

REQUEST FOR STATEMENT OF QUALIFICATION

FOR

AS-NEEDED DESIGN-BUILD SERVICES

FOR THE

ENGINEERING & CAPITAL PROJECTS DEPARTMENT

OF THE

CITY OF SAN DIEGO

SPECIFICATION NUMBER: 4784DB

STATEMENT OF QUALIFICATIONS DUE:

12:00 Noon

July 28, 2009

CITY OF SAN DIEGO

**Purchasing & Contracting Department
1200 Third Avenue, Suite 200, MS 56P
San Diego, CA 92101**

TABLE OF CONTENTS

SECTION

1.0	INTRODUCTION	1
2.0	EQUAL OPPORTUNITY	1 through 2
3.0	PROJECT DESCRIPTION	2 through 3
4.0	SCOPE OF REQUIRED WORK AND SERVICES	3
5.0	PROJECT SCHEDULE	4
6.0	STATEMENT OF QUALIFICATIONS REQUIREMENTS	4 through 6
7.0	NOMINATING AND SELECTION PROCESS	6 through 7
8.0	PRE-SUBMITTAL ACTIVITIES	7 through 8
9.0	SPECIAL CONDITIONS	8 through 9

ATTACHMENTS

A	Project Location Map	10
B	Preliminary Risk Matrix	11 through 12
C	Submittal Requirements and Evaluation Criteria	13 through 17
D	Equal Opportunity Contracting Program Requirements – Design-Build	18 through 34
E	Certification of Exception to RFQ Documents	35
F	Draft Supplementary Special Provisions (SSP)	36 through 65

1.0 INTRODUCTION

- 1.1 The City of San Diego, Engineering & Capital Projects Department (E&CP) is requesting Statement of Qualifications (SOQ) for As Needed Design-Build Services. This Request for Statement of Qualifications (RFQ) is the first step in the City of San Diego's (City) procurement process in the City's procurement process for the development of four separate lists of qualified Design-Build teams who will compete for various design-build projects to be identified at a later date. The four As Needed Design Build lists are as follows: Roadway Improvements, Park Improvements, Facilities Improvements and Water and Sewer Improvements. Interested Design-Build teams will be issued an RFQ for this solicitation pursuant to public advertisement. The City will not reimburse the Design-build teams for costs incurred in the preparation, submittal and participation in the RFQ process.
- 1.2 This RFQ briefly describes typical projects that illustrate the breadth of activities that are contemplated to be designed and constructed. Under no circumstances shall the list of typical projects be considered complete, absolute or final. The actual projects determination will be made by City staff as applicable projects arise that fit the criteria for sound design-build project delivery. The FRQ also describes the selection process, and the minimum information that must be included in the SOQ. Failure to submit information in accordance with this RFQ's requirements and procedures may be cause for disqualification.
- 1.3 This RFQ will be utilized to establish a short list of the Design-build teams intended to be utilized to solicit proposals for Design-Build projects for a two year period. The list may be utilized for a maximum of 3 additional one year periods, for a maximum of 5 years, at the City's discretion.

2.0 EQUAL OPPORTUNITY

As set forth in this RFQ and Attachment 'D' of this RFQ, the City is dedicated to the principles of equal opportunity in the workplace and in subcontracting. It is the City's expectation that firms doing business with the City have and are able to demonstrate the same level of commitment.

- 2.1 The City is strongly committed to equal opportunity in solicitation of the Design-build teams. The City encourages the Design-build teams to share this commitment. The Design-build teams are encouraged to take positive steps to diversify and expand their Subcontractor/Subconsultant solicitation base and to offer subcontracting opportunities to all eligible Subcontractors and Subconsultatnts. The Design-Builder shall comply with requirements of San Diego Municipal Code sections 22.2701 through 22.2708, Equal Employment Opportunity Outreach Program (EOCP).

2.2 Design-Builder's Work Force

- a. The Design-build teams shall submit with its SOQ a Work Force Report (see Attachment "D") and prior to award of contract, the successful Design-Builder shall submit to the City's EOCP office an updated Work Force Report or an Equal Employment Opportunity (EEO) Plan (see Attachment "D").
- b. If under representations are noted in the Work Force Report when compared to County Labor Force Availability data, Design-Builder will be requested by EOCP staff to submit an Equal Opportunity Plan. Any Equal Employment Opportunity Plan submitted must include at minimum the elements as outlined in Attachment "D".

2.3 Non-Discrimination Ordinance (Municipal Code 22.2701-22.2708)

Contractor shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age or disability in the solicitation, selection, hiring or treatment of Subcontractors, vendors or suppliers. Contractor shall provide equal opportunity for Subcontractors to participate in subcontracting opportunities. Contractor understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment or other sanctions.

2.3.1 This language shall be in contracts between the contractor and any Subcontractors, vendors and suppliers.

2.3.2 As part of its bid or proposal, Design-Builder shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against Design-Builder in a legal or administrative proceeding alleging that Design-Builder discriminated against its employees, Subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

- 2.4 For assistance or further information about the Equal Opportunity Contracting Program Requirements, Equal Employment Opportunity, or both contact the Equal Opportunity Contracting Program at (619) 235-5740.

3.0 PROJECT DESCRIPTION

3.1 Typical Project Description

Typical Projects are anticipated to be in the size range of approximately \$25,000 to \$2,500,000. The total amount of work released against any single list shall be capped \$10,000,000.

3.2 Example Projects

3.2.1 List 1 – Roadway Improvements

Typical projects may include vehicular and traffic safety improvements. Improvements may include design and construction of raised center medians, sidewalks, turn pockets, traffic signals, street lighting, signage and striping, curbs and gutters, curb inlets, landscaping, guardrails, pedestrian ramps and pavement widening and/or replacement.

3.2.2 List 2 – Park Improvements

Typical projects may include the design and construction of improvements to new and/or existing parks. Improvements may include landscaping, irrigation systems, retaining walls, walkways, playgrounds, parking lots, multi-purpose field and lighting.

3.2.3 List 3 – Facilities Improvements

Typical projects may include the design and construction of new facilities or upgrades to existing facilities. Facilities may include recreation centers, libraries, fire station, police station and other misc facilities. These upgrades may include improvements necessary to bring the facilities in compliance with the American Disabilities Act or upgrades to the buildings electrical systems, mechanical systems, roofing, waterproofing, doors and windows.

3.2.4 List 4 – Water, Sewer and Storm Drain Improvements

Typical projects may include rehabilitation / repair and/or construction of sewer and/or storm water pump stations, underground water, sewer and storm drain pipelines including appurtenances such as fire hydrants, valves, manholes, cleanouts, headwalls, flood channel improvements and catch basins.

4.0 SCOPE OF REQUIRED WORK AND SERVICES

Work and Services required of the Design-Builder include those during design, construction, and startup of the Project. The Design-Builder shall provide all management, supervision, labor, services, equipment, tools, supplies, and any other item of every kind and description required for the complete design, construction, and start-up of the Project.

4.1 Design Phase Services

The design phase services shall be identified on a project-specific basis in the applicable Request for Proposals.

4.2 Construction Phase Services:

The construction phase services shall be identified on a project-specific basis in the applicable Request for Proposals.

4.3 Start-Up Phase Services

The start-up phase services shall be identified on a project-specific basis in the applicable Request for Proposals.

5.0 PROJECT SCHEDULE

The following milestones are provided for reference only. The dates beyond the SOQ due date are tentative and will be determined later.

Advertise and Issue RFQ	June 23, 2009
Pre-submittal Meeting	July 14, 2009
SOQ due date	July 28, 2009
Shortlist Finalists	August 25, 2009
Issue RFP	Project Specific
Pre-proposal Meeting	Project Specific
Proposal Due Date	Project Specific
Interviews	Project Specific
Selection and Notification	Project Specific
Receipt of Bonds and Insurance Certifications	Project Specific
Notice to Proceed	Project Specific
Begin Design/Construction	Project Specific
Complete Construction	Project Specific
Begin Start-Up Phase	Project Specific
Issue Notice of Completion	Project Specific

6.0 STATEMENT OF QUALIFICATION REQUIREMENTS

6.1 General

6.1.1 Design-build teams interested in bidding this project must be pre-qualified in a two-step process.

Step 1 requires that all D/B applicants submit a complete prequalification application to the City of San Diego, Engineering & Capital Projects Department, Pre-Qualification Program, 1010 Second Avenue, Suite 1200, San Diego, CA 92101. Information about the Pre-Qualification Program and the required application materials are available on the City's web site at

www.sandiego.gov/engineering-cip/services/consultcontract/prequal.shtml. Please contact David Stucky at (619) 533-3474 or dstucky@sandiego.gov for additional information about the Pre-Qualification Program.

D/Bs must receive Step 1 prequalification clearance **no later than the SOQ due date and time**. In order to ensure timely completion of Step 1, prequalification materials should be received at the above address no later than 2 weeks prior to the SOQ due date.

Step 2 requires that all D/B candidates include in the SOQ all information required by this RFQ.

6.1.2 The City desires to receive SOQ's from only qualified and experienced Design-build teams who demonstrate significant knowledge of Design-Build construction projects, and extensive experience and successful performance on public works infrastructure projects of comparable magnitude and scope.

6.1.3 The SOQ should be concise, well organized and demonstrate the Design-Builder's qualifications and experience applicable to the Project. The SOQ shall be limited to one-sided pages (8 & 1/2" x 11"), inclusive of resumes, graphics, forms, pictures, photographs, dividers, front and back cover, cover letter, etc. Type size and margins for text pages should be in keeping with accepted standard formats for desk top publishing and word processing and should result in no more than 500 words per page.

Documentation required under Attachment 'C', Section 7, Work Force Report/Equal Employment Opportunity Plan, Attachment 'C', Section 8, Financial Information and Arrangements and Attachment 'C', Section 10, Subcontractor/Subconsultant Documentation of this RFQ shall be in addition to the page limit stated above.

6.1.4 Design-build teams will be evaluated based on the information submitted in accordance with Section 7.2.

6.1.5 One executed original, clearly marked on the cover, and ten (10) copies of the SOQ shall be submitted.

6.1.6 The SOQ shall be signed by an individual or individuals authorized to execute legal documents on behalf of the Design-Builder.

6.1.7 The SOQ must be received no later than 12:00 Noon, local time,

July 28, 2009 at the office of:

City of San Diego
Purchasing & Contracting Department
1200 Third Avenue, Suite 200, MS 56P
San Diego, CA 92101
Attn: Rosemary Stefanatz, Senior Contract Specialist

6.1.8 SOQ's are to be submitted in sealed packages with the following information clearly marked on the outside of each package:

Name of Design-Builder
Project Title
Package Number (e.g., 1 of __, 2 of __, etc.)
A red "CONFIDENTIAL"

6.1.9 Failure to comply with the requirements of this RFQ may result in disqualification.

6.1.10 SOQs and/or modifications thereto received subsequent to the hour and date specified above will not be considered.

6.2 Contents

SOQ's submitted in response to this RFQ shall be in the following order and shall include:

- a. Executive Summary
- b. Identification of Design-Builder
- c. Experience and Technical Competence
- d. Proposed Method to Accomplish Work
- e. Knowledge and Understanding of Local Environment
- f. Project Organization and Key Personnel
- g. Work Force Report/Equal Opportunity Plan
- h. Financial Arrangements
- i. Change Order and Litigation History
- j. Exceptions to the RFQ
- k. RFQ Addenda Acknowledgment

SOQ submittal shall be as detailed in Attachment 'C' of this RFQ.

7.0 **NOMINATING AND SELECTION PROCESS**

The Program's Nominating and Selection Process is based on the policies, procedures and guidelines contained in San Diego Municipal Code sections 22.3301 through 22.3309. A two step nominating and selection process has been established, as follows:

7.1 Step 1: Request for Qualifications

- 7.1.1 A Nominating Committee (Committee) has been established and includes representatives from the City (P&C, E&CP, and EOCP), a representative from the Participating Agencies and a representative from the Community at Large, as required.
- 7.1.2 After the City receives the SOQs, the Committee will review the qualifications based on the established evaluation criteria set forth in Attachment 'C' of this RFQ.

- 7.1.3 The Committee will recommend to the E&CP Director (Director) the short-listing, no more than five (5) of the most highly qualified Design-build teams and upon approval only those firms will be allowed to participate in the Request for Proposal (RFP) process.
- 7.1.4 The Director shall have the sole discretion to ratify the short-list submitted by the Nominating Committee.
- 7.2 Step 2: Request for Proposals
 - 7.2.1 After the Committee gains approval from the Director of the recommended short-listed Design-build teams, the City will issue a Request for Proposals (RFP) or various RFPs in case of multi RFP projects to short-listed Design-build teams.
 - 7.2.2 A Selection Panel (Panel) will again be comprised of representatives from the City (P&C, E&CP, and EOCP), a representative from the Participating Agencies and a representative from the Community at Large, as required.
 - 7.2.3 The Panel will review all proposals received and interview each Design-Builder. The Panel will rank the proposals based on the criteria in San Diego Municipal Code section 22.3308, the interview score, and other criteria considered relevant to the Panel. The Panel will forward its ranked listing to the Director with a recommendation for the highest ranking proposal. The Mayor or his designee has final authority for selection.

8.0 PRE-SUBMITTAL ACTIVITIES

8.1 Questions Concerning Request for Statement of Qualifications

All questions regarding the RFQ should be presented in writing to:

City of San Diego
Engineering and Capital Projects Department
ATTN: Steve Frick
1010 Second Avenue, Suite 1200 M.S. 612
San Diego, CA 92101

as soon as possible, but no later than the pre-submittal meeting date shown in subsection 8.2 below.

8.2 Pre-Submittal Meeting and Site Tour

A Pre-submittal meeting will be held on *July 14, 2001 from 10:00 AM to 11:00 AM*, at 1200 3rd Avenue, Suite 200, Conference 1, San Diego, CA, 92101. All potential responders are strongly encouraged to attend. A site tour will not immediately follow. Any materials distributed at the meeting will be issued to all RFQ recipients in the form of an Addendum to this RFQ.

8.3 Revision to the Request for Statement of Qualifications

The City reserves the right to revise the RFQ prior to the date that SOQ's are due. Revisions to the RFQ shall be mailed to all RFQ holders who acquired the RFQ directly from the City. The City reserves the right to extend the date by which the SOQ's are due.

9.0 SPECIAL CONDITIONS

- 9.1 RFQ does not commit the City to award a contract, to defray any costs incurred in the preparation of a SOQ pursuant to RFQ, or to procure or contract for work.
- 9.2 SOQ's submitted in response to RFQ become the property of the City and public records, and as such may be subject to public review.
- 9.3 The City reserves the right to cancel, in part or in its entirety, RFQ including but not limited to: selection schedule, submittal date, and submittal requirements. If the City cancels or revises the RFQ, all potential Design-build teams will be notified in writing by the City.
- 9.4 The City reserves the right to interview and/or request additional information and clarifications from any or all responders to RFQ.
- 9.5 Release of Public Information - Selection announcements, contract awards, and all data provided by the City shall be protected from public disclosure. Design-Builder's desiring to release information to the public, must receive prior written approval from the City.
- 9.6 All City projects are now subject to City Resolution No. R-277952 adopted on May 20, 1991. All proposers should be aware of the provisions of Council Policy 100-17 which was established by the above numbered resolution. The policy applies equally to the Design-Builder and all Subcontractors. The successful Design-Builder shall submit a Contractor Certification for Drug-Free Workplace.
- 9.7 Contractor Standards – Pledge of Compliance:

1. General:

The City contracts, including public works construction projects, are now subject to City Municipal Code § 22.3224 as amended 11/24/08 by ordinance O-19808. All bidders should be aware that the requirements apply to Contractors and all Subcontractors whose contracts are greater than \$50,000.

Upon award, amendment, renewal, or extension of such contracts, Contractors shall complete a Pledge of Compliance attesting under penalty of perjury that they complied with the requirements of this section.

Contractors shall ensure that their Subcontractors whose subcontracts are greater than \$50,000 in value complete a Pledge of Compliance attesting under penalty of perjury that they complied with the requirements of this section. Subcontractors may access the Pledge of Compliance at:

http://www.sandiego.gov/purchasing/pdf/contractor_standards_questionnaire.pdf.

Contractors shall include in each subcontract agreement, language which requires Subcontractors to abide by the provisions of City of San Diego Municipal Code § 22.3224. A sample provision is as follows:

“Compliance with San Diego Municipal Code § 22.3224: Subcontractor acknowledges that it is familiar with the requirements of San Diego Municipal Code section 22.3224 (“Contractor Standards”), and agrees to comply with requirements of that section. Subcontractor further agrees to complete the attached Pledge of Compliance incorporated herein by reference.”

- 9.8 To permit monitoring of compliance, the Design-Builder shall submit to EOCP office, Contract Activity Reports (Attachment “D”) reflecting work performed by Subcontractors/Subconsultants.

9.9 Risk Posture

9.9.1 The selected the Design-Builder shall indemnify and hold harmless the City for any and all claims, suits, losses or damages arising out of the negligent acts, errors, or omissions of the Design-Builder, Subcontractors, or Subcontractors attributable to the design effort.

9.9.2 The selected firm will enter into an agreement with the City. A draft agreement is included in the City’s standard front end contract documents and is available for review by sending a request to Berric Doringo at bdoringo@sandiego.gov. Attachment ‘B’ to this RFQ contains a preliminary risk matrix for the project, which summarizes the anticipated allocation of risk between the City and the selected firm. This preliminary risk matrix is not intended to describe all anticipated risk for the Project. As Project activities progress, the risk allocation will be expanded and revised as necessary to ensure the most efficient allocation of risk between the parties of the Agreement.

9.10 Use of Pre-Design and Design Reports

Reserved.

9.11 Use of Computer Aided Design

The Design/Builder will be required to use Computer Aided Drafting and Design (CADD). CADD drawings, figures, and other work shall be produced by the Design-Builder, Consultants and Subconsultants using MicroStation software. Conversions of CADD work from any other non-standard CADD format to City standard MicroStation format shall not be acceptable in lieu of this requirement. Refer to City’s CADD Guidelines and Standards for detailed requirements.

9.12 Scheduling and Management Reporting Systems

The Design-Builder will be required to use the latest version of the Primavera Project Management and Scheduling Software or equal.

ATTACHMENT A

Project Location Map

Project Location Map

Location are City wide and to be determined during the Request for Proposal

ATTACHMENT B

Preliminary Risk Matrix

RISK	ALLOCATION	REMARKS
<u>Design</u> Technology Selection Unforeseen Sub-surface Conditions: Contaminated Soils Utilities Geotechnical Ground Water	Design-Builder City City Design-Builder Design-Builder	Design-Builder is responsible for selecting technology that is proven, will be permitted by agencies and the City, and will meet performance guarantees
<u>Construction/Start-up</u> Adherence to construction period/schedule Selection of construction methods Site Security Repair and replacement during one-year warranty period Repair and replacement after one-year warranty period Odor Complaints during Construction and one-year warranty period	Design-Builder Design-Builder Design-Builder City Design-Builder	A one year warranty period will commence after the issuance of the Notice of Completion.
<u>Environmental</u> Environmental Documentation Compliance with Mitigation Requirements	City Design-Builder	The City will be solely responsible for the preparation of all environmental documents Design-Builder will be responsible for staying within the defined limits of work for the project. Any impacts outside the defined limits of work shall be mitigated by the Design-Builder. Any fines or penalties levied as a result of non-compliance with any mitigation measures shall be paid by the Design-Builder.

<u>Permitting</u> Obtaining Permits Permit Compliance	Design-Builder and City	Design-Builder shall comply with conditions of all regulatory permits. Any fines or penalties levied as a result of non-compliance shall be paid by the Design-Builder.
	Design-Builder	
Financing	City	
Natural Disaster	Design-Builder	Insurance: The Design-Builder shall provide all required insurance, and shall be responsible for costs which exceed insured limits. City assumes delay costs associated with a natural disaster.
<u>Environmental</u> Environmental Documentation Compliance with Mitigation Requirements	City	The City will be solely responsible for the preparation of all environmental documents
	Design-Builder	Design-Builder will be responsible for staying within the defined limits of work for the project. Any impacts outside the defined limits of work shall be mitigated by the Design-Builder. Any fines or penalties levied as a result of non-compliance with any mitigation measures shall be paid by the Design-Builder.
<u>Permitting</u> Obtaining Permits Permit Compliance	Design-Builder and City	Design-Builder shall comply with conditions of all regulatory permits. Any fines or penalties levied as a result of non-compliance shall be paid by the Design-Builder.
	Design-Builder	
Financing	City	
Natural Disaster	Design-Builder	Insurance: The Design-Builder shall provide all required insurance, and shall be responsible for costs which exceed insured limits. City assumes delay costs associated with a natural disaster.

ATTACHMENT C

Submittal Requirements and Evaluation Criteria

AS-NEEDED DESIGN-BUILDER NOMINATING
SUBMITTAL REQUIREMENTS & EVALUATION CRITERIA

1.. Executive Summary

Include a one- to two-page overview of the entire SOQ describing the highlights of the SOQ.

2. Identification of the Design-Builder

- a. Legal name and address of company
- b. Legal form of company (partnership, corporation, joint venture, etc.). If joint venture identify the members of the joint venture and provide all information required under this section for each member.
- c. If company is wholly owned subsidiary of a “parent company,” identify the “parent company.”
- d. Addresses of offices located in San Diego County.
- e. Number of years that company has maintained office in San Diego County.
- f. Number of employees in San Diego County.
- g. City of San Diego Business License Number, State Contractor’s License A License Number(include date of expiration), and Professional Engineering/Architect License Number (include date of expiration).
- h. Name, title, address and telephone number of person to contact concerning the SOQ.

3. Experience and Technical Competence (CRITERIA)

Describe Design-Builder’s experience in completing similar Design-Build efforts. List three (3) successfully completed projects within the past 5 years for both public and private clients of a similar nature with name of Owner’s Project Manager, phone numbers, project type, total value of completed construction and identify whether the work was for a public or private client. Projects currently in process may be submitted for consideration. Include in your client references projects and clients where the team has worked together.

Design-Builder shall include design and build experience with projects as described in Section 3-2; number or facilities designed and built pursuant to a Design-Build contract; record of timely completion. Number of Design-Build projects performed as compared to the number completed on schedule; experience and capability in operating, maintaining, and repairing pump station facilities; and, experience with retrofit work, specifically operating a pump station while simultaneously performing construction work with service interruption.

4. Proposed Method to Accomplish the Work (CRITERIA)

Describe in narrative form the Design-Builder’s technical and management approach to the design, construction, and start-up of the facilities. Discuss lines of communications necessary to maintain design schedule and construction schedules. This should not be a design concept, but rather a general discussion of how the team will execute the project.

5. Knowledge and Understanding of Local “Environment” (CRITERIA)

Describe experience working in the local “environment” and proposed local presence for interfacing with the City’s project management staff. The “environment” includes but is not limited to: City and other local agencies regulations and policies; local environmental documentation requirements;

geotechnical conditions in project area; local building codes; and other local design criteria and community issues.

6. Project Organization and Key Personnel (CRITERIA)

Describe proposed project organization and provide an organizational chart, including identification and responsibilities of key personnel. Indicate role and responsibilities of the Design-Builder. Indicate how local firms are being utilized to ensure a strong understanding of local laws, ordinances, regulations, policies, requirements, permitting, etc. Indicate extent of commitment of key personnel for duration of project and furnish resumes of key personnel. Provide indication of staffing level for the project. The City's evaluation of the Design-Builder will consider the entire team, therefore no changes in team composition will be allowed without prior written approval of the City. Describe Design-Builder's capacity to perform the work within the time limitations, considering and identifying Design-Builder's current and planned workload and Design-Builder's workforce.

7. Work Force Report/Equal Employment Opportunity Plan (CRITERIA)

The Design-Builder shall include in its SOQ either: (1) a completed Work Force Report (see Attachment 'D') for its employees located within San Diego County only; or (2) an Equal Employment Opportunity Plan (see Attachment 'D'), which shall comply with the EEO Plan Requirements which is included in Section 2.0. The selected firm may be required to submit workforce data for a regional office prior to contract award.

a. Equal Opportunity Assurances

The Design-Builder shall include in its Statement of Qualifications the specific actions consistently taken to ensure equal opportunity in their employment and subcontracting practices, including past performance and actions to be taken on this project.

8. Financial Information and Arrangements (CRITERIA)

a. If the Design-Builder is a Joint Venture, the Design-Builder shall address the proposed financial arrangements between the Joint Venture members as they relate to liability to the City for work to be performed under this Project.

b. Design-Builder shall include with the SOQ its latest published annual financial reports for the past three years, and a copy of its Dun & Bradstreet financial rating report, if available.

9. Change Order and Litigation History (CRITERIA)

a. Change Order History

Provide a spreadsheet that outlines the projects the Design-Builder has completed over the last three (3) years; the original contract value of the list projects; the quantity of change orders for each project; and, the percentage of total change order dollar amounts to original contract value for each project. Provide non-owner initiated change order activity as a percentage of the total change order activity. Provide any explanation of change order activity by project that Design-Builder deems appropriate.

b. Litigation History

Provide a sealed letter that list all litigation for the past five years in which your firm or firms, if organized as a joint venture, was a party and that the payout amount by either party(ies) to the litigation exceeded five percent (5%) of the final contract value.

10. Subcontractor and Subconsultant Documentation Past Participation Levels

a. All documentation submitted in accordance with this Section 10 shall be included in an attachment, which shall be titled “Subcontractor/Subconsultant Documentation” to the SOQ.

b. Past Participation Levels (CRITERIA)

1. Listing of Design-Builder’s Subcontractor, Subconsultant, and vendor/supplier past participation levels on each project listed in response to this RFQ (Attachment ‘C’, Section 3). The Design-Builder shall use the Subcontractor and Subconsultant Past Participation List and the Vendor/Supplier Past List for this purpose (refer to Attachment ‘D’). Include the name of project, type of project, value of project, Subcontractor, Subconsultant, and vendor/supplier firm name, percentage of participation, and identification of the firm’s ownership as a certified Minority Enterprise (MBE), Women Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE), or Other Business Enterprise (OBE). Design-Builder should demonstrate a consistent pattern of including certified MBE, WBE, DBE, DVBE, and OBE.

c. Subcontractors and Subconsultants Participation Level

1. Projects valued at \$25,000 or more have a voluntary Subcontractors and Subconsultant participation level goal of 20%. Goals are achieved by contracting with any combination of Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE), or Other Business Enterprise (OBE) level.

2. Attainment of the 20% Subcontractors and Subconsultants participation level goal during RFP is strongly encouraged but strictly voluntary.

d. Non-Discrimination in Contracting

Upon the City’s request, Design-Builder agrees to provide to the City, within sixty calendar days, a truthful and complete list of the names of all Subcontractors, vendors and suppliers that Design-Builder has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Design-Builder for each subcontract or supply contract. Design-Builder further agrees to fully cooperate in any investigation conducted by the City pursuant to the City’s Nondiscrimination in Contracting Ordinance (Municipal Code Sections 22.3401 - 22.3417). Design-Builder understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Design-Builder up to and including contract termination, debarment and other sanctions for violation of the provisions of the Nondiscrimination in Contracting Ordinance. Design-Builder further understands and agrees that the procedures, remedies and sanctions provided

for in the Nondiscrimination Ordinance apply only to violations of said Nondiscrimination Ordinance.

11. Exceptions to this RFQ (CRITERIA)

The Design-Builder shall certify that it takes no exceptions to this RFQ, its addenda, or the “draft” Agreement by signing and submitting Attachment ‘F’ of this RFP in its SOQ. If the Design-Builder does take exception(s) to any portion of the RFQ, the specific portion of the RFQ to which exception is taken shall be submitted to the City in writing prior to the Pre-submittal Meeting. Although the “Exceptions to the RFQ” is an evaluation criterion, an exception may be determined by the City to be of such a material nature that such exception may cause the SOQ to be considered at the sole discretion of the City, non-responsive.

12. Addenda to this RFQ

Design-Builder shall confirm in its SOQ the receipt of all addenda issued to this RFQ.

Design-Builder is not required to include copies of the actual addenda in its SOQ.

SUMMARY
OF
Design-Builder NOMINATING
EVALUATION CRITERIA

<u>ATTACHMENT 'C'</u> <u>PARA. NO.</u>	<u>EVALUATION CRITERIA</u>	<u>MAXIMUM POINTS</u>
3.	Experience and Technical Competence	25
6.	Project Organization and Key Personnel	10
4.	Proposed Method to Accomplish the Work	10
7.	Commitment to City's EOCP (including Work Force Report)	20
9.	Change Order and Litigation History	10
5.	Knowledge and Understanding of Local "Environment"	10
8.	Financial Information and Arrangements	5
10.	Subcontractor/Subconsultant Past Participation Levels	5
12.	Exceptions to the RFQ	5
	TOTAL MAXIMUM POINTS	100

ATTACHMENT D

Equal Opportunity Contracting Program Requirements Design-Build Requirements

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP) DESIGN-BUILD REQUIREMENTS

This document sets forth the requirements for the City of San Diego's Equal Opportunity Contracting Program. These requirements are terms of the contract for this project.

Table of Contents

- I. City's Equal Opportunity Commitment**
- II. Nondiscrimination in Contracting Ordinance**
- III. Equal Employment Opportunity Outreach Program**
- IV. Subcontracting**
- V. List of Subcontractors**
- VI. List of Vendors/Suppliers**
- VII. Substitutions**
- VIII. Prompt Payment**
- IX. Definitions**
- X. Certification**
- XI. Contract Records and Reports**
- XII. List of Attachments**

I. City's Equal Opportunity Commitment. The City of San Diego promotes equal employment and subcontracting opportunities. The City is committed to ensuring that taxpayer dollars spent on public contracts are not paid to businesses that practice discrimination in employment or subcontracting. The City encourages all companies seeking to do business with the City to share this commitment.

II. Nondiscrimination in Contracting Ordinance. The Design-build teams doing business with the City, and their Subcontractors, must comply with requirements of the City's Nondiscrimination in Contracting Ordinance, San Diego Municipal Code Sections 22.3501 through 22.3517.

A. Request for Proposal (RFP) Documents to include Disclosure of Discrimination Complaints. As part of its bid or proposal, the Design-Builder shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against the Design-Builder in a legal or administrative proceeding alleging that the Design-Builder discriminated against its employees, Subcontractors, vendors, or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

B. Contract Language. The following language shall be included in contracts for City projects between the Design-Builder and any Subcontractors or Subconsultants, vendors, and suppliers:

Design-Builder shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of Subcontractors, vendors, or suppliers. The Design-Builder shall provide equal opportunity for Subcontractors to participate in subcontracting opportunities. The Design-Builder understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions.

- C. Compliance Investigations. Upon the City's request, the Design-Builder agrees to provide to the City, within sixty calendar days, a truthful and complete list of the names of all Subcontractors, vendors, Subconsultants and suppliers that the Design-Builder has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by the Design-Builder for each subcontract or supply contract. The Design-Builder further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance, Municipal Code Sections 22.3501 through 22.3517. The Design-Builder understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Design-Builder up to and including contract termination, debarment and other sanctions for violation of the provisions of the Nondiscrimination in Contracting Ordinance. The Design-Builder further understands and agrees that the procedures, remedies and sanctions provided for in the Nondiscrimination in Contracting Ordinance apply only to violations of the Ordinance.

III. Equal Employment Opportunity Outreach Program. All the Design-build teams doing business with the City, and their Subcontractors, must comply with the City's Equal Employment Opportunity Outreach Program, San Diego Municipal Code Sections 22.2701 through 22.2707.

- A. Work Force Report. The Design-Builder shall submit a Work Force Report (Attachment AA) or an Equal Employment Opportunity (EEO) Plan to the City's Equal Opportunity Contracting Program (EOCP) for approval. If a Work Force Report is submitted, and EOCP determines there are under representations when compared to County Labor Force Availability data, the awarded the Design-Builder must submit an Equal Employment Opportunity Plan.
- B. Equal Employment Opportunity Plan. If the awarded the Design-Builder submits an Equal Employment Opportunity Plan, it must include the following assurances:
1. The Design-Builder will maintain a working environment free of discrimination, harassment, intimidation and coercion at all sites and in all facilities at which the Design-Builder employees are assigned to work;
 2. A responsible official is designated to monitor all employment related activity to ensure the Design-Builder EEO Policy is being carried out and to submit reports relating to EEO provisions;
 3. The Design-Builder disseminates and reviews its EEO Policy with all employees at least once a year, posts the policy statement and EEO posters on all company bulletin boards and job sites, and documents every dissemination, review and posting with a written record to identify the time, place, employees present, subject matter, and disposition of meetings;
 4. The Design-Builder reviews, at least annually, all supervisors' adherence to and performance under the EEO Policy and maintains written documentation of these reviews;
 5. The Design-Builder discusses its EEO Policy Statement with Subcontractors with whom it anticipates doing business, includes the EEO Policy Statement in its subcontracts, and provides such documentation to the City upon request;

6. The Design-Builder documents and maintains a record of all bid proposal solicitations and outreach efforts to and from Subcontractors, contractor associations and other business associations;
7. The Design-Builder disseminates its EEO Policy externally through various media, including the media of people of color and women, in advertisements to recruit, maintains files documenting these efforts, and provides copies of these advertisements to the City upon request;
8. The Design-Builder disseminates its EEO Policy to union and community organizations;
9. The Design-Builder provides immediate written notification to the City when any union referral process has impeded the Design-Builder's efforts to maintain its EEO Policy;
10. The Design-Builder maintains a current list of recruitment sources, including those outreaching to people of color and women, and provides written notification of employment opportunities to these recruitment sources with a record of the organizations' responses;
11. The Design-Builder maintains a current file of names, addresses and phone numbers of each walk-in applicant, including people of color and women, and referrals from unions, recruitment sources, or community organizations with a description of the employment action taken;
12. The Design-Builder encourages all present employees, including people of color and women employees, to recruit others;
13. The Design-Builder maintains all employment selection process information with records of all tests and other selection criteria;
14. The Design-Builder develops and maintains documentation for on-the-job training opportunities and/or participates in training programs for all of its employees, including people of color and women, and establishes apprenticeship, trainee, and upgrade programs relevant to the Design-Builder's employment needs;
15. The Design-Builder conducts, at least annually, an inventory and evaluation of all employees for promotional opportunities and encourages all employees to seek and prepare appropriately for such opportunities;
16. The Design-Builder ensures the company's working environment and activities are non-segregated except for providing separate or single-user toilets and necessary changing facilities to assure privacy between the sexes;
17. The Design-Builder establishes and documents policies and procedures to ensure job classifications, work assignments, promotional tests, recruitment and other personnel practices do not have a discriminatory effect; and
18. The Design-Builder is encouraged to participate in voluntary associations which assist in fulfilling one or more of its non-discrimination obligations. The efforts of a contractor association, contractor/community professional association, foundation or other similar group of which the Design-Builder is a member will be considered as being part of fulfilling these obligations, provided the Design-Builder actively participates.

- IV. Subcontracting** The City encourages all eligible business enterprises to participate in City contracts as prime contractors, Subcontractors, joint venture partners with Design-Builder or Subcontractors, or vendors of materials and supplies. The Design-build teams are encouraged to take positive steps to diversify and expand their Subcontractor solicitation base and to offer subcontracting opportunities to all eligible business firms including MBE's, WBE's, DBE's, DVBE's, and OBE's. (For definitions, see Paragraph IX.)
- A. Subcontractor Participation Level. The funding source and estimated dollar value determine the requirements for inclusion of Subcontractors on this project:
1. On a City-funded project, if the contract value is estimated to be less than \$250,000, inclusion of Subcontractors is strongly encouraged but strictly voluntary.
 2. On a City-funded project, if the contract value is estimated to be more than \$250,000, inclusion of Subcontractors will be addressed in the Contract Documents.
 3. On a State- or Federal-funded project, contract requirements defined by the funding agency will apply as defined in the Contract Documents.
- B. Joint Ventures. Each joint venture partner must be responsible for a clearly defined scope of work. In addition, an agreement must be submitted, signed by all parties, identifying the extent to which each joint venture partner shares in ownership, control, management, risk and profits of the joint venture [Refer to the main body of the RFQ.].
- V. List of Subcontractors.** The Design-build teams must comply with the Subletting and Subcontracting Fair Practices Act, Public Contract Code Sections 4100 through 4113. The Design-build teams must list all known Subcontractors who will receive more than one-half of one percent (.5%) of the total bid amount for construction. The Act prohibits substitution of Subcontractors, except as authorized, and provides penalties. In response to City's RFP, the Design-build teams must submit, on the form provided, a Subcontractor/Subconsultant List (see Contract Documents) **with their Proposals**. For each known proposed Subcontractor who will receive more than one-half of one percent (0.5%) of the Design-Builder's total bid amount for construction, the Subcontractor/Subconsultant List must include the Subcontractor's name and address, scope of work, percentage of the total proposed contract amount, the dollar amount of the proposed subcontract, Subcontractor's certification status, and name of the certifying agency. Further, due to the unique nature of a Design-Build contract, the Design-Builder shall be required to list all other known Subcontractors, including, at a minimum, the three largest Subcontractors for the project.
- VI. List of Vendors/Suppliers.** In response to City's RFP, the Design-Builder must submit, on the form provided, a Vendors/Suppliers List (see Contract Documents) **with their Proposals**. For each known proposed vendor or supplier who will receive more than one-half of one percent (0.5%) of the Design-Builder's total bid amount for construction, the Vendors/Suppliers List must include the vendor or supplier's name and address, scope of work, percentage of the total proposed contract amount, the dollar amount of the proposed subcontract, Subcontractor's certification status, and name of the certifying agency. Further, due to the unique nature of a Design-Build contract, the Design-Builder shall be required to list all other known vendors and suppliers.

VII. Substitutions.

A. Subcontractor Substitution:

Requests must be made in writing to the Purchasing & Contracting Department, Attention Contracts Division, 1200 Third Avenue, Suite 200, San Diego, CA 92101. The request must include a thorough explanation of the reason(s) for the substitution, including dollar amounts and a letter from each substituted firm stating that it (the substituted firm) releases all interest in working on the project, written confirmation from the new firm stating that it agrees to work on the project along with the dollar value of the work to be performed. Written approval of the substitution request must be received by the Design-Builder, from the City of San Diego or its authorized officer, prior to any unlisted Subcontractor (over one-half of 1% of the total bid amount for construction) performing work on a project. Substitution of Subcontractors without authorization shall subject the Design-Builder to those penalties set forth in Public Contract Code Section 4110.

B. Vendor/Supplier Substitution:

Requests must be made in writing at least ten (10) calendar days prior to the provision of materials, supplies or services by the proposed vendor/supplier, and shall include proof of written notice to the originally listed vendor/supplier of the proposed substitution. Requests must be made in writing to the Purchasing & Contracting Department, Attention Contracts Division, 1200 Third Avenue, Suite 200, San Diego, CA 92101. Substitution of vendors/suppliers without authorization shall subject the Design-Builder to those penalties set forth in Public Contracts Code Section 4110.

C. General: A Design-Builder whose proposal is accepted may not:

1. Substitute a Subcontractor, Subconsultant, or vendor/supplier in place of the Subcontractor, Subconsultant, or vendor/supplier listed in the Design-Builder's proposal, except that the City, or its duly authorized officer, may consent to the substitution of a Subcontractor, Subconsultant, or vendor/supplier in any of the following situations:
 - (a) When the listed Subcontractor, Subconsultant, or vendor/supplier, after having a reasonable opportunity to do so, fails or refuses to execute a written contract with the Design-Builder, when that written contract, based upon the general terms, conditions, plans and specifications for the project involved or the terms of that Subcontractor, Subconsultant, or vendor/supplier's written bid is presented to the Subcontractor, Subconsultant, or vendor/supplier by the Design-Builder.
 - (b) When the listed Subcontractor, Subconsultant, or vendor/supplier becomes bankrupt or insolvent.
 - (c) When the listed Subcontractor, Subconsultant, or vendor/supplier fails to perform his or her contract.
 - (d) When the listed Subcontractor fails or refuses to meet bond requirements as set forth in Public Contract Code Section 4108.
 - (e) When the Design-Builder demonstrates to the City of San Diego or its duly authorized officer, subject to the provisions set forth in Public Contract Code Section 4107.5, that the name of the Subcontractor was listed as the result of an inadvertent clerical error.

- (f) When the listed Subcontractor is not licensed pursuant to the Contractors License Law.
 - (g) When the listed Subcontractor is ineligible to work on a public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.
 - (h) When the City determines that the listed Subcontractor is not a responsible contractor.
 - (i) When the City, or its duly authorized officer, determines that the work performed by the listed Subcontractor or the materials or supplies provided by the listed vendor/supplier are substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the Subcontractor, Subconsultant, or vendor/supplier is substantially delaying or disrupting the progress of the work, or that the services performed by the listed Subconsultant are substantially unsatisfactory.
2. Permit a subcontract to be voluntarily assigned or transferred or allow it to be performed by anyone other than the original Subcontractor, Subconsultant or vendor/supplier listed in the Design-Builder's proposal without the consent of the City or its duly authorized officer.
 3. Other than in the performance of "Change Orders" causing changes or deviations from the original contract, sublet or subcontract any portion of the work, or contract for materials or supplies in excess of one-half of one percent (0.5%) of the Design-Builder's total bid for construction, if the Design-Builder did not designate a Subcontractor or vendor/supplier in its proposal or add a Subcontractor or vendor/supplier in accordance with the requirements of the Contract Documents.
 4. Following receipt of notice from the Design-Builder of the proposed substitution of a Subcontractor, Subconsultant, or vendor/supplier, the listed Subcontractor, Subconsultant, or vendor/supplier who has been so notified shall have five (5) working days within which to submit written objections to the substitution to the Purchasing & Contracting Department, Attention Contracts Division, 1200 Third Avenue, Suite 200, San Diego, CA 92101. Failure to file these written objections shall constitute the listed Subcontractor, Subconsultant, or vendor/supplier's consent to the substitution. If written objections are filed, the City shall give notice in writing of at least five (5) working days to the listed Subcontractor, Subconsultant, or vendor/supplier of a hearing by the City on the Design-Builder's request for substitution.

VIII. Prompt Payment:

A Design-Builder and its Subcontractors shall pay to any Subcontractor, not later than ten (10) days of receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed the Design-Builder or its Subcontractor on account of the work performed by the Subcontractors, to the extent of each Subcontractor's interest therein. In cases of Subcontractor performance deficiencies, the Design-Builder shall make written notice of any withholding to the Subcontractor with a copy to the City Resident Engineer and the Purchasing & Contracting Department, Attention Contracts Division, 1200 Third Avenue, Suite 200, San Diego, CA 92101.

Upon correction of the deficiency, the Design-Builder shall pay the Subcontractor the amount previously withheld within fourteen (14) days after payment by the City.

IX. Definitions:

For purposes of reporting requirements for the Subcontractor/Subconsultant List, the Vendors/Suppliers List, State- and Federal-funded projects, the following definitions apply:

“Minority Business Enterprise” (MBE) means a certified business which is at least fifty-one percent (51%) owned by African Americans, American Indians, Asians, Filipinos, and/or Latinos and whose management and daily operation is controlled by one or more members of the identified ethnic groups. In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more members of the identified ethnic groups.

“Women Business Enterprise” (WBE) means a certified business which is at least fifty-one percent (51%) owned by one or more women and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more women.

“Disadvantaged Business Enterprise” (DBE) means a certified business which is at least fifty-one percent (51%) owned and operated by one or more socially and economically disadvantaged individuals and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, socially and economically disadvantaged individuals.

“Disabled Veteran Business Enterprise” (DVBE) means a certified business which is at least fifty-one percent (51%) owned and operated by one or more veterans with a service related disability and whose management and daily business operation is controlled by the qualifying party(ies).

“Other Business Enterprise” (OBE) means any business which does not otherwise qualify as Minority, Woman, Disadvantaged or Disabled Veteran Business Enterprise.

X. Certification.

A. MBE, WBE, DBE or DVBE by any of the following methods:

1. Current certification by the State of California Department of Transportation (CALTRANS) as MBE, WBE or DBE;
2. Current MBE or WBE certification from the California Public Utilities Commission. Additional information may be obtained from <http://www.cpuc.ca.gov/PUC/SupplierDiversity/CertInfo.htm>;
3. Current MBE certification from the San Diego Regional Minority Supplier Diversity Council. Additional information may be obtained from www.supplierdiversitysd.org;
4. DVBE certification is received from the State of California’s Department of General Services, Office of Small and Minority Business (916) 322-5060 or go to their link at <http://www.pd.dgs.ca.gov/smbus/default.htm>.
5. Current certification by the City of Los Angeles as DBE, WBE or MBE. For more information go to http://bca.lacity.org/index.cfm?next_body=tutorials_c.cfm

B. DVBE certification is received from the State of California’s Department of General Services, Office of Small and Minority Business (916) 322-5060.

XI. Contract Records and Reports. The Design-build teams must maintain the following records and reports required by the City of San Diego's Equal Opportunity Contracting Program:

- A. Records. The Design-Builder must maintain records of all subcontracts entered into with all firms, all purchases of materials and services from vendors/suppliers, and all joint venture participation. Records must show name, business address, and telephone number (including area code) of each Subcontractor, Subconsultant, or vendor/supplier, and joint venture partner, and the total amount actually paid to each firm. These records may be periodically reviewed by the City.
- B. Reports. The Design-Builder must submit to the City the following reports:
 - 1. Monthly Employment Report. The Monthly Employment Report (Attachment BB) must list each individual employee working on the specific project by full name, social security number, gender, ethnic category, craft and employee source (i.e. union hall, apprenticeship program, other). Each Monthly Employment Report is due to the Resident Engineer by the 5th day of the subsequent month with a copy to the Purchasing & Contracting Department, Attn: Compliance Section at 1200 Third Avenue, Suite 200, San Diego, CA 92101.
 - (a) Design-Builder is responsible for collecting and submitting a Monthly Employment Report from all Subcontractors, at any level, working at the site.
 - 2. Monthly Invoicing Report. The Monthly Invoicing Report (Attachment CC) must report payments made to all Subcontractors, Subconsultants and vendors/suppliers of the Design-Builder. Each Monthly Invoicing Report is due to the Resident Engineer by the 5th day of the subsequent month with a copy to the Purchasing & Contracting Department, Attn: Compliance Section at 1200 Third Avenue, Suite 200, San Diego, CA 92101.
 - 3. Contract Activity Report. The Contract Activity Report (Attachment DD) must report payments made to all Subcontractors, Subconsultants, and vendors/suppliers of the Design-Builder. Each Contract Activity Report is due by the 30th day of the subsequent month at the close of the quarter, or more frequently if required by the City's Project Manager. The Contract Activity Report should be sent to the Resident Engineer by the 5th day of the subsequent month with a copy to the Purchasing & Contracting Department, Attn: Compliance Section at 1200 Third Avenue, Suite 200, San Diego, CA 92101.
 - 4. Final Summary Report. The records maintained under Paragraph A described above must be consolidated into a Final Summary Report, certified as correct by an authorized representative of the Design-Builder and submitted to the Resident Engineer thirty (30) days prior to completion with a copy to the Purchasing & Contracting Department, Attn: Compliance Section at 1200 Third Avenue, Suite 200, San Diego, CA 92101. A Notice of Completion and Acceptance will not be filed by the City until after its review of the Final Summary Report.

XII. List of Attachments.

- AA. Work Force Report
- BB. Monthly Employment Report
- CC. Monthly Invoicing Report
- DD. Contract Activity Report
- EE. Subcontractor and Subconsultant Past Participation List*
- FF. Vendor/Supplier Past Participation List*

*Documents required to be submitted with Design-Builder's Statement of Qualifications (SOQ)



City of San Diego
EQUAL OPPORTUNITY CONTRACTING PROGRAM
1200 Third Avenue · Suite 200 · San Diego, CA 92101
(619) 236-6000 -- FAX: (619)235-5209

WORK FORCE REPORT

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report*.

CONTRACTOR IDENTIFICATION

Type of Contractor: ☐ Construction ☐ Vendor/Supplier ☐ Financial Institution ☐ Lessee/Lessor
☐ Consultant ☐ Grant Recipient ☐ Insurance Company ☐ Other

Name of Company: _____

AKA/DBA: _____

Address (Corporate Headquarters, where applicable): _____

City _____ County _____ State _____ Zip _____

Telephone Number: () _____ FAX Number: () _____

Name of Company CEO: _____

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: _____

City _____ County _____ State _____ Zip _____

Telephone Number: () _____ FAX Number: () _____

Type of Business: _____ Type of License: _____

The Company has appointed: _____

as its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate, and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: _____

Telephone Number: () _____ FAX Number: () _____

For Firm's: ☐ San Diego Work Force and/or ☐ Managing Office Work Force

I, the undersigned representative of _____

(Firm Name)

_____, _____ hereby certify that information provided

(County)

(State)

herein is true and correct. This document was executed on this day of _____, 200__.

(Authorized Signature)

(Print Authorized Signature Name)

EOCP AA (1)

WORK FORCE REPORT - Page 2

NAME OF FIRM: _____ DATE: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- | | |
|--|--|
| (1) African-American, Black | (5) Filipino |
| (2) Latino, Hispanic, Mexican-American, Puerto Rican | (6) Caucasian |
| (3) Asian, Pacific Islander | (7) Other ethnicity; not falling into other groups |
| (4) American Indian, Eskimo | |

OCCUPATIONAL CATEGORY	(1) African-American		(2) Latino		(3) Asian		(4) American Indian		(5) Filipino		(6) Caucasian		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Executive, Administrative, Managerial														
Professional Specialty														
Engineers/Architects														
Technicians and Related Support														
Sales														
Administrative Support/Clerical														
Services														
Precision Production, Craft and Repair														
Machine Operators, Assemblers, Inspectors														
Transportation and Material Moving														
Handlers, Equipment Cleaners, Helpers and Non-construction Laborers*														

*Construction laborers and other field employees are not to be included on this page

GRAND TOTAL ALL EMPLOYEES														
---------------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

INDICATE BY GENDER AND ETHNICITY THE NUMBER OF ABOVE EMPLOYEES WHO ARE DISABLED:

DISABLED														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

NON-PROFIT ORGANIZATIONS ONLY:

BOARD OF DIRECTORS														
VOLUNTEERS														
ARTISTS														

EOCP AA (2)

WORK FORCE REPORT - Page 3

NAME OF FIRM: _____ DATE: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- | | |
|--|--|
| (1) African-American, Black | (5) Filipino |
| (2) Latino, Hispanic, Mexican-American, Puerto Rican | (6) Caucasian |
| (3) Asian, Pacific Islander | (7) Other ethnicity; not falling into other groups |
| (4) American Indian, Eskimo | |

OCCUPATIONAL CATEGORY	(1) African-American		(2) Latino		(3) Asian		(4) American Indian		(5) Filipino		(6) Caucasian		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Carpenter														
Drywall Installer														
Electrician														
Elevator Installers														
Finishers, Concrete or Terrazzo														
Glaziers														
Helpers, Construction Trade														
Ironworkers, Structural Metal Workers														
Laborers														
Millwrights														
Masons, Bricklayers														
Tilesetters														
Operators														
Painters														
Pipefitter, Plumbers														
Plasterers														
Roofers														
Security, Protective Services														
Sheet Metal, Duct Installers														
Welders, Cutters														
TOTALS EACH COLUMN														
GRAND TOTAL ALL EMPLOYEES														
DISABLED														

EOCP AA (3)

MONTHLY EMPLOYMENT REPORT

Contractor: _____ Employer I.D. Number: _____

Project Title: _____ Work Order Number: _____

Reporting From _____ To: _____ Bid Number: _____
Period: _____

Employee List		Social Security Number	Male or Female	① Ethnic Symbol	Craft	Employee Source	Number of Hours Worked
Last Name, First Name, Middle Initial							
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							

① Ethnic	
Black, African	BL
Mexican American,	MA
Native American,	NA
Asian, Pacific Islander	AP
Filipino	FL
Caucasian	CA
Other ethnicity (not	OTH

② Employee	
	A
	E
	T
	U
	O

I certify under penalty of perjury that the foregoing information is true and correct:

Authorized Signature _____ Printed Name / Title _____ Date _____

EOCP BB [rev. 05/03]

MONTHLY INVOICING REPORT

Prime Contractor: _____
 Construction Project Title: _____
 Contact Person and Phone: _____

Current Bid No: _____ Renorting Work Order No: _____ Month: _____
 Original Contract Amount: _____
 Contract Amount to Date: _____

SUBCONTRACTORS / VENDOR/SUPPLIERS (List Complete Name, Phone # & Address) Attach additional pages if necessary.	*DBE or DVBE	Actual Start Date	Date of Last Invoice	Dollar Amount Paid This Month	Amount Invoiced To Date	CUMULATIVE AMOUNTS PAID TO DATE		ORIGINAL AMOUNTS LISTED IN BID		Change Order Paid This Month
						Dollar Amount	% of Contract	Dollar Amount	% of Contract	
SUBCONTRACTORS:										
VENDORS/SUPPLIERS:										

**

TOTAL DBE SUBCONTRACTORS /						
TOTAL DVBE SUBCONTRACTORS /						
TOTAL OBE SUBCONTRACTORS /						
TOTAL AMOUNT PAID TO PRIME						

**On federal or federally funded projects indicate whether DBE is MBE or WBE I certify under penalty of perjury that the foregoing is true and correct:

Authorized Signature _____

Printed Name / Title _____

Date _____

EOCP CC [rev. 05/03]

CONTRACT ACTIVITY REPORT

Consultants are required by contract to report Subconsultant activity in this format. Reports shall be submitted via the Project Manager to the *Equal Opportunity Contracting Program (EOCP)* no later than thirty (30) days after the close of each quarter.

PROJECT: _____

PRIME CONSULTANT: _____

CONTRACT AMOUNT: _____

INVOICE PERIOD: _____ **DATE:** _____

Include Additional Services Not-to-Exceed Amount

Subconsultant	Indicate MBE, WBE, DBE, DVBE or OBE	Current Period		Paid to Date		Original Commitment	
		Dollar Amount	% of Contract	Dollar Amount	% of Contract	Dollar Amount	% of Contract
Prime Consultant Total:							
Contract Total:							

Completed by: _____

EOCP DD

DESIGN BUILD
SUBCONTRACTOR AND SUBCONSULTANT PAST PARTICIPATION LIST
INFORMATION REGARDING SUBCONTRACTOR AND SUBCONSULTANT PAST PARTICIPATION

Design-Builder Shall complete this form for each project listed in response to RFQ Attachment D, Section 10 (b).

Subcontractor and Subconsultant Past Participation List shall include name, address and telephone number (including area code) for each Subcontractor or Subconsultant who participated in the referenced project. Additionally, the listing shall include the type of project, percentage of Subcontractor or Subconsultant firm participation, and identification of Subcontractor/Subconsultant firm's ownership as a certified Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE), or Other Business Enterprise (OBE).

NAME OF PROJECT: _____

TYPE OF PROJECT: _____

DOLLAR VALUE OF PROJECT: _____

SUBCONTRACTOR OR SUBCONSULTANT NAME, ADDRESS AND TELEPHONE	TYPE OF WORK PERFORMED	PERCENT OF SUB PARTICIPATION	① MBE, WBE, DBE, DVBE or OBE	② WHERE CERTIFIED

① *For information only.* Design-Builder shall identify each Subcontractor or Subconsultant as one of the following:

Certified Minority Business Enterprise	MBE
Certified Woman Business Enterprise	WBE
Certified Disadvantaged Business Enterprise	DBE
Certified Disabled Veteran Business Enterprise	DVBE
Other Business Enterprise	OBE

② *For information only.* Design-Builder shall indicate if Subcontractor or Subconsultant is certified by:

City of San Diego	CITY
State of California Department of Transportation	CALTRANS

EOCP EE (1)

VENDOR/SUPPLIER PAST PARTICIPATION LIST

Design-Builder shall complete this form for each project listed in response to RFQ, Attachment D, Section 10(b).

Vendor/Supplier Past Participation List shall include name, address and telephone number (including area code) for each participant in the referenced project. Additionally, the listing shall include the type of project, percentage of vendor/supplier participation, and identification of vendor/supplier firm's ownership as a certified Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE), or Other Business Enterprise (OBE).

NAME OF PROJECT: _____

TYPE OF PROJECT: _____

DOLLAR VALUE OF PROJECT: _____

COMPLETE Name, Address and Telephone Number of Vendor/Supplier	Type of Materials or Supplies	Percentag e Value Dollar of Materials or Supplies	① MBE WBE DBE DVB E OBE	② Where Certified

① *For information only.* Design-Builder shall identify Vendor/Supplier as:

Certified Minority Business Enterprise	MBE
Certified Woman Business Enterprise	WBE
Certified Disadvantaged Business Enterprise	DBE
Certified Disabled Veteran Business Enterprise	DVBE
Other Business Enterprise	OBE

② *For information only.* Design-Builder shall indicate if Vendor/Supplier is certified by:

City of San Diego	CITY
State of California Department of Transportation	CALTRANS
EOCP FF	

ATTACHMENT E

Certification of Exceptions to RFQ Documents

**CERTIFICATION OF EXCEPTIONS
TO THE REQUEST FOR QUALIFICATIONS
AS NEEDED DESIGN BUILD SERVICES**

The undersigned, a duly authorized representative of _____

(Company Name)
hereby stipulates that _____ takes no exceptions to this

(Company Name)
RFQ, its attachments 'A' through 'G', and the City's standard Front End Contract Documents (i.e.,
Volume 1 and Volume 2) as referenced in this RFQ

Authorized Representative

Date

Authorized Representative's Title

Company

OR

The undersigned, a duly authorized representative of _____

(Company Name)
hereby stipulates that _____ takes the following
exceptions

(Company Name)

to this RFQ, its attachments 'A' through 'G', and the City's standard Front End Contract Documents
(i.e., Volume 1 and Volume 2) as referenced in this RFQ

Authorized Representative

Date

Authorized Representative's Title

Company

ATTACHMENT F
DRAFT SUPPLEMENTAL SPECIAL PROVISIONS

SUPPLEMENTARY SPECIAL PROVISIONS (SSP)

THESE SUPPLEMENTARY SPECIAL PROVISIONS CONFORM TO THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION (GREENBOOK), INCLUDING ITS SUPPLEMENT AMENDMENTS (CITY SUPPLEMENT), EXCEPT FOR THE FOLLOWING:

PART I

GENERAL PROVISIONS

SECTION 1- TERMS, DEFINITIONS, ABBREVIATIONS AND SYMBOLS

1-2 TERMS AND DEFINITIONS.

Bid – DELETE and SUBSTITUTE with the following:

Design-Builder's proposal submitted on this Project in response to City's Request for Proposal including supporting documentation reflecting the cost of each item of Work or Service.

Contract Documents - ADD the following:

Those documents set forth in 2-5.2, "Precedence of Contract Documents" the Request for Qualifications (RFQ), Statement of Qualifications (SOQ), Request for Proposals (RFP), and the Design-Builder's Proposal, all of which, together with this contract, form the entire integrated Agreement between the City and the Design-Builder.

Notice to Proceed (NTP) – ADD the following:

Construction Notice to Proceed - The notice given by the City to the Design-Builder stating that the Site is available to the Design-Builder and authorizing the Design-Builder to commence construction of the Project.

Design Notice to Proceed - The written authorization to begin design of Project.

Work - ADD the following:

Work includes Services.

ADD the following Definitions:

Architect-Engineer - The Design-Builder or its designated Architect-Engineering firm.

Bridging Documents - City's preliminary and conceptual plans and specifications that are to be used by Design-Builder as a minimum basis to design and construct the Project.

Contingency Fund - The funds designated in the Bid that Design-Builder may use in accordance with the Contract Documents.

Construction Phase - The period set forth in the Schedule beginning with the issuance of the Construction Notice to Proceed and ending on the date of Final Completion of the Project.

Construction Work - The portion of the Work consisting of the provision of labor, materials, equipment and services provided in connection with the construction of the Project as set forth in the Contract Documents.

Designer – See Architect-Engineer.

Design-Builder [D/B] – The same as Contractor i.e., the party with whom City contracts to design and construct the Project.

Design Materials - Any and all documents, Shop Drawings and Working Drawings, electronic information, data, plans, drawings, sketches, illustrations, specifications, descriptions, models and other information developed, prepared, furnished, delivered or required to be delivered by the Design-Builder (a) to the City under the Contract Documents or (b) developed or prepared by the Design-Builder specifically to discharge its duties under the Contract Documents.

Design Phase - The period set forth in the Schedule commencing with the Design-Builder's receipt of a Design Notice to Proceed and ending upon the date the City approves the Construction Documents.

Design Work - That portion of the Work consisting of the design services required to be provided in connection with the design of the Project as set forth in the Contract Documents which shall be performed consistent with the standards of professional care exercised by national design firms.

Final Environmental Document - The CEQA document issued for the Project, e.g., a certified environmental impact report, mitigated negative declaration, negative declaration, or an exemption.

Governmental Approvals - Those governmental, including agency actions required to be obtained by the City or the Design-Builder as specified in the Contract Documents and necessary for the completion of the Project, including, but not limited to, modification of existing zoning, vacation of certain streets and/or alleys, and modifications to or variances from applicable building codes, all as more fully described in the Contract Documents.

Order of Magnitude Documents - The drawings, specifications and other documents by the Design-Builder for the City's review and approval prior to the preparation of the Construction Documents. The Order of Magnitude Documents shall illustrate the scale and relationship of Project components, outline the nature and structural exterior and three dimensional scale of the Project and shall fix and describe in detail the configuration and character of the Project concerning all items of the Project necessary for the complete and final preparation of the Construction Documents in accordance with the requirements of the Contract Documents, including architectural, mechanical and electrical systems, materials and such other elements as may be appropriate.

Request for Proposal (RFP) - (1) the solicitation by the City to prospective proposers upon which an evaluated selection of a Design-Builder will be made by the City; (2) the standardized form used by the City to request a Proposal from the Design-Builder for proposed changes in the Work.

Scope of Work (SOW) - Labor, materials, equipment, and services required to be performed or provided by the Design-Builder to complete the entire Project or the various separately identifiable parts thereof pursuant to the provisions of the Contract Documents.

Services – Professional, design, and construction management services of the Project that are required to design and construct the Project in accordance with the Contract Documents.

Statement of Qualifications (SOQ) - The document submitted by any individual, firm, partnership, corporation or combination thereof, for the consideration by the City as to the individual, firm partnership, corporation or combination thereof expertise, experience and capabilities to perform the Work required of the Project.

SECTION 2 - SCOPE AND CONTROL OF WORK

2-1 AWARD AND EXECUTION OF CONTRACT.

DELETE this section in its entirety and SUBSTITUTE the following:

Award and execution of this contract will be as provided for in this contract and the RFP.

2-1.1.7 Requests for Information (RFI). ADD the following:

The Design-Builder shall respond to, and ensure Subcontractors respond to, RFI, substitution requests, and Change Order requests. The Design-Builder shall provide the City with copies of all correspondence within 24 hours of receipt, and conduct weekly review meetings with the City to discuss these items.

2-1.1.8 Covenants and Conditions. All provisions of this contract expressed as either covenants or conditions on the part of City or Design-Builder shall be deemed to be both covenants and conditions.

2-1.1.9 Permits, Fees and Notices. Unless otherwise provided in the Contract Documents, the Design-Builder shall secure and pay, as part of the Contract Price e.g., building permits, for all permits, governmental fees, licenses and inspections necessary for the proper execution and completion of the Work. To the extent there is a change in the type or cost of any of such permits, fees, licenses or inspection occurring after execution of this contract, there shall be an equitable adjustment in the Contract Price and Contract Time on account of such change per Section 3. The Design-Builder shall comply with and give notices required by applicable laws.

The Design-Builder will not be entitled to damages or additional payment for delays attributable to the acquisition of permits.

The Design-Builder may be given a no cost extension of time for unforeseen delays attributable to the acquisition of permits.

The Design-Builder agrees to pay, or reimburse the City for regulatory or court imposed fees, fines, or penalties imposed on the City arising from the Design-Builder's failure to complete the Work in a timely manner and/or in accordance with the Contract Documents. The Design-Builder's responsibility and obligation to pay, or reimburse the City for these fees, fines, or penalties shall be in addition to the assessment of liquidated damages for late completion of the Work.

The Design-Builder shall provide and pay for all electrical, gas, and water required for construction activities (including testing and commissioning) until the Substantial Completion is achieved.

2-1.1.10 OSHA/Cal OSHA Citations. The Design-Builder shall indemnify the City against fines, reasonable attorneys' fees, and defense costs resulting from citations issued to the City by either the federal, state, or local Safety enforcement agencies due to the Design-Builder's failure to abide by applicable Safety and health standards.

2-1.1.11 Stormwater Management Discharge Control. Design-Builder shall prepare and incorporate into the Construction Documents a Storm Water Pollution Prevention Plan [SWPPP] to be implemented by the Design-Builder during Project construction. Where applicable, the SWPPP shall comply with both the California Regional Water Quality Control Board Statewide General Construction Storm Water permit and National Pollution Discharge Elimination System permit requirements and any municipal regulations adopted pursuant to the permits.

2-1.1.12 Integration. The Exhibits and references incorporated into this contract fully express all understandings of the Parties concerning the matters covered in this contract. No change, alteration, or modification of the terms or conditions of this contract, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both Parties. All prior negotiations and agreements are merged into this contract.

2-1.1.13 Counterparts. This contract may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

2-1.1.14 Severability. The unenforceability, invalidity, or illegality of any provision of this contract shall not render any other provision of this contract unenforceable, invalid, or illegal.

2-1.1.15 Signing Authority. The representative for each Party signing on behalf of a corporation, partnership, joint venture, limited liability company, or governmental or other entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

2-1.1.16 Third Party Beneficiary. Nothing in this contract shall create a contractual relationship between City and any third party; however, the Parties understand and agree that City, to the extent permitted by law, is an intended third party beneficiary of all Design-Builder's contracts, purchase orders, and other contracts between Design-Builder and third parties. Design-Builder shall incorporate the obligations of this contract into its contracts, supply agreements, and purchase orders.

2-1.1.17 Headings. All section headings are for convenience only and shall not affect the interpretation of this contract.

2-1.1.18 Design-Builder Responsibilities.

2-1.1.18.1 General. Design-Builder shall keep City informed of the progress and quality of the design and construction of the Project.

- a) The Design-Builder shall assume responsibility for all negligent errors, omissions, or acts arising from the design/architectural Services the Design-Builder provides under this contract, including any negligent errors, omissions, or acts of the Design-Builder's agents, officers, and employees.

- b) The Design-Builder agrees to fully assume all risks, including costs associated with such risks, in performing the Work and Services and meeting the obligations under this contract, except for the following risks which are assumed by City:
 - 1) The Design changes directed by City which are beyond the scope of the Bridging Documents or the Scope of Work and Services, provided that the Design-Builder gives the City written notices.
 - 2) Third party litigation for which it is established that Design-Builder is not at all liable.
- c) The Design-Builder shall pay royalties and license fees, defend suits or claims for infringement of patent rights, and shall defend and hold the City harmless from loss on account thereof, except that the City will be responsible for such loss when a particular design, process, or product of a particular manufacturer is specifically required by the City. If the Design-Builder has reason to believe the use of a required design, process, or product is an infringement of a patent, The Design-Builder shall be responsible for any subsequent loss unless the Design-Builder informs the City of the Design-Builder's concern promptly to the City in writing.
- d) If the Design-Builder is a joint venture, prior to performing any Work on the Project, the Design-Builder shall obtain the joint venture license required by Section 7029 of the California Business and Professions Code from the California Contractors' State License Board and provide the City with written proof of obtaining the joint venture license. The Design-Builder shall comply with all licensing requirements of the State of California, County of San Diego, and the City.
- e) The Design-Builder shall be responsible for coordinating all construction means, methods, techniques, sequences and procedures, including but not limited to:
 - i. Coordinate scheduling of Submittals, and all design and construction of the Project to ensure the efficient and orderly sequence of the construction. The Design-Builder shall monitor and report periodically to the City actual performance compared to Project Schedule; and
 - ii. Provide timely review and approval of Shop Drawings, Samples, product data, schedule Submittals, and other Submittals for compliance with the Contract Documents, and Design-Builder shall provide the City with two copies of all Submittals approved by the Design-Builder.

2-1.1.18.2 Design-Builder and Subcontractor Principals for Services. It is understood that this contract is for unique Services. Retention of the Design-Builder's Services is based on the particular professional expertise of the individuals rendering the Services set forth in the Scope of Work and Services. Accordingly, portions of the Services may not be delegated to other members of the team or Subcontractors without prior written consent by the City. It is mutually agreed that the person responsible listed in the Proposal is the principal person responsible for delivery of all Services and may not be removed from the Project without the City's prior written approval. In the event persons listed in Proposal become unavailable for any reason, the City shall be consulted as to any replacement. Further, the City reserves the right, after consultation with the Design-Builder, to require removal of the Design-Builder's employees or agents.

The Design-Builder shall warrant that at least one member of the Design-Builder shall be licensed by the California Contractors' State License Board as a General Building and/or a General Engineering Contractor.

The Design-Builder shall use the essential personnel listed in the Proposal or prior to the NTP to perform the Scope of Work and Services. The Design-Builder agrees that it shall not transfer or remove these individuals from the Project without the prior written permission of the City which will not be unreasonably withheld.

2-1.1.19 Cumulative Remedies. The duties and obligations imposed by this contract and the rights and remedies available hereunder to the Parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon the Design Builder by this contract and all of the rights and remedies available to City thereunder; are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies imposed or available by Laws or Regulations, by special warranty or guarantee or by other provisions of the Contract Documents.

2-1.1.20 Procedures for Review of Design Materials. The review process for submitted materials will be as follows unless indicated differently in the Exhibit G, "Procedure for Review of Design Materials." Unless the City gives Design-Builder prior notice, the City will respond to Design-Builder's Submittals or re-Submittals within 15 working days of their receipt by the City. The City's review of Submittals will be done in conjunction with designer's review. Within 5 working days of receipt of the City's comments, Design-Builder will resolve and/or discuss with the City any outstanding issues as a result of the City's comments. Unless agreed with the City in advance, the Design-Builder will submit any required revised or final Submittals within 10 working days of the resolution of the submittal issues.

It is the Design-Builder's responsibility to ensure that the comments of the City are addressed by the designers. One copy of all Submittals reviewed by the designer shall be provided to the City.

2-1.1.21 Public Works Contracts; Assignment to Awarding Body: In accordance with Section 7103.5(b) of the California Public Contract Code (A.B. 3416), the Contractor and Subcontractors shall conform to the following requirements. In entering into a public works contract or a Subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or Subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code) arising from purchases of goods, services, or materials pursuant to the public works contract or the Subcontract. This assignment shall be made and become effective at the time the awarding body tenders to the Contractor, without further acknowledgment by the Parties.

2-3.1 General. DELETE the text of this section in its entirety and SUBSTITUTE the following:

Subcontractors shall be qualified, sufficiently experienced, and appropriately licensed architects, engineers, and contractors. Contractors shall be appropriately licensed by the California Contractors State License Board. The use of Subcontractors in no way relieves the Design-Builder of any obligations or responsibilities under this contract.

Subcontractors listed by the Design-Builder shall be afforded the protection of all applicable laws including Public Contract Code §§4100-4114, inclusive.

2-3.1.1 Subcontractor List. The listing of Subcontractors provided for in the Design-Builder's SOQ and Proposal, in compliance with the "Subletting and Subcontracting Fair Practices Act" (The Act) (Public Contract Code §§4100-4114, inclusive), shall not be modified in any way without the prior written approval of the City.

If at any time after Award Design-Builder identifies a need for additional Subcontractor services, Design-Builder shall immediately request City's consent by notifying City in writing. The notice shall include a justification, a description of the scope of work, and an estimate of the costs for the services. City will consider such requests in good faith.

2-3.1.2 Suppliers List. Design-Builder warrants that it has listed all Suppliers known to Design-Builder at the time of Award on the Vendors/Suppliers List attached to this contract. If Suppliers are required that were not listed by Design-Builder prior to Award, Design-Builder shall let the supply subcontract in accordance with a competitive bidding process performed solely at the Design-Builder's expense.

2-3.3 Status of Subcontractors. ADD the following:

Contracts entered into between the Design-Builder and a Subcontractor shall provide as follows:

- a) The Design-Builder shall not hire or allow any City consultant and any subconsultants who assisted the City in creating City's Bridging Documents or Contract Documents for this Project to participate in design services, construction management, and any other construction services related in any way to this Project without the prior written consent of City.
- b) The Design-Builder is obligated to pay Subcontractors for the Design-Builder- and the City-approved invoice amounts, out of amounts paid by the City to the Design-Builder, not later than 14 working days from the Design-Builder's receipt of payment from the City. Nothing in this paragraph shall be construed to impair the right of the Design-Builder and any Subcontractor to negotiate fair and reasonable pricing and payment provisions among themselves.
- c) In the case of a deficiency in the performance of Subcontractor services, the Design-Builder shall notify City in writing of any withholding of payment to the Subcontractor, specifying: (a) the amount withheld; (b) the specific cause under the terms of the subcontract for withholding payment; (c) the connection between the cause for withholding payment and the amount withheld; and (d) the remedial action the Subcontractor shall take in order to receive the amount withheld. Once the Subcontractor corrects the deficiency, the Design-Builder shall pay the Subcontractor the amount withheld within 14 working days of Design-Builder's receipt of City's next payment.
- d) The Design-Builder agrees to defend and indemnify City as described in Section 7-14, "INDEMNIFICATION AND HOLD HARMLESS AGREEMENT" in any dispute between Design-Builder and Subcontractor should City be made a party to any judicial or administrative proceeding to resolve the dispute in violation of this provision.
- e) In the event that any Subcontractors, Supplier, or any other person places a lien or stop notice on the Project covering any portion of the Work for which the City has made payment to the Design-Builder, the Design-Builder will satisfy, discharge or bond such lien or stop notice within 10 days after written notice from the City of the existence of such lien or stop notice. The City will withhold payment according to applicable laws.
- f) The Design-Builder shall be solely responsible for scheduling and coordinating the work of Subcontractors and other persons and organizations performing or furnishing any items of the Work under a direct or indirect contract with Design-Builder. The Design-Builder shall require Subcontractors and such other persons and organizations performing or furnishing any of the Work to communicate with the City through the Design-Builder.

ADD: 2-3.4 Incorporation of Contract Documents. The Work performed by a Subcontractor shall be pursuant to an appropriate Subcontract between Design-Builder and the Subcontractor which

specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents.

The Design-Builder shall require each Subcontractor, to the extent of the Work to be performed by such Subcontractor, to assume towards the Design-Builder all the obligations and responsibilities which the Design-Builder by the Contract Documents assumes towards the City and shall incorporate the terms of this contract and the Contract Documents to the extent applicable to the Work to be performed by the Subcontractors.

ADD: 2-3.5 Assignment of Subcontracts. Each Subcontract shall expressly preserve and protect the rights of the City under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights, and shall include a provision granting to the City the right to succeed to the interest of, or otherwise accept an assignment of, such Subcontract, but only in the event of a termination of this contract by the City due to the existence of a Design-Builder Default. Any such assignment shall be subject to the prior rights of the Supplier, if any, obligated under bond relating to the Agreement.

2-5.5 As-built Drawings. ADD the following:

As-built Drawings shall be the responsibility of the Contractor for the Work (applicable to Design-Build contracts) or other items of Work.

ADD: 2-5.7 Order of Magnitude Documents and Construction Documents. Once the City gives the Design-Builder the Design NTP, the Design-Builder shall prepare the Order of Magnitude Documents for review and approval by the City. After such approval, the Design-Builder shall prepare the Construction Documents. The Order of Magnitude Documents and Construction Documents shall be consistent with, and develop in detail, the intent of the Contract Documents, and shall include documents customarily required for regulatory approval by governmental agencies.

The Construction Documents shall also provide information customarily necessary for the use of such documents by those in the building trades and include all documents required for the complete and final construction of the Project, other than such details customarily developed in Working Drawings and Shop Drawings or otherwise during construction.

The City's review of the Order of Magnitude Documents and the Construction Documents will be conducted in accordance with the durations and procedures set forth in this contract, and in accordance with the dates therefore set forth in the Schedule. Such review shall not relieve the Design-Builder from its responsibilities under this contract. If the City exceeds the durations set forth in Schedule or Contract Documents, the Design-Builder may be entitled to an equitable adjustment in Contract Time only in accordance with the provisions of Section 3, "CHANGES IN WORK."

The Design-Builder shall be fully responsible for obtaining all reviews and approval for building permit(s) independently of Order of Magnitude Documents review required.

2-5.7.1 Use of Computer Aided Design. The Design-Builder shall use Computer Aided Drafting and Design (CADD) for the preparation of Plans and As-built drawings. CADD drawings, figures and other work shall be produced in the latest version of Bentley MicroStation CADD software in accordance with City's CADD Guideline. Each CADD Mylar drawing sheet shall be a minimum of 3 mm thick. Conversions of CADD work from any other non-standard CADD format to City standard MicroStation format shall not be acceptable in lieu of this requirement.

2-5.7.2 Reliance on Approvals. The Design-Builder shall be entitled to rely on the approvals of the City as to general scope and purpose, as set forth in Scope of Work. In no event shall City approval be considered a specific approval with respect to the Design Materials. The City will have the right to accept, reject or suggest change to the Order of Magnitude Documents to achieve conformity with general scope as set forth in SOW, with no increase in Contract Price or Contract Time.

If the City revokes, modifies or otherwise changes in a material way its approval of a portion of the Project after such portion of Work has been designed and approved, or modifies the original Scope of Work in a material manner requiring modification to one or more systems which have been designed and approved, the Design-Builder shall be entitled to a Change Order per Section 3, "CHANGES IN WORK" provided that prior to such approval the Design-Builder has made the City aware of future design decisions which may be affected by such approval. No Change Order will be issued to the extent such Change Order is due to the fault or neglect of the Design-Builder.

2-5.7.3 Review of Construction Documents and Field Conditions. The Design-Builder shall be responsible for all errors, inconsistencies or omissions in the Construction Documents. The Design-Builder shall take field measurements and verify field conditions and shall carefully compare such field conditions and other information known to the Design-Builder with the Contract Documents before commencing activities.

2-5.7.4 Shop Drawings and Working Drawings, Product Data, and Samples. The Design-Builder shall maintain at the Site for the City one record copy of the Contract Documents, Drawings, Specifications, Addenda, Change Orders, and Construction Documents and any Change Orders thereto in good order and marked to record changes and selections made during the Design Phase and Construction Phase. In addition, the Design-Builder shall maintain at the Site approved Shop Drawings and Working Drawings, Product Data, Samples and similar required Submittals.

The Design-Builder shall review and take appropriate action upon Shop Drawings and Working Drawings, Product Data, Samples and similar Submittals. The City has determined that it does not wish to review Shop Drawings and Working Drawings, Product Data, Samples and similar Submittals. If at a later date, the City wishes to review any such Shop Drawings and Working Drawings, Product Data, Samples and similar Submittals, it will give reasonable prior notice to the Design-Builder, and will conduct such review so as not to delay the Work. The Design-Builder shall provide a register of all Submittals that are scheduled for review by City, designers, or both.

The Design-Builder shall not be relieved of responsibility for the deviations from requirements of the Contract Documents by the City's approval of Shop Drawings and Working Drawings, Product Data, Samples or similar Submittals unless the Design-Builder has specifically informed the City of such deviation at the time of the submittal and the City has given written approval to the specific deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Shop Drawings and Working Drawings, Product Data, Samples or similar Submittals by the City's approval thereof.

2-6 WORK TO BE DONE.

ADD the following:

- a) The minimum design requirements for the Project are set forth in the Bridging Documents, the information provided for sample/model facility, or both. City assumes no responsibility for any conclusions or interpretations made by the Design-Builder based on the information contained in the Bridging Documents. Nor does the City assume responsibility for any

understanding reached or representation made by any of the City's officers or agents before Award concerning conditions which could affect the Work, unless that understanding or representation is expressly stated in this contract.

- b) The Design-Builder shall not proceed with Design Work until the City issues a Design NTP. No payment shall be made for any Design Work performed prior to issuance of the Design NTP, and applications for payment for such work or services shall not be binding on the City.
- c) The Design-Builder shall schedule, coordinate, and attend a partnership meeting with the Engineer and any other persons deemed appropriate by the City. The partnership meeting shall be held within 15 Working Days after the City issues the NTP to discuss roles, responsibilities, lines of communication, and other issues of interest to Parties.
- d) The Design-Builder shall review the City's Bridging Documents to ascertain Project requirements and shall review the requirements with City within the time frame set forth in the Project Schedule.
- e) The Design-Builder shall keep the City informed of the progress and quality of the design and construction of the Project.
- f) Organization of the Design Materials into divisions, sections and articles and arrangement of drawings shall not control the Design-Builder in dividing the Construction Work among Subcontractors or in establishing the extent of Construction Work performed by any trade.
- g) Unless otherwise provided in the Contract Documents, the Design-Builder shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

ADD: 2-6.1 Construction Obligations. The Design-Builder shall not begin Construction Work until City's authorized representative(s) approve the design for the Project or portion thereof, to provide City the defenses set forth in California Government Code §830.6.

The Design-Builder shall not perform any Construction Work in connection with the Project prior to receipt of a written Construction NTP from City. No payment shall be made for any Construction Work performed prior to issuance of the Construction Notice to Proceed, and applications for payment for such work shall not be binding on the City. If the Design-Builder desires to begin constructing a portion of the Project prior to achieving final design of the Project, the Design-Builder shall in writing notify the City at least three Working Days in advance of proposed construction activities to seek the City's approval and include proof of receipt of all applicable permits. The City will provide the Design-Builder with a standard form for this purpose. The Design-Builder shall not proceed with any construction activities without providing such notice and receiving the City's approval.

If the Design-Builder desires to modify the design documents after the City's approval thereof, the Design-Builder shall obtain the City's prior written approval before making any such modifications and any construction changes based upon such modifications.

ADD: 2-6.2 Performance of Work. The Design-Builder agrees that it shall be responsible for performing and completing and for causing all Subcontractors to perform and complete, the Work in accordance with the SOW, the Contract Documents, and applicable laws. To the extent there is a change in one or more applicable laws after the date of execution of this contract, and such change has the effect of increasing the Contract Price or Contract Time of performance of the Work, such change may be the subject of a Change Order under the provisions of Section 3, "CHANGES IN WORK."

ADD: 2-6.3 Standards of Performance. The Design-Builder shall use the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California. Where approval or acceptance by the City is required, it is understood to be general approval only and does not relieve the Design-Builder of responsibility for complying with all applicable laws, codes, and good consulting and engineering practices.

The Construction Documents shall be prepared, signed and stamped by and under the direct responsible charge of an architect or engineer, duly licensed in the State of California. The Work shall be performed in accordance with the professional standards applicable to projects, buildings or work of complexity, quality and scope comparable to the Work of this Project. The Design-Builder shall be the Engineer of Record (Engineer of Work).

ADD: 2-6.4 Use of Design Materials. The City will have unlimited rights to copy and use in connection with the Project all Design Materials, including the right to use same on the Project at no additional cost to the City, regardless of degree of completion, provided that said services performed have been fully paid for, exclusive of amounts disputed by the City in good faith, as required by the terms of this contract. The Design-Builder agrees to and does hereby grant to the City and any assignee or successor of the City as owner of the Project a royalty-free license to any such Design Materials as to which the Design-Builder may assert any rights under the patent or copyright laws. The Design-Builder hereby agrees to assign outright and exclusively to the City all copyrights in the design appearance of the Project. The Design-Builder, as part of its agreements with any Subcontractor, will secure such license and use rights from each such entity, and shall defend, indemnify and hold the City and any successors or assigns harmless from any claims by such entities for copyright or patent infringement.

ADD: 2-6.5 Local Conditions. The Design-Builder represents that it has taken steps reasonably necessary to ascertain the nature and location of the Work, and that it has investigated and satisfied itself as to the general and local conditions which are applicable to the Work such as (a) conditions bearing on transportation, disposal, handling and storage of materials; (b) the availability of labor, water, power and roads; (c) normal weather conditions; (d) observable physical conditions at the Site; (e) the surface conditions of the ground; and (f) the character of equipment and facilities needed prior to and during the performance of the Work. To the extent the Design-Builder encounters subsurface or concealed conditions which differ materially from those represented in the Contract Documents, then notice by the Design-Builder shall be given to the City promptly before conditions are disturbed and in no event later than 4 Working Days after the first observance of the conditions if a Change Order is contemplated by the Design-Builder due to such condition. Such materially different conditions may entitle the Design-Builder to an adjustment in the Contract Price only for the increased costs of the Work, without markup or fee. If the subsurface or concealed conditions are determined to be of Hazardous Materials or Waste, the Design-Builder shall immediately notify, in no event later than 1 Working Day, the City and proceed as set forth in this section and the exhibits of this contract.

The Design-Builder shall not be entitled to any adjustment in Contract Price or Contract Time or will have been deemed to have waived its right to such a Claim if:

- a) The Design-Builder knew of the existence of such conditions at the time the Design-Builder made a final commitment to the City in respect of Contract Price and Contract Time by becoming bound under this contract; or

- b) The existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, of the Site and contiguous areas suggested or required by the Contract Documents: or
- c) The Design-Builder failed to give the written notice within the time and as required by this section.

ADD: 2-6.6 Services and Facilities. The Design-Builder shall provide everything required for the orderly progress and proper execution and completion of the Work and the Project in accordance with the requirements of the Contract Documents, whether temporary or permanent and whether or not incorporated or to be incorporated into the Work.

2-6.6.1 Supervision. The Design-Builder shall supervise and direct the Work in accordance with professional skill and attention. The Design-Builder shall be solely responsible for and have control over design and construction means, methods, techniques, sequences and procedures. The Design-Builder shall be responsible to the City for the acts and omissions of, and whenever this contract refers to the negligence, fault or omission of the Design-Builder, including the negligence, fault or omission of, the Design-Builder's employees, Subcontractors and their agents and employees, and other persons performing portions of the Work under a contract with the Design-Builder. The Design-Builder shall not be relieved of obligations to perform the Work in accordance with the Contract Documents by tests, inspections or approvals required or performed by persons other than the Design-Builder.

2-6.6.2 Superintendent. The Design-Builder shall employ a competent superintendent and necessary assistants who shall be in attendance at the Site during performance of the Construction 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. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

2-6.6.3 Coordination. The Design-Builder shall coordinate design and construction requirements with governmental agencies, utilities, and all other Parties either involved in infrastructure improvements or otherwise affected by the design and construction requirements.

2-6.6.4 Cooperation. The Design-Builder shall assist the City's staff and reasonably cooperate with the City's legal, financial, design and construction consultants and all other designated representatives during the design and construction of the Project.

2-6.6.5 Management. The Design-Builder shall implement suitable management systems and work plans for the Project relative to safety, quality assurance and managing and controlling the Work.

2-6.6.6 Reports. The Design-Builder shall prepare and submit to the City, during both the Design Phase and the Construction Phase, monthly progress reports, in a manner and format acceptable to the City, on the Work accomplished during the prior monthly period. Such reports shall be furnished at the time of submission of each monthly Application for Payment. As part of such report, the Design-Builder shall provide an updated Schedule, including CPM illustrating the progress which has been made and specifically whether the Work is on schedule or behind schedule and actions being taken to correct Schedule slippage. The monthly report shall also set forth the Design-Builder's projected progress for the forthcoming month.

2-6.6.7 Means, Methods, Techniques, Sequences, or Procedures. The Design-Builder is solely responsible for selecting the means, methods, techniques, sequences, or procedures of performing the Work. If the Design-Builder elects or chooses to adopt or follow, in whole or part, any means, means, methods, techniques, sequences or procedures of performing the Work developed or suggested by the City, the Design-Builder does so at its own risk and bears sole responsibility for such election or choice. The City assumes no responsibility thereof and in no way will be held liable for any defects in the Work, or increased costs or delays in the Work, which may result from or be caused by the Design-Builder's use of such means, methods, techniques, sequences or procedures.

ADD: 2-6.7 Model or Example Facility Information. If any element required by the Contract Documents is not clearly defined, the Design-Builder shall rely on the model or example facility information provided in the Contract Documents for the standard requirements. The City Project Manager shall be contacted for a site visit of facility prior to finalization of Bid.

2-7 SUBSURFACE DATA: ADD the following to the second paragraph:

Information Available To Bidders - In preparation of the Contract Documents, the designer has relied upon the following reports of explorations and tests of subsurface conditions at the site of the work:

1. None

2-7.1 Examination of Subsurface Conditions. ADD the following:

The subsurface information provided by the City is specifically excluded from and are not a part of this contract. The Design-Builder agrees that the Design-Builder's reliance on the Reports or any of their findings, conclusions, opinions, and/or interpretations regarding the subsurface conditions or type and thickness of pavement at the Project Site shall not form the basis of any claim against the City relating to or arising from geological or pavement conditions actually encountered during construction of the Project. Any reference to the Reports in the Contract Documents, or any summary of its findings or conclusions, shall be for general information and reference only and is not intended to constitute an incorporation of the Report's or Additional Reports' findings and conclusions into the Contract Documents.

The Design-Builder further acknowledges that the Reports contain certain disclaimers and limitations. The Design-Builder agrees to carefully examine the disclaimers and limitations of the Reports if the Design-Builder chooses to rely on the Reports or any part thereof. The City does not guarantee the accuracy or reliability of any information contained in the Reports and provides the Reports to the Design-Builder in accordance with the City's obligation to disclose to bidders information in the City's possession regarding certain elements of the subsurface geology in and around the area of the Project.

ADD: 2-14 PERSONNEL CHANGES. The Design-Builder shall ensure that key personnel, as identified in its SOQ and Proposal, assigned to the Project shall not be replaced or substituted without the prior written approval of the City. The Design-Builder acknowledges that in the event that the Design-Builder fails to staff the Project with the key personnel identified in the SOQ and Proposal the City will incur substantial damages. The Design-Builder shall be liable for damages incurred by the City as a result of unauthorized substitution of each key personnel.

The Design-Builder may make such additions or substitutions to other personnel, not identified as key personnel, and responsibilities as it deems necessary or appropriate in order to carry out its

responsibilities hereunder, provided such personnel shall be suitably qualified. The City reserves the right to have any Design-Builder, Subcontractor personnel removed from the Project upon written notice from the City to the Design-Builder without cause. Nothing contained in the Contract Documents shall create a contractual relationship between the City and any third party, or Subcontractors; however, it is understood and agreed that the City, as the third party beneficiary, is an intended third-party beneficiary of all contracts for design or engineering services, all Subcontracts, purchase orders and other agreements between the Design-Builder and third parties.

SECTION 3 - CHANGES IN WORK

3-3.2.3 Markup. ADD the following:

The Design-Builder shall only be reimbursed, with 6% markup, for the warranty extensions beyond the time required by the Contract Documents if requested by the City.

3-7.10 Unpaid Claims. If, at any time prior to the expiration of the period for service of a stop notice, there is served upon the City a stop notice as provided in Sections 3179 and 3210 of the California Civil Code, the City shall, until the discharge thereof, withhold from the monies under its control so much of said monies due or to become due to the Contractor under this Contract as shall be sufficient to answer the claim stated in such stop notice and to provide for the reasonable cost of any litigation thereunder; provided, that if the Engineer shall, in its discretion, permit Contractor to file with the City the bond referred to in Section 3196 of the Civil Code of the State of California, said monies shall not thereafter be withheld on account of such stop notice.

ADD: 3-8 CHANGE ORDERS INCREASING OR DECREASING SCOPE.

3-8.1 Increased or Decreased Scope. With respect to Change Orders which increase the SOW and are not due to the errors or omissions of the Design-Builder, or are not attributable to the contingencies set forth in this section, or are not attributable to excusable delays, the Contract Price shall be increased by the following scope change costs:

- a) The estimated increase in the cost of construction attributable to the Change Order, with overhead and profit, which would not have been incurred but for the Change Order.
- b) The estimated increase in the cost attributable to the Design Work shall be determined by the sum of the actual salaries of the Design-Builder's personnel engaged on the Project Design Work, not including the cost of mandatory and customary contributions and benefits. Such personnel shall include engineers, architects, and technicians assigned to the Project Design Work, excluding general office employees such as accountants or general secretaries performing non-technical or nonprofessional functions. The sum of the actual salaries set forth above shall be multiplied by the Design-Builder's certified overhead rate to compensate the Design-Builder for any supplies, support, utilities all other expenses associated with the Design Work.
- c) With respect to Change Orders which decrease the SOW, the Contract Price shall be decreased by the estimated decrease in the cost attributable to the Change Order, including deductions for overhead and profit, which would have been incurred but for the Change Order.

3-8.2 Change Orders on Account of Contingencies. With respect to Change Orders which are attributable to the following contingencies, the Contract Price shall be adjusted by the following "Contingency Costs", consisting of the following:

- a) With respect to increases or decreases in fees for permits or other governmental certificates or instruments arising after the date of this contract, the Change Order shall consist of the incremental amount of such increases or decreases. To the extent this contract states that a permit or certificate is not required and the Design-Builder is later required to procure such permit or certificate, all out-of-pocket costs associated therewith shall be included in the Change Order.
- b) With respect to the acts or omissions of Separate Contractors for which the Design-Builder is entitled to make a Claim and which do not cause a delay to the Design-Builder, the Change Order shall consist of the net increased cost relating to Construction Work which would not have been incurred but for such acts or omissions of Separate Contractors, but shall not include home office overhead, profit or fee unless recoverable by the City from such Separate Contractors.

3-8.3 Change Orders on Account of Excusable Delay. With respect to Change Orders which are attributable to the Excusable Delays, the Contract Price shall be increased by the following “Delay Costs” except for Force Majeure event:

- a) Increased allowable labor costs resulting from wage increases paid due to the delay;
- b) Premiums for overtime and extra shifts incurred in accelerating the Work, but only if acceleration has written approval in advance by the City;
- c) Documented increased material costs which would not have been incurred but for the delay;
- d) Additional general conditions costs which would not have been incurred but for the delay (itemized, and not based on a formula allocation such as Eichleay);
- e) Demobilization and remobilization costs; and
- f) Additional items of cost attributable to the Excusable Delay and which would not have been incurred but for the Excusable Delay.
- g) The Design-Builder shall not be entitled to additional overhead and profit on account of Design Work relating to Excusable Delay.

3-8.4 Design Change Orders. If the City revokes, modifies or otherwise changes its approval of a given portion of the Project after such portion has been designed and approved, the Design-Builder shall be entitled to an increase in Contract Price Extra Work per Section 3, “CHANGES IN WORK.”

3-8.5 Change Orders on Account of Delay in Commencement of Construction Work. In the event the commencement of the Construction Work is delayed due to the acts or omissions of any governmental authority, the Contract Price shall be increased for additional general conditions costs which would not have been incurred but for the delay and such delay has a direct impact upon the critical path of the project, as supported by a CPM schedule impact analysis (itemized, and not based on a formula allocation such as Eichleay).

3-8.6 Change Orders on Account of Differing Site Conditions. If the Design-Builder encounters conditions which constitute Excusable Delay, in addition to the increase in the Contract Price on account of delay costs incurred by the Design-Builder, the Contract Price shall also be increased by the additional direct costs attributable to such conditions which would not have been incurred but for such conditions.

3-8.8 Types of Delays beyond the Design-Builder’s Control. The Design-Builder shall provide the City with written notice of the potential delay within 24 hours of the occurrence.

ADD: 3-9 ADDITIONAL COSTS. Additional costs are those costs that can be reasonably determined to be related to the Design-Builder's errors or omissions, and may include the Design-Builder, the City, or Subcontractors' overhead, construction, materials, demolition, and related costs. The Design-Builder shall not be paid for Work or Services required due to the Design-Builder's errors or omissions, and the Design-Builder shall be responsible for any additional costs associated with such errors or omissions. These additional costs may be deducted from monies due, or that become due the Design-Builder. Whether or not there are any monies due, or becoming due, the Design-Builder shall reimburse the City for additional costs due to the Design-Builder's errors or omissions.

ADD: 3-10 ADDITIONAL SERVICES. The City has the right to direct Design-Builder to perform additional services beyond those Services detailed in the Scope of Work and Services (Additional Services). The Design-Builder shall promptly perform any Additional Services as directed by the City in accordance with the Contract Documents. The Design-Builder shall request a Change Order when seeking reimbursement for Additional Services requested by the City.

If at any time Design-Builder contends that the City is asking the Design-Builder to perform Additional Services which are not specifically identified as such by the City, the Design-Builder shall immediately (within 24 hours) give the City written notice prior to performing the Services in question. The notice shall state that the Design-Builder intends to seek additional compensation beyond the amount specified in the Bid. Furnishing timely, accurate, advance written notice shall be a condition precedent to the Design-Builder's ability to seek additional compensation from the City.

The Design-Builder shall not perform, and shall not be entitled to compensation for, any Additional Services unless the City has, in advance, authorized in writing performance of the Additional Service. Under no circumstances shall Design-Builder be paid for Additional Costs.

The Design-Builder's Compensation Rate Schedule [Rate Schedule] for each and every design professional is attached to this contract. Payment for any Additional Services shall be in accordance with the Rate Schedule, and no increases to the Rate Schedule may be made during the term of this contract.

The Design-Builder shall separately submit to the City a certificate and application for monthly payment of any authorized Additional Services. No markup will be allowed for the Design-Builder and its agents for Additional Services.

SECTION 5 - UTILITIES

5-1 LOCATION. ADD the following:

- a) The Design-Builder shall coordinate review of the Project design drawings by the utility agencies at the time of the Design-Builder's 60% design submittal. The Design-Builder shall determine locations and elevations of all active and abandoned underground utilities in the Project area that may affect Project construction activities. The Design-Builder shall provide all required information for the construction or relocation of all public or private utilities that shall be constructed or relocated as a result of this Project. The Design-Builder shall provide designs for wet utility crossings. The Design-Builder shall coordinate utility facility and equipment shutdown requirements with the Engineer.
- b) If an underground utility is uncovered or revealed at or contiguous to the Site which was not indicated in the Contract Documents and which the Design-Builder could not reasonably

have been expected to be aware of, the Design-Builder shall identify the utility owner of such underground utility and give written notice thereof to that utility owner and shall notify the City in accordance with the requirements of this contract.

- c) When the Construction Documents provide for the Design-Builder to alter, relocate, or reconstruct a utility, temporary or permanent relocation or alteration of indicated utilities requested by the Design-Builder for its convenience shall be its responsibility, and the Design-Builder shall make all arrangements.
- d) Nothing herein shall be deemed to require the City to indicate the presence of existing service laterals or appurtenances when the presence of such utilities on the Project Site can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site of construction.

5-4 RELOCATION. DELETE the second paragraph and SUBSTITUTE the following:

Design-Builder shall alter, relocate, and reconstruct all utilities, including water and sewer connections, as necessary to construct the Project. Utilities not indicated on Design-Builder's Plans that are found to interfere with the Work shall be relocated, altered, or reconstructed by the utility owner, or by Design-Builder, at no additional cost to City. Design-Builder shall contact and coordinate alteration, relocation, or reconstruction of gas, electric, cable, and telephone service connections with the owner of those utilities.

5-5 DELAYS. ADD the following:

Design-Builder shall not be entitled to an extension of the Contract Time or to compensation for Extra Work or delay attributable to utility or substructure relocations or alterations when the existing utilities or substructures were:

- a) identified in the Contract Documents, utility records, as-built and record drawings, or other relevant records and archives pertaining to utility locations; or
- b) marked out by USA.

If an existing substructure or utility is uncovered or revealed at or contiguous to the Project Site that was not: i) identified in the Contract Documents, utility records, as-built and record drawings, or other relevant records and archives pertaining to utility locations; or ii) marked out by USA, and that Design-Builder could not reasonably have been expected to be aware of, Design-Builder shall immediately notify the City.

Upon discovery of an existing utility or substructure the Design-Builder shall immediately identify the utility owner of such existing utility and give written notice thereof to that utility owner and the City.

SECTION 6 - PROSECUTION, PROGRESS AND ACCEPTANCE OF WORK

6-7 TIME OF COMPLETION: ADD The Following:

Work shall be completed within **(Project Specific) Working Days** from the date of issuance of a Notice to Proceed.

6-9 LIQUIDATED DAMAGES. MODIFY the daily value to read \$250 per day.

ADD: 6-11.3 Payroll Records; Retention; Inspection; Noncompliance Penalties; Rules and Regulations.

- (a) In accordance with Section 1776 of the California Labor Code each contractor and Subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work.
- (b) The payroll records enumerated under Paragraph 11(a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor 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 Paragraph 11(a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.
 - (3) A certified copy of all payroll records enumerated in Paragraph 11(a) shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to Paragraph 11(b)(2) the requesting Party shall, prior to being provided the records, reimburse the costs of preparation by the Contractor, Subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the Contractor.
- (c) Each contractor shall file a certified copy of the records, enumerated in Paragraph 11(a) with the entity that requested the records within 10 days after receipt of a written request.

- (d) 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, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Contractor awarded the contract or performing the contract shall not be marked or obliterated.
- (e) The Contractor R shall inform the body awarding the contract of the location of the records enumerated under Paragraph 11(a) including the street address, city and county, and shall, within 5 working days, provide a notice of change of location and address.
- (f) In the event of noncompliance with the requirements of this section, the Contractor shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects the Contractor must comply with this section. Should noncompliance still be evident after the 10-day period, the Contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit \$25.00 for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.

SECTION 7 - RESPONSIBILITIES OF THE CONTRACTOR

7-3 LIABILITY INSURANCE. ADD the following:

The insurance provisions herein shall not be construed to limit Design-Builder's indemnity obligations contained in this contract.

The Design-Builder shall obtain insurance to indemnify the City for any damage to the Work caused

7-3.2.3 Contractors Pollution Liability Insurance. To the 2009 City of San Diego Supplement DELETE this section in its entirety

7-3.2.4 Contractors Hazardous Transporters Pollution Liability Insurance. To the 2009 City of San Diego Supplement DELETE this section in its entirety

7-3.2.5 Contractors Builders Risk Property Insurance. To the 2009 City of San Diego Supplement DELETE this section in its entirety

7-3.2.6 Railroad Protective Liability Insurance. To the 2009 City of San Diego Supplement DELETE this section in its entirety

7-3.5.3 Contractors Pollution Liability Insurance Endorsements. To the 2009 City of San Diego Supplement DELETE this section in its entirety

7-3.5.4 Contractors Hazardous Transporters Pollution Liability Insurance Endorsements. To the 2009 City of San Diego Supplement DELETE this section in its entirety

7-3.10 Architects and Engineers Professional Insurance (Errors and Omissions Insurance). MODIFY the coverage as follows:

For all of the Contractor's employees or subcontractors who provide professional engineering services under this Contract, the Contractor shall keep in full force and effect, Professional Liability coverage with a limit of **\$1,000,000** per claim and \$2,000,000 annual aggregate.

7-10.2.7 Measurement and Payment. To the 2009 City Supplement, item c), DELETE the first sentence and REPLACE with the following:

Maintaining, repairing, replacing, and removing the flashing arrow boards, complete in place, as shown on the Plans, and in accordance with these specifications and the Special Provisions shall be included in the lump sum Bid item for Flashing Arrow Boards.

ADD: 7-10.4.5 Concrete Forms, Falsework, and Shoring. The Contractor shall comply fully with the requirements of Section 1717 of the Construction Safety Orders, State of California, Department of Industrial Relations, regarding the design of concrete forms, falsework and shoring, and the inspection of same prior to placement of concrete. Where the said Section 1717 requires the services of a civil engineer registered in the State of California to approve design calculations and Working Drawings of the falsework or shoring system, or to inspect such system prior to placement of concrete, the Contractor shall employ a registered civil engineer for these purposes, and all costs therefore shall be included in the price named in the Contract for completion of the Work as set forth in the Contract Documents.

ADD: 7-10.4.16 Permits Required for Hazardous Employment: The CONTRACTOR shall comply with all applicable provisions of Section 6500 of the California Labor Code relating to those employments or places of employment that by the nature involve substantial risk of injury.

ADD: 7-13.3 Access for Disabled Persons. The Design-Builder shall warrant and certify that all Project Plans and Specifications prepared in accordance with this contract shall meet all current requirements of the California Building Code, California Code of Regulations, Title 24 (Title 24) and Americans with Disabilities Act Accessibility Guidelines [ADAAG], and shall be in compliance with The Americans with Disabilities Act of 1990. When a conflict exists between Title 24 and ADAAG, the most restrictive requirement shall be followed. As a condition precedent to Award of this contract, the Design-Builder shall submit to City the Design-Builder Certification for Title 24/ADA Compliance.

The Design-Builder is responsible as a designer, employer, construction contractor, and the Engineer to comply with all portions of Title 24 and the ADA. (For specific services and public accommodations, The Design-Builder may contact the Office of the Americans with Disabilities Act, Civil Rights Division, U.S. Department of Justice, P.O. Box 66118, Washington, D.C. 20035-6118; phone number (202) 514-0301.) Design-Builder acknowledges and agrees that the Design-Builder is aware of and will comply with Council Policy 100-04, incorporated herein by this reference, adopted by Resolution No. R-282153, relating to the federally-mandated ADA. The Design-Builder and contractors will be individually responsible for administering their own ADA and Title 24 program.

The Design-Builder shall pay all claims, costs, losses and damages incurred by City in undertaking remedial action to correct City determined violations of ADA or Title 24. To effectuate remedial action, The City will issue a Change Order incorporating the necessary revisions in the Construction Documents. The City will be entitled to an appropriate decrease in the Contract Price, and, if the Parties are unable to agree as to the amount thereof, The City may unilaterally issue the Change Order.

7-13.4 Travel and Subsistence Pay. The Contractor shall pay the following:

- (a) As required by Section 1773.8 of the California Labor Code, the Contractor shall pay travel and subsistence payments to each workman needed to execute the WORK, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with this section.
- (b) To establish such travel and subsistence payments, the representative of any craft, classification or type of workman needed to execute the contracts shall file with the Department of Industrial Relations fully executed copies of collective bargaining agreements for the particular craft, classification or type of work involved. Such agreements shall be filed within 10 days after their execution and thereafter shall establish such travel and subsistence payments whenever filed 30 days prior to the call for bids.

7-14 INDEMNIFICATION AND HOLD HARMLESS AGREEMENT: DELETE this section in its entirety and SUBSTITUTE the following:

7-14.1 Non-Design Services Indemnification and Defense - Other than in the performance of Design Services which shall be solely as addressed in these specifications, to the fullest extent permitted by law, Design-Builder shall defend (with legal counsel reasonably acceptable to the City), indemnify and hold harmless the City and its officers, agents, departments, officials, and employees [Indemnified Parties] from and against all claims, losses, costs, damages, injuries (including, without limitation, injury to or death of an employee of Design-Builder or its Subcontractors), expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorney's fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, any services (including, without limitation, construction services) performed under this contract by the Design-Builder, any Subcontractor, anyone directly or indirectly employed by them, or anyone that they control. The Design-Builder's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the active negligence, sole negligence or willful misconduct of the Indemnified Parties.

7-14.2 Design Services Indemnification and Defense.

7-14.2.1 Design Services Indemnification. To the fullest extent permitted by law (including, without limitation, California Civil Code §2782.8), with respect to the performance of Design Services, Design-Builder shall indemnify and hold harmless the City, its officers, or employees, from all claims, demands or liability that arise out of, pertain to or relate to the negligence, recklessness, or willful misconduct of Design-Builder or Design Builder's officers or employees and others hired or controlled by the Design-Builder.

7-14.2.2 Design Services Defense. Parties will work in good faith to procure applicable insurance coverage for the cost of any defense arising from all claims, demands or liability that arise out of, pertain to or relate to the negligence, recklessness, or willful misconduct of Design-Builder or Design-Builder's officers or employees.

7-14.3 Enforcement Costs. The Design-Builder agrees to pay any and all costs the City incurs enforcing the indemnity and defense provisions set forth in these specifications.

7-14.4 Insurance – The provisions of INDEMNIFICATION AND HOLD HARMLESS AGREEMENT shall not be limited by the requirements of Section 7-3, "LIABILITY INSURANCE" related to insurance.

7-14.5 Survival of Obligation. All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive, completion and acceptance of the Work and termination or completion of the Agreement.

SECTION 8 - FACILITIES FOR AGENCY PERSONNEL

8-2.4 Class "D" Field Office. To the 2009 City of San Diego Supplement DELETE this section in its entirety.

SECTION 9 – MEASUREMENT AND PAYMENT

ADD: 9-0 CONTRACT PRICE.

9-0.1 General. City will pay the Design-Builder for Work and Services and all expenses related to performance under this contract not to exceed the Contract Price. The Design-Builder shall not be entitled to fees which exceed the Contract Price unless expressly authorized by this contract.

The Design-Builder shall provide a master accounting system and matrix on Microsoft Excel or equivalent software (as approved by the City). The Design-Builder shall update, expand, and provide these updates to the City on a monthly basis.

9-0.2 Total Price. The City will pay for the Work as defined in the Agreement exhibits subject to adjustments made in accordance with the Contract Documents. Unless otherwise provided in the Contract Documents, the Contract Price is deemed to include all taxes, use, consumer and other taxes mandated by applicable legal requirements.

The stipulated allocation of such price for Design Work shall not exceed **10%** of the Contract Price set forth above.

The Contract Price shall not exceed \$ as set forth in the Bidding Documents.

The Contract Price includes the following price categories:

- a) Allowances
- b) Field Orders
- c) Design-Builder's Contingency
- d) Hard Design and Build Costs
- e) Fixed Furnishings and Equipment
- f) Contingency Funds (if included in the Bid Proposal)

9-0.3 Services Fee. Except as otherwise expressly provided in this contract, as full and complete compensation for performance of all Services and obligations under this contract, the Design-Builder shall be compensated only for the following:

- a) Architectural, engineering and other professional Subconsultants, including but not limited to structural, civil, mechanical, electrical engineers, communications, graphics and art Subconsultants, landscape architects, and acoustical, audio visual, lighting, traffic and security Subconsultants;
- b) Estimating, value engineering and construction management;
- c) Construction supervision and Project management personnel, including but not limited to superintendents, Project managers, Project secretaries, Project engineers, Project accountants, and all other the Design-Builder personnel wherever located;
- d) On-site and off-site equipment, supplies and facilities, including but not limited to, computers, estimating, dictating, communication and accounting equipment, office space, trailers and storage facilities;
- e) Home-office and field overhead costs of any type including document control and retention;
- f) The Design-Builder's profit.

9-0.4 Contingency Fund & Allowances. If shown on the Bid Proposal, the Contract Price shall include a Contingency Fund which the Design-Builder can use with the City's approval. If the Parties mutually agree that there is a sufficient surplus, the Contingency Fund will be available to provide additional funds for Change Orders. This Contingency Fund will not be available for:

- a) work required due to the Design-Builder, its officers, agents or employees' failure to perform Work or Services according to the terms of this contract and/or in compliance with the Construction Documents; or
- b) uninsured losses resulting from the negligence of the Design-Builder, its officers, agents, or employees. The City reserves the right to seek reimbursement for any costs expended due to errors or omissions of the Design-Builder's officers, agents, or employees providing Services to the Project.

100% of unused portions of the Field Orders and Allowances shall revert to the City after Final Completion.

9-0.5 Allowable Modifications to Contract Price. Throughout the term of this contract, the Design-Builder shall immediately give written notice to City if the Design-Builder has reason to believe that the cost of the Project may exceed the Contract Price. The notice shall include an itemized cost breakdown estimate and a list of recommended revisions which the Design-Builder believes will bring Project within the Contract Price. Further, the Design-Builder shall assist the City in reviewing the itemized cost breakdown and in recommending changes in the scope of the Project to remain within the Contract Price. The Contract Price may be modified only for a reason and in the manner specifically enumerated in this section.

9-3.1 General. ADD the following:

The Design-Builder warrants that upon submittal of an Application for Payment, all Construction Work for which Applications for Payment have been previously issued and payments received from the City will, 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, Suppliers, or other persons or entities making a Claim by reason of having provided labor, materials and equipment relating to the Work.

ADD: 9-3.5 Bond Payments. The Bid item for bonds shall include full compensation for actual costs of payment and performance bonds. The Contractor may submit a request for payment of actual invoiced costs up to the bid amount, but not to exceed 2.5% of the Contract Price, not less than 10 Working Days after Award of the Contract.

If the Bid item for bonds exceeds actual invoiced costs, any such differential amount up to the bid amount, shall be paid as a part of the Final Payment.

ADD: SECTION 810 – GREEN BUILDINGS

810-1 LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) REQUIREMENTS. The Project design and construction shall comply with City Council Green Building Policy 900-14, incorporated herein by this reference. All new or significantly remodeled City facilities shall be designed and constructed to achieve energy consumption levels at least 25% below the then current Title 24 standards. An average pay-back period of 5 years shall be used as a guide for the aggregate of all energy efficiency measures included in the Project.

Design-Builder shall submit and obtain LEED Silver Rating Certification from the United States Green Building Council for building projects over 5,000 square feet.

810-2 ENERGY SAVINGS. When preparing Plans and Specifications, Design-Builder shall consider technological advances in energy conservation devices such as lighting and Heating Ventilation and Air Conditioning (HVAC) which enable additional energy savings over that required by the State of California Title 24 Energy Standards. Design-Builder shall be responsible for preparing a cost savings comparison of such devices for City review. The purpose of the comparison is to identify the additional initial cost of such devices, versus their long-term energy savings. Design-Builder shall prepare a cost savings matrix that lists each device being considered and 1, 3, 5, and 10-year projected savings. The comparison shall include, but not be limited to, the following devices: Lighting, HVAC, Water, Heating, and Motors.

PART 2 - SPECIAL PROVISIONS - CONSTRUCTION MATERIALS

PART 2 SHALL CONFORM TO PART 2 OF THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, INCLUDING SUPPLEMENT AMENDMENTS, EXCEPT FOR THE FOLLOWING CHANGES AND/OR ADDITIONS:

SECTION 207 - PIPE

207-25.1 PVC Pressure Water Pipe 4"-12" To the 2009 City Supplement, DELETE items "a" and "b" after second paragraph and REPLACE with the following:

- a) Dimensions for PVC pipe shall comply with Table 2 of AWWA C900-07 for CI pipe equivalent OD.
- b) Pressure and SDR rating shall be class 235 and 18, respectively unless higher pressure class is called out on the Plans.

DRAFT

PART 3 - SPECIAL PROVISIONS - CONSTRUCTION METHODS

PART 3 SHALL CONFORM TO PART 3 OF THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, INCLUDING SUPPLEMENT AMENDMENTS, EXCEPT FOR THE FOLLOWING CHANGES AND/OR ADDITIONS:

SECTION 306 – UNDERGROUND CONDUIT CONSTRUCTION

302-5.2.6 Measurement and Payment. To the 2009 City Supplement, DELETE in its Entirety, and ADD the following:

As a condition of final payment, the Contractor shall submit a signed affidavit stating location and proposed recycling of planed asphalt grindings.

The Contractor shall bear all costs and repairs incurred due to the milling operation. These costs may include, but are not limited to, buried metal objects, or concrete protruding into the milling operation.

The payment for cold milling pavement shall be included in the Bit item for Cold Milling Asphalt Concrete Pavement.

The payment for tack coating in the areas not covered by fabric shall be included in the payment for AC Overlay and Striping.

ADD: 306-1.5.2.1 Permanent Resurfacing for Streets Requiring 9” Trench Cap. On streets designated as requiring 9” trench cap on the plans, concrete trench cap shall be replaced within # working days of pipe installation.

Complete permanent street resurfacing or slurry seal shall occur within # working days of pipe acceptance.

ADD: PART 8 – SPECIAL PROVISIONS – ENVIRONMENTAL WORKS

SECTION 800 – EXTENDED REVEGETATION MAINTENANCE AND MONITORING

800-2.3.4 Soils Testing. To the 2009 City Supplement, DELETE the last sentence and REPLACE with the following:

The payment for soil testing shall be included in the Planting, Irrigation, and Maintenance lump sum Bid item.

801-2 WATER POLLUTION CONTROL SUPPLEMENTAL PROVISIONS. ADD the following:

This contract is subject to the following version of the Water Pollution Control additional requirements (as checked) as specified in the City Supplement:

- ☐ Storm Water Pollution Prevention Plan (SWPPP)
- ☐ Tier II Storm Water Pollution Prevention Plan (Tier II SWPPP)
- ☐ Tier I Storm Water Pollution Prevention Plan (Tier I SWPPP)
- ☐ Water Pollution Control Plan (WPCP)

803-1 GENERAL. ADD the following:

A health and safety plan for this project has been prepared and attached here.

803-12 PAYMENT. To the 2009 City Supplement, item c), DELETE in its entirety and REPLACE with the following:

c) Transportation and Disposal of Hazardous Waste (AL)

804-1.4 Payment. To the 2009 City Supplement, item c), DELETE in its entirety and REPLACE with the following:

c) Transportation and Disposal of Contaminated Soil (AL)

808-1.2 Archeological and Native American Monitoring Program. DELETE in its entirety.

808-1.3 Paleontological Monitoring Program. DELETE in its entirety.

APPENDICES

1. APPENDIX A Environmental Report(s)/Exemptions/MMRP (Section 808)
2. APPENDIX B Fire Hydrant Meter Policy (7-10.9.3)
3. APPENDIX C Hydrostatic Discharge Form (Section 806)
4. APPENDIX D Sample City Invoice (9-3.2.1)
5. APPENDIX E Hazardous Waste Labels/Forms (Section 803)
6. APPENDIX F Seasonal Work/Separate Agreement (302-4.3.2.1)
7. APPENDIX G Extended Revegetation, Maintenance,
And Monitoring Agreement (Section 800)
8. APPENDIX H Caltrans Permit (7-5.2)
9. APPENDIX I Adjacent Projects (7-7.1)
10. APPENDIX J High-lining Figures (700-1.2.2.9)

DESIGN-BUILD EXHIBITS

1. EXHIBIT A List of Contract Documents
2. EXHIBIT B Site Description
3. EXHIBIT C Project Schedule
4. EXHIBIT D Schedule of Fee Payment
5. EXHIBIT E Owner Governmental Approvals
6. EXHIBIT F Americans with Disabilities Act Requirements
7. EXHIBIT G Procedure for Review of Design Materials
8. EXHIBIT H Scope of Work and Services
9. EXHIBIT I List of Bridging Documents
10. EXHIBIT J Reference Specifications
11. EXHIBIT K [Additional Exhibit]

(((((END OF SUPPLEMENTARY SPECIAL PROVISIONS))))))