

PART IV
SPECIAL PROVISIONS - SPECIAL CONDITIONS
(AMENDED)

**COUNTY OF SAN DIEGO
SPECIAL PROVISIONS
FOR
CONSTRUCTION OF
STELZER PARK RANGER STATION AND VISITOR CENTER
ORACLE PROJECT NO. 1021904**

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, 2010 edition; and Greenbook Standard Specifications for Public Works, current edition; 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 **180 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: NICK FERRACONE, 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 all permits as required in the project scope.

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 5-1.13, "Subcontracting", of the Standard Specifications.

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".

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. Informal Dispute Resolution Procedure

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

7. 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).

8. Reserved

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

County shall not be deemed to waive any provision under this Section, if at County's 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.

18. 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 NONE.

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. All storage areas shall be locked and secured when not in active use. The County is not responsible for any damage to or loss of equipment, materials, or other items stored on the project site.

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 County Project Manager/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 materials, equipment, amenities, furnishings, plants, etc. per the construction documents. 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

finishes 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 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 seventy-two (72) hours 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 ensure 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 Companies, County, or other), 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 dirt and debris removed shall be legally disposed of at an appropriate off-site location. Full compensation for dirt and debris removal and disposal, shall be considered as included in the contract prices paid for the various items of work, and no additional compensation will be allowed therefore.

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. Biological Resources

Environmental Training:

Preconstruction worker environmental awareness training for construction crews to address sensitive resources that occur or have the potential to occur in the project area. Training is estimated to last one hour and will be held during the preconstruction meeting. Supervising representatives of all trades and all subcontractors must attend. Supervisors will be responsible for training each worker before they begin working on the site. Training will cover all mitigation measures included in the proposed project's Mitigation Monitoring and Reporting Program (MMRP). The County will provide the training at no additional cost to the Contractor beyond the scope of work in the construction documents.

Ground Disturbing Activities:

The Contractor shall notify the County Project Manager of the schedule for and duration of all ground-disturbing activities a minimum of five working days prior to the start of ground-disturbing activities.

Vegetation Removal and Ground-Disturbing Activities:

The Contractor shall avoid vegetation removal and ground-disturbing activities during the bird breeding season (February 15 to September 1) to mitigate impacts on nesting birds and raptors. If vegetation removal and/or ground-disturbing activities cannot be avoided during this time period, a nesting bird survey shall be conducted no more than 72 hours prior to vegetation removal and/or ground-disturbing activities by a qualified avian biologist through the entirety of the project area and required buffers zones (typically ranging from 300-feet to 900-feet, to be determined by the biologist). The biologist will be retained by the County at no additional cost to the Contractor beyond the scope of work in the construction documents. If the survey results are positive, an avoidance buffer around all active nests will be implemented during construction (typically ranging from 150-feet to 900-feet, to be determined by the qualified avian biologist). If the survey results are negative, monitoring may not be required.

If monitoring is required, nest monitoring shall occur for all active nests when construction activities are occurring adjacent to buffers. Monitoring will occur during at least the first 2 days of initial construction activities to ascertain if the buffer is sufficient. Buffer expansions will be implemented if nest disturbance is noted during monitoring. Upon establishing sufficient avoidance of nest disturbance ongoing monitoring shall be conducted at least once per week or

more if determined necessary by the qualified avian biologist.

If the level of disturbance increases or significantly changes, full-time monitoring may be required again. Upon completion of work activities the monitor will survey for 1 hour on the day that work is complete. If nesting activity is observed at the nest, the nest will then be monitored on a weekly basis. If no activity is observed, the nest will be monitored the following day for 1 hour to determine nest status.

For active nests outside of construction activities and buffers no nest monitoring is required.

If construction is delayed due to monitoring requirements 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 monitoring requirements.

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. Cultural Resources

Archeological Monitoring:

A qualified archaeologist shall observe all ground-disturbing activities related to the Contract. The County will retain the archeologist at no additional cost to the Contractor beyond the scope of work in the construction documents. The following measures shall be implemented:

- a) All proposed ground disturbance, including grading and excavation, will be monitored by a qualified archaeologist(s) per the County.
- b) Prior to the start of construction, a monitoring plan will be prepared with procedures to follow in the event of an unanticipated discovery, and reporting requirements.
- c) The archaeologist shall attend the pre-construction meeting to inform all personnel involved with the project of the possibility of archaeological materials being encountered during construction.
- d) If intact subsurface deposits are identified during construction, the archaeologist will be authorized to divert construction activities away from the find and will be given sufficient time to investigate and determine significance. No soil will be exported off site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.
- e) Recovered items will be treated and curated in accordance with current professional standards per the qualified archeologist.
- f) The archeologist will provide a final report of the monitoring program and its results and will provide interpretations of any recovered cultural materials.

Protection of Human Remains:

Should human remains be identified during ground-disturbing activities related to the project, the following procedures shall be followed:

- a) No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
 - 1) The County Project Manager is notified, and
 - 2) The County Coroner is contacted to determine that no investigation of the cause of death is required. If the Coroner determines the remains are Native American, then the Coroner will contact the Native American Heritage Commission (NAHC) to follow proper procedures.

- b) Under certain conditions, the County or its authorized representative will rebury the Native American human remains and associated grave goods on the property in a location not subject to further disturbance.
- c) Ground penetrating radar (GPR) shall be used as part of the human remains survey and canine forensics shall be considered.
- d) Human remains are defined as:
 - 1) Fragmented or disarticulated human bone with no associated artifacts or grave goods.
 - 2) Cremations, including the soil surrounding the deposit.
 - 3) Interments, including the soils surrounding the deposit.
 - 4) Associated grave goods.

In consultation among the County archaeologist, project archaeologist, and Native American monitor, additional measures (e.g., wet-screening of soils adjacent to the deposit or on site) may be required to determine the extent of the burial.

Native American Monitoring:

A Tribal member shall monitor all project-related ground disturbance. The County will retain the monitor at no additional cost to the Contractor beyond the scope of work in the construction documents.

If construction is delayed due to monitoring requirements 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 monitoring requirements.

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.

24. Best Management Practices (BMPs)

The Contractor shall implement the following BMPs:

- a) Implement appropriate construction scheduling and sequencing to reduce the amount and duration of soil exposed to vehicle tracking.
- b) Limit vehicle speeds to 5 miles per hour in the project area.
- c) Conduct regular watering of roadways to prevent and alleviate dust generation, but do not apply in quantities that would allow for water ponding.
- d) Fence/flag and maintain limits of construction areas throughout the construction activities.
- e) Implement appropriate stormwater BMPs during the rainy season (October 1 to April 30) to reduce erosion and control siltation. BMPs may include the use of silt fences, fiber rolls, and organic soil tackifiers (e.g., guar gum).
- f) Require equipment to be maintained in good tune and reduce excessive idling time.
- g) Utilize alternative fueled equipment and vehicles, such as renewable diesel, renewable natural gas, compressed natural gas, or electric, when feasible.
- h) Require older equipment be retrofitted with advanced engine controls, such as diesel particulate filters, selective catalytic reduction, or cooled exhaust gas recirculation, where feasible.
- i) Make efficient use of finite natural resources. Use building and finishing products that contain locally sourced and recycled materials, where feasible.
- j) Recycle/reuse all construction and demolition debris to the extent feasible.

25. Highway Construction Equipment

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

26. 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.

27. 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. The Contractor shall recycle all materials to the extent feasible.

28. 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".

29. 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.sdcountry.ca.gov>. These reports are provided for informational purposes only and are not part of this Contract:

Geotechnical Report

30. Inspections & Special Inspections

The Contractor shall coordinate, schedule and facilitate all required inspections and special inspections. The Contractor shall provide the Engineer with a minimum of 72 hours advance notice of all inspections and special inspections.

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.

31. Stormwater Quality Management Plan (SWQMP)

The Contractor shall follow the Stormwater Quality Management Plan (SWQMP) included in Part 5 of the Bid Documents. The Contractor shall ensure regular site inspections are performed by a Qualified Stormwater Planner (QSP) and that erosion control and stormwater best management practices meet all current regulations and are regularly evaluated and reported upon.

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.

32. As-Built Construction Documents (also known as Record Documents)

The Contractor shall provide complete and accurate as-built documents including, but not limited to, plans and specifications for all improvements performed under the Contract within fifteen (15) days of notice of substantial completion.

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.

33. 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.

34. 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.

35. 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.

36. 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/opri/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**