and operating each light is substantially the same, regardless of the location of the light within the District. Consequently, we conclude that each parcel to be assessed for street lighting receives substantially similar benefit from the streetlight improvements and the only notable distinctions in proportional special benefit to each parcel is related to the specific quantity of lights associated with each Zone or Sub-Zone and the overall location of those lights (internal development lights or perimeter lights).

General Benefit

Landscaping General Benefit

In reviewing the location and extent of the specific landscaped areas and improvements to be funded by District assessments and the proximity and relationship to properties to be assessed (both District wide and Zone No. 11 specifically), it is evident these improvements were primarily installed in connection with the development of properties therein or are improvements that would

otherwise be shared by and required for development of properties in each respective Zone. It is also evident that the maintenance these improvements and the level of maintenance provided has a direct and particular impact (special benefit) only on those properties in proximity to those improvements and such maintenance beyond that which is required to ensure the safety and protection of the general public and property in general, has no quantifiable benefit to the public at large or properties outside each respective Zone.

In the absence of a special funding Zone, the City would typically provide only limited (as needed) tree management, weed abatement, rodent control, and erosion control services for the landscape areas currently maintained within the District. This baseline level of service would typically provide for periodic servicing of the improvement areas on an as-needed basis, but typically not more than twice annually. This baseline level of service provides for public safety and essential property protection to avoid negative impacts on adjacent roadways and vehicles traveling on those roadways and potential property damage resulting from erosion or fire hazards, but results in a far less visually pleasing environment than is created with the enhanced levels of services associated with the regular landscape maintenance provided in the various Zones. Typically for most agencies, the cost to provide this baseline level of service for flat/moderately-sloped street landscaped areas is less than \$545 per acre (approximately \$0.0125 per square foot) including medians, parkway and streetscape side panels; less than \$435 per acre (approximately \$0.0100 per square foot) for non-street public areas such as parks, greenbelts, and trail areas; and less than \$215 per acre (approximately \$0.0050 per square foot) for natural open space areas or other limited access areas. This baseline servicing, unlike the enhanced aesthetic services funded through the District assessments, would provide benefits to the general public and to the properties both within and outside of the specific benefit zones. These costs of providing this baseline service along with a five percent (5%) cost factor for City overhead and administration is treated as the cost of general benefits from landscape maintenance services. Therefore, for flat/moderately-sloped street landscaped areas a rate of \$0.01325 per square foot (\$0.0125 +5%) is applied to calculate the general benefit costs for the assessed improvements; for non-street public areas a rate of \$0.01050 per square foot (\$0.0100 +5%) is applied to calculate the general benefit costs for the assessed improvements; and for non-street public areas a rate of \$0.00525 per square foot (\$0.0050 +5%) is applied to calculate the general benefit costs for the assessed improvements.

In addition to the general benefit identified above, it is recognized that there are indirect or incidental general benefits to properties within the District as well as the general public that are associated with regular landscape maintenance services, including:

- Minimization of dust and debris; and
- Decreased potential water runoff from both properties and the landscaped areas.

Although these types of benefits might best be characterized as indirect consequences of the special benefit of the landscape maintenance provided to parcels served by the District, for the purposes of this Report we assume these types of benefits to be general benefits, albeit general benefits that are extremely difficult to quantify. We estimate that the costs associated with these indirect benefits do not exceed one percent of the annual maintenance expenditures for Local Landscaping Zone improvements. Therefore, the costs associated with these indirect or incidental general benefits has been calculated based on 1.0% of the estimated "Total Annual Maintenance Expenditures" budgeted for each Zone. Together with the baseline general benefit costs previously identified, these indirect/incidental general benefit costs are excluded from the potential assessment funding and together are shown in the budgets (Part III of this Report) as the "Landscaping General Benefit - City Funded".

Street Lighting General Benefit

While only four of the nineteen public street lights proposed to be included as part of the improvements for Zone No. 11 are identified as a perimeter street light (approximately 21% of the street lights), collectively throughout the City's various assessment districts, approximately 30% of the street lights identified as special benefit street lights are located on the perimeter of the various Zones, the remainder being internal residential streetlights.

These residential perimeter street lights, in contrast to the internal residential lights funded by the special benefit assessments, arguably provide some illumination that extends beyond the boundaries of the developments and parcels being assessed, and these lights may also enhance the safety of members of the public unassociated with an assessed parcel by illuminating traffic lanes and/or parking on those streets, or that otherwise provides services to the general public. Although, in general, these streetlights exist solely because of the development of assessed parcels, and the primary purpose of these lights is to provide illumination to access the assessed parcels, these particular lights may provide some level of general benefit in addition to the special benefits provided to the assessed parcels. We estimate that these general benefits constitute not more than 25% of the total benefit associated with these perimeter lights. Although the number of perimeter street lights for Zone No. 11 represents far less than the 30% associated with other assessment districts in the City, for consistency purposes and to ensure that the general benefit costs associated with the Zone's street lights is not under estimated, the 30% allocation has been used which results in no more than 8% of the total benefit from all residential lights operated and maintained for Zone No. 11 being considered as general benefit (25% of 30% equals 7.5% or 8%). Therefore, it is reasonable to conclude that the total general benefit from the operation and maintenance activities associated with the street lights does not exceed 8% of the direct annual operating expenses for all combined residential streetlights. These general benefit costs are excluded from the potential assessment funding and are shown in the budgets (Part III of this Report) as the "Lighting General Benefit - City Funded".

Assessment Methodology

To assess benefits equitably it is necessary to calculate each property's relative share of the special benefits conferred by the funded improvements and service. The Equivalent Benefit Unit (EBU) method of assessment apportionment is utilized for this District and establishes a basic unit (base value) of benefit and then calculates the benefit derived by each assessed parcel as a multiple (or a fraction) of that basic unit. The EBU method of apportioning special benefits is typically seen as the most appropriate and equitable assessment methodology for assessment districts, as the benefit to each parcel from the improvements are apportioned as a function of comparable property characteristics which may include, but is not limited to land use and property size. The method of apportionment originally developed for this District was based on an assessment formula appropriate for the various land uses, identifiable property characteristics and improvements within the District and utilizes the number of comparative dwelling units or dwelling spaces for other residential land uses and comparative lot sizes (acreage) for non-residential and undeveloped properties.

For the purposes of this Engineer's Report, an EBU is the quantum of benefit derived from the various Zone improvements by a single family residential parcel. The single family residential parcel has been selected as the basic unit for calculation of assessments since it currently represents 100% of the parcels to be assessed in the District, although other land uses may be annexed to the District in the future. Thus, the "benchmark" property (the single family residential parcel) derives one EBU of benefit and is assigned 1.00 Equivalent Benefit Unit.

Land Use Classifications

Every parcel within the District and specifically Zone No. 11, is assigned a land use classification based on available parcel information obtained from the County Assessor's Office. It has been determined that a parcel use and size are the appropriate factors necessary to identify and calculate the proportional special benefits conveyed to each property within the District for the cost of improvements associated with that property. The parcels within Zone No. 11 including Annexation 2019-1 have been identified as either single family residential parcels or Exempt parcels, and the following provides a description of those land use classifications. Although additional land use classifications may be applicable to parcels within other District Zones, only those land use classifications that may be associated with parcels in Zone No. 11 are described below but may be expanded to include additional land use classifications if additional developments are annexed to Zone No. 11 in the future.

Residential Single-Family - This land use classification may include but is not limited to all subdivided residential tract lots with a single residential unit on the parcel (individual Assessor's Parcel Number) including attached and detached single-family residential units, condominiums or townhomes. As previously noted, the single family residential parcel has been selected as the basic unit for calculation of assessments and each is assigned 1.00 Equivalent Benefit Unit.

Approved Residential Subdivision - This land use classification is defined as any property not fully subdivided, but a specific number of proposed lots and/or residential units to be developed on the parcel has been identified as part of an approved Tract Map or Tentative Tract Map. This land use type is assessed at 1.0 EBU per planned (proposed) lot and/or residential unit.

Residential Vacant Lot - This land use classification is defined as a fully subdivided residential parcel/lot within an approved Tract or subdivision for which the residential unit or units have not been constructed on the parcel (subdivided vacant lot). This land use classification is limited to fully subdivided residential parcels for which the number of residential units to be constructed on the parcel is four (4) units or less. This land use is assessed at 1.00 EBU per parcel.

Exempt - Exempt from District assessments are the areas of public streets, private streets and other roadways, dedicated public easements and open spaces, right of ways including public greenbelts and parkways or that portion of public property that is not developed and used for business purposes similar to private commercial, industrial and institutional activities. (These types of properties are not usually assigned an Assessor's Parcel Number by the County). Also exempt from assessment are utility right of ways, common areas (such as in condominium complexes), landlocked parcels, small parcels vacated by the County, bifurcated lots, and any other property that cannot be developed or developed independent of an adjacent parcel. It has been determined that these types of properties receive no direct benefit from the improvements and receive no special benefit or general benefits from the operation and maintenance of the District improvements.

A summary of the Equivalent Benefit Units (EBUs) that may be applicable to the land use classifications within LLMD Zone No. 11 is shown in the following table:

Land Use Classification	Equivalent Benefit Unit Formula
Residential Single-Family	1.00 EBU per Parcel/Lot
Approved Residential Subdivisio	1.00 EBU per Lot/Unit
Residential Vacant Lot	1.00 EBU per Parcel/Lot
Exempt	0.00 EBU per Parcel

The following is a summary of the land use classifications and Equivalent Benefit Units applicable to Zone No. 11 (proposed new Zone):

Zone No. 11 (Tract No. 656 and Tract No. 839)

Assessment Land Use	Total Parcels	Assessed Parcels	Equivalent Benefit Units (EBU)
Residential Single-Family	36	36	36.00
Residential Vacant Lot	36	36	36.00
Exempt	2	-	-
Totals	74	72	72.00

Part III - Estimate of Costs

Calculation of Assessments

An assessment amount per EBU for each Zone of the District, specifically Zone No. 11 which includes Annexation No. 2019-1 is calculated by:

Taking the “Total Annual Expenses” (Total budgeted costs) and subtracting the “General Benefit Expenses (City Funded)”, to establish the “Total Eligible Special Benefit Expenses”;

Total Annual Expenses – General Benefit Expenses = Total Eligible Special Benefit Expenses

To the resulting “Eligible Special Benefit Expenses”, various “Funding Adjustments/Contributions” may be applied that may include, but are not limited to:

- “Unfunded Reserve Fund Collection”, represents an adjustment (reduction) in the amount to be collected for “Operational Reserve Funding” that was budgeted as part of the Total Annual Expenses.
- “Unfunded Rehab-Renovation Funding”, represents an adjustment (reduction) in the amount to be collected for “Total Rehab-Renovation Funding” that was budgeted as part of the Total Annual Expenses. (This does not include the amount budgeted for Planned Capital Expenditures).
- “Reserve Fund Transfer/Deduction”, represents an amount of available existing funds from the “Operational Reserve Fund Balances” being applied to pay a portion of the Special Benefit Expenses for the fiscal year.
- “Additional City Contribution and/or Service Reductions”, represents a further adjustment that addresses the funding gap between the amount budgeted to provide the improvements and services (“Special Benefit Expenses”); and the amount that will be collected through the assessments. This funding gap may be addressed by an additional City contribution, reductions in service and service expenses, or a combination of the two.

These adjustments to the Special Benefit Expenses result in the net special benefit amount to be assessed “Balance to Levy”;

Eligible Special Benefit Expenses +/- Funding Adjustments/Contributions =Balance to Levy

The amount identified as the “Balance to Levy” is divided by the total number of EBUs of parcels that benefit to establish the “Assessment Rate” or “Assessment per EBU” for the fiscal year. This Rate is then applied back to each parcel’s individual EBU to calculate the parcel’s proportionate special benefit and assessment for the improvements.

$$\text{Balance to Levy} / \text{Total EBU} = \text{Assessment per EBU (Assessment Rate)}$$

$$\text{Assessment per EBU} \times \text{Parcel EBU} = \text{Parcel Assessment Amount}$$

Proposed Budget and Assessments

The budgets and assessments outlined on the following page for Zone No. 11 are based on the City's estimate of the expenses and related funding necessary for the operation, maintenance and servicing of the District improvements identified in Part I of this Report including the parcels and improvements associated with Tract No. 839 (Annexation No. 2019-1).

This budget represents an estimate of the special benefit expenses anticipated to be collected for fiscal year 2019/2020 at the time this Report was prepared and establishes the maximum assessment rate to be balloted and approved by the property owner(s) of record within Zone No. 11 as part of the Ballot Proceeding, including both the existing parcels with Zone No. 11 (Tract No. 656) and the parcels within Annexation No. 2019-1 (Tract No. 839). This budget also establishes the assessment rate for Zone No. 11 for fiscal year 2019/2020 ("Assessment Per EBU"), if the new assessments are approved through the ballot proceeding.

Zone No. 11 Budgets and Assessments Fiscal Year 2019/2020

BUDGET ITEMS	Zone 11 Existing Parcels Tract 656	Zone 11 Annexation 2019-1 Tract 839	Zone 11 New Assessment Fiscal Year 2019/2020
ANNUAL OPERATION & MAINTENANCE EXPENSES			
Annual Lighting Operation & Maintenance Expenses	\$ 1,659	\$ 1,659	\$ 3,318
Landscape Maintenance	\$ 794	\$ 794	\$ 1,587
Tree Maintenance	48	48	96
Landscape Irrigation (Water, Electricity, Maintenance & Repair)	858	858	1,715
Annual Landscaping Operation & Maintenance Expenses	\$ 1,699	\$ 1,699	\$ 3,399
TOTAL ANNUAL OPERATION & MAINTENANCE EXPENSES	\$ 3,359	\$ 3,359	\$ 6,717
REHABILITATION/RENOVATION FUNDING & CAPITAL EXPENDITURES			
Lighting Rehabilitation/Renovation Funding	\$ 83	\$ 83	\$ 166
Landscape Improvement Rehabilitation/Renovation Funding	143	143	285
Total Rehabilitation/Renovation Funding	\$ 226	\$ 226	\$ 451
Total Planned Capital Expenditures (For Fiscal Year)	\$ -	\$ -	\$ -
TOTAL REHABILITATION/RENOVATION FUNDING & CAPITAL EXPENDITURES	\$ 226	\$ 226	\$ 451
INCIDENTAL EXPENSES			
Operational Reserves (Collection)	\$ 169	\$ 169	\$ 337
District Administration Expenses	578	578	1,157
County Administration Fee	35	35	71
Annual Administration Expenses	614	614	1,228
TOTAL INCIDENTAL EXPENSES	\$ 782	\$ 782	\$ 1,565
TOTAL ANNUAL EXPENSES	\$ 4,367	\$ 4,367	\$ 8,733
GENERAL BENEFIT EXPENSES			
Lighting General Benefit — City Funded	\$ (133)	\$ (133)	\$ (265)
Landscaping General Benefit — City Funded	(78)	(78)	(157)
TOTAL GENERAL BENEFIT EXPENSES	\$ (211)	\$ (211)	\$ (422)
TOTAL SPECIAL BENEFIT EXPENSES	\$ 4,156	\$ 4,156	\$ 8,311
FUNDING ADJUSTMENTS			
Reserve Fund Transfer/Deduction	\$ -	\$ -	\$ -
Additional City Funding and/or Service Reductions*	-	-	-
TOTAL FUNDING ADJUSTMENTS / CONTRIBUTIONS	\$ -	\$ -	\$ -
BALANCE TO LEVY	\$ 4,156	\$ 4,156	\$ 8,311
DISTRICT STATISTICS			
Total Parcels	38	36	74
Assessed Parcels	36	36	72
Equivalent Benefit Units (EBU)	36.00	36.00	72.00
Assessment Per EBU	\$115.43	\$115.43	\$115.43
Current Authorized Adjusted Maximum Assessment Rate	\$53.32		
Balloted Maximum Assessment Rate Per EBU	\$116.00	\$116.00	\$116.00
Balloted Amount	\$ 4,176.00	\$ 4,176.00	\$ 8,352.00
FUND BALANCE			
Estimated Beginning Fund Balance	\$ -	\$ -	\$ -
Operational Reserve & Rehabilitation Funding Collected	394	394	789
Estimated Ending Fund Balance	\$ 394	\$ 394	\$ 789

Annual Inflationary Adjustment (Assessment Range Formula)

It is recognized that the cost of providing for the improvements described in Part I – Plans and Specifications of this Report will inevitably increase over time as a result of inflation and that any “new or increased assessments” require certain noticing and balloting requirements pursuant to Article XIID of the California Constitution (Proposition 218). However, Government Code Section 54954.6(a) provides that a “new or increased assessment” does not include “an assessment which does not exceed an assessment formula or range of assessments...previously adopted by the agency or approved by the voters in the area where the assessment is imposed.” This definition of a new or increased assessment is reaffirmed in the Proposition 218 Omnibus Implementation Act, Government Code Section 53753.5.

In order to assure that the improvement funding is sufficient in the future to address the ongoing maintenance and replacement cost increases that naturally occur over time due to inflation, the special benefit assessments being presented to the property owners in the ballot proceeding conducted in connection with this Report includes an annual inflationary adjustment (assessment range formula). This inflationary adjustment formula provides for the fiscal year 2019/2020 maximum assessments (initial maximum assessment rate) established herein for Zone No. 11 to be increased by a fixed 3.0% annual inflationary adjustment (Assessment Range Formula) which is consistent with the above-referenced Government Code sections.

The adoption of the maximum assessment rate and the Assessment Range Formula described herein does not mean that the annual assessments will necessarily increase each fiscal year, nor does it absolutely restrict the assessments to the annually adjusted maximum assessment rate. Although the maximum assessment rate that may be levied shall be increased by 3.0% each fiscal year, the actual amount to be assessed will be based on the Balance to Levy for that fiscal year. If the calculated assessment is less than the adjusted maximum assessment, then the calculated assessment may be approved by the City Council for collection. If the calculated assessment (based on the proposed budget) is greater than the adjusted maximum assessment for that fiscal year, then the assessment would be considered an increased assessment and would require property owner approval through another protest ballot proceeding before imposing such an increase. Otherwise, it would be necessary to reduce the budget or provide a contribution from the City to reduce the Balance to Levy (amount to be assessed) to an amount that can be supported by an assessment rate less than or equal to the adjusted maximum assessment rate authorized for that fiscal year.

The Assessment Range Formula (3.0% annual adjustment) shall be applied to the maximum assessment rate for Zone No. 11 identified in the preceding Budget commencing in fiscal year 2020/2021 and shall be applied in each subsequent fiscal year unless the City Council formally suspends its application.

Part IV - Boundary Diagram

The fiscal year 2018/2019 District Diagrams showing the boundaries of the Zones within the Lemoore Landscape and Lighting Maintenance District No. 1 including the existing Zone No. 11 boundaries are on file in the office of the City Public Works Department and the City Clerk, and by reference herein are made part of this Report.

Provided on the following page is the revised (new) Boundary Diagram for Landscape and Lighting Maintenance District No. 1, Zone No. 11 showing the properties to be included in Zone No. 11 including the area of Annexation 2019-1 and the various improvements to be maintained through the District. The parcels that comprise the proposed new boundaries for LLMD Zone No. 11, consist of all lots, parcels and subdivisions of land listed on the Assessment Roll contained herein as Part V, the lines and dimensions of which are shown on the Kings County Assessor's parcel maps for the current year and are incorporated by reference herein and made part of this Report. The following Boundary Map together with the Assessment Roll contained herein as Part V, constitute the proposed new fiscal year 2019/2020 Assessment Diagram for Landscape and Lighting Maintenance District No. 1, Zone No. 11 and Annexation No. 2019-1.

New LLMD Zone No. 11 Boundary Diagram



Part V - Assessment Roll

The following Assessment Roll identifies each lot or parcel within Zone No. 11, including Annexation No. 2019-1 along with the proposed maximum assessment amount (Balloted Assessment Amount) for each parcel and the estimated assessment amount to be levied and collected for fiscal year 2019/2020. Each parcel listed on the Assessment Roll corresponds to the Assessor's Parcel Number shown on the County Assessor's Roll and illustrated on the County Assessor's Parcel Number Maps (APN maps) at the time this Report was prepared and shall incorporate all subsequent parcel changes, lot-line adjustments, and subdivisions of land identified by the Kings County Assessor's Office. These records are, by reference, made part of this Report and shall govern for all details concerning the description of the lots or parcels. The assessments presented on this assessment roll are subject to change as a result of parcel changes made by the County including parcel splits, parcel merges or development changes that occur prior to the County Assessor's Office securing the final roll and generating tax bills for fiscal year 2019/2020.

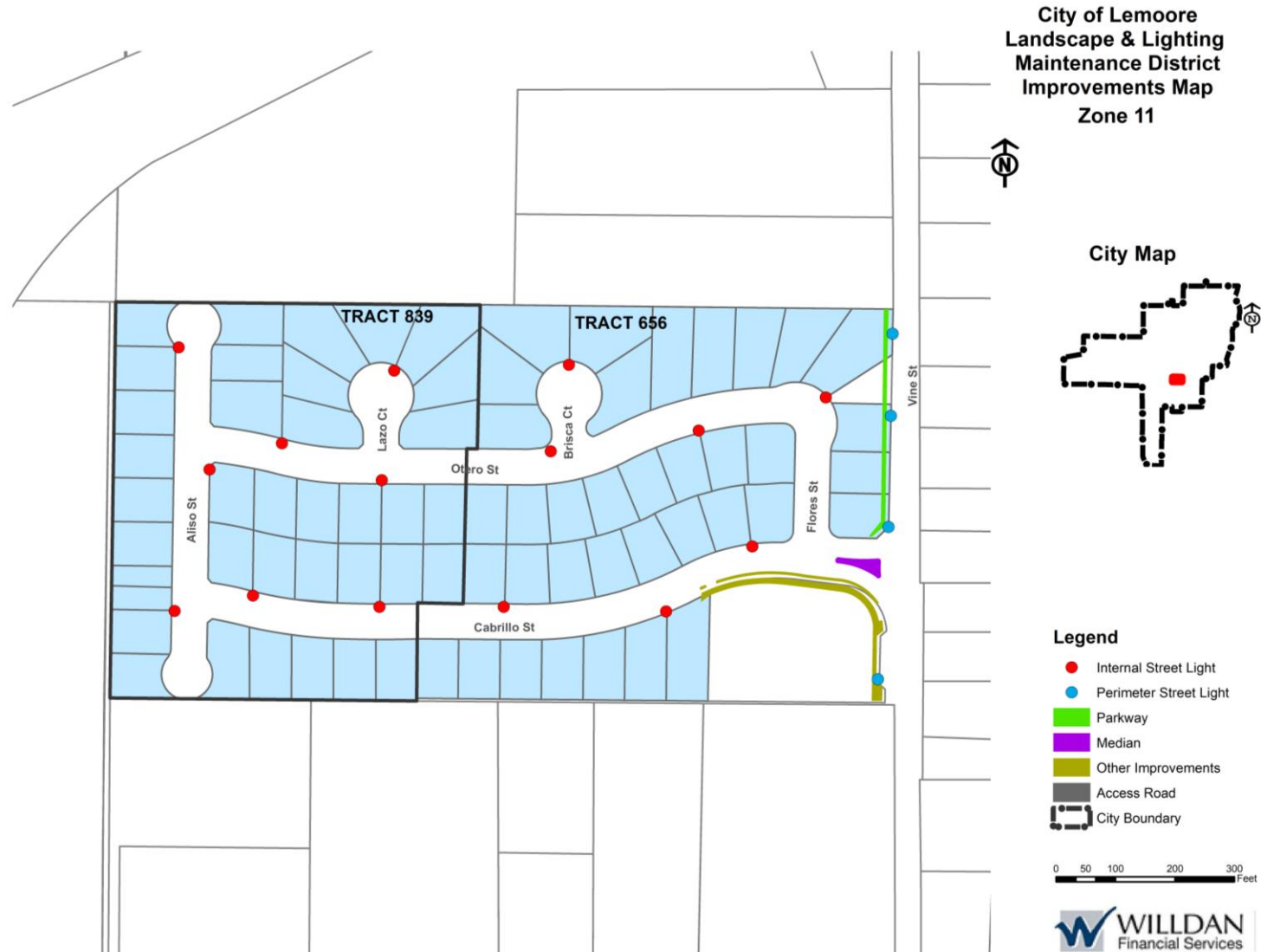
Assessor Parcel Number	Zone	Land Use	EBU	Maximum (Balloted) Assessment	Proposed 2019/2020 Assessment
023-160-001	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-002	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-003	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-004	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-005	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-006	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-007	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-008	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-009	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-010	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-011	11	Exempt	-	\$0.00	\$0.00
023-160-012	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-013	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-014	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-015	11	Exempt	-	\$0.00	\$0.00
023-160-016	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-017	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-018	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-019	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-020	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-021	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-022	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-023	11	Residential Single-Family	1.00	\$116.00	\$115.43

Assessor Parcel Number	Zone	Land Use	EBU	Maximum (Balloted) Assessment	Proposed 2019/2020 Assessment
023-160-024	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-025	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-026	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-027	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-028	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-029	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-030	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-031	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-032	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-033	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-034	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-035	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-036	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-037	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-038	11	Residential Single-Family	1.00	\$116.00	\$115.43
023-160-039	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-040	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-041	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-042	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-043	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-044	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-045	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-046	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-047	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-048	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-049	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-050	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-051	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-052	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-053	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-054	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-055	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-056	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-057	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-058	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-059	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-060	11	Residential Vacant Lot	1.00	\$116.00	\$115.43

Assessor Parcel Number	Zone	Land Use	EBU	Maximum (Balloted) Assessment	Proposed 2019/2020 Assessment
023-160-061	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-062	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-063	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-064	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-065	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-066	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-067	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-068	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-069	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-070	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-071	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-072	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-073	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
023-160-074	11	Residential Vacant Lot	1.00	\$116.00	\$115.43
Total			72.00	\$8,352.00	\$8,310.96

EXHIBIT A

New LLMD Zone No. 11 Boundary Diagram





711 West Cinnamon Drive • Lemoore, California 93245 • (559) 924-6700 • Fax (559) 924-6708

Staff Report

To: Lemoore City Council
From: Marisa Avalos, City Clerk / Executive Assistant
Date: May 6, 2019 **Meeting Date:** May 21, 2019
Subject: Activity Update

Strategic Initiative:	<input type="checkbox"/> Safe & Vibrant Community	<input type="checkbox"/> Growing & Dynamic Economy
	<input type="checkbox"/> Fiscally Sound Government	<input type="checkbox"/> Operational Excellence
	<input type="checkbox"/> Community & Neighborhood Livability	<input checked="" type="checkbox"/> Not Applicable

Attendance Roster for Boards and Commissions

➤ January to April 2019

Reports

➤ Warrant Register – FY 18/19	May 3, 2019
➤ Warrant Register – FY 18/19	May 9, 2019

EDDIE NEAL - Mayor
Appointed to Boards/Commissions 1/15/19
YELLOW = ABSENT

Indian Gaming Local Community Benefit Committee	Kings County Association of Governments (KCAG)		Kings Waste & Recycling JPA Board	League of California Cities * <i>General Membership</i> + <i>Executive Board</i>
	Transportation Policy Committee (TPC)	Kings County Vehicle Abatement Committee (AVA)		
<i>Assumed Primary 2/5/19</i>	January 23, 2019	January 23, 2019	January 30, 2019	January 10, 2019 +
February 2019 - No Meeting	<i>Primary assumed by Brown effective 2/5/19</i>		February 27, 2019 - No Meeting	February 7, 2019 *
March 2019 - No Meeting			March 27, 2019	March 14, 2019 +
April 2019 - No Meeting			April 24, 2019	April 11, 2019*

CHAD BILLINGSLEY - Mayor Pro Tem
Appointed to Boards/Commissions 1/15/19
YELLOW = ABSENT

Indian Gaming Local Community Benefit Committee	Kings County Economic Development Committee	Kings County Emergency Shelter and Food Committee	Kings Mosquito Abatement District	San Joaquin Valley Air Quality Control Board Special Selection Committee
January 2019 - No Meeting	January 2019 - No Meeting	January 2019 - No Meeting	<i>Assumed Primary 2/5/19</i>	January 2019 - No Meeting
<i>Primary assumed by Neal effective 2/5/19</i>	February 25, 2019	February 2019 - No Meeting	February 20, 2019	February 2019 - No Meeting
	March 25, 2019	March 2019 - No Meeting	March 20, 2019	March 2019 - No Meeting
	April 29, 2019	April 2019 - No Meeting	April 17, 2019	April 2019 - No Meeting
			May 2019 - No Meeting	

DAVE BROWN - Council Member

 Page 1 of 2 *Appointed to Boards/Commissions 1/15/19*

YELLOW = ABSENT

Cross Valley Rail Corridor Joint Powers Authority	Kings County Area Public Transit Authority (KCAPTA)			Kings Mosquito Abatement District
		Transportation Policy Committee (TPC)	Kings County Vehicle Abatement Committee (AVA)	January 16, 2019
Janury 2019 - No Meeting	<i>Assumed Primary 2/5/19</i>	<i>Assumed Primary effective 2/5/19</i>		<i>Primary assumed by Billingsley effective 2/5/19</i>
February 2019 - No Meeting	February 28, 2019	February 27, 2019	February 2019 - No Meeting	
March 2019 - No Meeting	March 27, 2019	March 27, 2019	March 27, 2019	
April 2019 - No Meeting	April 17, 2019	April 17, 2019	April 17, 2019	

Lemoore Finance Committee	LVFD Qualification Review Committee	South Fork Kings Sustainable Groundwater Management Act JPA Board
Janury 2019 - No Meeting	Janury 2019 - No Meeting	January 17, 2019
February 2019 - No Meeting	February 2019 - No Meeting	February 21, 2019
March 2019 - No Meeting	March 2019 - No Meeting	March 21, 2019
April 2019 - No Meeting	April 2019 - No Meeting	April 18, 2019

STUART LYONS - Council Member
Appointed to Boards/Commissions 1/15/19
YELLOW = ABSENT

Kings County Community Action Organization (KCAO)			Kings County Area Public Transit Authority (KCAPTA)	Kings County Commission on Aging	Kings County Gang Awareness Advisory Committee
Board of Directors Meetings	Real Estate Committee Meetings	Marketing Committee Meetings			
January 16, 2019	January 2019 - No Meeting	January 2019 - No Meeting	January 23, 2019	January 17, 2019	January 2019 - No Meeting
February 20, 2019	February 2019 - No Meeting	February 2019 - No Meeting	<i>Primary assumed by Brown effective 2/5/19</i>	February 21, 2019	February 2019 - No Meeting
March 20, 2019	March 7, 2019	March 2019 - No Meeting		March 21, 2019	March 2019 - No Meeting
April 17, 2019	April 2019 - No Meeting	April 22, 2019		April 18, 2019	April 2019 - No Meeting

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 1
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4211 - CITY COUNCIL

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4310									
	11/19	05/02/19	21	61968	5977 GREATAMERICA FIN		17.12	.00	COPIER/PRINTER
TOTAL						.00	17.12	.00	
4360									
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		375.00	.00	C. BILLINGSLEY REGIST
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		375.00	.00	S. LYONS REGISTRATION
TOTAL						.00	750.00	.00	
TOTAL					CITY COUNCIL	.00	767.12	.00	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 2
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4213 - CITY MANAGER

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4140									
	10/19	05/02/19 21		61943	6800 AUL HEALTH BENEF		250.00	.00	FRENCH, MARY
	10/19	05/02/19 21		61943	6800 AUL HEALTH BENEF		250.00	.00	FRENCH, MARY
TOTAL		HEALTH INSURANCE				.00	500.00	.00	
4220									
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		112.58	.00	COPY PAPER
	11/19	05/02/19 21		61987	5396 OFFICE DEPOT		10.95	.00	MOISTENER/DESKPAD
TOTAL		OPERATING SUPPLIES				.00	123.53	.00	
4310									
	10/19	05/02/19 21 8572	-01 61952		6377 THE CRISCOM COMP		3,750.00	-3,750.00	CONTRACT SERVICES BILLED
TOTAL		PROFESSIONAL CONTRACT SVC				.00	3,750.00	-3,750.00	
4320									
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		11.18	.00	CM LUNCH - MEETING IN
TOTAL		MEETINGS & DUES				.00	11.18	.00	
4340									
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		5.98	.00	WATER SERVICE
	10/19	05/02/19 21		61942	5516 AT&T		104.87	.00	939-103-6913
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		74.50	.00	CMC CABLE SERVICE
	10/19	05/02/19 21		61942	5516 AT&T		137.60	.00	939-103-4009
TOTAL		UTILITIES				.00	322.95	.00	
4360									
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		371.90	.00	CALIFORNIA CANNABIS C
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		12.24	.00	TAXI
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		12.54	.00	TAXI
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		18.00	.00	PARKING
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		16.14	.00	ADJUSTED HOTEL AMOUNT
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		28.00	.00	PARKING
TOTAL		TRAINING				.00	458.82	.00	
4380									
	11/19	05/02/19 21		61968	5977 GREATAMERICA FIN		326.45	.00	COPIER/PRINTER
TOTAL		RENTALS & LEASES				.00	326.45	.00	
TOTAL		CITY MANAGER				.00	5,492.93	-3,750.00	

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DATE: 05/03/2019
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CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 3
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4214 - CITY CLERK'S OFFICE

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220			OPERATING SUPPLIES						
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		64.35	.00	PARKS AND REC COMMISS
11/19	05/02/19	21		61987	5396 OFFICE DEPOT		15.04	.00	16GB JUMPDRIVE
TOTAL			OPERATING SUPPLIES			.00	79.39	.00	
4340			UTILITIES						
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		5.98	.00	WATER SERVICE
TOTAL			UTILITIES			.00	5.98	.00	
4380			RENTALS & LEASES						
11/19	05/02/19	21		61968	5977 GREATAMERICA FIN		284.00	.00	COPIER/PRINTER
TOTAL			RENTALS & LEASES			.00	284.00	.00	
TOTAL			CITY CLERK'S OFFICE			.00	369.37	.00	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 4
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4215 - FINANCE

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220									
11/19	05/02/19	21		61987	5396 OFFICE DEPOT		32.39	.00	FOLDER, CLASS, 1DIV
TOTAL						.00	32.39	.00	
4310									
11/19	05/02/19	21 9000	-02	61990	6729 PRIDESTAFF, INC.		785.48	-785.48	ACCOUNT CLERK
TOTAL						.00	785.48	-785.48	
4340									
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		42.72	.00	WATER SERVICE
10/19	05/02/19	21		61942	5516 AT&T		131.08	.00	939-103-6913
TOTAL						.00	173.80	.00	
4380									
11/19	05/02/19	21		61968	5977 GREATAMERICA FIN		296.61	.00	COPIER/PRINTER
TOTAL						.00	296.61	.00	
TOTAL					FINANCE	.00	1,288.28	-785.48	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 5
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4216 - PLANNING

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220			OPERATING SUPPLIES						
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		16.62	.00	OFFICE SUPPLIES
TOTAL			OPERATING SUPPLIES			.00	16.62	.00	
4340			UTILITIES						
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		5.98	.00	WATER SERVICE
TOTAL			UTILITIES			.00	5.98	.00	
4380			RENTALS & LEASES						
11/19	05/02/19	21		61968	5977 GREATAMERICA FIN		185.47	.00	COPIER/PRINTER
TOTAL			RENTALS & LEASES			.00	185.47	.00	
TOTAL			PLANNING			.00	208.07	.00	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 6
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4220 - MAINTENANCE DIVISION

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220					OPERATING SUPPLIES				
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		138.89	.00	SODAS/GROCERY
11/19	05/02/19	21		62007	1547 VERITIV OPERATIN		345.90	.00	TOWEL 10X800 FT
TOTAL					OPERATING SUPPLIES	.00	484.79	.00	
4310					PROFESSIONAL CONTRACT SVC				
10/19	05/02/19	21		61942	5516 AT&T		3.09	.00	939-103-4007
11/19	05/02/19	21		61994	5287 RES COM PEST CON		38.00	.00	411 W D STREET APR 18
TOTAL					PROFESSIONAL CONTRACT SVC	.00	41.09	.00	
4340					UTILITIES				
11/19	05/02/19	21		61996	0423 SOCALGAS		47.83	.00	03/20/19-04/18/19
11/19	05/02/19	21		61996	0423 SOCALGAS		49.99	.00	03/20/19-04/18/19
11/19	05/02/19	21		61996	0423 SOCALGAS		50.00	.00	03/22/19-04/22/19
11/19	05/02/19	21		61996	0423 SOCALGAS		56.11	.00	03/22/19-04/22/19
11/19	05/02/19	21		61996	0423 SOCALGAS		94.34	.00	03/20/19-04/18/19
11/19	05/02/19	21		61996	0423 SOCALGAS		18.52	.00	03/20/19-04/18/19
11/19	05/02/19	21		61996	0423 SOCALGAS		151.71	.00	03/22/19-04/22/19
11/19	05/02/19	21		61996	0423 SOCALGAS		240.36	.00	03/20/19-04/18/19
TOTAL					UTILITIES	.00	708.86	.00	
4350					REPAIR/MAINT SERVICES				
10/19	05/02/19	21	8824	-01 61941	6597 AIRWORX		235.00	-235.00	REPAIRS
10/19	05/02/19	21	8824	-01 61941	6597 AIRWORX		861.00	-861.00	REPAIRS
10/19	05/02/19	21	8824	-01 61941	6597 AIRWORX		8,874.00	-8,874.00	REPAIRS
TOTAL					REPAIR/MAINT SERVICES	.00	9,970.00	-9,970.00	
4380					RENTALS & LEASES				
11/19	05/02/19	21		61968	5977 GREATAMERICA FIN		2.76	.00	COPIER/PRINTER
TOTAL					RENTALS & LEASES	.00	2.76	.00	
TOTAL					MAINTENANCE DIVISION	.00	11,207.50	-9,970.00	

RUN DATE 05/03/2019 TIME 09:13:34

PEI - FUND ACCOUNTING

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 7
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4221 - POLICE

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4140					HEALTH INSURANCE				
10/19	05/02/19	21		61943	6800 AUL HEALTH BENEF		250.00	.00	MUNDY, PATRICK
10/19	05/02/19	21		61943	6800 AUL HEALTH BENEF		250.00	.00	MUNDY, PATRICK
TOTAL					HEALTH INSURANCE	.00	500.00	.00	
4220					OPERATING SUPPLIES				
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		207.05	.00	ANIMAL CONTROL - FOOD
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		165.25	.00	SUPPLIES FOR EVIDENCE
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		149.96	.00	BOOSTER CABLES/FAN BL
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		115.10	.00	K9 TRAINING COLLAR
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		117.60	.00	3 WIRELESS KEYBOARD/M
10/19	05/02/19	21		61980	0287 LC ACTION POLICE		425.69	.00	G43 GNS GLOCK 9MM PIS
10/19	05/02/19	21		61964	2960 GALLS		259.31	.00	DE-GB DYNAMIC ENTRY G
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		12.82	.00	MEMORY CARD READER FO
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		15.94	.00	OTTERBOX HOLSTER BELT
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		34.28	.00	OFFICE SUPPLIES - SLE
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		94.42	.00	FANS FOR SQUADROOM/ O
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		89.30	.00	BOLT CUTTERS
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		66.90	.00	OFFICE SUPPLIES - DVD
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		71.29	.00	LABEL MAKER TAPE
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		79.05	.00	SUPPLIES FOR EVIDENCE
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		83.44	.00	BINDERS AND TABS FOR
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		87.23	.00	K9 TOTES
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		65.58	.00	LABELS FOR EVIDENCE
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		38.67	.00	SWAT HEADSET FOR REPA
11/19	05/02/19	21	9033	-01 61991	2709 PVP COMMUNICATIO		439.00	-439.00	04-121 SHOEI RJ PLATINUM,
11/19	05/02/19	21	9033	-02 61991	2709 PVP COMMUNICATIO		12.00	-12.00	RANK BAND GOLD
11/19	05/02/19	21	9033	-03 61991	2709 PVP COMMUNICATIO		8.00	-8.00	HELMET RANK BUTTON SET GO
11/19	05/02/19	21	9033	-04 61991	2709 PVP COMMUNICATIO		285.00	-285.00	HELMET COMMUNICATIONS KIT
11/19	05/02/19	21	9033	-05 61991	2709 PVP COMMUNICATIO		45.00	-45.00	UNITED SHIELD HELMET BAG
11/19	05/02/19	21	9033	-06 61991	2709 PVP COMMUNICATIO		57.20	-57.20	SALES TAX @ 7.25% ON \$789
11/19	05/02/19	21	9033	-07 61991	2709 PVP COMMUNICATIO		25.00	-25.00	SHIPPING
TOTAL					OPERATING SUPPLIES	.00	3,050.08	-871.20	
4220U					OPERAT SUPPLIES- UNIFORMS				
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		48.58	.00	DUTY GEAR - F. PEREZ
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		230.30	.00	DUTY GEAR - F. PEREZ
TOTAL					OPERAT SUPPLIES- UNIFORMS	.00	278.88	.00	
4310					PROFESSIONAL CONTRACT SVC				
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		50.00	.00	DETECTIVES
10/19	05/02/19	21		61969	5814 CITY OF HANFORD		14,665.14	.00	DISPATCH MAR 19
TOTAL					PROFESSIONAL CONTRACT SVC	.00	14,715.14	.00	
4320					MEETINGS & DUES				
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		150.00	.00	BRETT WARD - EXAM FEE
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		408.04	.00	LODGING - CANNABIS CO

RUN DATE 05/03/2019 TIME 09:13:34

PEI - FUND ACCOUNTING

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 8
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4221 - POLICE

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4320					(cont'd)				
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		469.20	.00	LODGING - ARMORERS CO
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		950.00	.00	TUITION - ARMORERS CO
TOTAL					MEETINGS & DUES	.00	1,977.24	.00	
4340					UTILITIES				
10/19	05/02/19	21		61942	5516 AT&T		341.75	.00	939-103-4008
10/19	05/02/19	21		61942	5516 AT&T		239.75	.00	939-103-6912
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		35.44	.00	PD WATER SERVICE
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		40.98	.00	PD WATER SERVICE
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		88.50	.00	PD CABLE SERVICE
10/19	05/02/19	21		61942	5516 AT&T		22.38	.00	939-103-4003
11/19	05/02/19	21		62008	0116 VERIZON WIRELESS		1,723.69	.00	03/17/19-04/16/19
TOTAL					UTILITIES	.00	2,492.49	.00	
4360					TRAINING				
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		664.65	.00	LODGING - J. HENDERSO
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		600.00	.00	CCUG 2019 T&T SEMINAR
10/19	05/02/19	21		61948	6487 CITY OF FRESNO-P		115.00	.00	C. SANTOS FIREARMS CO
TOTAL					TRAINING	.00	1,379.65	.00	
TOTAL					POLICE	.00	24,393.48	-871.20	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 9
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4222 - FIRE

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220					OPERATING SUPPLIES				
10/19	05/02/19	21		61983	0313 LEMOORE VOLUNTEE		101.89	.00	REIM PLAIN INSANE GRA
10/19	05/02/19	21		61983	0313 LEMOORE VOLUNTEE		96.53	.00	REIM PLAIN INSANE GRA
10/19	05/02/19	21		61983	0313 LEMOORE VOLUNTEE		69.71	.00	REIM PLAIN INSANE GRA
10/19	05/02/19	21		61983	0313 LEMOORE VOLUNTEE		75.22	.00	REIM LAS ESPUELAS
10/19	05/02/19	21		61983	0313 LEMOORE VOLUNTEE		42.90	.00	REIM PLAIN INSANE GRA
10/19	05/02/19	21		61983	0313 LEMOORE VOLUNTEE		53.63	.00	REIM PLAIN INSANE GRA
10/19	05/02/19	21		61983	0313 LEMOORE VOLUNTEE		1,111.11	.00	REIM PLAIN INSANE GRA
10/19	05/02/19	21		61983	0313 LEMOORE VOLUNTEE		810.81	.00	REIM PLAIN INSANE GRA
10/19	05/02/19	21		61983	0313 LEMOORE VOLUNTEE		353.93	.00	REIM PLAIN INSANE GRA
10/19	05/02/19	21		61983	0313 LEMOORE VOLUNTEE		193.05	.00	REIM PLAIN INSANE GRA
TOTAL					OPERATING SUPPLIES	.00	2,908.78	.00	
4230					REPAIR/MAINT SUPPLIES				
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		224.13	.00	CORDLESS BATTERY & CH
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		434.84	.00	SW PRESS STOP & 2&1/2
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		262.87	.00	VLV PRESSURE PROTECT/
TOTAL					REPAIR/MAINT SUPPLIES	.00	921.84	.00	
4310					PROFESSIONAL CONTRACT SVC				
10/19	05/02/19	21		61969	5814 CITY OF HANFORD		10,998.86	.00	DISPATCH MAR 19
TOTAL					PROFESSIONAL CONTRACT SVC	.00	10,998.86	.00	
4340					UTILITIES				
10/19	05/02/19	21		61942	5516 AT&T		87.39	.00	939-103-6913
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		2.99	.00	WATER SERVICE
TOTAL					UTILITIES	.00	90.38	.00	
4380					RENTALS & LEASES				
11/19	05/02/19	21		61968	5977 GREATAMERICA FIN		167.82	.00	COPIER/PRINTER
TOTAL					RENTALS & LEASES	.00	167.82	.00	
TOTAL					FIRE	.00	15,087.68	.00	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 10
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4224 - BUILDING INSPECTION

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4140									
	10/19	05/02/19 21		61943	6800 AUL HEALTH BENEF		125.00	.00	HENSON, RONALD
	10/19	05/02/19 21		61943	6800 AUL HEALTH BENEF		125.00	.00	HENSON, RONALD
TOTAL		HEALTH INSURANCE				.00	250.00	.00	
4220									
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		132.54	.00	FOLDING TABLE
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		139.40	.00	FOLDING TABLE
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		293.83	.00	OFFICE SUPPLIES
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		13.93	.00	FEES IN RELATIONS TO
TOTAL		OPERATING SUPPLIES				.00	579.70	.00	
4340									
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		8.98	.00	WATER SERVICE
	10/19	05/02/19 21		61942	5516 AT&T		3.09	.00	939-103-4007
TOTAL		UTILITIES				.00	12.07	.00	
4380									
	11/19	05/02/19 21		61968	5977 GREATAMERICA FIN		273.37	.00	COPIER/PRINTER
TOTAL		RENTALS & LEASES				.00	273.37	.00	
TOTAL		BUILDING INSPECTION				.00	1,115.14	.00	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 11
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4230 - PUBLIC WORKS

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220			OPERATING	SUPPLIES					
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		12.86	.00	BATTERIES
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		16.62	.00	OFFICE SUPPLIES
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		48.25	.00	OFFICE SUPPLIES
11/19	05/02/19	21		61987	5396 OFFICE DEPOT		46.30	.00	DESKPAD/INO/DIVIDE/FO
11/19	05/02/19	21		61987	5396 OFFICE DEPOT		-32.20	.00	RTN INV 296977040001
TOTAL			OPERATING	SUPPLIES		.00	91.83	.00	
4340			UTILITIES						
10/19	05/02/19	21		61942	5516 AT&T		4.12	.00	939-103-4007
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		8.98	.00	WATER SERVICE
10/19	05/02/19	21		61942	5516 AT&T		87.39	.00	939-103-6913
TOTAL			UTILITIES			.00	100.49	.00	
4380			RENTALS & LEASES						
11/19	05/02/19	21		61968	5977 GREATAMERICA FIN		338.42	.00	COPIER/PRINTER
TOTAL			RENTALS & LEASES			.00	338.42	.00	
TOTAL			PUBLIC WORKS			.00	530.74	.00	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 12
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4231 - STREETS

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220					OPERATING SUPPLIES				
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		507.09	.00	BRACKET/COVER FLAT/SW
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		679.00	.00	CHAIN HANGER/GRN GRND
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		124.82	.00	GRIN GRND/FLEX
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		79.32	.00	PROPANE TORCH/TAMPER
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		56.83	.00	PROPANE
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		-482.51	.00	RETURN
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		16.62	.00	OFFICE SUPPLIES
10/19	05/02/19	21	9060 -01	61970	0205 HELENA AGRI-ENT.		772.20	-772.20	ROUND UP
TOTAL					OPERATING SUPPLIES	.00	1,753.37	-772.20	
4310					PROFESSIONAL CONTRACT SVC				
10/19	05/02/19	21	8718 -01	61957	5758 MARK FERNANDES		500.00	-500.00	MAINTENANCE OF LANDSCAPE
10/19	05/02/19	21		61957	5758 MARK FERNANDES		215.00	.00	LANDSCAPE WEST OF PD
TOTAL					PROFESSIONAL CONTRACT SVC	.00	715.00	-500.00	
4340					UTILITIES				
10/19	05/02/19	21		61945	3072 CA DEPARTMENT OF		1,436.78	.00	SIGNAL/LHT JAN-MAR 19
TOTAL					UTILITIES	.00	1,436.78	.00	
4380					RENTALS & LEASES				
11/19	05/02/19	21		61968	5977 GREATAMERICA FIN		1.24	.00	COPIER/PRINTER
TOTAL					RENTALS & LEASES	.00	1.24	.00	
TOTAL					STREETS	.00	3,906.39	-1,272.20	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 13
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4241 - PARKS

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220					OPERATING SUPPLIES				
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		321.74	.00	GRAG MAT
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		138.89	.00	SODAS/GROCERY
11/19	05/02/19	21		61999	0428 STONEY'S SAND &		128.06	.00	FILL SAND #756508
TOTAL					OPERATING SUPPLIES	.00	588.69	.00	
4310					PROFESSIONAL CONTRACT SVC				
10/19	05/02/19	21		61967	6506 GOPHER GRABBERS,		150.00	.00	RMVL SVC LIONS PARK
10/19	05/02/19	21		61967	6506 GOPHER GRABBERS,		225.00	.00	RMVL SVC CITY PARK
10/19	05/02/19	21		61967	6506 GOPHER GRABBERS,		225.00	.00	RMVL SVC 19TH AVE PRK
10/19	05/02/19	21		61967	6506 GOPHER GRABBERS,		300.00	.00	RMVL SVC SPRTS COMPLX
10/19	05/02/19	21		61967	6506 GOPHER GRABBERS,		325.00	.00	RMVL SVC HERITAGE PRK
10/19	05/02/19	21		61939	2914 AAA QUALITY SERV		105.12	.00	POTTY RENTAL 660 BELL
TOTAL					PROFESSIONAL CONTRACT SVC	.00	1,330.12	.00	
TOTAL					PARKS	.00	1,918.81	.00	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 14
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4242 - RECREATION

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4140									
	10/19	05/02/19	21	61943	6800 AUL HEALTH BENEF		125.00	.00	HERNANDEZ, THOMAS
	10/19	05/02/19	21	61943	6800 AUL HEALTH BENEF		125.00	.00	HERNANDEZ, THOMAS
TOTAL						.00	250.00	.00	
4220									
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		158.51	.00	DANCE RECITAL COSTUME
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		159.15	.00	EASTER EGG HUNT
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		225.00	.00	USA BOXING FEES FOR L
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		436.39	.00	GAME BALLS FOR SPRING
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		307.89	.00	STAKES FOR TEMPORARY
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		757.37	.00	REC VENDING MACHINE
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		505.42	.00	REC VENDING MACHINE
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		108.58	.00	EASTER EGG HUNT
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		100.00	.00	USA BOXING FEES
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		77.09	.00	YOUTH DANCE
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		77.09	.00	YOUTH DANCE CONCESSIO
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		64.08	.00	WEIGHTS FOR SENIORS
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		48.81	.00	FRIDAY NIGHT MUSIC SU
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		14.20	.00	FLAMENCO WOOD MUSICAL
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		12.00	.00	PROMOTION FOR SENIOR
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		20.00	.00	MELORDRAMA TICKETS
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		23.97	.00	SENIOR TRIP
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		24.00	.00	MELODRAMA TICKES FOR
	10/19	05/02/19	21	C589 -01 61960	3022 FIRST BANKCARD		1,896.00	-1,896.00	SOCCER DYNASTAR MEDAL
	10/19	05/02/19	21	C590 -01 61960	3022 FIRST BANKCARD		740.00	-740.00	TICKETS TO MELODRAMA
	10/19	05/02/19	21	C590 -01 61960	3022 FIRST BANKCARD		100.00	-100.00	TICKETS TO MELODRAMA
TOTAL						.00	5,855.55	-2,736.00	
4310									
	10/19	05/02/19	21	61960	3022 FIRST BANKCARD		45.00	.00	PUBLICATION ACCESS FO
	11/19	05/02/19	21	61954	T1335 CHARLIE ENNES		42.00	.00	GUITAR APR 19
	11/19	05/02/19	21	61962	6889 TOMI FORD		60.00	.00	SP BRK CAMP 042219
	11/19	05/02/19	21	61984	6973 MELODY MAR		84.00	.00	BATON CLASS APR 19
	11/19	05/02/19	21	61997	5235 STATE DISBURSEME		86.00	.00	GLASPIE-APR CHILD SUP
	11/19	05/02/19	21	61966	5962 JASON GLASPIE		-86.00	.00	CHILD SUPPORT APR 19
	11/19	05/02/19	21	61949	6731 FLORENCE COLBY		451.50	.00	ZUMBA APR 19
	11/19	05/02/19	21	61951	T1444 JOE CORREIA		486.00	.00	ATTENDANT 0225-0428
	11/19	05/02/19	21	61966	5962 JASON GLASPIE		721.00	.00	BOXING APR 19
	11/19	05/02/19	21	61992	T2217 SHANEE RANESSES		1,563.33	.00	REC DANCE 19 (3 OF 3)
	11/19	05/02/19	21	61961	T1316 BRIANNE FORD		324.00	.00	SP BRK CAMP 0415-0419
	11/19	05/02/19	21	62006	6371 MANUEL VELARDE		262.50	.00	KARATE APR 19
	11/19	05/02/19	21	61974	7049 LORENZO C.L. JIM		255.50	.00	DRAMA APR 19
	11/19	05/02/19	21	61988	T2225 FELLIPE OLIVEIRA		350.00	.00	SOCCER REF 0226-0429
	11/19	05/02/19	21	62003	7061 BRIANNA TOWK		213.50	.00	YOGA APR 19
	11/19	05/02/19	21	61972	7011 KERRI MICHELLE H		164.50	.00	PEEWEE MUSIC APR 19
	11/19	05/02/19	21	61989	T1882 ANGEL PICENO		150.00	.00	SOCCER REF 0127-0426

RUN DATE 05/03/2019 TIME 09:13:34

PEI - FUND ACCOUNTING

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 15
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4242 - RECREATION

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4310					PROFESSIONAL CONTRACT SVC (cont'd)				
TOTAL					PROFESSIONAL CONTRACT SVC	.00	5,172.83	.00	
4340					UTILITIES				
10/19	05/02/19	21		61942	5516 AT&T		52.43	.00	939-103-6913
TOTAL					UTILITIES	.00	52.43	.00	
4360					TRAINING				
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		60.00	.00	HOTEL REFUND FROM CPR
10/19	05/02/19	21	C596	-01 61960	3022 FIRST BANKCARD		707.31	-707.31	2019 CPRS CONFERENCE REGI
TOTAL					TRAINING	.00	767.31	-707.31	
4380					RENTALS & LEASES				
11/19	05/02/19	21		61968	5977 GREATAMERICA FIN		1,099.07	.00	COPIER/PRINTER
TOTAL					RENTALS & LEASES	.00	1,099.07	.00	
TOTAL					RECREATION	.00	13,197.19	-3,443.31	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 16
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4296 - INFORMATION TECHNOLOGY

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220									
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		1,431.00	.00	SYMANTEC ANNUAL SUBSC
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		80.53	.00	HOLWELL - KEYBOARD
TOTAL						.00	1,511.53	.00	
4310									
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		56.00	.00	EMAIL
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		424.00	.00	OFFICE 365
TOTAL						.00	480.00	.00	
4340									
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		2.99	.00	WATER SERVICE
TOTAL						.00	2.99	.00	
TOTAL						.00	1,994.52	.00	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 17
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4297 - HUMAN RESOURCES

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220									
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		52.65	.00	HR STAMP
TOTAL						.00	52.65	.00	
4310									
11/19	05/02/19	21		61979	T2176 LABORATORY CORPO		217.00	.00	PHYSICAL: P. FABRICIO
TOTAL						.00	217.00	.00	
4360									
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		360.15	.00	HOLWELL TRAINING
11/19	05/02/19	21		61973	2473 JUDY HOLWELL		251.48	.00	ADVANCE PER DIEM
TOTAL						.00	611.63	.00	
4380									
11/19	05/02/19	21		61968	5977 GREATAMERICA FIN		105.61	.00	COPIER/PRINTER
TOTAL						.00	105.61	.00	
TOTAL						.00	986.89	.00	
TOTAL						.00	82,464.11	-20,092.19	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 18
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 040 - FLEET MAINTENANCE
BUDGET UNIT - 4265 - FLEET MAINTENANCE

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220					OPERATING SUPPLIES				
10/19	05/02/19	21		61955	5866 FASTENAL COMPANY		26.95	.00	G8-11 BLK/CLR SFGLS
10/19	05/02/19	21		61955	5866 FASTENAL COMPANY		257.70	.00	L/XL GWBN GLOVE
10/19	05/02/19	21	8624 -03	61965	6445 GARY V. BURROWS,		1,003.77	-1,003.77	INCREASE BLANKET PO FOR O
11/19	05/02/19	21		61968	5977 GREATAMERICA FIN		103.77	.00	COPIER/PRINTER
TOTAL					OPERATING SUPPLIES	.00	1,392.19	-1,003.77	
4220F					OPERATING SUPPLIES FUEL				
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		56.05	.00	FUEL - UNIT #51 - CHI
TOTAL					OPERATING SUPPLIES FUEL	.00	56.05	.00	
4230					REPAIR/MAINT SUPPLIES				
10/19	05/02/19	21		61955	5866 FASTENAL COMPANY		11.27	.00	HCS 1/2-13 X 4.5 YZ8
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		310.27	.00	TURN SIGNAL
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		339.16	.00	FLEET SUPPLIES
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		405.87	.00	MONITOR
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		228.29	.00	FLEET SUPPLIES
11/19	05/02/19	21		61986	6120 O'REILLY AUTO PA		182.61	.00	WATER PUMP/THERMOSTAT
11/19	05/02/19	21		61986	6120 O'REILLY AUTO PA		197.69	.00	RADIATOR
11/19	05/02/19	21		61986	6120 O'REILLY AUTO PA		360.51	.00	HUB ASSEMBLY
11/19	05/02/19	21		61986	6120 O'REILLY AUTO PA		7.57	.00	THERM HOUSING
11/19	05/02/19	21		61986	6120 O'REILLY AUTO PA		-156.70	.00	WATER PUMP RETURN CR
TOTAL					REPAIR/MAINT SUPPLIES	.00	1,886.54	.00	
4340					UTILITIES				
10/19	05/02/19	21		61942	5516 AT&T		2.59	.00	939-103-4007
TOTAL					UTILITIES	.00	2.59	.00	
TOTAL					FLEET MAINTENANCE	.00	3,337.37	-1,003.77	
TOTAL					FLEET MAINTENANCE	.00	3,337.37	-1,003.77	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 19
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 045 - GOLF COURSE - CITY
BUDGET UNIT - 4245 - GOLF COURSE-CITY

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4000K	COST OF REVENUE-KITCHEN								
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		50.36	.00	FOODSTUFFS
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		448.72	.00	FOODSTUFFS
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		487.91	.00	FOODSTUFFS
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		493.04	.00	FOODSTUFFS
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		610.24	.00	FOODSTUFFS
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		189.63	.00	FOODSTUFFS
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		152.25	.00	FOODSTUFFS
11/19	05/02/19	21		61993	7003 RAVEN BRAND PROD		32.88	.00	BEEF JERKY
11/19	05/02/19	21		61993	7003 RAVEN BRAND PROD		32.88	.00	BEEF JERKY
11/19	05/02/19	21	8614	-01 62000	6440 SYSCO		713.33	-713.33	BLANKET PO 18-19.
11/19	05/02/19	21	8614	-01 62000	6440 SYSCO		1,088.08	-1,088.08	BLANKET PO 18-19.
TOTAL	COST OF REVENUE-KITCHEN					.00	4,299.32	-1,801.41	
4000P	COST OF REVENUE-PRO SHOP								
11/19	05/02/19	21		62001	6443 TAYLORMADE GOLF		99.84	.00	CUSTOM.M6
11/19	05/02/19	21		62009	6595 VERN WASKOM COMP		144.01	.00	CPS PRO STD/DRI-TAC
11/19	05/02/19	21		62005	6508 US KIDS GOLF, LL		122.88	.00	JR PUSH CART 3 WHEEL
11/19	05/02/19	21		62009	6595 VERN WASKOM COMP		214.87	.00	TOUR WRAP 2B BLACK
TOTAL	COST OF REVENUE-PRO SHOP					.00	581.60	.00	
4220M	OPERATING SUPPLIES MAINT.								
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		56.72	.00	GC MAINTENANCE
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		33.88	.00	GC MAINTENANCE
10/19	05/02/19	21		61976	6475 KERN TURF SUPPLY		34.58	.00	ACME ADAPTER
10/19	05/02/19	21	8902	-01 61976	6475 KERN TURF SUPPLY		1,498.25	-1,498.25	IRRIGATION SUPPLIES
11/19	05/02/19	21		61985	0342 MILLERS RENTALAN		66.00	.00	PUMP,3"/HOSE,3"
11/19	05/02/19	21		62010	6206 WILBUR-ELLIS COM		352.48	.00	RANGER PRO/WG PRO BAL
11/19	05/02/19	21		62010	6206 WILBUR-ELLIS COM		317.79	.00	PRIMO MAXX/AGENCY
TOTAL	OPERATING SUPPLIES MAINT.					.00	2,359.70	-1,498.25	
4220P	OPERATING SUPPLIES-PRO SH								
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		88.45	.00	OFFICE SUPPLIES
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		7.61	.00	OFFICE SUPPLIES
TOTAL	OPERATING SUPPLIES-PRO SH					.00	96.06	.00	
4310	PROFESSIONAL CONTRACT SVC								
11/19	05/02/19	21	8591	-01 61995	6548 TOM RINGER		6,500.00	-6,500.00	TOTAL YEARLY ANNUAL MANAG
TOTAL	PROFESSIONAL CONTRACT SVC					.00	6,500.00	-6,500.00	
4320	MEETINGS & DUES								
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		-105.00	.00	SEMINAR CREDIT
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		270.00	.00	SEMINAR ENTRY
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		250.00	.00	SEMINAR ENTRY
TOTAL	MEETINGS & DUES					.00	415.00	.00	
4340	UTILITIES								

RUN DATE 05/03/2019 TIME 09:13:34

PEI - FUND ACCOUNTING

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 20
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 045 - GOLF COURSE - CITY
BUDGET UNIT - 4245 - GOLF COURSE-CITY

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4340					UTILITIES				
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		133.21	.00	CLUBHOUSE CABLE
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		162.66	.00	PRO SHOP PHONE SERVIC
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		90.04	.00	PHONE TOM
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		40.00	.00	PRO SHOP PHONE SERVIC
TOTAL					UTILITIES	.00	425.91	.00	
4350					REPAIR/MAINT SERVICES				
10/19	05/02/19	21		61978	0234 KINGS WASTE AND		3.74	.00	LGC FINANCE CHARGE
10/19	05/02/19	21		61978	0234 KINGS WASTE AND		1,278.40	.00	LEMOORE GOLF COURSE
11/19	05/02/19	21		62002	6812 TERMINIX PROCESS		52.00	.00	PEST CONTROL
TOTAL					REPAIR/MAINT SERVICES	.00	1,334.14	.00	
TOTAL					GOLF COURSE-CITY	.00	16,011.73	-9,799.66	
TOTAL					GOLF COURSE - CITY	.00	16,011.73	-9,799.66	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 21
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 050 - WATER
BUDGET UNIT - 4250 - WATER

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4140									
	10/19	05/02/19 21		61943	6800 AUL HEALTH BENEF		125.00	.00	ESPINOZA, MARY
	10/19	05/02/19 21		61943	6800 AUL HEALTH BENEF		125.00	.00	ESPINOZA, MARY
TOTAL						.00	250.00	.00	
4220									
	10/19	05/02/19 21		61956	0188 FERGUSON ENTERPR		248.78	.00	VIZ-PRO/PRO2 VEST
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		228.52	.00	AS 2ND REAGENT
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		5.00	.00	SCADA APP
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		16.62	.00	OFFICE SUPPLIES
TOTAL						.00	498.92	.00	
4230									
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		15.94	.00	MAKER LIGHT
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		9.89	.00	AIR TEMPERED GLASS IP
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		51.53	.00	MISC
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		37.04	.00	TRUCK TRAILER STOP TA
	10/19	05/02/19 21		61970	0205 HELENA AGRI-ENT.		206.46	.00	ROUNDUP POWER MAX
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		179.32	.00	NOZZLE BOOMLESS BOOM
	11/19	05/02/19 21		61999	0428 STONEY'S SAND &		214.50	.00	50/50 CONCRETE #2598
TOTAL						.00	714.68	.00	
4310									
	10/19	05/02/19 21		61969	5814 CITY OF HANFORD		3,666.29	.00	DISPATCH MAR 19
	11/19	05/02/19 21		61950	7058 COMCAST		193.08	.00	INTERNET APR 19
TOTAL						.00	3,859.37	.00	
4340									
	10/19	05/02/19 21		61942	5516 AT&T		39.55	.00	939-106-1027
	10/19	05/02/19 21		61960	3022 FIRST BANKCARD		68.02	.00	WATER SERVICE
	10/19	05/02/19 21		61942	5516 AT&T		3.61	.00	939-103-4007
	10/19	05/02/19 21		61942	5516 AT&T		20.60	.00	939-103-4011
TOTAL						.00	131.78	.00	
4360									
	11/19	05/02/19 21		61998	2344 STATE WATER RESO		60.00	.00	T2 CERT J. CLIMER
TOTAL						.00	60.00	.00	
4380									
	11/19	05/02/19 21		61968	5977 GREATAMERICA FIN		162.72	.00	COPIER/PRINTER
TOTAL						.00	162.72	.00	
TOTAL						.00	5,677.47	.00	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 22
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 050 - WATER
BUDGET UNIT - 4251 - UTILITY OFFICE

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220			OPERATING SUPPLIES						
11/19	05/02/19	21		61987	5396 OFFICE DEPOT		26.15	.00	WRISTREST
11/19	05/02/19	21		61987	5396 OFFICE DEPOT		8.96	.00	HIGHLIGHTER/FLAGS
TOTAL			OPERATING SUPPLIES			.00	35.11	.00	
4340			UTILITIES						
10/19	05/02/19	21		61942	5516 AT&T		96.12	.00	939-103-6913
TOTAL			UTILITIES			.00	96.12	.00	
4380			RENTALS & LEASES						
11/19	05/02/19	21		61968	5977 GREATAMERICA FIN		217.41	.00	COPIER/PRINTER
TOTAL			RENTALS & LEASES			.00	217.41	.00	
TOTAL			UTILITY OFFICE			.00	348.64	.00	
TOTAL			WATER			.00	6,026.11	.00	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 23
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 056 - REFUSE
BUDGET UNIT - 4256 - REFUSE

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4010									
11/19	05/02/19	21		61944	2446 CHRISTOPHER BANU		200.00	.00	BOOTS REIMBURSEMENT
TOTAL						.00	200.00	.00	
4140									
10/19	05/02/19	21		61943	6800 AUL HEALTH BENEF		125.00	.00	GARCIA, DAN
10/19	05/02/19	21		61943	6800 AUL HEALTH BENEF		125.00	.00	GARCIA, DAN
TOTAL						.00	250.00	.00	
4220									
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		230.47	.00	AIR HOSE REEL/RETRACT
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		393.78	.00	DURAMAX SG/PAINT CARE
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		32.16	.00	AIR HOSE REEL/RETRACT
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		16.62	.00	OFFICE SUPPLIES
TOTAL						.00	673.03	.00	
4230									
11/19	05/02/19	21		62004	5379 TURF STAR		217.61	.00	PULLEY/BELT-FAN
TOTAL						.00	217.61	.00	
4310									
10/19	05/02/19	21		61969	5814 CITY OF HANFORD		3,666.29	.00	DISPATCH MAR 19
10/19	05/02/19	21	8703	-01 61953	6869 MILLENNIUM FUNDI		700.80	-700.80	BLANKET FOR TEMP LABOR 18
TOTAL						.00	4,367.09	-700.80	
4340									
10/19	05/02/19	21		61942	5516 AT&T		2.05	.00	939-103-4007
TOTAL						.00	2.05	.00	
4380									
11/19	05/02/19	21		61968	5977 GREATAMERICA FIN		12.77	.00	COPIER/PRINTER
TOTAL						.00	12.77	.00	
TOTAL						.00	5,722.55	-700.80	
TOTAL						.00	5,722.55	-700.80	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 24
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 060 - SEWER& STORM WTR DRAINAGE
BUDGET UNIT - 4260 - SEWER

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220					OPERATING SUPPLIES				
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		16.62	.00	OFFICE SUPPLIES
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		474.98	.00	OFFICE SUPPLIES (CHAI
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		124.00	.00	SHIPPING MATERIAL
TOTAL					OPERATING SUPPLIES	.00	615.60	.00	
4230					REPAIR/MAINT SUPPLIES				
10/19	05/02/19	21		61970	0205 HELENA AGRI-ENT.		206.46	.00	ROUNDUP POWER MAX
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		33.63	.00	FENCE REPAIRS
10/19	05/02/19	21		61963	6751 FURTADO WELDING		6.82	.00	COUPLER 1/2"
10/19	05/02/19	21		61963	6751 FURTADO WELDING		5.75	.00	COUPLER MALE 1/4
TOTAL					REPAIR/MAINT SUPPLIES	.00	252.66	.00	
4310					PROFESSIONAL CONTRACT SVC				
10/19	05/02/19	21		61969	5814 CITY OF HANFORD		3,666.27	.00	DISPATCH MAR 19
TOTAL					PROFESSIONAL CONTRACT SVC	.00	3,666.27	.00	
4320					MEETINGS & DUES				
11/19	05/02/19	21		61940	0664 SJVAPCD		114.00	.00	RNW BURN PRMT 122951
TOTAL					MEETINGS & DUES	.00	114.00	.00	
4340					UTILITIES				
10/19	05/02/19	21		61942	5516 AT&T		2.05	.00	939-103-4007
10/19	05/02/19	21		61960	3022 FIRST BANKCARD		25.95	.00	WATER SERVICE
10/19	05/02/19	21		61942	5516 AT&T		20.60	.00	939-103-4010
TOTAL					UTILITIES	.00	48.60	.00	
4380					RENTALS & LEASES				
11/19	05/02/19	21		61968	5977 GREATAMERICA FIN		92.36	.00	COPIER/PRINTER
TOTAL					RENTALS & LEASES	.00	92.36	.00	
TOTAL					SEWER	.00	4,789.49	.00	
TOTAL					SEWER& STORM WTR DRAINAGE	.00	4,789.49	.00	

PEI
DATE: 05/03/2019
TIME: 09:13:33

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 25
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 090 - TRUST & AGENCY
BUDGET UNIT - 4295 - TRUST & AGENCY

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4430									
	11/19	05/02/19	21	61981	0306 LEMOORE HIGH SCH		6,818.71	.00	IMPACT FEES MAR 19
	11/19	05/02/19	21	61982	0301 LEMOORE UNION SC		9,694.63	.00	IMPACT FEES MAR 19
TOTAL					SCHOOL IMPACT FEES	.00	16,513.34	.00	
4432									
	11/19	05/02/19	21	61977	5561 KINGS COUNTY TRE		3,168.08	.00	IMPACT FEES MAR 19
TOTAL					COUNTY IMPACT FEES	.00	3,168.08	.00	
TOTAL					TRUST & AGENCY	.00	19,681.42	.00	
TOTAL					TRUST & AGENCY	.00	19,681.42	.00	
TOTAL					REPORT	.00	138,032.78	-31,596.42	

PEI
DATE: 05/03/2019
TIME: 09:16:13

CITY OF LEMOORE
GENERAL LEDGER TRANSACTION ANALYSIS

PAGE NUMBER: 1
AUDIT311

SELECTION CRITERIA: account.acct between '2000' and '2999'AND transact.yr='19' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND

ACCOUNT	DATE	T/C	REFERENCE	VENDOR/PAYER	DEBIT	CREDIT	DESCRIPTION
2020			ACCOUNTS PAYABLE				
10/19	05/02/19	21	61960	3022 FIRST BANKCARD		16.04	SHOES FOR SHOE DRIVE
11/19	05/02/19	21	61947	6254 DIVISION OF THE STAT		244.00	1ST QTR 19 FEES
11/19	05/02/19	21	61946	5685 CALIFORNIA BUILDING		625.00	REVLNG FUND JAN-MAR19
TOTAL			ACCOUNTS PAYABLE		.00	885.04	
2242			ADA&EDUCATION [SB1186]				
11/19	05/02/19	21	61947	6254 DIVISION OF THE STAT	244.00		1ST QTR 19 FEES
TOTAL			ADA&EDUCATION [SB1186]		244.00	.00	
2243			CALIF.BSASF. SB1473				
11/19	05/02/19	21	61946	5685 CALIFORNIA BUILDING	625.00		REVLNG FUND JAN-MAR19
TOTAL			CALIF.BSASF. SB1473		625.00	.00	
2303			COMMUNITY FNDRSNG-POLICE				
10/19	05/02/19	21	61960	3022 FIRST BANKCARD	16.04		SHOES FOR SHOE DRIVE
TOTAL			COMMUNITY FNDRSNG-POLICE		16.04	.00	
TOTAL			GENERAL FUND		885.04	885.04	

PEI
DATE: 05/03/2019
TIME: 09:16:13

CITY OF LEMOORE
GENERAL LEDGER TRANSACTION ANALYSIS

PAGE NUMBER: 2
AUDIT311

SELECTION CRITERIA: account.acct between '2000' and '2999'AND transact.yr='19' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 090 - TRUST & AGENCY

ACCOUNT	DATE	T/C	REFERENCE	VENDOR/PAYER	DEBIT	CREDIT	DESCRIPTION
2020							
	11/19	05/02/19	21 61971	T2665 FRED HERNANDEZ		75.00	VET HALL REFUND
	11/19	05/02/19	21 61975	T2667 JILLIAN JUNG		150.00	VET HALL REFUND
TOTAL			ACCOUNTS PAYABLE		.00	225.00	
2300							
	11/19	05/02/19	21 61971	T2665 FRED HERNANDEZ	75.00		VET HALL REFUND
	11/19	05/02/19	21 61975	T2667 JILLIAN JUNG	150.00		VET HALL REFUND
TOTAL			CUSTOMER DEPOSITS		225.00	.00	
TOTAL			TRUST & AGENCY		225.00	225.00	
TOTAL REPORT					1,110.04	1,110.04	

PEI
DATE: 05/03/2019
TIME: 09:15:22

CITY OF LEMOORE
REVENUE TRANSACTION ANALYSIS

PAGE NUMBER: 1
AUDIT31

SELECTION CRITERIA: transact.yr='19' and transact.account between '3000' and '3999' and transact.batch='HB050319'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 001 - GENERAL FUND

ACCOUNT	DATE	T/C	RECEIVE	REFERENCE	PAYER/VENDOR	BUDGET	RECEIPTS	RECEIVABLES	DESCRIPTION
3876A	CBSASRF	SB1473	ADMIN						
11/19	05/02/19	210		61946	5685 CALIFORNIA BUILDI		62.50		REVLNG FUND JAN-MAR19
TOTAL	CBSASRF	SB1473	ADMIN			.00	62.50	.00	
TOTAL	GENERAL	FUND				.00	62.50	.00	
TOTAL	GENERAL	FUND				.00	62.50	.00	
TOTAL	REPORT					.00	62.50	.00	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 1
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4211 - CITY COUNCIL

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4310									
									PROFESSIONAL CONTRACT SVC
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		536.03	.00	MARCH PROF SVCS
11/19	05/09/19	21		2080303	5609 LOZANO SMITH, LL		.00	.00	MARCH PROF SVCS
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		1,247.73	.00	MARCH PROF SVCS
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		2,250.00	.00	MARCH PROF SVCS
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		14,575.60	.00	MARCH PROF SVCS
TOTAL						.00	18,609.36	.00	
4320									
									MEETINGS & DUES
11/19	05/09/19	21		62034	0288 LEAGUE OF CALIFO		75.00	.00	SOUTH SAN JOAQUIN ME
TOTAL						.00	75.00	.00	
TOTAL						.00	18,684.36	.00	CITY COUNCIL

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 2
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4213 - CITY MANAGER

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220					OPERATING SUPPLIES				
11/19	05/09/19	21		62038	5396 OFFICE DEPOT		54.29	.00	RAILS, F/FIL/JUMPDRIV
11/19	05/09/19	21		62038	5396 OFFICE DEPOT		-15.04	.00	JUMPDRIVE
11/19	05/09/19	21		62038	5396 OFFICE DEPOT		23.09	.00	OFFICE SUPPLIES
TOTAL					OPERATING SUPPLIES	.00	62.34	.00	
4310					PROFESSIONAL CONTRACT SVC				
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		1,630.09	.00	MARCH PROF SVCS
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		558.00	.00	MARCH PROF SVCS
TOTAL					PROFESSIONAL CONTRACT SVC	.00	2,188.09	.00	
TOTAL					CITY MANAGER	.00	2,250.43	.00	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 3
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4214 - CITY CLERK'S OFFICE

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4310									
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		36.00	.00	MARCH PROF SVCS
TOTAL						.00	36.00	.00	
TOTAL					CITY CLERK'S OFFICE	.00	36.00	.00	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 4
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4215 - FINANCE

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220									
11/19	05/09/19	21		62038	5396 OFFICE DEPOT		22.55	.00	GEL WRIST REST
TOTAL						.00	22.55	.00	
4310									
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		5,511.06	.00	MARCH PROF SVCS
TOTAL						.00	5,511.06	.00	
4389									
11/19	05/09/19	21		62015	2836 THE BODY SHOP HE		15.00	.00	LATE FEE
TOTAL						.00	15.00	.00	
TOTAL						.00	5,548.61	.00	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 5
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4216 - PLANNING

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4310									
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		2,238.37	.00	MARCH PROF SVCS
TOTAL						.00	2,238.37	.00	
TOTAL						.00	2,238.37	.00	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 6
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4220 - MAINTENANCE DIVISION

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4310									
11/19	05/09/19	21		62025	6970 MARICRUZ FERNAND		336.00	.00	JANITOR WK 4/22-5/1
11/19	05/09/19	21		62021	7068 CRISTINA HERNAND		96.00	.00	JANITOR WK 4/22-5/1
TOTAL						.00	432.00	.00	
4350									
11/19	05/09/19	21		62018	7063 CLASSIC PEST CON		350.00	.00	711 W. CINNAMON DR
TOTAL						.00	350.00	.00	
TOTAL						.00	782.00	.00	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 7
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4221 - POLICE

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4310									
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		2,568.00	.00	MARCH PROF SVCS
TOTAL						.00	2,568.00	.00	
4320									
11/19	05/09/19	21		62041	6286 OSVALDO MALDONAD		70.00	.00	PER DIEM ADVANCE
11/19	05/09/19	21		62043	T393 SOLEDAD PEREZ		70.00	.00	PER DIEM ADVANCE
11/19	05/09/19	21		62056	T2228 KODY ROGERS		70.00	.00	PER DIEM ADVANCE
11/19	05/09/19	21		62061	T2240 STEVEN MCPHERSON		82.00	.00	PER DIEM ADVANCE
TOTAL						.00	292.00	.00	
4340									
11/19	05/09/19	21		62013	5516 AT&T		172.37	.00	939-103-3999
TOTAL						.00	172.37	.00	
TOTAL					POLICE	.00	3,032.37	.00	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 8
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4222 - FIRE

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4340									
11/19	05/09/19	21		62013	5516 AT&T		96.01	.00	939-103-4001
TOTAL						.00	96.01	.00	
TOTAL						.00	96.01	.00	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 9
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4230 - PUBLIC WORKS

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220									
11/19	05/09/19	21		62038	5396 OFFICE DEPOT		26.43	.00	OFFICE SUPPLIES
TOTAL						.00	26.43	.00	
4310									
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		110.00	.00	MARCH PROF SVCS
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		1,354.00	.00	MARCH PROF SVCS
TOTAL						.00	1,464.00	.00	
TOTAL						.00	1,490.43	.00	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 10
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4231 - STREETS

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220					OPERATING SUPPLIES				
11/19	05/09/19	21	8951	-01	62065	5306 T&T PAVEMENT MAR	1,101.46	-1,101.46	4" STREET SIGNS
11/19	05/09/19	21	8951	-02	62065	5306 T&T PAVEMENT MAR	453.13	-453.13	2" STREET SIGNS
11/19	05/09/19	21	8951	-03	62065	5306 T&T PAVEMENT MAR	10.94	-10.94	FREIGHT
11/19	05/09/19	21			62062	0428 STONEY'S SAND &	191.10	.00	COLD MIX
TOTAL					OPERATING SUPPLIES	.00	1,756.63	-1,565.53	
4340					UTILITIES				
11/19	05/09/19	21		62046	0363 PG&E		78.92	.00	03/15/19-04/15/19
11/19	05/09/19	21		62045	0363 PG&E		61.82	.00	03/20/19-04/18/19
11/19	05/09/19	21		62044	0363 PG&E		1,123.78	.00	03/19/19-04/17/19
TOTAL					UTILITIES	.00	1,264.52	.00	
TOTAL					STREETS	.00	3,021.15	-1,565.53	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 11
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4242 - RECREATION

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220									
									OPERATING SUPPLIES
11/19	05/09/19	21	9088	-01 62019	6150 CLASSIC SOCCER		1,057.00	-1,057.00	TEAM T- SHIRTS (VARIOUS T
11/19	05/09/19	21	9088	-02 62019	6150 CLASSIC SOCCER		76.63	-76.63	SALES TAX
11/19	05/09/19	21		62060	0419 SMART & FINAL		61.69	.00	FRIDAY NIGHT MUSIC
11/19	05/09/19	21		62067	T1328 DENISE TAYLOR		601.15	.00	MOTHER SON CAMP OUT
11/19	05/09/19	21		62060	0419 SMART & FINAL		122.49	.00	MOTHER SON CAMP OUT
TOTAL						.00	1,918.96	-1,133.63	
4310									
									PROFESSIONAL CONTRACT SVC
11/19	05/09/19	21		62039	T2225 FELLIPE OLIVEIRA		120.00	.00	YOUTH INDOOR SOCCER
11/19	05/09/19	21		62017	6888 JESSE CHAVARRIA		175.00	.00	ADULT SOFTBALL UMPIRE
11/19	05/09/19	21		62049	T2603 MARTIN PRADO		175.00	.00	ADULT SOFTBALL UMPIRE
11/19	05/09/19	21		62051	6762 LUZ PULIDO		192.00	.00	YOUTH INDOOR SOCCER
11/19	05/09/19	21		62037	6410 JERONIMO LUCAS		150.00	.00	YOUTH INDOOR SOCCER
11/19	05/09/19	21		62074	6703 SALVADOR VARGAS		180.00	.00	ADULT SOFTBALL UMPIRE
11/19	05/09/19	21		62016	6848 ADRIAN CALDERA		222.00	.00	RECREATION LEADER MAY
11/19	05/09/19	21		62035	7000 MARIA LOZA		330.00	.00	YOUTH INDOOR SOCCER
11/19	05/09/19	21		62014	0040 LARRY AVILA		602.00	.00	YOUTH IND SOCCER SPRI
11/19	05/09/19	21		62053	T2091 MARIAH RAMIREZ		90.00	.00	SOFTBALL SCOREKEEPER
11/19	05/09/19	21		62020	6291 SANTIAGO COVARRU		280.00	.00	YOUTH INDOOR SOCCER
11/19	05/09/19	21		62058	6947 LUIS SANCHEZ		60.00	.00	YOUTH INDOOR SOCCER
11/19	05/09/19	21		62072	7060 JUAN URBIETA		600.00	.00	BUILDING ATTENDANT
TOTAL						.00	3,176.00	.00	
TOTAL						.00	5,094.96	-1,133.63	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 12
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4296 - INFORMATION TECHNOLOGY

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4340									
					UTILITIES				
11/19	05/09/19	21		62071	5818 UNWIRED BROADBAN		98.55	.00	INTERNET SVC
11/19	05/09/19	21		62071	5818 UNWIRED BROADBAN		210.00	.00	INTERNET SVC
TOTAL					UTILITIES	.00	308.55	.00	
TOTAL					INFORMATION TECHNOLOGY	.00	308.55	.00	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 13
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 4297 - HUMAN RESOURCES

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4310									
	11/19	05/09/19	21	62036	5609 LOZANO SMITH, LL		36.00	.00	MARCH PROF SVCS
	11/19	05/09/19	21	62036	5609 LOZANO SMITH, LL		918.00	.00	MARCH PROF SVCS
	11/19	05/09/19	21	62036	5609 LOZANO SMITH, LL		2,826.00	.00	MARCH PROF SVCS
TOTAL					PROFESSIONAL CONTRACT SVC	.00	3,780.00	.00	
4320									
	11/19	05/09/19	21	8746	-01 62015	2836 THE BODY SHOP HE	200.00	-200.00	MONTHLY MEMBER-MAY
TOTAL					MEETINGS & DUES	.00	200.00	-200.00	
TOTAL					HUMAN RESOURCES	.00	3,980.00	-200.00	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 14
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND
BUDGET UNIT - 5712 - REGIONAL DISPATCH CENTER

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4310									
11/19	05/09/19	21	9032	-02 62069	6933 TETER, LLP		16,760.64	-16,760.64	CONSTRUCTION DOCUMENTS
11/19	05/09/19	21	9032	-03 62069	6933 TETER, LLP		382.57	-382.57	AGENCY APPROVAL
11/19	05/09/19	21	9032	-08 62069	6933 TETER, LLP		26.24	-26.24	SHIPPING
11/19	05/09/19	21	9032	-04 62069	6933 TETER, LLP		884.55	-884.55	BIDDING
TOTAL						.00	18,054.00	-18,054.00	
TOTAL						.00	18,054.00	-18,054.00	
TOTAL						.00	64,617.24	-20,953.16	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 15
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 040 - FLEET MAINTENANCE
BUDGET UNIT - 4265 - FLEET MAINTENANCE

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220									
									OPERATING SUPPLIES
11/19	05/09/19	21		62068	0634 TERMINAL AIR BRA		486.86	.00	CAST DRUM/SHOE KIT
11/19	05/09/19	21		62068	0634 TERMINAL AIR BRA		486.86	.00	CAST DRUM/SHOE KIT
11/19	05/09/19	21		62068	0634 TERMINAL AIR BRA		204.40	.00	REMAN SHOE KIT
11/19	05/09/19	21	9083	-02 62070	5379 TURF STAR		585.97	-585.97	STARTER ASSEMBLY
TOTAL						.00	1,764.09	-585.97	
4230									
									REPAIR/MAINT SUPPLIES
11/19	05/09/19	21	9081	-02 62068	0634 TERMINAL AIR BRA		745.03	-745.03	PRTS, FREIGHT AND TAX
11/19	05/09/19	21	9082	-02 62068	0634 TERMINAL AIR BRA		613.24	-613.24	PART AND TAX
11/19	05/09/19	21		62030	6715 INTERSTATE BILLI		192.70	.00	ASSY R134A
11/19	05/09/19	21		62070	5379 TURF STAR		446.34	.00	HUB ASM/BEARING
TOTAL						.00	1,997.31	-1,358.27	
4350									
									REPAIR/MAINT SERVICES
11/19	05/09/19	21		62057	0535 RUCKSTELL CALIF		27.00	.00	PAYING THE DIFFERENCE
11/19	05/09/19	21	9030	-01 62040	0361 ORTON'S EQUIPMEN		7,747.82	-7,747.82	PARTS/LABOR/SALES TAX
11/19	05/09/19	21	9086	-01 62031	2956 JONES COLLISION		2,962.71	-2,962.71	REPAIR TO UNIT 327
TOTAL						.00	10,737.53	-10,710.53	
TOTAL						.00	14,498.93	-12,654.77	
TOTAL						.00	14,498.93	-12,654.77	

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='vm051019'
ACCOUNTING PERIOD: 11/19

FUND - 045 - GOLF COURSE - CITY
BUDGET UNIT - 4245 - GOLF COURSE-CITY

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4000K	COST OF REVENUE-KITCHEN								
11/19	05/09/19	21	8614	-01 62064	6440 SYSCO		783.17	-783.17	BLANKET PO 18-19.
11/19	05/09/19	21		62064	6440 SYSCO		-69.90	.00	CUP FOAM
11/19	05/09/19	21		62042	6438 PEPSI BEVERAGES		488.62	.00	DRINK CASES
TOTAL	COST OF REVENUE-KITCHEN					.00	1,201.89	-783.17	
4000P	COST OF REVENUE-PRO SHOP								
11/19	05/09/19	21		62075	6595 VERN WASKOM COMP		74.60	.00	DRI-TAC STANDARD DARK
11/19	05/09/19	21		62066	6443 TAYLORMADE GOLF		176.43	.00	PT-TPCOPPERSSARDMORE2
11/19	05/09/19	21		62066	6443 TAYLORMADE GOLF		169.00	.00	PT-TPCOPPERSSARDMORE
11/19	05/09/19	21	9093	-01 62011	6911 ADIDAS AMERICA,		795.00	-795.00	ADIDAS CLOTHES
11/19	05/09/19	21	9093	-02 62011	6911 ADIDAS AMERICA,		36.56	-36.56	SALES TAX
TOTAL	COST OF REVENUE-PRO SHOP					.00	1,251.59	-831.56	
4309	STAFFING/TOM RINGER								
11/19	05/09/19	21		62055	T1885 TOM RINGER		2,286.83	.00	WORKMANS COMP
11/19	05/09/19	21		62055	T1885 TOM RINGER		15,316.40	.00	PAYROLL
TOTAL	STAFFING/TOM RINGER					.00	17,603.23	.00	
4310	PROFESSIONAL CONTRACT SVC								
11/19	05/09/19	21		62054	6548 TOM RINGER		531.00	.00	GOLF LESSONS-APRIL
11/19	05/09/19	21		62012	6574 TONY ALANIZ, JR.		540.90	.00	GOLF LESSONS- APR2019
11/19	05/09/19	21		62029	6573 JAMES HUDGEON		625.50	.00	GOLF LESSON APRIL
TOTAL	PROFESSIONAL CONTRACT SVC					.00	1,697.40	.00	
4340	UTILITIES								
11/19	05/09/19	21		62048	0363 PG&E		859.25	.00	03/29/19-04/29/19
11/19	05/09/19	21		62047	0363 PG&E		10.51	.00	03/29/19-04/29/19
TOTAL	UTILITIES					.00	869.76	.00	
4380	RENTALS & LEASES								
11/19	05/09/19	21	9084	-01 62063	6404 SUNBELT RENTALS,		2,857.29	-2,857.29	RENTAL MACHINE CHIPPER
TOTAL	RENTALS & LEASES					.00	2,857.29	-2,857.29	
TOTAL	GOLF COURSE-CITY					.00	25,481.16	-4,472.02	
TOTAL	GOLF COURSE - CITY					.00	25,481.16	-4,472.02	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 17
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='vm051019'
ACCOUNTING PERIOD: 11/19

FUND - 050 - WATER
BUDGET UNIT - 4250 - WATER

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4010									
11/19	05/09/19	21		62028	T1477 VICTOR GONZALEZ		200.00	.00	REIMBURSE BOOTS
TOTAL						.00	200.00	.00	
4230									
11/19	05/09/19	21	8598	-01 62024	0188 FERGUSON ENTERPR		53.88	-53.88	18-19 BLANKET PO, WATER D
11/19	05/09/19	21	8598	-01 62024	0188 FERGUSON ENTERPR		2,021.56	-2,021.56	18-19 BLANKET PO, WATER D
11/19	05/09/19	21	8598	-02 62024	0188 FERGUSON ENTERPR		830.08	-830.08	FIRE HYDRANT REPLACE AND
11/19	05/09/19	21	9035	-01 62027	1116 GOLDEN STATE FLO		479.40	-479.40	WATER SERVICE FLOW METERS
11/19	05/09/19	21	9035	-01 62027	1116 GOLDEN STATE FLO		1,863.48	-1,863.48	WATER SERVICE FLOW METERS
TOTAL						.00	5,248.40	-5,248.40	
4310									
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		30.88	.00	MARCH PROF SVCS
11/19	05/09/19	21		62050	0020 PRAXAIR DISTRIBU		35.72	.00	CYLINDER RENT
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		144.00	.00	MARCH PROF SVCS
TOTAL						.00	210.60	.00	
4340									
11/19	05/09/19	21		62013	5516 AT&T		100.42	.00	939-103-4000
TOTAL						.00	100.42	.00	
4350									
11/19	05/09/19	21	9078	-01 62026	0641 GLEIM-CROWN PUMP		1,073.58	-1,073.58	PARTS LIST TOTAL FROM EST
11/19	05/09/19	21	9078	-02 62026	0641 GLEIM-CROWN PUMP		1,176.00	-1,176.00	SHOP LABOR TEAR DOWN PUMP
11/19	05/09/19	21	9078	-03 62026	0641 GLEIM-CROWN PUMP		77.83	-77.83	SALES TAX
TOTAL						.00	2,327.41	-2,327.41	
TOTAL						.00	8,086.83	-7,575.81	
TOTAL						.00	8,086.83	-7,575.81	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 18
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 056 - REFUSE
BUDGET UNIT - 4256 - REFUSE

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4310									
11/19	05/09/19	21	8703	-01 62023	6869 WELLS FARGO BANK		700.80	-700.80	BLANKET FOR TEMP LABOR 18
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		72.00	.00	MARCH PROF SVCS
TOTAL						.00	772.80	-700.80	
TOTAL						.00	772.80	-700.80	
TOTAL						.00	772.80	-700.80	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 19
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 060 - SEWER& STORM WTR DRAINAGE
BUDGET UNIT - 4260 - SEWER

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4220									
									OPERATING SUPPLIES
11/19	05/09/19	21	8929	-01 62033	0286 LAWRENCE TRACTOR		2,098.75	-2,098.75	BB3926 BOX BLADE W/SCARIF
11/19	05/09/19	21	8929	-02 62033	0286 LAWRENCE TRACTOR		413.07	-413.07	FREIGHT
11/19	05/09/19	21	8929	-03 62033	0286 LAWRENCE TRACTOR		125.00	-125.00	SET UP
11/19	05/09/19	21	8929	-04 62033	0286 LAWRENCE TRACTOR		191.17	-191.17	SALES TAX
TOTAL						.00	2,827.99	-2,827.99	
4230									
									REPAIR/MAINT SUPPLIES
11/19	05/09/19	21	9079	-04 62073	2038 USA BLUEBOOK		509.95	-509.95	STENNER PUMP 22GPD/100PSI
11/19	05/09/19	21	9079	-05 62073	2038 USA BLUEBOOK		30.75	-30.75	FREIGHT
11/19	05/09/19	21	9079	-06 62073	2038 USA BLUEBOOK		39.20	-39.20	SALES TAX
11/19	05/09/19	21	9080	-05 62024	0188 FERGUSON ENTERPR		477.24	-477.24	4CI 200# FLG L&W SWG CHK
11/19	05/09/19	21	9080	-06 62024	0188 FERGUSON ENTERPR		12.00	-12.00	4 NA 1/16 150# RNG GSKT
11/19	05/09/19	21	9080	-07 62024	0188 FERGUSON ENTERPR		85.00	-85.00	FREIGHT
11/19	05/09/19	21	9080	-08 62024	0188 FERGUSON ENTERPR		45.80	-45.80	SALES TAX
11/19	05/09/19	21		62059	6613 THE SHERWIN WILL		226.03	.00	SERCRYL SG EX WHT
TOTAL						.00	1,425.97	-1,199.94	
4310									
									PROFESSIONAL CONTRACT SVC
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		522.00	.00	MARCH PROF SVCS
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		1,408.95	.00	MARCH PROF SVCS
TOTAL						.00	1,930.95	.00	
TOTAL						.00	6,184.91	-4,027.93	SEWER
TOTAL						.00	6,184.91	-4,027.93	SEWER& STORM WTR DRAINAGE

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 20
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 160 - 2019 BOND FUND
BUDGET UNIT - 5202 - TTHM PROJECT

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4310									
11/19	05/09/19	21		62036	5609 LOZANO SMITH, LL		864.00	.00	MARCH PROF SVCS
TOTAL						.00	864.00	.00	
TOTAL						.00	864.00	.00	

PEI
DATE: 05/09/2019
TIME: 09:24:40

CITY OF LEMOORE
EXPENDITURE TRANSACTION ANALYSIS

PAGE NUMBER: 21
AUDIT11

SELECTION CRITERIA: transact.yr='19' and transact.fund between '001' and '300' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 160 - 2019 BOND FUND
BUDGET UNIT - 5205 - NEW WATER LINE N FIELD

ACCOUNT	DATE	T/C	ENCUMBRANC	REFERENCE	VENDOR	BUDGET	EXPENDITURES	ENCUMBRANCES	DESCRIPTION
4310									
11/19	05/09/19	21	8757	-01 62052	0876 QUAD KNOPF, INC.		6,917.50	-6,917.50	180245 NORTH WATER LINE R
TOTAL						.00	6,917.50	-6,917.50	
TOTAL						.00	6,917.50	-6,917.50	
TOTAL						.00	7,781.50	-6,917.50	
TOTAL						.00	127,423.37	-57,301.99	

PEI
DATE: 05/09/2019
TIME: 09:28:55

CITY OF LEMOORE
GENERAL LEDGER TRANSACTION ANALYSIS

PAGE NUMBER: 1
AUDIT311

SELECTION CRITERIA: account.acct between '1011' and '2021'AND transact.yr='19' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 082 - PAYROLL

ACCOUNT	DATE	T/C	REFERENCE	VENDOR/PAYER	DEBIT	CREDIT	DESCRIPTION
1550							
11/19	05/09/19	21	62015	2836 THE BODY SHOP HEALTH	560.00		MAY MONTHLY MEMBERSHI
TOTAL					560.00	.00	
2020							
11/19	05/09/19	21	62015	2836 THE BODY SHOP HEALTH		560.00	MAY MONTHLY MEMBERSHI
TOTAL					.00	560.00	
TOTAL				PAYROLL	560.00	560.00	
TOTAL				REPORT	560.00	560.00	

PEI
DATE: 05/09/2019
TIME: 09:29:49

CITY OF LEMOORE
GENERAL LEDGER TRANSACTION ANALYSIS

PAGE NUMBER: 1
AUDIT311

SELECTION CRITERIA: account.acct between '2000' and '2999'AND transact.yr='19' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 001 - GENERAL FUND

ACCOUNT	DATE	T/C	REFERENCE	VENDOR/PAYER	DEBIT	CREDIT	DESCRIPTION
2020			ACCOUNTS PAYABLE				
11/19	05/09/19	21	62060	0419 SMART & FINAL		81.77	PW VENDING MACHINE
TOTAL			ACCOUNTS PAYABLE		.00	81.77	
2308			EMPLOYEE APPRECIATION				
11/19	05/09/19	21	62060	0419 SMART & FINAL	81.77		PW VENDING MACHINE
TOTAL			EMPLOYEE APPRECIATION		81.77	.00	
TOTAL			GENERAL FUND		81.77	81.77	

PEI
DATE: 05/09/2019
TIME: 09:29:49

CITY OF LEMOORE
GENERAL LEDGER TRANSACTION ANALYSIS

PAGE NUMBER: 2
AUDIT311

SELECTION CRITERIA: account.acct between '2000' and '2999'AND transact.yr='19' and transact.batch='VM051019'
ACCOUNTING PERIOD: 11/19

FUND - 090 - TRUST & AGENCY

ACCOUNT	DATE	T/C	REFERENCE	VENDOR/PAYER	DEBIT	CREDIT	DESCRIPTION
2020			ACCOUNTS PAYABLE				
11/19	05/09/19	21	62032	T2668 JUAN GONZALEZ		250.00	REFUND - CIVIC RENTAL
11/19	05/09/19	21	62022	0819 DEPT. OF CONSERVATIO		2,323.94	STRG MOTI 01/19-03/19
TOTAL			ACCOUNTS PAYABLE		.00	2,573.94	
2256			STRONG MOTION				
11/19	05/09/19	21	62022	0819 DEPT. OF CONSERVATIO	2,323.94		STRG MOTI 01/19-03/19
TOTAL			STRONG MOTION		2,323.94	.00	
2300			CUSTOMER DEPOSITS				
11/19	05/09/19	21	62032	T2668 JUAN GONZALEZ	250.00		REFUND - CIVIC RENTAL
TOTAL			CUSTOMER DEPOSITS		250.00	.00	
TOTAL			TRUST & AGENCY		2,573.94	2,573.94	
TOTAL REPORT					2,655.71	2,655.71	