



**CONTRACT DOCUMENTS FOR
CONSTRUCTION OF
SWEETWATER COMMUNITY GARDEN PROJECT
ORACLE PROJECT NO. 1021596**

REQUEST FOR BID NO. 9042

**ONSITE PRE-BID CONFERENCE September 14, 2018 AT 9:00 a.m.
BID OPENING DATE: October 5, 2018 at 2:00 p.m.**

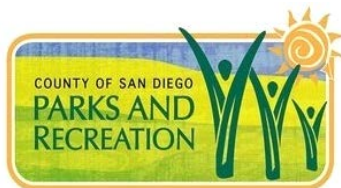
SPECIAL NOTICES

Disabled Veterans Business Enterprise (DVBE): Attention is directed to pages 1-14 through 1-16 of the contract documents concerning DVBE participation. These pages contain specific requirements for either meeting an established participation requirement or a Good Faith Effort (GFE). As a general statement, GFE submittals must include required individual solicitations of DVBE firms and appropriate supporting documentation.

Addenda and Interpretations: The Owner will not be responsible for any oral interpretation of the meaning of the plans, specifications, or other pre-bid documents. Every request for such interpretation shall be in writing and forwarded via email to William.Eames@sdcounty.ca.gov and to be given consideration must be received at least ten (10) days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be posted on the County BuyNet website at <https://buynet.sdcounty.ca.gov>. It is the responsibility of all prospective bidders to check the County BuyNet website for any updates to contract documents. All addenda so issued shall become part of the Contract Documents.

Plan Holders List: All interested parties who would like to be placed on the plan holders list, please submit your information (company name, contact person, general or sub, address, phone and fax) in its entirety to William.Eames@sdcounty.ca.gov on or before the due date for all RFIs. Plan holders list will be posted on BuyNet labeled "plan holders list" as a courtesy and is not a requirement of this solicitation. The County of San Diego makes no representation as to the accuracy or for the completeness of the plan holders list.

**COUNTY OF SAN DIEGO
DEPARTMENT OF PARKS AND RECREATION
5500 OVERLAND AVENUE, SUITE 410
SAN DIEGO, CALIFORNIA 92123-1061**





CONTRACT DOCUMENTS

FOR

SWEETWATER COMMUNITY GARDEN
PROJECT NO. 1021596

REQUEST FOR BID NO. 9042

ONSITE PRE-BID CONFERENCE: September 14, 2018 at 9:00 AM
BID OPENING DATE: October 5, 2018 at 2:00 PM

SPECIAL NOTICES

Disabled Veterans Business Enterprise (DVBE): Attention is directed to pages 1-19 through 1-21 of the contract documents concerning DVBE participation. These pages contain specific requirements for either meeting an established participation requirement of 3% or a Good Faith Effort (GFE). As a general statement, GFE submittals must include required individual solicitations of DVBE firms and appropriate supporting documentation.

Addenda and Interpretations: The Owner will not be responsible for any oral interpretation of the meaning of the plans, specifications, or other pre-bid documents. Every request for such interpretation shall be in writing and forwarded via email to PCO william.eames@sdcounty.ca.gov be given consideration must be received at least ten (10) days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be posted on the County BuyNet website at <https://buynet.sdcounty.ca.gov>. It is the responsibility of all prospective bidders to check the County BuyNet website for any updates to contract documents. All addenda so issued shall become part of the Contract Documents.

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COUNTY OF SAN DIEGO
DEPARTMENT OF PARKS AND RECREATION
5500 OVERLAND AVENUE, SUITE 410
SAN DIEGO, CALIFORNIA 92123-1061

CONTRACT DOCUMENTS FOR CONSTRUCTION
SWEETWATER COMMUNITY GARDEN
PROJECT No. 1021596
REQUEST FOR BID NO. 9042

BID OPENING DATE: September 28, 2018 (2 pm)

Any questions relative to this project, prior to execution of the Contract, should be directed to:

William Eames, Procurement Contracting Officer
Email: William.eames@sdcounty.ca.gov

RECOMMENDED BY:

BRIAN ALBRIGHT, Director
Department of Parks and Recreation

9/4/18

Date

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CONSTRUCTION OF
SWEETWATER COMMUNITY GARDEN
ORACLE PROJECT NO. 1021596

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PART I

BIDDING INFORMATION

NOTICE TO CONTRACTORS INVITING BIDS

The County of San Diego, Owner, invites sealed bids for:

CONSTRUCTION OF SWEETWATER COMMUNITY GARDEN PROJECT ORACLE PROJECT NO. 1021596 REQUEST FOR BID NO. 9042

Submit to the County of San Diego, Department of Purchasing and Contracting, Front Desk (where it will be time stamped to indicate time of receipt), 5560 Overland Avenue, Suite 270, San Diego, CA 92123 in a sealed envelope or package clearly marked on the exterior with "**RFB 9042**" and the name and address of the offeror prior to **2:00 PM**, Local Time on **October 5, 2018**. Parking is limited, so be sure to deliver your bids early.

Late submission cannot be considered unless there was mishandling on the part of the County of San Diego purchasing staff. Submittals must be received at the Purchasing and Contracting front counter by the identified date and time. If utilizing a courier service or USPS, be advised that all courier service deliveries, including USPS, might be delivered to the County's central mail room, which may result in late submission and rejection of your bid.

A pre-bid meeting is scheduled for 2:00 p.m. on September 14, 2018, 5437 Bonita Rd, Bonita, CA 91902 at proposed community garden site.

The Contractor shall possess, at the time of submitting the bid, a California contractor's license, Classification [A, General Engineering Contractor].

In accordance with Board of Supervisors Policy "B-39a", a Disabled Veterans Business Enterprise (DVBE) participation of three percent (3%) is required for a public work project that is estimated (by the County) to exceed \$1 million. A good faith effort cannot be accepted in lieu of meeting the 3% requirement. Should the lowest prime contractor not meet the 3% requirement, the next lowest responsible and responsive bidder that complies with the DVBE requirement will be awarded the contract.

For a public work project that is estimated (by the County) to be between \$500,000 and \$1 million, all bidders are required to make a good faith effort to meet-or-exceed a 3% DVBE subcontractor participation. The Good Faith Effort shall be documented demonstrating all participation was obtained prior to bid submittal.

For a public work project estimated (by the County) to be less than \$500,000, DVBE participation is encouraged, but not required. DVBE participation may be documented on page 2-10, but is not required at this estimate level.

The County's estimate including additive alternates for this public work project is between **\$250,000 - \$275,000**.

The project is located at 5437 Bonita Rd, Bonita, CA 91902 in Sweetwater Regional Park, Bonita, CA 91902.

SCOPE OF WORK (BASE BID):

Work to be done includes, in general, furnish all labor, equipment and materials for the removal of existing fences, clearing and grubbing, earthwork/grading, ADA parking stalls, swing gate, fencing, wood bollards, decomposed granite access road, drinking fountain, garden plots, and associate improvements.

ENGINEER'S ESTIMATE – BASE BID (includes Materials & Installation):

ITEM	DESCRIPTION	QTY	UNIT
1	Mobilization, including constr. fencing	1	LS
2	Implementation of SWPPP BMP's such as straw wattles, concrete washout, construction entrance, etc.	1	LS
3	Survey and Construction Staking	1	LS
4	Clearing and Grubbing	3.20	AC
5	Earthwork-rough grading/excavation and fill, see demo. & grading plan	236	CY
6	Decomposed Granite Access Road	8,315	SF
7	Concrete Paving	455	SF
8	6' Height Chain Link Double Swing Gate	1	EA
9	6' Height Chain Link Fence	580	LF
10	Vehicular Access Swing Gate	1	EA
11	10x20 Model Garden Plots and 10x20 Garden Plots	700	LF
12	20x20 Garden Plots	13,880	LF
13	Drinking Fountain with Bottle Filler	1	EA
14	Lodgepole Fence	764	LF
15	Wood Bollard	6	EA
16	Compost System	1	EA
17	ADA Parking Stall Striping and Signage	1	EA
18	Wheelchair Accessible Raised Garden Beds	18	EA
19	Bark Mulch (County provided, Contractor installed)	633	CY
20	2" Water meter	1	EA
21	Backflow Preventer with Enclosure	1	EA
22	Complete hose bib irrigation system installed, including equipment, piping, and trenching.	1	LS

ADDITIVE ALTERNATE #1:

ITEM	DESCRIPTION	QTY	UNIT
1	Remove Welded Wire Mesh Fence	700	LF
2	6' Height Chain Link Fence	700	LF

The Contractor is responsible to field verify all measurements prior to bid. No additional compensation will be provided. It is the intent of this bid schedule to include **ALL** Work in all divisions and sections of this specification. Specification references are provided as a courtesy and should not be fully relied on.

Contract Documents, including Plans, Specifications, Materials Report and Bid Forms are available to be downloaded, free of charge, from the Department of Purchasing and Contracting BuyNet website at: <https://buynet.sdcounty.ca.gov>.

Full-size plans for this project are not available for purchase.

Firms Associated with Project: The County of San Diego engaged the following Architect-Engineering firm with its subcontractors, or other firms to provide the Plans, Specifications, and Engineers Estimate (PS&E) and other related supporting technical documents or services for this construction procurement.

- **Michael Baker International.**

The firms listed above have been associated with this project and are provided for informational purposes only. This list is not intended to be relied on for purposes of compliance with any conflict of interest rules or applicable laws or regulations affecting the project. The Contractor is solely responsible for due diligence in identifying and avoiding all potential conflicts of interest related to contracting for, and construction of, this project.

The Standard Specifications for this project are the Standard Specifications of the State of California, Department of Transportation, 2010 edition, and modifications to said Standard Specifications and said Amendments contained in Part VII of these Contract Documents.

The State Department of Transportation publication "Labor Surcharge and Equipment Rental Rates" in effect the date the work is accomplished, is incorporated by reference into these Contract Documents.

Disabled Veterans Business Enterprise (DVBE) Participation: The Owner, as a matter of policy, encourages the participation of disabled veteran owned businesses. County of San Diego, Board of Supervisor DVBE policy is found at:

<http://www.sdcounty.ca.gov/cob/docs/policy/B-39a.pdf>

General Information concerning the State of California DVBE program may be found at:

<http://www.pd.dgs.ca.gov/pd>

County DVBE policy requirements shall prevail over the State of California DVBE program requirements.

Bid Security in the form of cash, or a certified or cashier's check, or a Bidder's Bond for at least ten percent of the bid amount executed by a corporation duly authorized to issue bonds in the State of California shall accompany the bid.

Performance and Payment Bonds: The successful bidder will be required to furnish a Performance Bond for one hundred percent and a Payment Bond for one hundred percent of the Contract amount.

State Prevailing Wage Rates: This project is a "public work" in accordance with Labor Code § 1720, et seq. It is the sole responsibility of the Contractor to ensure that all workers employed in the execution of the contract are paid the correct prevailing wage rate of wages. Not less than the State general prevailing wages, as determined by the Director of the Department of Industrial Relations. The Owner has obtained from the Director of the Department of Industrial Relations said Director's General Prevailing Wage Determinations for the locality in which the work is to be performed. Said determinations are on file and available for review at the 5560 Overland Avenue, Suite 270, San Diego, CA 92123-1204 and are available from the Department of Industrial Relations at <http://www.dir.ca.gov/DLSR/PWD>.

Contractor Labor Code Compliance: Contractor shall comply with the provisions of the Labor Code requiring the payment of prevailing wages on public works, commencing with Section 1720. In accordance with Labor Code, Section 1775, the Contractor shall forfeit an amount, as determined by the Labor Commissioner, for each worker paid less than the applicable prevailing wage rate for the work or craft in which that worker is employed for any work done under Contract by Contractor or by any Subcontractor. Contractor agrees to pay the difference between the prevailing wage rate and amount paid to each worker in accordance with Labor Code, Section 1775 (a)(2)(E).

Pursuant to Labor Code, Section 1770, the Director of the Department of Industrial Relations has ascertained the general prevailing rate of per diem wages and a general prevailing rate for legal holiday and overtime work for each craft required for execution of the Contract. In accordance with Labor Code, Section 1773.2, copies of the prevailing rate of per diem wages are on file and can be viewed during normal business hours at County Department of Purchasing and Contracting, 5560 Overland Avenue, Suite 270, San Diego, CA, 92123-1294.

Contractor shall post a copy of the applicable prevailing wage rates at the job site. Wage rates set forth are the minimum that may be paid by the Contractor. Nothing herein shall be construed as preventing the Contractor from paying more than the minimum rates set.

No extra compensation whatsoever will be allowed by the County due to the inability of the Contractor to hire labor at minimum rates, nor for necessity for payment by the Contractor of subsistence, travel time, overtime, or other added compensations, all of which possibilities are elements to be considered and ascertained to the Contractor's own satisfaction in preparing its Bid.

If it becomes necessary to employ crafts other than those listed in the General Prevailing Wage Rate, the Contractor shall obtain a wage rate determination. The rates thus determined shall be applicable as minimum from the time of initial employment. Contractor shall be responsible for paying the applicable rate.

The Contractor and each Subcontractor shall keep and make available accurate payroll record in accordance with Labor Code, Section 1776. The record shall contain the names, addresses, social security numbers, work classifications, 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 the Contractor and/or Subcontractor in connection with the Work. Payroll records shall be certified and shall be on forms provided by the Division of Labor Standards Enforcement, or shall contain the same information as those forms.

A copy of all payrolls shall be submitted weekly to the Engineer in accordance with Section 7-1.101A(3), "Payroll Records" of the Standard Specifications. The Contractor's and Subcontractor's certified payroll records shall be available for inspection at the principal office of the Contractor, or at the job site should the principal office be located outside of San Diego County.

Apprentices: The Contractor and each Subcontractor shall comply with the requirements of Labor Code, Section 1777.5, and any related regulations regarding the employment of registered apprentices. Properly registered apprentices shall be employed in the execution of the Work at the ratios required, but in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

Every apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which the apprentice is employed, and shall be employed only at the work of the craft or trade to which the apprentice is registered. The Contractor shall be responsible for compliance to Labor Code, Section 1777.5 for all apprenticeable occupations. More information available at:

<http://www.dir.ca.gov/DAS/DASApprenticesonPublicWorksSummaryOfRequirements.htm>

Contractors Licensing Laws: Attention is directed to the Contractors License Law, Section 7000 and following of the Business and Professions Code concerning the licensing of contractors. Any bidder or contractor not properly licensed may be subject to the penalties provided and will not be considered for award of this Contract. Contractors are required by law to be licensed and are regulated by the Contractors State License Board. Any questions concerning a contractor may be referred to the Registrar, Contractors State License Board, 9821 Business Park Drive, Sacramento, CA, 95827. Contractors are required to be properly licensed in California on the date bids are submitted (Bus. &

Prof. Code, § 7028.15), unless federal funds are involved. If federal funds are involved, the bidder shall be properly licensed in California at the time the contract is awarded (Pub. Contract Code, § 20103.5). In this case, failure of the bidder to obtain proper and adequate licensing for an award of this Contract shall constitute a failure to execute the Contract and shall result in the forfeiture of the security of the bidder.

Bid Submittal Envelope - Each Bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, bidder's address, the name of the project for which the bid is submitted, and the appropriate State Contractor's License designation held by the bidder. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed to:

County of San Diego, Department of Purchasing and Contracting
RFB 9042 – SWEETWATER COMMUNITY GARDEN
5560 Overland Avenue, Suite 270
San Diego, CA 92123-1204

It is the responsibility of the bidder to ensure the bid is submitted in proper time.

The Board reserves the right to reject any or all bids and to waive any informality or irregularity in the bids or bidding.

Withdrawal of bids shall not be permitted for a period of seventy-five (75) days after the date set for the opening thereof.

Monies withheld by the Owner to ensure performance under the Contract may be released in accordance with Public Contract Code Section 22300 and these Contract Documents.

Electrician Certification and Labor Compliance: It is the sole responsibility of the contractor, if applicable, to ensure compliance with CA Labor Code 3099-3099.5 regarding electrician certification requirements. All General Electricians and Fire/Life Safety Technicians in the employ of C-10 contractors must be certified in order to perform electrical work in CA. Information on the electrician certification program may be obtained at the Division of Apprenticeship Standards (DAS) at <http://www.dir.ca.gov/DAS/ElectricalTrade.htm>.

Preliminary Notices and Stop Notices: Preliminary (Public Work) Notices and Stop Notices shall be filed, if applicable, in accordance with California Civil Code Sections 3098, 3111, 3158, 3181, 3183, 3184, 3241 and 3252. For the Department of Parks & Recreation construction contracts notices shall be delivered to:

County of San Diego Operations Center
Department of Parks and Recreation
Attn.: Stephen Paul, Project Manager
5500 Overland Avenue, Suite 410
San Diego, CA 92123-1248

Air Pollution Compliance: The Contractor shall be in compliance with all federal, state, and local laws and regulations applicable to the Contractor.

JOHN M. PELLEGRINO, Director
Department of Purchasing and Contracting

INFORMATION FOR BIDDERS

The bidder's attention is directed to Section 2, "Bid Requirements and Conditions," of the Standard Specifications and the modifications to said Section 2 contained in Part VII of these Contract

Documents.

The prospective bidder shall prepare the Proposal and Bond as provided therein, and failure to do so may be cause for rejection.

PREPARATION OF BID FORMS

Preparation: The Owner invites bids, on the forms posted on the Department of Purchasing and Contracting's BuyNet website under "Documents to be Executed by Bidder," to be submitted on or before the time and place set for the opening of bids in the published "Notice to Contractors Inviting Bids." Bids not presented on forms so furnished will be disregarded. All downloaded and printed forms must be consistent and conform to the P&C official posted documents.

These Contract Documents on the Department of Purchasing and Contracting BuyNet website contain the Bid forms (Part II), together with the Notice to Contractors, Contract and Special Provisions. Part II of these Contract Documents shall be returned in a sealed envelope bearing on the outside the name of the bidder, bidder's address, the name of the project for which the bid is submitted, and the appropriate State Contractor's License designation held by the bidder.

The Bid must be executed in accordance with the instructions contained on the forms provided. If the bidder is an individual or a partner, the signature on the Bid and the Bidder's Bond must be the same as the name of the bidder shown on other parts of these forms, (showing the name as "J. E. Doe" and the signature as "John E. Doe" may be considered as an irregularity).

Modifications on the Submitted Bid: Modifications, changes or additions to the Bid may be considered an irregularity. Erasures or corrections in preparing the bids must be initialed by the person(s) signing the Bid. Alternate bids will not be considered unless called for.

Competency of Bidders: No award will be made to a Contractor who, in accordance with Chapter 9, Division 3, Business and Professions Code, is not properly licensed to do the described work.

Prospective bidders may be required to file with the Owner answers to questions contained in a questionnaire and a financial statement including a complete statement of their financial ability and experience in performing previous public works of a similar nature.

DOCUMENTS SUPPLEMENTING THE BID

Bid Security: Each bid shall be accompanied by cash, a certified or cashier's check, or a bidder's bond executed by a corporation duly authorized to issue bonds in the State of California. Cash, check or bond shall be in the amount of not less than ten (10) percent of the maximum amount of the bid. Check or bond shall be made payable to the order of the Owner designated in the Notice to Contractors Inviting Bids.

Said cash, check or bond shall be given as a guarantee that the bidder will, within the period specified after being requested to do so by the Owner, enter into a contract and provide the required bonds if awarded the work; if the bidder to whom the work has been awarded and to whom the request has been made refuses or fails to enter into said contract and provide the required bonds within the specified time, the cash or check shall be forfeited to the Owner or the principal and surety on the bond shall be liable to the Owner for the principal amount thereof in accordance with its terms.

If the lowest responsible bid is not accepted by the Owner within the period specified following the date set for the opening of bids, or for such further period of time as may be agreed upon in writing between the Owner and the bidder concerned, or if the bidder to whom the contract is awarded executes and delivers to the Owner the required Contract Documents, the amount of the cash or certified or cashier's check will be returned to the bidder. Attention is directed to the requirement noted on the contract bonds that the Attorney-in-Fact shall attach a certified copy of the Power of Attorney.

Designation of Subcontractor: The "Business Name and Address" and the "Portion of Work to be Subcontracted" that will be done by each subcontractor are required at the time of bid submittal. An

inadvertent error in listing the California contractor license number must be corrected by the prime contractor within 24 hours after bid opening by email to the Procurement Contracting Officer listed as contact for this RFB, provided the corrected contractor's license number corresponds to the submitted name and location for that subcontractor, or else the bid may be determined nonresponsive. The remainder of information shall be submitted by all bidders within two business days of the bid opening by e-mail to the Procurement Contracting Officer listed as contact for this RFB. If no subcontractors are to be designated, enter the word "NONE". If the bid does not comply with this requirement, it may be deemed non-responsive.

The attention of the bidder is directed to Section 8-1.01, "Subcontracting," of the Standard Specifications which requires the Contractor to perform with its own forces contracting work amounting to at least fifty percent (50%) of the total contract price, unless said percentage is changed in the Special Provisions of these Contract Documents.

AMENDMENTS AND INTERPRETATION OF CONTRACT UNIT

Addenda and Interpretations: The Owner will not be responsible for any oral interpretation of the meaning of the plans, specifications, or other pre-bid documents. Every request for such interpretation shall be in writing forwarded via email to william.eames@sdcounty.ca.gov, and must be received at least ten (10) days prior to the date fixed for the opening of bids and must be received at least ten (10) days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be posted on the County BuyNet website at <http://buynet.sdcounty.ca.gov>. It is the responsibility of all prospective bidders to check the County BuyNet website for any updates to contract documents. All addenda so issued shall become part of the Contract Documents.

Interpretation of Estimated Quantities: An estimate of quantities of work to be done and materials to be furnished under these specifications is given in the Bid, Special Provisions, or shown on the construction plans. It is given only as a basis for comparison of bids and the award of the contract. The Owner does not expressly or by implication guarantee that the actual quantities involved will correspond exactly therewith. Payment to the Contractor will be made only for the actual quantities of work performed or materials furnished in accordance with the plans and specifications.

Rejection of Bids:

The Owner reserves the right to reject any or all bids and the right to waive technicalities if such waiver is in its best interest and conforms to local laws and ordinances pertaining to the letting of construction contracts. Bids in which the prices are obviously unbalanced, or the submittal is incomplete, may be rejected.

AWARD AND EXECUTION OF THE CONTRACT

The bidder's attention is directed to Section 3, "Award and Execution of Contract," of the Standard Specifications, the modifications to said Section 3 contained in Part VII of these Contract Documents and to Part III of these Contract Documents which contains all the documents the successful bidder shall execute.

Notice of Intent: For purposes of clarification regarding Board of Supervisors Policy A-97, "Protest Procedures for Award of Contracts" the posting of the bid abstract is equivalent to the posting of the Notice of Intent (NOI).

Award of the Contract: The bids will be compared on the basis of [the base bid], including those bid items listed in alternates bid items, if any, in combinations as stipulated in the Bid, which may be selected by the Owner.

Cancellation of Award: The Owner reserves the right to cancel the award without liability to the bidder, except return of bid guaranty, at any time before a Contract has been fully executed by all parties and is approved by the Owner.

PROTEST PROCEDURES

Protest of contract award must be made in writing and shall be filed with the Contracting Officer identified in the Contract Document. Protests must be filed within five (5) business days after a Notice of Intent to award the contract has been posted in a public place in the County's Contracting Office or County Internet website. Protests must conform to the requirements of Board of Supervisors Policy "A-97 Protest Procedures for Award of Contracts". The policy is available for review at <http://www.sdcountry.ca.gov/cob/docs/policy/A-97.pdf>

For purposes of clarification regarding Board of Supervisors Policy "A-97, Protest Procedures for Award of Contracts" the posting of the bid abstract on BuyNet (<http://buynet.sdcountry.ca.gov>) is equivalent to the posting of the Notice of Intent (NOI) to award.

TAX INFORMATION

In compliance with California Revenue and Taxation code section 18662, if you are a non resident of California (out-of-state invoices) who receives California source income, the County will pay California Use Tax directly to the State of California per permit no. SR FH 25-632384. Fifteen (15) business days prior to the first payment, new suppliers or suppliers with expired forms or forms with incorrect information, must submit new forms to the County (forms are available from the Franchise Tax Board websites listed in the next page).

Under certain circumstances you may be eligible for reduced or waived nonresident withholding. If you have already received a waiver or a reduced withholding response from the State of California and the response is still valid, submit the response to the County in lieu of the forms. Failure to submit the required forms will result in withholding of payments.

Refer to the Franchise Tax Board websites (listed below) for tax forms and information on nonresident withholding, including waivers or reductions. The County will not give you any tax advice. It is recommended you speak with your tax adviser and/or the State of California for guidance.

Franchise Tax Board Websites:

<http://www.ftb.ca.gov>

http://www.ftb.ca.gov/individuals/Withholding_Definitions.shtml

http://www.ftb.ca.gov/individuals/wsc/Processing_Changes_for_2010.shtml

http://www.ftb.ca.gov/individuals/wsc/forms_and_publications.shtml

http://www.ftb.ca.gov/individuals/wsc/decision_chart.shtml

Submit forms to the Auditor & Controller via fax at (858) 694-2060 or mail originals to: County of San Diego, 5530 Overland Ave., Suite 410, San Diego, CA 92123. The P.O. Number or Contract Number (if available) and "California Revenue and Taxation Code Section 18662" must appear on fax cover sheet and/or the outside of the mailing envelope.

GENERAL INFORMATION REGARDING COMPLIANCE WITH DISABLED VETERANS BUSINESS ENTERPRISE (DVBE) PROGRAM

1. Disabled Veterans Business Enterprises will be afforded full opportunity to submit bids in response to this invitation. DVBE firms bidding as prime contractors will automatically meet the stated Disabled Veterans Business Enterprise (DVBE) participation.

2. Certified DVBE Information is available at the California State Department of General Services (DGS), Procurement Division (PD), Office of Small Business and DVBE Services (OSDS) website:

Information can be viewed or downloaded from:

<http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>

1. Board of Supervisors Policy B-39a
Board of Supervisors Policy B-39a states that Disabled Veterans Business Enterprises (DVBEs) will be afforded maximum opportunity to compete for all County contracts;
The policy can be downloaded at <http://www.sdcountry.ca.gov/cob/docs/policy/B-39a.pdf>.

2. Objectives
The following DVBE participation is imposed to recognize the service of disabled veterans to our country.

3. DVBE Participation for the Project
DVBE participation of three percent (3%) of Bid amount is required for a public work project estimated (by the County) to exceed \$1million. A good faith effort cannot be accepted in lieu of meeting the 3% requirement. A bidder who fails to meet this requirement shall be declared non-responsive and the next lowest responsible and responsive bidder that complies with this requirement will be awarded the contract.

For a public work project that is estimated (by the County) to be between \$500,000 and \$1million, the prime contractor shall make a good faith effort to meet-or-exceed 3% DVBE subcontractor participation, and the Good Faith Effort shall be documented in accordance with this bid document demonstrating all participation was obtained prior to bid submittal or the bidder may be deemed non-responsive.

For a public work project estimated (by the County) to be less than \$500,000, DVBE participation is encouraged, but not required. DVBE participation may be documented on page 2-14, but is not required at this estimate level.

4. DVBE Subcontractor Documentation
The bidder shall designate all licensed subcontractors in accordance with the instructions on the form titled DESIGNATION OF SUBCONTRACTORS contained in Part II of these Contract Documents which is due at time of bid. In addition, the bidder shall include information regarding DVBE prime contractors, subcontractors, and vendors (material suppliers and service providers) on the BIDDER DVBE INFORMATION form (page 2-14) within 2 business days of the Bid opening. "Good Faith Effort Documentation" shall be submitted in accordance with Item 7 below.

5. Credit Toward the Goal for DVBE Prime Contractors, Subcontractors and Vendors
A DVBE prime contractor automatically meets the DVBE participation for a project.

If the Prime is not a DVBE, compliance with 3% DVBE participation shall be calculated by taking the aggregate value of all DVBE subcontracts to be used on the project as a percentage of the total value of each such County contract.

6. Good Faith Effort Defined
 - a. A bidder who fails to meet the stated DVBE participation requirement for this project shall have made a good faith effort to meet participation prior to the time bids are submitted.

b. In evaluating the good faith effort of a bidder, the Owner shall consider the following criteria:

- 1) The bidder solicited certified DVBEs to perform work or provide supplies or services for the project. Good faith effort shall include solicitation of individual certified DVBEs. Record of firms solicited shall be included in the Documentation of Good Faith Effort submittal.

Solicitations conducted must be documented in the Documentation of Good Faith Effort. DVBE subcontractors solicited must be licensed for appropriate work on this project, and must be physically located within the County of San Diego, or have indicated they would consider work in San Diego Service Region 11.

Good Faith Efforts not adequately documented shall be considered non-responsive.

- 2) Where DVBE bids were rejected, the bidder provided the reasons for the rejections. If no bids received from DVBEs, the bidder shall so indicate in the Documentation of Good Faith Effort submittal.
- 3) Contact with local DVBE organizations to identify DVBE firms is encouraged but is not a requirement for the Documentation of Good Faith Effort submitted to the Owner.
- 4) Due to relatively short project solicitation periods, the Owner does not require advertising in trade and focus publications as a condition of satisfying the good faith effort for the DVBE participation. Advertising alone without direct solicitation of DVBE firms as required in paragraph 1) above does not satisfy the Good Faith Effort.

7. Good Faith Effort Documentation

For public work projects estimated (by the County) to be between \$500,000 and \$1 million where a DVBE requirement has not been established, all bidders, are required to submit the Documentation of Good Faith Effort (pages 2-16 through 2-18; and supporting documentation), in addition to the BIDDER DVBE INFORMATION form (page 2-14), within 2 business days of the Bid opening.

When the stated DVBE participation requirement is met, only the BIDDER DVBE INFORMATION form (page 2-14), contained in these Contract Documents, is required within 2 business days of Bid opening.

Bidders are cautioned that even if their BIDDER DVBE INFORMATION form (page 2-14) indicates the stated DVBE participation is met, all bidders should still consider submitting Documentation of Good Faith Effort. Submittal of satisfactory Documentation of Good Faith Effort will protect eligibility for award for those public work projects estimated (by the County) between \$500,000 and \$1 million in the event the County, in its review, finds that the stated DVBE participation has not been met.

The DVBE Good Faith Effort, if required, must be submitted on the DOCUMENTATION OF GOOD FAITH EFFORT forms (pages 2-16 through 2-18) contained in these Contract Documents and shall include sufficient and timely supporting documentation to validate the solicitations conducted.

8. Protest Procedure for DVBE

A bidder who does not attain the stated project DVBE participation or has not made a "good faith effort" in accordance with these bid document instructions may be declared non-responsive. A bidder so declared may file a protest in writing with the Director, Department of Purchasing and Contracting within five (5) business days of the notification of the declaration, in accordance with Board of Supervisor Policy A-97 "Protest Procedures for Award of Contract" located at:

<http://www.sdcounty.ca.gov/cob/docs/policy/A-97.pdf>.

11. DVBE Certification

Eligible contractors, subcontractors and vendors wishing to participate as DVBEs on this project must be certified by the California State Department of General Services (DGS), Procurement Division (PD), Office of Small Business and DVBE Services (OSDS), and have a current certification on the date bids are opened.

Information regarding certification and certified DVBEs can be obtained by visiting the Department of General Services site at:

<http://www.pd.dgs.ca.gov/pd>

PART II

DOCUMENTS TO BE EXECUTED BY BIDDER

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
PROPOSAL TO THE BOARD
FOR
SWEETWATER COMMUNITY GARDEN
ORACLE PROJECT NO. 1021596

REQUEST FOR BID NO.: 9042

Name of Bidder _____

Business Address _____

Place of Residence _____

LOCATION

The work to be performed under this contract is located in the vicinity of Sweetwater Regional Park, Bonita, CA 91902.

Said work is to be performed in accordance with the Contract and the Special Provisions annexed hereto and including Addenda Nos. _____, _____, and _____, and also in accordance with Parts 1 through 9 of the Standard Specifications of the State of California, Department of Transportation, 2015 edition, and the modifications to said Standard Specifications and said Amendments contained in Part VII of these Contract Documents.

Said work is to be performed in accordance with the Contract and the Special Provisions annexed hereto and including Addenda Nos. _____, _____, and _____, and also in accordance with Parts 1 through 5 of the Standard Specifications for Public Works Construction, Greenbook, 2012 edition, and the modifications to said Standard Specifications and said Amendments contained in Part V of these Contract Documents.

The work to be done is shown on "Base Bid Schedule" and Project Plans in Part IX of these Contract Documents.

By signing this proposal on the signature portion hereof, the undersigned, as bidder, under penalty of perjury deposes and says: that the only persons or parties interested in this Proposal as Principals are those named herein; that the bidder has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with said proposal; that the undersigned has carefully examined the location of the proposed work, the annexed proposed form of Contract, and the Plans, Special Provisions and Specifications therein referred to; and the undersigned proposes, and agrees if this Proposal is accepted, that the undersigned will furnish the required Bonds and Contract with the Owner, in the form and copy of the Contract annexed hereto, to provide all necessary machinery, tools, apparatus and other means of construction, and to do all the work and furnish all the materials specified in the Contract, in the manner and time therein set forth, and that the undersigned will take in full payment therefore the following unit and lump sum prices, to wit:

BID SCHEDULE

BASE BID:

Item No.	Description	Est. Qty.	Unit of Meas	Unit Cost	Total Cost
1	Mobilization, including constr. fencing	1	LS		
2	Implementation of SWPPP BMP's such as straw wattles, concrete washout, construction entrance, etc.	1	LS		
3	Survey and Construction Staking	1	LS		
4	Clearing and Grubbing	3.20	AC		
5	Earthwork-rough grading/excavation and fill, see demo. & grading plan	236	CY		
6	Decomposed Granite Access Road	8,315	SF		
7	Concrete Paving	455	SF		
8	6' Height Chain Link Double Swing Gate	1	EA		
9	6' Height Chain Link Fence	580	LF		
10	Vehicular Access Swing Gate	1	EA		
11	10x20 Model Garden Plots and 10x20 Garden Plots	700	LF		
12	20x20 Garden Plots	13,880	LF		
13	Drinking Fountain with Bottle Filler	1	EA		
14	Lodgepole Fence	764	LF		
15	Wood Bollard	6	EA		
16	Compost System	1	EA		
17	ADA Parking Stall Striping and Signage	1	EA		
18	Wheelchair Accessible Raised Garden Beds	18	EA		
19	Bark Mulch (County provided, Contractor installed)	633	CY		
20	2" Water meter	1	EA		
21	Backflow Preventer with Enclosure	1	EA		
22	Complete hose bib irrigation system installed, including equipment, piping, and trenching.	1	LS		
				BASE BID TOTAL	

ADDITIVE ALTERNATE #1:

Item No.	Description	Est. Qty.	Unit of Meas	Unit Cost	Total Cost
1	Remove Welded Wire Mesh Fence	700	LF		
2	6' Height Chain Link Fence	700	LF		
				Add. Alt.#1Total	

TOTAL BASE BID \$ _____

TOTAL ADDITIVE ALTERNATE #1 \$ _____

TOTAL BID (Base Bid + Additive Alternate #1) \$ _____

Name of Bidder _____

BID COMPARISON AND AWARD

If this Proposal shall be accepted and the undersigned shall fail to contract as aforesaid and to give in sums as stated in the Notice to Contractors Inviting Bids, both a faithful Performance Bond, and a Payment Bond as required by Chapter 5 (commencing at Section 3225) and Chapter 7 (commencing at Section 3247), Title 15, Part 4, Division 3, of the California Civil Code, with surety satisfactory to the Owner within the time specified in Section 3-1.03 of the Standard Specifications after the undersigned has received notice of the award of the Contract from the Owner and that the Contract is ready for signature, the Owner may, at its option, determine that the bidder has abandoned the Contract, and thereupon this Proposal and the acceptance thereof shall be null and void, and the forfeiture of the security accompanying this Proposal shall operate and the same shall be the property of the Owner.

Bids are required for the entire work shown in the Base Bid Schedule and for the Additive Alternates. The amount of the bid for comparison purposes will be the Total Bid (Base Bid plus Additive Alternates).

The bidder shall set forth for each item of work, in clearly legible figures, a unit price and a total for the item in the respective spaces provided for this purpose. In the case of unit basis items, the amount set forth under the "Total" column shall be the extension of the unit price bid on the basis of the estimated quantity for the item.

In case of discrepancy between the unit price and the total set forth for the item, the unit price shall prevail; provided, however, if the amount set forth as a unit price is ambiguous, unintelligible or uncertain for any cause, or is omitted, or in the case of unit basis items, is the same amount as the entry in the "Total" column, then the amount set forth in the "Total" column for the item shall prevail in accordance with the following:

1. As to lump sum items, the amount set forth in the "Total" column shall be the unit price.
2. As to unit basis items, the amount set forth in the "Total" column shall be divided by the estimated quantity for the item, and the price thus obtained shall be the unit price.

The quantities listed in the Proposal are approximate only. Payment for work done will be made at the contract unit prices bid as applied to the quantities actually constructed or installed.

Award of the Contract, if awarded, will be to the lowest responsible bidder, for the Total Bid, subject to the Owner's right to reject any or all bids and to waive any informality or irregularity in the bids or bidding. Bids in which the prices are obviously unbalanced may be rejected.

Award of the Contract, if awarded, will be to the lowest responsible bidder, for the **base bid plus any combination of the additive alternates**, as determined by the Owner, subject to the Owner's right to reject any or all bids and to waive any informality or irregularity in the bids or bidding. Bids in which the prices are obviously unbalanced may be rejected.

Contract unit prices/lump sum bid by the lowest responsive and responsible bidder shall be locked in for the duration of the contract, and the Owner has the right to award additional Additive Alternates at the unit prices bid, if additional funding becomes available.

Award of the Contract, if awarded, will be made to the lowest responsible bidder within forty-five (45) calendar days from the date specified for the opening of bids; within sixty (60) calendar days to the second lowest responsible bidder if the first does not execute the Contract; and within seventy-five (75) calendar days to the third lowest responsible bidder if neither the first nor the second bidder executes the Contract.

PROHIBITED CONTRACTS

Section 67 of the San Diego County Administrative Code provides that the County shall not contract with, and shall reject any bid or proposal submitted by, the person or entities specified below, unless the Board of Supervisors finds that special circumstances exist which justify the approval of such contract:

- (a) Persons employed by the County or of public agencies for which the Board of Supervisors is the governing body;
- (b) Profit-making firms or businesses in which employees described in subsection (a) serve as officers, principals, partners, or major shareholders;
- (c) Persons who, within the immediately preceding twelve (12) months came within the provisions of subsection (a) and who (1) were employed in positions of substantial responsibility in the area of service to be performed by the contract, or (2) participated in any way in developing the contract or its service specifications; and
- (d) Profit making firms or businesses in which the former employees described in subsection (c) serve as officers, principals, partners, or major shareholders.

With the affixing of a signature to your response to this solicitation, officer certifies that the above provisions of the Code have been complied with, and that any exception will cause any ensuing contract to be invalid.

CERTIFICATION OF COMPLIANCE WITH EXECUTIVE ORDER 11246, AS AMENDED

EACH BIDDER/OFFER, CONTRACTOR OR SUBCONTRACTOR HEREBY CERTIFIES THAT IT WILL FULLY COMPLY WITH EXECUTIVE ORDER 11246, AS AMENDED BY EXECUTIVE ORDER 11375, AND THE EQUAL OPPORTUNITY CLAUSE AND RULES AND REGULATIONS ISSUED THEREUNDER, WHICH ARE HEREBY INCORPORATED BY REFERENCE AS APPROPRIATE. THE CONTRACTOR COMMITS ITSELF TO SUCH COMPLIANCE BY SUBMITTING A PROPERLY SIGNED BID OR OFFER OR BY SIGNING OR OTHERWISE ACCEPTING A CONTRACT OR SUBCONTRACT.

DRUG AND ALCOHOL POLICY

It is the policy of the Board of Supervisors that in order to attain or maintain a contract with the County, each contractor shall agree that while any contractor or the contractor's employees are performing services for the County, or using County equipment, that the contractor or the contractor's employees:

1. Shall not in any way be impaired because of being under the influence of alcohol or a drug.
2. Shall not possess, consume, or be under the influence of alcohol and/or an illegal drug.
3. Shall not sell, offer, or provide alcohol or a drug to another person.

DEBARMENT AND SUSPENSION

Contractor certifies that it, its principals, its employees and its subcontractors:

1. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any State or Federal Department or agency.
2. Have not within a 3-year period preceding this Contract been convicted of, or had a civil judgment rendered against them for, the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
3. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, State, or local) with commission of any of the offenses enumerated in the paragraph above; and
4. Have not within a 3-year period preceding this Contract had one or more public transactions (federal, State, or local) terminated for cause or default.

NONCOLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

(Title 23 United States Code Section 112 and
Public Contract Code Section 7106)

State of California)
) ss
)
County of San Diego)

In accordance with Title 23 United States Code Section 112 and Public Contract Code 7106, (Name)
, being first duly sworn, deposes and says that he or she is (Title) of
(Company) the party making the foregoing bid that the bid is not made in the
interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or
corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly
induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded,
conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain
from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement,
communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any
overhead, profit, or cost element of the bid price, or that of any other bidder, or to secure any advantage
against the public body awarding the contract of anyone interested in the proposed contract; that all statements
contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid
price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or
paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid
depository, or to any member or agent thereof to effectuate a collusive or sham bid.

I hereby certify, under penalty of perjury, that the foregoing statement is true and correct.

SIGNATURE OF BIDDER _____

DATE _____

County of San Diego
Department of Purchasing and Contracting
REPRESENTATIONS AND CERTIFICATIONS

The following representations and certifications are to be completed, signed and returned with the offer (the term "offer" includes bids, proposals, quotes or any other submission to provide goods and/or services).

1. BUSINESS TYPE

☐ For-profit ☐ Non-profit ☐ Government
Attach proof of status for Non-profit.

2. INTERLOCKING DIRECTORATE

In accordance with Board of Supervisors Policy A-79, if Offeror is a non-profit as indicated in paragraph 1 above, Offeror is required to identify any related for-profit subcontractors in which an interlocking directorate, management or ownership relationship exists. If Offeror is a non-profit and will be subcontracting with a related for-profit entity, Offeror must list all such entity(ies) on an attached separate sheet, and authorization must be sought from Board of Supervisors. If Offeror is a non-profit and does not submit such a list, Offeror certifies it has no and will not enter into a subcontract relationship with a related for-profit entity.

3. BUSINESS REPRESENTATION

Offeror represents as a part of this offer the following information regarding the ownership, operation, and control of its business:

3.1. Are you a local business with a physical address within the County of San Diego? ☐ Yes ☐ No

3.2. Are you certified by the State of California as a:

☐ Disabled Veteran Business Enterprise (DVBE)

Certification #: _____

☐ Small Business Enterprise (SBE)

Certification #: _____

3.3. Are you certified by the U.S. Dept Of Veterans' Affairs as:

☐ Veteran Owned Small Business (VOSB)

Certification #: _____

☐ Service Disabled Veteran Owned Small Business (SDVOSB)

Certification #: _____

3.4. Estimated percentage of work in this offer to be performed or fulfilled locally (within the geographic boundaries of the County of San Diego): _____ %

4. DEBARMENT, SUSPENSION AND RELATED MATTERS

4.1. Offeror hereby certifies to the best of its knowledge that neither it nor any of its officers:

4.1.1. Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

4.1.2. Have within a three (3) year period preceding this agreement been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

4.2. Except as allowed for in Section 4.2.4, Offeror hereby certifies to the best of its knowledge that neither it nor any of its officers:

4.2.1 Are presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with the commission of any of the offenses enumerated in paragraph 4.1.2 of this certification;

4.2.2 Have within a three (3) year period preceding this agreement had one or more public transactions (federal, state or local) terminated for cause or default;

4.2.3 Are presently the target or subject of any investigation, accusation or charges by any federal, state or local law enforcement, licensing or certification body.

4.2.4 If Offeror is unable to certify any of the facts set forth in Sections 4.2.1, 4.2.2 or 4.2.3, it certifies that it has listed on a separate sheet(s) attached to this Representations and Certifications each fact that it cannot certify and the reason it cannot do so. That information must include the specific relevant facts (date(s), contract(s) and individual(s) involved, status of action(s), and any other relevant information) that prevent it from making the requested certifications. The County reserves the right to disqualify an Offeror based upon information disclosed.

4.3 Offeror has a continuing duty to disclose information until contract award/execution and shall report in writing to the County Department of Purchasing and Contracting within five business days of knowing or have any reason to know any change in status as certified in the preceding paragraphs 4.1 and 4.2.

4.4 If Offeror or any of its subcontractors, agents or consultants, have previously contracted with the County to perform related work on this project (e.g. preparing components of the statement of work or plans and specifications for this project), Offeror shall identify those previous agreement(s) and submit that list along with the proposal. Other than as may be submitted on said list, Offeror certifies to the best of its knowledge that it and its proposed subcontractors, agents and consultants have not previously contracted with the County to perform work on or related to this project.

5. CURRENT COST OR PRICING

Offeror certifies to the best of its knowledge that cost and/or pricing data submitted with this offer, or specifically identified by reference if actual submission of the data is impracticable, are accurate, complete, and current as of the date signed below.

6. INDEPENDENT PRICING

Offeror certifies that in relation to this procurement:

6.1. The prices in this offer have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with other offerors, with any competitors, or with any County employee(s) or consultant(s) involved in this or related procurements;

6.2. Unless otherwise required by law, the prices that have been quoted in this offer have not been knowingly disclosed by the Offeror and will not knowingly be disclosed by the Offeror prior to opening, in the case of a bid, or prior to award, in the case of a proposal, directly or indirectly to any other Offeror or to any competitor; and

6.3. No attempt has been made or will be made by the Offeror to induce any other person or firm to submit or not to submit an offer for the purpose of restricting competition.

7. TAX INFORMATION

The Offeror understands that prior to receiving a contract award from the County, the Offeror must submit a completed IRS W-9 form to provide a Federal Tax ID number, or if not available, to provide a Social Security Number (SSN).

CERTIFICATION

The information furnished in Paragraphs 1 through 7 and in the accompanying offer is certified to be factual and correct as of the date submitted and this certification is made under penalty of perjury under the laws of the State of California.

Name: _____

Signature: _____

Title: _____

Date: _____

Company/Organization: _____

SUBMIT THIS FORM AS DIRECTED IN THE REQUEST FOR SOLICITATION DOCUMENTS OR WITH THE OFFER

Revised 01-15-16

DESIGNATION OF SUBCONTRACTORS

Set forth below is the full name and the location of the place of business of each Subcontractor whom the Bidder proposes to subcontract portions of the work in excess of one-half of one percent of the total bid, or, in the case of construction of streets or highways, including bridges, in excess of one-half of one percent of the total bid or \$10,000, whichever is greater, and the portion of the work which will be done by each Subcontractor for each subcontract.

The Bidder's attention is directed to the provision titled "Subcontracting" of the Special Provisions contained in these Contract Documents.

NOTE: The Bidder understands that if the Bidder fails to specify a Subcontractor for any portion of the work to be performed under the contract in excess of one-half of one percent of the bid, or, in the case of construction of streets or highways, including bridges, in excess of one-half of one percent of the bid or \$10,000, whichever is greater, the Bidder shall be deemed to have agreed to perform such portion, and that the Bidder shall not be permitted to sublet or subcontract that portion of the work except in cases of public emergency or necessity, and then only after a finding, reduced to writing as a public record of the Awarding Authority, setting forth the facts constituting the emergency or necessity in accordance with the provision of the Subletting and Subcontracting Fair Practices Act (Section 4100 et seq. of the California Public Contract Code).

The Business Name and Address are required at time of bid submittal. The remainder of the information shall be submitted by all bidders within two business days of Bid Opening by email to the Procurement Contracting Officer listed as contact for this RFB.

If no Subcontractors are to be employed on the project, enter the word "NONE."

DESIGNATION OF SUBCONTRACTORS				
PORTION OF WORK TO BE SUBCONTRACTED		BUSINESS NAME AND ADDRESS	PERCENTAGE OF TOTAL CONTRACT	LICENSE NO.
ITEM NO.	DESCRIPTION OF WORK			

TOTAL % SUBCONTRACTED _____

Name of Bidder _____

DESIGNATION OF SUBCONTRACTORS

[illegible]

TOTAL % SUBCONTRACTED _____

Name of Bidder_____

FOR: SWEETWATER COMMUNITY GARDEN, ORACLE PROJECT NO. 1021596.

Accompanying this proposal is _____

(NOTICE: Insert the words "cash (\$ _____)," "cashier's check," "certified check," or "bidder's bond," as the case may be.) in amount equal to at least ten percent of total of the bid.

The names of all persons interested in the foregoing proposal as principals are as follows:

IMPORTANT NOTICE *If bidder or other interested person is a corporation, state legal name of corporation, also names of the president, secretary, treasurer and manager thereof; if a copartnership, state true name of firm, also names of all individual copartners composing firm; if bidder or other interested person is an individual, state first and last names in full.*

Licensed in accordance with an act providing for the registration of Contractors,

License No. _____ Classification (s) _____ Exp. Date _____

I hereby certify, under penalty of perjury, that the foregoing proposal to the Board is true and correct.

(_____)

Legal Name of Bidder

(
SIGN (
(
HERE (by _____ (SEAL)
(Signature
(
(
(
(_____
Title

NOTE: If bidder is a corporation, the legal name of the corporation shall be set forth above together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation; if bidder is a copartnership, the true name of the firm shall be set forth above together with the signature of the partner or partners authorized to sign contracts in behalf of the copartnership; and if bidder is an individual, his signature shall be placed above. If signature is by an agent, other than an officer of a corporation or a member of a partnership, a Power of Attorney must be submitted with the bid; otherwise, the bid may be disregarded as irregular and unauthorized.

Business address _____

Telephone (_____) _____ Fax(_____) _____

E-Mail address _____

Dated _____, 20 _____, at _____ California
BOND NO. _____

BIDDER'S BOND

KNOW ALL MEN BY THESE PRESENTS:

That we
.....
as Principal, and

.....
as Surety, are held and firmly bound unto the County of San Diego, a political subdivision of the State of California, hereinafter called the County, in the penal sum of TEN PERCENT (10%) OF THE TOTAL AMOUNT OF THE BID of the Principal above named, submitted by said Principal to the County for the work described below, for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

In no case shall the liability of the Surety hereunder exceed the sum of.....
.....

THE CONDITION OF THIS OBLIGATION IS SUCH,

That whereas the Principal has submitted the above-mentioned bid to the County of San Diego for certain construction specifically described as follows, for which bids are to be opened on _____ for
DATE

SWEETWATER COMMUNITY GARDEN, ORACLE PROJECT NO. 1021596.

NOW THEREFORE, if the aforesaid principal shall not withdraw said bid within the period specified therein after the opening of the same, or, if no period be specified, within sixty (60) days after said opening, and shall within the period specified therefor, or, if no period be specified, within ten (10) days after the prescribed forms are presented to him for signature, enter into a written contract with the County, in the prescribed form, in accordance with the bid as accepted, and file the two bonds with the County, one to guarantee faithful performance and the other to guarantee payment for labor and materials, as required by law, then this obligation shall be null and void; otherwise, it shall be and remain in full force and virtue.

In the event suit is brought upon this bond by the County and judgment is recovered, the Surety shall pay all costs incurred by the Owner in such suit, including a reasonable attorney's fee to be fixed by the court.

IN WITNESS WHEREOF, We have hereunto set our hands and seals on this day of A.D. 20.....

.....(SEAL).....(SEAL)
.....(SEAL).....(SEAL)
.....(SEAL).....(SEAL)
Surety Principal

ATTORNEY-IN-FACT ACKNOWLEDGEMENT OF SURETY

STATE OF)
COUNTY OF) ss

On this day of..... in the year 20..... before me
.....a notary public in and for said County and State personally
appeared known to me (or proved to me on the basis of satisfactory evidence) to
be the person whose name is subscribed to the within instrument as the attorney-in-fact of the..... the
corporation named as Surety in said instrument, and acknowledged to me that he subscribed the name of said corporation thereto as
Surety, and his own name as attorney-in-fact.

NOTE: (a) Signature of those executing for
Surety must be properly acknowledged.
(b) The Attorney-in-fact must attach
a certified copy of Power of Attorney.

.....
Notary Public In and for the County of
.....State of California

CONTRACT AWARD DOCUMENTATION (CAD) FOR DVBE PARTICIPATION

The County requesting department must complete Sections I and II below when a DVBE participation requirement for Public Work (estimated by the County) to exceed \$1million or a participation goal for Public Work (estimated by the County) to be between \$500,000 and \$1million has been met. All sections of this form must be completed by the County requesting department when a responsive bidder or responsive offeror fails to meet the Disabled Veterans Business Enterprise (DVBE) established goal for Public Work (estimated by the County) to be between \$500,000 and \$1 million. A concurring signature from the Department Director is not required on this form when the participation requirement or established goal is achieved or when no goal has been set.

I. Project Title: _____ Project/Activity No.: _____
Bidder/Offeror: _____

II. DVBE Participation Requirement or Established Goal

- A. What is the DVBE requirement or goal: _____ %
- B. What percentage of work does the bidder/offeror propose for certified DVBEs: _____ %

III. Departmental Evaluation of Good Faith

The answers which follow should reflect the judgment of the department after consideration of the information provided in the Bidder/Offeror DVBE Information form and "Good Faith Effort" Package.

- A. Did the bidder/offeror list names and dates of certified DVBE's contacted for this project? Yes / No
- B. Did the bidder/offeror list names, addresses, and phone numbers of rejected DVBE's, the reasons for the bidder's/offeror's rejection of the DVBE's and the firms selected for that work? Yes / No

Comments: _____

IV. Department Recommendation
(Check appropriate item)

_____ The bidder/offeror made a "Good Faith Effort" to comply with the established DVBE goal of certified DVBE firms. The contract **should** be awarded to this bidder/offeror.

_____ The bidder/offeror failed to make a "Good Faith Effort" to comply with the established DVBE goal of certified DVBE firms. The contract **should not** be awarded to this bidder/offeror.

Director Date

**COUNTY OF SAN DIEGO
BIDDER/OFFER DVBE INFORMATION**

ATTACHMENT B

DATE: _____

ACTIVITY/PROJECT NO. _____

PROJECT TITLE: _____

BIDDER/OFFEROR: _____ BIDDER/OFFEROR REPRESENTATIVE: _____

ITEM NO.	DESCRIPTION OF WORK, SERVICE OR MATERIAL	NAME OF CERTIFIED DVBE (PRIME, SUBCONTRACTOR, VENDOR) TO BE USED INCLUDING ADDRESS, TELEPHONE AND CERTIFICATION NUMBER.	DOLLAR AMOUNT TO BE PAID THIS DVBE
TOTAL DOLLARS TO CERTIFIED DVBE (PRIME, SUBCONTRACTOR VENDOR)			\$

COMPUTATION OF UTILIZATION AND COMPARISON WITH THE GOAL REQUIREMENT

*PARTICIPATION

CALCULATION		or ESTABLISHED GOAL
Disabled Veterans	$\frac{\text{Total Amount to DVBE}}{\text{Total Bid/Offer}} \times 100 = \text{Percent of Utilization}$ $\text{_____} \times 100 = \text{_____}\%$	<p align="center">3%</p> <p>*See DVBE information sections for details</p>

**Disabled Veteran Business Enterprise (DVBE) “Good Faith Effort” Package
For Public Work (Estimated by the County) to be between \$500,000 and \$1million**

The DVBE Cover Sheet is to be attached for the required certified DVBE documentation of “Good Faith Effort” and must be submitted within two business days of bid opening, offer due date, or individual task order submittal; or the bid or offer may be deemed non-responsive.

Project Title: _____

Project/Activity No. : _____

Bid/Offer No.: _____

Bid/Offer Date: _____

Name of Contractor/Firm Submitting Bid/Offer:

Please check off the following to insure you have included them in your documentation:

____ Documentation of “Good Faith Effort” (pages 1 thru 3)

____ Attachment of Any Additional Supporting Documentation

COUNTY OF SAN DIEGO

Page 1 of 2

DOCUMENTATION OF GOOD FAITH EFFORT
For Public Work (Estimated by the County) to be between \$500,000 and \$1million

- A. List potential DVBEs that the bidder/offeror solicited for participation in this contract along with dates.

Certified DVBE Firm	Date of Contact (Mail, Fax, Telephone, etc.)	Responded (Yes/No)
1. _____		
2. _____		
3. _____		
4. _____		
5. _____		
6. _____		
7. _____		
8. _____		
9. _____		
10. _____		
11. _____		
12. _____		
13. _____		
14. _____		
15. _____		

- B. DVBE Solicitations

Solicitation Sample:

Bidder/Offeror must attach a sample of the solicitation sent to certified DVBE firms. If phone contact was made, document conversation: date, time, contact person, and business opportunities discussed.

**DOCUMENTATION OF GOOD FAITH EFFORT
For Public Work (Estimated by the County) to be between \$500,000 and \$1million**

Identification of (1) all DVBEs who submitted bids or offers. (2) nature of work, supplies or services offered which are not accepted, (3) dollar amounts of the DVBEs bids/offers not accepted, (4) subcontractors and/or suppliers who will be used instead of the DVBEs, (5) dollar amounts of these subcontractors and/or suppliers' bids/offers, and (6) the reason for the bidder/offeror not accepting the DVBE's bid/offer. Use additional sheets if necessary.

Name of DVBE (1)	Nature of Work (2)	DVBE Bids/Offer(\$) (3)	Subcontractor/Supplier to be used (4)	Bid/Offer Amount Accepted (5)	Reason Not Accepted (6)

PART III
DOCUMENTS TO BE EXECUTED
BY THE SUCCESSFUL BIDDER
(AFTER AWARD OF CONTRACT)

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

CONTRACT
FOR
SWEETWATER COMMUNITY GARDEN PROJECT
ORACLE PROJECT NO. 1021596

RFB NO.: 9042

THIS CONTRACT, made and concluded, in duplicate, this _____ day of _____, Two Thousand and _____, between _____, Owner, by the Director, Department of Purchasing and Contracting, and

Contractor,

ARTICLE I. WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Owner, the Contractor agrees with the Owner, at the Contractor's own proper cost and expense, to do all the work and furnish all the materials, except such as are mentioned in the specifications to be furnished by the Owner, necessary to construct and complete in a good, workmanlike and substantial manner and to the satisfaction of the Owner, the project titled:

SWEETWATER COMMUNITY GARDEN PROJECT
ORACLE PROJECT NO. 1021596

Said work is to be performed in accordance with the Contract and the Special Provisions annexed hereto and including Addenda Nos. ____, ____, and ____, and also in accordance with the Standard Specifications of the State of California, Department of Transportation, 2015 edition, and the modifications to said Standard Specifications and said Amendments contained in Part VII of these Contract Documents.

The work to be done is shown on "Schedule of Work – Base Bid and Additive Alternate 1" and Project Plans (7 Pages) in Part VIII of these Contract Documents, in accordance with the Notice to Proceed.

ARTICLE II. And the Contractor agrees to receive and accept the unit and/or lump sum prices shown in the Bid Schedule for the items and quantities actually constructed or installed as full compensation for furnishing all materials and for doing all the work contemplated and embraced in this agreement; also for all loss or damage arising out of the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the Owner, and for all risks of every description connected with the work; and also for all expenses incurred by or in consequence of the suspension or discontinuance of work and for well and faithfully completing the work, and the whole thereof, in the manner and according to the Plans and Specifications, and the requirements of the Engineer under them.

ARTICLE III. The Owner hereby promises and agrees with the Contractor to employ, and does hereby employ the Contractor to provide the materials and to do the work according to the terms and conditions herein contained and referred to, for the prices aforesaid, and hereby contracts to pay the same at the time, and in the manner and upon the conditions hereinafter set forth, and the Owner and the Contractor for themselves, their heirs, executors, administrators, successors, and assigns, do hereby agree to the full performance of the covenants herein contained.

ARTICLE IV. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the Bid or Proposal of the Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of the terms of the Proposal conflicting herewith.

ARTICLE V. The Owner has obtained from the Director of the Department of Industrial Relations said Director's determinations of the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work for the locality in which the project is to be performed. Said determinations are on file and are available in the Office of the Department of Purchasing and Contracting, 5560 Overland Ave., Suite 270, San Diego, California 92123 and are available from the Department of Industrial Relations at www.dir.ca.gov/DLSR/PWD. Not less than these rates shall be paid to all workers employed on the project.

ARTICLE VI. The Contract entered into consists of the following contract documents, all of which are component parts of the Contract as if herein set out in full, or attached hereto:

1. Notice to Contractors Inviting Bids
2. Information for Bidders
3. Proposal to the Board
4. Designation of Subcontractors
5. Contract
6. Corporate Certificate
7. Partnership Certificate
8. Contractor's Certificate Regarding Worker's Compensation
9. Performance Bond
10. Payment Bond
11. Special Provisions
12. Addenda Nos. ____, ____, and ____, as issued
13. Project Plans, Standard Plans and Standard Drawings
14. Equipment Rental Rates
15. Standard Specifications
16. General Information Regarding Compliance with Disabled Veterans Business Enterprise Program
17. Bidder DVBE Information (not required if bid does not exceed \$500,000)

All of the above named contract documents are intended to be complementary. Work required by one of the above named documents and not by others shall be performed as if required by all.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands the day and year first above written.

BASIS OF AWARD: The lowest bid below or equal to the available funds with the maximum number of Additive Alternates shall be considered the lowest bid.

TOTAL BID _____

By _____ Date _____
JOHN M. PELLEGRINO, Director
Department of Purchasing and Contracting

Contractor Name

Signature of Authorized Official

Contractor Address

Printed Name / Title

City, State, Zip

Contractor License Number

Federal Tax ID / SSN

CORPORATE CERTIFICATE

I, _____ certify that I am the Secretary of the Corporation named as Contractor in the foregoing Contract; that _____, who signed said Contract on behalf of the Contractor, was then _____ of said Corporation; that said Contract was duly signed for and in behalf of said Corporation by authority of its governing body and is within the scope of its corporate powers.

Corporate Name: _____

Signature: _____ (Corporate Seal)
Secretary

PARTNERSHIP CERTIFICATE

STATE OF _____)
COUNTY OF _____) ss

On this _____ day of _____, in the year 20____, before me _____, a Notary Public in and for said County and State, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this instrument, on behalf of the partnership and acknowledged to me that the partnership executed it.

Notary's Signature: _____

Notary's Name: _____
(Type or Print)

My Commission Expires: _____

(Notary Seal)

CONTRACTOR'S CERTIFICATE REGARDING WORKER'S COMPENSATION

Section 3700 of the Labor Code provides in part as follows:

"Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees..."

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

SIGNATURE: _____

BIDDER'S NAME: _____
(Type or Print)

ADDRESS: _____

(In accordance with Article 5, commencing at Section 1860, Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this contract.)

PERFORMANCE BOND

(Page 1 of 2)

WHEREAS, the County of San Diego (hereinafter designated as COUNTY) and _____ (hereinafter designated as PRINCIPAL) have entered into a Contract for the furnishing of all materials, labor, services and equipment necessary, convenient and proper to:

**SWEETWATER COMMUNITY GARDEN PROJECT
ORACLE PROJECT NO. 1021596; RFB 9042.**

pursuant to said Contract awarded on _____; and all of the documents attached thereto and incorporated by reference, becoming a part of said Contract, are hereby referred to and made a part hereof; and,

WHEREAS, said PRINCIPAL is required according to the terms of said Contract and applicable California State law, to furnish a Bond for the faithful Performance of said Contract.

NOW, THEREFORE, we, the PRINCIPAL and _____ as SURETY, are held and firmly bound unto the COUNTY in the penal sum of: _____ Dollars (\$ _____), lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said PRINCIPAL, its subcontractors, heirs, executors, administrators, successors or assigns shall in all things stand to and abide by, and well and truly keep and perform all of the covenants, conditions, and agreements in said Contract and any and all alterations thereof made as therein provided, on its or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall defend, indemnify and save harmless the COUNTY, its officers, agents, and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

And said SURETY for value received, hereby stipulates and agrees that no change, extension of time, alteration, addition or deletion to the terms of said Contract, the accompanying Contract Documents, or to the Work to be performed hereunder shall in any way affect its obligations on this Bond, and the SURETY hereby waives notice of any such change, extension of time, alteration, addition or deletion to the terms of said Contract or to the Contract Documents or to the Work.

In the event the COUNTY terminates the PRINCIPAL's right to complete the Contract, the SURETY shall be obligated, without duplication, for:

- (a) the responsibilities of the PRINCIPAL for correction of defective work and completion of the Contract
- (b) additional legal, design, professional and delay costs resulting from the PRINCIPAL's default, and resulting from the actions or failure to act of the SURETY under this Bond
- (c) damages, including liquidated damages, as specified in the Contract.

In the event of such termination, the COUNTY may, at its sole option:

- (a) collect payment under this Bond and take over and prosecute the Contract to completion by contract or by any other methods it may deem advisable,
- (b) require the SURETY to undertake to perform and complete the Contract itself, through its agents or through independent contractors, or
- (c) require the SURETY, through a process acceptable to the COUNTY, to obtain bids or negotiated proposals from qualified contractors acceptable to the COUNTY for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the COUNTY and the contractor selected with the COUNTY's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to the COUNTY the amount of damages, including actual and liquidated damages, incurred in excess of the balance of the Contract price as a result of the PRINCIPAL's default.

BOND NO. _____

PERFORMANCE BOND

(Page 2 of 2)

In the event suit is brought upon this Bond by the COUNTY and judgment is recovered, SURETY shall pay all costs incurred by the COUNTY in such suit, including reasonable attorneys' fees to be fixed by the court in accordance with applicable statutory law.

The SURETY, by the execution of this Bond, represents and warrants that this Bond has also been duly executed by the PRINCIPAL with proper authority, and the SURETY hereby waives any defense which it might have by reason of any failure by the PRINCIPAL to execute or properly execute this Bond.

IN WITNESS WHEREOF _____ identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the PRINCIPAL and SURETY above named on the _____ day of _____, 20____.

PRINCIPAL:

SURETY:

Signature

Signature

Name

Name

Title

Title

Address

Address

NOTE TO SURETY COMPANY AND/OR SURETY COMPANY ATTORNEY-IN-FACT:

The following form of original acknowledgement should be used. If any other form of acknowledgement is used, there must be submitted a certified copy of unrevoked resolution of authority for the attorney-in-fact.

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
)

On _____, before me, the undersigned, a Notary Public in and for the State, personally appeared _____, known to me to be the duly authorized Attorney-in-Fact of the corporate SURETY named in the within instrument, known to me to be authorized to execute that instrument on behalf of said corporation, known to me to be the person whose name is subscribed to such instrument as the Attorney-in-Fact of said corporation, and acknowledged to me that he (she) subscribed the name of said corporation thereto as SURETY, and his (her) own name as Attorney-in-Fact and that said corporation executed the same.

WITNESS MY HAND AND OFFICIAL SEAL:

(SEAL)

Notary Public for the State of California

Original Acknowledgement by Attorney-in-Fact must be attached.
Corporate seals of PRINCIPAL and SURETY must be attached.

BOND NO. _____

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, the County of San Diego, a political subdivision of the State of California (hereinafter designated as Owner) on

.....20.....awarded to

..... (hereinafter designated as the Principal) a contract for the work described as follows:

SAN DIEGUITO PARK ADA PLAYGROUND IMPROVEMENTS; ORACLE PROJECT NO. 1020741

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

NOW THEREFORE, We, the Principal and as Surety, are held and firmly bound unto the Owner in the penal sum of Dollars (\$)

lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT if said Principal, hers/his/its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in Section 3181 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld and paid over to the Employment Development Department from the wages of employees of the contractor and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum hereinabove specified, and also, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the court.

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

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

IN WITNESS WHEREOF this instrument has been duly executed by the Principal and Surety above named, on the day of 20.....

..... (SEAL)
Principal

By (SEAL)

NOTE: (a) Signature of those executing for Surety must be properly acknowledged.

..... (SEAL)

(b) The Attorney-in-fact must attach a certified copy of Power of Attorney.

By (SEAL)
Attorney-in-Fact

(Attach required acknowledgements)

PART IV
SPECIAL PROVISIONS - SPECIAL CONDITIONS
(AMENDED)

**COUNTY OF SAN DIEGO
SPECIAL PROVISIONS
FOR
CONSTRUCTION OF
SWEETWATER COMMUNITY GARDEN PROJECT
ORACLE PROJECT NO. 1021596**

PART IV - SPECIAL CONDITIONS

1. Specifications and Plans

The work embraced herein shall conform to the provisions in the Standard Specifications of the State of California, Department of Transportation, dated **2015**; the modifications to said Standard Specifications and said Amendments contained in Part VII of these Contract Documents, insofar as the same may apply and these Special Provisions.

2. Beginning of Work, Time of Completion and Liquidated Damages

The Contractor's attention is directed to Section 8-1.04, "Start of Jobsite Activities", and Section 8-1.10, "Liquidated Damages", of the Standard Specifications, defining responsibility with regard to completing the work within the time specified.

The Contractor shall begin work within fifteen (15) calendar days after receiving the Notice to Proceed and shall diligently prosecute this Contract to completion before expiration of ninety (90) working days starting on the 15th day after receipt of said notice by the Contractor.

In case all the work called for and all the conditions and requirements of the Contract are not completed within the number of working days specified above, liquidated damages of one thousand nine hundred dollars (\$1,900) for each and every calendar day required to finish the work in excess of the specified number of working days shall be paid to the Owner.

3. Project Document Identification and Mailing Information

All correspondence and all other documents submitted to the Owner for this project shall contain the project title and the number as shown at the top of this page. Documents referred to include, but are not limited to: payrolls, separate payroll certification sheets, Certificates of Insurance, other required forms and submittals. Documents which are not properly identified will be returned to the Contractor.

After award of the Contract ALL correspondence, submittals, etc. for this project are to be addressed to:

DEPARTMENT OF PARKS AND RECREATION
5500 OVERLAND AVENUE, SUITE 410
SAN DIEGO, CA 92123
ATTN: CHELSEA JANDER, PARK PROJECT MANAGER

4. Guarantee

All work shall be guaranteed by the Contractor for a period of one (1) year from the date of acceptance of the work, against defective workmanship and materials furnished by the Contractor. The Contractor shall promptly replace or repair in a manner satisfactory to the Owner, any such defective work, after notice to do so from the Owner, and upon the Contractor's failure to make such replacement or repairs promptly, the Owner may perform this work and the Contractor, and its sureties shall be liable for the cost thereof.

5. Indemnification and Insurance

Attention is directed to Section 7-1.05, "Indemnification" and Section 7-1.06 "Insurance", of the Standard Specifications, including the "Modifications..." in Part VII of these Contract Documents.

6. Permits and Licenses

Attention is directed to Section 5-1.20B, "Permits, Licenses, Agreements, and Certifications", of the Standard Specifications and these Special Provisions.

The Contractor is required to obtain a traffic control permit from the Traffic Engineering Section of the County of San Diego. There is no fee for this permit.

7. Existing Utilities and Non-Highway Facilities

Attention is directed to Section 5-1.36D, "Non-Highway Facilities", of the Standard Specifications and these Special Provisions.

The Contractor's attention is directed to underground facilities marked on the plans.

The Contractor shall take special care to avoid either damage or interruption of service during construction.

The Contractor shall ascertain the exact location of underground facilities and improvements within the construction area before using equipment that may damage such facilities or interfere with their service.

At least 48 hours before starting excavation, the Contractor shall verify the location of existing underground facilities by contacting Underground Service Alert (1-800-422-4133) and by individually contacting operators of gravity sewer systems and certain other utilities which are not members of Underground Service Alert.

In accordance with Section 4215 of the Government Code, if the Contractor while performing the contract discovers any existing main or trunkline utility facilities not identified by the public agency in the Contract Plans or Specifications, the Contractor shall immediately notify the public agency and utility in writing. The public utility, where they are the owner, shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price.

An appropriate time extension will be allowed, and the Contractor shall not be assessed liquidated damages for delay in completion of the project, when such delay was caused by the

failure of the public agency or the owner of the utility to provide for removal or relocation of such utility facilities.

The Contractor shall be compensated for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating such utility facilities not indicated in the Plans and Specifications with reasonable accuracy and for equipment on the project necessarily idled during such work. Such compensation shall be at force account in accordance with the extra work provisions of the Contract.

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

8. Subcontracting

Attention is directed to Section 5-1.03, "Subcontracting", of the Standard Specifications, the modifications to said Section 5-1.03 contained in Part VII of these Contract Documents, and these Special Provisions.

The following definitions and requirements shall apply to any subcontract, supplier and equipment rental agreements entered into by the prime contractor relating to this project:

a. Definitions

"Subcontractor": A person, firm or corporation supplying labor and materials or equipment, or labor only, for work at the project for and under separate contract or agreement with, the Contractor.

Each Subcontractor shall be properly licensed by the State of California to perform the contemplated subcontract work.

"Work at the Project": Work to be performed at the location of the project, and any offsite work performed exclusively for the project, including the transportation of materials and supplies to or from the location of the project by employees of the Contractor or any Subcontractor.

"Owner-Operator": A person who has legal or equitable title to equipment and operates the equipment on work at the project; operates only that equipment to which said person has legal or equitable title, has no employees (except where necessary to assist in operating the equipment) and has only one piece of equipment at the project at any one time.

For the purpose of this Contract, owner-operators are considered to be employees of the Contractor or the Subcontractor which engaged their services.

"Incorporated Owner-Operator": A corporation which owns, operates, and maintains one or more items of equipment and rents out the equipment, operated and maintained, for work at the project.

For the purpose of this Contract, an incorporated owner-operator is considered to be an equipment rental firm.

"Equipment Rental Firm": A person (other than owner-operator), firm or corporation which rents

out equipment, operated and maintained, for work at the project.

For the purpose of this Contract, an equipment rental firm is considered to be a Subcontractor with regard to labor provision only.

"Supplier": A person, firm, or corporation which furnishes materials and supplies to the project from a commercial or industrial source.

"Labor Provisions": Any requirement regarding wage rates, hours of work, travel and subsistence payments, records, apprentices, safety and health, affirmative action requirements and equal employment opportunity, as set forth in the Contract Documents, or as required by law, rules and regulations.

b. Requirements

All workers at the project shall come under the applicable labor provisions. Workers include, but are not limited to, employees of the Contractor, Subcontractors and their employees, equipment rental firm employees, and owner-operators. Workers do not include employees of suppliers solely involved in transporting materials and supplies to or from the location of the project.

The Contractor shall notify the Engineer of the name and address of each equipment rental firm which the Contractor has employed to work at the project. Such notice shall be given not later than one working day after the equipment rental firm has begun work at the project.

The Contractor shall bind, by written agreement, each equipment rental firm employed on the project to the conditions of the contract with the Owner regarding labor provisions.

Where the contract provides that the Contractor's organization shall perform contract work amounting to a specified percent of the original total contract price, the following items will be considered:

"Contractor's organization" shall be construed to include only workers employed and paid directly by the Contractor and equipment owned or rented by the Contractor, with or without operators.

"The Contract amount upon which the specified percent requirement is computed includes the cost of materials and manufactured products which are to be purchased or produced by the Contractor under the Contract provisions."

Any clause relating to attorney's fees contained in a subcontract shall not give rise to a cause of action by Contractor against County for indemnity as a result of Contractor's liability to pay such fees, and Contractor waives any right to seek indemnity from County for payment of attorney's fees to or on behalf of a subcontractor.

9. Claims and Disputes

All claims must comply with the False Claims Act.

Any unresolved claims (demands for monetary compensation or damages) arising or related to the performance of this contract shall be resolved by first submitting such claims to mediation,

prior to their being taken to formal arbitration or litigation by any party. Any claim which is not resolved by mediation shall be resolved by arbitration pursuant to Section 9-1.22, "Arbitration", of the Standard Specifications.

Mediation shall be initiated by filing a written notice requesting mediation. All such claims shall be filed and documented in conformance with Section 9-1.17D "Final Payment and Claims", of the Standard Specifications. All mediation shall terminate not later than 180 days after the date of service in person or by mail on the Contractor of the final written decision by the Department on the claim. Mediation of any claim shall not relieve the Contractor of the requirement to file a Complaint in Arbitration within the time period specified in Section 9-1.17C, "Proposed Final Estimate", of the Standard Specifications, as modified in Part VII of these Contract Documents.

The County shall have the right to terminate the contract for cause or convenience at any time without regard to mediation.

Mediation shall be conducted utilizing the American Arbitration Association, or by any other neutral organization agreed to by the parties. The organization conducting the mediation shall hereinafter be known as "Administrator".

a. Costs

The costs for all mediation, including the administrative fees and Mediator compensation, shall be shared equally by all parties. Fees shall be jointly negotiated by all parties directly with the Administrator. The expenses of witnesses for any party shall be paid by the party producing such witnesses.

b. Selection of Mediator

A single mediator, acceptable to all parties, shall be used to mediate the dispute. The mediator will be knowledgeable in construction aspects and will be selected from lists furnished by the Administrator. The initial mediation session shall commence within 30 days of filing, unless otherwise agreed by the parties, or at the direction of the mediator.

c. Conduct of Mediation Sessions

All mediation sessions shall be conducted after the project is field complete unless a claim exceeds \$25,000 and the project has in excess of four months remaining until field completion, or unless all parties agree to immediate mediation. Mediation hearings will be conducted in an informal manner and discovery will not be allowed unless agreed to by all parties. All discussions, statements or admissions will be confidential to the proceedings and may not be used for any other purpose as it relates to the party's legal position.

Spokesperson shall be limited to owner, contractor, subcontractor and supplier personnel and their consultants. The contractor, subcontractor or supplier may have an attorney present and shall advise the other parties no less than five (5) working days before the mediation so that the other parties may also have their attorneys present.

Any resultant agreements from mediation shall be documented in writing, as agreed upon during the mediation, and may be used as the basis for a change order or other directive as appropriate. All mediation results and documentation shall be non-binding

and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed in writing by all parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

d. Contract Interpretation Disputes

Should it appear to Contractor that Work to be performed or any of the matters relative to the Contract (including without limitation Drawings or Specifications, if any, provided by County) are not satisfactorily detailed or explained therein, or should any questions arise as to the meaning or intent of Contract (including without limitation Drawings or Specifications, if any), Contractor shall first be required to seek an informal resolution to the dispute Contractor shall bear all costs incurred in giving notice. County will render a determination regarding the issue, which shall be final. If Contractor disagrees with County's decision, or if Contractor contends that County failed to provide a decision, Contractor's sole and exclusive remedy is to file a Claim in accordance with this Section. Contractor shall diligently prosecute the Disputed Work (as defined below) to final completion pending resolution of any Claim.

e. Work Disputes

If a dispute arises under the Contract respecting the true value of any Work performed, the performance or implementation of Work required by Contract, any Work omitted, any extra Work that Contractor may be required to perform or time extensions, respecting the size of any payment to Contractor during the performance of Contract, or of compliance with Contract procedures, Contractor shall first be required to seek an informal resolution to the dispute. Contractor shall bear all costs incurred in giving notice. County will render a determination regarding the issue, which shall be final. If Contractor disagrees with County's decision, or if Contractor contends that County failed to provide a decision, Contractor's sole and exclusive remedy is to file a Claim. Contractor shall diligently prosecute the Disputed Work (as defined below) pending resolution of any Claim.

The claim notice and documentation procedure described in this Section applies to all claims and disputes arising under the Contract, including without limitation, any claim or dispute by any Subcontractor or material supplier.

A voucher, invoice, proposed change, application for payment, cost proposal, request for information ("RFI"), substitution request, Change Order request, or other routine or authorized form of request for payment is not a claim under the Contract. If such request is disputed as to liability or amount, then the disputed portion of the submission may be converted to a Claim under the Contract by submitting a separate Claim in compliance with claim submission requirements.

The provisions of this Section survive termination, breach or completion of the Contract, and constitute a claims procedure by agreement under Government Code Section 930.2. Contractor shall bear all costs incurred in the preparation and submission of a Claim.

f. Informal Dispute Resolution Procedure

Should any clarification, determination, action or inaction by County or County

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consultants, Work, or any other event, in the opinion of Contractor, exceed the requirements of or not comply with the Contract, or otherwise result in Contractor seeking additional compensation in time or money for any reason (collectively "Disputed Work"), then Contractor, before commencing the Disputed Work, or within fourteen (14) days after Contractor's first knowledge of the Disputed Work, whichever is earlier, shall give County written notice thereof and a cost proposal for the Disputed Work stating clearly and in detail its objection and reasons for contending the Work or interpretation is outside the requirements of the Contract. Contractor and County shall make good faith attempts to resolve informally any and all such issues, claims and/or disputes. If a written notice and cost proposal for the Disputed Work is not issued within this time period, or if Contractor proceeds with the Disputed Work without first having given the notice required by this Section, Contractor shall waive its rights to further claim on the specific issue.

County will review Contractor's timely notice and cost proposal for Disputed Work and provide a decision within thirty (30) days. If, after receiving the decision, Contractor disagrees with it or still considers the Disputed Work required of it to be outside of the requirements of the Contract, it shall so notify County, in writing, within fourteen (14) days after receiving the decision by submitting a Notice of Potential Claim, that a formal Claim will be issued. Within thirty (30) days of receiving the decision, Contractor shall submit its Claim in the form specified herein and all arguments, justification, cost or estimates, schedule analysis, and detailed documentation supporting its position. Contractor's failure to furnish notification within fourteen (14) days and all justifying documentation within thirty (30) days will result in Contractor waiving its right to the subject Claim. Claims or claim updates stating that damages, total damages (direct and indirect), schedule input and/or any time extension will be determined at a later date shall not comply with this Section and shall result in Contractor waiving its Claim(s).

Claims shall be calculated in the same manner as Change Orders. EXCEPT WHERE PROVIDED BY LAW, OR ELSEWHERE IN THIS CONTRACT (IF APPLICABLE), COUNTY SHALL NOT BE LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES, AND CLAIMS SHALL NOT INCLUDE SPECIAL OR CONSEQUENTIAL DAMAGES.

If Contractor fails to file a Claim within the time required, then Contractor's sole remedy is to file an application for leave to file a late claim pursuant to Government Code section 930.4.

g. Claim Format

All Claims must be in writing and sent to County by registered or certified mail, return receipt requested. The Claim submitted by Contractor shall include, but not be limited to, the following: (a) A cover letter and certification under penalty of perjury of the accuracy of the contents of the Claim; (b) A summary of the Claim including underlying facts, entitlement, schedule analysis, quantum calculations and Contract provisions supporting relief; (c) A list of documents relating to the Claim including Specifications, Drawings, Requests for Clarification/RFIs, schedules, notices of delay, cost calculations and spreadsheets, and any other relevant documents; (d) A chronology of events and correspondence; (e) An analysis of Claim merit; (f) An analysis of Claim cost; and (g) All supporting documents referenced in (c).

h. Reserved

i. Exclusive Remedy

Contractor's performance of its duties and obligations specified in this Section and submission of a Claim as provided in this Section is Contractor's sole and exclusive remedy for disputes of all types pertaining to the payment of money, extension of time, the adjustment or interpretation of Contract terms or other contractual or tort relief arising from Contract. This exclusive remedy and the limitation of liability (expressed herein and elsewhere throughout Contract) apply notwithstanding the completion, termination, suspension, cancellation, breach or rescission of the Work or Contract, negligence or strict liability by County, its representatives, consultants or agents, or the transfer of Work or the Project to County for any reason whatsoever. Contractor waives all claims of waiver, estoppel, release, bar, or any other type of excuse for non-compliance with the claim submission requirements. Compliance with the notice and claim submission procedures described is a condition precedent to the right to commence litigation, file a Government Code Claim, or commence any other legal action. If Contractor fails to raise any claim(s) or issue(s) in a timely protest and timely claim, then Contractor may not thereafter assert such claims(s) or issue(s) in any Government Code Claim, subsequent litigation, or legal action. County shall not be deemed to have waived any provision, if at County's sole discretion, a claim is accepted in a manner not in accord with this Section.

j. Actions by County Upon Receipt of Claim

Upon receipt of a Claim, County shall conduct a reasonable review of the Claim and, within a period not to exceed forty-five (45) days, shall provide Contractor a written statement identifying what portion of the Claim is disputed and what portion is undisputed.

County and Contractor may, by mutual written agreement, extend the time periods provided in this Section.

If County needs approval from the Board of Supervisors to provide Contractor a written statement identifying the disputed portion and the undisputed portion of the Claim, and the Board does not meet within the forty-five (45) days or within the mutually agreed to extension of time following receipt of a Claim, County shall have up to three (3) days following the next duly publicly noticed meeting of the governing body after the forty-five (45) day period, or extension, expires to provide Contractor a written statement identifying the disputed portion and the undisputed portion.

k. Payment or Failure to Pay Undisputed Portion of Claim

Any payment due on an undisputed portion of the Claim shall be processed and made within sixty (60) days after County issues its written statement. If County fails to issue a written statement within the time required, the Claim will be deemed rejected in its entirety. A Claim that is denied by reason of County's failure to have responded to the Claim, or its failure to otherwise meet the time requirements of this Section, shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of Contractor.

l. Contractor's Dispute of Written Statement

If Contractor disputes County's written statement, or if County fails to respond to a Claim issued pursuant to this Section within the time prescribed, Contractor may within thirty (30) days from the date of County's response or, if no response was provided, from the date a response was due, demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered or certified mail, return receipt requested, County shall schedule a meet and confer conference to be held within thirty (30) days to further discuss settlement of the dispute.

m. Written Statement by County After Meet and Confer Conference

Within ten (10) business days following the conclusion of the meet and confer conference or if no meet and confer conference was requested, by the conclusion of the meet and confer period, if the Claim or any portion of the Claim remains in dispute, County shall provide Contractor a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the Claim shall be processed and made within sixty (60) days after County issues its written statement.

n. Nonbinding Mediation

Following the conclusion of the meet and confer process, Contractor must within thirty (30) days identify in writing any portion of the Claim remaining in dispute for submission to nonbinding mediation. Contractor's failure to identify a portion of the Claim remaining in dispute shall be deemed an agreement on Contractor's part with County's written statement. County and Contractor shall share the associated costs of the nonbinding mediation equally. County and Contractor shall mutually agree to a mediator within ten (10) business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator.

Mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this Section.

If mediation is unsuccessful, Contractor may pursue other remedies available at law as to the parts of the Claim remaining in dispute. For Claims involving disputed amounts below three hundred seventy-five thousand dollars (\$375,000), County and Contractor agree that resubmission, review and informal resolution of the Claim pursuant to Public Contract Code Section 20104 et seq. shall not be required.

Unless otherwise agreed to by County and Contractor in writing, the mediation conducted pursuant to this Section shall excuse any further obligation under Section 20104.4 of the Public Contract Code to mediate after litigation has been commenced.

The Claim resolution procedures in this Section do not preclude County from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation does not resolve the parties' dispute. County may initiate

arbitration by submitting a Request for Arbitration to Contractor in writing. Failure of Contractor to participate in required arbitration shall be deemed a waiver of the amounts in dispute.

o. Amounts Not Paid Timely

Amounts not paid in a timely manner as required by this Section shall bear interest at 7 percent per annum from the date payment was due.

p. Subcontractor Claims

If a Subcontractor or a lower tier subcontractor lacks legal standing to assert a Claim against County because privity of contract does not exist, Contractor may present to County a Claim on behalf of a Subcontractor or lower tier subcontractor. A Subcontractor may request in writing, either on its own behalf or on behalf of a lower tier subcontractor, that Contractor present a Claim for Work which was performed by the Subcontractor or by a lower tier subcontractor on behalf of the Subcontractor. The Claim submitted by the Subcontractor shall comply with the requirements of the Section above. Within forty-five (45) days of receipt of this written request, Contractor shall notify the Subcontractor in writing as to whether Contractor presented the Claim to County and, if Contractor did not present the Claim, provide the Subcontractor with a statement of the reasons for not having done so. Nothing in this Section shall be deemed to make the Subcontractor or lower tier subcontractor a third-party beneficiary of this Contract, require payment of any funds to the Subcontractor or lower tier subcontractor by County, or excuse any noncompliance with the stop payment requirements set forth in the Civil Code Section 9000 et seq. If County elects to make payment directly to the Subcontractor or lower tier subcontractor whose Claim for Work is presented to County by Contractor, Contractor waives and releases any Claim it may have for funds paid to the Subcontractor or lower tier subcontractor by County.

q. Compliance

The provisions of this Section constitute a non-judicial Claim settlement procedure that, pursuant to Section 930.2 of the California Government Code, shall constitute a condition precedent to submission of a valid Claim under the California Government Code. Contractor shall bear all costs incurred in the preparation, submission and administration of a Claim. Any Claims presented in accordance with the Government Code must affirmatively indicate Contractor's prior compliance with the Claims procedure herein and the previous dispositions of the Claims asserted. Pursuant to Government Code Section 930.2, the one (1) year period in Government Code Section 911.2 shall be reduced to one hundred and fifty (150) days from either accrual of the cause of action, substantial completion or termination of the Contract, whichever occurs first; in all other respects, the Government Code shall apply unchanged.

Failure to submit and administer Claims as required in this Section shall waive Contractor's right to Claim on any specific issues not included in a timely submitted Claim. Claim(s) or issue(s) not raised in a timely protest and timely Claim submitted under this Section may not be asserted in any subsequent meet and confer conference, mediation, arbitration, Government Code Claim, or legal action.

sole discretion, a Claim is administered in a manner not in accord with this Section. Waivers or modifications of this Section 4.4 may only be made through a signed Change Order approved as to form by legal counsel for both County and Contractor; oral or implied modifications shall be ineffective.

r. Filing of Government Code Claims

If Contractor still remains unsatisfied and desires to preserve its right to pursue the matter further, Contractor must then file a Claim with County, pursuant to Government Code Sections 900 *et seq.* or Sections 910, *et seq.*

10. Furnishing Materials

The Contractor's attention is directed to Section 6-2.03, "Department-Furnished Materials", of the Standard Specifications and these Special Provisions.

Materials to be furnished by the Owner are BARK MULCH.

California Public Contract Code prohibits surface mining operations which are subject to the Surface Mining and Reclamation Act of 1975 (SMARA) from selling California mined construction material to a local agency unless the operation is identified in a list referred to as the 3098 List. Contractor shall provide to the Engineer, satisfactory evidence that all California surface mined minerals (including but not limited to aggregate, sand, gravel, crushed stone, road base, fill materials, and any other mineral materials) furnished by Contractor for this project are from operations appearing on the 3098 List. The list can be viewed at the Department of Conservation's Office of Mine Reclamation (OMR) website at www.conservation.ca.gov/OMR/ab_3098_list/index.htm.

11. Stockpiling and Equipment Storage

Stockpile and equipment storage locations shall be selected by the Contractor, subject to written approval by the Engineer. When any material or equipment is to be stored outside the highway or street right of way, or other County property, the Contractor shall first obtain a written permit from the property owner on whose property the storage is to be made; and the Contractor shall file with the Engineer said permit, or a certified true copy thereof, together with a written release from the property owner absolving the County from any and all responsibility in connection with the storage of materials or equipment on said property.

The Contractor shall leave all storage areas in a neat and clean condition, satisfactory to the Engineer, and in accordance with the provisions of the storage permits. The Contractor shall create no attractive nuisance.

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

12. Public Safety

As modified and supplemented by these special conditions the Contractor shall provide for the safety of traffic and the public in conformance with the provisions in Section 7-1.04, "Public Safety," of the Standard Specifications and these special provisions.

The Contractor shall install temporary railing (Type K) between a lane open to public traffic and an excavation, obstacle or storage area when the following conditions exist:

- A. Excavations - The near edge of the excavation is 12 feet or less from the edge of the lane, except:
 - 1. Excavations covered with sheet steel or concrete covers of adequate thickness to prevent accidental entry by traffic or the public.
 - 2. Excavations less than one foot deep.
 - 3. Trenches less than one foot wide for irrigation pipe or electrical conduit, or excavations less than one foot in diameter.
 - 4. Excavations parallel to the lane for the purpose of pavement widening or reconstruction.
 - 5. Excavations in side slopes, where the slope is steeper than 4:1 (horizontal: vertical).
 - 6. Excavations protected by existing barrier or railing.
- B. Temporarily Unprotected Permanent Obstacles -The work includes the installation of a fixed obstacle together with a protective system, such as a sign structure together with protective railing, and the Contractor elects to install the obstacle prior to installing the protective system; or the Contractor, for the Contractor's convenience and with permission of the Engineer, removes a portion of an existing protective railing at an obstacle and does not replace such railing complete in place during the same day.
- C. Storage Areas-Material or equipment is stored within 12 feet of the lane and the storage is not otherwise prohibited by the provisions of the Standard Specifications and these special provisions.

The approach end of temporary railing (Type K), installed in conformance with the provisions in this section "Public Safety" and in Section 7-1.04, "Public Safety," of the Standard Specifications, shall be offset a minimum of 15 feet from the edge of the traffic lane open to public traffic. The temporary railing shall be installed on a skew toward the edge of the traffic lane of not more than one foot transversely to 10 feet longitudinally with respect to the edge of the traffic lane. If the 15-foot minimum offset cannot be achieved, the temporary railing shall be installed on the 10 to 1 skew to obtain the maximum available offset between the approach end of the railing and the edge of the traffic lane, and an array of temporary crash cushion modules shall be installed at the approach end of the temporary railing.

When traffic cones or delineators are used to delineate a temporary edge of a traffic lane, the line of cones or delineators shall be considered to be the edge of the traffic lane, however, the Contractor shall not reduce the width of an existing lane to less than 10 feet without written approval from the Engineer.

When work is not in progress on a trench or other excavation that required closure of an adjacent lane, the traffic cones or portable delineators used for the lane closure shall be placed off of and adjacent to the edge of the traveled way. The spacing of the cones or delineators shall be not more than the spacing used for the lane closure.

Suspended loads or equipment shall not be moved nor positioned over public traffic or pedestrians.

Full compensation for conforming to the provisions in this section "Public Safety," including furnishing and installing temporary railing (Type K) and temporary crash cushion modules, shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation will be allowed therefor.

13. Progress Schedule

Attention is directed to Section 8-1.02C (5), "Baseline Schedule", of the Standard Specifications and these Special Provisions.

The **Contractor shall, within seven (7) working days after receiving the Notice to Proceed and prior to starting work, submit a schedule of proposed operations to the Engineer for approval.** The schedule shall outline the Contractor's proposed Order of Work, including start and completion dates of each salient feature of the work in procurement of plant, materials, and equipment. Upon approval of this schedule by the Engineer, the Contractor may begin work.

The progress schedule submitted shall be consistent in all respects with the time and order of work requirements of the Contract. Project schedule shall include work complete in Gantt chart format, which includes work complete and milestones for work to be completed.

As the work progresses and upon written request by the Engineer, the Contractor shall submit within five (5) working days of the date of the written request a supplementary schedule consistent with the actual progress of the work.

Subsequent to the time that submittal of a progress schedule is required in accordance with these specifications, no progress payments will be made for any work until a satisfactory schedule has been submitted to the Engineer.

If any change in the progress schedule is to be made or becomes necessary due to unforeseen circumstances, the Contractor shall so notify the Engineer immediately in writing and may, upon approval by the Engineer, change the Order of Work and/or schedule of operations.

Attention is directed to "Maintaining Traffic" of these Special Provisions regarding the work hours for this project.

Work scheduled on Saturdays, Sundays or Holiday must receive prior approval from the Engineer.

14. Survey Staking

Setting stakes shall be in accordance with Section 5-1.26, "Construction Surveys", of the Standard Specifications and these Special Provisions.

All survey staking will be performed by the Contractor.

The expense incurred in replacing said stakes, which the Contractor may have failed to preserve, including travel time, shall be borne by the Contractor.

The Contractor is required to examine carefully all construction stakes and by visual inspection of stakes and string lines, forms, and headers set therefrom, interpret and confirm that the line and grade information is in accordance with the Plans. If there is an apparent error or lack of understanding as to what is meant by the staking, the Contractor shall request an interpretation of staking from the Engineer before doing any work.

15. Trench Plating

All unrestored voids, trenches, holes, excavations, etc., that are in the pedestrian or traveled way shall be protected through the use of adequately designed barricades and structural steel plates that will support legal vehicle loads.

All plates shall provide complete coverage to prevent any person, bicycle, motorcycle or motor vehicle from being endangered due to plate movement causing separations or gaps. Plates shall be installed with anchors, with the plate surfaces reasonably smooth and all vertical edges transitioned with cold-mix.

Structural steel plates shall have a non-skid surface.

All structural steel plates placed over surface voids, such as trenches and other areas to be protected in the public right-of-way shall conform to the following:

- a. Owner's name shall be legible and permanently affixed on each plate.
- b. When steel plates are placed within the public right-of-way, the Contractor shall erect sign(s) in the immediate area of the trench plate(s) identifying its name with a 24-hour number. Minimum height of letters and numbers shall be two inches.
- c. The Contractor will immediately mobilize necessary personnel and equipment after being notified by the Engineer or the Owner's emergency services section of a repair need. This includes, but is not limited to, plate anchors, cold-mix, asphalt concrete to transition/ramp from the existing roadway or sidewalk to the plate surface and back down.
- d. Failure to respond to the emergency request within two hours will be grounds for Owner repairs that will be invoiced at double the actual cost including overhead or \$500 per incident, whichever is greater.
- e. Steel plates used for bridging must extend a minimum of 300 mm (12") beyond the edges of the trench.
- f. Steel plate bridging shall be installed to operate with minimum noise.
- g. The trench shall be adequately shored to support the bridging and traffic loads.
- h. Temporary paving with cold asphalt concrete shall be used to feather the edges of the

plates, if Method (2) is used.

- i. Bridging shall be secured against displacement by using adjustable cleats, shims or other devices.

Transverse or longitudinal cuts in the right-of-way that cannot be properly completed within a work day shall be protected by structural steel plate bridging with a non-skid surface and shoring may be required to preserve unobstructed traffic flow.

As required by the Owner, structural steel plate bridging and shoring shall be installed using either Method (1) or (2):

Method (1) (For posted speeds greater than 45 mph):

The pavement shall be cold planed to a depth equal to the thickness of the plate and to a width and length equal to the dimensions of the plate. An alternate method may be used as approved by the Engineer.

Method (2) (For posted speeds equal to or less than 45 mph):

Approach plate(s) and ending plate(s) (if longitudinal placement) shall be attached to the roadway by a minimum of 2 dowels pre-drilled into the corners of the plate and 2" into the pavement. Subsequent plates are to be butted evenly (both horizontally and vertically) to each other(s). Fine graded asphalt concrete shall be compacted to form ramps, maximum slope 8.5% with a minimum 12" taper to cover all edges of the steel plates. When steel plates are removed, the dowel holes in the pavement shall be backfilled with either graded fines of asphalt concrete mix, concrete slurry or an equivalent slurry satisfactory to the Engineer.

The Contractor shall be responsible for the maintenance of the structural steel bridging plates, shoring and asphalt concrete ramps.

Unless specifically noted, structural steel plate bridging should not exceed 4 consecutive working days in any given week, unless otherwise approved by the Engineer. Backfilling of excavations shall be covered with a minimum 3" temporary layer of cold asphalt concrete.

The following table shows the required minimal thickness of steel plate bridging required for a given trench width:

Trench Width (Feet)	Minimum Plate Thickness (Inch)
1.0	1/2
1.5	3/4
2.0	7/8
3.0	1
4.0	1-1/4

Note: For spans greater than 4 feet, a structural design shall be prepared by a Registered Civil Engineer and approved by the Owner.

Structural steel plate bridging shall be designed for HS 20-44 truck loading per Caltrans Bridge Design per Specifications Manual. The Contractor shall maintain on the steel plate a non-skid surface having a minimum coefficient of friction equivalent to 0.35 as determined by either

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California Test Method 342 ANSI/ASTM 3-274.

A "ROUGH ROAD" sign (W33) with black lettering on an orange background may be used in advance of structural steel plate bridging.

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

16. Tests of Materials

The following conditions and materials, as related to this Contract, will be tested by the Owner in addition to the required manufacturers or other tests specified: relative compaction, concrete.

The Contractor shall give the Engineer written notice two (2) working days before the day on which testing services will be required.

Tests will be made by the Owner in such number and at such locations as deemed necessary by the Engineer to insure compliance with the specifications; however, the costs of retesting any portion of the work which has failed the initial tests taken by the Owner shall be borne by the Contractor.

17. Federal and State Environmental Compliance

The Owner reserves the right to terminate, amend, or modify at any time, any item or items of work as necessary to comply with either State or Federal environmental requirements enacted after the Contract has been awarded.

If the Contract is amended or modified by contract change order as herein provided, and such changes result in additional or new items of work, the Contractor shall receive compensation for direct costs incurred in accordance with either Section 4-1.05, "Changes and Extra Work", or Section 9-1.04, "Force Account", of the Standard Specifications.

The Owner reserves the right to terminate all work under this Contract, if in the opinion of the Engineer such termination is necessary in order to comply with either State or Federal environmental requirements. In the event all work is terminated as a result of such a determination by the Engineer, the Contractor shall receive compensation for the total actual and direct costs incurred to the date of said termination, and in addition a markup of twenty percent (20%) will be paid. Such payment shall constitute full compensation for all work embraced by this Contract, and no additional compensation will be allowed therefore.

18. Control of Work

Order of work shall conform to Section 5, "Control of Work," of the Standard Specifications and these Special Provisions.

Prior to commencement of any work on the project, a Preconstruction Conference will be held at the County Engineer's office for the purpose of review and discussion of the project, progress

schedule and construction procedures. At the discretion of the Engineer, periodic meetings, involving project personnel (Contractor, Utility Company and County), will be held for the purpose of coordinating project activities.

19. Dust Control

Throughout all phases of construction, including suspension of work, and until final acceptance of the project, the Contractor shall keep the work site clean and free from rubbish and debris. The Contractor shall also abate dust nuisance by cleaning or sweeping, and sprinkling with water or other means as necessary. The use of water resulting in mud on public streets will not be permitted as a substitute for cleaning, sweeping, or other methods.

Full compensation for furnishing and applying water for dust control, including that caused by public traffic, shall be considered as included in the contract prices paid for the various items of work, and no additional compensation will be allowed therefore.

20. Maintaining Traffic

Attention is directed to Section 7-1.03, "Public Convenience"; Section 7-1.04, "Public Safety"; and Section 12, "Temporary Traffic Control", of the Standard Specifications; and these Special Provisions.

The Contractor shall provide traffic control and warning signs and safety devices in accordance with "Part 6 - Temporary Traffic Control" of the "California Manual on Uniform Traffic Control Devices for Streets and Highways", dated 2009 and said Section 12 of the Standard Specifications. Warning signs and safety devices shall be supplied by the Contractor. The above-referenced manual is available from the State Department of Transportation.

Whenever construction activity will disrupt or impede access to any business, the Contractor shall, by written notice, inform each affected business of the nature and expected duration of the disruptive construction activity. Such written notice shall be delivered to each affected business a minimum of two weeks prior to the start of the disruptive construction activity.

Notification:

Permittee agrees to indemnify, hold harmless and defend the County and each of its officers and employees from any liability or responsibility for accident, loss or damaged to persons or property arising by reason of the work done by permittee, or permittee's agents, employees or representatives.

Whenever construction activity will disrupt or impede access to any residence/business, the contractor shall inform each affected residence/business by written notice the nature and expected duration of the disruptive construction activity. Such written notice shall be delivered to each affected residence/business a minimum of two (2) weeks prior to the start of the disruptive construction activity.

Devices:

Actual work area shall be protected with either orange reflectorized post delineators or by barricades sufficient in number to prevent entry of both vehicles and pedestrians except as may be noted elsewhere.

Flagging:

Flagging operation shall use alternate one-way movement to pass traffic through the construction area.

Traffic shall be controlled by flaggers as required. Flaggers shall be in constant communication with each other during the flagging operation. Advance flaggers shall be positioned upstream to warn traffic when queues develop. Additional flaggers may be required at intersections.

Where the one-lane section is short enough so that each end is visible from the other end, traffic will be controlled by means of a flagger at each end of the section. They should be able to communicate with each other verbally or by means of signals. These signals should not be such as to be mistaken for flagging signals. Where the end of one-way section is not visible from the other end, the flaggers shall maintain contact by means of radio or field telephones so that a flagger may know when to allow traffic to proceed into the section.

Flaggers shall be positioned near crest of hill allowing flaggers sufficient visibility of approaching traffic. Flaggers shall be positioned so that they are easily visible to approaching traffic.

Access:

Emergency vehicle access shall be maintained at all times.

Adequate provisions shall be made for pedestrian traffic.

Adequate sight distance shall be maintained at all intersections in the vicinity of the work zone. If sight distance is affected by the traffic control, the contractor shall provide adequate distance per the County of San Diego Public Road Standards. The use of mirrors, or such devices, is not acceptable as an alternative to providing adequate sight distance.

General:

Contractor shall be responsible for supplying and maintaining all traffic control devices for both the construction area and the detour.

The Contractor shall be responsible for supplying, installing and maintaining all traffic control devices as shown on the plan along with additional traffic control devices that may be required to ensure safe movement of traffic and pedestrians through work area.

The provisions of this section may be modified or altered if, in the opinion of the engineer, public traffic will be better served, and the work expedited. Said modifications or alterations shall not be adopted until approved in writing by the engineer.

Any open trenches within the construction area shall be adequately protected with barricades and spoil piles to prevent entry of vehicles and pedestrians, or as indicated in the plans.

All trenches shall be back-filled and paved or plate-bridged overnight. All temporary steel plate bridging shall have non-skid surfaces. Non-skid surfaces on the temporary steel plate bridging as well as the method of installing the temporary steel plate bridging and shoring shall be as specified in Section 602.1, "Temporary Steel Plate Bridging -- With a Non-Skid Surface" of the most current Caltrans Encroachment Manual. Unless approved by the County Inspector, use of steel plate bridging shall not exceed 4 consecutive working days in any given week. At the end of every work day, steel plate bridging shall not exceed 50 feet in length, unless approved by the County Inspector. Steel plates shall have AC ramps on all edges. Open trenches are not allowed during non-working hours.

All dirt and debris shall be removed from the roadway each day before completion of work. Street must be maintained in drivable condition at all times.

All advance warning signs, delineators, and barricades shall be removed from the roadway at the end of work each day (except W20-1 signs, if plate-bridging overnight.)

The Contractor is to replace roadway and all signing to normal conditions at the completion of work.

Personal vehicles of the Contractor's employees shall not be parked on the traveled way at any time, including any section closed to public traffic.

Lane closures shall conform to the provisions of the Standard Specifications. The lane or lanes to be closed shall be as approved by the Engineer. The use of reflective traffic delineators to direct traffic away from excavations shall be considered as a lane closure.

The provisions in this section may be modified or altered if, in the opinion of the Engineer, public traffic will be better served, and work expedited. Said modifications or alterations shall not be adopted until approved in writing by the Engineer.

Full compensation for conforming to the requirements of these Special Provisions, and said Sections 7 and 12 of the Standard Specifications, shall be considered as included in the contract lump sum price paid for Traffic Control, and no additional compensation will be allowed therefor.

21. Sound Control Requirements

Sound control shall conform to the provisions in Section 14-8, "Noise and Vibration", Subsection 14-8.02 "Noise Control" of the Standard Specifications and these Special Provisions.

The noise level from the Contractor's operations shall conform to Chapter 4 of Division 6 of Title 3 of Section 1 (commencing with Section 36.410) of San Diego County Code relating to noise control and abatement as added by Ordinance No. 9962 (New Series). This is available at: <http://www.sdcountry.ca.gov/dplu/docs/NO.pdf>.

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

22. Archaeological Site or Setting

During excavation or at any other time that evidence of any archaeological artifacts, human burial remains, or unique paleontology is found, the Contractor shall immediately cease work and notify the Engineer verbally and in writing.

The Contractor shall grant the Owner forty-eight (48) hours to evaluate the archaeological evidence. The Contractor will be granted an extension of time and will not be assessed with liquidated damages or any other penalties for the forty-eight (48) hour period of this provision. The Contractor shall have no claim for any additional damage or compensation due to this delay.

For additional time, beyond the forty-eight (48) hours, required by the Owner to pursue any action relative to the archaeological aspects of the site, the Contractor will be granted an appropriate time extension and shall receive additional compensation as provided in Section 8-1.07, "Delays" of the Standard Specifications.

PALEONTOLOGICAL RESOURCES:

The project is in an area **NOT** known to have a potential for containing paleontological resources.

Since an impact to paleontological resources does not typically occur until the resource is disturbed, monitoring during excavation is the essential measure to mitigate potential impacts to unique paleontological resources.

A monitoring program shall be submitted to the Engineer for approval seven days before beginning grading/earthwork operations. Equipment operators and others involved in the excavation should watch for fossils during the normal course of their duties. In accordance with the Grading Ordinance, if a fossil or fossil assemblage of greater than twelve inches in any dimension is encountered during excavation, all excavation operations in the area where the fossil or fossil assemblage was found shall be suspended immediately, and County DPW staff archeologist, Gay Hilliard shall be notified at (858) 874-4286.

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

23. Highway Construction Equipment

Attention is directed to Section 7-1.01O, "Vehicle Code", and Section 5-1.37B, "Load Limitations" of the Standard Specifications.

24. Payments

Attention is directed to Section 9, "Payment" of the Standard Specifications and these Special Provisions.

In determining the partial payments to be made to the Contractor, only the following listed

materials will be considered for inclusion in the payment as materials furnished but not incorporated in the work:

NOT APPLICABLE FOR THIS PROJECT

The cutoff date for preparation of monthly estimates shall be at the close of work on the 20th day of the month; or if the 20th day of the month falls on a non-working day, at the close of work on the latest working day prior to the 20th day of the month; or on a date mutually agreed upon by the Contractor and the Engineer. The Department shall make monthly payments to the Contractor within 30 calendar days after the monthly estimate cutoff date.

When requested by the Engineer, the Contractor shall prepare and submit for approval a breakdown estimate covering each lump sum item. The sum of the items listed in the breakdown estimate shall equal the contract lump sum price or prices. An unbalanced breakdown estimate, providing for overpayment to the Contractor on items of work which would be performed first, will not be accepted. The breakdown estimate shall be approved by the Engineer before any partial payment estimate is prepared.

For the purpose of making partial payments pursuant to Section 9-1.06, "Partial Payments", of the Standard Specifications, the amount set forth for the contract items of work hereinafter listed shall be deemed to be the maximum value of the contract item of work which will be recognized for progress payment purposes:

Partial payment to contractor shall be based on supplier's invoice to contractor. Contractor shall submit materials invoice and storage location within California with progress payment for reimbursement.

After acceptance of the contract pursuant to Section 5-1.46, "Final Inspection and Contract Acceptance", of the Standard Specifications, the amount, if any, payable for a contract item of work in excess of the maximum value for progress payment purposes hereinabove listed for the item, will be included for payment in the first estimate made after acceptance of the Contract.

25. Disposing of Materials

The Contractor shall be responsible for disposal of brush, trash, debris, and surplus materials in a safe and legal manner. Unless otherwise specified, said materials shall be disposed of outside the project limits in accordance with Section 5-1.20B(4), "Contractor – Property Owner Agreement", of the Standard Specifications.

26. Trade Names and Alternatives

Attention is directed to Section 6-3.02, "Specific Brand or Trade Name and Substitutions", of the Standard Specifications and these Special Provisions.

Whenever any material, article, or process is indicated or specified by trade, patent, or proprietary name or name of manufacturer or specified by a list of trade, patent, or proprietary names or names of manufacturers, such specifications for material, article or process, unless marked "no substitution", shall be deemed to be followed by the words "or approved equal".

27. Subsurface Investigation

Attention is directed to Section 2-1.30, "Job Site and Document Examination", of the Standard Specifications.

The following reports are available for review at and may be downloaded from the County of San Diego BuyNet website at <http://buynet.sdcounty.ca.gov>. These reports are provided for informational purposes only and are not part of this Contract:

NONE

28. Field Orders

Field orders are to facilitate decisions made in the field by the Resident Engineer and reduce approval delays.

The Resident Engineer is authorized to approve field orders for changes necessary for the successful completion and function of the project within the dollar limit established in the bid schedule.

The Resident Engineer will prepare a field order form for each approved change and submit such form with the next monthly progress payment. The field order form shall describe the reason the change is required, the work to be performed and the amount of compensation to be paid the Contractor. It shall also contain the Contractor's signature acknowledging that the compensation constitutes full payment for the work to be performed.

29. Public Disclosure of Gifts and Campaign Contributions

NOTE: This Special Condition does not apply to the initial contract for the project. It only applies to Contract Change Orders that require Board of Supervisor approval.

- a. San Diego County Charter Section 1000.1 requires that when a service contract is to be considered by the Board of Supervisors for approval, amendment, or extension, the Contractor and the registered lobbyists of the Contractor shall make the following disclosures:
 - 1) All gifts reportable pursuant to the provisions of the Political Reform Act to any member of the Board of Supervisors or to the immediate family of such member during the year preceding the date of the disclosure.
 - 2) All federal, State and local campaign contributions made to any member of the Board of Supervisors or his or her controlled committees during the year preceding the date of the disclosure.
 - 3) Or a disclosure that there are no gifts or campaign contributions to disclose.
- b. The Contractor's disclosure shall include gifts and campaign contributions from any natural person or entity constituting the Contractor and from any principal owner and principal officer of the Contractor.

- c. Contractor shall submit a written certification that the disclosure requirements have been complied with.
- d. This Clause does not apply to contracts between the County of San Diego and other governmental entities.
- e. The disclosure shall be made at least four (4) calendar days prior to the date of the meeting of the Board of Supervisors at which the approval, amendment, or extension is to be considered by the Board.
- f. The required written disclosure shall be filed with the Clerk of the Board of Supervisors, on a form prescribed by the Clerk. The Clerk of the Board shall make all disclosures available to the public on the County's Internet site after they are filed with the Clerk and prior to the day on which the Board acts on the service contract.
- g. Supplemental Disclosures. Gifts or campaign contributions made subsequent to the required written disclosure, but prior to the Board's decision, and any gift or campaign contribution inadvertently not included in the written disclosure, shall be disclosed in writing at the meeting of the Board of Supervisors prior to the Board's decision to approve, amend or extend the service contract.
- h. Failure to Comply. If subsequent to Board approval of an amendment or extension of the service contract, the disclosure is found to be incomplete or inaccurate due to intentional misconduct or gross negligence, the service contract may be voided at the discretion of the Board of Supervisors.
- i. Contract Voidable. If subsequent to approval, amendment or extension of this contract by the Board of Supervisors, the Board finds that the disclosure required by San Diego County Charter Section 1000.1 is substantially incomplete or inaccurate due to intentional misconduct or gross negligence of the Contractor or the Contractor's registered lobbyist, the contract may be voided at the sole discretion of the Board of Supervisors. All terms and conditions of the contract, including the County's obligation to pay for services received, shall remain in effect until the effective date of the Board's action to void the contract, and all contractual provisions set forth in the contract that by their terms survive the expiration or termination of the contract shall continue to remain in effect.
- j. Cost of Implementation. The County of San Diego's cost for implementing the disclosures required by this clause shall be paid by the Contractor at the time the initial disclosure is filed with the Clerk of the Board.
- k. Disclosure Forms are available at the Clerk of the Board's office at the County Administration Center, 1600 Pacific Highway, Room 402, San Diego, CA and on the Clerk of the Board's Internet Site <http://www.sdcounty.ca.gov/cob/index.html>. Original copies of the Disclosure Forms are to be filed at the Clerk of the Board's office.

30. Relations with California Regional Water Quality Control Board

This project lies within the boundaries of the San Diego Regional Water Quality Control Board (RWQCB).

http://www.swrcb.ca.gov/sandiego/water_issues/programs/stormwater/sd_stormwater.shtml

This project shall conform to the permits and modifications thereto. The NPDES general construction permit will not apply to projects where construction activities disturb less than 1 acre in a common plan of development. The Contractor shall maintain copies of the permits at the project site and shall make them available during construction.

The Contractor shall know and comply with provisions of Federal, State, and local regulations and requirements that govern the Contractor's operations and storm water and non-storm water discharges from the project site and areas of disturbance outside the project limits during construction. Attention is directed to Sections 7, "Legal Relations and Responsibility to the Public", as modified by the County.

Water pollution control requirements shall apply to storm water and non-storm water discharges from areas outside the project site which are directly and exclusively related to construction activities for this contract including, but not limited to, material borrow areas, staging areas, storage yards and access roads. The Contractor shall implement, inspect and maintain the required BMPs for those areas. Installing, inspecting and maintaining BMPs on areas outside the County right of way not specifically arranged and provided for by the County for the execution of this contract, will not be paid for.

Unless arrangements for disturbance of areas outside the project limits are made by the Department of Public Works and made part of this contract, it is expressly agreed that the County of San Diego assumes no responsibility whatsoever to the Contractor or property owner with respect to any arrangements made between the Contractor and property owner to allow disturbance of areas outside the project limits.

The Contractor shall be responsible for penalties assessed on the Contractor or the County as a result of the Contractor's failure to comply with the provisions in "Water Pollution Control" of these special provisions or with the applicable provisions of the Federal, State, and local regulations and requirements.

Penalties as used in this section shall include fines, penalties, and damages, whether proposed, assessed, or levied against the County or the Contractor, including those levied under the Federal Clean Water Act and the State Porter-Cologne Water Quality Control Act, by governmental agencies or as a result of citizen suits. Penalties shall also include payments made or costs incurred in settlement for alleged violations of applicable laws, regulations, or requirements. Costs incurred could include sums spent instead of penalties, in mitigation or to remediate or correct violations.

WITHHOLDS

The County will withhold money due the Contractor, in an amount estimated by the County, to include the full amount of penalties and mitigation costs proposed, assessed, or levied as a result of the Contractor's violation of the permits, or Federal or State law, regulations, or requirements. Funds will be withheld by the County until final disposition of these costs has been made. The Contractor shall remain liable for the full amount until the potential liability is finally resolved with the entity seeking the penalties. Instead of the withhold, the Contractor may provide a suitable bond in favor of the County to cover the highest estimated liability for any disputed penalties proposed as a result of the Contractor's violation of the permits, law, regulations, or requirements.

If a regulatory agency identifies a failure to comply with the permits and modifications thereto, or other Federal, State, or local requirements, the County will withhold money due the Contractor,

subject to the following:

- A. The County will give the Contractor 30 days notice of the County's intention to withhold funds from payments which may become due to the Contractor before acceptance of the contract. Funds withheld after acceptance of the contract will be made without prior notice to the Contractor.
- B. No withholds of additional amounts out of payments will be made if the amount to be withheld does not exceed the amount being withheld from partial payments in accordance with Section 9-1.16, "Progress Payments," of the Standard Specifications.
- C. If the County has withheld funds and it is subsequently determined that the County is not subject to the entire amount of the costs and liabilities assessed or proposed in connection with the matter for which the withhold was made, the County will return the excess amount withheld to the Contractor in the progress payment following the determination. If the matter is resolved for less than the amount withheld, the County will pay interest at a rate of 6 percent per year on the excess withhold.

The Contractor shall notify the Engineer immediately upon request from the regulatory agencies to enter, inspect, sample, monitor, or otherwise access the project site or the Contractor's records pertaining to water pollution control work. The Contractor and the County shall provide copies of correspondence, notices of violation, enforcement actions, or proposed fines by regulatory agencies to the requesting regulatory agency.

31. State Prevailing and Federal Minimum Wages

Attention is directed to Section 7-1.02K, "Labor Code", of the Standard Specifications and also to the modification of said Section contained in Part VII of these Contract Documents.

The project is a "public work" in accordance with Labor Code § 1720, et seq. It is the sole responsibility of the Contractor to ensure that all workers employed in the execution of the contract are paid the correct prevailing wage rate of wages.

State general prevailing wage rates determined by the Director of Industrial Relations for the locality in which the work is to be done, are available at the Department of Purchasing and Contracting, 5560 Overland Avenue, Suite 270, San Diego, California 92123. These wage rates are not included in the Proposal and Contract for the project. Changes, if any, to the general prevailing wage rates will be available at the same location. Said rates are also available at <http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>.

Any Contractor who is awarded a public works project and intends to use a craft or classification not shown on the general prevailing wage determinations, shall be required to pay the wage rate of that craft or classification most closely related to it as shown in the general determinations effective at the time of the call for bids.

Not less than the State general prevailing rate of per diem wages and the State general prevailing rate for holiday and overtime work, as determined by the Director of the Department of Industrial Relations as determined by the Secretary of Labor, shall be paid by the Contractor and Subcontractors to all laborers and mechanics employed on the project.

GENERAL WAGE DECISION

[INSERT MOST CURRENT GENERAL PREVAILING WAGE DETERMINATION AFTER BID
OPENING]

www.dir.ca.gov/OPRL/PWD/index.htm

REFERENCE ATTACHMENT “A” GENERAL WAGE DECISION

PART V
SPECIAL PROVISIONS – TECHNICAL SPECIFICATIONS

MODIFICATIONS TO
SECTIONS 1 THROUGH 5
OF THE
“GREENBOOK’ STANDARD SPECIFICATIONS
FOR PUBLIC WORKS CONSTRUCTION
2012 EDITION

Sections 1 through 5 the “Greenbook” Standard Specifications for Public Works Construction, dated 2012, are modified below. A modification to an amended subsection of Sections 1 through 5 shall take precedence over and be used in lieu of that modification to the unamended subsection.

**PART 2
CONSTRUCTION MATERIALS**

SECTION 200 – ROCK MATERIALS

200-1 ROCK PRODUCTS.

200-2.7 Disintegrated Granite.

200-2.7.1 General.

[Add the following:]

The terms “disintegrated granite” and “decomposed granite” shall refer to the same material and can be used interchangeably.

All decomposed granite shall be able to flow through a 3/8-inch mesh screen. The decomposed granite shall be “California Gold” by Decorative Stone Solutions (800-699-1878) or approved equal.

Binder shall be Natracil by Gail Materials (951-667-6106) or approved equal. Mix decomposed granite with Natracil, or approved equal, with pug mill that includes a weigh-belt feeder. Mix 12 lbs. of binder per 2,000 lbs. of decomposed granite

[Add the following:]

200-2.7.4 Mock-Up. Install 20 square feet minimum of stabilized decomposed granite surfacing at a location approved by the County Project Manager. Allow the County Project Manager and the project Landscape Architect to view the mock-up before proceeding with the installation of the stabilized decomposed granite surfacing. The Approved mock-up may remain as part of completed Work. Any unapproved mock-ups shall be removed by the Contractor.

200-2.7.5 Delivery, Storage, and Handling. Protect stabilized decomposed granite mix from contamination. Store under cover.

200-2.7.6 Field Conditions. Decomposed granite surfacing shall be placed on compacted subgrade soils, as approved by the County Project Manager. Subgrade soils shall be compacted to a minimum 90 percent relative compaction at optimum moisture content. Do not install stabilized decomposed granite surfacing when subgrade is saturated.

200-2.7.7 Pre-Emergent Herbicide. All chemicals used for weed control shall be registered by the State of California Department of Food and Agriculture and the Environment Protection Agency with registration identification on the label. Label shall be at the job site at all times.

All chemicals shall be applied in accordance with registered label instruction and manufacturer’s recommendations.

**PART 3
CONSTRUCTION METHODS**

SECTION 300 – EARTHWORK

300-1 CLEARING AND GRUBBING.

300-1.1 General. Add the following:

The removal of fences shall include below ground concrete footings to completely remove the fence and backfill the excavated areas to grade to allow for the construction of the proposed improvements shall be included in the contract price for this item. Fences shall be removed to the nearest fence posts and shall be approved by the County Project Manager prior to removal.

**SECTION 301 – TREATED SOIL, SUBGRADE PREPARATION, AND PLACEMENT
OF BASE MATERIALS**

[Add the following sections:]

301-6 DISINTEGRATED/DECOMPOSED GRANITE.

301-6.1 Installation. Excavate to depth required so edges of stabilized decomposed granite surface will match adjacent grades and have a maximum cross slope of 1 percent.

Apply pre-emergent herbicide and post-emergent herbicide per the manufacturer's recommendations to the subgrade prior to installation.

Blend 12 lbs. of Natracil stabilizer, or approved equal, per 2,000 lbs. of decomposed granite.

Prior to installation, the surface on which stabilized decomposed granite surfacing is to be placed shall be compacted to a minimum 90 percent relative compaction, and approved by the County Project Manager.

Install and compact to a minimum of 90 percent relative compaction in 2" maximum lift thickness and soak with sufficient water to activate Natracil stabilizer through entire depth of lift. Install and compact the additional lifts, and soak with sufficient water to activate Natracil as required.

Grade and smooth to required elevation.

After +/- 4 hours, compact final lift with a three-five ton double or single static drum roller.

Surface shall follow overall contours of landscape. Flat areas shall be crowned for drainage.

Completed surface shall be of consistent quality and free of deleterious materials such as organic materials, nails, stones, and loose material. Surface shall not have depressions or humps

greater than ¼” in ten feet.

Finished surface shall be smooth, uniform and solid. There shall be no evidence of chipping or cracking. Cured and compacted pathway shall be firm throughout profile with no spongy areas. Loose material shall not be present on the surface. Any significant irregularities in path surface shall be repaired to the uniformity of entire installation.

Apply an additional application of pre-emergent herbicide per the manufacturer’s recommendations.

One week prior to the end of the 90-day Maintenance and Establishment period, apply an additional application of pre-emergent herbicide.

301-7.2 Protection. Do not allow traffic on stabilized decomposed granite surfacing for four days after placement or until compacted stabilized decomposed granite has fully cured.

Protect stabilized decomposed granite surfacing from damage until Project completion. Repair damaged areas to match specified requirements.

301-7.3 Maintenance & Repairs. Loose aggregate will appear on the surface over time which is a natural occurrence. If excessive aggregate over ¼ inches occurs, redistribute the stabilized decomposed granite over the entire surface, water thoroughly and re-compact with a minimum one-ton drum roller. This process can be repeated as needed.

To repair, excavate damaged area leaving a minimum one inch depth of existing stabilized decomposed granite, water and scarify. Scarifying existing stabilized decomposed granite will prevent a cold joint layer between the existing stabilized decomposed granite and the newly imported pre-blended stabilized decomposed granite.

Add water to the pre-blended stabilized decomposed granite to activate. Apply moistened pre-blended stabilized decomposed granite to excavated area at or above finished grade.

Compact with a walk behind drum roller. Do not allow traffic on stabilized decomposed granite surfacing for one-two days after placement or until compacted stabilized decomposed granite has fully cured.

301-7.4 Payment. Payment for the **Decomposed Granite Access Road** will be made at the unit price per SQUARE FOOT and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, including excavation, backfill, grading and compacting the subgrade, herbicide spraying, stabilizer, blending, edging materials and installation, placing, watering, and compacting the decomposed granite, and as indicated on the Plans. No additional compensation will be allowed.

SECTION 303 – CONCRETE AND MASONRY CONSTRUCTION

303-5 CONCRETE CURBS, WALKS, GUTTERS, CROSS GUTTERS, ALLEY INTERSECTIONS, ACCESS RAMPS, AND DRIVEWAYS.

303-5.9 Measurement and Payment. Add the following:

Payment for the **Concrete Paving** will be made at the unit price per SQUARE FOOT and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, including excavation, backfill, base materials, and grading and compacting the subgrade, and as indicated on the Plans. No additional compensation will be allowed.

SECTION 304 – METAL FABRICATION AND CONSTRUCTION

304-3.4 Measurement and Payment. Add the following:

Payment for **Remove Welded Wire Mesh Fence** and install **6' Height Chain Link Fence** associated with the **BID ALTERNATE** will be made at the unit prices per LINEAR FOOT and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, including excavation, backfill, grading and compacting the subgrade, and concrete footings, and as indicated on the Plans. No additional compensation will be allowed.

[Add the following sections:]

304-6 VEHICULAR ACCESS SWING GATE.

304-6.1 Payment. Payment for the **Vehicular Access Swing Gate** will be made at the unit price per EACH and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, including excavation, backfill, grading and compacting the subgrade, concrete footings, and shop drawings, and as indicated on the Plans. No additional compensation will be allowed.

304-7 GARDEN FENCING.

304-7.1 Payment. Payment for the **10x20 Model Garden Plots and 10x20 Garden Plots** will be made at the unit price per LINEAR FOOT and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, including excavation, backfill, grading, steel T-Posts, and welded wire mesh, and as indicated on the Plans. No additional compensation will be allowed.

304-7.2 Payment. Payment for the **20x20 Garden Plots** will be made at the unit price per LINEAR FOOT and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, including excavation, backfill, grading, steel T-Posts, and welded wire mesh, and as indicated on the Plans. No additional compensation will be allowed.

304-8 DRINKING FOUNTAIN.

304-8.1 Payment. Payment for the **Drinking Fountain with Bottle Filler** will be made at the unit price per EACH and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, including excavation, backfill, and grading and compacting the subgrade, concrete paving, and as indicated on the Plans. No additional compensation will be allowed.

SECTION 305 – PILE DRIVING AND TIMBER CONSTRUCTION

[Add the following sections:]

305-3 LODGEPOLE FENCE.

305-3.1 Payment. Payment for the **Lodgepole Fence** will be made at the unit price per LINEAR FOOT and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, including excavation, backfill, grading and compacting the subgrade, and concrete footings, and as indicated on the Plans. No additional compensation will be allowed.

305-4 WOOD BOLLARD.

305-4.1 Payment. Payment for the **Wood Bollard** will be made at the unit price per EACH and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, including excavation, backfill, grading and compacting the subgrade, and concrete footings, and as indicated on the Plans. No additional compensation will be allowed.

305-5 COMPOST SYSTEM.

305-4.1 Payment. Payment for the **Compost System** will be made at the unit price per EACH and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, including excavation, backfill, grading and compacting the subgrade, and concrete footings, and as indicated on the Plans. No additional compensation will be allowed.

SECTION 314 – TRAFFIC STRIPING, CURB AND PAVEMENT MARKINGS, AND PAVEMENT MARKERS

[Add the following sections:]

314-6 ADA PARKING STALL STRIPING AND SIGNAGE.

314-6.1 Payment. Payment for the **ADA Parking Stall Striping and Signage** will be made at the unit price per LUMP SUM and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, including the precast concrete wheel stop and concrete footings, and as indicated on the Plans. No additional compensation will be allowed.

**PART 8
LANDSCAPING AND IRRIGATION**

SECTION 800 - MATERIALS

800-1 LANDSCAPING MATERIALS.

800-1.2.5 Mulch. Delete and replace with the following:

Bark mulch shall be provided by the County and delivered to the project site for installation by the Contractor.

[Add the following sections:]

800-1.6 Wheelchair Accessible Raised Garden Beds.

800-1.6.1 General. The Wheelchair accessible raised garden beds shall USA Model HDPE be by Green Circle Garden or approved equal.

800-2 IRRIGATION SYSTEM MATERIALS.

800-2.1 Pipe and Fittings.

800-2.1.1 General. Add the following before the first paragraph:

Materials and equipment installed or furnished shall be new. Any materials or equipment that do not meet the standards shall be rejected and shall be removed from the site at no expense to the County.

Pipe (General)

1. Pressure supply line from the point of connection to the backflow prevention unit for domestic water systems shall be brass, copper or other materials approved by the County Project Manager.
2. All threaded pipe shall be threaded by the manufacturer of the pipe.

800-2.1.3 Plastic Pipe for Use with Solvent Weld or Threaded Fittings. Delete the second paragraph and add the following:

Pipe shall be the type and size per the Plans. Schedule 80 fittings shall be used for all pipe. Schedule 40 pipe and fittings shall be used for all pipe sleeves and irrigation wire sleeves. The following paragraphs shall be added at the end of the subsection:

All PVC pipe must bear the following markings:

1. Manufacturer's name

2. Nominal pipe size
3. Schedule or class
4. Pressure rating in P.S.I.
5. NSF (National Sanitation Foundation) approval
6. Date of Extrusion
7. U.P.C. shield logo (IAPMO approval)

All fittings shall bear the manufacturer's name or trademark, material designation, size, applicable P.S.I. schedule and NSF seal of approval.

Solvent cement and primer for PVC solvent weld pipe and fittings shall be of type recommended by the manufacturer and shall follow installation methods prescribed by the pipe manufacturer.

800-2.2 Valves and Valve Boxes.

800-2.2.7 Valve Boxes. Delete and add the following:

Valve boxes in planting areas shall be made of durable, weather-resistant plastic material resistant to sunlight and chemical action of soils. For domestic or potable water, lids shall be green in color. The valve box cover shall be secured with a hidden latch mechanism or bolts. The cover and box shall be capable of sustaining a load of 1,500 pounds. Valve box extensions shall be by the same manufacturer as the valve box.

Automatic control valves shall be 16"x11"x12" rectangular size. Gate/ball valve and quick coupler valve boxes shall be 10" circular size.

Add the following:

800-2.3.5 Backflow Preventer Enclosure. The backflow enclosure shall be stainless steel, single swing opening, expanded metal #9, model BFE-SS-XXXX sized to fit by All-Spec Enclosures (951-654-5500) or approved equal.

SECTION 801 –INSTALLATION

801-4 PLANTING.

[Add the following sections:]

801-4.10 Wheelchair Accessible Raised Garden Beds. Assemble each garden bed per the manufacturer's recommendations. The Contractor shall add 1 cu. ft. of Vermiculite and 8 cu. ft. of high quality potting soil per raised garden bed.

801-4.10.1 Payment. Payment for the **Wheelchair Accessible Raised Garden Beds** will be made at the unit price per EACH and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and as indicated on the Plans. No additional

compensation will be allowed.

801-5 IRRIGATION SYSTEM INSTALLATION.

801-5.1 General. Add the following:

The Contractor shall check and verify the water pressure at each Point of Connection (P.O.C.) prior to beginning work. The Contractor shall notify the County Project Manager of any discrepancy between pressure indicated on the Plans and the actual water pressure measured in the field. If the pressure provided at work site or any other conditions create problems that shall prevent proper operation of the irrigation system, the County Project Manager shall be notified before commencement of any work.

Backflow preventers, backflow enclosures, and concrete pads associated with the backflow preventers shall be installed per the Plans.

Add to the last paragraph:

The Contractor shall accurately record on one set of black and white prints (irrigation drawings) all changes in work constituting departures from the original contract drawings, which will become the basis for the As-Built drawings. The As-Built drawings of the irrigation system shall show locations and depths of the following items:

- a. Points of connection.
- b. Routing of pressurized and non-pressurized lines (dimension at a maximum of 100 feet along routing).
- c. All valves.
- d. Other related equipment (as directed by County Project Manager).

Dimensions shall be from two permanent points of reference (monuments, sidewalks, curbs, and pavement). Information needed on the As-Built drawings shall be added on a day-to-day basis as the work is installed. All dimensions noted on the drawings shall be a 1/4 inch in size.

The Contractor shall submit the As-Built drawings to the County Project Manager for approval seven days prior to the start of the Maintenance and Establishment Period.

801-5.2 Trench Excavation and Backfill. Add the following:

Mechanical trenching machines shall be of an approved type to cut trenches with straight sides. Pipes shall be supported continuously on the bottom of the trench and shall be laid to an even grade. Trenching excavation shall follow layout approved by the County Project Manager and as indicated on the approved Plans.

The Contractor shall not install trenches through existing tree locations and shall avoid conflict with the root ball.

Trenches shall not be backfilled prior to approval of all required tests unless specifically directed by County Project Manager for trenches that represent an unsafe situation.

Excavated materials approved for backfilling, consisting of earth, loam, sandy clay, sand, or other approved materials shall be free from clods of earth or stones larger than 1" in diameter, shall be tamped in 4" layers under the pipe and uniformly on both sides extending the full width of the trench and the full length of the pipe. Materials shall be sufficiently damp to permit thorough compaction, free of voids. Backfill shall be mechanically compacted to a dry density equal to adjacent, undisturbed soil in landscaped areas and shall conform to adjacent grades. Under no circumstances shall truck wheels be used to compact soil.

Initial backfill on all lines shall be of fine granular material with no foreign matter larger than 1/2" diameter.

Jetting is not an acceptable method of compacting trenches.

All trenches shall be compacted to the same compaction as the adjoining area and finished flush with adjoining grades. If settlement occurs and subsequent adjustments in pipe, valves, irrigation heads, planting, or other construction is necessary, the Contractor shall make required adjustments without cost to the County.

801-5.4 Installation of Valves, Valve Boxes, and Special Equipment. Add the following:

Install valve boxes in planting areas and according to the Plans. Only one valve per box shall be allowed. Align valve boxes at right angles to the adjacent hardscape whenever possible. Where several valve boxes are located in the same area, arrange them in a uniform and orderly fashion.

Valve boxes shall have identification numbers hot branded onto the box covers. The letters shall be 2" high and shall be branded using irons specifically designed for this purpose. Heat branding shall not weaken or in any way puncture the valve box cover. Gate valves shall be branded "GV".

801-5.7 Flushing and Testing.

801-5.7.1 General. Add the following:

If leaks develop, repair leaking portions and repeat test until entire system is proven to be water-tight.

Tests shall be observed and approved by the County Project Manager prior to backfilling trenches.

801-8 PAYMENT. Add the following:

Payment for the **Bark Mulch** will be made at the unit price per SQUARE FOOT and shall include full compensation for furnishing all labor, tools, equipment, and incidentals to install the

bark mulch provided by the County to the project site, and as indicated on the Plans. No additional compensation will be allowed.

Payment for the **Water Meter** will be made at the unit price per EACH and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and as indicated on the Plans. No additional compensation will be allowed.

Payment for the **Backflow Preventer with Enclosure** will be made at the unit price per EACH and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and as indicated on the Plans. No additional compensation will be allowed.

PART VI

THIS PART WAS OMITTED.

PART VII

**SPECIAL PROVISIONS - MODIFICATIONS TO
SECTIONS 1 THROUGH 9 AND SECTION 12
OF THE
CALTRANS STANDARD SPECIFICATIONS**

NOTE TO CONTRACTORS

The 2010 Standard Specifications can be found
at http://www.dot.ca.gov/hq/esc/oe/construction_contract_standards/std_specs/2010_StdSpecs/2010_StdSpecs.pdf.

Sections 1 through 9 and Section 12 of the Standard Specifications, dated 2010, State of California, Department of Transportation and the Amendments to Sections 1 through 9 and Section 12 of said Standard Specifications, contained in Part VI of these Contract Documents, are modified below. A modification to an amended subsection of Sections 1 through 9 or Section 12 shall take precedence over and be used in lieu of that modification to the unamended subsection.

CALTRANS STANDARD SPECIFICATIONS, DIVISION I – GENERAL PROVISIONS
SUBSECTION 1-1.07, DEFINITIONS

Add:

Attorney General. Wherever used in the Standard Specifications shall refer to County Counsel.

Standard Specifications. The Standard Specifications dated May 2010, State of California, Department of Transportation.

County. County of San Diego, a political subdivision of the State of California, as created by law.

Delete and Substitute:

Delete this section in its entirety and substitute the following:

Department. Also Department of Transportation: Wherever used in the Standard Specifications, refers to the Board, except when used in reference to test methods of, or to denote publications or designate the mailing address of an agency of the State of California.

Add:

Director. Also Director of Transportation: Means, wherever used in the Standard Specifications, the Board.

Division of Measurement Standards. Wherever used in the Standard Specifications, shall refer to the Department of Agriculture-Weights and Measures of the County of San Diego.

Engineer. The County Engineer, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties delegated to them. Wherever used in the Standard Specifications, shall refer to the County Engineer.

Laboratory. The established laboratory authorized by the County Engineer to test materials used in the work.

Liquidated Damages. The amount prescribed in the specifications to be paid to the Owner or to be deducted from any payment due or to become due the Contractor for each day's delay in completing the whole or any specified portion of the work beyond the time allowed in the specifications.

Owner. The political subdivision of the State of California, as created by law, designated in the Notice to Contractors Inviting Bids.

Plans. At "The Standard Plans issued by the Department of Transportation.", delete the period and add: "and the San Diego Area Regional Standard Drawings."

State. Also, State of California. As used in these specifications relative to the contract administration, refers to the political subdivision indicated as the Owner in the Notice to Contractors Inviting Bids.

Proposal. "Contract Documents, including Plans, Specifications, and Proposal Forms are available to be downloaded, free of charge, from the Department of Purchasing & Contracting BuyNet website at: <http://buynet.sdcounty.ca.gov>".

CALTRANS STANDARD SPECIFICATIONS, DIVISION I – GENERAL PROVISIONS
SUBSECTION 2, BIDDING

No Modifications.

CALTRANS STANDARD SPECIFICATIONS, DIVISION I – GENERAL PROVISIONS
SUBSECTION 3, CONTRACT AWARD AND EXECUTION

Add:

3-1.02 Contract Bonds. Delete the first paragraph and substitute the following:

"The successful bidder shall furnish a surety bond as security for the faithful performance of the contract, and shall furnish a separate surety bond as security for the payment of all persons performing labor and furnishing materials in connection with the contract as specified by Chapter 5 (commencing at Section 3225) and Chapter 7 (commencing at Section 3247), Title 15, Part 4, Division 3, of the California Civil Code. The aforesaid bonds shall be in amounts as stated in the Notice to Contractors Inviting Bids and shall conform to the bond forms included in the Contract Documents for the project."

Delete:

3-1.07 Insurance Policies. Delete this section in its entirety.

Modify:

3-1.18 Contract Execution. Delete the first paragraph in its entirety and substitute the following:

"The contract shall be signed by the successful bidder and returned together with the contract bonds within 10 days, not including Saturdays, Sundays and legal holidays, of receiving notice that the contract has been awarded."

Replace the word "Office Engineer" with the County of San Diego, Department of Purchasing and Contracting Officer.

CALTRANS STANDARD SPECIFICATIONS, DIVISION I – GENERAL PROVISIONS
SUBSECTION 4, SCOPE OF WORK

No Modifications.

CALTRANS STANDARD SPECIFICATIONS, DIVISION I – GENERAL PROVISIONS
SUBSECTION 5, CONTROL OF WORK

Modify:

5-1.02 Contract Components. In the second paragraph delete Items 1 through 5 in their entirety and substitute the following:

“1. The governing ranking of contract parts in descending order is:

- 1.1.1 Special Provisions-Technical Provisions
 - 1.1.2 Special Provisions-Special Conditions
 - 1.2 Project plans
 - 1.3 Revised Standard Plans
 - 1.4 Standard Plans
 - 1.4.1 Modifications to Amendments to Section 1 through 9 and Section 12 of the Standard Specifications
 - 1.4.2 Modifications to Sections 1 through 9 and Section 12 of the Standard Specifications
 - 1.5 Amendments to the Standard Specifications
 - 1.6 Standard Specifications
 - 1.7 Project information
2. Written numbers and notes on a drawing govern over graphics
3. A detail drawing governs over a general drawing
4. A detail specification governs over a general specification
5. A specification in a section governs over a specification referenced by that section.”

CALTRANS STANDARD SPECIFICATIONS, DIVISION I – GENERAL PROVISION
SUBSECTION 6, CONTROL OF MATERIALS

Modify:

6-3.05A, General. In the table labeled “California Tests”, in the first line labeled “Relative Compaction” under the headings, delete “216 or 231” and substitute “216F”.

CALTRANS STANDARD SPECIFICATIONS, DIVISION I – GENERAL PROVISION
SUBSECTION 7, LEGAL RELATIONS AND RESPONSIBILITY

Delete: “7-1.06D Liability Insurance” and Add:

"7-1.06D(2) Liability Limits / Additional Insureds. Without limiting Contractor's indemnification obligations under this Contract, Contractor shall provide at its sole expense and maintain during the term of this Contract, or as may be further required herein, the insurance specified in this Article. Contractor's insurance shall protect Contractor against claims which may arise out of or result from Contractor's operations under the Contract and for which Contractor may be legally liable, whether such operations are performed by Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

1. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- A. Commercial General Liability, Occurrence form, Insurance Services Office form CG0001.
- B. Automobile Liability covering all owned, non owned and hired auto, Insurance Services Office form CA0001.
- C. Workers' Compensation, as required by State of California and Employer's Liability Insurance.
- D. Professional Errors and Omissions Liability required if Contractor provides or engages any type of professional services including but not limited to engineers and architects.

2. Minimum Limits of Insurance

The insurance required shall be written for not less than limits of liability specified in this Contract or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment. Coverages, except for Professional Errors and Omissions Liability, shall include a Waiver of Subrogation endorsement in favor of County of San Diego, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively. Contractor shall maintain limits no less than:

- A. Commercial General Liability including Premises, Operations, Products and Completed Operations, Contractual Liability, Independent Contractors Liability: \$1,000,000 per occurrence for bodily injury, personal injury, and property damage. . The General Aggregate limit shall be \$2,000,000 and shall be a Project Specific Aggregate. Contractor shall maintain Commercial General Liability (CGL) insurance, including Completed Operations and Products with a limit of not less than less than \$1,000,000 per occurrence for three (3) years following County filing of the Notice of Completion (NOC) for the contracted work.
- B. Automobile Liability: \$1,000,000 each accident for bodily injury and property damage. Coverage will include contractual liability equivalent to that provided in the 1990 and later editions of CA 0001. .
- C. Worker's Compensation and Employer's Liability: \$1,000,000 each accident for bodily injury or disease.
- D. Professional Errors and Omissions Liability: \$1,000,000 per claim with an aggregate limit of not less than \$2,000,000. Any self retained limit shall not be greater than \$50,000 per

occurrence/event without County's Risk Manager's approval. Coverage shall include contractual liability coverage. If policy contains one or more aggregate limits, a minimum of 50% of any such aggregate limit must remain available at all times; if over 50% of any such aggregate limit has been paid or reserved, County will require additional coverage to be purchased by Contractor to restore the required limits. This coverage shall be maintained for a minimum of three years following termination or completion of Contractor's work pursuant to the Contract.

3. Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to, stated on the Certificates of Insurance, and approved by County Risk Management. At the option of the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the County, guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4. Other Insurance Provisions

The general liability, automobile liability, and professional liability are to contain, or be endorsed to contain the following provisions:

A. Additional Insured endorsement [Does not apply to professional liability]

Any general liability policy provided by Contractor shall contain an additional insured endorsement applying coverage to the County of San Diego, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively.

B. Primary Insurance endorsement

For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the County, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively. Any insurance or self-insurance maintained by the County, its officers, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

C. Notice of Cancellation

Each required insurance policy shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice, or ten (10) days notice for non-payment of premium, by certified mail, return receipt requested, has been given to the County at the address shown in section of Contract entitled "Notices".

D. Severability of Interest clause

General Liability and Auto Liability policy will contain clause that coverage applies separately to each insured, except with respect to the limits of liability, and that an act or omission by one of the named insureds shall not reduce or avoid coverage to the other named insureds.

General Provisions

5. Qualifying Insurers

All required policies of insurance shall be issued by companies which have been approved to do business in the State of California by the State Department of Insurance, and which hold a current

policy holder's alphabetic and financial size category rating of not less than A-, VII according to the current Best's Key Rating guide, or a company of equal financial stability that is approved by County's Risk Manager.

6. Evidence of Insurance

Prior to commencement of this Contract, but in no event later than the effective date of the Contract, Contractor shall furnish the County with certificate of insurance and amendatory endorsements effecting coverage required by this clause. If requested by the County in writing, the Contractor shall furnish certified copies of the actual required insurance policies within thirty (30) days after effective receipt of such request. Thereafter, copies of renewal policies (if requested), certificate and amendatory endorsements shall be furnished to County within thirty (30) days of the expiration of the term of any required policy. Contractor shall permit County at all reasonable times to inspect any policies of insurance which Contractor has not delivered to County.

7. Failure to Obtain or Maintain Insurance; County's Remedies

Contractor's failure to provide insurance specified or failure to deliver certified copies of policies or certificates of insurance, or failure to make premium payments required by such insurance, shall constitute a material breach of the Contract, and County may, at its option, terminate the Contract for any such default by Contractor.

8. No Limitation of Obligations

The foregoing insurance requirements as to the types and limits of insurance coverage to be maintained by Contractor, and any approval of said insurance by the County are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Contractor pursuant to the Contract, including, but not limited to, the provisions concerning indemnification.

9. No Recourse

The insurer shall have no recourse against County for payment of any premium or for assessments under any insurance policy maintained in connection with this Contract.

10. Review of Coverage

County retains the right at any time to review the coverage, form and amount of insurance required herein and may require contractor to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required.

11. Self-Insurance

Contractor may, with the prior written consent of County Risk Management, fulfill some or all of the insurance requirements contained in the Contract under a plan of self-insurance. Contractor shall only be permitted to utilize such self-insurance if in the opinion of County Risk Management, Contractor's (i) net worth, and (ii) reserves for payment of claims of liability against Contractor, are sufficient to adequately compensate for the lack of other insurance coverage required by this Contract. Contractor's utilization of self-insurance shall not in any way limit liabilities assumed by Contractor under the Agreement.

12. Claims Made Coverage

If coverage is written on a "claims made" basis, the Certificate of Insurance shall clearly so state. In addition to the coverage requirements specified above, such policy shall provide that:

- A. The policy retroactive date coincides with or precedes Contractor's commencement of work under the Contract (including subsequent policies purchased as renewals or replacements).
- B. Contractor will make every effort to maintain similar insurance during the required extended period of coverage following expiration of the Contract, including the requirement of adding all additional insureds.
- C. If insurance is terminated for any reason, Contractor shall purchase an extended reporting provision of at least three (3) years to report claims arising in connection with the Contract.
- D. The policy allows for reporting of circumstances or incidents that might give rise to future claims.

13. Subcontractors' Insurance

Contractor shall require that any and all subcontractors hired by Contractor are insured in accordance with this Contract. If any subcontractor's coverage does not comply with the foregoing provisions, Contractor shall defend and indemnify the County from any damage, loss, cost, or expense, including attorneys' fees, incurred by County as a result of subcontractors failure to maintain required coverage.

In addition to the foregoing, Contractor shall require that any and all subcontractors performing any excavation of the Project have Explosion, Collapse and Underground Damage Liability Insurance and coverage in the amount of One Million Dollars (\$1,000,000) per occurrence.

14. Waiver of Subrogation

The insurer shall waive all rights of recovery or subrogation against County, its agents, officers and employees which might arise by reason of any payment under the policies. Contractor hereby waives all rights to recovery against County, its agents, officers and employees, on account of loss or damage occasioned to Contractor or others under Contractor's control to the extent such loss or damage is insured against under any insurance policies which may be in force at the time of the loss or damage. Included in any policy or policies of insurance provided by Contractor, shall be a standard Waiver of Rights of Subrogation against County by the insurance company issuing said policy or policies. This provision does not apply to Professional Liability coverage.

Contractor's Bonds. Prior to execution of the Contract, Contractor shall file with the County on the approved forms, the two surety bonds in the amounts and for the purposes noted below, duly executed by a reputable surety company satisfactory to County, and Contractor shall pay all premiums and costs thereof and incidental thereto, as security for payment of persons named in California Civil Code Section 3181 or amounts due under Unemployment Insurance Code with respect to Work or Labor performed by any such claimant. All alterations, time extensions, extra and additional work, and other changes authorized by the Specifications, or any part of the Contract, may be made without securing consent of the surety or sureties on the contract bonds. Each bond shall be signed by both Contractor and the sureties.

A. The Payment Bond for public works shall be in an amount of one hundred percent (100%) of the Contract price, as determined from the prices in the bid form, and shall insure to the benefit of persons performing labor or furnishing materials in connection with the work of the proposed Contract. This bond shall be maintained in full force and effect until all work under the Contract is completed and accepted by the County, and until all claims for materials and labor have been paid.

B. The Performance Bond shall be in an amount of one percent (100%) of the Contract price as determined from the prices in the bid form, and shall insure the faithful performance by the Contractor of all work under the Contract. It shall also insure the replacing of, or making acceptable, any defective materials or faulty workmanship.

C. Qualification of Sureties. Should any surety or sureties be deemed unsatisfactory at any time by the County, notice will be given Contractor to that effect, and Contractor shall substitute a new surety or sureties satisfactory to the County. No further payment shall be deemed due or will be made under the contract until the sureties qualify and are accepted by the County.

Miscellaneous. Nothing contained in the Contract is intended to make the public or any member thereof a third party beneficiary of the Insurance, Indemnity or Bonding provisions of these Standard Specifications, nor is any term, condition or other provision of the Contract intended to establish a standard of care owed to the public or any member thereof."

Rights in Land and Improvements. "The Contractor shall not occupy State-owned property outside the right of way as shown on the plans or maps available in the County Engineer's office, unless he enters into a rental agreement with the Department. The agreement will be based on the fair rental values."

CALTRANS STANDARD SPECIFICATIONS, DIVISION I – GENERAL PROVISION
SUBSECTION 8, PROSECUTION AND PROGRESS

Delete and Substitute:

8-1.13 Contractor's Control Termination. Delete this section in its entirety and substitute the following:

"If the Engineer deems that a Contractor has failed to supply an adequate working force, or material of proper quality, or has failed in any other respect to prosecute the work with the diligence and force specified by the contract, the Director of Purchasing and Contracting may:

1. After written notice of at least five (5) days to the Contractor, specifying the defaults to be remedied, provide any such labor or materials and deduct the cost from any money due or to become due to the Contractor under the contract; or
2. If it considers that the failure is sufficient ground for such action, the Director of Purchasing and Contracting may give written notice of at least five (5) days to the Contractor and the Contractor's sureties, that if the defaults are not remedied the Contractor's control over the work will be terminated.

If the defaults are not remedied within the time specified in the notice, the Contractor's control shall terminate as of the expiration of that time.

"In the event of such termination, the County shall immediately serve written notice thereof upon surety and Contractor. Surety shall have the rights and obligations set forth in the performance bond. Subject to the surety's rights under the performance bond (which rights are waived upon a default under the performance bond), the County may, at its sole option, take over the Work and prosecute it to completion by contract or by any other methods it may deem advisable, or require the surety to prosecute the Work to completion. The County may take possession of and use all or any part of the Contractor's materials, tools, equipment, and appliances upon the premises to complete the contract. The County may effectuate the provisions of this paragraph through any necessary written agreement with the Surety, Contractor, or other contractors.

"If the Contractor's control of the work is terminated or the Contractor abandons the work and the contract work is completed in conformance with the provisions of this subsection, any dispute concerning the amount to be paid by the Owner to the Contractor or its Surety or to be paid to the Owner by the Contractor or its Surety shall be subject to arbitration in accordance with the provisions of Section 9-1.10, 'Arbitration', of the Standard Specifications. The Surety shall be bound by the arbitration award and is entitled to participate in such arbitration proceedings."

CALTRANS STANDARD SPECIFICATIONS, DIVISION I – GENERAL PROVISION
SUBSECTION 9, MEASUREMENT AND PAYMENT

Add:

9-1.22 Arbitration. Add the following at the end of the first paragraph:

"However, any unresolved claims shall be resolved by first submitting such claims to mediation prior to their being taken to formal arbitration or litigation by any party, pursuant to the Special Condition entitled either "Claims" or "Dispute and Claims Resolution" in the Contract Documents for the project."

Change the capital "C" in "Claims" to a small "c" and add the following at the beginning of the second paragraph:

"Any mediated, yet still unresolved"

Delete and Substitute:

Delete the last sentence of the last paragraph, and substitute the following:

"A Complaint in Arbitration by the Contractor shall be made not later than 60 days after completion or termination of mediation on the claim."

CALTRANS STANDARD SPECIFICATIONS, DIVISION II – GENERAL CONSTRUCTION
SUBSECTION 10, GENERAL

No Modifications.

CALTRANS STANDARD SPECIFICATIONS, DIVISION II – GENERAL CONSTRUCTION
SUBSECTION 11, QUALITY CONTROL AND ASSURANCE

No Modifications.

CALTRANS STANDARD SPECIFICATIONS, DIVISION II – GENERAL PROVISION
SUBSECTION 12, TEMPORARY TRAFFIC CONTROL

Delete and Substitute:

12-1.03 Flagging Costs. In the first sentence delete "You and the State share" and substitute "Contractor is responsible to pay for 100% of cost to furnish all flaggers, including transporting flaggers and furnishing stands and towers for flaggers to provide for passage of traffic through the work as specified in section 7-1.03 and 7-1.04."

END OF SECTION

PART VIII

FEDERAL REQUIREMENTS

Federal Labor Standards Provisions

U.S. Department of Housing and Urban Development Office of Labor Relations

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract in the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

**SO-CALLED “ANTI-KICKBACK ACT” AND REGULATIONS PROMULGATED
PURSUANT THERETO BY THE SECRETARY OF LABOR
UNITED STATES DEPARTMENT OF LABOR**

TITLE 18, U.S.C. Section 874

(Replaces Section I of the Act of June 13, 1934 (48 Stat. 948. 40 U.S.C., Sec. 276b) pursuant to the Act of June 25, 1948. 62 Stat. 862)

KICKBACKS FROM PUBLIC WORKS EMPLOYEES

Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

SECTION 2 OF THE ACT OF JUNE 13, 1934, AS AMENDED (48 Stat. 948, 62 Stat. 862), 63 Stat. 108, 72 Stat. 967, 40 U.S.C., Sec. 276c)

The Secretary of Labor shall make reasonable regulations for contractors and subcontractors engaged in the construction, prosecution, completion or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States, including a provision that each contractor and subcontractor shall furnish weekly a statement with respect to the wages paid each employee during the preceding week. Section 1001 of Title 18 (United States Code) shall apply to such statements.

... XXX ...

Pursuant to the aforesaid Anti-Kickback Act, the Secretary of Labor, United States Department of Labor, has promulgated the regulations set forth, which regulations are found in Title 29, Subtitle A, Code of Federal Regulations, Part 3. The term “this part,” is used in the regulations hereinafter set forth, refers to Part 3 last above mentioned. Said regulations are as follows:

TITLE 29 - LABOR

Subtitle A - Office of the Secretary of Labor

PART 3 - CONTRACTORS AND SUBCONTRACTORS ON PUBLIC BUILDING OR PUBLIC WORK FINANCED IN WHOLE OR IN PART BY LOANS OR GRANTS FROM THE UNITED STATES

Section 3.1 Purpose and Scope.

This part prescribes “anti-kickback” regulations under Section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c), popularly known as the Copeland Act. This part applies to any contract which is subject to Federal wage standards and which is for the construction, prosecution, completion or

repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States. The part is intended to aid in the enforcement of the minimum wage provisions of the Davis-Bacon Act and the various statutes dealing with Federally-assisted construction that contain similar minimum wage provisions, including those provisions which are not subject to Reorganization Plan No. 14 (e.g., the College Housing Act of 1950, the Federal Water Pollution Control Act, and the Housing Act of 1959), and in the enforcement of the overtime provisions of the Contract Work Hours Standards Act whenever they are applicable to construction work. The part details the obligations of contractors and subcontractors relative to the weekly submission of statements regarding the wages paid on work covered thereby; sets forth the circumstances and procedures governing the making of payroll deductions from the wages of those employed on such work, and delineates the methods of payment permissible on such work.

Section 3.2 Definitions.

As used in the regulations in this part:

- (a) The terms “building” or “work” generally include construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include, without limitation, buildings, structures and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, powerlines, pumping stations, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees and canals: dredging, shoring, scaffolding, drilling, piers, blasting, excavating, clearing and landscaping. Unless conducted in connection with and at the site of such a building or work as is described in the foregoing sentence, the manufacture or furnishing of materials, articles, supplies or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) is not a “building” or “work” within the meaning of the regulations in this part.
- (b) The terms “construction,” “prosecution,” “completion,” or “repair” mean all types of work done on a particular building or work at the site thereof, including, without limitation, altering, remodeling, painting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies or equipment on the site of the building or work, by persons employed at the site by the contractor or subcontractor.
- (c) The terms “public building” or “public work” include building or work for whose construction, prosecution, completion or repair, as defined above, a Federal agency is a contracting party, regardless of whether title thereof is in a Federal agency.
- (d) The term “building or work financed in whole or in part by loans or grants from the United States” includes building or work for whose construction, prosecution, completion or repair, as defined above, payment or part payment is made directly or indirectly from funds provided by loans or grants by a Federal agency. The term does not include building or work for which Federal assistance is limited solely to loan guarantees or insurance.
- (e) Every person paid by a contractor or subcontractor in any manner for his labor in the construction, prosecution, completion or repair of a public building or public work or building or work financed in whole or in part by loans or grants from the United States is “employed” and receiving “wages,” (regardless of any contractual relationship alleged to

exist between him and the real employer.

- (f) The term “any affiliated person” includes a spouse, child, parent or other close relative of the contractor or subcontractor; a partner or officer of the contractor or subcontractor; a corporation closely connected with the contractor or subcontractor as parent, subsidiary or otherwise; and an officer or agent of such corporation.
- (g) The term “Federal agency” means the United States, the District of Columbia, and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States and of the District of Columbia, including corporations, all or substantially all of the stock of which is beneficially owned by the United States, by the District of Columbia, or any of the foregoing departments, establishments, agencies and instrumentalities.

Section 3.3 Weekly Statement With Respect to Payment of Wages.

- (a) As used in this section, the term “employee” shall not apply to persons in classifications higher than that of laborer or mechanic and those who are the immediate supervisors of such employees.
- (b) Each contractor or subcontractor engaged in the construction, prosecution, completion or repair of any public building or public work, or building or work financed in whole or in part by loans or grants from the United States, shall furnish each week a statement with respect to the wages paid each of its employees engaged on work covered by 29 CFR Parts 3 and 5 during the preceding weekly payroll period. This statement shall be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages, and shall be on form WH 348, “Statement of Compliance,” or on an identical form on the back of WH347, “Payroll (For Contractors Optional Use)” or on any form with identical wording. Sample copies of WH347 and WH348 may be obtained from the Government contracting or sponsoring agency and copies of these forms may be purchased at the Government Printing Office.
- (c) The requirements of this section shall not apply to any contract of \$2,000 or less.
- (d) Upon a written finding by the head of a Federal agency, the Secretary of Labor may provide reasonable limitations, variations, tolerances and exemptions from the requirements of this section subject to such conditions as the Secretary of Labor may specify.

[29 F.R. 95, Jan. 4, 1964, as amended at 33 F.R. 10186, July 17, 1968]

Section 3.4 Submission of Weekly Statements and the Preservation and Inspection of Weekly Payroll Records.

- (a) Each weekly statement required under Section 3.3 shall be delivered by the contractor or subcontractor, within seven days after the regular payment date of the payroll period to a representative of a Federal or State agency in charge at the site of the building or work, or, if there is no representative of a Federal or State agency at the site of the building or work. The statement shall be mailed by the contractor or subcontractor, within such time, to a Federal or State agency contracting for or financing the building or work. After such examination and check as may be made, such statement, or a copy thereof, shall be kept

available, or shall be transmitted together with a report of any violation, in accordance with applicable procedures prescribed by the United States Department of Labor.

- (b) Each contractor or subcontractor shall preserve his weekly payroll records for a period of three years from date of completion of the contract. The payroll records shall set out accurately and completely the name and address of each laborer and mechanic, his current classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Such payroll records shall be made available at all times for inspection by the contracting officer or his authorized representatives of the Department of Labor.

Section 3.5 Payroll Deductions Permissible Without Application To or Approval of the Secretary of Labor.

Deductions made under the circumstances or in the situations described in the paragraphs of this section may be made without application to and approval of the Secretary of Labor.

- (a) Any deduction made in compliance with the requirements of Federal, State or local law, such as Federal or State withholding income taxes and Federal social security taxes.
- (b) Any deduction of sums previously paid to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when cash or its equivalent has been advanced to the person employed in such manner as to give him complete freedom of disposition of the advanced funds.
- (c) Any deduction of amounts required by court process to be paid to another, unless the deduction is in favor the contractor, subcontractor or any affiliated person, or when collusion or collaboration exists.
- (d) Any deduction constituting a contribution on behalf of the person employed to funds established by the employer or representatives of employees, or both, for the purpose of providing either from principal or income, or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts or similar payments for the benefit of employees, their families and dependents: Provided, however, That the following standards are met: (1) The deduction is not otherwise prohibited by law; (2) it is either: (i) Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of or for the continuation of employment, or (ii) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; (3) no profit or other benefit is otherwise obtained, directly or indirectly, by the contractor or subcontractor or any affiliated person in the form of commission, dividend or otherwise; and (4) the deductions shall serve the convenience and interest of the employee.
- (e) Any deduction contributing toward the purchase of United States Defense Stamps and Bonds when voluntarily authorized by the employee.
- (f) Any deduction requested by the employee to enable him to repay loans to or to purchase shares in credit unions organized and operated in accordance with Federal and State credit union statutes.

- (g) Any deduction voluntarily authorized by the employee for the making of contributions to governmental or quasi-governmental agencies, such as the American Red Cross.
- (h) Any deduction voluntarily authorized by the employee for the making of contributions to Community Chests, United Givers Funds, and similar charitable organizations.
- (i) Any deductions to pay regular union initiation fees and membership dues, not including fines or special assessments: Provided, however, that a collective bargaining agreement between the contractor or subcontractor and representatives of its employees provides for such deductions and the deductions are not otherwise prohibited by law.
- (j) Any deduction not more than for the "reasonable cost" of board, lodging or other facilities meeting the requirements of Section 3(m) of the Fair Labor Standards Act of 1938, as amended, and Part 531 of this title. When such a deduction is made, the additional records required under §516.27 (a) of this title shall be kept.

Section 3.6 Payroll Deductions Permissible With the Approval of the Secretary of Labor.

Any contractor or subcontractor may apply to the Secretary of Labor for permission to make any deduction not permitted under §3.5. The Secretary may grant permission whenever he finds that:

- (a) The contractor, subcontractor or any affiliated person does not make a profit or benefit directly or indirectly from the deduction either in the form of a commission, dividend or otherwise:
- (b) The deduction is not otherwise prohibited by law:
- (c) The deduction is either (1) voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of employment or its continuance, or (2) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; and
- (d) The deduction serves the convenience and interest of the employee.

Section 3.7 Applications for the Approval of the Secretary of Labor.

Any application for the making of payroll deductions under §3.6 shall comply with the requirements prescribed in the following paragraphs of this section:

- (a) The application shall be in writing and shall be addressed to the Secretary of Labor.
- (b) The application shall identify the contract or contracts under which the work in question is to be performed. Permission will be given for deductions only on specific, identified contracts, except upon a showing of exceptional circumstances.
- (c) The application shall state affirmatively that there is compliance with the standards set forth in the provisions of §3.6. The affirmation shall be accompanied by a full statement of the facts indicating such compliance.

- (d) The application shall include a description of the proposed deduction, the purpose to be served thereby, and the classes of laborers or mechanics from whose wages the proposed deduction would be made.
- (e) The application shall state the name and business of any third person to whom any funds obtained from the proposed deductions are to be transmitted and the affiliation of such person, if any, with the applicant.

Section 3.8 Action by the Secretary of Labor Upon Applications.

The Secretary of Labor shall decide whether or not the requested deduction is permissible under provisions of §3.6 and shall notify the applicant in writing of his decision.

Section 3.9 Prohibited Payroll Deductions.

Deductions not elsewhere provided for by this part and which are not found to be permissible under §3.6 are prohibited.

Section 3.10 Methods of Payment of Wages.

The payment of wages shall be by cash, negotiable instruments payable on demand, or the additional forms of compensation for which deductions are permissible under this part. No other methods of payment shall be recognized on work subject to the Copeland Act.

Section 3.11 Regulations Part of Contract.

All contracts made with respect to the construction, prosecution, completion or repair of any public building or public or building or work financed in whole or in part by loans or grants from the United States covered by the regulations in this part shall expressly bind the contractor or subcontractor to comply with such of the regulations in this part as may be applicable. In this regard, see §5.5(a) of this subtitle.

EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

PREVAILING WAGES	You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.
OVERTIME	You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.
ENFORCEMENT	Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.
APPRENTICES	Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.
PROPER PAY	If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



For additional information:
1-866-4-USWAGE
(1-866-487-9243) TTY: 1-877-889-5627

WWW.WAGEHOUR.DOL.GOV



U.S. Wage and Hour Division

U.S. Department of Labor | Employment Standards Administration | Wage and Hour Division
8-15

WH 1321 Revised April 2024

DERECHOS DEL EMPLEADO

BAJO LA LEY DAVIS-BACON

PARA OBREROS Y MECÁNICOS EMPLEADOS EN PROYECTOS DE CONSTRUCCIÓN FEDERAL O CON ASISTENCIA FEDERAL

LA SECCIÓN DE HORAS Y SUELDOS DEL DEPARTAMENTO DE TRABAJO DE EEUU

SALARIOS PREVALECIENTES

No se le puede pagar menos de la tasa de pago indicada en la Decisión de Salarios Davis-Bacon fijada con este Aviso para el trabajo que Ud. desempeña.

SOBRETIEPO

Se le ha de pagar no menos de tiempo y medio de su tasa básica de pago por todas las horas trabajadas en exceso de 40 en una semana laboral. Existen pocas excepciones.

CUMPLIMIENTO

Se pueden retener pagos por contratos para asegurarse que los obreros reciban los salarios y el pago de sobretiempo debidos, y se podría aplicar daños y perjuicios si no se cumple con las exigencias del pago de sobretiempo. Las cláusulas contractuales de Davis-Bacon permiten la terminación y exclusión de contratistas para efectuar futuros contratos federales hasta tres años. El contratista que falsifique los registros certificados de las nóminas de pago o induzca devoluciones de salarios puede ser sujeto a procesamiento civil o criminal, multas y/o encarcelamiento.

APRENDICES

Las tasas de aprendices sólo se aplican a aprendices correctamente inscritos bajo programas federales o estatales aprobados.

PAGO APROPIADO

Si Ud. no recibe el pago apropiado, o precisa de información adicional sobre los salarios aplicables, póngase en contacto con el Contratista Oficial que aparece abajo:

o póngase en contacto con la Sección de Horas y Sueldos del Departamento de Trabajo de EEUU.



Para obtener información adicional:
1-866-4-USWAGE
(1-866-487-9243) TTY: 1-877-889-5627



WWW.WAGEHOUR.DOL.GOV

U.S. Department of Labor | Employment Standards Administration | Wage and Hour Division
6-15a

866 1321 SPK (Revised April 2009)

Record of Employee Interview

U.S. Department of Housing
and Urban Development
Office of Labor Relations

OMB Approval No. 2501-0009
(exp. 12/31/2013)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. **Sensitive Information** The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. The information collected herein is voluntary, and any information provided shall be kept confidential.

1a. Project Name			2a. Employee Name																				
1b. Project Number			2b. Employee Phone Number (including area code)																				
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code																				
			2d. Verification of identification? Yes <input type="checkbox"/> No <input type="checkbox"/>																				
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits? Vacation Yes <input type="checkbox"/> No <input type="checkbox"/> Medical Yes <input type="checkbox"/> No <input type="checkbox"/> Pension Yes <input type="checkbox"/> No <input type="checkbox"/>	4c. Pay stub? Yes <input type="checkbox"/> No <input type="checkbox"/>																		
5. Your job classification(s) (list all) --- continue on a separate sheet if necessary																							
6. Your duties																							
7. Tools or equipment used																							
<table border="0"> <tr> <td></td> <td>Y</td> <td>N</td> <td></td> <td>Y</td> <td>N</td> </tr> <tr> <td>8. Are you an apprentice or trainee?</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>10. Are you paid at least time and 1/2 for all hours worked in excess of 40 in a week?</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>9. Are you paid for all hours worked?</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>11. Have you ever been threatened or coerced into giving up any part of your pay?</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>							Y	N		Y	N	8. Are you an apprentice or trainee?	<input type="checkbox"/>	<input type="checkbox"/>	10. Are you paid at least time and 1/2 for all hours worked in excess of 40 in a week?	<input type="checkbox"/>	<input type="checkbox"/>	9. Are you paid for all hours worked?	<input type="checkbox"/>	<input type="checkbox"/>	11. Have you ever been threatened or coerced into giving up any part of your pay?	<input type="checkbox"/>	<input type="checkbox"/>
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12a. Employee Signature			12b. Date																				
13. Duties observed by the interviewer (Please be specific.)																							
14. Remarks																							
15a. Interviewer name (please print)		15b. Signature of interviewer		15c. Date of interview																			

Payroll Examination

16. Remarks	
17a. Signature of Payroll Examiner	17b. Date

Previous editions are obsolete

Form HUD-11 (06/2004)

<p>This report is to be completed by grantees, developers, sponsors, builders, agencies, and/or project owners for reporting income and subcontract activities of \$10,000 or more under the following programs: Community Development Block Grants (employment and small credit); Urban Development Action Grants (housing, community development, and small credit); Neighborhood Development Action Grants (housing, community development, and small credit); and Community Development Block Grants (employment and small credit).</p> <p>Contract/subcontractors of less than \$10,000 need be reported only if such contracts represent a significant portion of your total contracting activity. Include only contracts executed during this reporting period.</p> <p>This form has been modified to capture Section 3 contract data in columns 7a and 7b. Section 3 requires that the employer and other economic opportunities provided by HUD financial assistance for housing and community development programs shall, to the greatest extent practicable, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. Recipients using this form to report Section 3 contract data must also use Part I of Form HUD-2010-10 to report employment and training opportunities data. Form HUD-2010-10 is to be completed by grantees, developers, sponsors, builders, agencies, and/or project owners for reporting income and subcontract activities of \$10,000 or more under the following programs: Community Development Block Grants (employment and small credit); Urban Development Action Grants (housing, community development, and small credit); Neighborhood Development Action Grants (housing, community development, and small credit); and Community Development Block Grants (employment and small credit).</p>	<p>contracts or substantially high or low-income families. 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FEDERAL AUDIT REGULATIONS

The Administrator of the Department of Housing and Urban Development and the Comptroller General of the United States or their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers and records that pertain to Federal funds, equipment and supplies received by the owner for this contract.

FEDERAL STATUTORY REQUIREMENTS

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended.

NOTICE REGARDING NONSEGREGATED FACILITIES

A. Notice to Prospective Federally-Assisted Construction Contractors

1. A Certification of Nonsegregated Facilities, as required by the May 9, 1967 order of the Secretary of Labor (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities must be submitted prior to the award of a federally-assisted construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity Clause.
2. **BY SIGNING THIS BID, THE BIDDER WILL BE DEEMED TO HAVE SIGNED AND AGREED TO THE PROVISIONS OF THE "CERTIFICATION OF NONSEGREGATED FACILITIES" IN THIS PROPOSAL.** This certification provides that the Bidder does not maintain or provide employee facilities which are segregated on a basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that the Bidder will not maintain such segregated facilities.
3. Contractors receiving federally-assisted construction contract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause will be required to provide for the forwarding of the following notice to prospective Subcontractors for construction contracts and material suppliers where the subcontracts or material supply agreements exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity Clause.

B. Notice to Prospective Subcontractors and Material Suppliers of Requirement for Certification of Nonsegregated Facilities

1. A Certification of Nonsegregated Facilities as required by the May 9, 1967 Order of the Secretary of Labor (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, must be submitted by each Subcontractor (in all tiers) and material supplier prior to the award of the subcontract or consummation of a material supply agreement if such subcontract or agreement exceeds \$10,000 and is not exempt from the provisions of the Equal Opportunity Clause.
2. **BY SIGNING THE SUBCONTRACT OR ENTERING INTO A MATERIAL SUPPLY AGREEMENT, THE SUBCONTRACTOR OR MATERIAL SUPPLIER WILL BE DEEMED TO HAVE SIGNED AND AGREED TO THE PROVISIONS OF THE "CERTIFICATION OF NONSEGREGATED FACILITIES" IN THE SUBCONTRACT OR MATERIAL SUPPLY AGREEMENT.** This certification provides that the Subcontractor or

material supplier does not maintain or provide employee facilities which are segregated on the basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that the Subcontractor or material supplier will not maintain such segregated facilities.

**NOTE: THE PENALTY FOR MAKING FALSE STATEMENTS IN OFFERS IS PRESCRIBED IN
18 U.S.C. 1001.**

PIH Alert

March 12, 2012

Nan McKay & Associates - 800.783.3100 - www.nanmckay.com

General News

OLR Updates Contractor's Guide to Federal Labor Standards

Last week HUD's Office of Labor Relations ([OLR](#)) published an updated edition of [A Contractor's Guide to Prevailing Wage Requirements for Federally Assisted Construction Projects \(HUD-LR-4812\)](#). As the title suggests, the purpose of the 40-page guide is to help contractors comply with the Davis-Bacon provisions in construction contracts funded with money from HUD. The guide consists of three chapters:

- Chapter 1: "Laws, Regulations, Contracts, and Responsibilities"
- Chapter 2: "How to Comply with Labor Standards and Payroll Reporting Requirements"
- Chapter 3: "Labor Standards Disputes, Administrative Reviews, Withholding, Deposits and Escrow Accounts, and Sanctions"

The new edition of the guide is dated January 2012. You'll find a link to it on the "[What's New](#)" page of HUD's Client Information and Policy System ([HUDCLIPS](#)).

PIH Publishes Grant Recipients under 5 Programs

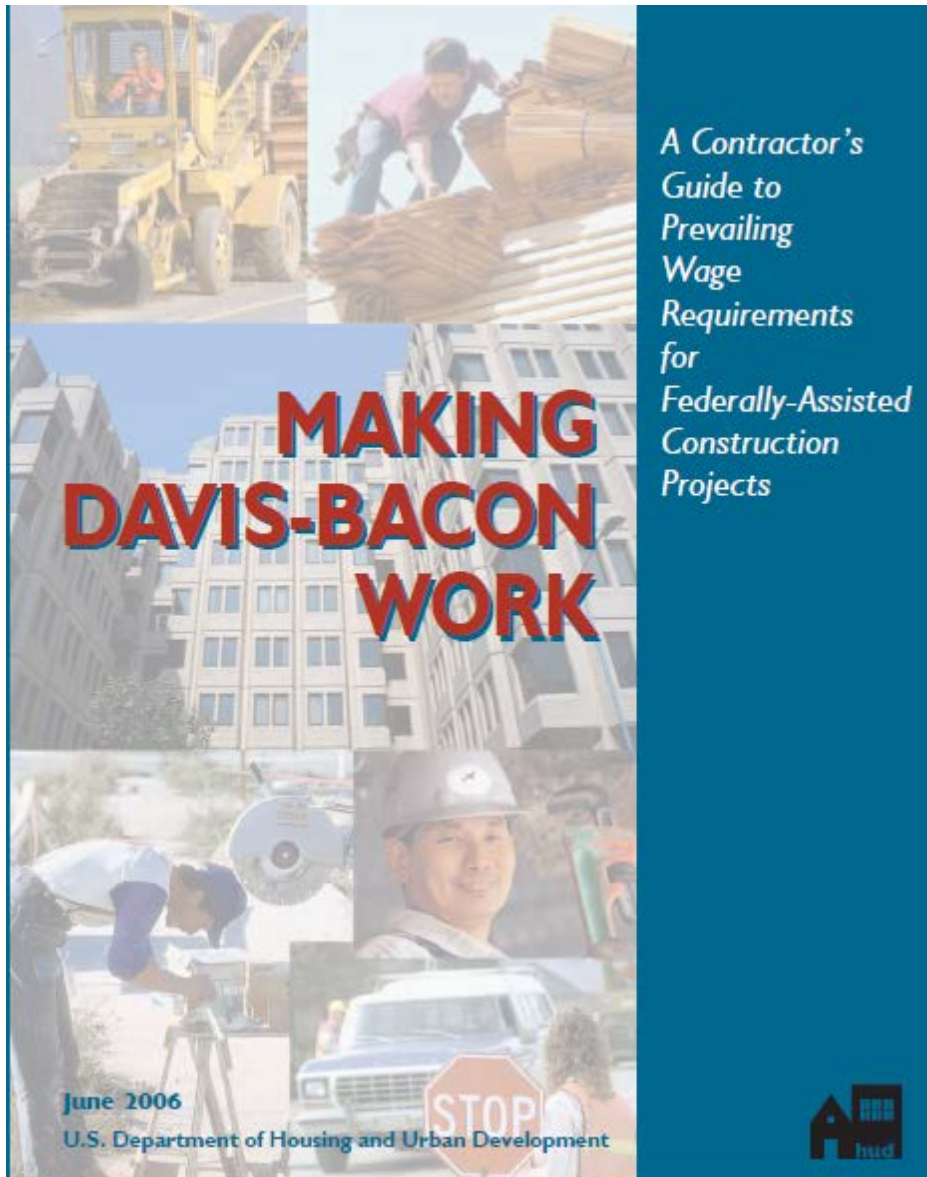
Today in the *Federal Register*, HUD's Office of Public and Indian Housing ([PIH](#)) published official lists of the recipients of competitive funding awards under five of its programs:

- [Family Unification Program \(FUP\)](#) (2010 awards)
- [Rental assistance for nonelderly disabled \(NED\) persons](#) (2009 awards)
- [Housing choice voucher family self-sufficiency \(FSS\) program](#) (2011 awards)
- [Resident Opportunity and Self-Sufficiency \(ROSS\) service coordinators program](#) (2011 awards)
- [Public housing FSS program](#) (2011 awards)

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Introduction

This Guide has been prepared for you as a contractor performing work on construction projects that are *assisted* by the Department of Housing and Urban Development and subject to Davis-Bacon prevailing wage requirements. This Guide *does not* address contractor requirements involved in *direct* Federal contracting where HUD or another Federal agency enters into a procurement contract. In this latter case, the Federal Acquisition Regulations (FAR) are applicable. While the guidance contained in this Guide is generally applicable to *any* Davis-Bacon covered project, specific questions pertaining to direct Federal contracts should be addressed to the Contracting Officer who signed the contract for the Federal agency.

Our objective here is to provide you with a guide which is simple and non-bureaucratic yet comprehensive and which will help you better understand and comply with Davis-Bacon labor standards. HUD's Office of Labor Relations worked closely with the Department of Labor's Wage and Hour Division to make sure that the labor standards provisions in your contract and the specifics of complying with them represent the latest information. It is the Department of Labor which has general administrative oversight of all Federal contracting agencies, such as HUD, which administer the day-to-day responsibilities of enforcing Davis-Bacon provisions in construction contracts they either fund or assist in funding.

There are three chapters in this Guide. The first chapter offers a brief description of the laws and regulations associated with Federal labor standards administration and enforcement and discusses both what's in your contract that requires Davis-Bacon compliance and your responsibilities. The second chapter deals with labor standards and payroll reporting requirements. The third chapter discusses what can happen in the event there is a dispute about the wage rates that should be (or have been) paid and any back wages that may be due.

Finally, not all HUD construction projects are covered by Davis-Bacon wage rates. For the purpose of this Guide, we are assuming that a determination has already been made that Davis-Bacon wage rates are applicable. Should you wish assistance in determining whether Davis-Bacon wage rates apply to a particular project or if you need other related technical assistance, please consult with the HUD Labor Relations Field staff for your area. If you don't know which staff to contact, a list of Labor Relations field offices and their geographic areas and telephone numbers can be found on HUD's Home Page at the address below.

Visit the Office of Labor Relations
on the World Wide Web HUD Home Page at:
<http://www.hud.gov/offices/olr>

Obtain additional copies of this Guide and other publications at our web site or by telephone from HUD's Customer Service Center at (800) 767-7468.

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CHAPTER I. Laws, Regulations, Contracts and Responsibilities

The following paragraphs describe what the labor standards laws and regulations actually say and what they mean to you on HUD projects:

I-1 Davis-Bacon and Other Labor Laws

a. The Davis-Bacon Act (DBA)

The Davis-Bacon Act requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor) to all laborers and mechanics on Federal government and District of Columbia construction projects in excess of \$2,000. Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works.

Most HUD construction work is *not* covered by the DBA itself since HUD seldom contracts directly for construction services. Most often, if Davis-Bacon wage rates apply to a HUD project it is because of a labor provision contained in one of HUD's "Related Acts" such as the U.S. Housing Act of 1937, the National Housing Act, the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990, and the Native American Housing Assistance and Self-Determination Act of 1996. The Related Acts are often referred to as the **Davis-Bacon and Related Acts** or **DBRA**.

b. The Contract Work Hours and Safety Standards Act (CWHSSA)

CWHSSA requires time and one-half pay for overtime (O/T) hours (over 40 in any workweek) worked on the covered project. The

CWHSSA applies to both direct Federal contracts and to indirect Federally-assisted contracts *except* where the assistance is solely in the nature of a loan guarantee or insurance. CWHSSA violations carry a liquidated damages penalty (\$10/day per violation). Intentional violations of CWHSSA standards can be considered for Federal criminal prosecution.

CWHSSA does not apply to prime contracts of \$100,000 or less. In addition, some HUD projects are not covered by CWHSSA because some HUD programs only provide loan guarantees or insurance. CWHSSA also does not apply to construction or rehabilitation contracts that are not subject to Federal prevailing wage rates (e.g., Davis-Bacon wage rates, or HUD-determined rates for operation of public housing and Indian block grant-assisted housing). However, even though CWHSSA overtime pay is not required, Fair Labor Standards Act (FLSA) overtime pay is probably still applicable. (See also Labor Relations Letter SL-95-01, CWHSSA Coverage threshold for overtime and health and safety provisions, available on-line at the HUD Labor Relations Library at: www.hud.gov/offices/olr/library.cfm)

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DOL Regulations are available on-line on the World Wide Web:
http://www.dol.gov/dol/allcfr/Title_29/toc.htm

HUD program labor standards forms are available on-line at:
www.hudclips.org/cgi/index.cgi



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c. The Copeland Act (Anti-Kickback Act)

The Copeland Act makes it a Federal crime for anyone to require any laborer or mechanic (employed on a Federal or Federally-assisted project) to *kickback* (i.e., give up or pay back) any part of their wages. The Copeland Act requires every employer (contractors and subcontractors) to submit weekly certified payroll reports (CPRs) and regulates permissible payroll deductions.

d. The Fair Labor Standards Act (FLSA)

The FLSA contains Federal minimum wage rates, overtime (O/T), and child labor requirements. These requirements generally apply to any labor performed. The DOL has the authority to administer and enforce FLSA. HUD will refer to the DOL any possible FLSA violations that are found on HUD projects.

I-2 Davis-Bacon Regulations

The Department of Labor (DOL) has published rules and instructions concerning Davis-Bacon and other labor laws in the Code of Federal Regulations (CFR). These regulations can be found in **Title 29 CFR Parts 1, 3, 5, 6 and 7**. Part 1 explains how the DOL establishes and publishes DBA wage determinations (aka wage decisions) and provides instructions on how to use the determinations. Part 2 describes Copeland Act requirements for payroll deductions and the submission of weekly certified payroll reports. Part 5 covers the labor standards provisions that are in your contract relating to Davis-Bacon Act wage rates and the responsibilities of contractors and contracting agencies to administer and enforce the provisions. Part 6 provides for administrative proceedings enforcing Federal labor standards on construction and service contracts. Last, Part 7 sets parameters for practice before the Administrative Review Board. These regulations are used as the basis for administering and enforcing the laws.

I-3 Construction Contract Provisions

Each contract subject to Davis-Bacon labor standards requirements must contain labor standards clauses and a Davis-Bacon wage decision. These documents are often bound into the contract specifications.

a. The Labor Standards Clauses

The labor standards clauses describe the responsibilities of the contractor concerning Davis-Bacon wages and obligate the contractor to comply with the labor requirements. The labor standards clauses also provide for remedies in the event of violations, including withholding from payments due to the contractor to ensure the payment of wages or liquidated damages which may be found due. These contract clauses enable the contract administrator to enforce the Federal labor standards applicable to the project. HUD has standard forms that contain contract clauses. For example, the HUD-2554, Supplementary Conditions to the Contract for Construction, which is issued primarily for FHA multifamily housing and other construction projects administered by HUD; the HUD-4010, Federal Labor Standards Provisions, which is used for CDBG and HOME projects, and the HUD-5370, General Conditions of the Contract for Construction – Public and Indian Housing Program.

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b. Davis-Bacon Wage Decisions

The Davis-Bacon wage decision (or wage determination) is a listing of various construction work classifications, such as Carpenter, Electrician, Plumber and Laborer, and the minimum wage rates (and fringe benefits, where prevailing) that people performing work in those classifications must be paid.

Davis-Bacon wage decisions are established by the DOL for various types of construction (e.g., residential, heavy, highway) and apply to specific geographic areas, usually a county or group of counties. Wage decisions are modified from time to time to keep them current. In most cases, when the contract is awarded or when construction begins, the wage decision is "locked-in" and no future modifications are applicable to the contract or project involved.

All current Davis-Bacon wage decisions can be accessed on-line at no cost at:
www.wdol.gov

I-4 Responsibility of the Principal Contractor

The principal contractor (also referred to as the *prime or general contractor*) is responsible for the full compliance of all employers (the contractor, subcontractors and any lower-tier subcontractors) with the labor standards provisions applicable to the project. Because of the contractual relationship between a prime contractor and his/her subcontractors, subcontractors generally should communicate with the contract administrator only through the prime contractor. (See *Contract Administrator*, below.)

To make this Guide easier to understand, the term "*prime contractor*" will mean the principal contractor; "*subcontractor*" will mean all subcontractors including lower-tier subcontractors; and the term "*employer*" will mean all contractors as a group, including the prime contractor and any subcontractors and lower-tier subcontractors.

I-5 Responsibility of the Contract Administrator

The *contract administrator* is responsible for the proper administration and enforcement of the Federal labor standards provisions on contracts covered by Davis-Bacon requirements. We use this term to represent the person (or persons) who will provide labor standards advice and support to you and other project principals (e.g., the owner, sponsor, architect), including providing the proper Davis-Bacon wage decision (see §2-1, *The Wage Decision*) and ensuring that the wage decision and contract clauses are incorporated into the contract for construction. The contract administrator also monitors labor standards compliance (see §2-6, *Compliance Reviews*) by conducting interviews with construction workers at the job site and reviewing payroll reports, and oversees any enforcement actions that may be required.

The contract administrator could be an employee or agent of HUD, or of a city or county or public housing agency. For HUD projects administered directly by HUD staff, usually FHA-insured multifamily projects, the contract administrator will be the HUD Labor Relations field staff. But many HUD-assisted projects are administered by local contracting agencies such as Public Housing Agencies (PHAs).



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Indian tribes and tribally-designated housing entities (TDHEs), and States, cities and counties under HUD's Community Development Block Grant (CDBG) and HOME programs. In these cases, the contract administrator will likely be local agency staff. In either case, the guidance for you remains essentially the same.

The DOL also has a role in monitoring Davis-Bacon administration and enforcement. In addition, DOL has independent authority to conduct investigations. A DOL investigator or other DOL representative may visit Davis-Bacon construction sites to interview construction workers or review payroll information.



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CHAPTER 2. How to Comply with Labor Standards and Payroll Reporting Requirements

Where to start?

Now that you know you're on a Davis-Bacon project and you know some of the legal and practical implications, what's next?

SECTION I — THE BASICS

2-1 The Wage Decision

Davis-Bacon labor standards stipulate the wage payment requirements for Carpenters, Electricians, Plumbers, Roofers, Laborers, and other construction work classifications that may be needed for the project. The *Davis-Bacon wage decision* that applies to the project contains a schedule of work classifications and wage rates that must be followed. If you don't have it already (and by now you should), you'll want to get a copy of the applicable *Davis-Bacon wage decision*.

Remember, the wage decision is contained in the contract specifications along with the labor standards clauses. See ¶1-3, *Construction Contract Provisions*.

a. The Work Classifications and Wage Rates

A Davis-Bacon wage decision is simply a listing of different work classifications and the minimum wage rates that must be paid to anyone performing work in those classifications. You'll want to make sure that the work classification(s) you need are contained in the wage decision and make certain you know exactly what wage rate(s) you will need to pay. Some wage decisions cover several counties and/or types of construction work (for example, residential and commercial work) and can be lengthy and difficult to read. Contact the contract administrator (HUD Labor Relations field staff or local agency staff) if you have any trouble reading the wage decision or finding the work classification(s) you need.

To make reading lengthy wage decisions easier for you, the contract administrator may prepare a Project Wage Rate Sheet (HUD-4720). This Sheet is a one-page transcript that will show only the classifications and wage rates for a particular project. A blank copy of a Project Wage Rate Sheet is provided for you in the appendix. Also, a fillable version of this form is available on-line at HUDClips (see web address in the Appendix). Contact the contract administrator monitoring your project for assistance with a Project Wage Rate Sheet.

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b. Posting the Wage Decision

If you are the prime contractor, you will be responsible for posting a copy of the wage decision (or the Project Wage Rate Sheet) and a copy of a DOL poster called *Notice to All Employees* (Form WH-1321) at the job site in a place that is easily accessible to all of the construction workers employed at the project and where the wage decision and poster won't be destroyed by wind or rain, etc. The *Notice to All Employees* poster is available on-line at HUDClips (see address in the Appendix).

2-2 Additional "Trade" Classifications and Wage Rates

What if the work classification you need isn't on the wage decision? If the work classification(s) that you need doesn't appear on the wage decision, you will need to request an **additional classification and wage rate**. This process is usually very simple and you'll want to start the request right away. Basically, you identify the classification you need and recommend a wage rate for DOL to approve for the project. There are a few rules about additional classifications; you'll find these rules in the DOL regulations, Part 5, and in the labor clauses in your contract. The rules are summarized for you here:

a. Additional Classification Rules

Additional classifications and wage rates can be approved if:

- 1) The requested classification is used by construction contractors in the area of the project. (The area is usually defined as the county where the project is located).
- 2) The work that will be performed by the requested classification is not already performed by another classification that is already on the wage decision. (In other words, if there already is an Electrician classification and wage rate on the wage decision you can't request another Electrician classification and rate.)
- 3) The proposed wage rate for the requested classification "fits" with the other wage rates already on the wage decision. (For example, the wage rate proposed for a trade classification such as Electrician must be at least as much as the lowest wage rate for other trade classifications already contained in the wage decision.) And,
- 4) The workers that will be employed in the added classification (if it is known who the workers are/will be), or the workers' representatives, must agree with the proposed wage rate.

b. Making the Request

A request for additional classification and wage rate must be made in writing through the contract administrator. (If the contract administrator is a local agency, the agency will send the request to the HUD Labor Relations staff.) If you are a subcontractor, your request should also go through the prime contractor. All you need to do is identify the work classification that is missing and recommend a wage rate (usually the rate that employer is already paying to the employees performing the work) for that classification. You may also need to describe the work that the new classification will perform.

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c. HUD Review

The HUD Labor Relations field staff will review the requested classification and wage rate to determine whether the request meets the DOL rules outlined in paragraph 2-2(a), above. If additional information or clarification is needed, the staff will contact the prime contractor (or contract administrator for local agency projects) for more information, etc. If the Labor Relations review finds that the request meets the rules, the staff will give preliminary approval on the request and refer it to the DOL for final approval. The staff will send to you a copy of the preliminary approval/referral letter to the DOL.

If the HUD Labor Relations staff doesn't think the request meets the rules and if agreement can't be reached on the proper classification or wage rate for the work described, the HUD Labor Relations staff will not approve the request. In this case, the staff will send your request to the DOL with an explanation why HUD believes that the request shouldn't be approved. The DOL still has final decision authority. You will receive a copy of the disapproval/referral letter to the DOL.

d. DOL Decision

The DOL will respond to HUD Labor Relations in writing about the additional classification and wage rate request. HUD Labor Relations will notify you of the DOL decision in writing. If the DOL approves the request, the prime contractor must post the approval notice on the job site with the wage decision.

If the DOL does not approve the request, you will be notified about what classification and wage rate should be used for the work in question. You will also receive instructions about how to ask for DOL reconsideration if you still want to try to get your recommendation approved.

It's always a good idea to talk to the contract administrator before submitting an additional classification and wage rate request. The contract administrator can offer suggestions and advice that may save you time and increase the likelihood that DOL will approve your request. Usually, the contract administrator can give you an idea about what the DOL will finally decide.

2-3 Certified Payroll Reports

You'll need to submit a weekly certified payroll report (CPR) beginning with the first week that your company works on the project and for every week afterward until your firm has completed its work. It's always a good idea to number the payroll reports beginning with #1 and to clearly mark your last payroll for the project "Final."

a. Payroll Formats

The easiest form to use is DOL's WH-347, *Payroll*. A sample copy of the WH-347 is included in the back of this Guide. You may access a fillable version of the WH-347 on-line at HUDClips (see web address in the Appendix). Also, the contract administrator can provide a few copies of the WH-347 that you can reproduce.

You are not required to use Payroll Form WH-347. You are welcome to use any other type of payroll, such as computerized formats, as long as it contains all of the information that is required on the WH-347.

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If you number your payroll reports consecutively, you do not need to submit "no work" payrolls!



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b. Payroll Certifications

The weekly payrolls are called *certified* because each payroll is signed and contains language certifying that the information is true and correct. The payroll *certification* language is on the reverse side of the WH-347. If you are using another type of payroll format you may attach the certification from the back of the WH-347, or any other format which contains the same certification language on the WH-347 (reverse).

DOL's website has Payroll Instructions, and the Payroll Form WH-347, in a "fillable" PDF format at this address:
www.dol.gov/esa/programs/dbra/forms.htm and at HUDClips.

c. "No Work" Payrolls

"No work" payrolls may be submitted whenever there is a temporary break in your work on the project, for example, if your firm is not needed on the project right now but you will be returning to the job in a couple of weeks. (See Tip Box, below, for "no work" payroll exemption!) However, if you know that your firm will not be working on the project for an extended period of time, you may wish to send a short note to the contract administrator to let them know about the break in work and to give an approximate date when your firm will return to the project. If you send a note, you do not need to send "no work" payrolls.

d. Payroll Review and Submission

The prime contractor should *review* each subcontractor's payroll reports for compliance *prior* to submitting the reports to the contract administrator. Remember, the prime contractor is responsible for the full compliance of all subcontractors on the contract and will be held accountable for any wage restitution that may be found due to any laborer or mechanic that is underpaid and for any liquidated damages that may be assessed for overtime violations. All of the payroll reports for any project must be submitted to the contract administrator through the prime contractor.

An alert prime contractor that reviews subcontractor payroll submissions can detect any misunderstandings early, prevent costly underpayments and protect itself from financial loss should underpayments occur.

e. Payroll Retention

Every contractor (including every subcontractor) must keep a complete set of their own payrolls and other basic records such as time cards, tax records, evidence of fringe benefit payments,

for a Davis-Bacon project for at least 3 years after the project is completed. The prime contractor must keep a complete set of all of the payrolls for every contractor (including subcontractors) for at least 3 years after completion of the project.

f. Payroll Inspection

In addition to submitting payrolls to the contract administrator, every contractor (including subcontractors) must make their own copy of the payrolls and other basic records available for review or copying to any authorized representative from HUD or from DOL.

2-4 Davis-Bacon Definitions

Before we discuss how to complete the weekly payroll forms, we need to review a couple of definitions. These definitions can help you understand what will be required of you:

a. Laborer or Mechanic

"Laborers" and "mechanics" mean anyone who is performing construction work on the project, including trade journeymen (carpenters, plumbers, sheet metal workers, etc.), apprentices, trainees and, for CWHSSA purposes, watchmen and guards. "Laborers" and "mechanics" are the two groups of workers that must be paid not less than Davis-Bacon wage rates.

- 1) **Working foremen.** Foremen or supervisors that regularly spend more than 20% of their time performing construction work and do not meet the exclusions in paragraph 2 below are covered "laborers" and "mechanics" for labor standards purposes for the time spent performing construction work.
- 2) **Exclusions.** People whose duties are primarily administrative, executive or clerical are not laborers or mechanics. Examples include superintendents, office staff, timekeepers, messengers, etc. (Contact the contract administrator if you have any questions about whether a particular employee is excluded.)

b. Employee

Every person who performs the work of a laborer or mechanic is "employed" regardless of any contractual relationship which may be alleged to exist between a contractor or subcontractor and such person. This means that even if there is a contract between a contractor and a worker, the contractor must make sure that the worker is paid at least as much as the wage rate on the wage decision for the classification of work they perform. Note that there are no exceptions to the prevailing wage requirements for relatives or for self-employed laborers and mechanics.

c. Apprentices and Trainees

The only workers who can be paid less than the wage rate on the wage decision for their work classification are "apprentices" and "trainees" registered in approved apprenticeship or training

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For more information about working subcontractors, ask the contract administrator or your HUD Labor Relations Field Staff for a copy of Labor Relations Letter LR-96-01, Labor standards compliance requirements for self-employed laborers and mechanics. Labor Relations Letters and other helpful Labor Relations publications are available at HUD's Labor Relations web site (see the list of web site addresses in the Appendix).



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programs, including Step-Up apprenticeship programs designed for Davis-Bacon construction work. Approved programs are those which have been registered with the DOL or a DOL-recognized State Apprenticeship Council (SAC). Apprentices and trainees are paid wage rates in accordance with the wage schedule in the approved program.

Most often, the apprentice/trainee wage rate is expressed as a series of percentages tied to the amount of time spent in the program. For example, 0-6 months: 65%; 6 months – 1 year: 70%; etc. The percentage is applied to the journeyman's wage rate. On Davis-Bacon projects, the percentage must be applied to the journeyman's wage rate on the applicable wage decision for that craft.

- 1) **Probationary apprentice.** A "probationary apprentice" can be paid as an apprentice (less than the rate on the wage decision) if the DOL or SAC has certified that the person is eligible for probationary employment as an apprentice.
- 2) **Pre-apprentice.** A "pre-apprentice", that is, someone who is not registered in a program and who hasn't been DOL- or SAC-certified for probationary apprenticeship is *not* considered to be an "apprentice" and must be paid the full journeyman's rate on the wage decision for the classification of work they perform.
- 3) **Ratio of apprentices and trainees to journeymen.** The maximum number of apprentices or trainees that you can use on the job site can not exceed the ratio of apprentices or trainees to journeymen allowed in the approved program.

d. Prevailing Wages or Wage Rates

Prevailing wage rates are the wage rates listed on the wage decision for the project. The wage decision will list a minimum basic hourly rate of pay for each work classification. Some wage decisions include fringe benefits which are usually listed as an hourly fringe rate. If the wage decision includes a fringe benefit rate for a classification, you will need to add the fringe benefit rate to the basic hourly rate unless you provide bona fide fringe benefits for your employees.

- 1) **Piece-work.** Some employees are hired on a piece-work basis, that is, the employee's earnings are determined by a factor of work produced. For example, a Drywall Hanger's earnings may be calculated based upon the square feet of sheetrock actually hung, a Painter's earnings may be based upon the number of units painted. Employers may calculate weekly earnings based upon piece rates *provided* the weekly earnings are sufficient to satisfy the wage rate requirement based upon actual hours, including any overtime, worked. *Accurate time records must be maintained for any piece-work employees.* If the weekly piece rate earnings are not sufficient, the employer must recompute weekly earnings based upon the actual hours worked and the rate on the wage decision for the work classification(s) involved.



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e. Fringe Benefits

Fringe benefits can include health insurance premiums, retirement contributions, life insurance, vacation and other paid leave as well as some contributions to training funds. Fringe benefits **do not** include employer payments or contributions required by other Federal, State or local laws, such as the employer's contribution to Social Security or some disability insurance payments.

Note that the total hourly wage rate paid to any laborer or mechanic (basic wage or basic wage plus fringe benefits) may be no less than the total wage rate (basic wage or basic wage plus fringe benefits) on the wage decision for their craft. If the value of the fringe benefit(s) you provide is less than the fringe benefit rate on the wage decision, you will need to add the balance of the wage decision fringe benefit rate to the basic rate paid to the employee. For example, if the wage decision requires \$10/hour basic rate plus \$5/hour fringe benefits, you must pay no less than that total (\$15/hour) in the basic rate or basic rate plus whatever fringe benefit you may provide. You can meet this obligation in several ways: you could pay the base wage and fringe benefits as stated in the wage decision, or you could pay \$15 in base wage with no fringe benefits, or you could pay \$12 basic plus \$3 fringe benefits. You can also off-set the amount of the base wage if you pay more in fringe benefits such as by paying or \$9 basic plus \$6 fringe benefits; as long as you meet the total amount. The amount of the base wage that you may off-set with fringe benefits is limited by certain IRS and FLSA requirements.

f. Overtime

Overtime hours are defined as all hours worked on the contract in excess of 40 hours in any work week. Overtime hours must be paid at no less than one and one-half times the regular rate of basic pay plus the straight-time rate of any required fringe benefits.

Referring to our example above where the wage decision requiring a \$15 total wage obligation (\$10 basic wage plus \$5 fringe benefits) was met by paying \$9 base wage plus \$6 fringe benefits: Note that overtime rates must be based on one and one-half times the basic rate as stated on the wage decision. In the above example, the employer must pay for overtime: \$15/hr (\$9 basic + \$6 fringe) plus \$5 (one-half of \$10, the wage decision basic rate) for a total of \$20 per hour.

g. Deductions

You may make payroll deductions as permitted by DOL Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to "kick-back" (i.e., give up) any of their earnings. Allowable deductions which do not require prior DOL permission include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings accounts, and any other legally-permissible deduction authorized by the employee. Deductions may also be made for payments on judgements and other financial obligations legally imposed against the employee.



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For many contractors,
the Weekly Certified
Payroll is the only
Davis-Bacon paperwork
you need to submit!



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h. Proper Designation of Trade

You must select a work classification on the wage decision for each worker based on the actual type of work he/she performed and you must pay each worker no less than the wage rate on the wage decision for that classification regardless of their level of skill. In other words, if someone is performing carpentry work on the project, they must be paid no less than the wage rate on the wage decision for Carpenters even if they aren't considered by you to be fully trained as a Carpenter. **Remember**, the only people who can be paid less than the rate for their craft are apprentices and trainees registered in approved programs.

1) **Split-classification.** If you have employees that perform work in more than one trade during a work week, you can pay the wage rates specified for each work classification in which work was performed **only** if you maintain accurate time records showing the amount of time spent in each classification. If you do not maintain accurate time records, you must pay these employees the highest wage rate of all of the classifications of work performed.

i. Site of Work

The "site of work" is where the Davis-Bacon wage rates apply. Usually, this means the boundaries of the project. "Site of work" can also include other adjacent or virtually adjacent property used by a contractor or subcontractor in the construction of the project, like a fabrication site that is dedicated exclusively, or nearly so, to the project.

SECTION II REPORTING REQUIREMENTS

2-5 Completing a Payroll Report

What information has to be reported on the payroll form?

The weekly payroll form doesn't ask for any information that you don't already need to keep for wage payment and tax purposes. For example, you need to know each employee's **name, address and social security number**; his or her **work classification** (who is working for you and what do they do?), the hours worked during the week, his or her **rate of pay**, the **gross amount earned** (how much did they earn?), the amounts of any **deductions** for taxes, etc., and the **net amount paid** (how much should the paycheck be made out for?). No more information than you need to know in order to manage your work crew and make certain they are paid properly. And, certainly, no more information than you need to keep for IRS, Social Security and other tax and employment purposes.

You are required to submit certified payrolls to illustrate and document that you have complied with the prevailing wage requirements. The purpose of the contract administrator's review of your payrolls is to verify your compliance. Clearer and complete payroll reports will permit the contract administrator to complete reviews of your payroll reports quickly.

a. Project and Contractor/Subcontractor Information

Each payroll must identify the contractor or subcontractor's name and address, the project name and number, and the week ending date. Indicate the week dates in the spaces provided. Numbering payrolls is optional but strongly recommended.

b. Employee Information

The first payroll on which each employee appears must contain the employee's name, address and Social Security Number. Afterward, the address and Social Security Number only need to be reported if there is a change in this information.

c. Work Classification

Each employee must be classified in accordance with the wage decision based on the type of work they actually perform.

1) **Apprentices or Trainees.** The first payroll on which any apprentice or trainee appears must be accompanied by a copy of that apprentice's or trainee's registration in a registered or approved program. A copy of the portions of the registered or approved program pertaining to the wage rates and ratios shall also accompany the first payroll on which the first apprentice or trainee appears.

2) **Split classifications.** For an employee that worked in a split classification, make a separate entry for each classification of work performed distributing the hours of work to each classification, accordingly, and reflecting the rate of pay and gross earnings for each classification. Deductions and net pay may be based upon the total gross amount earned for all classifications.

d. Hours Worked

The payroll should show **ONLY** the regular and overtime hours worked on this project. Show both the daily and total weekly hours for each employee. If an employee performs work at job sites other than the project for which the payroll is prepared, those "other job" hours should not be reported on the payroll. In these cases, you should list the employee's name, classification, hours for this project only, the rate of pay and gross earnings for this project, and the gross earned for all projects. Deductions and net pay may be based upon the employee's total earnings (for all projects) for the week.

e. Rate of Pay

Show the basic hourly rate of pay for each employee for this project. If the wage decision includes a fringe benefit and you **do not** participate in approved fringe benefit programs, **add** the fringe benefit rate to the basic hourly rate of pay. Also list the overtime rate if overtime hours were worked.

1) **Piece-work.** For any piece-work employees, the employer must compute an effective hourly rate for each employee each week based upon the employee's piece-work earnings for that week. To compute the effective hourly rate, divide the piece-work earnings by the total number of hours worked, including consideration for any overtime hours.

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Only one employee authorization is needed for recurring (e.g., weekly) other deductions. Written employee authorization is not required for income tax and Social Security deductions.



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The effective hourly rate must be reflected on the certified payroll and the hourly rate may be no less than the wage rate (including fringe benefits, if any) on the wage decision for the classification of work performed. It does not matter that the effective hourly rate changes from week-to-week, only that the rate is no less than the rate on the wage decision for the classification of work performed.

Remember, the overtime rate is computed at one and one-half times the basic rate of pay plus any fringe benefits. For example, if the wage decision requires \$10/hour basic plus \$5/hour fringe benefits, the overtime rate would be: $(\$10 \times 1\frac{1}{2}) + \$5 = \$20/\text{hour}$.

f. Gross Wages Earned

Show the gross amount of wages earned for work performed on this project. Note: For employees with work hours and earnings on other projects, you may show gross wages for this project over gross earnings all projects (for example, \$425.40/\$764.85) and base deductions and net pay on the "all projects" earnings.

g. Deductions

Show the amounts of any deductions from the gross earnings. "Other" deductions should be identified (for example, Savings Account or Loan Repayment). Any voluntary deduction (that is, not required by law or by an order of a proper authority) must be authorized in writing by the employee or provided for in a collective bargaining (union) agreement. A short note signed by the employee is all that is needed and should accompany the first payroll on which the other deduction appears.

h. Net Pay

Show the net amount of wages paid.

i. Statement of Compliance

The Statement of Compliance is the certification. It is located on the reverse side of a standard payroll form (WH-347). Be sure to complete the identifying information at the top, particularly if you are attaching the Statement of Compliance to an alternate payroll form such as a computer payroll. Also, you must check either 4(a) or 4(b) if the wage decision contains a fringe benefit. Checking 4(a) indicates that you are paying required fringe benefits to approved plans or programs; and 4(b) indicates that you are paying any required fringe benefit amounts directly to the employee by adding the fringe benefit rate to the basic hourly rate of pay. If you are paying a portion of the required fringe benefit to programs and the balance directly to the employee, explain those differences in box 4(c).

Only one Statement of Compliance is required for each employer's weekly payroll no matter how many pages are needed to report the employee data.

j. **Signature**

Make sure the payroll is signed with an original signature. The payroll must be signed by a principal of the firm (owner or officer such as the president, treasurer or payroll administrator) or by an authorized agent (a person authorized by a principal in writing to sign the payroll reports). Signature authorization (for persons other than a principal) should be submitted with the first payroll signed by such an agent.

SECTION III PAYROLL REVIEWS AND CORRECTIONS

2-6 Compliance Reviews

The contract administrator or other inspector may visit the project site and interview some of the workers concerning their employment on the project. The DOL may also independently conduct its own reviews (see §11-5). In addition, the contract administrator will periodically review payrolls and related submissions, comparing the interview information to the payrolls, to ensure that the labor standards requirements have been met. You will be notified by the contract administrator if these reviews find any discrepancies or errors. You will be given instructions about what steps must be taken to correct any problems.

a. **On-Site Interviews**

Every employer (contractor, subcontractor, etc.) must make their employees available for interview at the job site with the contract administrator or other agency representative, or HUD or DOL representative. The interviews are confidential and the employee will be asked about the kind of work they perform and their rate of pay. Every effort will be made to ensure that these interviews cause as little disruption as possible to the on-going work. The interviewer will record the interview information, usually on a form HUD-111, *Record of Employee Interview*, and forward the interviews to the contract administrator.

b. **Project Payroll Reviews**

The contract administrator will compare the information on the interview forms to the corresponding payrolls to ensure that the workers are properly listed on the payrolls for the days, work classification and rate of pay. The contract administrator will also review the payroll submissions to make certain that the payrolls are complete and signed; that employees are paid no less than the wage rate for the work classification shown; apprentice and trainee certifications are submitted (where needed); employee or other authorizations for other deductions are submitted (where needed); etc.

2-7 Typical Payroll Errors and Required Corrections

The following paragraphs describe common payroll errors and the corrective steps you must take.

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a. Inadequate Payroll Information

If an alternate payroll format used by an employer (such as some computer payrolls) is inadequate, e.g., does not contain all of the necessary information that would be on the optional form WH-347, the employer will be asked to resubmit the payrolls on an acceptable form.

b. Missing Addresses and Social Security Numbers

If the first payroll on which an employee appears does not contain the employee's address and Social Security Number, the employer will be asked to supply the missing information. A short note providing the information is all that is needed.

c. Incomplete Payrolls

If the information on the payroll is not complete, for example, if work classifications or rates of pay are missing, the employer will be asked to send a corrected payroll.

d. Classifications

If the payrolls show work classifications that do not appear on the wage decision, the employer will be asked to reclassify the employees in accordance with the wage decision or the employer may request an **additional classification and wage rate** (See §12-2). If reclassification results in underpayment (i.e., the wage rate paid on the payroll is less than the rate required for the new classification), the employer will be asked to pay **wage restitution** to all affected reclassified employees. (See §12-8 for instructions about wage restitution.)

e. Wage Rates

If the wage rates on the payroll are less than the wage rates on the wage decision for the work classifications reported, the employer will be asked to pay wage restitution to all affected employees.

f. Apprentices and Trainees

If a copy of the employee's registration or the approved program ratio and wage schedule are not submitted with the first payroll on which an apprentice or trainee appears, the employer will be asked to submit a copy of each apprentice's or trainee's registration and/or the approved program ratio and wage schedule. If the ratio of apprentices or trainees to journeymen on the payroll is greater than the ratio in the approved program, the employer will be asked to pay wage restitution to any excess apprentices or trainees. Also, any apprentice or trainee that is not registered in an approved program must receive the journeyman's wage rate for the classification of work they performed.

g. Overtime

If the employees did not receive at least time and one-half for any overtime hours worked on the project, the following will occur:

- 1) If the project is subject to CWHSSA overtime requirements, the employer will be asked to pay wage restitution for all overtime hours worked on the project. The employer may also be liable to the United States for liquidated damages computed at \$10 per day per violation. Or,

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- 2) If the project is *not* subject to CWHSSA, the employer will be notified of the possible FLSA overtime violations. Also, the contract administrator may refer the violations to the DOL for further review.

h. Computations

If the payroll computations (hours worked times rate of pay) or extensions (deductions, net pay) show frequent errors, the employer will be asked to take greater care. Wage restitution may be required if underpayments resulted from the errors.

i. Deductions

If there are any "Other" deductions that are not identified, or if employee authorization isn't provided, or if there is any unusual (very high, or large number) deduction activity, the employer will be asked to identify the deductions, provide employee authorization or explain unusual deductions, as necessary.

HUD does not enforce or attempt to provide advice on employer obligations to make deductions from employee earnings for taxes or Social Security. However, HUD may refer to the IRS or other responsible agency copies of certified payroll reports that show wages paid in gross amounts (i.e., without tax deduction) for its review and appropriate action.

j. Fringe Benefits

If the wage decision contains fringe benefits but the payroll does not indicate how fringe benefits were paid [neither 4(a) nor 4(b) is marked on the Statement of Compliance], the employer may be asked to submit corrected payrolls *and* will be required to pay wage restitution if underpayments occurred. However, if the basic hourly rates for the employees are at least as much as the total wage rate on the wage decision (basic hourly rate plus the fringe benefit rate), no correction is necessary.

k. Signature

If the payroll Statement of Compliance is not signed or is missing, the employer will be asked to submit a signed Statement of Compliance for each payroll affected. If the Statement of Compliance is signed by a person who is not a principal of the firm and that person has not been authorized by principal to sign, the employer will be asked to provide an authorization or to resubmit the Statement(s) of Compliance bearing the signature(s) of a principal or other signatory.

l. On-Site Interview Comparisons

If the comparison of on-site interviews to the payrolls indicates any discrepancies (for example, the employee does not appear on the payroll for the date of the interview), the employer will be asked to submit a corrected payroll report.

2-8 Restitution for Underpayment of Wages

Where underpayments of wages have occurred, the employer will be required to pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions.

a. Notification to the Employer/Prime Contractor

The contract administrator will notify the employer and/or prime contractor in writing of any underpayments that are found during



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The contract administrator may communicate directly with a subcontractor when the underpayments are plainly evident and the subcontractor is cooperative. It is best to work through the prime contractor when the issues are complex, when there are significant underpayments and/or the subcontractor is not cooperative. In all cases, the subcontractor must ensure that the prime contractor receives a copy of the required corrective documentation.

In most cases, HUD no longer requires employers to submit checks or copies of checks (certified, cashiers, canceled or other) to correct underpayments. Restitution payments are reported and certified by the employer on a correction payroll.



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payroll or other reviews. The contract administrator will describe the underpayments and provide instructions for computing and documenting the restitution to be paid. The employer/prime contractor is allowed 30 days to correct the underpayments. Note that the prime contractor is responsible to the contract administrator for ensuring that restitution is paid. If the employer is a subcontractor, the subcontractor will usually make the computations and restitution payments and furnish the required documentation through the prime contractor.

b. Computing Wage Restitution

Wage restitution is simply the difference between the wage rate paid to each affected employee and the wage rate required on the wage decision for all hours worked where underpayments occurred. The difference in the wage rates is called the adjustment rate. The adjustment rate times the number of hours involved equals the gross amount of restitution due. You may also compute wage restitution by calculating the total amount of Davis-Bacon wages earned and subtracting the total amount of wages paid. The difference is the amount of back wages due.

c. Correction Payrolls

The employer will be required to report the restitution paid on a correction certified payroll. The correction payroll will reflect the period of time for which restitution is due (for example, Payrolls #1 through #6; or a beginning date and ending date). The correction payroll will list each employee to whom restitution was paid and their work classification; the total number of work hours involved (daily hours are usually not applicable for restitution); the adjustment wage rate (the difference between the required wage rate and the wage rate paid); the gross amount of restitution due; deductions and the net amount actually paid. A signed Statement of Compliance must be attached to the correction payroll.

d. Review of Correction CPR

The contract administrator will review the correction certified payroll to ensure that full restitution was paid. The prime contractor shall be notified in writing of any discrepancies and will be required to make additional payments, if needed, documented on a supplemental correction payroll within 30 days.

e. Unfound Workers

Sometimes, wage restitution cannot be paid to an affected employee because, for example, the employee has moved and can't be located. After wage restitution has been paid to all of the workers who could be located, the employer must submit a list of any workers who could not be found and paid (i.e., unfound workers) providing their names, Social Security Numbers, last known addresses and the gross amount due. In such cases, at the end of the project the prime contractor will be required to place in a deposit or escrow account an amount equal to the total amount of restitution that could not be paid because the employee(s) could not be located. The contract administrator will continue attempts to locate the unfound workers for 3 years after the completion of the project. After 3 years, any amount remaining in the account for unfound workers will be credited and/or forwarded by the contract administrator to HUD.

CHAPTER 3. Labor Standards Disputes, Administrative Reviews, Withholding, Deposits and Escrow Accounts, and Sanctions

What happens when things go wrong?

3-1 Introduction

Even in the best of circumstances, things can go wrong. In a Davis-Bacon context, "things going wrong" usually means there's a difference of opinion or a dispute about whether and to what extent underpayments have occurred. These disputes are usually between the contract administrator and one or more employers (the prime contractor and/or a subcontractor). The dispute may involve something simple such as an additional classification request that is pending before the DOL; or something as significant as investigative findings following a complaint of underpayment. This chapter discusses some of what you may expect and what you can do to make your views known and to lessen any delays in resolving the problem or issue.

3-2 Administrative Review on Labor Standards Disputes

As mentioned in the Introduction above, a dispute about labor standards and compliance can arise for a number of reasons. The labor standards clauses in your contract and DOL regulations provide for administrative review of issues where there is a difference of views between the contract administrator and any employer. The most common circumstances include:

a. Additional Classifications and Wage Rates

Additional classification and wage rate requests are sometimes denied by the DOL. An employer that is dissatisfied with the denial can request reconsideration by the DOL Wage and Hour Administrator. The employer may continue to pay the wage rate, as requested, until a final decision is rendered on the matter. When the final decision is known, the employer will be required to pay any additional wages that may be necessary to satisfy the wage rate that is established.

1) **Reconsideration.** The DOL normally identifies the reasons for denial in its response to the request. Any interested person (for example, the contract administrator, employer, representatives of the employees) may request reconsideration of the decision on the additional classification request. The request for reconsideration must be made in writing and must thoroughly

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address the denial reasons identified by the DOL. Employer requests for reconsideration should be made through the contract administrator but may be made directly to the DOL. (See 12-2(d), and also DOL Regulations 29 CFR 1.8.) All requests initiated by or made through the contract administrator or HUD must be submitted through the HUD Headquarters Office of Labor Relations.

- 2) **Administrative Review Board.** Any interested party may request a review of the Administrator's decision on reconsideration by DOL's **Administrative Review Board**. DOL regulations 29 CFR Part 7 explain the procedures for such reviews. (See also 29 CFR 1.9.)

b. Findings of Underpayment

Compliance reviews and other follow-up enforcement actions may result in findings of underpayment. The primary goal in every case and at every step in this process is to reach agreements about who may have been underpaid and how much wage restitution may be due and, of course, to promptly deliver restitution to any underpaid workers. The contract administrator will usually work informally with you to reach such agreements. You will have an opportunity to provide additional information to the contract administrator that may explain apparent inconsistencies and/or resolve the discrepancies.

If informal exchanges do not result in agreement, the final determination and schedule of back wages due will be presented to you in writing and you will be permitted 30 days in which to correct the underpayment(s) or to request a hearing on the matter before the DOL. The request for hearing must be made in writing through the contract administrator and must explain what findings are in dispute and the reasons. In such cases, HUD is required to submit a report to DOL for review and further consideration. All requests for DOL hearing must be submitted through the HUD Headquarters Office of Labor Relations.

- 1) **DOL review.** The DOL will review the contract administrator's report and the arguments against the findings presented in the hearing request. The DOL may affirm or modify the findings based upon the materials presented. You will be notified in writing by the DOL of the results of its review; you will be given an opportunity to correct any underpayments or to request a hearing before a DOL Administrative Law Judge (ALJ). (See DOL Regulations 29 CFR 5.11 (b) and 29 CFR Part 6, *Rules of Practice for Administrative Proceedings*.)
- 2) **Administrative Review Board.** Contractors and/or subcontractors may request a review by the Administrative Review Board of the decision(s) rendered by the DOL ALJ in the administrative hearing process. See DOL regulations 29 CFR Part 7 for more information about this proceeding.

3-3 Withholding

The contract administrator shall cause withholding from payments due to the prime contractor to ensure the payment of wages which are

believed to be due and unpaid, for example, if wage underpayments or other violations are not corrected within 30 days after notification to the prime contractor. DOL may also direct the withholding of contract payments for alleged wage underpayments. Withholding is considered to be serious and is not taken unless warranted. If withholding is deemed necessary, you will be notified in writing. Only the amounts needed to meet the contractor's (and/or subcontractors') liability shall be withheld.

Remember, the prime contractor is responsible and will be held liable for any wage restitution that is due to any worker employed in the construction of the project, including workers employed by subcontractors and any lower-tier subcontractors. See §1-4, *Responsibility of the Principal Contractor*, and §2-8, *Restitution for Underpayment of Wages*.

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3-4 Deposits and Escrows

In every case, we attempt to complete compliance actions and resolve any disputes before the project is completed and final payments are made. Sometimes, corrective actions or disputes continue after completion and provisions must be made to ensure that funds are available to pay any wage restitution that is ultimately found due. In these cases, we allow projects to proceed to final closing and payments *provided* the prime contractor deposits an amount equal to the potential liability for wage restitution and liquidated damages, if necessary, in a special account. The deposit or escrow account is controlled by the contract administrator. When a final decision is rendered, the contract administrator makes disbursements from the account in accordance with the decision. Deposit/escrow accounts are established for one or more of the following reasons:

- a. **Where the parties have agreed to amounts of wage restitution that are due** but the employer hasn't furnished evidence yet that all of the underpaid workers have received their back wages, e.g., some of the workers have moved and could not be located. The amount of the deposit is equal to the total amount of restitution due to workers lacking payment evidence. As these workers are paid and proper documentation is provided to the contract administrator, amounts corresponding to the documented payments are returned to the depositor. Amounts for any workers who can not be located are held in the deposit/escrow account for three years and disbursed as described in §2-8(e) of this Guide.
- b. **Where underpayments are suspected or alleged and an investigation has not yet been completed.** The deposit is equal to the amount of wage restitution and any liquidated damages, if applicable, that are estimated to be due. If the final determination of wages due is less than the amount estimated and placed in the escrow account, the escrow will be reduced to the final amount and the difference will be returned to the depositor. If the parties agree to the investigative findings, the amounts due to the workers will be disbursed from the escrow account in accordance with the schedule of wages due. Amounts for unfound workers will be retained as described above (See §2-8(e) and 3-4(a)).

If the parties do not agree and an administrative hearing is requested, the escrow will be maintained as explained in §3-4(c), below.

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Remember, if you have any questions or need assistance concerning labor standards requirements help is always available. Contact the contract administrator for the project you're working on or the HUD Field Labor Relations staff in your area.



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- c. Where the parties are waiting for the outcome of an administrative hearing that has been or will be requested contesting a final determination of wages due. The deposit shall be equal to the amount of wage restitution and liquidated damages, if applicable, that have been determined due. Once a final decision is rendered, disbursements from the escrow account are made in accordance with the decision.

3-5 Administrative Sanctions

Contractors and/or subcontractors that violate the labor standards provisions may face administrative sanctions imposed by HUD and/or DOL.

a. DOL Debarment

Contractors and/or subcontractors that are found by the Secretary of Labor to be in aggravated or willful violation of the labor standards provisions of the Davis-Bacon and Related Acts (DBRA) will be ineligible (*debarred*) to participate in any DBRA or Davis-Bacon Act contracts for up to 3 years. Debarment includes the contractor or subcontractor and any firm, corporation, partnership or association in which the contractor or subcontractor has a substantial interest. Debarment proceedings can be recommended by the contract administrator or can be initiated by the DOL. Debarment proceedings are described in DOL regulations 29 CFR 5.12.

b. HUD Sanctions

HUD sanctions may include Limited Denials of Participation (LDPs), debarments and suspensions.

- 1) **LDPs.** HUD may issue to the employer a limited denial of participation (LDP) which prohibits the employer from further participation in HUD programs for a period up to one year. The LDP is usually effective for the HUD program in which the violation occurred and for the geographic jurisdiction of the issuing HUD Office. HUD regulations concerning LDP's are found at 24 CFR 24.700-24.714.
- 2) **Debarment and suspensions.** In certain circumstances, HUD may initiate its own debarment or suspension proceedings against a contractor and/or subcontractor in connection with improper actions regarding Davis-Bacon obligations. For example, HUD may initiate debarment where a contractor has been convicted for making false statements (such as false statements on certified payrolls or other prevailing wage certifications) or may initiate suspension where a contractor has been indicted for making false statements. HUD regulations concerning debarment and suspension are found at 24 CFR Part 24.

3-6 Falsification of Certified Payroll Reports

Contractors and/or subcontractors that are found to have willfully falsified payroll reports (Statements of Compliance), including correction certified payroll reports, may be subject to civil or criminal prosecution. Penalties may be imposed of \$1,000 and/or one year in prison for each false statement (see Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code).

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A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects

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MAKING DAVIS-BACON WORK



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Acronyms and Symbols

CDBG	– Community Development Block Grant
CFR	– Code of Federal Regulations
CPR	– Certified Payroll Report
CWHSSA	– Contract Work Hours and Safety Standards Act
DBA	– Davis-Bacon Act
DBRA	– Davis-Bacon and Related Acts
DOL	– Department of Labor
FHA	– Federal Housing Administration
FLSA	– Fair Labor Standards Act
HUD	– Housing and Urban Development (Department of)
IHA	– Indian Housing Authority
LCA	– Local Contracting Agency
LDP	– Limited Denial of Participation
O/T	– Overtime
PHA	– Public Housing Agency
S/T	– Straight-time
SAC	– State Apprenticeship Council/Agency
TDHE	– Tribally-Designated Housing Entity
§	– Section
¶	– Paragraph

Davis-Bacon – Related Web Sites*

HUD Office of Labor Relations:
www.hud.gov/offices/olr

HUD Regulations:
www.access.gpo.gov/nara/cfr/cfr-table-search.html

HUDClips (Forms and Publications):
www.hudclips.org/cgi/index.cgi

DOL Davis-Bacon and Related Acts Homepage:
www.dol.gov/esa/programs/dbra/index.htm

DOL Regulations:
www.dol.gov/dol/allcrf/Title_29/toc.htm

Davis-Bacon Wage Decisions:
www.wdol.gov

DOL Forms:
www.dol.gov/esa/programs/dbra/forms.htm

*Web addresses active as of June 2006

A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects

A-3



Project Wage Rate Sheet			U.S. Department of Housing and Urban Development Office of Labor Relations			
PROJECT NAME:			WAGE DECISION NUMBER/MODIFICATION NUMBER:			
PROJECT NUMBER:			PROJECT COUNTY:			
WORK CLASSIFICATION	BASIC HOURLY RATE (BHR)	FRINGE BENEFITS	TOTAL HOURLY WAGE RATE	LABORERS FRINGE BENEFITS:		\$
Bricklayers			\$	GROUP #	BHR	TOTAL WAGE
Carpenters			\$			\$
Cement Masons			\$			\$
Drywall Hangers			\$			\$
Electricians			\$			\$
Iron Workers			\$			\$
Painters			\$	OPERATORS FRINGE BENEFITS:		\$
Plumbers			\$	GROUP #	BHR	TOTAL WAGE
Roofers			\$			\$
Sheet Metal Workers			\$			\$
Soft Floor Layers			\$			\$
Tapers			\$			\$
Tile Setters			\$	TRUCK DRIVERS FRINGE BENEFITS:		\$
OTHER CLASSIFICATIONS				GROUP #	BHR	TOTAL WAGE
			\$			\$
			\$			\$
			\$			\$
ADDITIONAL CLASSIFICATIONS (HUD Form 4230-A)						
WORK CLASSIFICATION	BASIC HOURLY RATE	FRINGE BENEFITS	TOTAL HOURLY WAGE RATE	DATE OF HUD SUBMISSION TO DOL	DATE OF DOL APPROVAL	
			\$			
			\$			
			\$			
			\$			

forms HUD-4720
(03/2004)

Date _____

(Name of Signatory Party) _____ (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by _____ on the _____
(Contractor or Subcontractor)

_____ (Building or Work) _____, that during the payroll period commencing on the _____ day of _____ and ending the _____ day of _____, all persons employed on said project have been paid the full weekly wages earned, that no relation here been or will be made when directly or indirectly to or on behalf of said _____

_____ (Contractor or Subcontractor) _____ from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3.220 C.F.R. (Subpart A), issued by the Secretary of Labor under the Copeland Act, as amended (40 Stat. 548, 65 Stat. 116, 72 Stat. 387, 78 Stat. 287, 40 U.S.C. 276c), and described below:

(2) That any payments otherwise under the contract required to be submitted for the above period are correct and complete; and the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program regulated with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROPRIATE PLANS, FUNDS, OR PROGRAMS

☐ - In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the contract, the following fringe benefits are provided for each employee of the contractor or subcontractor named herein or will be made to appropriate programs for the benefit of such employees, except as noted in Section 4(c) below:

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

☐ - Each laborer or mechanic listed in the above referenced contract has been paid, in addition to the basic hourly wage rates, the following fringe benefits as indicated on the attached, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4(c) below.

(c) EXCEPTIONS	EXCEPTION (CRAFT)	EXPLANATION

FIGURES:

NAME AND TITLE	SIGNATURE

THE VALIDITY, FULFILLMENT OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION UNDER SECTION 801 OF TITLE 18 AND SECTION 231 OF TITLE 18 OF THE UNITED STATES CODE.

U.S. Department of Housing and Urban Development
Office of Labor Relations
Washington, DC 20410

Official Business
Penalty for Private Use \$300

Return Service Requested

STANDARD MAIL
POSTAGE & FEES PAID
HUD
Permit No. G-795

Labor Relations Desk Guide
LR01.DG



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HUD Form 2516 -

Minority Business activity reporting

Instruction and form are on the next two pages.

This report is to be completed by grantees, developers, sponsors, builders, agencies, and/or project owners for reporting contract and subcontract activities of \$10,000 or more under the following programs: Community Development Block Grants (entitlement and small cities); Urban Development Action Grants; Housing Development Grants; Multifamily Insured and Noninsured; Public and Indian Housing Authorities; and contracts entered into by recipients of CDBG rehabilitation assistance.

Contracts/subcontracts of less than \$10,000 need be reported only if such contracts represent a significant portion of your total contracting activity. Include only contracts executed during this reporting period.

This form has been modified to capture Section 3 contract data in columns 7g and 7i. Section 3 requires that the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. Recipients using this form to report Section 3 contract data must also use Part I of form HUD-60002 to report employment and training opportunities data. Form HUD-2516 is to be

completed for public and Indian housing and most community development programs. Form HUD-60002 is to be completed by all other HUD programs including State administered community development programs covered under Section 3. A Section 3 Contractor/subcontractor is a business concern that provides economic opportunities to low and very Low-income residents of the metropolitan area (or nonmetropolitan county), including a business concern that is 51 person or more owned by low-income residents;

or provides subcontracting or business development opportunities to businesses owned by low or low-income residents. Low and very low-income residents; include participants in Youthbuild programs established under Subtitle D of Title IV of the Cranston-Gonzalez National Affordable Housing Act.

The terms "low-income persons" and "very low-income persons" have the same meanings given the terms in section 3(b)(2) of the United States Housing Act of 1937. Low-income persons mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction

costs or unusually high or low-income families. Very low-income families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

Submit two (2) copies of this report to your local HUD Office within ten (10) days after the end of the reporting period you checked in item 4 on the front. Complete item 7h. Only once for each contractor/subcontractor on each semi-annual report.

Enter the prime contractor's ID in item 7f. for all contracts and subcontracts. Include only contracts expected during this reporting period. PHAs/IHAs are to report all contracts/subcontracts.

Community Development Programs

1. **Grantee:** Enter the name of the unit of government submitting this report.

3. **Contact Person:** Enter name and phone of person responsible for maintaining and submitting contract/subcontract data.

7a. **Grant Number:** Enter the HUD Community Development Block Grant Identification Number (with dashes). For example: B-32-MC-25-0034. For Entitlement Programs and Small City multi-year comprehensive programs, enter the latest approved grant number.

7b. **Amount of Contract/Subcontract:** Enter the dollar amount rounded to the nearest dollar. If subcontractor ID number is provided in 7f, the dollar figure would be for the subcontract only and not for the prime contract.

7c. **Type of Trade:** Enter the numeric codes which best indicates the contractor's/subcontractor's service. If subcontractor ID number is provided in 7f, the type of trade code would be for the subcontractor only and not for the prime contractor.

The "other" category includes supply, professional services and all other activities except construction and education/training activities.

7d. **Business Racial/Ethnic/Gender Code:** Enter the numeric code which indicates the racial/ethnic/gender character of the owner(s) and controller(s) of 51% of the business.

When 51% or more is not owned and controlled by any single racial/ethnic/gender category, enter the code which seems most appropriate. If the subcontractor ID number is provided, the code would apply to the subcontractor and not to the prime contractor.

7e. **Woman Owned Business:** Enter Yes or No.

7f. **Contractor Identification (ID) Number:** Enter the Employer (IRS) Number of the Prime Contractor as the unique identifier for prime recipient of HUD funds. Note that the Employer (IRS) Number must be provided for each contract/subcontract awarded.

7g. **Section 3 Contractor:** Enter Yes or No.

7h. **Subcontractor Identification (ID) Number:** Enter the Employer (IRS) Number of the subcontractor as the unique identifier for each subcontract awarded from HUD funds. When the subcontractor ID Number is provided, the respective Prime Contractor ID Number must also be provided.

7i. **Section 3 Contractor:** Enter Yes or No.

7j. **Contractor/Subcontractor Name and Address:** Enter this information for each firm receiving contract/subcontract activity only one time on each report for each firm.

Multifamily Housing Programs

1. **Grantee/Project Owner:** Enter the name of the unit of government, agency or mortgagor entity submitting this report.

3. **Contact Person:** Same as item 3 under CPD Programs.

4. **Reporting Period:** Check only one period.

5. **Program Code:** Enter the appropriate program code.

7a. **Grant/Project Number:** Enter the HUD Project Number or Housing Development Grant or number assigned.

7b. **Amount of Contract/Subcontract:** Same as item 7b. under CPD Programs.

7c. **Type of Trade:** Same as item 7c. under CPD Programs.

7d. **Business Racial/Ethnic/Gender Code:** Same as item 7d. under CPD Programs.

7e. **Woman Owned Business:** Enter Yes or No.

7f. **Contractor Identification (ID) Number:** Same as item 7f. under CPD Programs.

7g. **Section 3 Contractor:** Enter Yes or No.

7h. **Subcontractor Identification (ID) Number:** Same as item 7h. under CPD Programs.

7i. **Section 3 Contractor:** Enter Yes or No.

7j. **Contractor/Subcontractor Name and Address:** Same as item 7j. under CPD Programs.

Public Housing and Indian Housing Programs

PHAs/IHAs are to report all contracts/subcontracts. Include only contracts executed during this reporting period.

1. **Project Owner:** Enter the name of the unit of government, agency or mortgagor entity submitting this report. Check box as appropriate.

3. **Contact Person:** Same as item 3 under CPD Programs.

4. **Reporting Period:** Check only one period.

5. **Program Code:** Enter the appropriate program code.

7a. **Grant/Project Number:** Enter the HUD Project Number or Housing Development Grant or number assigned.

7b. **Amount of Contract/Subcontract:** Same as item 7b. under CPD Programs.

7c. **Type of Trade:** Same as item 7c. under CPD Programs.

7d. **Business Racial/Ethnic/Gender Code:** Same as item 7d. under CPD Programs.

7e. **Woman Owned Business:** Enter Yes or No.

7f. **Contractor Identification (ID) Number:** Same as item 7f. under CPD Programs.

7g. **Section 3 Contractor:** Enter Yes or No.

7h. **Subcontractor Identification (ID) Number:** Same as item 7h. under CPD Programs.

7i. **Section 3 Contractor:** Enter Yes or No.

7j. **Contractor/Subcontractor Name and Address:** Same as item 7j. under CPD Programs.

Contract and Subcontract Activity

U.S. Department of Housing and Urban Development

OMB Approval No.: 2577-0088

Approval

Public reporting burden for this collection of information is estimated to average .5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information is voluntary. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB Control Number.

Executive Orders dated July 14, 1983, directs the Minority Business Development Plans shall be developed by each Federal Agency and the these annual plans shall establish minority business development objectives. The information is used by HUD to monitor and evaluate MBE act the total program activity and the designated minority business enterprise (MBE) goals. The Department requires the information to provide guidance and oversight for programs for the development of minority business enterprise concerning Minority Business Development. If the ir not collected HUD would not be able to establish meaningful MBE goals nor evaluate MBE performance against these goals.

Privacy Act Notice = The United States Department of Housing and Urban Development, Federal Housing Administration, is authorized to solicit the information requested in this form by virtue of Title 12, United States Code, Section 1701 et seq., and regulation. It will not be disclosed outside the United States Department of Housing and Urban Development without your consent, except as required or permitted by law.

[illegible]

7c: Type of Trade Codes:			7d: Racial/Ethnic Codes:		5: Program Codes (Complete for Housing and Public and Indian Housing programs only):	
CPD:	Housing/Public Housing:		1 = White Americans	1 = All Insured, including Section8	5 = Section 202	
1 = New Construction	1 = New Construction	6 = Professional	2 = Black Americans	2 = Flexible Subsidy	6 = HUD-Held (Management)	
2 = Education/Training	2 = Substantial Rehab.	7 = Tenant Services	3 = Native Americans	3 = Section 8 Noninsured, Non-HFDA	7 = Public/India Housing	
3 = Other	3 = Repair	8 = Education/Training	4 = Hispanic Americans	4 = Insured (Management)	8 = Section 811	
	4 = Service	9 = Arch./Engrg. Appraisal	5 = Asian/Pacific Americans			
	5 = Project Managt.	0 = Other	6 = Hasidic Jews			

Previous editions are obsolete.

form HUD-2516 (8/98)

PART IX

STANDARD DRAWINGS, STANDARD PLANS AND PROJECT PLANS

PART IX. STANDARD DRAWINGS, STANDARD PLANS AND PROJECT PLANS

2012 “GREENBOOK” – Standard Specifications For Public Works Construction Supplemental Forms

<https://docs.google.com/viewer?a=v&pid=sites&srcid=ZGVmYXVsdGRvbWFpbnxzZHN0YW5kYXJkZlJhd2luZ3N8Z3g6NGVIOTk5YW50NiNTJIYTBmMg>

San Diego Area Regional Standard Drawings Regional Standard Drawings

Project Plans

1. Title Sheet
2. Precise Grade Plan
3. Hardscape Layout & Materials Plan
4. Construction Details
5. Construction Details
6. Irrigation Plans
7. Irrigation Legend, Notes, & Details

END OF SECTION