REGULAR CITY COUNCIL MEETING
TUESDAY, DECEMBER 10, 2019

Closed Session – 6:15 PM
Regular Meeting - 6:30 PM

City Hall – Beryl P. Robinson, Jr. Conference Room
317 Broad Street, Nevada City, CA 95959

MISSION STATEMENT
The City of Nevada City is dedicated to preserving and enhancing its small town character and historical architecture while providing quality public services for our current and future residents, businesses and visitors.

Reinette Senum, Mayor
Duane Strawser, Council Member **Erin Minett, Vice Mayor**
David Parker, Council Member **Valerie Moberg, Council Member**

The City Council welcomes you to its meetings which are scheduled at 6:30 PM on the 2nd and 4th Wednesdays of each month. Your interest is encouraged and appreciated. This meeting is recorded on DVD and is televised on local public television Channel 17. Other special accommodations may be requested to the City Clerk 72 hours in advance of the meeting. Please turn off all cell phones or similar devices. Action may be taken on any agenda item. Agenda notices are available at City Hall. Materials related to an item on this Agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Hall at 317 Broad Street, Nevada City, CA during normal business hours.

ANY MEMBER OF THE PUBLIC DESIRING TO ADDRESS THE COUNCIL ON ANY ITEM ON THIS AGENDA: After receiving recognition from the Mayor, give your name and address, and then your comments or questions. Please direct your remarks to the Councilmembers. In order that all interested parties have an opportunity to speak, please limit your comments to the specific item under discussion. All citizens will be afforded an opportunity to speak, consistent with their Constitutional rights. Time limits shall be at the Mayor's discretion. **IF YOU CHALLENGE** the Council's decision on any matter in court, you will be limited to raising only those issues you or someone else raised at the meeting or Public Hearing described on this agenda, or in written correspondence delivered to the City Council at, or prior to, the meeting or Public Hearing.

CLOSED SESSION: 6:15 PM

Under Government Code Section 54950 members of the public are entitled to comment on the closed session agenda before the Council goes into closed session.

1. Pursuant to Government Code Section 54956.9 the City Manager, Catrina Olson and City Attorney, Hal DeGraw are requesting a closed session conference to confer on litigation involving the City in the case of Friends of Spring Street vs. Nevada City, et al., Nevada County Superior Court Case No. CIV 1304393, Appellate Case No. C081195.

REGULAR MEETING – 6:30 PM - Call to Order

Roll Call: Mayor Senum, Vice Mayor Minett, Council Members Moberg, Parker and Strawser

PLEDGE OF ALLEGIANCE

PROCLAMATIONS:

PRESENTATIONS:

BUSINESS FROM THE FLOOR

1. **PUBLIC COMMENT**
   Under Government Code Section 54954.3, members of the public are entitled to address the City Council concerning any item within the Nevada City Council's subject matter jurisdiction. Comments on items NOT ON THE AGENDA are welcome at this time. Normally, public comments are limited to no more than three minutes each. **Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda.**

2. **COUNCIL MEMBERS REQUESTED ITEMS AND COMMITTEE REPORTS:**

3. **CONSENT ITEMS:**
   All matters listed under the Consent Calendar are to be considered routine by the City Council and will be enacted by one motion in the form listed. There will be no separate discussion of these items unless, before the City Council votes on the motion to adopt, members of the Council, City staff or the public request specific items to be removed from the Consent Calendar for separate discussion and action.

   A. **Subject:** Accounts Payable Activity Report – November 2019
   Recommendation: Receive and file.

   B. **Subject:** Bear Yuba Land Trust (BYLT) Trail Maintenance Contract
   Recommendation: Pass Resolution 2019-XX, a Resolution of the City of Nevada City adopting 2020 trail Maintenance Contract with Bear Yuba Land Trust (BYLT) and authorize the City Manager.

   C. **Subject:** Award of Contract for Pioneer Park Picnic Area Bathroom Improvements in Nevada City
   Recommendation: Pass Resolution 2019-XX, a Resolution of the City Council of the City of Nevada City to award a contract to Barsotti Contracting in the amount of $43,900.00 plus $7,000.00 in contingencies for Pioneer Park Picnic Area Bathroom Improvements in Nevada City and authorize the Mayor to sign.

   D. **Subject:** Award of Contract for Roof Replacement at 775 Zion Street
   Recommendation: Pass Resolution 2019-XX, a Resolution of the City Council of the City of Nevada City to award a contract to Matco Construction in the amount of $37,500 plus $6,000 contingencies for Roof Replacement at 775 Zion Street in Nevada City and authorize the Mayor to sign.

4. **APPROVAL OF ACTION MINUTES:**

   A. City Council Meeting – November 13, 2019

   B. Special City Council Meeting – December 2, 2019

5. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

A. Subject: A Resolution for the Purchase of (2), Ford F-250's from Teichert Construction Co. for the Water and Wastewater Department
Recommendation: Pass Resolution 2019-XX, a Resolution of the City Council of the City of Nevada City to award purchase from Teichert Construction Co. for $25,000.00 for (2) vehicles (2012 Ford F-250 and 2014 Ford F-250) for the City of Nevada City Water and Wastewater Departments.

B. Subject: City Letter Acknowledging Compliance with Settlement Agreement to Allow Terra Alta to Proceed with Map Recordation for the First 7 Lots of Deer Creek Park II A
Recommendation: Review, approve and authorize the Mayor to sign the letter of compliance for Deer Creek Park II.

6. PUBLIC HEARINGS:

7. OLD BUSINESS:

8. NEW BUSINESS:

A. Subject: Request for Placement of a Menorah Display in Robinson Plaza from December 22-30, 2019
Recommendation: Approve placement of the Menorah display.

B. Subject: Consideration of Removal or Sanctioning of the Current Mayor
Recommendation: Consider, discuss and possibly act on the removal or sanctioning of the current Mayor. Additionally, or in the alternative, provide direction to staff on whether amendments to the City Code of Conduct are desired.

9. CORRESPONDENCE:

A. Thank you Nevada City Police Department

10. ANNOUNCEMENTS:

11. CITY MANAGER'S REPORT:

12. ADJOURNMENT

Certification of Posting of Agenda

I, Loree' McCay, Administrative Services Manager/Deputy City Clerk for the City of Nevada City, declare that the foregoing agenda for the Decemer 10th, 2019 Regular Meeting of the Nevada City City Council was posted December 6th, 2019 at the entrance of City Hall. The agenda is also posted on the City's website www.nevadacityca.gov.

Signed December 6th, 2019, at Nevada City, California

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Loree' McCay, Administrative Services Manager/Deputy City Clerk

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CITY OF NEVADA CITY
City Council
Long Range Calendar

December 25, 2019	Holiday
January 1, 2019	Holiday
January 8, 2019	Regular Council Meeting
January 20, 2019	Holiday
January 22, 2019	Regular Council Meeting
February 10, 2019	Strategic Planning
February 12, 2019	Regular Meeting
February 17, 2019	Holiday
February 26, 2019	Regular Meeting
March 11,2019	Regular Meeting
March 25, 2019	Regular Meeting

NOTE: This list is for planning purposes; items may shift depending on timing and capacity of a meeting.

NOTICE: *As presiding officer, the Mayor has the authority to preserve order at all City Council meetings, to remove or cause the removal of any person from any such meeting for disorderly conduct, or for making personal, impertinent, or slanderous remarks, using profanity, or becoming boisterous, threatening or personally abusive while addressing said Council and to enforce the rules of the Council.*

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

December 10, 2019

TITLE: Accounts Payable Activity Report – November 2019

RECOMMENDATION: Receive and file.

CONTACT: Loree' McCay, Administrative Services Manager

BACKGROUND / DISCUSSION:
The attached Accounts Payable Activity Report includes all the cash disbursements associated with the citywide expenditures for the month of November 2019.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Varies Monthly

ATTACHMENTS:
- ✓ Accounts Payable Activity Report – November 2019

Period	Vendor #	(Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
11-19	3TE01	(3T EQUIPMENT COMPANY)	68850	10/07/19	11/06/19	A	1904.12	JETTER REPAIR
11-19	4LE01	(4LEAF, INC.)	J3652L	10/24/19	/ /		260.00	NATIONAL HOTEL INSPECTION
11-19	ABS01	(ABSOLUTE COMMUNICATION SOLU	18106	10/23/19	/ /		50.00	PHONE MAINT
11-19	AIK01	(BEVERLY AIKEN)	110119	11/01/19	/ /		100.00	SL 10/19/19 CASH BEVERLY AIKEN
11-19	AIR05	(AIRGAS)	909498600	11/07/19	/ /		78.99	MED SUPPLIES
11-19	ALB01	(ALBANESE WELDING, INC)	3426	10/29/19	/ /		320.00	CHLORINE CYLINDER RACK
			3433	11/25/19	/ /		240.00	WTP WELDING
			3435	10/29/19	/ /		610.00	WTP SHOP SECURITY DOOR
				Vendor's Total ----->			1170.00	
11-19	ALH02	(ALHAMBRA & SIERRA SPRINGS)	111419	11/14/19	/ /		42.97	DPW WATER
11-19	ALL25	(ALL STAR AUTOMOTIVE)	21316	11/06/19	/ /		3144.71	#29 REPAIR
11-19	AME19	(AMERICAN FIDELITY)	D089274	11/20/19	/ /		738.38	STD/LTD BENEFITS NOV 2019
11-19	AME24	(AMERICAN UNITED LIFE INSURA	NOV 2019	11/20/19	/ /		404.48	LIFE INS 11/01-11/30/19
11-19	AND02	(ANDREWS PAVING & ESCAVATING	520	10/23/19	/ /		914.00	PATCH PAVE MEASURE S
11-19	ARA01	(ARAMARK)	637058817	10/10/19	/ /		71.69	CITY HALL/DPW MATS
			637085966	10/24/19	/ /		58.09	OUTSIDE SERVICE
			637099362	10/31/19	/ /		58.09	MATS/LINENS
			637113172	11/07/19	/ /		58.09	MATS/LINENS
			637126686	11/14/19	/ /		58.09	MATS/LINENS
				Vendor's Total ----->			304.05	
11-19	AT&15	(AT&T CALNET 3)	13870504	11/10/19	/ /		1056.17	10/10-11/09/19 BAN #9391023504
11-19	AT&16	(AT&T - WWTP)	1029/1128	10/28/19	/ /		111.75	WWTP INTERNET SVC 10/29-11/28/19
11-19	ATO01	(A TO Z SUPPLY)	363045	10/22/19	11/21/19	A	18.86	PVC PARTS
			363266	10/29/19	11/28/19	A	116.42	PVC PARTS HOSE HANGERS
			363310	10/31/19	11/30/19	A	48.49	NUTS & BOLTS
			363882	11/14/19	12/14/19	A	75.56	PVC PARTS
				Vendor's Total ----->			259.33	
11-19	B&C01	(B & C TRUE VALUE HOME CTR)	395132	10/17/19	11/16/19	A	29.25	CITY HALL DOORS
			395225	10/18/19	11/17/19	A	25.23	PARKING METERS
			395391	10/19/19	11/18/19	A	66.35	MOP/STICK TOILET SEAT
			395756	10/22/19	11/21/19	A	19.51	LIGHT BULBS
			395912	10/23/19	11/22/19	A	30.94	TELEPHONE, BATTERIES
			397159	11/03/19	12/03/19	A	536.68	HOT WATER HEATER REPAIR
			397571	11/06/19	12/06/19	A	83.30	STATION SUPPLIES
			397815	11/08/19	12/08/19	A	15.61	PARKING METERS
			397862	11/08/19	12/08/19	A	48.80	HOSES
			399245	11/19/19	12/19/19	A	82.13	STATION SUPPLIES
			991579	10/28/19	11/27/19	A	585.89	GENERATOR
				Vendor's Total ----->			1523.69	
11-19	BLU05	(BLUE SHIELD OF CALIFORNIA)	192870062	10/14/19	/ /		43429.23	HEALTH INS NOV 2019 INV#192870062352
			193170015	11/13/19	/ /		47551.07	HEALTH INS DEC 2019 INV#193170015621
				Vendor's Total ----->			90980.30	
11-19	BOB01	(BOB'S DISCOUNT CARPET INC)	22324	10/14/19	/ /		8233.80	CARPET COUNCIL CHAMBERS & ENTRY
11-19	BUS02	(BUSINESS CARD/B OF A VISA)	OCT 2019	11/06/19	/ /		4060.74	MISC DEPT PURCHASES 10/07-11/06/19

Period	Vendor # (Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
11-19	CAL17 (CALIFORNIA CHAMBER OF)	2020	10/30/19	11/29/19	A	233.48	2020 EMPLOYMENT POSTERS
11-19	CAN03 (SYLVIA J. CANO)	103119	10/31/19	/ /		400.00	JANITOR VETS HALL OCT 2019
11-19	CEN05 (CENTRAL VALLEY ENGINEERING)	14913	10/01/19	/ /		11000.00	MEASURE S SIDEWALK REPLACEMENT @ 520/524 MAI
		14914	10/01/19	/ /		7800.00	NATIONAL HOTEL BROAD ST
			Vendor's Total ----->			18800.00	
11-19	COM08 (COMCAST CABLE)	10201119	10/15/19	/ /		32.22	MONTHLY TV CHG/MTG REC 10/20-11/19/19
		1102/1201	10/27/19	/ /		100.16	DPW MNTHLY SVC INTERNET 11/02-12/01/19
		1120\1219	11/15/19	/ /		32.22	MNTHLY TV CHG/MTG REC 11/20-12/19/19
			Vendor's Total ----->			164.60	
11-19	COM09 (COMMERCIAL PUMP SERVICE, IN	10689	11/06/19	/ /		4867.48	VFD AT SWIMMING POOL
11-19	CON11 (CME SERVICES)	64771	11/04/19	/ /		32360.00	OLD DOWNIEVILLE HWY - WATERLINE
		64773	11/19/19	/ /		43942.00	OLD DOWNIEVILLE HWY PROJECT
		64774	11/25/19	/ /		4160.00	SLUDGE VALVE INSTALLATION SIDE B
			Vendor's Total ----->			80462.00	
11-19	COO01 (COOLER ZONE)	52283	11/01/19	/ /		49.00	COOLER RENTAL NOV 2019
11-19	COR01 (CORBIN WILLITS SYSTEMS)	B910151	10/15/19	11/14/19	A	432.01	MNTHLY OPS SYS NOV 2019
11-19	COR08 (DAN CORTINOVIS)	320-3	10/31/19	/ /		960.00	PERMIT COMPLIANCE CONSULTING OCT 2019
11-19	COU05 (COUNTY OF NEVADA)	5096007	10/01/19	10/31/19	A	56.54	412 COMMERCIAL SOLID WSTE REMOVAL FY 19/20
		5100016	10/01/19	10/31/19	A	353.46	650 JORDAN SOLID WSTE REMOVAL FY 19/20
		5220015	10/01/19	10/31/19	A	84.82	201 PROV MINE SOLID WSTE REMOVAL FY 19/20
		5390016	10/01/19	10/31/19	A	28.26	211 N PINE SOLID WSTE REMOVAL FY 19/20
		5420041	10/01/19	10/31/19	A	3235.60	255 BOULDER SOLID WSTE REMOVAL FY 19/20
		5440002	10/01/19	10/31/19	A	2120.82	427 NIMROD SOLID WSTE REMOVAL FY 19/20
		37050074-	10/01/19	10/31/19	A	56.54	5 KIDDER SOLID WSTE REMOVAL FY 19/20
			Vendor's Total ----->			5936.04	
11-19	COU06 (COUNTY OF NEVADA)	DEC 2019	11/12/19	12/12/19	A	9489.07	DISPATCH SVCS DEC 2019
11-19	COU14 (COUNTY OF NEVADA)	IN0031275	11/20/19	12/20/19	A	280.29	FACILITY #5756 ANNUAL INSPECTION FEE
11-19	COU23 (NEVADA COUNTY COLLECTIONS)	OCT 2019	11/12/19	12/12/19	A	3380.50	PARKING TIX/POC OCT 2019
11-19	CRA01 (CRANMER ENGINEERING, INC.)	GBI0068	08/31/19	09/30/19	A	6306.60	WASTEWATER TESTING JULY & AUG 2019
		GBK0052	10/31/19	11/30/19	A	137.50	WATER TESTS OCT 2019
		GBK0053	10/31/19	11/30/19	A	189.00	WATER TESTS SEPT 2019
		GBK0054	10/31/19	11/30/19	A	7195.80	WASTEWATER TESTS SEPT & OCT 2019
			Vendor's Total ----->			13828.90	
11-19	DAM01 (TRENT DAMBLY)	1019-1101	11/05/19	/ /		180.00	FIRE INTERN SVCS 10/19-11/01/19
		1102-1115	11/18/19	/ /		120.00	FIRE INTERN SVCS 11/02-11/15/19
			Vendor's Total ----->			300.00	
11-19	DAT01 (DATA TICKET, INC.)	106729	11/12/19	12/12/19	A	1606.43	TICKET PROCESSING OCT 2019
11-19	DEL08 (DELTA INDUSTRIAL SOLUTIONS)	27433	10/15/19	/ /		1596.84	SUPPLIES
		27515	10/29/19	/ /		404.81	GLOVES
			Vendor's Total ----->			2001.65	
11-19	DEP17 (DEPT OF TOXIC SUBSTANCES CO	19SM1038	09/12/19	/ /		549.81	PROVIDENCE MINE-WASTE AREA
11-19	DES01 (JOANN DESENA)	111219	11/12/19	/ /		867.02	REFUND FOR WRONG APN FY 18/19

Period	Vendor #	(Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
11-19	DOK01	(DOKKEN ENGINEERING)	35775	11/06/19	/ /		2428.27	NEVADA ST BRIDGE DESIGN PROJ#2244 OCT 2019
11-19	ECO01	(ECONOMY PEST CONTROL INC)	172086	11/21/19	12/21/19	A	140.00	FIRE PEST CONTROL NOV, DEC & JAN 2019
11-19	ELE04	(JIM INMAN, DBA ELECTRONIC S	4826	11/13/19	/ /		653.40	#40 LIGHT INSTALL
11-19	ENG06	(ENGINEERED FIRE SYSTEMS, IN	15786	11/02/19	/ /		100.00	FIRE PLAN REVIEW CALLA LILY CREPES 10/04/19
			15787	11/02/19	/ /		100.00	FIRE PLAN REVIEW POWERHOUSE 11/08/19
				Vendor's Total ----->			200.00	
11-19	ERS01	(ERS)	100323	10/18/19	11/17/19	A	4953.75	FILTER MEDIA
			100324	10/18/19	11/17/19	A	2575.95	FILTER MEDIA
				Vendor's Total ----->			7529.70	
11-19	EVE01	(EVERGUARD SYSTEMS)	A65184	11/21/19	/ /		90.00	MUSEUM FIRE ALARM SVC 12/01/19-02/29/19
11-19	FER02	(FERRELLGAS)	102530323	09/29/19	10/29/19	A	180.00	WTP LPG GENERATOR RENTAL
			110813875	09/26/19	10/26/19	A	204.61	WTP LPG GENERATOR
			110830252	10/10/19	11/09/19	A	618.13	WTP LPG GENERATOR
			110833712	10/11/19	11/10/19	A	322.93	WTP LPG GENERATOR
			110852866	10/25/19	11/24/19	A	579.19	PROPANE WTP GENERATOR
			110856695	10/29/19	11/28/19	A	897.10	PROPANE WTP GENERATOR
				Vendor's Total ----->			2801.96	
11-19	FER05	(FERGUSON ENTERPRISES, INC.)	8115732	11/01/19	/ /		30.15	TOILET CITY HALL
11-19	FOO01	(FOOTHILL CLEAN SWEEP)	11232	10/31/19	/ /		550.00	SWEEPING OCT 2019
11-19	FOS02	(SEAN FOSTER)	112019	11/20/19	/ /		181.50	TUITION S.FOSTER REIMB 10/21-10/24/19
11-19	GAR01	(JEREMY GARRETT)	110819A	11/08/19	/ /		60.00	SWRCB CERT RENEWAL REIMB
			110819B	11/08/19	/ /		95.00	WASTEWATER OIT APPLICATION REIMB
				Vendor's Total ----->			155.00	
11-19	GOL20	(GOLD COUNTRY WATER)	0120601	10/23/19	/ /		14.00	LAB DI WATER
11-19	GOO02	(SAM GOODSPEED)	110519	11/05/19	12/05/19	A	18.38	RADIATOR COOLANT REIMB
11-19	GRA01	(GRAY ELECTRIC COMPANY)	051235	10/28/19	11/27/19	A	26.00	CITY HALL ALARM SVC NOV 2019
			051236	10/28/19	11/27/19	A	28.00	SEAMANS LDGE ALARM SVC NOV 2019
				Vendor's Total ----->			54.00	
11-19	GRA19	(GRASS VALLEY SIGN COMPANY)	11052019	11/08/19	12/08/19	A	75.69	TRIBULATION TRAIL SIGN
			080220199	08/02/19	09/01/19	A	135.16	PARKING STICKERS
			080720199	08/08/19	09/07/19	A	207.60	SMOKING SIGNS
			101820197	10/18/19	11/17/19	A	82.18	TRIBUTE TRAIL SYSTEM SIGNS
				Vendor's Total ----->			500.63	
11-19	GRE17	(GREAT AMERICA FINANCIAL SVC	25884144	11/07/19	/ /		384.46	COPIERS CONTRACT 11/01-11/30/19
11-19	HAC01	(HACH COMPANY)	11708673	11/04/19	12/04/19	A	1837.13	INFLUENT TESTING
11-19	HAR02	(JOHN HARDY)	110819	11/08/19	/ /		532.00	FRIENDS OF SPRING ST MEDIATION
11-19	HBE01	(HBE RENTALS)	436485	11/01/19	12/01/19	A	60.00	WACKER
11-19	HIL02	(HILLS FLAT LUMBER CO.)	603501/1	11/01/19	12/01/19	A	18.05	SHOP SECURITY DOOR
			832146/1	11/15/19	12/15/19	A	227.59	J.GARRETT UNIFORM/PANTS
				Vendor's Total ----->			245.64	

Period	Vendor #	(Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
11-19	HIL10	(HILL BROTHERS CHEMICAL CO.)	07060377	10/25/19	/ /		5250.34	MAG
			07060978	10/29/19	/ /		15172.50	MAG TANK PROJECT & MIXER JUN 2018
				Vendor's Total ----->			20422.84	
11-19	HIR00	(HIRERIGHT, LLC)	H0172875	10/31/19	/ /		36.76	FD NEW HIRE/BACKGROUND S.FOSTER 10/14/19
11-19	HUN01	(HUNT & SONS, INC.)	265890	10/31/19	/ /		61.25	FD FUEL OCT 2019
11-19	INT07	(INTERSTATE SALES)	4130	10/30/19	11/29/19	A	375.38	SPEED SIGNS
			4190	10/30/19	11/29/19	A	418.28	STOP SIGNS
				Vendor's Total ----->			793.66	
11-19	JEN01	(TRAVIS JENKINS)	1019-1101	11/06/19	/ /		635.33	LATE TIMECARD PP 10/19-11/01/19
			1019-1101u	11/06/19	/ /		635.33-	Ck# 036497 Reversed
			1019-1101y	11/06/19	/ /		635.33	Ck# 036498->036497 Replacement
				Vendor's Total ----->			635.33	
11-19	JKA01	(JK ARCHITECTURE ENGINEERING	4803	11/11/19	/ /		500.00	OLD AIRPORT PROJ CONSULTANT THROUGH 10/31/19
11-19	JON00	(JONES & MAYER)	093019	09/30/19	/ /		9042.50	LEGAL SVCS SEPT 2019
			103119	10/31/19	/ /		7450.00	LEGAL SVCS OCT 2019
				Vendor's Total ----->			16492.50	
11-19	KYS01	(AMANDA KYSAR)	102819	10/28/19	/ /		106.98	CACEO REIMB RIVERSIDE 10/20-10/25/19
11-19	LEX01	(RELX INC. DBA LEXIS NEXIS)	309227815	10/31/19	/ /		115.00	ONLINE ATTORNEY SVC OCT 2019
11-19	LIF01	(LIFE ASSIST)	957297	11/19/19	12/19/19	A	133.95	MEDICAL SUPPLIES
11-19	LOU00	(LOU'S GLOVES INC.)	031519	11/12/19	/ /		352.00	SAFETY GLOVES
11-19	LSA01	(LSA ASSOCIATES, INC.)	168535	11/12/19	/ /		362.48	NEVADA ST BRIDGE ENVIRO OCT 2019
11-19	MIN02	(ERIN MINETT)	111419	11/14/19	/ /		989.58	LEAGUE OF CITY CONFERENCE REIMB 10/15-10/18/
11-19	NCT00	(NEVADA CO. DIGITAL MEDIA CE	917)	11/01/19	/ /		520.00	VIDEO SVCS OCT 2019
11-19	NEV02	(NEVADA IRRIGATION DISTRCT)	1001*1105	11/05/19	12/05/19	A	20.50	WATER SVC 5 KIDDER 10/01-11/05/19 ACCT#38626
			1001+1105	11/05/19	12/05/19	A	55.80	WATER SVC 5 KIDDER 10/01-11/05/19 ACCT#38493
			1001-1105	11/05/19	12/05/19	A	189.10	WATER SVC 201 PROV 10/01-11/05/19 ACCT#37256
			1001/1105	11/05/19	12/05/19	A	19.25	WATER SVC 201 PROV 10/01-11/05/19 ACCT#37398
			930103119	11/13/19	12/13/19	A	6273.48	WATER SVC DS CANAL 9/30-10/31/19 ACCT#17033-
				Vendor's Total ----->			6558.13	
11-19	NEV03	(NEVADA CITY CHAMBER)	111219	11/12/19	12/12/19	A	805.00	CITY HALL & FH#1/FH#2 XMAS LIGHTS 2019
11-19	NEV09	(NEVADA COUNTY PROF)	110719	11/07/19	/ /		140.00	ELLISON & FOSTER DUES
11-19	NEV40	(NEVADA COUNTY CONSOLIDATED	201920052 I	10/30/19	11/29/19	A	138.31	D.PAULUS SHIFT COVERAGE 09/28/19
			201920057	10/30/19	11/29/19	A	635.00	COMPUTER & SOFTWARE EXPENSES 7/24-8/2-10/29/
			201920058	10/30/19	11/29/19	A	6996.88	E5482 REPAIRS
			201920059	10/30/19	11/29/19	A	724.46	E5482 REPAIR
			201920062	10/30/19	11/29/19	A	296.16	E5464 REPAIR
			201920072	10/31/19	11/30/19	A	227.58	SLBA ANNUAL MAINT
			201920074	10/31/19	11/30/19	A	15.00	ANNUAL FLU SHOT 10/21/19
				Vendor's Total ----->			9033.39	
11-19	NOR30	(NORTH STATE CONSULTING)	19-10	11/01/19	/ /		5056.00	ENGINEER CONSULT OCT 2019
11-19	NOR34	(NOR-CAL PIPELINE SERVICES)	3314CV04	10/09/19	/ /		1160.00	GRIT CHANNEL

Period	Vendor #	(Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
11-19	OFF06	(OFFICE DEPOT, INC.)	391567974	10/18/19	/ /		12.78	PENS
			397499975	11/04/19	/ /		106.89	MISC DEPT CALENDARS
			397515891	11/03/19	/ /		20.37	WALL CLOCK/RETURNED
			398779381C	11/04/19	/ /		20.37-	BROKEN WALL CLOCK/RETURNED
			398783699	11/05/19	/ /		20.58	WALL CLOCK
			399909448	11/07/19	/ /		25.15	OFFICE SUPPLIES
				Vendor's Total ----->			165.40	
11-19	OTI00	(OTIS ELEVATOR COMPANY)	17749001	10/21/19	/ /		7683.77	PD ELEVATOR REPAIR-GEAR REDUCER 10/16/19
11-19	P.S00	(P. SCOTT BROWNE, ATTORNEY)	PE 101519	10/15/19	/ /		20.00	NC B&B LIT P/E 10/15/19
11-19	PAC02	(PACIFIC GAS & ELECTRIC)	0918-1016	10/16/19	11/15/19	A	15332.72	GAS/ELECT SVC 09/18-10/16/19
			930103119	11/05/19	12/05/19	A	1163.83	GAS SVC 09/30-10/31/19
				Vendor's Total ----->			16496.55	
11-19	PAN01	(CHARLES PANOS)	110119	11/01/19	/ /		100.00	SL 10/17/19 HONEYBOOK CHARLES PANOS
11-19	PAR07	(PARSAC)	19-306	10/10/19	11/09/19	A	1094.00	LIABILITY INS ADD'L PREMIUM ADJUSTMENT
11-19	PET02	(PETER SCHACK CONSTRUCTION E	PW-45)	11/13/19	/ /		6150.00	DRAW FOR LITTLE IDAHO DITCH
11-19	PIT04	(PITNEY BOWES POSTAGE BY PHO	110519	11/05/19	/ /		150.00	GENERAL POSTAGE 10/21/19
11-19	PLA01	(PLAZA TIRE CO., INC.)	3243844	11/06/19	12/06/19	A	939.27	UNIT #U5400 TIRES
11-19	PLA13	(PLATT)	X130623	11/06/19	/ /		1882.24	UNI-STRUT CL2 BLG PROJECT
			X392704	10/18/19	/ /		528.52	BUILDING LIGHTS
			X530051	11/05/19	/ /		14.52	PIPE-CLAMPS
				Vendor's Total ----->			2425.28	
11-19	PRE05	(PREMIER ACCESS INSURANCE CO	DEC 2019	11/11/19	/ /		2616.41	DENTAL BENEFITS DEC 2019
			NOV 2019	10/11/19	/ /		2626.64	DENTAL BENEFITS NOV 2019
				Vendor's Total ----->			5243.05	
11-19	PRI01	(PRICE CONSULTING SERVICES)	HEU-008	11/07/19	/ /		2760.00	HOUSING ELEMENT UPDATE 10/03-11/07/19
11-19	RAY01	(RAY MORGAN CO)	2745928	11/05/19	/ /		101.61	CONTRACT USAGE 10/01-10/31/19
11-19	REA00	(REAL GRAPHIC)	71662	10/15/19	/ /		667.50	AS-BUILD DRAWING SCANS
			71735	10/31/19	/ /		13.57	MEASURE S PRINTS
				Vendor's Total ----->			681.07	
11-19	REE02	(REED'S LOCKSMITHING, INC.)	4166	11/06/19	12/06/19	A	207.24	LOCKS
			4167	11/06/19	12/06/19	A	327.74	LOCKS/KEYS
				Vendor's Total ----->			534.98	
11-19	RIE02	(RIEBE'S NAPA AUTO PARTS)	076002	10/21/19	11/20/19	A	5.45	VAC-TRON
			847493	10/02/19	11/01/19	A	76.71	CHIPPER
			847704	10/04/19	11/03/19	A	23.11	CARWASH SOAP
			848373	10/11/19	11/10/19	A	45.82	JETTER
			848745	10/15/19	11/14/19	A	54.64	GENERATOR
			848754	10/15/19	11/14/19	A	22.64	MISC
			848771	10/15/19	11/14/19	A	303.44	SHOP
			849543	10/22/19	11/21/19	A	23.25	POOL
			849949	10/25/19	11/24/19	A	29.27	GENERATOR OIL
			850308	10/28/19	11/27/19	A	81.80	GENERATOR OIL
			850598	10/31/19	11/30/19	A	28.16	COOLANT
			850625	10/31/19	11/30/19	A	9.73	PINS
				Vendor's Total ----->			704.02	
11-19	RJR01	(RJ RICCIARDI, INC)	11475	10/31/19	/ /		14535.20	AUDIT SVCS ENDING OCT 2019

Period	Vendor # (Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
11-19	ROB03 (ROBINSON ENTERPRISES, INC.)	24042	10/01/19	10/31/19	A	133.82	CHIPPER BOX CUST #141221 INV #IN00024042
		24554	10/21/19	11/20/19	A	638.12	DIESEL EMERGENCY GEN CUST#141130 INV#IN00024
		24593	10/22/19	11/21/19	A	1939.64	BACKHOE TIRES CUST #141100 INV #IN00024593
		24944	10/31/19	11/30/19	A	200.00	GEN INSP SEPT & OCT CUST#141130 INV#IN000249
		24954	10/31/19	11/30/19	A	3444.88	BIO-SOLIDS WWTP CUST#141130 INV#IN00024954
		19101395	10/15/19	11/14/19	A	890.89	DPW FUEL CUST #141100 INV #FI19101395
		19101397	10/15/19	11/14/19	A	107.38	WWTP FUEL CUST #141130 INV #FI19101397
		19102410	10/31/19	11/30/19	A	757.85	DPW FUEL CUST#141100 INV#FI19102410
		19102412	10/31/19	11/30/19	A	279.67	WWTP FUEL CUST #141130 INV #FI19102412
		19102416	10/31/19	11/30/19	A	661.88	FD FUEL CUST #141217 INV #FI19102416
		19111394	11/15/19	12/15/19	A	479.51	FD FUEL CUST #141217 INV #FI19111394
			Vendor's Total ----->			9533.64	
11-19	ROC03 (W. MARTIN ROCHE)	49	11/01/19	/ /		1200.00	WATER CONSULTING 10/01-10/31/19
11-19	ROD01 (RYAN RODRIGUEZ)	1019-1101	11/05/19	/ /		120.00	FIRE INTERN SVCS 10/19-11/01/19
		1102-1115	11/18/19	/ /		60.00	FIRE INTERN SVCS 11/02-11/15/19
			Vendor's Total ----->			180.00	
11-19	SIE25 (THATCHER COMPANY, INC)	269715	10/16/19	11/15/19	A	3787.51	CHLORINE
		269716C	10/16/19	11/15/19	A	900.00-	CHLORINE RETURNS
		269717	10/16/19	11/15/19	A	2634.50	S02 CHEMICAL
		269790C	10/18/19	11/17/19	A	1000.00-	CL2 DEPOSIT RETURN
			Vendor's Total ----->			4522.01	
11-19	SIE67 (SIERRA STREAMS INST.)	100919	10/09/19	/ /		1044.00	BROWNSFIELD QUARTZ MILL SSI SEPT 2019
		110819	11/08/19	/ /		360.00	BROWNSFIELD QUARTZ MILL SSI OCT 2019
			Vendor's Total ----->			1404.00	
11-19	SMA02 (SMARTERBROADBAND, INC.)	111819	11/18/19	/ /		140.00	BROADBAND MNTHLY SVC DEC 2019
11-19	SON03 (SONSRAY MACHINERY LLC)	W04150-04	10/21/19	/ /		9101.73	BACKHOE
11-19	SPA01 (SPAR TREE FORESTRY INC)	101819	10/18/19	11/17/19	A	3500.00	TREE REMOVAL SILVA AVE
11-19	SPD01 (SPD MARKETS)	08477302	10/04/19	11/03/19	A	3.02	HARDWARE
		08481583	10/22/19	11/21/19	A	6.49	POOL PARTS STORAGE BAGS
			Vendor's Total ----->			9.51	
11-19	SPD02 (SPD SAW SHOP)	117028	08/30/19	09/29/19	A	221.50	STREET TRIMMING
		117592	08/26/19	09/25/19	A	8.13	CONCRETE SAW REPAIR
		117606	08/28/19	09/27/19	A	200.39	CHAIN SAW
		117913	10/01/19	10/31/19	A	1103.20	HIRSCHMANS SAW/TREE REMOVAL
			Vendor's Total ----->			1533.22	
11-19	STA21 (STATE BOARD EQUALIZATION)	28368981	11/05/19	12/05/19	A	303.71	WR STF 094-010902 7/1/19-6/30/20 ID#00028368
11-19	STE12 (STERICYCLE, INC.)	300487315	11/01/19	/ /		22.32	SHARPS MNTHLY COLLECION/MED WSTE NOV 2019
11-19	SUL01 (RONDHA SULLIVAN)	110119	11/01/19	/ /		100.00	SL 10/12/19 BRIAN NORTON/RHONDA SULLIVAN
11-19	SUN01 (SUNRISE ENVIRONMENTAL)	102952	10/15/19	11/14/19	A	261.85	CLEANING SUPPLIES
		103136	10/22/19	11/21/19	A	627.94	SUPPLIES
			Vendor's Total ----->			889.79	
11-19	SWR01 (SWRCB)	WD0165425	11/06/19	12/06/19	A	2625.00	ANNUAL PERMIT FEES 5SSO11011 07/01/19-06/30/
		WD0167279	11/06/19	12/06/19	A	5710.00	STATE COMPLIANCE FEES 5A290101001 7/1/19-6/3
		WD0167622	11/06/19	12/06/19	A	624.00	STATE COMPLIANCE FEES 4DW0235 07/01/19-06/30
			Vendor's Total ----->			8959.00	
11-19	TER01 (TERRA FUEGO RESOURCE INC)	110119	11/01/19	/ /		100.00	RVETS 10/19/19 TERRS FUEGO RESOURCE FOUND. I

Period	Vendor # (Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
11-19	THE10 (THE AUTO SHOP)	27644	10/01/19	/ /		653.66	#36 REPAIRS
11-19	TOM01 (RODNEY TOMLINSON)	1019-1101	11/05/19	/ /		120.00	FIRE INTERN SVCS 10/19-11/01/19
		1102-1115	11/18/19	/ /		180.00	FIRE INTERN SVCS 11/02-11/15/19
			Vendor's Total ----->			300.00	
11-19	TOP02 (TOP THIS OUTFITTERS)	42146	10/19/19	/ /		466.55	TOOL BOX
11-19	UNI01 (THE UNION)	I00459548	10/28/19	11/27/19	A	221.23	CC PH CANNABIS AD#459548-01
		I00459555	10/28/19	11/27/19	A	191.83	PC PH SUGARLOAF TRAIL AD#459555-01
		I00464005	10/28/19	11/27/19	A	371.75	PC ZONING TITLE 17 AD#464005-01
		I00474263	10/28/19	11/27/19	A	120.77	CC ORD 2019-04 FIRE ABATEMENT AD#474263-01
		I00480793	10/28/19	11/27/19	A	138.67	CC ORD 2015-05 CANNABIS AD#480793-01
		I00481571	10/28/19	11/27/19	A	252.41	PC PH AD#481571-01
		I00481630	10/28/19	11/27/19	A	149.87	PC PH AD#481630-01
		I00494432	10/11/19	11/10/19	A	168.40	PC PH NATIONAL HOTEL HISTORIC SIG AD#494432-
		I00498523	10/24/19	11/23/19	A	149.25	CC ORD SUMMARY TELECOM 2019-06 AD#498523-01
		I00506376	11/07/19	12/07/19	A	69.26	CC NOTICE OF ELECTION AD#506376-01
		I00509350	11/14/19	12/14/19	A	149.25	PC PH GUTIERREZ PROPANE TANK AD#509350-01
			Vendor's Total ----->			1982.69	
11-19	UPS01 (UPS STORE 5417/DJE CONSULTA	21232	10/17/19	/ /		75.50	AMANDA PC832 FINGER PRINTS/POSTAGE
11-19	USA01 (USA BLUE BOOK)	041604	10/17/19	11/16/19	A	1224.64	GAS DETECTOR
		044337	10/21/19	11/20/19	A	423.93	CHLORINE ANALYZER REAGENTS
		048258	10/24/19	11/23/19	A	1324.00	LAB PH METER
		056698	11/01/19	12/01/19	A	78.63	PH PROBE STORAGE SOLUTION
			Vendor's Total ----->			3051.20	
11-19	VER01 (VERIZON WIRELESS)	FD OCT19	10/23/19	/ /		114.03	FD IPAD 09/24-10/23/19 INV#9840828911
		PD OCT19	10/23/19	/ /		813.78	PD CELL SVC 09/24-10/23/19 INV#9840828909
		DPW OCT19	10/23/19	/ /		76.02	DPW IPAD MAPPING 09/24-10/23/19 INV#98408289
		W-W OCT19	11/07/19	/ /		64.28	WWTP&WTP ON CALL CELL 10/08-11/07/19
			Vendor's Total ----->			1068.11	
11-19	VSP00 (VISION SERVICE PLAN-(CA))	DEC 2019	11/19/19	/ /		353.56	VISION BENEFITS DEC 2019
		NOV 2019	10/19/19	/ /		339.60	VISION BENEFITS NOV 2019
			Vendor's Total ----->			693.16	
11-19	WAL01 (WALKER'S OFFICE SUPPLY)	2077334-0	10/18/19	11/17/19	A	71.43	OFFICE SUPPLIES
		2078008-0	10/22/19	11/21/19	A	39.00	OFFICE PAPER
		2079718-0	11/04/19	12/04/19	A	63.51	FINANCE & ENG CALENDARS/PLANNERS
		2079718-1	11/05/19	12/05/19	A	13.32	CALENDAR
		2080066-0	11/05/19	12/05/19	A	7.10	PLANNER/CALENDAR
		2081761-0	11/14/19	12/14/19	A	31.01	OFFICE SUPPLIES
		2081988-0	11/15/19	12/15/19	A	39.87	BATTERIES
		2082815-0	11/20/19	12/20/19	A	22.75	FOLDERS
			Vendor's Total ----->			287.99	
11-19	WEI07 (WEISS LANDSCAPING)	15443	10/28/19	/ /		36153.50	S PINE ST RAILING MEASURE S
		15522	11/06/19	/ /		20173.00	MEASURE S PINE ST RAILING
		15545	11/19/19	/ /		2650.00	N PINE ST STAIR & CURB REPAIR
			Vendor's Total ----->			58976.50	
11-19	WEL07 (JANE WELLES)	112019	11/20/19	/ /		100.00	RVETS 11/16&17/19 JANE WELLES
11-19	WIC01 (CHANCE WICK)	111919	11/19/19	/ /		95.00	WASTEWATER OIT CERT REIMB
11-19	WOL02 (GREGORY WOLTERS)	101619	10/16/19	11/15/19	A	792.00	PIONEER PARK RESTROOMS SEPT 2019
11-19	XIO00 (XIO, INC.)	201209069	09/15/19	/ /		300.00	CLOUD & SCADA SVC 09/15/19
		201209190	10/15/19	/ /		300.00	CLOUD & SCADA SVC 10/15/19
			Vendor's Total ----->			600.00	

Period	Vendor # (Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
11-19	YUB05 (YUBA DOCS MEDICAL GROUP)	1128	10/06/19	/ /		155.00	S.FOSTER PHYSICAL 09/23/19
		1258	11/09/19	/ /		155.00	C.WICK NEW HIRE/PRE EMPLOYMENT 11/02/19
		1271	11/13/19	/ /		310.00	NEW HIRE/PRE EMPLOYMENT
			Vendor's Total ----->			620.00	
			Total of Purchases ->			513672.32	

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

December 10, 2019

TITLE: Bear Yuba Land Trust (BYLT) Trail Maintenance Contract

RECOMMENDATION: Pass Resolution 2019-XX, a Resolution of the City of Nevada City adopting 2020 trail Maintenance Contract with Bear Yuba Land Trust (BYLT) and authorize the City Manager.

CONTACT: Dawn Zydonis, Parks & Recreation Manager

BACKGROUND / DISCUSSION:
BYLT and the City entered into a Maintenance Contract in 2018 to cover costs incurred by BYLT to assist with maintenance of City trails. This proved to be a valuable agreement. BYLT was able to prioritize work on City trails and schedule volunteers to complete necessary projects to keep the trails well maintained. Projects completed this year include; Hirschman Trail planning & maintenance, Deer Creek Tribute Trail (Nisenan Section) planning and maintenance, and maintenance on Little Deer Creek and Miners Trail.

BYLT is requesting the same amount ($3,500) for 2020. The fee does not exceed what is already in the City budget for open space and staff have been satisfied with the work completed by BYLT.

The current Contract expires at the end of the 2019 calendar year. The new contract is for the 2020 calendar year. The City may need to purchase materials if additional maintenance needs arise.

ENVIRONMENTAL CONSIDERATIONS: None

FISCAL IMPACT: The City has included $9,000 in the budget for work completed on open space parcels owned by the City. This agreement will span two fiscal years and will need to be considered when preparing the FY 20-21 budget. Maintenance or projects may arise that have not been planned at this time, the City is not under obligation to complete those projects if not already included in this Contract.

ATTACHMENTS:
- ✓ Resolution 2019-XX - a Resolution of the City of Nevada City Adopting 2020 Trail Maintenance Contract with Bear Yuba Land Trust
- ✓ Draft 2020 Trail Maintenance Contract
- ✓ MOU between the City of Nevada City and BYLT for Trail Construction & Maintenance

RESOLUTION NO. 2019-XX

RESOLUTION OF THE CITY OF NEVADA CITY
ADOPTING 2020 TRAIL MAINTENANCE CONTRACT WITH BEAR YUBA LAND TRUST

WHEREAS, the City has a Memorandum of Understanding with the Bear Yuba Land Trust (BYLT) for maintenance and construction of trails; and

WHEREAS, the City owns approximately 10 miles of trails; and

WHEREAS, BYLT has been preserving and conserving land and maintaining trails in Nevada County since 1991; and

WHEREAS, the BYLT has been a valuable partner for the City in construction and maintenance of City trails; and

WHEREAS, the fees set forth in Exhibit A-2020 Trail Maintenance Contract are reasonable and accurate estimates of the costs incurred by BYLT to maintain trails on City of Nevada City property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Nevada City as follows:

1. All previous Resolutions which are in conflict with the terms of this Resolution are hereby repealed.

PASSED AND ADOPTED at a regular scheduled meeting of the City Council held on this 10th day of December, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Reinette Senum, Mayor

ATTEST:

_____
Niel Locke, City Clerk

2020 TRAIL MAINTENANCE CONTRACT

This agreement is made between Bear Yuba Land Trust (BYLT) and The City of Nevada City (City).

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1. Statement of Work

BYLT will provide required maintenance for four public trails located on City property. BYLT and the City have an existing Memorandum of Understanding (MOU) which states the City will reimburse BYLT for services provided in accordance with the terms of contract or purchase agreements executed by both parties.

The necessary maintenance anticipated for the 2020 calendar year includes:

A) **Deer Creek Tribute Trail -** $1,500

- General tread repair. Portions of the trail need to be leveled. (Year-round)
- Maintain signs, posts and make sure the information is current and relevant. (Year-round)
- Brush the trail corridor 10' high and 4' wide. (Spring Workday)
- Improve drainage features to reduce pooling and erosion. (Fall Workday)
- Cut back and remove invasive species along the trail. (Year-round)

B) **Hirschman Trail** - $1,500

- Spread gravel on the trail near the pond to improve tread and drainage. (Fall Workday)
- Maintain signs, posts and make sure the information is current and relevant. (Year-round)
- Brush the trail corridor 10' high and 4' wide. (Spring Workday)
- Improve drainage features to reduce pooling and erosion. (Fall Workday)
- Cut back and remove invasive species along the trail. (Year-round)
- Maintain the kiosk infrastructure and materials. (Year-round)
- Work with Sierra Academy of Expeditionary Learning (SAEL) high school students for Semester-long project to enhance the trail and property. (Jan - May, 1x month)

C) **Little Deer Creek Trail** - $250

- Improve the tread by removing or burying roots. (Spring Workday)
- Maintain signs, posts and make sure the information is current and relevant. (Year-round)
- Brush the trail corridor 10' high and 4' wide. (Year-round)
- Improve drainage features to reduce pooling and erosion. (Fall Workday)
- Cut back and remove invasive species along the trail. (Year-round)

D) **Miner's Trail** - $250

- Walk the trail and monitor current conditions and usage. (Year-round)
- Provide feedback to the in-town trail group on improvements to be made. (As needed)

2. Payment for Services

In consideration of BYLT providing services, the City will reimburse BYLT for staff time spent ($50/hr) and expenses incurred including materials and mileage. We anticipate the work outlined above will take between 60-70 hours. Total cost will not exceed $3,500.00. An invoice for services rendered will be emailed to the City within fifteen days of the completion of each project. Payment will be made within thirty days after receipt of invoice.

3. Period of Performance

The period of performance is from **January 1, 2020 - December 31, 2020**. This agreement may be terminated by either party with thirty days written notice. Neither completion nor termination shall affect BYLT's obligations under Article 9.

4. Status of Contractor

BYLT enters into this Agreement, and will remain throughout the term of the Agreement, as an independent contractor. The City agrees BYLT is not and will not become an employee, agent, or principal of the City while this agreement is in effect. The City agrees BYLT is not entitled to the rights or will not be included in the benefits afforded to the Cities employees, including disability or unemployment insurance, workers compensation, medical insurance, sick leave, or any other employment benefit. BYLT is responsible for providing, at BYLT's own expense, disability, unemployment, and other insurance, worker's compensation, training, permits and licenses.

5. Payment of Income Taxes

BYLT is responsible for paying when due all income taxes incurred as a result of the compensation paid by the City for services under this agreement. The City agrees to indemnify BYLT for any claims, costs, losses, fees, penalties, interest or damages suffered by BYLT resulting from the City's failure to comply with this provision.

6. Non-Exclusive Relationship

BYLT may represent, perform services for, and contract with as many additional clients, persons, or companies as BYLT, in his sole discretion, sees fit.

7. Time and Place of Performing Work

Subject to customer needs BYLT may perform the services under this agreement at any suitable time and location he chooses.

8. Tools, Materials, and Equipment

All tools, materials, and equipment required to perform the services under this agreement will be paid for by the City. BYLT will provide receipts and invoices for work completed at the time of billing.

9. Confidential Information

Any written, printed, graphic, or electronically or magnetically recorded information furnished by BYLT for the City's use is the sole property of BYLT. This proprietary information includes, but is not limited to, marketing information, and information concerning BYLT's employees, services, and operations. The City

will keep this confidential information in the strictest confidence, and will not disclose it by any means to any person except with BYLT's approval, and only to the extent necessary to perform the services under this agreement. On termination of this agreement, the City will return any confidential information in the City's possession to BYLT.

10. Subcontracting

BYLT will not subcontract or assign any portion of the work under this agreement without the prior written consent of the City. BYLT manages a large Adopt-A-Trail program and these volunteers occasionally remove trash and other obstacles from the trails. The work that the adopters complete is separate from this agreement and will never be invoiced to the City.

11. Indemnity

The City agrees to indemnify, defend and hold BYLT free and harmless from all claims and expenses that BYLT may incur as a result of a breach by the City of any representation or agreement contained in the agreement.

12. Right to Act as Contractor

The City warrants to BYLT that the City is not subject to any obligations, contracts, or restrictions that would prevent the City from entering into or carrying out the provisions of this Agreement.

13. Attorney's Fees

If any legal action, including any action for declaratory relief, is brought to enforce or interpret the provisions of this agreement, the prevailing party will be entitled to reasonable attorney's fees, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any relief to which that party may be entitled.

14. Amendment

This Agreement may be amended only by a written document signed by both BYLT and the City. This agreement may be terminated by either party with thirty days written notice.

15. Governing Law

This Agreement shall be governed by the laws of the State of California.

City Hall
317 Broad Street
Nevada City, CA 95959

By:_____

Catrina Olson
City Manager

Date:_____

Bear Yuba Land Trust
PO Box 1004
Grass Valley, CA 95945

By:_____

Erin Tarr
Co-Executive Director

Date:_____

MEMORANDUM OF UNDERSTANDING

CITY OF NEVADA CITY, CALIFORNIA
AND
NEVADA COUNTY LAND TRUST
FOR
TRAIL CONSTRUCTION AND MAINTENANCE

Introduction

This Memorandum of Understanding (MOU) describes the relationship between the City of Nevada City, a public entity, hereinafter referred to as "City", and the Bear Yuba Land Trust, a private, non-profit group, hereinafter referred to as "BYLT", in their joint efforts to provide non-motorized public trails within the sphere of influence of the City.

WITNESSETH

WHEREAS, the BYLT has been operating since 1991 and is a member supported group promoting voluntary conservation of Nevada County's natural, historical, and agricultural resources through protection and enhancement of trails, parks, and open spaces to provide a lasting community heritage; and

WHEREAS, the goals of BYLT are accomplished by acquiring land, conservation easements, and development rights by donation, purchase and other means through voluntary, private action; and

WHEREAS, BYLT was the lead agency responsible for the construction of several trails in western Nevada County; and

WHEREAS, the City recognizes that one of the essential elements of enhancing the quality of life in the City is the construction of parks, recreation programs and facilities, open space and trails; and

WHEREAS, the City has or will obtain public land where trails are proposed and/or planned; and

WHEREAS, the City supports trail development that links park facilities, neighborhoods, schools and other community facilities; and

WHEREAS, it is mutually beneficial for the City and BYLT to collaborate in the development, operation, and maintenance of non-motorized trails,

NOW, THEREFORE, in consideration of the above recitals, the parties agree as follows:

1. To establish the procedure and responsibility for accomplishing the location, design, construction, operation and maintenance of trails on land owned by the City of Nevada City.

2. In concept BYLT agrees to:
    A. Provide assistance to the designated City representative to plan trail alignments on City property.
    B. Prepare project descriptions suitable for CEQA review.

C. Secure easements from private landowners for trail segments to be built over private land that provides connections to City property.
D. Secure grants and private funding to purchase service of contractors to construct the trail(s).
E. Organize and supervise volunteers to assist in the construction of trails.
F. Manage a trail adoption program for trails as agreed to by the City.

3. In concept the City agrees to:
   A. Insure that each project complies with CEQA, the City's General Plan, Parks and Recreation Master Plans and any other applicable laws, regulations, and permitting requirements.
   B. Provide BYLT with written approval and assist with obtaining encroachment permits for trails constructed on city property.
   C. Provide assistance in the construction of the trail using the City's equipment, personnel, and funds to the extent they are available and agreed upon through the budget process.
   D. Reimburse BYLT for services provided in accordance with terms of contract or purchase agreements executed by both parties.

4. Both Parties agree to:
   A. Only proceed with a project when a letter of agreement has been received and signed by both parties describing the details of a specific project.
   B. Carry out all of their responsibilities under this agreement in a timely fashion, and to the extent possible, will do nothing to jeopardize the cooperation and goodwill of any willing donors, grantors, volunteers or other members of the public.
   C. Consult with the other party before preparing any information about the trail project for public distribution.
   D. Provide a designated representative to carry out the terms of this MOU. The designated representative for the City shall be Dawn Zydonis, Nevada City Parks & Recreation Supervisor; and the designated representative for BYLT shall be Bill Haire, Trails Coordinator.
   E. Termination of this agreement may be initiated by either party and will be effective upon delivery of written notice the other party by the signer of this agreement.
   F. Two originals signed this 14th day of August, 2013 in Nevada City, CA.

CITY OF NEVADA CITY

Mayor
Sally Harris

BEAR YUBA LAND TRUST

President
Joe Byrne

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

December 10, 2019

TITLE: Award of Contract for Pioneer Park Picnic Area Bathroom Improvements in Nevada City

RECOMMENDATION: Pass Resolution 2019-XX, a Resolution of the City Council of the City of Nevada City to award a contract to Barsotti Contracting in the amount of $43,900.00 plus $7,000.00 in contingencies for Pioneer Park Picnic Area Bathroom Improvements in Nevada City and authorize the Mayor to sign.

CONTACT: Bryan K. McAlister, City Engineer
Dawn Zydonis, Parks and Recreation Manager

BACKGROUND/DISCUSSION:
Dawn Zydonis, the Parks and Recreation Manager, City Engineering and Public Works staff identified the picnic area bathrooms as a priority for renovation at Pioneer Park. The bathroom renovation is necessary for ADA accessibility and to upgrade the facility for its use by citizens and visitors of the park. The bathroom is also available for use during facility rental of the Bandshell/Amphitheater, picnic areas and for special events.

City staff solicited bids from local contractors for Pioneer Park Picnic Area Bathroom Improvements. Bids received are as follows:

- Swierstak Enterprise, Inc., Orangevale CA $ 78,800.00
- Barsotti Contracting, Nevada City CA $ 43,900.00
- Freschi Construction, Grass Valley CA $ 53,841.12

Barsotti Contracting was selected as the lowest responsive and responsible bidder.

FISCAL CONSIDERATIONS: The fiscal year 2019-2020 Special Funds and Buildings and Grounds budget includes budgeted capital outlay for Pioneer Park Picnic Area Bathroom Improvements. (The funds to be used will come from multiple Special Fund accounts including AB1600, Quimby and Measure L). ADA accessibility improvements for this project are funded by a Community Development Block Program (CDBG) administered by California Department of Housing & Community Development.

ATTACHMENT:
- ✓ Resolution 2019-XX, a Resolution of the City Council of the City of Nevada City to Award a Contract to Barsotti Contracting for Pioneer Park Picnic Area Bathroom Improvements in Nevada City
- ✓ Contract for Pioneer Park Picnic Area Bathroom Improvements in Nevada City

RESOLUTION NO. 2019-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY TO AWARD A CONTRACT TO BARSOTTI CONTRACTING FOR PIONEER PARK PICNIC AREA BATHROOM IMPROVEMENTS IN NEVADA CITY

WHEREAS, the City of Nevada City continues to invest in the maintenance of its property assets on an annual basis; and

WHEREAS, the City of Nevada City prepared an application for and was awarded a Community Development Block Grant (CDBG) for ADA accessibility improvements to the bathrooms at Pioneer Park; and

WHEREAS, funding for the Pioneer Park Picnic Area Bathroom Improvements is provided through fiscal year 2019-2020 Special Funds and Buildings and Grounds budgeted capital outlay for Pioneer Park Picnic Area Bathroom Improvements and CDBG for ADA Accessibility Improvements; and

WHEREAS, consistent with Municipal Code requirements, City staff advertised and received bids for Pioneer Park Picnic Area Bathroom Improvements in Nevada City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Nevada City to award a contract to Barsotti Contracting in the amount of $43,900.00 plus $7,000.00 in contingencies for Pioneer Park Picnic Area Bathroom Improvements in Nevada City and authorize the Mayor to sign.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Nevada City on the 10th day of December, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Reinette Senum, Mayor

ATTEST:

_____

Niel Locke, City Clerk

PIONEER PARK
PICNIC AREA BATHROOM IMPROVEMENTS

City of Nevada City, 95959
Nevada County, California

Bryan K. McAlister
PE C58570
PLS 9199

William J. Falconi
PE 25842
PLS 4911

NOTICE TO CONTRACTOR'S

Pioneer Park Picnic Area Bathroom Improvements

Sealed proposals for Pioneer Park Picnic Area Bathroom Improvements will be received by the City at City Hall, 317 Broad Street, Nevada City, California, 95959, until **3:00 PM on November 21st, 2019,** at which time, or as soon thereafter as practicable, all such proposals will be publicly opened and read at City Hall, 317 Broad Street, Nevada City, California.

Bids shall be enclosed and sealed in an envelope addressed to the City of Nevada City at the above stated address and shall be marked "Pioneer Park Picnic Area Bathroom Improvements" No Bid Bonds are required.

The work includes the furnishing of all labor, materials, and equipment required for the job in accordance with the plans, specifications and other contract documents as set forth by the City Engineer. Such bid documents will be on file with the City staff and are available for inspection during office hours. Bid documents may be obtained at the office of said City Hall at 317 Broad Street, Nevada City, California on or after October 17th, 2018.

There is a non-mandatory pre-bid meeting for this project at 9:00 AM on November 12th at the project site.

****

The City reserves the right to reject all bids; or to accept any portion of bid schedule; to reject any bid which is incomplete or irregular; to determine which proposal is, in its judgment, the lowest responsible bid of a responsible bidder and to waive any informality or minor irregularity of any bid.

DATED: November 1, 2019

CITY OF NEVADA CITY

Bryan McAlister

Bryan McAlister, P.E.

City Engineer

Forms required for Bid Proposal

In accordance with provisions of Federally Funded projects, the contractor shall provide these forms at time of bid:

- Signed Bid Proposal
- Bid Schedule
- Bidder's List of Subcontractors (DBE and Non-DBE)
- Exhibit 15-H DBE Information (provide this form even if there are no DBE subcontractors)
- EEO Certification
- Public Contract Code Statements (if any exceptions taken)
- Noncollusion Affidavit
- Debarment and Suspension Certification
- Nonlobbying Certification for Federal-aid Contracts
- Disclosure of Lobbying Activities

The above listed documents, General Conditions and all Federal and State Labor Code requirements included herein and attached as Part B of this document are considered part of the Bid Proposal and Contract Agreement.

PROPOSAL/CONTRACT

PIONEER PARK PICNIC AREA BATHROOM IMPROVEMENTS, Nevada City, CA

TO: City of Nevada City, City Hall, Nevada City, California.

The undersigned, as a bidder, submits the following proposal for the PIONEER PARK PICNIC AREA BATHROOM IMPROVEMENTS in the City of Nevada City, California, and offers to perform all work and furnish all labor, materials, tools, equipment, power and water as required for the completion of said project, in accordance with the plans, specifications and all other contract documents. The bidder has inspected the project site and has examined all conditions affecting the proposed work. The bidder is licensed with Contractors State License Board and is registered as a public works contractor with the Department of Industrial Relations as required to bid on this contract.

If this bid is accepted, the bidder agrees to execute the Agreement, and furnish to the City all documents and evidences of insurance, within ten (10) days after receiving written notice of the award of contract, and complete the project within **forty five (45) working days** after receiving written notice to proceed. **No bid bond is required for this project.**

Attached to this bid and made a part hereof is a list of proposed subcontractors, setting forth all information required by Section 4104 of the Government Code.

The undersigned is (state whether individual, partnership or corporation) Individual

DATED: 11-20-19

FIRM NAME: Barsotti Contracting

BY: [signature]
Signature of Authorized Person

ADDRESS: 12912 Madrone Forest Dr
Nevada City

Contact Person: Jim Barsotti

PHONE: (530) 272-6048

CELL PHONE: 530 277-3262

CONTRACTOR'S #: 624765

EXPIRATION: 8-31-21

NEVADA CITY BUSINESS LICENSE #:
637 EXPIRATION: 6/30/20

BID SCHEDULE

CITY OF NEVADA CITY
PIONEER PARK PICNIC AREA BATHROOM IMPROVEMENTS

No.	Quantity	Unit	Item Description	Unit Price	Total Price
1.)	1	LS	Demolition	$_____	$7500
2.)	1	LS	Walls	$_____	$6500
3.)	1	LS	Plumbing / Electrical	$_____	$13500
4.)	1	LS	Doors / Louvers / Skylights	$_____	$9900
5.)	1	LS	Painting and Finishes	$_____	$6500

Grand Total: $43900

Note

1. Project shall be prevailing wages.
2. City to provide exterior concrete flatwork, if required.
3. City to purchase partitions, lights, signs and hand towel / soap / toilet paper dispensers. The Contractor shall install these items which will be purchased by the City. All other materials shall be provided by the contractor.
4. Refer to project specifications (p. 20), technical specs (Part A) and plans for additional notes and requirements.

LIST OF SUBCONTRACTORS

NAME (DBE Y/N)	PLACE OF BUSINESS CONTRACTORS LICENSE	PORTION OF WORK
1. Grant Weiss Weiss Masonary	929632	CMU Walls
2. Frank Gowin Gowin Roofing	565469	Roofing / Water proofing
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

EXHIBIT 15-H: DBE INFORMATION - GOOD FAITH EFFORTS

Project: PUBLIC BATHROOM IMPROVEMENTS AT PIONEER PARK

The City of Nevada City established a Disadvantaged Business Enterprise (DBE) goal of 3.8% for this project. The information provided herein shows that a good faith effort was made.

Lowest, second lowest and third lowest bidders shall submit the following information to document adequate good faith efforts. Bidders should submit the following information even if the "Local Agency Bidder DBE Commitment" form indicates that the bidder has met the DBE goal. This will protect the bidder's eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

Submittal of only the "Local Agency Bidder DBE Commitment" form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

The following items are listed in the Section entitled "Submission of DBE Commitment" of the Special Provisions:

A. The names and dates of each publication in which a request for DBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

Publications	Dates of Advertisement
None	

B. The names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

Names of DBEs Solicited	Date of Initial Solicitation	Follow Up Methods and Dates

C. The items of work which the bidder made available to DBE firms including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate DBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate DBE participation was made available to DBE firms.

Items of Work	Bidder Normally Performs Item (Y/N)	Breakdown of Items	Amount ($)	Percentage Of Contract

D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE:

Names, addresses and phone numbers of rejected DBEs and the reasons for the bidder's rejection of the DBEs:

_____

_____

_____

_____

Names, addresses and phone numbers of firms selected for the work above:

_____

_____

_____

_____

E. Efforts made to assist interested DBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to DBEs:

_____

_____

_____

_____

F. Efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate:

_____

_____

_____

_____

G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

Name of Agency/Organization	Method/Date of Contact	Results

H. Any additional data to support a demonstration of good faith efforts (use additional sheets if necessary):

_____

_____

NOTE: USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder, proposed subcontractor Barsotti Contracting, hereby certifies that he has , has not , participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filling requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

CITY OF NEVADA CITY

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

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CITY OF NEVADA CITY

PUBLIC CONTRACT CODE SECTION 10285.1 STATEMENT

In conformance with Public Contract Code Section 10285.1 (Chapter 376, Stats. 1985), the bidder hereby declares under penalty of perjury under the laws of the State of California that the bidder has_____ , has not X been convicted within the preceding three years of any offenses referred to in that section, including any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or Federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Public Contract Code Section 1101, with any public entity, as defined in Public Contract Code Section 1100, including the Regents of the University of California or the Trustees of the California State University. The term "bidder" is understood to include any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, as referred to in Section 10285.1.

Note: The bidder must place a checkmark after "has" or "has not" in one of the blank spaces provided. The above Statement is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE

In conformance with Public Contract Code Section 10162, the Bidder shall complete, under penalty of perjury, the following questionnaire:

Has the bidder, any officer of the bidder, or any employee of the bidder who has a proprietary interest in the bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation?

Yes (No)

If the answer is yes, explain the circumstances in the following space.

PUBLIC CONTRACT CODE 10232 STATEMENT

In conformance with Public Contract Code Section 10232, the Contractor, hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board.

Contractor's signature _____

Note:
The above Statement and Questionnaire are part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement and Questionnaire.
Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

NONCOLLUSION AFFIDAVIT

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

To the CITY of NEVADA CITY,
DEPARTMENT OF ENGINEERING PUBLIC WORKS.

In conformance with Title 23 United States Code Section 112 and Public Contract Code 7106 the bidder declares 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 of 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.

Contractor's signature _____

Note:
The above Non-collusion Affidavit is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Non-collusion Affidavit.
Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

DEBARMENT AND SUSPENSION CERTIFICATION

TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29

The bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, manager:

- is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
- has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions.

The above certification is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Certification.

NONLOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in conformance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly.

Contractors signature_____

AGREEMENT

THIS AGREEMENT is made this _____ day of _____, between the CITY OF NEVADA CITY, a municipal corporation, hereinafter called "City," and Barsotti Contracting, hereinafter called "Contractor."

WHEREAS, City has caused to be prepared certain plans, specifications and other contract documents pertaining to the PIONEER PARK PICNIC AREA BATHROOM IMPROVEMENTS in said City: and

WHEREAS, after notice duly given, City has awarded the contract for such work to Contractor;

NOW, THEREFORE, IT IS AGREED by and between said parties as follows:

1. Scope of Work. The contractor agrees to furnish all labor, materials, tools and equipment, required to complete the improvements in Nevada City, California, in accordance with the plans, specifications and other contract representation made in mandatory meetings. All such work shall be performed in a good and workmanlike manner and to the satisfaction of the designer of said project.

2. Contract Price. As consideration for all such work, City agrees to pay to Contractor the total sum of _____ ($_____) Dollars, payable in the manner hereinafter set forth.

3. Contract Documents. The complete contract between the parties hereto consists of the Notice to Contractors, the Information to Bidders, the Bid Proposal, the General Conditions, the Plans and Specifications, and all other drawings and printed or written explanatory matter pertaining thereto. All of the foregoing documents are intended to cooperate, so that any work or requirement specified in any of them is to be carried out or observed the same as if mentioned in all.

4. Time for Performance. Within five (5) days after the execution of this Agreement, City shall give Contractor written Notice to Proceed, and thereafter Contractor shall commence the work and shall prosecute the same with due diligence until completion and acceptance by City; provided, however, that all such work shall be completed and ready for use within **forty five (45) working days** after Contractor receives said Notice to Proceed.

5. Extension of Time. If, because of adverse weather conditions, strikes, inability of the Contractor (through no fault on his/her part) to obtain necessary materials, or other cause beyond the reasonable control of Contractor, Contractor is unable to complete the required work within the allowed time, he shall be entitled to an extension or extensions of such time, commensurate with the unavoidable delay thus caused; provided, however that Contractor shall apply to City for approval of any such extension prior to the expiration of the time for performance as specified in the preceding paragraph.

6. Contractor's Failure to Complete Work. If Contractor fails to prosecute the work with such diligence as will insure its completion within the time hereinabove specified, or any extension thereof, or fails to complete such work within such time, or if Contractor shall otherwise violate this Agreement, City may give written notice to Contractor and his sureties of City's intention to terminate this Agreement unless, within five (5) days after services of such notice, satisfactory arrangements are made with the City for the completion of such work or the curing of such breach; and if such arrangements are not made within such time, City may, at its option, terminate this Agreement by giving written notice of such termination to Contractor and his sureties.

7. Payments to Contractor. On or before the tenth day of each month during the progress of the work, Contractor shall submit to the City Engineer an itemized statement of all labor and materials incorporated into the improvement during the preceding month and the portion of the contract price applicable thereto. City shall pay to Contractor a sum equal to ninety (90%) percent of the contract price apportionment for approved progress payments. The remaining ten (10%) percent shall be paid to Contractor thirty-five (35) days after final acceptance of the work by City.

8. Indemnification. Contractor agrees to hold City, and its officers, agents, and employees harmless from any and all liability and claims for damages for death and personal injury, and for property damage, incident to or arising out of the operations of Contractor or any subcontractor under this Agreement, and Contractor further agrees to defend City, and its officers, agents, and employees in any and all lawsuits which may be brought for such damages caused, or alleged to have been caused, by such operations. In addition, Contractor agrees to furnish to the City evidences of insurance coverage. The approval of such insurance by City shall not constitute a waiver or limitation of any rights under this indemnity agreement, regardless of whether such insurance shall be held to be inapplicable to any such damage or claims therefore.

Executed in duplicate this _____ day of _____, _____.

ATTEST:

_____

CITY OF NEVADA CITY

By: _____
(Mayor)

By: _____
(Contractor)

By: _____
(Authorized Officer)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/19/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
IB&C Insurance Services
1105 Sutton Way
PO Box 984
Grass Valley CA 95945

CONTACT NAME: Louis Bouchard
PHONE (A/C, No, Ext): (530) 272-1234 FAX (A/C, No): (530) 272-2605
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: CBIC/RLI	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
James Barsotti Contracting
12912 Madrone Forest Drive
Nevada City CA 95959

COVERAGES **CERTIFICATE NUMBER:** CL19111910949 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:	Y		INSBB5550	07/16/2019	07/16/2020	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
								$
	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					[ ] PER STATUTE [ ] OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder Shown Below Additional Insured with Respects To:
Policy Form #CBGL00710512

CERTIFICATE HOLDER

City of Nevada City
317 Broad St
Nevada City CA 95959

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in a written contract or agreement that such person or organization is to be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to "bodily injury or "property damage" caused by your negligence in the performance of your ongoing operations performed for that additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

To the extent required under said written contract or agreement, this policy will apply as primary insurance to additional insureds and other insurance which may be available to such additional insureds will be non-contributory.We waive our right of recovery against such additional insureds.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. "Bodily injury", "property damage" or arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including but not limited to:

a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

b. Supervisory, inspection, architectural or engineering activities.

2. "Bodily injury" or "property damage" occurring after:

a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

3. "Bodily injury", "property damage" or occurring or commencing before execution of the written contract or agreement that requires such person or organization be added as an additional insured on your policy.

C. Definitions

"Ongoing operations" means operations not included in the "products-completed operations hazard."

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Insurance Services Office, Inc., with its permission.

CITY OF NEVADA CITY
BID OPENING RESULTS

PROJECT: Pioneer Rest Rooms. DATE: 21 Nov 2018.

TIME OF BID OPENING: 3:00 A.M./P.M.

COMPANY NAME	BID AMOUNT
Swierstak Enterprise, Inc (PRO Builders)	$ 78,800
Freschi Construction	$ 53,847.12
Barsotti Contracting	$ 43,900
	$
	$
	$
	$
	$
	$
	$
	$
	$

CITY OF NEVADA CITY
BID OPENING SIGN-IN SHEET

PROJECT: Pioneer Park Restrooms DATE: 21 Nov 2019.

TIME OF BID OPENING: 3:00 A.M./P.M.

ATTENDEES – Please Sign-in and Print your name

Signature	Print Name
[illegible]	William J. Falcone
Phone # 916-765-1010.	
[illegible]	Dawn Zydonis
Phone # 265-2496	
[illegible]	BRYAN McALISTER
Phone # 265-2491	

GENERAL CONDITIONS

1. Inspection of Construction

The Engineer shall have access to the work and the site of the work at all times and the Contractor shall afford such access to the Engineer and shall furnish all relevant information requested by him. At the request of the Engineer the Contractor shall open for inspection any part of the work which has been covered up, and if any part of the work has been covered up in contravention of the instructions of the Engineer, or if on being opened up, is found not to be in accordance with the terms of the contract, the expense of opening and recovering shall be charged to the Contractor. If the work has been covered up but not in contravention of such instructions and is found to be in accordance with the terms of the contract, the actual cost of opening and recovering shall be borne by the City, and in such case, if the work of opening and recovering is done by the Contractor, it shall be considered as extra work and paid for accordingly.

2. Change Orders

If for any reason it becomes necessary or desirable to change the alignment, dimensions, or design of the work, the City shall have the right to issue written change orders therefore. If the Contractor considers that any such change involves extra work, he shall immediately so notify the Engineer in writing, and shall make claim for compensation for such work not later than the first day of the month following the month in which the work was performed. If, in the opinion of the Engineer, any change order results in a change in the amount of work performed, the contract price shall be adjusted for extra work or omitted work, as the case may be.

3. Contractor's Employees and Subcontractors

The Contractor shall at all times be responsible for the adequacy and efficiency of his employees and any subcontractor and the latter's employees. All workers shall have adequate skill and experience to perform properly the work assigned to them.

4. Errors and Omissions

If the Contractor in the course of the work becomes aware of any error or omission in the contract documents, or of any discrepancy between such documents and the physical conditions of the work site, he shall immediately inform the Engineer, who shall take such action as he may deem necessary in order to rectify the matter. Any work done after such discovery and without the authorization of the Engineer will be at the Contractor's risk.

5. Guaranty of Work

For a period of one (1) year after final acceptance of the work by the City, the Contractor shall make all Improvements and replacements arising out of any defective workmanship or materials. If the Contractor fails to make such repairs or replacements within ten (10) days after receiving written notice to do so, or within such further time as may be allowed by the City, the City may undertake such repairs or replacements, in which case the Contractor shall be liable to the City for the cost thereof.

6. Contractor's Responsibility for Work

The Contractor shall be responsible for the proper care and protection of the work, and of all materials delivered to the work site, until completion of the work and its final acceptance by the City.

7. Performance Bond

No Performance bond shall be required for this project.

8. Payment Bond

No Payment bond shall be required for this project.

9. Workmen's Compensation Insurance

The Contractor shall carry workmen's compensation insurance for all employees working on or about the site of the work, and if any work is subcontracted, the Contractor shall require each subcontractor to carry such insurance for all of the latter's employees, unless they are covered by the Contractor's insurance.

10. Insurance Requirements

CONTRACTOR shall purchase and maintain insurance in amounts of coverage not less than the following amounts:

General Liability: (Including operations, products and completed operations)	$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
Automobile Liability:	$1,000,000 per accident for bodily injury and property damage.

The Contractor shall deliver to the City, concurrently with the execution of the contract, certificates evidencing all insurance required by the contract, and each such certificate shall include a provision to the effect that the policy or policies cannot be canceled or materially modified unless the insurer gives the City at least fifteen (15) days written notice thereof prior to such cancellation or modification.

11. Prevailing Wages

Contractor shall pay each laborer, workman or mechanic in accordance with State and Federal Prevailing Wage Rates and the California Labor Code. These wage rates are hereby made a part of this contract:

State General Prevailing Wage Determinations in effect on date advertised
General prevailing wage determination
Journeyman and Apprentice Prevailing Wage Rates can be accessed at the following websites:
http://www.dir.ca.gov/OPRL/2017-2/PWD/index.htm and
http://www.dir.ca.gov/das/publicworks.html

Reference: Labor Code http://www.labor.ca.gov/laborlawreg.htm

Federal Prevailing Wage Determinations in effect on bid date
General Decision # CA170009 CA9
http://www.wdol.gov/wdol/scafiles/davisbacon/ca.html

Electronic Certified Payroll Records

- All contractors must furnish electronic certified payroll records to the Labor Commissioner using the online eCPR data system
- No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
- This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- The contractor shall post job site notices prescribed by regulation. (See 8 Calif. Code Reg. §16451(d)

Project Specifications

PROJECT LIMITS

Pioneer Park near Picnic Areas on Nimrod Street in Nevada City.

PROJECT DESCRIPTION

The project consists of reconstruction of a public restroom with ADA improvements. All materials and finishes shall be like for like or similar to the Pioneer Park Tennis Court Bathroom.

The exterior structure – walls and roof - will remain in place, however there is some work involved where new doors are being installed and where new louvers and new skylights are being installed. Tempered glass shall be provided for skylights and the size of each skylight shall be enlarged to approx. 800 sq. in.

The interior walls (CMU) will be demolished and reconstructed with two - wood framed walls that have a gap in between for plumbing pipe. New framed doors, wall coving, wall board at stalls shall be provided. All new plumbing and electrical will be provided throughout the building. Painting is to be provided for the floor, interior walls ceiling and exterior. All new plumbing fixtures shall be provided.

CONSTRUCTION NOTES

All improvements shall be constructed in accordance with the plans and details for the project and current Building Codes. Demolition and disposal of any excess materials or materials being replaced shall be provided by the contractor.

MATERIAL NOTES

Refer to Attachment Part A, Technical Specifications.

SPECIAL PROVISIONS

Comply with all State and Federal requirements as further described in Attachment Part B General Conditions.

PART A TECHNICAL SPECIFICATIONS AND PLANS

GENERAL REQUIREMENTS

All construction and procedures shall comply with national, state, and local codes as they apply. Design to conform to 2013 California Building Code. Construct to Architect's/ Engineer's design. Any and all structural changes shall first be approved by design Architect's/ Engineer's and resubmitted for design review.

All Products, shall be as shown Or equal.

MASONRY

GENERAL PROVISIONS

Workmanship - Lay all walls true and straight. Grout all cavities. No work shall be done subject to freezing conditions.

Reinforced masonry - Same as concrete section.

Anchors - Securely embed all wall ties, anchor bolts, and other attachments as shown on drawings and engineering calculations. See Division 5 - Metals regarding placement of holdowns.

MORTAR AND GROUT

Mortar - All mortar used to be freshly prepared and uniformly mixed in the ratio by volumes of 1 part cement, 1/2 part lime putty, 4-1/2 parts sand. If plastic type cement is used, the lime putty may be omitted.

Grout - Grout used to be 1 part cement, 3 parts sand, 2 parts pea gravel. Grout strength at 28 days to be 2000 p.s.i.

UNIT MASONRY

Concrete block - Shall be light weight grade N units as per A.S.T.M. C-150, f'm = 250 p.s.i., v = 25 p.s.i.,

u = 100 p.s.i. As manufactured by Calstone, calstone.com, or equal.

Weep Holes - Provide weep holes as required at all CMU walls.

Expansion and Control Joints - Provide expansion and control joints as required. Review type and location with Architect and City.

- CONCRETE

CONCRETE FORMWORK

Design of formwork shall be responsibility of Contractor.

Form construction shall produce true, smooth surfaces and shall be tight to prevent leakage.

Forms shall be of good, sound Douglas Fir boards or plywood, and spaced with snap-off metal ties or the equivalent.

Coordinate with all trades, including electrical and plumbing contractors, to insure correct placement of all items in forms and blockouts and sweeps wherever required.

CONCRETE REINFORCEMENT

Reinforcing steel to conform to A.S.T.M. A615-40, fs = 20,000 p.s.i. Lap 30 bar diameters in concrete, 40 bar diameters in masonry. Reinforcement shall be clean and free from loose rust scale and any coatings that reduce bond. Store reinforcing steel in a manner to prevent excessive rusting and accumulation of dirt, grease, and other bond-breaking coatings.

Provide minimum 3" concrete cover for all reinforcing bars cast against and permanently exposed to earth, 1-1/2" elsewhere, or as indicated on drawings.

Slab reinforcement shall be #4 rebar @ 16" OC both ways as shown on drawings. ~~An alternate is "Fibermesh" as manufactured by Fibermesh, Inc., 4019 Industry Drive, Chattanooga, TN 37416, (615) 892-7243.~~

All concrete shall be reinforced unless specifically marked "NOT REINFORCED" on drawings. Where not shown on drawings, reinforce similar to that shown in similar places.

CAST-IN-PLACE CONCRETE

Compaction - All concrete shall be placed on adequately compacted surfaces.

Sub-slab base - Shall be a 4" layer of clean gravel or crushed rock 1/4" and larger placed on adequately compacted soil or fill as shown on drawings. Place sand around all pipes, mechanical ducting, chases, and conduits under, embedded in, or penetrating slab.

~~Moisture Barrier - Provide moisture barrier under gravel layer.~~

~~Draintile - "ABS" corrugated polyethylene drainage tubing, "Orangeburg" drain tile, or equal, at all locations shown on drawings, slope 1/4 % min. 4" perforated drain with perfs down, backfill with gravel, minimum 1 cubic foot per lineal foot of drain tile, and drain to daylight. Provide screen cover at daylight openings. Provide clean-out access as required to allow cleaning.~~

~~Anchor bolts, hold-downs and connectors - Include in pour all anchor bolts, holdowns or connectors as shown on drawings and engineering calculations, and as required for anchorage. Spacing and size as per drawings and shear wall schedule and within 12" of ends of each foundation stem wall segment. See Division 5 - Metals regarding placement of holdowns.~~

Pour conditions - Concrete shall be maintained above 50 degrees Fahrenheit and in a moist condition for at least seven days. Protect concrete with moisture barriers or chemical additives as required to assure quality surfaces.

Inspection - Immediately following form removal, inspect all surfaces for voids, honeycombs, defects, improper alignment, etc. Any work found to contain same is subject to removal and replacement if so determined by Architect.

Strength - Concrete work shall comply with the following minimum standards:

5 sack minimum
Compressive strength:
Slabs.....2,000 p.s.i. (Verify)
Footings and stem walls..... 2,500 p.s.i.
Slump - Maximum slump.....4 inches

Stem walls - Step all footings as required for grade. Pour concrete continuously and vibrate or rod while placing in forms to insure consolidation. Do not over vibrate.

Finish at Porch slab - Provide broomed finish at Porch slab.

Sealer - Provide concrete sealer at Porch slab.

Finish at Main slab - Provide smooth finish at Main slab.

Sealer - Provide concrete sealer at Main slab.

Corner beads - Standard, square edged.

Gypsum drywall finishing - Taping and topping according to manufacturer's instructions. Finish shall be Owner select.

PAINTING

Note: These are suggestions, final selection to be made by Owner.

Doors - Painted.

Windows - No painting required.

Interior walls - Drywall shall receive one coat sealer and two coats flat latex. Color to be selected by Owner.

Interior surfaces CMU walls - Interior finishes that can be used include products that are vinyl acrylic, acrylic, water-based epoxies, to specialty finishes to provide the desired interior finish.

Exterior trim - Prime and paint.

Exterior metal - Prime coat of 960 Zinc Chromate primer by "Rust-Oleum", one coat prior to, and one coat following installation.

SPECIALTIES

TOILET COMPARTMENTS

- As manufactured by "Bobrick" or equal.
- Solid color reinforced composite, Sierra Series 1090
- Overhead-braced with standard hardware
- 12 inch floor to bottom of partition height
- Forest Green (To be determined)
- Heights. Standard heights
    - Door/Panel Height: 58"
    - Floor Clearance: 12"
    - Stile Standard Height: 70"
- Heights, Urinal Screen, wall hung
    - Screen height: 42" with 18" floor clearance
    - 18" width
- Door hardware handles: 11B-404.2.7
    - 34" min, 44" max above FF

TOILET AND BATH ACCESSORIES

Paper Towel Dispenser - Stainless steel roll towel dispenser. Model #: B-2860 available at PlumbingSupply.com

Soap Dispenser - As manufactured by Archer Manufacturing, Model "OPS". www.vandalproof.org,

DOORS

Exterior - Fiberglass

Note: As manufactured by Chem-Pruf or equal.

5224 FM 802
Brownsville, TX 78521
Phone: 800.444.6924
Fax: 956.544.7943

E-Mail: info@chem-pruf.com

Another fiberglass door manufacturer: Edgewater Commercial Fiberglass Doors

LOUVERS

Louvers - Extruded aluminum stationary louvers as manufactured by Architectural Louvers, archlouvers.com, (888) 568-8371. Model E4JP 4" deep 35° Std J Blade. Mount with "J" Channel Frame option. Color to be determined.

FINISH HARDWARE

Note: As manufactured by Schlage or equal. ADA compliant with lever style handle.

Butt hinges - Standard butt hinges, 3 per door.

Entry doors - Electronic locking system with timer. Lock to always allow occupants freedom to exit. As manufactured by Schlage or equal. Local locksmith does not do electronic lock install.

Door stops - At all doors to prevent contact with walls.

NOTE: Finish hardware are architectural recommendations only. Equal hardware may be used at Owner's discretion.

GLASS AND GLAZING

Fixed glass - Double strength.

Mirror - 18" X 24" Framed Safety Mirror with Super #8 Non-directional Stainless Steel Mirror made of Type 304, 18-gauge stainless steel with the corners welded and polished. As manufactured by Mirrored Stainless Solutions, E772 Tomahawk Trail, Waupaca, WI 54981, 715 256-0352, Email: mss@solarus.net

- FINISHES

GYPSUM DRYWALL

Gypsum drywall

Moisture proof drywall - U.S. Gypsum Green Board or equal at all locations.

- 1/2" U.S. Gypsum sheetrock with tapered edges, at 16" o.c. support spacing.
- 5/8" U.S. Gypsum sheetrock with tapered edges, at 24" o.c. support spacing.

CARPENTRY

Note: In the event alternate lumber is used, design values shall conform. Alternate member size and spacing or both must be adjusted to meet structural requirements. Framing plan shows members required for structural purposes only. All blocking, headers, and members required by codes are in addition to members shown. Nailing shall be in conformance to schedule in California Building Code, 2013 edition.

ROUGH CARPENTRY

FRAMING AND SHEATHING

Studs - Douglas Fir kiln dried stud grade or equal. 2X4 studs at interior walls @ 16" o.c. unless 2X6 studs required for structural or plumbing requirements. is.

Blocking - All 2x blocking Douglas Fir # 2.

Foundation sills - Foundation grade Redwood or pressure-treated Douglas Fir.

Joists and headers - #2 or better kiln dried Douglas Fir, uniform and sound.

Beams and girders - 4X members: #2 or better kiln dried Douglas Fir. 6X and 8X members: #2 or better Douglas Fir.

Note: All exposed beams and girders to be cleaned free of stains and blemishes before installation.

~~Posts (columns) - Kiln dried Douglas Fir #1, S4S, uniform and sound. All exposed posts or columns are to be cleaned free of stains and blemishes before installation.~~

Exterior beams - As shown on plans.

Upper Roof sheathing - 1 1/8" T&G exterior plywood. 10d @ 6" o.c. edge nailing, 10d @ 12" o.c. field nailing.

Lower Roof sheathing - 5/8" T&G exterior plywood APA grade # 32/16 minimum. 8d @ 6" o.c. edge nailing, 8d @ 12" o.c. field nailing.

Exterior wall sheathing - 1/2" exterior grade CD plywood typical -
sheet 1.

EXTERIOR SIDING AND WOOD

Exterior siding - 2 1/2" corrugated metal panels as manufactured by ASC Building Products, www.ascbp.com. 26 ga Zincalume finish. Install as per manufacturer's specifications and recommendations. ASC "B1" flashing used at window heads, "C1" flashing at jambs and sills.

Exterior trim - HardieTrim Boards, 3/4" thick with smooth finish.

ROOFING

Metal panels - 2 1/2" corrugated metal panels as manufactured by ASC Building Products, www.ascbp.com. 26 ga Zincalume finish. Install as per manufacturer's specifications and recommendations.

Warranty - Roofing Contractor shall supply Contractor and Owner with a written X-year full warranty from date of completion.

ROOF ACCESSORIES

plumbing vent pipe on roof.

CAULKING AND SEALANTS

Use a non-sagging polyurethane for expansion joints. Use an elastomeric when caulking around window and door openings.

WEATHERSTRIPPING

Weatherstripping - Vinyl bulb or automatic type. Integral weatherstrip at exterior doors.

GLAZING, DOORS, AND HARDWARE

Refer to Floor Plans and Elevations for locations and sizes.

GLAZINGS

Windows - Marvin Integrity All Ultrex polygon fixed fiberglass windows. "Snow White" exterior and interior color. Local dealer is: California Craftsman, 110 Springhill Drive, Ste 6, Grass Valley, CA 95945 (530) 477-9950. Contact: Doug Gendron.

GENERAL PROVISIONS

Furnish and install complete water supply system, plumbing fixtures, trim, soil, waste, and vent pipe system, sewage disposal system, and all necessary excavating and backfilling. Share service trench with electrical contractor. Comply with all local codes and ordinances. Minimize cutting of framing members; approve all cuts with Owner and Architect. All work to conform to the 2013 California Plumbing Code, Mechanical Code, and California Building Code. If any changes to the existing design are required, the Architect is to be notified.

Furnish and install pipe and pipe fittings, valves, vibration isolation, and mechanical systems insulation to the best standards of the trade.

PLUMBING FIXTURES AND TRIM

Note: All fixtures to comply with handicapped requirements

ELECTRICAL

GENERAL PROVISIONS

Furnish and install complete receptacles, electrical system ready for use with all necessary breakers, switches, fixtures, and UFER ground, as required. Provide service entry capacity in accordance with the National Electric Code. Service shall be underground. Conceal service cable conduit completely in wall. Service to be 200 amp (verify). All bathroom and exterior receptacles shall be on ground fault interrupter circuit.

ELECTRICAL DISTRIBUTION SYSTEM

WIRING DEVICES

Wiring - Non-metallic sheathed copper cable.

Switches - Owner select

Receptacles - Owner select

Plates - Owner select

LIGHTING FIXTURES

Wall Mount security fixture - As manufactured by Cooper Lighting, www.cooperlighting.com, 770-486-4800, or equal. Model RCS-12. See attached cut sheet. (1) light in each space,

COMMUNICATION SYSTEMS

Not applicable.

SOUND SYSTEM WIRING

Not applicable.

CONNECTORS

All steel connectors, post anchors, holdowns, or anchors shall be "Simpson Strong-ties", or equal,

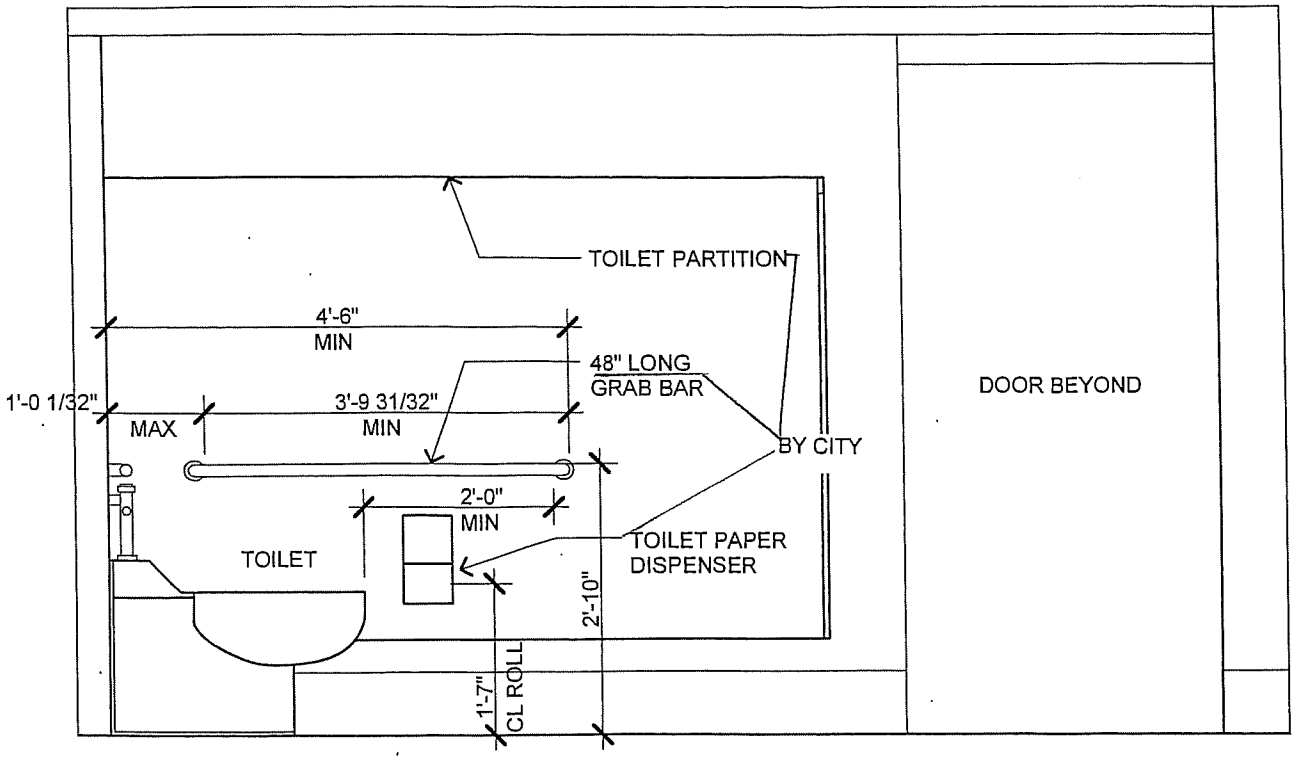
Provide positive type post and beam connections, i.e. "Simpson" "BC", "AC", "PC", "CC", "T", "L" or "ST" straps.

NOTE: All holdown connectors shall be templated into proper position before filling cells in stem walls or retaining walls or pouring concrete.

SHEET METAL WORK

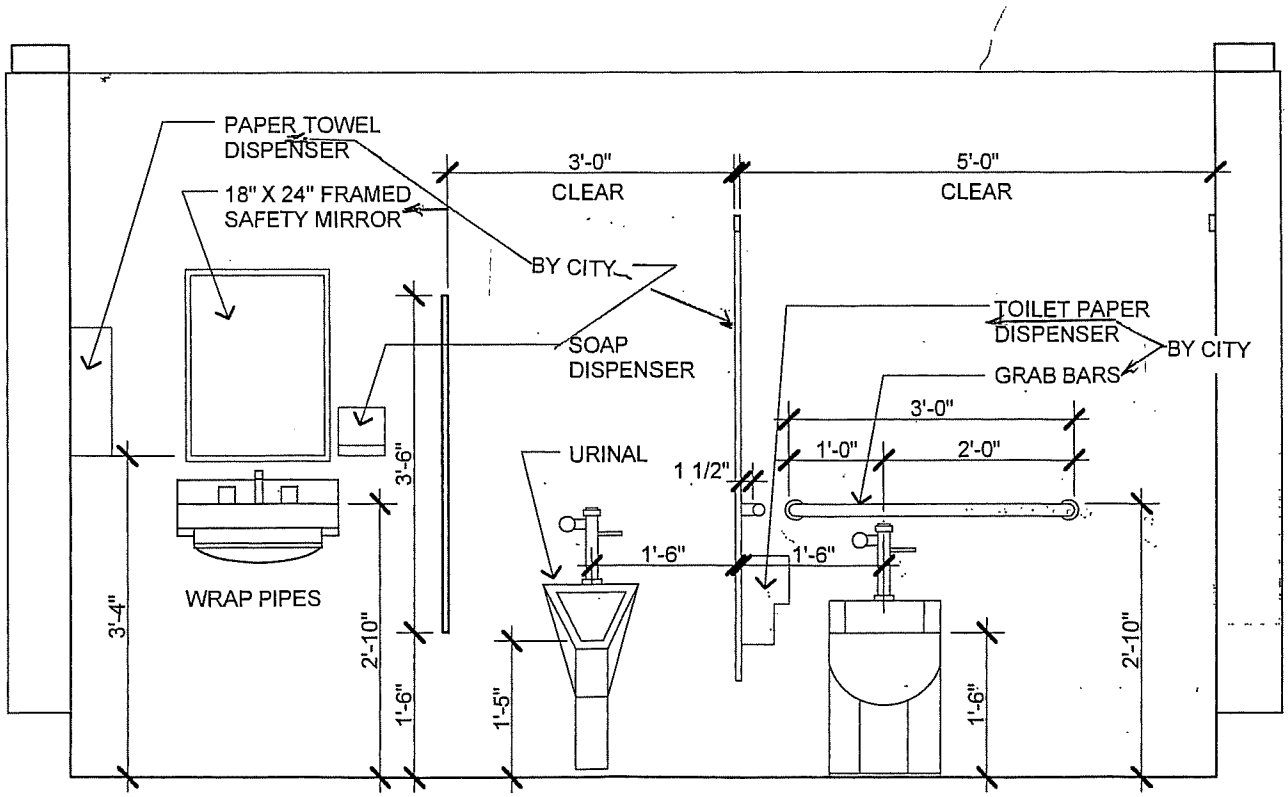
Roof flashing and trim - 26 gauge galvanized iron sheet metal as required or as shown on drawings.

Wall flashing - 26 gauge galvanized iron sheet metal as shown on drawings. Paint where exposed



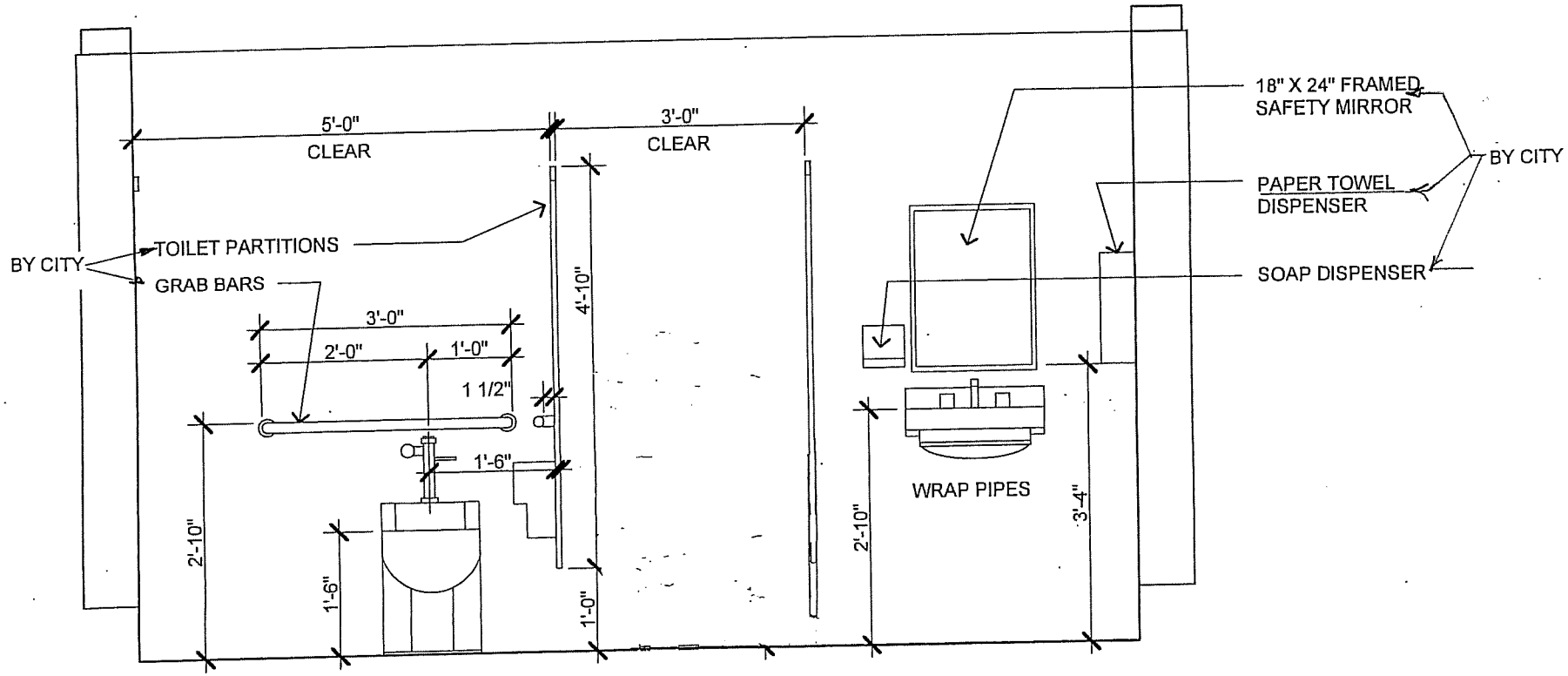
2. INTERIOR LOOKING NORTH

1/2" = 1'-0"



3. INTERIOR LOOKING EAST

1/2" = 1'-0"



1. INTERIOR LOOKING WEST

1/2" = 1'-0"

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS

Whenever used in these General Conditions or in the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

Agreement - The written agreement between OWNER and CONTRACTOR covering the Work to be performed; other Contract Documents are attached to the Agreement.

Application for Payment - The form furnished by ENGINEER which is to be used by CONTRACTOR in requesting progress payments and which is to include the schedule of values required by paragraph 14.1 and an affidavit of CONTRACTOR that progress payments therefore received on account of the Work have been applied by CONTRACTOR to discharge in full all of CONTRACTOR's obligations reflected in prior Applications for Payment.

Bid - The offer or proposal of the Bidder submitting on the prescribed form setting forth the prices for the Work to be performed.

Bidder - Any person, firm, or corporation submitting a Bid for the Work.

Bonds - Bid, performance, and payment bonds and other instruments of security, furnished by CONTRACTOR and his surety in accordance with the Contract Documents.

Change Order - A written order to CONTRACTOR signed by OWNER authorizing an addition, deletion, or revision in the Work, or an adjustment in the Contract Price or the Contract Time issued after execution of the Agreement.

Contract Documents - The Agreement, Addenda (whether issued prior to the opening of Bid or the execution of the Agreement), Instructions to Bidders. CONTRACTOR's Bid, the Bonds, the Notice of Award, these General Conditions, the Supplementary Conditions, the Specifications, Drawings and Modifications.

Contract Price - The total moneys payable to CONTRACTOR under the Contract Documents.

Contract Time - The number of days stated in the Agreement for the completion of the Work, computed as provided in paragraph 17.2.

CONTRACTOR - The person, firm, or corporation with whom OWNER has executed the Agreement.

Day - A calendar day of twenty-four hours measured from midnight to the next midnight.

Drawings - The drawings which show the character and scope of the Work to be performed and which have been prepared or approved by ENGINEER and are referred to in the Contract Documents.

ENGINEER - The person, firm or corporation named as such in the Agreement.

Field Order - A written order issued by ENGINEER which clarifies or interprets the Contract Documents in accordance with paragraph 9.3 or orders minor changes in the Work in accordance with paragraph 10.2.

Modification - (a) A written amendment of the Contract Documents signed by both parties, (b) a Change

Order, (c) a written clarification or interpretation issued by ENGINEER in accordance with paragraph 9.3, or (d) a written order for a minor change or alteration in the Work issued by ENGINEER pursuant to paragraph 10.2. A Modification may only be issued after execution of the Agreement.

Notice of Award - The written notice by OWNER to the apparent successful Bidder stating that upon compliance with the conditions precedent to be fulfilled by him within the time specified, OWNER will execute and deliver the Agreement to him.

Notice to Proceed - A written notice given by OWNER to CONTRACTOR (with a copy to ENGINEER) fixing the date on which the Contract Time will commence to run and on which CONTRACTOR shall start to perform his obligations under the Contract Document.

OWNER - A public body or authority, corporation, association, partnership, or individual for whom the Work is to be performed.

Project - The entire construction to be performed as provided in the Contract Documents.

Resident Project Representative - The authorized representative of ENGINEER who is assigned to the Project site or any part thereof.

Shop Drawings - All drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by CONTRACTOR, a Subcontractor, manufacturer, supplier, or distributor and which illustrate the equipment, material, or some portion of the Work.

Specifications - Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards, and workmanship as applied to the Work. The specifications are customarily organized in 16 divisions in accordance with the Uniform System for Construction Specifications endorsed by the Construction Specifications Institute. [*Note: the term "Technical Provisions" formerly described what is now referred to as the Specifications. For uniformity with the usage of other professional societies the term "Project Manual" is used to describe the volume formerly referred to as "The Specifications." The Project Manual contains documents concerning bidding requirements which in general govern relationships prior to the execution of the Agreement (such as the Invitation to Bid, Instructions to Bidders, Bid Bonds and Notice of Award) and the other portions of the Contract Documents.*]

Subcontractor - An individual, firm, or corporation having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site.

Substantial Completion - The date as certified by ENGINEER when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purpose for which it was intended: or if there be no such certification, the date when final payment is due in accordance with paragraph 14.13.

Work - Any and all obligations, duties and responsibilities necessary to the successful completion of the Project assigned to or undertaken by CONTRACTOR under the Contract Documents, including all labor, materials, equipment and other incidentals, and the furnishing thereof.

ARTICLE 2 - PRELIMINARY MATTERS

Execution of Agreement:

2.1 At least three counterparts of the Agreement and such other Contract Documents as practicable will be executed and delivered by CONTRACTOR to OWNER within fifteen days of the Notice of Award: and OWNER will execute and deliver one counterpart to CONTRACTOR within ten days of receipt of the executed Agreement from CONTRACTOR. ENGINEER will identify those portions of the Contract Documents not so signed and such identification will be binding on all parties. OWNER, CONTRACTOR, and ENGINEER shall each receive an executed counterpart of the Contract Documents and additional conformed copies as required.

Delivery of Bonds:

2.2 When he delivers the executed Agreement to OWNER, CONTRACTOR shall also deliver to OWNER such Bonds as he may be required to furnish in accordance with paragraph 5.1.

Copies of Documents:

2.3 OWNER shall furnish to CONTRACTOR up to ten copies (unless otherwise provided in the Supplementary Conditions) of the Contract Documents as are reasonably necessary for the execution of the Work. Additional copies will be furnished, upon request, at the cost of reproduction.

Contractor's Pre-Start Representations:

2.4 CONTRACTOR represents that he has familiarized himself with, and assumes full responsibility for having familiarized himself with, the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state, and local laws, ordinances, rules, and regulations that may in any manner affect performance of the Work, and represents that he has correlated his study and observations with the requirements of the Contract Documents. CONTRACTOR also represents that he has studied all surveys and investigation reports of subsurface and latent physical conditions referred to in the General Requirements (Division 1) of the Specifications and made such additional surveys and investigations as he deems necessary for the performance of the Work at the Contract Price in accordance with the requirements of the Contract Documents and that he has correlated the results of all such data with the requirements of the Contract Documents.

Commencement of Contract Time: Notice to Proceed:

2.5 The Contact Time will commence to run on the thirtieth day after the day on which the executed Agreement is delivered by OWNER to CONTRACTOR: or if Notice to Proceed is given, on the day indicated in the Notice to Proceed; but in no event shall the Contract Time commence to run later than the ninetieth day after the day of Bid opening or the thirtieth day after the day on which OWNER delivers the executed Agreement to CONTRACTOR. A Notice to Proceed may be given at any time within thirty days after the day on which OWNER delivers the executed Agreement to CONTRACTOR.

Starting the Project:

2.6 CONTRACTOR shall start to perform his obligations under the Contract Documents on the date when the Contract Time commences to run. No Work shall be done at the site prior to the date on which the Contract Time commences to run.

Before Starting Construction:

2.7 Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. He shall at once report in writing to ENGINEER any conflict, error, or discrepancy which he may discover, however, he shall not be liable to OWNER or ENGINEER for his failure to discover any conflict, error, or discrepancy in the Drawings or Specifications.

2.8 Within ten days after delivery of the executed Agreement by OWNER to CONTRACTOR, CONTRACTOR shall submit to ENGINEER for approval, an estimated progress schedule indicating the starting and completion dates of the various stages of the Work, and a preliminary schedule of Shop Drawing submissions.

2.9 Before starting the Work at the site, CONTRACTOR shall furnish OWNER and ENGINEER certificates of insurance as required by Article 5. Within twenty days after delivery of the executed Agreement by OWNER to CONTRACTOR, but before starting the Work at the site, a conference will be held to review the above schedules to establish procedures for handling Shop Drawings and other submissions and for processing Applications for Payment, and to establish a working understanding between the parties as to the Project. Present at the conference will be OWNER or his representative, ENGINEER, Resident Project Representatives, CONTRACTOR, and his Superintendent.

ARTICLE 3 - CORRELATION, INTERPRETATION, AND INTENT OF CONTRACT DOCUMENTS

3.1 It is the intent of the Specifications and Drawings to describe a complete Project to be constructed in accordance with the Contract Documents. The Contract Documents comprise the entire Agreement between OWNER and CONTRACTOR. They may be altered only by a Modification.

3.2 The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The CONTRACTOR finds a conflict, error, or discrepancy in the Contract Documents, he shall call it to ENGINEER's attention in writing at once and before proceeding with the Work affected thereby; however, he shall not be liable to OWNER or ENGINEER for his failure to discover any conflict, error, or discrepancy in the Specifications or Drawings. In resolving such conflicts, errors, or discrepancies, the documents shall be given precedence in the following order: Agreement, Modifications, Addenda, Supplementary Conditions, Specifications and Drawings. Figure dimensions on Drawings shall govern over scale dimensions, and detailed Drawings shall govern over general Drawings. Any Work that may reasonably be inferred from the Specifications or Drawings as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, materials, or equipment described in words which so applied have a well-known technical or trade meaning shall be deemed to refer to such recognized standards.

ARTICLE 4 - AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS

Availability of Lands:

4.1 OWNER shall furnish, as indicated in the Contract Documents and not later than the date when needed by CONTRACTOR, the lands upon which the Work is to be done, rights-of-way thereto, and such other lands which are designated for the use of CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by OWNER, unless otherwise specified in the Contract Documents. If CONTRACTOR believes that any delay in OWNER's furnishing these lands or easements entitles him to an extension of the Contract Time, he may make a claim therefore as provided in Article 12. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

Physical Conditions - Surveys and Reports:

4.2 Reference is made to the General Requirements (Division 1) of the Specifications for identification of those surveys and investigation reports of subsurface and latent physical conditions at the Project site or otherwise affecting performance of the Work which have been relied upon by ENGINEER in preparation of the Drawings and Specifications.

Unforeseen Physical Conditions:

4.3 CONTRACTOR shall promptly notify OWNER and ENGINEER in writing of any subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents. ENGINEER will promptly investigate those conditions and advise OWNER in writing if further surveys or subsurface tests are necessary. Promptly thereafter, OWNER shall obtain the necessary additional surveys and tests and furnish copies to ENGINEER and CONTRACTOR. If ENGINEER finds that the results of such surveys or tests indicate that there are subsurface or latent physical conditions which differ materially from those intended in the Contract Documents, and which could not reasonably have been anticipated by CONTRACTOR, a Change Order shall be issued incorporating the necessary revisions.

Reference Points:

4.4 OWNER shall provide engineering surveys for construction to establish reference points which in his judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for surveying and laying out the Work (unless otherwise provided in the Supplementary Conditions), and shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of OWNER. He shall report to ENGINEER whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations. CONTRACTOR shall replace and accurately relocate all reference points so lost, destroyed, or moved.

ARTICLE 5 - BONDS AND INSURANCE

Performance, Payment, and Other Bonds:

5.1 CONTRACTOR shall furnish performance and payment Bonds as security for the faithful performance and payment of all his obligations under the Contract Documents. These Bonds shall be in amounts at least equal to the Contract Price, and (except as otherwise provided in the Supplementary Conditions) in such form and with such sureties as are licensed to conduct business in the state where the Project is located and are named in the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Department.

5.2 If the surety on any Bond furnished by CONTRACTOR is declared a bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located is revoked, CONTRACTOR shall within five days thereafter substitute another Bond and surety, both of which shall be acceptable to OWNER.

Contractor's Liability Insurance:

5.3 CONTRACTOR shall purchase and maintain such insurance as will protect him from claims under workman's compensation laws, disability benefit laws, or other similar employee benefit laws; from claims for damages because of bodily injury, occupational sickness or disease, or death of his employees, and claims insured by usual personal injury liability coverage; and from claims for injury to or destruction of tangible property, including loss of use resulting therefrom – any or all of which may arise out of or result from CONTRACTOR's operations under the Contract Documents, whether such operations be by himself or by any Subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be legally liable. This insurance shall include the specific coverages and be written for not less than any limits of liability and maximum deductibles specified in the Supplementary Conditions or General Requirements (Division 1) or required by law, whichever is greater, shall include parties. Before starting Work, CONTRACTOR shall file with OWNER and ENGINEER certificates of such insurance, acceptable to OWNER; these certificates shall contain a provision that the coverage afforded under the policies will not be cancelled or materially changed until at least fifteen days prior written notice has been given to OWNER and ENGINEER.

Any deductibles or self-insured retentions must be declared to and approved by the OWNER. At the option of the OWNER, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the OWNER, its officers, officials, employees and volunteers; or the CONTRACTOR shall provide a financial guarantee satisfactory to the OWNER guaranteeing payment of losses and related investigations, claim administration and defense expenses.

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

1. The ENGINEER and the OWNER, its officers, officials, employees, and volunteers are to be covered as insureds with respect to liablity arising out of automobiles owned, leased, hired or borrowed by or on behalf of the CONTRACTOR; and with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance.

2. For any claims related to this project, the CONTRACTOR's insurance coverage shall be primary insurance

as respects the ENGINEER and the OWNER, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the ENGINEER and the OWNER, its officers, officials, employees, or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall be cancelled by either party, except after fifteen (15) days prior written notice by certified mail, return receipt requested, has been given to the OWNER and the ENGINEER.

4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under *Subdivision (b) of Section 2782 of the Civil Code*.

Insurance is to be placed with a current A.M. Best's rating of no less than A:VII.

CONTRACTOR shall furnish the OWNER with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the OWNER or on other than the OWNER's forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by the OWNER before work commences. The OWNER reserved the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

CONTRACTOR shall include all Subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverages for Subcontractors shall be subject to all of the requirements stated herein.

OWNER's Liability Insurance:

5.4 OWNER shall be responsible for purchasing and maintaining his own liability insurance and, at his option, may purchase and maintain such insurance as will protect him against claims which may arise from operations under the Contract Documents.

Property Insurance:

5.5 Unless otherwise provided, OWNER shall purchase and maintain property insurance upon the Project to the full insurable value hereof. This insurance shall include the interests of OWNER, CONTRACTOR, and Subcontractors in the Work, shall insure against the perils of Fire, Extended Coverage, Vandalism, and Malicious Mischief, and such other perils as may be specified in the Supplementary Conditions or General Requirements (Division 1), and shall include damages, losses, and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (including fees and charges of engineers, architects, attorneys, and other professionals).

5.6 OWNER shall purchase and maintain such steam boiler and machinery insurance as may be required by the Supplementary Conditions or by law. This insurance shall include the interests of OWNER, CONTRACTOR, and Subcontractors in the Work.

5.7 Any insured loss under the policies of insurance required by paragraphs 5.5 and 5.6 is to be adjusted with OWNER and made payable to OWNER as trustee for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of paragraph 5.11.

5.8 OWNER shall file a copy of all policies with CONTRACTOR before an exposure to loss may

occur. If OWNER does not intend to purchase such insurance, he shall inform CONTRACTOR in writing prior to commencement of the Work. CONTRACTOR may then effect insurance which will protect the interests of himself and his Subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to OWNER. If CONTRACTOR is damaged by failure of OWNER to purchase or maintain such insurance and so to notify CONTRACTOR, then OWNER shall bear reasonable costs properly attributable thereto.

5.9 If CONTRACTOR requests in writing that other special insurance be included in the property insurance policy, OWNER shall, if possible, include such insurance and the cost thereof shall be charged to CONTRACTOR by appropriate Change Order.

5.10 OWNER and CONTRACTOR waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance provided under paragraphs 5.5 through 5.11, inclusive, except such rights as they may have to the proceeds of such insurance held by OWNER as trustee. CONTRACTOR shall require similar waivers by Subcontractors in accordance with paragraph 6.12.

5.11 OWNER as trustee shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within five days after the occurrence of loss to OWNER's exercise of this power, and if such objection be made, arbitrators shall be chosen as provided in Article 16. OWNER as trustee shall, in that case, make settlement with the insurers in accordance with the directions of such arbitrators. If distribution of the insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

Additional Bonds and Insurance:

5.12 Prior to delivery of the executed Agreement by OWNER to CONTRACTOR, OWNER may require CONTRACTOR to furnish such other Bonds and such additional insurance, in such form and with such sureties or insurers as OWNER may require. If such other Bonds or such other insurance are specified by written instructions given prior to opening of Bids, the premiums shall be paid by CONTRACTOR; if subsequent thereto, they shall be paid by OWNER (except as otherwise provided in paragraph 6.7).

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

Supervision and Superintendence:

6.1 CONTRACTOR shall supervise and direct the Work efficiently and with his best skill and attention. He shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction, but he shall not be solely responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence, or procedure of construction which is indicated in and required by the Contract Documents. CONTRACTOR shall be responsible to see that the finished Work complies accurately with the Contract Documents.

6.2 CONTRACTOR shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to OWNER and ENGINEER except under extraordinary circumstances. The superintendent will be CONTRACTOR's representative at the site and shall have authority to act on behalf of CONTRACTOR. All communications given to the superintendent shall be as binding as if given to CONTRACTOR.

Labor, Materials, and Equipment:

6.3 CONTRACTOR shall provide competent, suitably qualified personnel to survey and lay out the Work and perform personnel to survey and lay out the Work and perform construction as required by the Contact Documents. He shall at all times maintain good discipline and order at the site.

6.4 CONTRACTOR shall furnish all materials, equipment, labor, transportation, construction equipment, and machinery, tools, appliances, fuel, power, light, heat, telephone, water, and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation, and completion of the Work.

6.5 All materials and equipment shall be new, except as otherwise provided in the Contract Documents. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

6.6 All materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the instructions of the applicable manufacturer, fabricator, or processors, except as otherwise provided in the Contract Documents.

Substitute Materials or Equipment:

7.1 If the General Requirements (Division 1 of the Specifications), law, ordinance, or applicable rules or regulations permit CONTRACTOR to furnish or use a substitute that is equal to any material or equipment specified, and if CONTRACTOR wishes to furnish or use a proposed substitute, he shall, prior to the conference called for by paragraph 2.9 (unless another time is provided in the General Requirements), make written application to ENGINEER for approval of such substitute certifying in writing that the proposed substitute will perform adequately the functions called for by the general design, be similar and of equal substance to that specified and be suited to the same use and capable of performing the same function as that specified; stating whether or not its incorporation in or use in connection with the Project is subject to the payment of any license fee or royalty; and identifying all variations of the proposed substitute from that specified and indicating available maintenance service. No substitute shall be ordered or installed without the written approval of ENGINEER who will be the judge of equality and may require CONTRACTOR to furnish such other data about the proposed substitute as he considers pertinent. No substitute shall be ordered

or installed without such performance guarantee and bonds as OWNER may require which shall be furnished at CONTRACTOR's expense.

Concerning Subcontractors:

6.8 CONTRACTOR shall not employ any Subcontractor or other person or organization (including those who are to furnish the principal items of materials or equipment), whether initially or as a substitute, against whom OWNER or ENGINEER may have reasonable objection. A Subcontractor or other person or organization identified in writing to OWNER and ENGINEER by CONTRACTOR prior to the Notice of Award and not objected to in writing by OWNER or ENGINEER prior to the Notice of Award will be deemed acceptable to OWNER and ENGINEER. Acceptance of any Subcontractor, other person or organization by OWNER or ENGINEER shall not constitute a waiver of any right of OWNER or ENGINEER to reject defective Work or Work not in conformance with the Contract Documents. If OWNER or ENGINEER after due investigation has reasonable objection to any Subcontractor, other person or organization proposed by CONTRACTOR after the Notice of Award. CONTRACTOR shall submit an acceptable substitute and the Contract Price shall be increased or decreased by the difference in cost occasioned by such substitution, and an appropriate Change Order shall be issued. CONTRACTOR shall not be required to employ any Subcontractor, other person or organization against whom he has reasonable objection. CONTRACTOR shall not without the consent of OWNER and ENGINEER make any substitution for any Contractor, other person or organization who has been accepted by OWNER and ENGINEER unless ENGINEER determines that there is good cause for doing so.

6.9 CONTRACTOR shall be fully responsible for all acts and omissions of his Subcontractors and of persons and organizations directly or indirectly employed by them and of persons and organizations for whose acts any of them may be liable to the same extent that he is responsible for the acts and omissions of persons directly employed by him. Nothing in the Contract Documents shall create any contractual relationship between OWNER or ENGINEER and any Subcontractor or other person or organization having a direct contract with CONTRACTOR, nor shall it create any obligation on the part of OWNER or ENGINEER or pay or to see to the payment of any moneys due any Subcontractor or other person or organization, except as may otherwise be required by law. OWNER or ENGINEER may furnish to any Subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to CONTRACTOR on account of specific Work done in accordance with the schedule of values.

6.10 The divisions and sections of the Specifications and the identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or delineating the Work to be performed by any specific trade.

6.11 CONTRACTOR agrees to bind specifically every Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of OWNER.

6.12 All Work performed for CONTRACTOR by a Subcontractor shall be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor which shall contain provisions that waive all rights the contracting parties may have against one another for damages caused by fire or other perils covered by insurance provided in accordance with paragraphs 5.5 through 5.11, inclusive, except such rights as they may have to the proceeds of such insurance held by OWNER as trustee under paragraph 5.9. CONTRACTOR shall pay each Subcontractor a just share of any insurance moneys received by CONTRACTOR under paragraph 5.5 through 5.11, inclusive.

Patent Fees and Royalties:

6.13 CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in

the performance of the Work of an invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of OWNER or ENGINEER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by OWNER in the Contract Documents. CONTRACTOR shall indemnify and hold harmless OWNER and ENGINEER and anyone directly or indirectly employed by either of them from and against all claims, damages, losses, and expenses (including attorneys' fees) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents, and shall defend all such claims in connection with any alleged infringement of such rights.

Permits:

6.14 CONTRACTOR shall obtain and pay for all construction permits and licenses and shall pay all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of his Bid. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall also pay all public utility charges.

Laws and Regulations:

6.15 CONTRACTOR shall give all notices and comply with all laws, ordinances, rules, and regulations applicable to the Work. If CONTRACTOR observes that the Specifications and Drawings are at variance therewith, he shall give ENGINEER prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate Modification. If CONTRACTOR performs any Work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to ENGINEER, he shall bear all costs arising therefrom; however, it shall not be his primary responsibility to make certain that the Specifications and Drawings are in accordance with such laws, ordinances, rules, and regulations.

Taxes:

6.16 CONTRACTOR shall pay all sales, consumer, use, and other similar taxes required to be paid by him in accordance with the law of the place where the Work is to be performed.

Use of Premises:

6.17 CONTRACTOR shall confine his equipment, the storage of materials and equipment, and the operations of his workmen to areas permitted by law, ordinances, permits, or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with materials or equipment.

6.18 CONTRACTOR shall not load nor permit any part of any structure to be loaded with weights that will endanger the structure, nor shall he subject any part of the Work to stresses or pressures that will endanger it.

Record Drawings:

6.19 CONTRACTOR shall keep one record copy of all Specifications, Drawings, Addenda, Modifications, and Shop Drawings at the site in good order and annotated to show changes made during the construction process. These shall be available to ENGINEER and shall be delivered to him for OWNER upon completion of the Project. [*Note: Further provisions in respect of such record drawings may be included in the General Requirements (Division 1).*]

Safety and Protection:

6.20 CONTRACTOR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. He shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

6.20.1 all employees on the Work and other persons who may be affected thereby,

6.20.2 all the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site and

6.20.3 other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

CONTRACTOR shall comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. He shall erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for its safety and protection. He shall notify OWNERs of adjacent utilities when prosecution of the Work may affect them. All damage, injury, or loss to any property referred to in paragraph 6.20.2 or 6.20.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR: except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of OWNER or ENGINEER or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR. CONTRACTOR's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and ENGINEER has issued a notice to OWNER and CONTRACTOR in accordance with paragraph 14.13 that Work is acceptable

6.21 CONTRACTOR shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be CONTRACTOR's superintendent unless otherwise designated in writing by CONTRACTOR to OWNER.

Emergencies:

6.22 In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, CONTRACTOR, without special instruction or authorization from ENGINEER or OWNER, is obligated to act, at his discretion, to prevent threatened damage, injury, or loss. He shall give ENGINEER prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved. If CONTRACTOR believes that additional work done by him in any emergency which arose from causes beyond his control entitles him to an increase in the Contract Price or an extension of the Contract Time, he may make a claim therefore as provided in Articles 11 and 12.

Shop Drawings and Samples:

6.23 After checking and verifying all field measurements. CONTRACTOR shall submit to ENGINEER for approval, in accordance with the accepted schedule of Shop Drawing submissions (see paragraph 2.8) five copies (or at ENGINEER's option, one reproducible copy) of all Shop Drawings, which shall have been checked by and stamped with the approval of CONTRACTOR and identified as ENGINEER may require. The data shown on the Shop Drawings will be complete with respect to dimensions, design criteria, materials of construction, and the like to enable ENGINEER to review the information as required.

6.24 CONTRACTOR shall also submit to ENGINEER for approval with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples will have been checked by and stamped with the approval of CONTRACTOR, identified clearly as to material, manufacturer, any pertinent catalog numbers and the use for which intended.

6.25 At the time of submission, CONTRACTOR shall in writing call ENGINEER's attention to any deviations that the Shop Drawing or sample may have from the requirements of the Contract Documents.

6.26 ENGINEER will review and approve with reasonable promptness Shop Drawings and samples, but his review and approval shall be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents. The approval of a separate item as such will not indicate approval of the assembly in which the item functions. CONTRACTOR shall make any corrections required by ENGINEER and shall return the required number of corrected copies of Shop Drawings and resubmit new samples until approved. CONTRACTOR shall direct specific attention in writing or on resubmitted Shop Drawings to revisions other than the corrections called for by ENGINEER on previous submissions. CONTRACTOR's stamp of approval on any Shop Drawing or sample shall constitute a representation to OWNER and ENGINEER that CONTRACTOR has either determined and verified all quantities, dimensions, field construction criteria, materials, catalog numbers, and similar data or he assumes full responsibility for doing so, and that he has reviewed or coordinated each Shop Drawing or sample with the requirements of the Work and the Contract Documents.

6.27 Where a Shop Drawing or sample submission is required by the Specifications, no related Work shall be commenced until the submission has been approved by ENGINEER. A copy of each approved Shop Drawing and each approved sample shall be kept in good order by CONTRACTOR at the site and shall be available to ENGINEER.

6.28 ENGINEER's approval of Shop Drawings or samples shall not relieve CONTRACTOR from his responsibility for any deviations from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to such deviation at the time of submission and ENGINEER has given written approval to the specific deviation, nor shall any approval by ENGINEER relieve CONTRACTOR from responsibility for errors or omissions in the Shop Drawings.

[*Note: Further provisions in respect to Shop Drawings and samples may be included in the General Requirements (Division 1).]*

Cleaning:

6.29 CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish, and other debris resulting from the Work, and at the completion of the Work he shall remove all waste materials, rubbish, and debris from and about the premises as well as all tools, construction equipment and machinery,

and surplus materials, and shall leave the site clean and ready for occupancy by OWNER. CONTRACTOR shall restore to their original condition those portions of the site not designated for alteration by the Contract Documents. [*Note: Further provisions in respect to cleaning may be included in the General Requirements (Division 1).]*

Indemnification:

6.30 CONTRACTOR shall indemnify and hold harmless OWNER and ENGINEER and their agents and employees from and against all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss, or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

6.31 In any and all claims against OWNER or ENGINEER or any of their agents or employees by an employee of CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.30 shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR or any Subcontractor under workmen's compensation acts, disability benefit acts or other employee benefit acts.

6.32 The obligations of CONTRACTOR under paragraph 6.30 shall not extend to the liability of ENGINEER, his agents, or employees arising out of (a) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications or (b) the giving of or the failure to give directions or instructions by ENGINEER, his agents, or employees provided such giving or failure to give is the primary cause of injury or damage.

ARTICLE 7 - WORK BY OTHERS

7.1 OWNER may perform additional work related to the Project by himself, or he may let other direct contracts therefore which shall contain General Conditions similar to these. CONTRACTOR shall afford the other CONTRACTOR'S who are parties to such direct contracts (or OWNER, if he is performing the additional work himself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate his Work with theirs.

7.2 If any part of CONTRACTOR's Work depends for proper execution or results upon the work of any such other contractor (or OWNER), CONTRACTOR shall inspect and promptly report to ENGINEER in writing any defects or deficiencies in such work that render it unsuitable for such proper execution and results. His failure so to report shall constitute an acceptance of the other work as fit and proper for the relationship of his Work except as to defects and deficiencies which may appear in the other work after the execution of his Work.

7.3 CONTRACTOR shall do all cutting, fitting, and patching of his Work that may be required to make its several parts come together properly and fit it to receive or be received by such other work. CONTRACTOR shall not endanger any work by others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of ENGINEER and of the other CONTRACTOR'S whose work will be affected.

7.4 If the performance of additional work by other CONTRACTOR'S or OWNER is not noted in the Contract Documents prior to the execution of the contract, written notice thereof shall be given to CONTRACTOR prior to starting any such additional work. If CONTRACTOR believes that the performance of such additional work by OWNER or others involves him in additional expenses or entitles him to an extension of the Contract Time, he may make a claim therefore as provided in Articles 11 and 12.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.1 OWNER shall issue all communications to CONTRACTOR through ENGINEER.

8.2 In case of termination of the employment of ENGINEER, OWNER shall appoint an engineer against whom CONTRACTOR makes no reasonable objections, whose status under the Contract Documents shall be that of the former ENGINEER. Any dispute in connection with such appointment shall be subject to arbitration.

8.3 OWNER shall furnish the data required of him under the Contract Documents promptly and shall make payments to CONTRACTOR promptly after they are due as provided in paragraph 14.4 and 14.13.

8.4 OWNER's duties in respect to providing lands and easements and providing engineering surveys to establish reference points are set forth in paragraphs 4.1 and 4.4. Paragraph 4.2 refers to OWNER's identifying and making available to CONTRACTOR copies of surveys and investigation reports of subsurface and latent physical conditions at the site or otherwise affecting performance of the Work which have been relied upon by ENGINEER in preparing the Drawings and Specifications.

8.5 OWNER's responsibilities in respect of liability and property insurance are set forth in paragraph 5.4 and 5.5.

8.6 In addition to his rights to request changes in the Work in accordance with Article 10, OWNER (especially in certain instances as provided in paragraph 10.4) shall be obligated to execute Change Orders.

8.7 OWNER's responsibility in respect of certain inspections, tests, and approvals is set forth in paragraph 13.2.

8.8 In connection with OWNER's right to stop Work or suspend Work, see paragraphs 13.8 and 15.1. Paragraph 15.2 deals with the OWNER's right to terminate services of CONTRACTOR under certain circumstances.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

OWNER's Representative:

9.1 ENGINEER will be OWNER's representative during the construction period. The duties and responsibilities and the limitations of authority of ENGINEER as OWNER's representative during construction are set forth in Articles 1 through 17 of these General Conditions and shall not be extended without written consent of OWNER and ENGINEER.

Visits to Site:

9.2 ENGINEER will make periodic visits to the site to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. He will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. His efforts will be directed toward providing assurance for OWNER that the completed Project will conform to the requirements of the Contract Documents. On the basis of his on-site observations as an experienced and qualified design professional, he will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defects and deficiencies in the Work of CONTRACTOR'S.

Clarifications and Interpretations:

9.3 ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the Contract Documents (in the form of Drawings or otherwise) as he may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If CONTRACTOR believes that a written clarification or interpretation entitles him to an increase in the Contract Price, he may make a claim therefore as provided in Article 11.

Rejecting Defective Work:

9.4 ENGINEER will have authority to disapprove or reject Work which is "defective" (which term is hereinafter used to describe Work that is unsatisfactory, faulty, or defective, or does not conform to the requirements of the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in paragraph 13.2 or has been damaged prior to approval of final payment). He will also have authority to require special inspection or testing of the Work as provided in paragraph 13.7, whether or not the Work is fabricated, installed, or completed.

Shop Drawings, Change Orders and Payments:

9.5 In connection with ENGINEER's responsibility for Shop Drawings and samples, see paragraphs 6.23 through 6.28 inclusive.

9.6 In connection with ENGINEER's responsibility for Change Orders, see Articles 10, 11, and 12.

9.7 In connection with ENGINEER's responsibilities in respect of Applications for Payment, etc., see Article 14.

Resident Project Representative:

9.8 If OWNER and ENGINEER agree, ENGINEER will furnish a Resident Project Representative and assistants to assist ENGINEER in carrying out his responsibilities at the site. The duties, responsibilities, and limitations of authority of any such Resident Project Representative and assistants shall be as set forth in an exhibit to be incorporated in the Contract Documents.

Decisions on Disagreements:

9.9 ENGINEER will be the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder. In his capacity as interpreter and judge he will exercise his best efforts to insure faithful performance by both OWNER and CONTRACTOR. He will not show partiality to either and will not be liable for the result of any interpretation or decision rendered in good faith. Claims, disputes, and other matters relating to the execution of or performance under the Contract Documents shall be referred to ENGINEER for decision; which he will render in writing within a reasonable time.

9.10 Either OWNER or CONTRACTOR may demand arbitration with respect to any such claim, dispute or other matter that has been referred to ENGINEER, except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.16, such arbitration to be in accordance with Article 14.16, such arbitration to be in accordance with Article 16. However, no demand for arbitration of any such claim, dispute, or other matter shall be made until the earlier of (a) the date on which ENGINEER has rendered his decision or (b) the tenth day after the parties have presented their evidence to ENGINEER if he has not rendered his written decision before that date. No demand for arbitration shall be made later than thirty days after the date on which ENGINEER rendered his written decision in respect to the claim, dispute, or other matter as to which arbitration is sought; and the failure to demand arbitration within said thirty days' period shall result in ENGINEER's decision being final and binding upon OWNER and CONTRACTOR. If ENGINEER renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence but shall not supersede the arbitration proceedings, except where the decision is acceptable to the parties concerned.

Limitations on ENGINEER's Responsibilities:

9.11 Neither ENGINEER's authority to act under this Article 9 or elsewhere in the Contract Documents nor any decision made by him in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of ENGINEER to CONTRACTOR, any Subcontractor, any materialman, fabricator, supplier, or any of their agents or employees any other person performing any of the Work.

9.12 ENGINEER will not be responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and he will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

9.13 ENGINEER will not be responsible for the acts or omissions of CONTRACTOR, or any Subcontractors, or any of his or their agents or employees, or any other persons at the site or otherwise performing any of the Work.

ARTICLE 10 - CHANGES IN THE WORK

10.1 Without invalidating the Agreement, OWNER may, at any time or from time to time, other additions, deletions, or revisions in the Work; these will be authorized by Change Orders. Upon receipt of a Change Order, CONTRACTOR shall proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided in Article 11 or Article 12 on the basis of a claim made by either party.

10.2 ENGINEER may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If CONTRACTOR believes that any minor change or alteration authorized by ENGINEER entitles him to an increase in the Contract Price, he may make a claim therefore as provided in Article 11.

10.3 Additional Work performed by CONTRACTOR without authorization of a Change Order will not entitle him to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency as provided in paragraph 6.22 and except as provided in paragraphs 10.2 and 13.7.

10.4 OWNER shall execute appropriate Change Orders prepared by ENGINEER covering changes in the Work to be performed as provided in paragraph 4.3, and Work performed in an emergency as provided in paragraph 6.22 and any other claim of CONTRACTOR for a change in the Contract Time or the Contract Price which is approved by ENGINEER.

10.5 It is CONTRACTOR's responsibility to notify his Surety of any changes affecting the general scope of the Work or change in the Contract Price and the amount of the applicable Bonds shall be adjusted accordingly. CONTRACTOR shall furnish proof of such adjustment to OWNER.

ARTICLE 11 - CHANGE OF THE CONTRACT PRICE

11.1 The Contract Price constitutes the total compensation payable to CONTRACTOR for performing the Work. All duties, responsibilities, and obligations assigned to or undertaken by CONTRACTOR shall be at his expense without change in the Contract Price.

11.2 The Contract Price may only be changed by a Change Order. Any claim for an increase in the Contract Price shall be based on written notice delivered to OWNER and ENGINEER within fifteen days of the occurrence of the event giving rise to the claim. Notice of the amount of the claim with supporting data shall be delivered within forty-five days of such occurrence unless ENGINEER allows an additional period of time to ascertain accurate cost data. All claims for adjustments in the Contract Price shall be determined by ENGINEER if OWNER and CONTRACTOR cannot otherwise agree on the amount involved. Any change in the Contract Price resulting from any such claim shall be incorporated in a Change Order.

11.3 The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

11.3.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.

11.3.2 By mutual acceptance of a lump sum.

11.3.3 On the basis of the Cost of the Work (determined as provided in paragraphs 11.4 and 11.5) plus a Contractor's Fee for overhead and profit (determined as provided in paragraph 11.6).

Cost of the Work:

11.4 The term Cost of the Work means the sum of all costs necessarily incurred and paid by the CONTRACTOR in the proper performance of the Work. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in paragraph 11.5:

11.4.1 Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by OWNER and CONTRACTOR. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foreman at the site. The expenses of performing work after regular working hours on Sunday or legal holidays shall be included in the above to the extent authorized by OWNER.

11.4.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless OWNER deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to OWNER. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

11.4.3 Payments made by CONTRACTOR to the Subcontractors for Work performed by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from Subcontractors acceptable to him and shall deliver such bids to OWNER who will then determine with the advice of ENGINEER, which bids will be accepted. If a subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work Plus a Fee, the Cost of the Work shall be determined in accordance with paragraphs 11.4 and 11.5. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.

11.4.4 Costs of special consultants (including, but not limited to, engineers, architects, testing laboratories, surveyors, lawyers, and accountants) employed for services specifically related to the Work.

11.4.5 Supplemental costs including the following:

11.4.5.1 The proportion of necessary transportation, traveling, and subsistence expenses of CONTRACTOR's employees incurred in discharge of duties connected with the Work.

11.4.5.2 Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workmen, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of CONTRACTOR.

11.4.5.3 Rentals of all construction equipment and machinery and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved

by OWNER with the advice of ENGINEER, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof--all in accordance with terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.

11.4.5.4 Sales, use or similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by any governmental authority.

11.4.5.5 Deposits lost for causes other than CONTRACTOR's negligence, royalty payments and fees for permits and licenses.

11.4.5.6 Losses, damages and expenses, not compensated by insurance or otherwise, sustained by CONTRACTOR in connection with the execution of, and to, the Work, provided they have resulted from causes other than the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of OWNER. No such losses, damages and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's Fee. If, however, any such loss or damage requires reconstruction and CONTRACTOR is placed in charge thereof, he shall be paid for his services a fee proportionate to that stated in paragraph 11.6.2.

11.4.5.7 The cost of utilities, fuel and sanitary facilities at the site.

11.4.5.8 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.

11.4.5.9 Cost of premiums for bonds and insurance which OWNER is required to pay in accordance with paragraph 5.12.

11.5 The term Cost of the Work shall not include any of the following:

11.5.1 Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in his principal or a branch office for general administration of the Work and not specifically included in the schedule referred to in subparagraph 11.4.1--all of which are to be considered administrative costs covered by the Contractor's Fee.

11.5.2 Expenses of CONTRACTOR's principal and branch offices other than his office at the site.

11.5.3 Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.

11.5.4 Cost of premiums for all bonds and for all insurance policies whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except as otherwise provided in subparagraph 11.4.5.9).

11.5.5 Costs due to negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited

to, the correction of defective work, disposal of materials or equipment wrongly supplied and making good any damage to property.

11.5.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraph 11.4.

Contractor's Fee:

11.6 The Contractor's Fee which shall be allowed to CONTRACTOR for his overhead and profit shall be determined as follows:

11.6.1 a mutually acceptable fixed fee; or if none can be agreed upon,

11.6.2 a fee based on the following percentages of the various portions of the Cost of the Work:

11.6.2.1 for costs incurred under paragraphs 11.4.1 and 11.4.2, the Contractor's Fee shall be ten percent,

11.6.2.2 for costs incurred under paragraph 11.4.3, the Contractor's Fee shall be five percent; and if a subcontract is on the basis of Cost of the Work Plus a Fee, the maximum allowable to the Subcontractor as a fee for overhead and profit shall be ten percent, and

11.6.2.3 no fee shall be payable on the tasks of costs itemized under paragraphs 11.4.4, 11.4.5 and 11.5.

11.7 The amount of credit to be allowed by CONTRACTOR to OWNER for any such change which results in a net decrease in cost, will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net increase, if any.

11.8 Whenever the cost of any Work is to be determined pursuant to paragraphs 11.4 and 11.5, CONTRACTOR will submit in form prescribed by ENGINEER an itemized cost breakdown together with supporting data.

Cash Allowance:

11.9 It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be done by such materialmen, suppliers or Subcontractors and for such sums within the limit of the allowances as ENGINEER may approve. Upon final payment, the Contract Price shall be adjusted as required and an appropriate Change Order issued. CONTRACTOR agrees that the original Contract Price includes such sums as he deems proper for costs and profit on account of cash allowances. No demand for additional cost or profit in connection therewith will be allowed.

ARTICLE 12 - CHANGE OF THE CONTRACT TIME

12.1 The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to OWNER and ENGINEER within fifteen days of the occurrence of the event giving rise to the claim. Notice of the extent of the claim with supporting data shall be delivered within forty-five days of such occurrence unless ENGINEER allows an additional period of time to ascertain more accurate data. All claims for adjustment in the Contract Time shall be determined by ENGINEER if OWNER and CONTRACTOR cannot otherwise agree. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

12.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of CONTRACTOR if he makes a claim therefore as provided in paragraph 12.1. Such delays shall include, but not be restricted to, acts or neglect by any separate contractor employed by OWNER, fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God.

12.3 All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions of this Article 12 shall not exclude recovery for damages (including compensation for additional professional services) for delay by either party.

ARTICLE 13 - WARRANTY AND GUARANTEE; TESTS AND INSPECTIONS; CORRECTION, REMOVAL OF ACCEPTANCE OF DEFECTIVE WORK

Warranty and Guarantee:

13.1 CONTRACTOR warrants and guarantees to OWNER and ENGINEER that all materials and equipment will be new unless otherwise specified and that all Work will be of good quality and free from faults or defects and in accordance with the requirements of the Contract Documents and of any inspections, tests or approvals referred to in paragraph 13.2. All unsatisfactory Work, all faulty or defective Work, and all Work not conforming to the requirements of the Contract Documents at the time of acceptance thereof or of such inspections, test or approvals, shall be considered defective. Prompt notice of all defects shall be given to CONTRACTOR. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this Article 13.

Tests and Inspections:

13.2 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to specifically be inspected, tested, or approved by some public body, CONTRACTOR shall assume full responsibility therefore, pay all costs in connection therewith and furnish ENGINEER the required certificates of inspection, testing or approval. All other inspections, tests and approvals required by the Contract Documents shall be performed by organizations acceptable to OWNER and CONTRACTOR and the costs thereof shall be borne by OWNER unless otherwise specified.

13.3 CONTRACTOR shall give ENGINEER timely notice of readiness of the Work for all inspections, tests or approvals. If any such Work required so to be inspected, tested or approved is covered without written approval of ENGINEER, it must, if requested by ENGINEER, be uncovered for observation, and such uncovering shall be at CONTRACTOR's expense unless CONTRACTOR has given ENGINEER timely notice of his intention to cover such Work and ENGINEER has not acted with reasonable promptness in response to such notice.

13.4 Neither observations by ENGINEER nor inspections, tests or approvals by persons other than CONTRACTOR shall relieve CONTRACTOR from his obligations to perform the Work in accordance with the requirements of the Contract Documents.

Access to Work:

13.5 ENGINEER and his representatives and other representatives of OWNER will at reasonable times have access to the Work. CONTRACTOR shall provide proper and safe facilities for such access and observation of the Work and also for any inspection or testing thereof by others.

Uncovering Work:

13.6 If any Work is covered contrary to the written request of ENGINEER, it must, if requested by ENGINEER, be uncovered for his observation and replaced at CONTRACTOR's expense.

13.7 If any Work has been covered which ENGINEER has not specifically requested to observe prior to its being covered, or if ENGINEER considers it necessary or advisable that covered Work be inspected or tested by others, CONTRACTOR, at ENGINEER's request, shall uncover, expose or otherwise make available for observation, inspection or testing as ENGINEER may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, CONTRACTOR shall bear all the expenses of such uncovering, exposure, observation, inspection and testing

and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate deductive Change Order shall be issued. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction if he makes a claim therefore as provided in Articles 11, and 12.

OWNER May Stop the Work:

13.8 If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workmen or suitable materials or equipment, or if CONTRACTOR fails to make prompt payments to Subcontractors or for labor, materials or equipment, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR or any other party.

Correction or Removal of Defective Work:

13.9 If required by ENGINEER prior to approval of final payment, CONTRACTOR shall promptly, without cost to OWNER and as specified by ENGINEER, either correct or defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by ENGINEER, remove it from the site and replace it with nondefective Work. If CONTRACTOR does not correct such defective Work or remove and replace such rejected Work within a reasonable time, all as specified in a written notice from ENGINEER, OWNER may have the deficiency corrected or the rejected Work removed and replaced. All direct or indirect costs of such correction or removal and replacement, including compensation for additional professional services, shall be paid by CONTRACTOR, and an appropriate deductive Change Order shall be issued. CONTRACTOR shall also bear the expenses of making good all Work of others destroyed or damaged by his correction, removal or replacement of his defective Work.

One Year Correction Period:

13.10 If after the approval of final payment and prior to the expiration of one year after the date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any Work is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER's written instructions, either correct such defective Work, or, if it has been rejected by OWNER, remove it from the site and replace it with nondefective Work. If CONTRACTOR does not promptly comply with the terms of such instructions, OWNER may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, shall be paid by CONTRACTOR.

Acceptance of Defective Work:

13.11 If instead of requiring correction or removal and replacement of defective Work, OWNER (and, prior to approval of final payment, also ENGINEER) prefers to accept it, he may do so. In such case, if acceptance occurs prior to approval of final payment, a Change Order shall be issued incorporating the necessary revisions in the Contract Documents, including appropriate reduction in the Contract Price; or, if the acceptance occurs after approval of final payment, an appropriate amount shall be paid by CONTRACTOR to OWNER.

Neglected Work by Contractor:

13.12 If CONTRACTOR shall fail to prosecute the Work in accordance with the Contract Documents, including any requirements of the progress schedule, OWNER, after seven days' written notice to CONTRACTOR may, without prejudice to any other remedy he may have, make good such deficiencies and the cost thereof (including compensation for additional professional services) shall be charged against CONTRACTOR if ENGINEER approves such action, in which case a Change Order shall be issued incorporating the necessary revisions in the Contract Documents including an appropriate reduction in the Contract Price. If the payments then or thereafter due CONTRACTOR are not sufficient to cover such amount, CONTRACTOR shall pay the difference to OWNER.

ARTICLE 14 - PAYMENTS AND COMPLETION

Schedules:

14.1 At least ten days prior to submitting the first Application for a progress payment, CONTRACTOR shall submit a progress schedule, a final schedule of Shop Drawing and a schedule of values of the Work. These schedules shall be satisfactory in form and substance to ENGINEER. The schedule of values shall include quantities and unit prices aggregating the Contract Price, and shall subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Upon approval of the schedules of values by ENGINEER, it shall be incorporated into the form of Application for Payment furnished by ENGINEER.

Application for Progress Payment:

14.2 At least ten days before such progress payment falls due (but not more often than once a month), CONTRACTOR shall submit to ENGINEER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such data and schedules as ENGINEER may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Payment shall also be accompanied by such data, satisfactory to OWNER, as will establish OWNER's title to the material and equipment and protect his interest therein, including applicable insurance. Each subsequent Application for Payment shall include an affidavit of CONTRACTOR stating that all previous progress payments received on account of the Work have been applied to discharge in full all of CONTRACTOR's obligations reflected in prior Applications for Payment.

Contractor's Warranty of Title:

14.3 CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER at the time of payment free and clear of all liens, claims, security interests and encumbrances (hereafter in these General Conditions referred to as "Liens").

Approval of Payments:

14.4 ENGINEER will, within ten days after receipt of each Application for Payment, either indicate in writing his approval of payment and present the Application to OWNER, or return the Application to CONTRACTOR indicating in writing his reasons for refusing to approve payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application. OWNER shall, within ten days of presentation to him of an approved Application for Payment, pay CONTRACTOR the amount approved by ENGINEER.

14.5 ENGINEER's approval of any payment requested in an Application for Payment will constitute a representation by him to OWNER, based on ENGINEER's on-site observations of the Work in progress as an experienced and qualified design professional and on his review of the Application for Payment and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best of his knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to the evaluation of the Work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and any qualifications stated in his approval); and that CONTRACTOR is entitled to payment of the amount approved. However, by approving any such

payment ENGINEER will not thereby be deemed to have represented that he made exhaustive or continuous on-site inspections to check the quality or the quantity of the Work, or that he has reviewed the means, methods, techniques, sequences, or procedures of construction, or that he has made any examination to ascertain how or for what purpose CONTRACTOR has used the moneys paid or to be paid to him on account of the Contract Price, or that title to any Work, materials or equipment has passed to OWNER free and clear of any Liens.

14.6 ENGINEER's approval of final payment will constitute an additional representation by him to OWNER that the conditions precedent to CONTRACTOR's being entitled to final payment as set forth in paragraph 14.13 have been fulfilled.

14.7 ENGINEER may refuse to approve the whole or any part of any payment if, in his opinion, it would be incorrect to make such representations to OWNER. He may also refuse to approve any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously approved, to such extent as may be necessary in his opinion to protect OWNER from loss because:

14.7.1 the Work is defective, or completed Work has been damaged requiring correction or replacement,

14.7.2 claims or Liens have been filed or there is reasonable cause to believe such may be filed,

14.7.3 the Contract Price has been reduced because of Modifications,

14.7.4 OWNER has been required to correct defective Work or complete the Work in accordance with paragraph 13.11, or

14.7.5 of unsatisfactory prosecution of the Work, including failure to furnish acceptable submittals or to clean up.

Substantial Completion:

14.8 Prior to final payment, CONTRACTOR may, in writing to OWNER and ENGINEER, certify that the entire Project is substantially complete and request that ENGINEER issue a certificate of Substantial Completion. Within a reasonable time thereafter, OWNER, CONTRACTOR and ENGINEER shall make an inspection of the Project to determine the status of completion. If ENGINEER does not consider the Project substantially complete, he will notify CONTRACTOR in writing giving his reasons therefore. If ENGINEER considers the Project substantially complete, he will prepare and deliver to OWNER a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion and the responsibilities between OWNER and CONTRACTOR for maintenance, heat and utilities. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment, and the certificate shall fix the time within which such items shall be completed or corrected, said time to be within the Contract Time. OWNER shall have seven days after receipt of the tentative certificate during which he may make written objection to ENGINEER as to any provisions of the certificate or attached list. If, after considering such objections, ENGINEER concludes that the Project is not substantially complete, he will within fourteen days after submission of the tentative certificate to OWNER notify CONTRACTOR in writing, stating his reasons therefore. If, after consideration of OWNER's objections, ENGINEER considers the Project substantially complete, he will within said fourteen days execute and deliver to OWNER and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as he believes justified after consideration of any objections from OWNER.

14.9 OWNER shall have the right to exclude CONTRACTOR from the Project after the date of Substantial Completion, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

Partial Utilization:

14.10 Prior to final payment, OWNER may request CONTRACTOR in writing to permit him to use a specified part of the Project which he believes he may use without significant interference with construction of the other parts of the Project. If CONTRACTOR agrees, he will certify to OWNER and ENGINEER that said part of the Project is substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Project. Within a reasonable thereafter OWNER, CONTRACTOR and ENGINEER shall make an inspection of that part of the Project to determine its status of completion. If ENGINEER does not consider that it is substantially complete, he will notify OWNER and CONTRACTOR in writing giving his reasons therefore. If ENGINEER considers that part of the Project to be substantially complete, he will execute and deliver to OWNER and CONTRACTOR a certificate to that effect, fixing the date of Substantial Completion as to that part of the Project, attaching thereto a tentative list of items to be completed or corrected before final payment and fixing the responsibility between OWNER and CONTRACTOR for maintenance, heat and utilities as to that part of the Project. OWNER shall have the right to exclude CONTRACTOR from any part of the Project which ENGINEER has so certified to be substantially complete, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

Final Inspection:

14.11 Upon written notice from CONTRACTOR that the Project is complete, ENGINEER will make a final inspection with OWNER and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies.

Final Application for Payment:

14.12 After CONTRACTOR has completed all such corrections to the satisfaction of ENGINEER and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection and other documents--all as required by the Contract Documents, he may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by such data and schedules as ENGINEER may reasonably require, together with complete and legally effective releases or waivers (satisfactory to OWNER) of all Liens arising out of the Contract Documents and the labor and services performed and the material and equipment furnished thereunder. In lieu thereof and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full; an affidavit of CONTRACTOR that the releases and receipts include all labor, services, materials and equipment for which a Lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which OWNER or his property might in any way be responsible, have been paid or otherwise satisfied; and consent of the Surety, if any, to final payment. If any Subcontractor, materialman, fabricator or supplier fails to furnish a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to OWNER to indemnify him against any Lien.

Approval of Final Payment:

14.13 If, on the basis of his observation and review of the Work during construction, his final inspection and his review of the final Application for Payment--all as required by the Contract Documents, ENGINEER

is satisfied that the Work has been completed and CONTRACTOR has fulfilled all his obligations under the Contract Documents, he will, within ten days after receipt of the final Application for Payment, indicate in writing his approval of payment and present the Application to OWNER for payment. Thereupon ENGINEER will give written notice to OWNER and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 14.16. Otherwise, he will return the Application to CONTRACTOR, indicating in writing his reasons for refusing to approval final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. OWNER shall, within ten days of presentation to him of an approved final Application for Payment, pay CONTRACTOR the amount approved by ENGINEER.

14.14 If after Substantial Completion of the Work final completion thereof is materially delayed through no fault of CONTRACTOR, and ENGINEER so confirms, OWNER shall, upon certification by ENGINEER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 5.1, the written consent of the Surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the CONTRACTOR to the ENGINEER prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

Contractor's Continuing Obligation:

14.15 CONTRACTOR's obligation to perform the Work and complete the Project in accordance with the Contract Documents shall be absolute. Neither approval or any progress or final payment by ENGINEER, nor the issuance of a certificate of Substantial Completion, nor any payment by OWNER to CONTRACTOR under the Contract Documents, nor any use or occupancy of the Project or any part thereof by OWNER, nor any act of acceptance by OWNER nor any failure to do so, nor any correction of defective work by OWNER shall constitute an acceptance of Work not in accordance with the Contract Documents.

Waiver of Claim:

14.16 The making and acceptance of final payment shall constitute:

14.16.1 a waiver of all claims by OWNER against CONTRACTOR other than those arising from unsettled Liens, from defective work appearing after final inspection pursuant to paragraph 14.11 or from failure to comply with the requirements of the Contract Documents or the terms of any special guarantees specified therein, and

14.16.2 a waiver of all claims by CONTRACTOR against OWNER other than those previously made in writing and still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

OWNER May Suspend Work:

15.1 OWNER may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR and ENGINEER which shall fix the date on which Work shall be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if he makes a claim therefore as provided in Articles 11 and 12.

OWNER May Terminate:

15.2 If CONTRACTOR is adjusted a bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for CONTRACTOR or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws, or if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if he repeatedly fails to make prompt payments to Subcontractors or for labor, materials or equipment or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction, or if he disregards the authority of ENGINEER, or if he otherwise violates any provision of the Contract Documents, then OWNER may, without prejudice to any other right or remedy and after giving CONTRACTOR and his Surety seven days' written notice, terminate the services of CONTRACTOR and take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by CONTRACTOR, and finish the Work by whatever method he may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Project, including compensation for additional professional services, such excess shall be paid to CONTRACTOR. If such costs exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such costs incurred by OWNER shall be determined by ENGINEER and incorporated in a Change Order.

15.3 Where CONTRACTOR's services have been so terminated by OWNER, said terminations shall not affect any rights of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys by OWNER due CONTRACTOR will not release CONTRACTOR from liability.

15.4 Upon seven days' written notice to CONTRACTOR and ENGINEER, OWNER may, without cause and without prejudice to any right or remedy, elect to abandon the Project and terminate the Agreement. In such case, CONTRACTOR shall be paid for all Work executed and any expense sustained plus a reasonable profit.

Contractor May Stop Work or Terminate:

15.5 If, through not act or fault of CONTRACTOR, the Work is suspended for a period of more than ninety days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application for Payment within thirty days after it is submitted, or OWNER fails to pay CONTRACTOR any sum approved by ENGINEER or awarded by arbitrators within thirty days of its approval and presentation, then CONTRACTOR may, upon seven days' written notice to OWNER and ENGINEER, terminate the Agreement and recover from OWNER payment for all Work executed and any expense sustained plus a reasonable profit. In addition and in lieu of terminating the Agreement, if ENGINEER has failed to act on an Application for Payment or OWNER has failed to make any payment as aforesaid, CONTRACTOR may upon seven days' notice to OWNER and ENGINEER stop the Work until he has been paid all amounts then due.

ARTICLE 16 - ARBITRATION

16.1 All claims, disputes and other matters in question arising out of, or relating to, this Agreement or the breach thereof except for claims which have been waived by the making or acceptance of final payment as provided by paragraph 14.16, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining. This Agreement so to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction thereof.

16.2 Notice of the demand for arbitration shall be filed in writing with the other party to the Agreement and with the American Arbitration Association, and a copy shall be filed with ENGINEER. The demand for arbitration shall be made within the thirty-day period specified in paragraph 9.10 where applicable, and in all other cases within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

16.3 CONTRACTOR will carry on the Work and maintain the progress schedule during any arbitration proceedings, unless otherwise agreed by him and OWNER in writing.

ARTICLE 17 - MISCELLANEOUS

Giving Notice:

17.1 Whenever any provision of the Contract Documents requires the giving of written notice it shall be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to him who gives the notice.

Computation of Time:

17.2 When any period of time is referred to in the Contract Documents by days, it shall be computed to exclude the first and include the last day of such period. If the last day of such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day

shall be omitted from the computation.

General:

17.3 All moneys not paid when due hereunder shall bear interest at the maximum rate allowed by law at the place of the Project.

17.4 All Specifications, Drawings and copies thereof furnished by ENGINEER shall remain his property. They shall not be used on another Project, and, with the exception of those sets which have been signed in connection with the execution of the Agreement, shall be returned to him on request upon completion of the Project.

17.5 The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon CONTRACTOR by paragraphs 6.30, 13.1, 13.10 and 14.3 and the rights and remedies available to OWNER and ENGINEER thereunder, shall be in addition to, and shall not be construed in any way as a limitation of, any rights and remedies available to them which are otherwise imposed or available by law, by special guarantees or by other provisions of the Contract Documents.

17.6 Should OWNER or CONTRACTOR suffer injury or damage to his person or property because of any error, omission or act of the other or of any of his employees or agents or others for whose acts he is legally liable, claim shall be made in writing to the other party within a reasonable time of the first observance of such injury or damage.

17.7 The Contract Documents shall be governed by the law of the place of the Project.

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SUPPLEMENTARY CONDITIONS

1.1 Standard Codes

The following standard codes may be referred to herein. Construction work performed under this contract shall comply with all applicable requirements of these codes.

Uniform Building Code (ICBO), current addition
California Uniform Building Code (CAUBC), current edition
California Green Building Standards Code
California Energy Code
Uniform Plumbing Code (IAPMO), current addition
National Electrical Code, current addition

2.1 Abbreviations

Wherever the following abbreviations are used, the intent and meaning shall be interpreted as follows:

Conc.	concrete
Elev.	elevation
Ext.	exterior
FT, ft.	feet
GA, ga.	gage
MAX., max.	maximum
MIN., min.	minimum
L.F.	lineal feet
SQ. FT.	square feet
DIA.	diameter
EA.	each
NO.	number
L.S.	lump sum
CMP	corrugated metal pipe
AB	aggregate base
SSP	sanitary sewer pipe
PSI, psi	pounds per square inch
PSF, psf	pounds per square foot
TYP	typical

3.1 Time of Completion

The CONTRACTOR shall prosecute the work so that all portions of the project shall be complete and ready for use within **45 working days** after the date of notice to proceed.

4.1 Damages for Avoidable Delay

In accordance with the provisions of this contract, the CONTRACTOR and the OWNER agree that OWNER will incur extra cost and expense if the work is not completed within the time allowed in the previous paragraph. Inasmuch as the amount of these damages will be difficult to compute, CONTRACTOR and OWNER hereby agree that CONTRACTOR shall pay $100.00 per calendar day for each day beyond the time of completion for which the work has not been completed by CONTRACTOR. Completion is defined for purposes of this article as the condition of the work at the time the Engineer prepares a definitive certificate of Substantial Completion as referred to in Article 14.8 of the General Conditions.

5.1 Insurance Requirements

CONTRACTOR shall purchase and maintain insurance as required under Article 5.3 of the General Conditions in amounts of coverage not less than the following amounts:

5.1.1	General Liability: (Including operations, products and completed operations)	$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
5.1.2	Automobile Liability:	$1,000,000 per accident for bodily injury and property damage.

6.1 Indemnity

CONTRACTOR shall indemnify and hold harmless ENGINEER and the OWNER and its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of the CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the OWNER.

7.1. General Notes:

A. The CONTRACTOR shall examine the working drawings: architectural, structural, mechanical and electrical, and shall notify the architect and/or engineers of any discrepancies he may find before proceeding with the work.

B. The CONTRACTOR shall verify and be responsible for all dimensions and conditions at the site and shall notify the designer of discrepancies between the actual conditions and information shown on the drawings before proceeding with the work.

C. All work shall conform to the minimum standards for the latest edition of the Uniform Building Code and such other regulating agencies exercising authority over any portion of the work.

D. Specifications (if included) are integral to the drawings. Notify designer before proceeding with any work if any disparity arises between drawings and specifications.

E. All work shall conform to the best practice prevailing in the various trades comprising the work.

F. Specific notes and details shall take precedence over General Notes and Typical Details. Dimensions shall supersede scale.

G. Details shown describe the general intent and character of the project. Any specific areas not drawn shall be similar to those details that are related in location, intent, or function.

H. All subcontractors shall be held responsible for all conditions, ordinances, code and requirements pertinent to their category of work as dictated by regulatory agencies.

I. All subcontractors shall be held responsible for any damage to another's work caused by subcontractor, its employees or agents.

J. General CONTRACTOR to maintain site in a clean and neat manner. Remove and legally dispose of all debris, rubbish, etc. Remove all materials from those not intended for their application, such as paint spatters, masking materials, asphalt, etc.

K. The Contractor shall contact the City of Nevada City, City Engineer to schedule a pre-construction meeting at least ten (10) working days prior to the start of construction (telephone 530-265-2496).

L. Contractor shall assume sole and complete responsibility for construction of this project, including safety of all persons and property. This requirement shall apply continuously and not be limited to normal working hours. The contractor shall defend, indemnify and hold the owner and the design engineer harmless from any and all liability, real or alleged in connection with the performance of the work on this project, excepting for liability arising from the intentional negligence of the owner or engineer.

M. The contractor is hereby notified that prior to commencing construction he is responsible for contacting all utility companies for verification at the construction site of the locations of all underground facilities where such facilities may conflict with placement of improvements shown on this plan. Call ‘Underground Service Alert’ at 800-642-2444 prior to any excavation.

N. The locations of all underground facilities shown on this plan are approximate. A reasonable effort has been made to locate and delineate all underground facilities. However, the design

engineer assumes no liability for the accuracy of completeness of the existing facilities shown on hereon or for the existence of other underground utilities not shown on these plans. The contractor shall verify the location of all existing facilities interfering with the construction of improvements. If so directed by the design engineer, the contractor shall stop work immediately until remedial action can be taken. Any cost resulting from the contractors failure to report and or failure to stop work as directed will be the responsibility of the contractor.

O. The contractor shall request construction staking for any particular phase of work no less than two working days prior to commencement of construction.

P. The contractor is responsible for the protection of all existing monuments and other survey markers during construction. Monuments disturbed, or lost, due to construction activities will require that the contractor have them replaced, in kind, by a licensed California Land Surveyor-who will be required to file either a Corner Record, or Record of Survey, with the County-whichever will meet the requirements of L.S. Act Section 8773

Q. The Contractor shall provide one complete set of As-Built Drawings. Any changes to the plans shall be shown on a clean set of drawings marked in red and given to the City Engineer at job completion.

8.1 Project Specifications:

Each item of work is bid as complete in place and includes all tools, equipment, materials, and labor to complete the item. The bid items are intended to encompass all work shown on the plans and specified in these specifications. Any item of work not specifically listed in the project quantities and bid sheet shall be paid for in other items of work and no additional payments will be made.

Attached hereto and incorporated by reference:

- Architectural Specifications
- Cut Sheets
- Plans for Tennis Court Bathroom (3 sheets)
- Plan for Picnic Area Bathroom (1 sheet)

9.1 Prevailing Wages

Contractor shall pay each laborer, workman or mechanic in accordance with Federal Prevailing Wage Rates and the California Labor Code (excerpts included herein). These wage rates are hereby made a part of this contract:

State General Prevailing Wage Determinations in effect on date advertised
General prevailing wage determination
Journeyman and Apprentice Prevailing Wage Rates can be accessed at the following websites:
http://www.dir.ca.gov/dlsr/DPreWageDetermination.html and http://www.dir.ca.gov/das/publicworks.html
Reference: Labor Code 1773.2

Federal Prevailing Wage Determinations in effect on bid date
General Decision # CA150009 CA9
General Decision County Index for CA: http://www.wdol.gov/wdol/scafiles/davisbacon/ca.html.
Select the county where the work will be performed. *Reference: Davis Bacon Act*
http://www.dot.ca.gov/hq/esc/oe/federal-wages/ca09.pdf

Electronic Certified Payroll Records

- All contractors must furnish electronic certified payroll records to the Labor Commissioner using the online eCPR data system
- No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
- This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- The contractor shall post job site notices prescribed by regulation. (See 8 Calif. Code Reg. §16451(d)

Excerpts from CA Labor Code

1771.1. (a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

1774. The contractor to whom the contract is awarded, and any subcontractor under him, shall pay not less than the specified prevailing rates of wages to all workmen employed in the execution of the contract.

1775.

(a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars ($200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B) (i) The penalty may not be less than forty dollars ($40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars ($80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars ($120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the

subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:
(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1776, 1777.5, 1813, and 1815.
(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.
(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.
(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.
(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.
(Amended by Stats. 2011, Ch. 677, Sec. 1. Effective January 1, 2012.)

1776.
(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
(1) The information contained in the payroll record is true and correct.
(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.
(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:
(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.
(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.
(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.
(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.
(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.
(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.
(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.
(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.
(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.
(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.
(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.
(Amended by Stats. 2014, Ch. 28, Sec. 71. Effective June 20, 2014.)

1777.5
(a) This chapter does not prevent the employment of properly registered apprentices upon public works.
(b) (1) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.
(2) Unless otherwise provided by a collective bargaining agreement, when a contractor requests the dispatch of an apprentice pursuant to this section to perform work on a public works project and requires

the apprentice to fill out an application or undergo testing, training, an examination, or other preemployment process as a condition of employment, the apprentice shall be paid for the time spent on the required preemployment activity, including travel time to and from the required activity, if any, at the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered. Unless otherwise provided by a collective bargaining agreement, a contractor is not required to compensate an apprentice for the time spent on preemployment activities if the apprentice is required to take a preemployment drug or alcohol test and he or she fails to pass that test.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

(1) The apprenticeship standards and apprentice agreements under which he or she is training.

(2) The rules and regulations of the California Apprenticeship Council.

(d) If the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Before commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body, if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program supplying apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates if the contractor agrees to be bound by those standards. However, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the

greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. When an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator of Apprenticeship, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section who has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or who has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Administrator of Apprenticeship may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) If an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

(m) (1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

(2) At the conclusion of the 2002–03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Department of Industrial Relations for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The funds shall be distributed as follows:

(A) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

(B) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and county for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices from that county registered in each program.

(C) All training contributions not distributed under subparagraphs (A) and (B) shall be used to defray

the future expenses of the Department of Industrial Relations for the administration and enforcement of apprenticeship standards and requirements under this code.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all moneys in the Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Department of Industrial Relations.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars ($30,000).

(p) An awarding body that implements an approved labor compliance program in accordance with subdivision (b) of Section 1771.5 may, with the approval of the director, assist in the enforcement of this section under the terms and conditions prescribed by the director.

(Amended by Stats. 2016, Ch. 746, Sec. 1. Effective January 1, 2017.)

1813. The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars ($25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

1815. Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay.

10.1 FEDERAL-AID CONTRACT LANGUAGE (EXHIBIT 12-G CALTRANS LOCAL ASSISTANCE)

(For Local Assistance Construction Projects)

The following language must be incorporated into all Local Assistance Federal-aid construction contracts. The following language, with minor edits, was taken from the Code of Federal Regulations.

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DISADVANTAGED BUSINESS ENTERPRISES (DBE)

Under 49 CFR 26.13(b):

> The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Take necessary and reasonable steps to ensure that DBEs have opportunity to participate in the contract (49 CFR 26).

To ensure equal participation of DBEs provided in 49 CFR 26.5, the Agency shows a goal for DBEs.

Make work available to DBEs and select work parts consistent with available DBE subcontractors and suppliers.

Meet the DBE goal shown elsewhere in these special provisions or demonstrate that you made adequate good faith efforts to meet this goal.

It is your responsibility to verify that the DBE firm is certified as DBE at date of bid opening. For a list of DBEs certified by the California Unified Certification Program, go to: http://www.dot.ca.gov/hq/bep/find_certified.htm.

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal.

Credit for materials or supplies you purchase from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are obtained from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer."

You receive credit towards the goal if you employ a DBE trucking company that performs a commercially useful function as defined in 49 CFR 26.55(d)(1) through (4) and (6).

DBE Commitment Submittal

Submit the Exhibit 15-G *Construction Contract DBE Commitment* form, included in the Bid book. If the form is not submitted with the bid, remove the form from the Bid book before submitting your bid.

If the DBE Commitment form is not submitted with the bid, the apparent low bidder, the 2nd low bidder, and the 3rd low bidder must complete and submit the DBE Commitment form to the Agency. DBE Commitment form must be received by the Agency no later than 4:00 p.m. on the 4th business day after bid opening.

Other bidders do not need to submit the DBE Commitment form unless the Agency requests it. If the Agency requests you to submit a DBE Commitment form, submit the completed form within 4 business days of the request.

Submit written confirmation from each DBE stating that it is participating in the contract. Include confirmation with the DBE Commitment form. A copy of a DBE's quote will serve as written confirmation that the DBE is participating in the contract.

If you do not submit the DBE Commitment form within the specified time, the Agency will find your bid nonresponsive.

Good Faith Efforts Submittal

If you have not met the DBE goal, complete and submit the DBE Information - Good Faith Efforts, Exhibit 15-H, form with the bid showing that you made adequate good faith efforts to meet the goal. Only good faith

efforts directed towards obtaining participation by DBEs will be considered. If good faith efforts documentation is not submitted with the bid, it must be received by the Agency no later than 4:00 p.m. on the 4th business day after bid opening.

If your DBE Commitment form shows that you have met the DBE goal or if you are required to submit the DBE Commitment form, you must also submit good faith efforts documentation within the specified time to protect your eligibility for award of the contract in the event the Agency finds that the DBE goal has not been met.

Good faith efforts documentation must include the following information and supporting documents, as necessary:

1. Items of work you have made available to DBE firms. Identify those items of work you might otherwise perform with your own forces and those items that have been broken down into economically feasible units to facilitate DBE participation. For each item listed, show the dollar value and percentage of the total contract. It is your responsibility to demonstrate that sufficient work to meet the goal was made available to DBE firms.
2. Names of certified DBEs and dates on which they were solicited to bid on the project. Include the items of work offered. Describe the methods used for following up initial solicitations to determine with certainty if the DBEs were interested, and the dates of the follow-up. Attach supporting documents such as copies of letters, memos, facsimiles sent, telephone logs, telephone billing statements, and other evidence of solicitation. You are reminded to solicit certified DBEs through all reasonable and available means and provide sufficient time to allow DBEs to respond.
3. Name of selected firm and its status as a DBE for each item of work made available. Include name, address, and telephone number of each DBE that provided a quote and their price quote. If the firm selected for the item is not a DBE, provide the reasons for the selection.
4. Name and date of each publication in which you requested DBE participation for the project. Attach copies of the published advertisements.
5. Names of agencies and dates on which they were contacted to provide assistance in contacting, recruiting, and using DBE firms. If the agencies were contacted in writing, provide copies of supporting documents.
6. List of efforts made to provide interested DBEs with adequate information about the plans, specifications, and requirements of the contract to assist them in responding to a solicitation. If you have provided information, identify the name of the DBE assisted, the nature of the information provided, and date of contact. Provide copies of supporting documents, as appropriate.
7. List of efforts made to assist interested DBEs in obtaining bonding, lines of credit, insurance, necessary equipment, supplies, and materials, excluding supplies and equipment that the DBE subcontractor purchases or leases from the prime contractor or its affiliate. If such assistance is provided by you, identify the name of the DBE assisted, nature of the assistance offered, and date assistance was provided. Provide copies of supporting documents, as appropriate.
8. Any additional data to support demonstration of good faith efforts.

The Agency may consider DBE commitments of the 2nd and 3rd bidders when determining whether the low bidder made good faith efforts to meet the DBE goal.

Exhibit 15-G - Construction Contract DBE Commitment

Complete and sign Exhibit 15-G *Construction Contract DBE Commitment* included in the contract documents regardless of whether DBE participation is reported.

Provide written confirmation from each DBE that the DBE is participating in the Contract. A copy of a DBE's quote serves as written confirmation. If a DBE is participating as a joint venture partner, the Agency encourages you to submit a copy of the joint venture agreement.)

Subcontractor and Disadvantaged Business Enterprise Records

Use each DBE subcontractor as listed on Exhibit 12-B *Bidder's List of Subcontractors (DBE and Non-DBE)* and Exhibit 15-G *Construction Contract DBE Commitment* form unless you receive authorization for a substitution.

The Agency requests the Contractor to:

1. Notify the Engineer of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
   - Name and business address of each 1st-tier subcontractor
   - Name and business address of each DBE subcontractor, DBE vendor, and DBE trucking company, regardless of tier
   - Date of payment and total amount paid to each business

If you are a DBE contractor, include the date of work performed by your own forces and the corresponding value of the work.

Before the 15th of each month, submit a Monthly DBE Trucking Verification form.

If a DBE is decertified before completing its work, the DBE must notify you in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify you in writing of the certification date. Submit the notifications. On work completion, complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form. Submit the form within 30 days of contract acceptance.

Upon work completion, complete Exhibit 17-F *Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors*. Submit it within 90 days of contract acceptance. The Agency will withhold $10,000 until the form is submitted. The Agency releases the withhold upon submission of the completed form.

Performance of Disadvantaged Business Enterprises

DBEs must perform work or supply materials as listed in the Exhibit 15-G *Construction Contract DBE Commitment* form, included in the Bid.

Do not terminate or substitute a listed DBE for convenience and perform the work with your own forces or obtain materials from other sources without authorization from the Agency.

The Agency authorizes a request to use other forces or sources of materials if it shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. You stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet your bond requirements.
3. Work requires a contractor's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials.
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.

10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.

11. Agency determines other documented good cause.

Notify the original DBE of your intent to use other forces or material sources and provide the reasons. Provide the DBE with 5 days to respond to your notice and advise you and the Agency of the reasons why the use of other forces or sources of materials should not occur. Your request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph.
2. Notices from you to the DBE regarding the request.
3. Notices from the DBEs to you regarding the request.

If a listed DBE is terminated or substituted, you must make good faith efforts to find another DBE to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet the DBE goal.

The substitute DBE must be certified as a DBE at the time of request for substitution.

Unless the Agency authorizes (1) a request to use other forces or sources of materials or (2) a good faith effort for a substitution of a terminated DBE, the Agency does not pay for work listed on the Exhibit 15-G *Construction Contract* DBE *Commitment* form unless it is performed or supplied by the listed DBE or an authorized substitute.

BID OPENING The Agency publicly opens and reads bids at the time and place shown on the *Notice to Bidders*.

BID RIGGING The U.S. Department of Transportation (DOT) provides a toll-free hotline to report bid rigging activities. Use the hotline to report bid rigging, bidder collusion, and other fraudulent activities. The hotline number is (800) 424-9071. The service is available 24 hours 7 days a week and is confidential and anonymous.. The hotline is part of the DOT's effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General.

CONTRACT AWARD If the Agency awards the contract, the award is made to the lowest responsible and responsive bidder.

CONTRACTOR LICENSE

The Contractor must be properly licensed as a contractor from contract award through Contract acceptance (Public Contract Code § 10164).

CHANGED CONDITIONS

a. Differing Site Conditions

1. During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.

2. Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.

3. No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.

4. No contract adjustment will be allowed under this clause for any effects caused on unchanged work. (This provision may be omitted by the Local Agency, at their option.)

Suspensions of Work Ordered by the Engineer

1. If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

2. Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.

3. No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.

4. No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

Significant Changes in the Character of Work

1. The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.

2. If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.

3. If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.

4. The term “significant change” shall be construed to apply only to the following circumstances:

   - When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or

   - When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

BEGINNING OF WORK, TIME OF COMPLETION AND LIQUIDATED DAMAGES

The Contractor shall begin work within 15 calendar days after the contract has been approved by the attorney appointed and authorized to represent the City of Nevada City.

This work shall be diligently prosecuted to completion before the expiration of **60 WORKING DAYS** beginning on the fifteenth calendar day after approval of the contract.

The Contractor shall pay to the City of Nevada City the sum of **$1,000 per day**, for each and every calendar day's delay in finishing the work in excess of the number of working days prescribed above.

BUY AMERICA

Furnish steel and iron materials to be incorporated into the work with certificates of compliance. Steel and iron materials must be produced in the U.S. except:

1. Foreign pig iron and processed, pelletized, and reduced iron ore may be used in the domestic production of the steel and iron materials [60 Fed Reg 15478 (03/24/1995)];
2. If the total combined cost of the materials does not exceed the greater of 0.1 percent of the total bid or $2,500, materials produced outside the U.S. may be used.

Production includes:

1. Processing steel and iron materials, including smelting or other processes that alter the physical form or shape (such as rolling, extruding, machining, bending, grinding, and drilling) or chemical composition;
2. Coating application, including epoxy coating, galvanizing, and painting, that protects or enhances the value of steel and iron materials.

QUALITY ASSURANCE

The Agency uses a Quality Assurance Program (QAP) to ensure a material is produced to comply with the Contract.

You may examine the records and reports of tests the Agency performs if they are available at the job site.

Schedule work to allow time for QAP.

PROMPT PAYMENT OF FUNDS WITHHELD TO SUBCONTRACTORS

The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency, of the contract work, and pay retainage to the prime contractor based on these acceptances. The prime contractor, or subcontractor, shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

FORM FHWA-1273 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONTRACTS

(Excluding ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS)

[The following 10 pages must be physically inserted into the contract without modification.]

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

> "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency

and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. 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 paragraph 1.d. of this section; 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 paragraph 1.b. of this section) 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.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, 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. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

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

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

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

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer 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 the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, 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.

c. 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.

d. 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.

2. Withholding

The contracting agency 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, the contracting agency may, after written notice to the contractor, 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.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and 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.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. 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 the contracting agency for transmission to the State DOT, the FHWA 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 section 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 the contracting agency..

(2) 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:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) 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 Regulations, 29 CFR part 3;

(iii) 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.

(3) 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 paragraph 3.b.(2) of this section.

(4) 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.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, 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, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, 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

a. Apprentices (programs of the USDOL).

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.

b. Trainees (programs of the USDOL).

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 classification of 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.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

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 shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 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 29 CFR 5.5.

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 the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. 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).

b. 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).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. 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 he or she is employed on such work to work in excess of forty 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 forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, 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 paragraph (1.) of this section, 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 forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency 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 contractor, 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 paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section 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 paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term “perform work with its own organization” refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;
(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these

and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1**. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good

faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a 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;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

12. FEMALE AND MINORITY GOALS

To comply with Section II, "Nondiscrimination," of "Required Contract Provisions Federal-Aid Construction Contracts," the following are for female and minority utilization goals for Federal-aid construction contracts and subcontracts that exceed $10,000:

The nationwide goal for female utilization is 6.9 percent.

The goals for minority utilization [45 Fed Reg 65984 (10/3/1980)] are as follows:

MINORITY UTILIZATION GOALS

Economic Area		Goal (Percent)
174	Redding CA: Non-SMSA (Standard Metropolitan Statistical Area) Counties: CA Lassen; CA Modoc; CA Plumas; CA Shasta; CA Siskiyou; CA Tehama	6.8
175	Eureka, CA Non-SMSA Counties: CA Del Norte; CA Humboldt; CA Trinity	6.6
176	San Francisco-Oakland-San Jose, CA: SMSA Counties: 7120 Salinas-Seaside-Monterey, CA CA Monterey 7360 San Francisco-Oakland CA Alameda; CA Contra Costa; CA Marin; CA San Francisco; CA San Mateo 7400 San Jose, CA CA Santa Clara, CA 7485 Santa Cruz, CA CA Santa Cruz 7500 Santa Rosa CA Sonoma 8720 Vallejo-Fairfield-Napa, CA CA Napa; CA Solano Non-SMSA Counties: CA Lake; CA Mendocino; CA San Benito	 28.9 25.6 19.6 14.9 9.1 17.1 23.2
177	Sacramento, CA: SMSA Counties: 6920 Sacramento, CA CA Placer; CA Sacramento; CA Yolo Non-SMSA Counties CA Butte; CA Colusa; CA El Dorado; CA Glenn; CA Nevada; CA Sierra; CA Sutter; CA Yuba	 16.1 14.3
178	Stockton-Modesto, CA: SMSA Counties: 5170 Modesto, CA CA Stanislaus 8120 Stockton, CA CA San Joaquin Non-SMSA Counties	 12.3 24.3 19.8

	CA Alpine; CA Amador; CA Calaveras; CA Mariposa; CA Merced; CA Tuolumne	
179	Fresno-Bakersfield, CA SMSA Counties: 0680 Bakersfield, CA CA Kern 2840 Fresno, CA CA Fresno Non-SMSA Counties: CA Kings; CA Madera; CA Tulare	 19.1 26.1 23.6
180	Los Angeles, CA: SMSA Counties: 0360 Anaheim-Santa Ana-Garden Grove, CA CA Orange 4480 Los Angeles-Long Beach, CA CA Los Angeles 6000 Oxnard-Simi Valley-Ventura, CA CA Ventura 6780 Riverside-San Bernardino-Ontario, CA CA Riverside; CA San Bernardino 7480 Santa Barbara-Santa Maria-Lompoc, CA CA Santa Barbara Non-SMSA Counties CA Inyo; CA Mono; CA San Luis Obispo	 11.9 28.3 21.5 19.0 19.7 24.6
181	San Diego, CA: SMSA Counties 7320 San Diego, CA CA San Diego Non-SMSA Counties CA Imperial	 16.9 18.2

For the last full week July during which work is performed under the contract, you and each non material-supplier subcontractor with a subcontract of $10,000 or more must complete Form FHWA PR-1391 (Appendix C to 23 CFR 230). Submit the forms by August 15.

13. FEDERAL TRAINEE PROGRAM

For the Federal training program, the number of trainees or apprentices is _____.

This section applies if a number of trainees or apprentices is specified in the special provisions.

As part of your equal opportunity affirmative action program, provide on-the-job training to develop full journeymen in the types of trades or job classifications involved.

You have primary responsibility for meeting this training requirement.

If you subcontract a contract part, determine how many trainees or apprentices are to be trained by the subcontractor.

Include these training requirements in your subcontract.

Where feasible, 25 percent of apprentices or trainees in each occupation must be in their 1st year of apprenticeship or training.

Distribute the number of apprentices or trainees among the work classifications on the basis of your needs and the availability of journeymen in the various classifications within a reasonable recruitment area.

Before starting work, submit to the City of Nevada City:

1. Number of apprentices or trainees to be trained for each classification
2. Training program to be used
3. Training starting date for each classification

Obtain the City of Nevada City approval for this submitted information before you start work. The City of Nevada City credits you for each apprentice or trainee you employ on the work who is currently enrolled or becomes enrolled in an approved program.

The primary objective of this section is to train and upgrade minorities and women toward journeymen status. Make every effort to enroll minority and women apprentices or trainees, such as conducting systematic and direct recruitment through public and private sources likely to yield minority and women apprentices or trainees, to the extent they are available within a reasonable recruitment area. Show that you have made the efforts. In making these efforts, do not discriminate against any applicant for training.

Do not employ as an apprentice or trainee an employee:

1. In any classification in which the employee has successfully completed a training course leading to journeyman status or in which the employee has been employed as a journeyman
2. Who is not registered in a program approved by the US Department of Labor, Bureau of Apprenticeship and Training

Ask the employee if the employee has successfully completed a training course leading to journeyman status or has been employed as a journeyman. Your records must show the employee's answers to the questions.

In your training program, establish the minimum length and training type for each classification. The City of Nevada City and FHWA approves a program if one of the following is met:

1. It is calculated to:
   - Meet the your equal employment opportunity responsibilities
   - Qualify the average apprentice or trainee for journeyman status in the classification involved by the end of the training period
2. It is registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, and it is administered in a way consistent with the equal employment responsibilities of Federal-aid highway construction contracts

Obtain the State's approval for your training program before you start work involving the classification covered by the program.

Provide training in the construction crafts, not in clerk-typist or secretarial-type positions. Training is allowed in lower level management positions such as office engineers, estimators, and timekeepers if the training is oriented toward construction applications. Training is allowed in the laborer classification if significant and meaningful training is provided and approved by the division office. Off-site training is allowed if the training is an integral part of an approved training program and does not make up a significant part of the overall training.

The City of Nevada City reimburses you 80 cents per hour of training given an employee on this contract under an approved training program:

1. For on-site training

2. For off-site training if the apprentice or trainee is currently employed on a Federal-aid project and you do at least one of the following:
   - Contribute to the cost of the training
   - Provide the instruction to the apprentice or trainee
   - Pay the apprentice's or trainee's wages during the off-site training period
3. If you comply this section.

Each apprentice or trainee must:

1. Begin training on the project as soon as feasible after the start of work involving the apprentice's or trainee's skill
2. Remain on the project as long as training opportunities exist in the apprentice's or trainee's work classification or until the apprentice or trainee has completed the training program

Furnish the apprentice or trainee:

1. Copy of the program you will comply with in providing the training
2. Certification showing the type and length of training satisfactorily completed

14. TITLE VI ASSURANCES

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONTRACTOR) agrees as follows:

(1) Compliance with Regulations: CONTRACTOR shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.

(2) Nondiscrimination: CONTRACTOR, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONTRACTOR for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONTRACTOR of the CONTRACTOR'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the California Department of Transportation or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the California Department of Transportation or the FHWA as appropriate, and shall set forth what efforts CONTRACTOR has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of CONTRACTOR's noncompliance with the nondiscrimination provisions of this agreement, the California Department of Transportation shall

impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to CONTRACTOR under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

(b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: CONTRACTOR shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONTRACTOR shall take such action with respect to any sub-agreement or procurement as the California Department of Transportation or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONTRACTOR may request the California Department of Transportation enter into such litigation to protect the interests of the State, and, in addition, CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

15. USE OF UNITED STATES-FLAG VESSELS

The CONTRACTOR agrees-

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carries, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
2. To Furnish within 20 days following the date of loading for shipments originating within the United State or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated “on-board” commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
3. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

16. CHILD SUPPORT COMPLIANCE ACT:

"For any Agreement in excess of $100,000, the contractor acknowledges in accordance with, that:

The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code

17. COMPLIANCE CLAUSE FOR NEW HIRES

The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

MAINTAIN RECORDS AND SUBMIT REPORTS DOCUMENTING YOUR PERFORMANCE UNDER THIS SECTION

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

December 10, 2019

TITLE: Award of Contract for Roof Replacement at 775 Zion Street

RECOMMENDATION: Pass Resolution 2019-XX, a Resolution of the City Council of the City of Nevada City to award a contract to Matco Construction in the amount of $37,500 plus $6,000 contingencies for Roof Replacement at 775 Zion Street in Nevada City and authorize the Mayor to sign.

CONTACT: Bryan K. McAlister, City Engineer

BACKGROUND/DISCUSSION:
The City Engineer and Public Works staff identified Roof Replacement at 775 Zion Street as a project necessary for building maintenance. The project consists of roof replacement, as further shown and described in the contract.

City staff solicited bids for Roof Replacement at 775 Zion Street from local contractors. Qualified bids received are as follows:

- Matco Construction, Cedar Ridge, CA $ 37,500.00
- Frank Gowan Roofing, Grass Valley CA $ 39,100.00
- Extreme Roofing, Grass Valley, CA $ 38,200.00

Matco Construction was selected as the lowest responsive and responsible bidder.

FISCAL CONSIDERATIONS: The fiscal year 2019-2020 General Fund Buildings and Grounds budget includes budgeted capital outlay for building improvements.

ATTACHMENT:
- ✓ Resolution 2019-XX, a Resolution of the City Council of the City of Nevada City to Award a Contract to Matco Construction for Roof Replacement at 775 Zion Street in Nevada City
- ✓ Contract for Roof Replacement 775 Zion Street

RESOLUTION NO. 2019-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY TO AWARD A CONTRACT WITH MATCO CONSTRUCTION FOR ROOF REPLACEMENT AT 775 ZION STREET IN NEVADA CITY

WHEREAS, the City of Nevada City continues to invest in the maintenance of its property assets on an annual basis; and

WHEREAS, funding for the Roof Replacement at 775 Zion Street is provided through City General Fund for Building Maintenance in fiscal year 2019/2020; and

WHEREAS, consistent with Municipal Code requirements, City staff advertised and received bids for Roof Replacement at 775 Zion Street.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Nevada City to award a contract to Matco Construction in the amount of $37,500 plus $6,000 contingencies for Roof Replacement at 775 Zion Street in Nevada City and authorize the Mayor to sign.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Nevada City on the 10th day of December, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Reinette Senum, Mayor

ATTEST:

_____

Niel Locke, City Clerk

REROOF

775 ZION ST

City of Nevada City, 95959
Nevada County, California

Bryan K. McAlister
PE C58570
PLS 9199

William J. Falconi
PE 25842
PLS 4911

NOTICE TO CONTRACTOR'S

Reroof 775 Zion St

Sealed proposals for **Reroof 775 Zion St** will be received by the City at City Hall, 317 Broad Street, Nevada City, California, 95959, until **3:00 PM on November 21, 2019,** at which time, or as soon thereafter as practicable, all such proposals will be publicly opened and read at City Hall, 317 Broad St, Nevada City, California.

Bids shall be enclosed and sealed in an envelope addressed to the City of Nevada City at the above stated address and shall be marked **"Reroof 775 Zion St"**.

The work includes the furnishing of all labor, materials, and equipment required for the job in accordance with the plans, specifications and other contract documents as set forth by the City Engineer. Such bid documents will be on file with the City staff and are available for inspection during office hours.

****

The City reserves the right to reject all bids; or to accept any portion of bid schedule; to reject any bid which is incomplete or irregular; to determine which proposal is, in its judgment, the lowest responsible bid of a responsible bidder and to waive any informality or minor irregularity of any bid.

DATED: November 2019 CITY OF NEVADA CITY

_____

William J. Falconi

Assistant City Engineer

PROPOSAL/CONTRACT

Reroof 775 Zion St

Nevada City, CA

TO: City of Nevada City, City Hall, Nevada City, California.

The undersigned, as a bidder, submits the following proposal for **Reroof 775 Zion St** in the City of Nevada City, California, and offers to perform all work and furnish all labor, materials, tools, equipment, power and water as required for the completion of said project, in accordance with the plans, specifications and all other contract documents. The bidder has inspected the project site and has examined all conditions affecting the proposed work.

The bidder is licensed with Contractors State License Board and is registered as a public works contractor with the Department of Industrial Relations as required to bid on this contract.

If this bid is accepted, the bidder agrees to execute the Agreement, and furnish to the City all documents and evidences of insurance, within ten (10) days after receiving written notice of the award of contract, and complete the project within **thirty (30) working days** after receiving written notice to proceed. **No bond is required for this project.**

Attached to this bid and made a part hereof is a list of proposed subcontractors, setting forth all information required by Section 4104 of the Government Code.

The undersigned is (state whether individual, partnership or corporation) INDIVIDUAL

DATED: 11-19-19

FIRM NAME: MATCO CONST.

BY: M Howell
Signature of Authorized Person

ADDRESS: POB 358
CEDAR RIDGE CA. 95924

Contact Person: MATT HOWELL

PHONE: (530) 2778330

CELL PHONE: (530) 2778330

CONTRACTOR'S #: 759425

EXPIRATION: 2/28/21

NEVADA CITY BUSINESS LICENSE
#: 1481 EXPIRATION: 10/31/20

BID SCHEDULE

REROOF 775 ZION ST

No.	Quantity	Unit	Item Description	Unit Price	Total Price
1)	200	Sheets	5/8" Plywood	$ 72.00	$ 14,400.00
2)	60	Sq	30yr / Kool Roof Composite Shingle	$ 385.00	$ 23,100.00
3)	1	Ea	Remove Tin Roof	$ NO BID ON DEMO	$

Grand Total $ 37,500.00

1. All measurements and dimensions must be verified in the field prior to construction
2. If the City accepts your Bid, you must submit for a City Business License
3. City may accept any portions of the bid schedule depending upon budget

LIST OF SUBCONTRACTORS

NAME	PLACE OF BUSINESS	PORTION OF WORK
1. MATCO CONST.	GRASS VALLEY	ALL
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

AGREEMENT

THIS AGREEMENT is made this 18th day of NOVEMBER, between the CITY OF NEVADA CITY, a municipal corporation, hereinafter called "City," and MATCO CONSTRUCTION, hereinafter called "Contractor."

WHEREAS, City has caused to be prepared certain plans, specifications and other contract documents pertaining to the **Reroof 775 Zion St** in said City: and

WHEREAS, after notice duly given, City has awarded the contract for such work to Contractor;

NOW, THEREFORE, IT IS AGREED by and between said parties as follows:

1. Scope of Work. The contractor agrees to furnish all labor, materials, tools and equipment, required to complete the improvements in Nevada City, California, in accordance with the plans, specifications and other contract representation made in mandatory meetings. All such work shall be performed in a good and workmanlike manner and to the satisfaction of the designer of said project.

2. Contract Price. As consideration for all such work, City agrees to pay to Contractor the total sum of THIRTY SEVEN THOUSAND FIVE HUNDRED ($ 37,500.00) Dollars, payable in the manner hereinafter set forth.

3. Contract Documents. The complete contract between the parties hereto consists of the Notice to Contractors, the Information to Bidders, the Bid Proposal, the General Conditions, the Plans and Specifications, and all other drawings and printed or written explanatory matter pertaining thereto. All of the foregoing documents are intended to cooperate, so that any work or requirement specified in any of them is to be carried out or observed the same as if mentioned in all.

4. Time for Performance. Within five (5) days after the execution of this Agreement, City shall give Contractor written Notice to Proceed, and thereafter Contractor shall commence the work and shall prosecute the same with due diligence until completion and acceptance by City; provided, however, that all such work shall be completed and ready for use within **thirty (30) working days** after Contractor receives said Notice to Proceed.

5. Extension of Time. If, because of adverse weather conditions, strikes, inability of the Contractor (through no fault on his/her part) to obtain necessary materials, or other cause beyond the reasonable control of Contractor, Contractor is unable to complete the required work within the allowed time, he shall be entitled to an extension or extensions of such time, commensurate with the unavoidable delay thus caused; provided, however that Contractor shall apply to City for approval of any such extension prior to the expiration of the time for performance as specified in the preceding paragraph.

6. Contractor's Failure to Complete Work. If Contractor fails to prosecute the work with such diligence as will insure its completion within the time hereinabove specified, or any extension thereof, or fails to complete such work within such time, or if Contractor shall otherwise violate this Agreement, City may give written notice to Contractor and his sureties of City's intention to terminate this Agreement unless, within five (5) days after services of such notice, satisfactory arrangements are made with the City for the completion of such work or the curing of such breach; and if such arrangements are not made within such time, City may, at its option, terminate this Agreement by giving written notice of such termination to Contractor and his sureties.

7. Payments to Contractor. On or before the tenth day of each month during the progress of the work, Contractor shall submit to the City Engineer an itemized statement of all labor and materials incorporated into the improvement during the preceding month and the portion of the contract price applicable thereto. City shall pay to Contractor a sum equal to ninety (90%) percent of the contract price apportionment for approved progress payments. The remaining ten (10%) percent shall be paid to Contractor thirty-five (35) days after final acceptance of the work

by City.

8. Indemnification. Contractor agrees to hold City, and its officers, agents, and employees harmless from any and all liability and claims for damages for death and personal injury, and for property damage, incident to or arising out of the operations of Contractor or any subcontractor under this Agreement, and Contractor further agrees to defend City, and its officers, agents, and employees in any and all lawsuits which may be brought for such damages caused, or alleged to have been caused, by such operations. In addition, Contractor agrees to furnish to the City evidences of insurance coverage. The approval of such insurance by City shall not constitute a waiver or limitation of any rights under this indemnity agreement, regardless of whether such insurance shall be held to be inapplicable to any such damage or claims therefore.

Executed in duplicate this 18th day of NOVEMBER.

ATTEST:

CITY OF NEVADA CITY

_____

By: _____
(Mayor)

C M Howell
(Contractor)

By: _____
(Authorized Officer)

GENERAL CONDITIONS

1. Inspection of Construction

The Engineer shall have access to the work and the site of the work at all times and the Contractor shall afford such access to the Engineer and shall furnish all relevant information requested by him. At the request of the Engineer the Contractor shall open for inspection any part of the work which has been covered up, and if any part of the work has been covered up in contravention of the instructions of the Engineer, or if on being opened up, is found not to be in accordance with the terms of the contract, the expense of opening and recovering shall be charged to the Contractor. If the work has been covered up but not in contravention of such instructions and is found to be in accordance with the terms of the contract, the actual cost of opening and recovering shall be borne by the City, and in such case, if the work of opening and recovering is done by the Contractor, it shall be considered as extra work and paid for accordingly.

2. Change Orders

If for any reason it becomes necessary or desirable to change the alignment, dimensions, or design of the work, the City shall have the right to issue written change orders therefore. If the Contractor considers that any such change involves extra work, he shall immediately so notify the Engineer in writing, and shall make claim for compensation for such work not later than the first day of the month following the month in which the work was performed. If, in the opinion of the Engineer, any change order results in a change in the amount of work performed, the contract price shall be adjusted for extra work or omitted work, as the case may be.

3. Contractor's Employees and Subcontractors

The Contractor shall at all times be responsible for the adequacy and efficiency of his employees and any subcontractor and the latter's employees. All workers shall have adequate skill and experience to perform properly the work assigned to them.

4. Errors and Omissions

If the Contractor in the course of the work becomes aware of any error or omission in the contract documents, or of any discrepancy between such documents and the physical conditions of the work site, he shall immediately inform the Engineer, who shall take such action as he may deem necessary in order to rectify the matter. Any work done after such discovery and without the authorization of the Engineer will be at the Contractor's risk.

5. Guaranty of Work

For a period of one (1) year after final acceptance of the work by the City, the Contractor shall make all Improvements and replacements arising out of any defective workmanship or materials. If the Contractor fails to make such repairs or replacements within ten (10) days after receiving written notice to do so, or within such further time as may be allowed by the City, the City may undertake such repairs or replacements, in which case the Contractor shall be liable to the City for the cost thereof.

6. Contractor's Responsibility for Work

The Contractor shall be responsible for the proper care and protection of the work, and of all materials delivered to the work site, until completion of the work and its final acceptance by the City.

7. Performance Bond

No Performance bond shall be required for this project.

8. Payment Bond

A payment (labor and materials) bond is required for public works contracts involving an expenditure in excess of twenty-five thousand dollars ($25,000). If the contract is in excess of this amount the contractor shall provide a payment bond to the City of Nevada City before commencement of work. Cost for the bond shall be included in the contractor bid proposal and no additional compensation will be provided.

A payment bond shall be in an amount not less than 100 percent of the total amount payable pursuant to the contract. The bond shall be in the form of a bond and not a deposit in lieu of a bond. The bond shall be executed by an admitted surety insurer.

9. Workmen's Compensation Insurance

The Contractor shall carry workmen's compensation insurance for all employees working on or about the site of the work, and if any work is subcontracted, the Contractor shall require each subcontractor to carry such insurance for all of the latter's employees, unless they are covered by the Contractor's insurance.

10. Insurance Requirements

CONTRACTOR shall purchase and maintain insurance in amounts of coverage not less than the following amounts:

General Liability: (Including operations, products and completed operations)	$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
Automobile Liability:	$1,000,000 per accident for bodily injury and property damage.

The Contractor shall deliver to the City, concurrently with the execution of the contract, certificates evidencing all insurance required by the contract, and each such certificate shall include a provision to the effect that the policy or policies cannot be canceled or materially modified unless the insurer gives the City at least fifteen (15) days written notice thereof prior to such cancellation or modification.

11. Prevailing Wages

Contractor shall pay each laborer, workman or mechanic in accordance with State and Federal Prevailing Wage Rates and the California Labor Code. These wage rates are hereby made a part of this contract:

State General Prevailing Wage Determinations in effect on date advertised
General prevailing wage determination
Journeyman and Apprentice Prevailing Wage Rates can be accessed at the following websites:
http://www.dir.ca.gov/OPRL/2017-2/PWD/index.htm and
http://www.dir.ca.gov/das/publicworks.html

Reference: Labor Code http://www.labor.ca.gov/laborlawreg.htm

Federal Prevailing Wage Determinations in effect on bid date
General Decision # CA170009 CA9
http://www.wdol.gov/wdol/scafiles/davisbacon/ca.html

Electronic Certified Payroll Records

- All contractors must furnish electronic certified payroll records to the Labor Commissioner using the online eCPR data system
- No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
- This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- The contractor shall post job site notices prescribed by regulation. (See 8 Calif. Code Reg. §16451(d)

Project Specifications

PROJECT LIMITS

Project is **Reroof 775 Zion St,** Nevada City, CA. Project limits are as shown on the improvement plans.

PROJECT DESCRIPTION

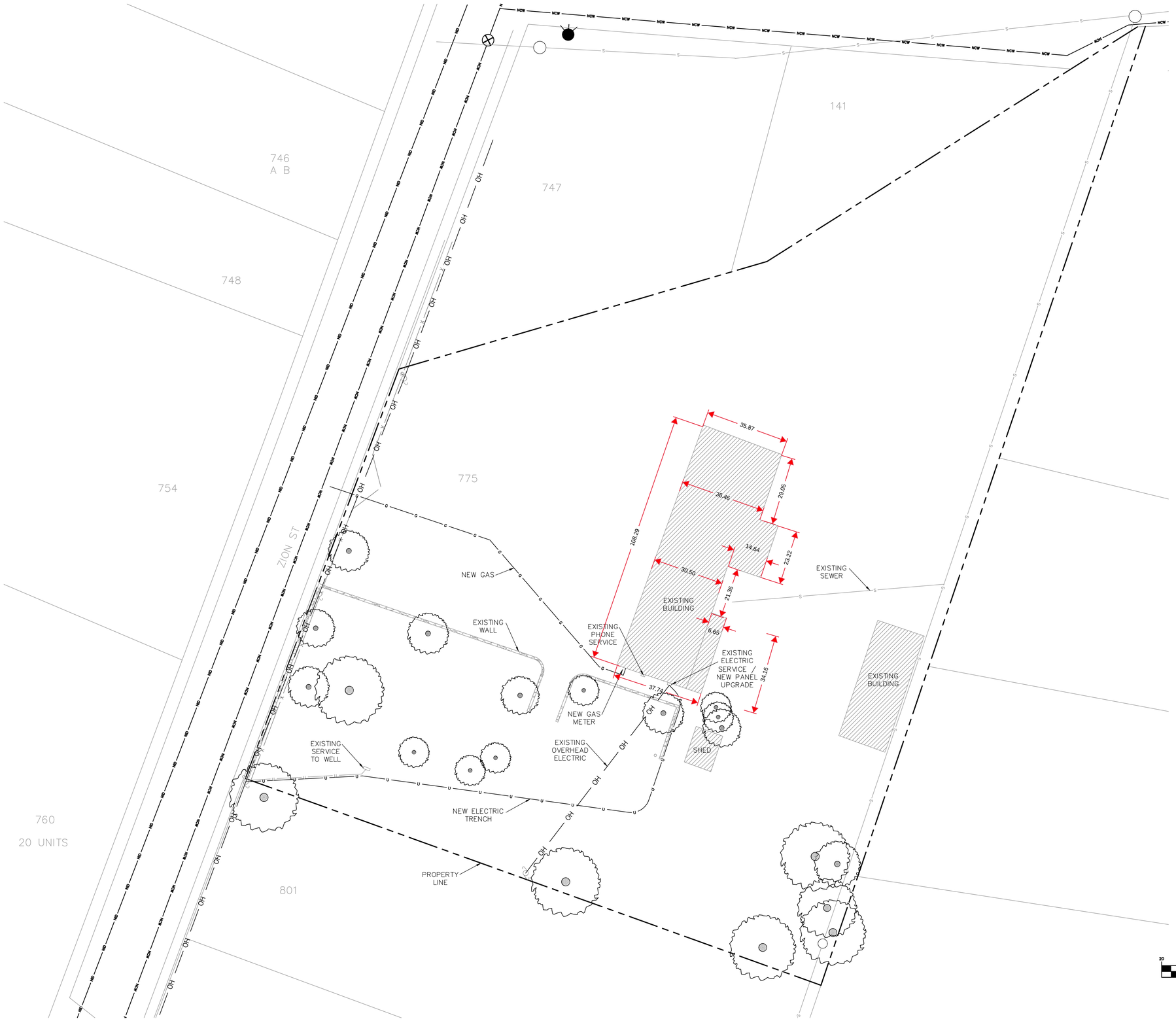
The project consists of a Reroof of the old corporation yard @ 775 Zion St. Project is to change from tin roof to 30 year composition shingle with sub-sheeting.

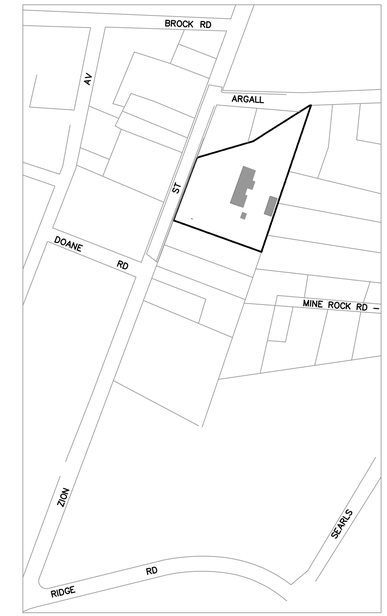
CONSTRUCTION NOTES

All improvements shall be constructed in accordance with the plans and details for the project and the latest edition of Standard Plans and Specifications.

MATERIAL NOTES

Project is to Reroof Barn building on Zion St. Project shall be bid in two (2) sections. One to remove all tin and apply new roof, whereas the second option is to place new roof after sheeting is removed. All work requires 5/8" plywood sheeting prior to installation of composition shingle roof.





LOCATION MAP
1"=200'

ASSESSOR'S PARCEL:
05-270-026

PROPERTY USE: LIGHT INDUSTRIAL (SPD SAWSHOP)

OWNER / APPLICANT:
CITY OF NEVADA CITY
317 BROAD STREET
NEVADA CITY, CA 95959

SITE ADDRESS
775 ZION STREET
NEVADA CITY, CA 95959

SCALE
20 0 10 20 40
(IN FEET)
1 inch = 20 feet

REGISTERED PROFESSIONAL ENGINEER
BRIAN K. McALISTER
C 058570
December 31, 2018
CIVIL
STATE OF CALIFORNIA

DATE SIGNED: 9-28-15

NO.	REVISIONS	DATE

DESIGNED: BKM
DRAWN: BKM
PROJ. NO:
DWG:spd sawshop
DATE: Feb. 2018

SITE IMPROVEMENTS

775 ZION

NEVADA CITY

CALIFORNIA

CITY OF NEVADA CITY
317 BROAD STREET
NEVADA CITY, CALIFORNIA 95959
(530) 265-2496

C1

1 OF 1

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CITY OF NEVADA CITY
ACTION MINUTES
SPECIAL CITY COUNCIL MEETING OF DECEMBER 2, 2019

CLOSED SESSION – None

REGULAR MEETING – 8:30 AM

COUNCIL PRESENT: Mayor Senum, Vice Mayor Minett, Council Members Parker, Moberg and Strawser

BUSINESS FROM THE FLOOR:

1. PUBLIC COMMENT (Per Government Code Section 54954.3)
As long as this is a special meeting, under Government Code section 54954.3(a) members of the public are entitled to address the City Council only on items on the agenda for this special meeting before or during consideration of that item and NOT ON MATTERS NOT ON THE AGENDA for this special meeting.
NOTE: City Manager, Catrina Olson let members of the Public know that this was a Council specific training and noted that it was set as a Special Meeting and that at a Special Meeting comments are only accepted on items that are on the agenda. The Public was requested to hold all comments until the end of the meeting. Once subject 2A and 2B were heard, members of the public were invited to speak on each.

2. NEW BUSINESS:

A. Subject: Governance Training with Gerry Preciado
Recommendation: Receive and file

Action: No action, receive and file.

B. Subject: Consideration of a Meeting Date Change for the Regular City Council Meeting on December 10, 2019
Recommendation: Discuss and consider for possible action changing the date for the Regular City Council Meeting scheduled for December 10, 2019.

Action: Council Member Strawser made a motion to move the meeting to Thursday December 12, 2019. There was no second so the motion died. The meeting remains December 10, 2019.

3. ADJOURNMENT: - 10:11 AM

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

_____
Reinette Senum, Mayor

_____
Niel Locke, City Clerk

CITY OF NEVADA CITY
ACTION MINUTES
REGULAR CITY COUNCIL MEETING OF NOVEMBER 13, 2019

NOTE: This meeting is available to view on the City's website www.nevadacityca.gov – Go to *Quick Links* and Click on *Agendas & Minutes* and find the Archived Videos in the middle of the screen. Select the meeting date and Click on *Video* to watch the meeting. For website assistance, please contact Loree' McCay, Deputy City Clerk at (530) 265-2496, ext 134.

- **City Council Meetings are available on DVD. To order, contact City Hall - cost is $15.00 per DVD.**
- **Closed Session Meetings are not recorded.**

CLOSED SESSION – 6:10 PM

1. Pursuant to Government Code Section 54956.9 the City Manager, Catrina Olson, City Attorney, Hal DeGraw and Consulting Attorney, P. Scott Browne are requesting a closed session conference to confer on litigation involving the City in the case of Friends of Spring Street vs. Nevada City, et al., Nevada County Superior Court Case No. CIV 1304393, Appellate Case No. C081195.

Action: Consulting Attorney, P. Scott Browne to proceed as directed.

REGULAR MEETING – 6:45 PM - Call to Order

Roll Call: Present: Mayor Senum, Vice Mayor Minett, Council Members Parker, Moberg and Strawser

PLEDGE OF ALLEGIANCE

PROCLAMATIONS: "Nevada County Food and Toy Run Day" – December 14th, 2019

PRESENTATIONS:

BUSINESS FROM THE FLOOR:

1. PUBLIC COMMENT (Per Government Code Section 54954.3)
Please refer to the meeting video on the City's website at www.nevadacityca.gov.

2. COUNCIL MEMBERS REQUESTED ITEMS AND COMMITTEE REPORTS:

A. **Subject:** Vice Mayor Minett requested that the majority of the Council direct inclusion of an item on the next agenda for consideration, discussion and possible action for removal or sanctioning of the current Mayor.

Action: Motion by Minett, seconded by Moberg to add an agenda item to the December 10, 2019 City Council Meeting to consider, discuss and possibly act on the removal or sanctioning of the current Mayor.
(Approved 4 – 0, Abstention 1)

3. CONSENT ITEMS:

A. **Subject:** Accounts Payable Activity Report – October 2019
Recommendation: Receive and file.

B. **Subject:** Fire Activity Report – September and October 2019
Recommendation: Receive and file.

C. **Subject:** Side Letter No. 2 to The Nevada County Professional Firefighters, Local 3800 Memorandum of Understanding (MOU) dated July 1, 2018 through June 30, 2021 – Rescinding and Replacing Multiple Sections and Adding a Defined Work Period and Repayment Terms
Recommendation: Review and approve Side Letter No. 2 to The Nevada County Professional Firefighters, Local 3800 Memorandum of Understanding (MOU) dated July 1, 2018 through June 30, 2021 – rescinding and replacing Article 14 of the current MOU with ARTICLE 14A and ARTICLE 14B, Defining a 28-day FLSA work period cycle started on June 30, 2019, Replace ARTICLE 23 Defining Fire Engineer rank, and defining repayment terms.

D. **Subject:** Authorization for Procurement of Nevada City Wastewater Plant Flow Control Valve
Recommendation: Pass Resolution 2019-63, a Resolution of the City of Nevada City Council to authorize the procurement from Aqua Sierra Controls the Nevada City Wastewater plant flow control valve and authorize the City Manager or designee to sign purchase orders for the procurement in the amount of $34,852.73 plus $5,000.00 in contingencies.

E. **Subject:** Mile Marker Plaque for Placement on Hirschman Trail
Recommendation: Approve the requested plaque wording.

Action: Motion by Parker, seconded by Moberg to approve consent items 3A through 3E as presented.
(Approved 5 – 0)

4. APPROVAL OF ACTION MINUTES:

A. **Subject:** City Council Meeting – November 6, 2019

Action: Motion by Strawser, seconded by Parker to approve the Special City Council meeting minutes of November 6, 2019 with the start time change from 6:30 PM to 6:00 PM.
(Approved 5 – 0)

5. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

A. **Subject:** 4th Quarter Financial Update, Fiscal Year (FY) 18/19 - UNAUDITED
Recommendation: Receive and file.

Action: No action, receive and file.

B. **Subject:** Pacific Gas and Electric (PG&E) Energy Efficient Retrofit Project and On-Bill Financing Loan Agreement
Recommendation: Review the Pacific Gas and Electric (PG&E) Energy Efficient Retrofit Project and On-Bill Financing Loan Agreement and authorize the City Manager to sign.

Action: Motion by Strawser, seconded by Parker to authorize the City Manager to sign the PG&E Energy Efficient Retrofit Project and On-Bill Finance Loan Agreement.
(Approved 5 – 0)

C. **Subject:** Plaque Honoring Ellen Clark Sargent at Calanan Park
Recommendation: Provide staff direction on an application by the Nevada County Historical Society to install a plaque honoring Ellen Sargent at Calanan Park.

Action: Motion by Strawser, seconded by Parker directing staff to proceed with processing the application by the Nevada County Historical Society to install a plaque honoring Ellen Sargent at Calanan Park and work with interested parties to identify a plaque location.
(Approved 5 – 0)

D. **Subject:** Award of Contract for Firms to Provide On-Call Planning Services
Recommendation: Pass Resolution 2019-64, a Resolution of the City of Nevada City awarding three professional service contracts for on-call Planning Services.

Action: Motion by Strawser, seconded by Moberg to pass Resolution 2019-64, a Resolution of the City of Nevada City awarding three professional service contracts for on-call Planning Services.
(Approved 5 – 0)

E. **Subject:** Acceptance of Gift Deed for Deer Creek Park II
Recommendation: Pass Resolution 2019-65, a Resolution of the City Council of the City of Nevada City authorizing the acceptance of a Gift Deed from Terra Alta Development Company.

Action: Motion by Moberg, seconded by Parker to pass Resolution 2019-65, a Resolution of the City Council of the City of Nevada City authorizing the acceptance of a Gift Deed from Terra Alta Development Company.
(Approved 5 – 0)

F. **Subject:** A Resolution Approving a Senate Bill 2 Grant Application
Recommendation: Pass Resolution 2019-66, a Resolution of the City Council of the City of Nevada City, State of California 1) authorizing an application for a receipt of SB2 Planning Grants program funds and 2) direct City staff to submit an application to the California Department of Housing and Community Development (HCD).

Action: Motion by Strawser, seconded by Parker to pass Resolution 2019-66, a Resolution of the City Council of the City of Nevada City, State of California 1) authorizing an application for a receipt of SB2 Planning Grants program funds and 2) direct City staff to submit an application to the California Department of Housing and Community Development (HCD).
(Approved 5 – 0)

G. **Subject:** Measure "S" Ballot Measure Extension
Recommendation: City Council to provide staff direction to work with the Measure "S" Committee on development of next steps in moving forward on preparing to place a Measure on the ballot for the November 2020 election to extend the existing Special Tax Measure "S", due to sunset 2023.

Action: Staff direction to proceed working with the Measure "S" Committee on the development of a campaign to place a Measure on the ballot for November 2020 election to extend the existing Special Tax Measure "S", due to sunset 2023.

6. PUBLIC HEARINGS:

7. OLD BUSINESS:

A. Subject: Ordinance for the Regulation of Wireless Telecommunication Facilities in the City
Recommendation: Provide staff direction on any sections of the adopted Ordinance that Council wants to see clarified, expanded or amended.

Action: Prior to hearing subject 7A, Vice Mayor Minett requested that due to hearing comments on the Telecom Ordinance before at great length that comments during tonight's meeting be directed whether to spend extra time and money to consider amending the adopted Telecom Ordinance. Further moved, was that for effective use of time, a Motion was made by Minett, seconded by Parker to limit public comments on this agenda item to those not made before and to conclude all public comment at 9:15 PM.
(Approved 4 – 0, Abstention 1)

Action: Staff was directed to move forward with amending sections of the adopted Ordinance as suggested by Mayor Senum and the public with input from Consulting Attorney Baron Bettenhausen, Bob Ross and/or Rusty Monroe of CMS. Limiting further expenditure to 2 hours of meeting time, 2 hours of time for redrafting, 2 hours of CMS's time and Consulting Attorney travel time.

8. NEW BUSINESS:

9. CORRESPONDENCE:

10. ANNOUNCEMENTS:

11. CITY MANAGER'S REPORT: The City Manager provided a written report that was attached to the agenda packet.

12. ADJOURNMENT: - 9:47 PM

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

_____
Reinette Senum, Mayor

_____
Niel Locke, City Clerk

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

December 10, 2019

TITLE: A Resolution for the Purchase of (2), Ford F-250's from Teichert Construction Co. for the Water and Wastewater Department

RECOMMENDATION: Pass Resolution 2019-XX, a Resolution of the City Council of the City of Nevada City to award purchase from Teichert Construction Co. for $25,000.00 for (2) vehicles (2012 Ford F-250 and 2014 Ford F-250) for the City of Nevada City Water and Wastewater Departments.

CONTACT: Kevin Timms, Chief Plant Operator, Water/Wastewater Department

BACKGROUND / DISCUSSION:
The Water/Wastewater Department employs four full time personnel at this time. The Department has 2 vehicles, 1 SUV and 1 truck in use and the truck has been incurring extensive vehicle repair costs.

The Water/Wastewater Department's vehicle inventory consists of a 2001 Dodge Durango SUV and a 2001 Chevy. The Department has had great longevity and made good use of the current fleet, which were vehicles, transferred from the Fire and Public Works Departments years ago. These vehicles are due for replacement. To be sure that the staff has vehicles to efficiently travel between the two plants, the Chief Plant Operator has to use his personal vehicle to perform work related projects.

FISCAL IMPACT:
An adjustment of $25,000 to capital outlay will need to be made to the Water/Wastewater Department's budgets.

ATTACHMENTS:
- ✓ Resolution 2019-XX, a Resolution of the City Council of the City of Nevada City to Award purchase from Teichert Construction Co for $25,000.00 for (2) vehicles (2012 For F-250 and 2014 Ford F-250) for the City of Nevada City Water and Wastewater Departments
- ✓ Truck inventory from Teichert Construction (with asterisks by vehicles intending to purchase
- ✓ Letter from Teichert Construction stating sale of vehicles to the City of Nevada City

RESOLUTION NO. 2019-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY TO AWARD PURCHASE FROM TEICHERT CONSTRUCTION CO FOR $25,000.00 FOR 2 VEHICLES, (2012 FORD F250, 2014 FORD F250) FOR THE CITY OF NEVADA CITY WATER & WASTEWATER DEPARTMENT

WHEREAS, The Water & Wastewater employs four full time personnel and currently at this time and has 1 SUV and 1 truck, which is severely aged and currently incurring excessive repair and maintenance costs; and

WHEREAS, one vehicle has been decommissioned and donated last year because it will not pass smog and is a gross polluter; and

WHEREAS, the current Water and Wastewater Department vehicles are, a 2001 Dodge Durango (Transferred from Fire) and a 2001 Chevy (Transferred from Public Works) the Department has made good use of the current fleet; and

WHEREAS, there are not enough vehicles in the current fleet to provide for the Water & Wastewater Department crew to operate efficiently and effectively.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Nevada City to Pass Resolution 2019-XX awarding purchasing from Teichert Construction Co. for $25,000.00 for 2 vehicles. (2012 and 2014 Ford F250)

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Nevada City on the 10th day of December 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____

Reinette Senum, Mayor

ATTEST:

_____

Niel Locke, City Clerk

Ford Inventory

Unit	ABF0817
Year	2012
License	78042E1
Cab	Supercrew
Bed	5'-6"
Color	White
Interior	Gray
Mileage	172,062
Notes	CB
Price	$11,000

Unit	ABF0857
Year	2014
License	7W66348
Cab	Supercrew
Bed	5'-6"
Color	Silver
Interior	Gray
Mileage	163,595
Notes	Toyo OC 90%, 40%
Price	$15,000

Unit	ABF0859
Year	2014
License	7W66346
Cab	Supercrew
Bed	5'-6"
Color	White
Interior	Gray
Mileage	172,093
Notes	Toyo OC 25%, Bed Mat
Price	$14,000

Unit	ABF0864
Year	2014
License	04317P1
Cab	Supercrew
Bed	5'-6"
Color	Silver
Interior	Black
Mileage	182,640
Notes	Toyo OC 45%, Blk WG TB
Price	$13,000

Unit	ABF0875
Year	2015
License	34899S1
Cab	Supercrew
Bed	5'-6"
Color	White
Interior	
Mileage	161,300
Notes	
Price	$17,500

Unit	ABF0879
Year	2015
License	21116W1
Cab	Supercrew
Bed	5'-6"
Color	White
Interior	
Mileage	165,368
Notes	
Price	$17,500

Unit	ACA01549
Year	2013
License	50001K1
Cab	Extended
Bed	6'-6"
Color	White
Interior	Gray
Mileage	164,843
Notes	25%
Price	$9,500

Unit	
Year	
License	
Cab	
Bed	
Color	
Interior	
Mileage	
Notes	
Price	

Ford Inventory

Unit	ACF01464
Year	2008
License	13750G2
Cab	Regular
Bed	8' Scelzi Utility
Color	White
Interior	
Mileage	218,755
Notes	AUX0098
Price	$10,000

Unit	ACE01276
Year	2005
License	84436D2
Cab	Regular
Bed	Dump
Color	White & Black
Interior	Gray
Mileage	140,080
Notes	
Price	$9,000

Corporate Office
3500 American River Drive
P.O. Box 15002
Sacramento, CA 95851-1002
Phone (916) 484-3011

TEICHERT

November 18, 2019

Kevin Timms
City Of Nevada City
317 Broad Street
Nevada City, CA 95959

Dear Kevin:

Per your request A. Teichert & Son, Inc. and the City Of Nevada City are in agreement regarding the sale of two Ford F150XLT's as follows.

2012	Ford	F150XLT	VIN	1FTFW1ET8CKD69912	172,092 Miles	$11,000
2014	Ford	F150XLT	VIN	1FTFW1ET7EKE02708	172,120 Miles	$14,000

Sales tax will be collected by DMV at the time of title transfer & registration. Please call me if you have any questions.

Sincerely,

George Takemori
Mobile Equipment Division
Administrative Manager
916-386-3716

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

December 10, 2019

TITLE: City Letter Acknowledging Compliance with Settlement Agreement to Allow Terra Alta to Proceed with Map Recordation for the First 7 Lots of Deer Creek Park II A

RECOMMENDATION: Review, approve and authorize the Mayor to sign the letter of compliance for Deer Creek Park II.

CONTACT: Hal DeGraw, City Attorney

BACKGROUND:
In 2006 Terra Alta Development Co. (the "Developer") proposed a 193 unit residential development project known as Deer Creek Park II (the "Project") in the unincorporated area of Nevada County just off Red Dog Rd. near the Pasquale Rd. intersection The City opposed the Project as proposed and, based upon negotiations with the City and community groups, the Developer in 2007 submitted for County approval a Modified Project proposal (the "Modified Project") reducing the number of dwelling units for and entered into a Settlement Agreement (the "Settlement Agreement") with the City resolving objections to the Project. A copy of that Settlement Agreement is attached as Exhibit A. The Modified Project was approved by the County Planning Commission on April 12, 2018, subject to conditions of approval to address potential impacts on the City relating to traffic, road maintenance, parking, park development and maintenance, water quality in Little Deer Creek and regional air quality. The approval was also conditioned upon compliance with the Settlement Agreement with the City.

The Developer wants to proceed with the filing of a final map creating the 7 lots in phase 1 and needs a letter/memo from the City confirming compliance with any preconditions in the Settlement Agreement and stating that the City has no objection to the filing of the final map. At its November 13, 2019 meeting, the City by Resolution No. 2019-65 accepted a Gift Deed to the City in fee of a 40-acre Watershed Parcel designated as Parcel F on the Tentative Subdivision Map for the Modified Project, satisfying Paragraph 9 of the Settlement Agreement. To fully comply with the Settlement Agreement conditions required prior to approval of the first subdivision map for the Modified Project, the Developer is also required to:

- Provide the City with the opportunity to review and comment on any Storm Water Pollution Prevention Plan (SWPPP) prior to submission to the County for approval (Par, 3);
- Prepare and provide a copy to the City Covenants, Conditions, and Restrictions (CC&Rs) to govern the homeowners' association, including provisions relating to air quality and particularly noting that wood burning devices installed must comply with all applicable laws, regulations or ordinances (Par. 4); and
- Grant to a qualified holder a conservation easement, a deed of perpetual conservation easement, substantially in the form of Exhibit B to the Settlement Agreement, encumbering Parcel A (Par. 8).

DISCUSSION: With regard to the pre-conditions before any map approval, in addition to granting Parcel F to the City:

SWPPP: Andy Cassano on behalf of the Developer advises that the SWPPP was reviewed by the city years ago "…as the project has long since been fully constructed and the SWPPP closed out. The erosion control is in excellent condition out on the project…" and noting that the Developer even opted for some rock cobble armor on some of the slopes. The Developer has provided City with a copy of a letter from the Central Valley Regional Water Quality Control Board dated June 21, 2019 approving a termination of coverage under the Construction General Permit for Waste Discharger Identification until again necessary. Copy attached as Exhibit B.

CC&R's: The City has received a copy of compliant CC&Rs for Deer Creek Park II prepared by the Inman Law Group, LLP in Sacramento that include in paragraph 4.13 the following provision to comply with the Settlement Agreement:

> "Nothing shall be done or kept anywhere within the Development which violates any local, state or Federal law, ordinance, statute, rule or regulation. To the extent that wood burning deices are installed within the Development, all wood burning devices shall comply with all applicable state and county laws, regulations and ordinances."

A copy of the 51+ page CC&Rs is available from the City, but not attached due to the length.

Conservation Easement: The Developer has prepared a Grant Deed of Conservation Easement and Voluntary Agreement Creating Enforceable Restrictions in Perpetuity.by and between the Developer and the Bear Yuba Land Trust, a local non-profit public benefit corporation qualified to hold conservation easements (BYLT). This document was executed and recorded with the Nevada County Recorder on November 1, 2019. Andy Cassano on behalf of the Developer advises that approval and recording of this document preceded furnishing a copy to the City to take advantage of grants that were available for a limited time. The City was subsequently provided with a copy of the recorded Conservation Easement. On my review, I noted that the form and content of the executed and recorded document had been changed significantly from the suggested form notwithstanding the requirement in Paragraph 8 of the Settlement Agreement that the Conservation Easement should be "…substantially in the form of Exhibit B to this Agreement…" .. It was explained to me by Andy Cassano that the final document was fashioned by the attorney for BYLT, taking into consideration the sample document attached to the Settlement Agreement and assuring that the essential provisions of interest to the City were included, in a format it was comfortable with and including the provisions needed to comply with Federal Law and to meet national standards for land trust accreditation. A copy of a letter from the Co-Executive Director of BYLT is attached by way of a more complete explanation. It appears that BYLT has successfully captured the primary objectives that the City sought in reaching the Settlement Agreement and, as long as it is the only viable local entity qualified and willing to assume the obligations of the required Conservation Easement, I am inclined to defer to their judgment rather than to object to the change of format and content from the sample. A conclusion of substantial performance would seem justified and appropriate.

It appears that the Developer has complied with the conditions required of it prior to any final map; it is recommended that the City should acknowledge compliance with Settlement Agreement allowing Terra Alta to proceed with recording a map for the first 7 lots of Deer Creek Park II Development.

ATTACHMENTS:

- ✓ Exhibit A – Settlement Agreement between Developer and City
- ✓ Exhibit B – Unsigned copy of letter from CVRWQCB
- ✓ Exhibit C – Conservation Easement
- ✓ Exhibit D – Letter from BYLT re Conservation Easement
- ✓ Exhibit E – Draft Letter of City acknowledging compliance with Settlement Agreement pre-conditions to final map

SETTLEMENT AGREEMENT BETWEEN THE CITY OF NEVADA CITY AND TERRA ALTA DEVELOPMENT CO. REGARDING DEER CREEK PARK II

The City of Nevada City (the "City"), a California municipal corporation, and Terra Alta Development Co. ("Terra Alta"), a California corporation, (collectively, the "parties"), hereby enter into the following settlement agreement ("Agreement"):

RECITALS

A. On December 12, 2006, the County of Nevada (the "County") certified the Final Environmental Impact Report ("FEIR") for a residential development project in unincorporated Nevada County, known as Deer Creek Park II (the "Project"), proposed by Terra Alta. As proposed and analyzed in the FEIR, the Project includes 193 dwelling units; and

B. The City opposes the Project as proposed and analyzed in the FEIR, and has identified several potential inadequacies in the FEIR's analysis; and

C. The City is not opposed in principle to development on the Deer Creek Park II site; and

D. Based on negotiations with the City and community groups objecting to the Project as proposed in the FEIR, Terra Alta has submitted for County approval a modified version of the Project ("Modified Project") designed to address and substantially reduce or eliminate the Project's potentially adverse impacts. The Modified Project would include 62 dwelling units. Zoning and tentative subdivision maps of the Modified Project are attached hereto and incorporated herein as Exhibit A; and

E. Subject to the implementation of the conditions set forth herein, the City finds that the Modified Project, together with this Agreement, appropriately addresses potential impacts to the City relating to traffic, road maintenance, parking, park development and maintenance, water quality in Little Deer Creek, and regional air quality. Based on the modifications to the Project and with the incorporation of the conditions set forth herein, City will support the approval of the Modified Project; and

F. The City and Terra Alta now seek to resolve all claims and matters that may exist between them relating to the Project;

NOW THEREFORE, in consideration of the promises contained herein, the Parties agree as follows:

1. Support of Project: The City shall support the approval of the Modified Project orally or in writing before the County Planning Commission or Board of Supervisors, or in any other forum. Furthermore, the City shall not fund, or, unless otherwise required by law, provide any material support or assistance to, any third parties in opposing, obstructing, or delaying the approval of the Modified Project. For purposes of this paragraph, "City" includes any officers, agents, or employees of the City of Nevada City, acting in their official capacity.

2. Waiver of Red Dog Road Improvement: If, in connection with its application for the Modified Project, Terra Alta requests that the County waive any requirement that Terra Alta perform or fund improvements to Red Dog Road, the City shall not oppose, obstruct, or delay such waiver orally or in writing, before the County Planning Commission or Board of Supervisors, or in any other forum. Furthermore, the City shall not fund, or, unless otherwise required by law, provide any material support or assistance to, any third parties in opposing, obstructing, or delaying the approval of the map.. For purposes of this paragraph, "City" includes any officers, agents, or employees of the City of Nevada City acting in their official capacity.

3. Review of SWPPP: Terra Alta shall provide the City the opportunity to review and comment on any stormwater pollution prevention plan ("SWPPP") for the Modified Project before Terra Alta submits such SWPPP to the County for final approval. At least ten (10) business days before submitting such SWPPP to the County for final approval, Terra Alta shall provide a copy of the SWPP to the City for its review and comment. For purposes of this paragraph, the City Public Works Director or his or her designee may exercise the City's authority to review the SWPPP.

4. Air Quality CC&Rs: Prior to approval by the County of the first final subdivision map for the Modified Project or portion of the Modified Project ("Final Map Approval"), Terra Alta shall prepare covenants, conditions,

and restrictions ("CC&Rs") to govern the homeowners' association for the Modified Project. These CC&Rs shall include a provision requiring that all homes and homeowners comply with applicable federal, state, and local statutes, ordinances, and regulations relating to air quality. This provision shall particularly note that any woodburning devices installed in homes in the Modified Project must comply with all applicable State or County laws, regulations, or ordinances. Terra Alta shall provide the City with a copy of the CC&Rs prior to Final Map Approval.

5. Mitigation Fees: Terra Alta agrees to pay to the City as mitigation for the traffic and road maintenance impacts of the Modified Project, a fee in the amount of $5,800 for each residential lot created by subdivision for the Modified Project. Notwithstanding the foregoing, no such mitigation fee shall be levied upon the first 19 residential lots created, or upon creation of any parcel that is not designated for residential use in Exhibit A to this Agreement. Terra Alta shall fulfill its obligation under this paragraph as to each residential parcel no later than ten (10) days after the date that the final subdivision map creating that lot is recorded. Terra Alta will provide the City with a copy of the recorded final map within 10 days following the date of recording.

6. Quimby Act Fees: Terra Alta agrees to ensure that the City receives a payment equal to the full amount of the per-unit park and recreation fees that Terra Alta is obligated to pay to the County pursuant to the Quimby Act (California Government Code section 66477 et seq.) and the corresponding County ordinance (the "Quimby Act Fee").

   a. Terra Alta's obligation under this paragraph will be deemed fulfilled if, within 5 years after the County's approval of each final map associated with the Modified Project, the County has, during that 5-year period, made disbursements from its Quimby Act fund to the City equal to or greater than the amount of fees collected from the lots created by that map.

   b. If the County fails to make the disbursements described in paragraph 6(a) within 5 years after the approval of each final map, then Terra Alta shall pay to the City the difference between the amount of Quimby Act Fees paid in connection with that map and the amount that the County has disbursed from its Quimby Act fund to the City during that 5-year period.

7. Log Transport Fee: If at any time in the future, Terra Alta conducts timber harvest operations on any lands within the boundaries of the Modified Project ("Timber Operations"), Terra Alta shall pay to the City a log transport fee to mitigate the impacts of logging trucks on City roads. The amount of the log transport fee shall be calculated by multiplying (a) the number of miles of road within the City that trucks drive on for the Timber Operations, and (b) the per-mile rate of any fee collected by the County for the impact of truck trips on County roads due to timber harvest operations. The fee shall be due to the City at the same time the comparable County fee is due.

8. Conservation Easement: Prior to Final Map Approval, Terra Alta shall grant to the County, or to a land trust or other non-profit corporation qualified to hold a conservation easement, a deed of perpetual conservation easement, substantially in the form of Exhibit B to this Agreement, encumbering the parcel designated "A" on the tentative subdivision map in Exhibit A to this Agreement ("Parcel A"). The easement shall allow timber harvesting on Parcel A, and shall prohibit the subdivision of Parcel A, the construction of any structures on Parcel A, and uses of Parcel A that are incompatible with timber harvesting. The City shall be named a beneficiary of the easement and shall have authority to seek judicial enforcement of its terms.

9. Watershed Parcel: Prior to Final Map Approval, Terra Alta shall grant to the City, in fee, the parcel designated "F" on the tentative subdivision map in Exhibit A to this Agreement. This grant shall be effectuated through a grant deed in a form acceptable to the City.

10. Conditions of Approval: Terra Alta shall request in writing and use its best efforts to ensure that the County includes compliance with this Agreement as a condition of the County's approval of the tentative subdivision map for the Modified Project.

11. Mutual Release: Each party hereby acknowledges full and complete satisfaction of, covenants not to sue with respect to, and releases and discharges the other party from any and all claims, demands, actions, causes of action, suits, liabilities, losses, agreements, contract, covenants, wages, debts, costs, attorneys fees or expense, known or unknown, suspected or unsuspected, that either party now has or may have ever had against the other party, arising out of or in any way related to the Project or the Modified Project, or the environmental review thereof.

a. Nothing in this release shall be construed to limit or prevent either party from raising any claim with respect to any project that it is not substantially similar to the Modified Project that could be raised by any member of the public or public agency.

b. Nothing in this release shall be construed to limit or prevent either party from raising any claim relating to the operation, implementation, or construction of the Modified Project.

c. Nothing in this release shall be construed to limit or prevent either party from seeking enforcement of this Agreement, in any judicial or administrative proceeding, pursuant to its express terms.

d. Nothing in this release shall be construed to limit or prevent the City's exercise of its police power.

e. The parties acknowledge that they are apprised of and are expressly waiving all rights under the provisions of California Civil Code section 1542, which provides: "**A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.**"

f. For purposes of this paragraph, "party" includes each party and its heirs, executors, administrators, trustors, trustees, beneficiaries, predecessors, successors, assigns, members, partners, partnerships, shareholders, parents, subsidiaries, affiliates, officers, directors, employees, members, council members, managers, and attorneys.

12. Notices: All notices required under this Agreement shall also be directed to the individuals at the addresses and/or fax numbers specified below, unless these individuals or their successors give notice of a change to the other parties in writing.

<u>If to the City:</u>

Mark Miller
City Manager
City of Nevada City
317 Broad Street
Nevada City, CA 95959
Tel.: (530) 265-2496
Fax: (530) 265-0187

With a copy to:

Tamara Galanter
Shute, Mihaly & Weinberger LLP
396 Hayes St.
San Francisco, CA 94102
Tel.: (415) 552-7272
Fax: (415) 552-5816

<u>If to Terra Alta:</u>

Terra Alta Development Company
P. O. Box 1657
Nevada City, CA 95959

James Curtis
Shine Compton, APC
The Old Post Office
131 S. Auburn St., Ste. 200
Grass Valley, CA 95945
Tel.: (530) 272-2686
Fax: (530) 272-5570

13. Attorneys' Fees for Enforcement of Agreement: Each party in any action or proceeding to enforce or interpret this Agreement shall pay its own costs and expenses incurred, including but not limited to attorneys' fees and costs.

14. General Provisions:

    a. Entire Agreement. This Agreement, including all recitals and exhibits hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior or contemporaneous understandings, negotiations, representations, promises and agreements, oral or written, by or between the parties with respect to the subject matter hereof.

    b. Amendment: The provisions of the Agreement may not be amended, modified, or otherwise changed or supplemented except by a writing signed by authorized representatives of all parties to this Agreement.

    c. Governing Law, Interpretation: This Agreement is entered into and shall be governed by and construed in accordance with the laws of the State of California. Paragraph headings in this Agreement are for ease of reference only and shall not affect the meaning or interpretation of any provision of this Agreement.

    d. Severability: If any term or provision of this Agreement is ever determined to be invalid or unenforceable for any reason, such term or provision shall be severed from this Agreement without affecting the validity or enforceability of the remainder of this Agreement.

    e. Further Actions: Each of the parties agrees to execute and deliver all further documents and to take all further actions reasonably necessary or appropriate to effectuate the purposes of this Agreement.

    f. Counterparts, Facsimile Signatures: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one instrument. The parties shall be entitled to rely upon facsimile

copies of the parties' signatures to this Agreement and any instrument executed in connection herewith.

g. Successors and Assigns: This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective affiliates, successors and assigns.

h. Authority: The parties represent and warrant to each other that they have taken all requisite action to approve, authorize, execute and deliver this Agreement and that each person executing this Agreement on their behalf has all requisite power and authority to execute this Agreement and to bind the parties to the provisions of this Agreement.

i. Effectiveness: Notwithstanding any provision herein to the contrary, this Agreement shall not be effective unless and until it is executed and delivered by all parties.

IN WITNESS WHEREOF, the parties have executed this Agreement:

Terra Alta Development Co., a California corporation

By: _____ 8-23-07
Date
Its: Pres.

City of Nevada City, a California municipal corporation

By: Sally Harris _____ 8/23/07
Date
Mayor

Approved as to form:

James Anderson, City Attorney _____ 8/23/07
Date

CALIFORNIA
Water Boards

GAVIN NEWSOM
GOVERNOR

JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

06/21/2019

Site Info: Deer Creek Park 2 Unit A
Red Dog Rd
Nevada City CA 95959

Terra Alta Development
PO Box 1657
Nevada City CA 95959

WDID Number: 5S29C358560
Review Date: 06/21/2019
NOT Effective Date: 06/21/2019

APPROVAL: NOTICE OF TERMINATION (NOT) OF COVERAGE UNDER THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES (CONSTRUCTION GENERAL PERMIT), ORDER NO 2009-0009-DWQ, NPDES NO. CAS000002 (AS AMENDED)

The Central Valley Regional Water Quality Control Board approves the Notice of Termination (NOT) of Coverage under the statewide Construction General Permit for Waste Discharger Identification Number 5S29C358560 . Should site conditions change such that coverage under the Construction General Permit is again necessary, you must submit new Permit Registration Documents including a Notice of Intent (NOI), Storm Water Pollution Prevention Plan, site map, and appropriate fee.

The approval of your NOT is based, and expressly conditioned, on the accuracy and completeness of the information in your NOI to enroll in the Construction General Permit, all the documents you have submitted in support of your NOI, and the NOT. To the extent the information you have submitted is not accurate and complete, or to the extent discrepancies are found between the information you submitted and actual conditions at the site, the NOT shall be void ab initio and of no legal force and effect.

Please note, if applicable invoice(s) are unpaid when the NOT is approved, all outstanding invoices are required to be paid in full. If you have any questions regarding fees, please contact the Fee Branch at (916) 341-5247 or email fee_branch@waterboards.ca.gov

If you have any further questions, please contact the Central Valley Regional Water Quality Control Board at 916-464-3291 or email r5s_stormwater@waterboards.ca.gov

Sincerely,

Jorge Beltran
Central Valley Regional Water Quality Control Board

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DP

Nevada County Recorder
Gregory J. Diaz
Document#: 20190021867
Friday November 01 2019, at 11:19:13 AM
Rec Fee:$127.00 CC:$186.00
Paid: $313.00
Recorded By:KP

RECORDING REQUESTED BY:

Bear Yuba Land Trust

WHEN RECORDED MAIL TO:

Bear Yuba Land Trust
PO Box 1004
Grass Valley, CA 95945

(space above this line reserved for Recorder's use) Document Transfer Tax is $0

GRANT DEED OF CONSERVATION EASEMENT AND VOLUNTARY AGREEMENT CREATING ENFORCEABLE RESTRICTIONS IN PERPETUITY

Deer Creek Forest Reserve Conservation Easement

THIS GRANT DEED OF CONSERVATION EASEMENT AND VOLUNTARY AGREEMENT CREATING ENFORCEABLE RESTRICTIONS IN PERPETUITY is made and entered into as of this 1 day of November, 2019, by and between, Terra Alta Development (together with their successors and assigns, the "Grantor"), and THE BEAR YUBA LAND TRUST, a California nonprofit public benefit corporation (together with its successors and assigns, the "Grantee"), with reference to the following facts:

RECITALS

A. Grantor owns that certain real property consisting of approximately 331 acres, in Nevada County, California, described in Exhibit A and shown more particularly on the map attached as Exhibit B, together with all appurtenances thereto, including without limitation, all minerals and mineral rights, if any, and all water and water rights appurtenant to such land (collectively, the "Property").

B. The Property possesses conservation values of importance to Grantor, the people of Nevada County, and the people of the State of California, including, but not limited to, timber productivity, wildlife and plant habitat, and water resources (the "Conservation Values"), as more fully described in the Baseline Documentation Report and the Final Environmental Impact Report (FEIR) prepared for the Deer Creek Park Subdivision, as certified by the County in December 2006 and as more fully set forth herein; and

C. The Property is a mixed conifer forest presently dominated by incense cedar, Douglas-fir, ponderosa pine, and hardwood species such as black oak and madrone.

D. The parties and the City of Nevada City recognize and agree that timber harvesting in compliance with applicable provisions of state law and state regulations is compatible with the Conservation Values and open space use of the Property; and

E. The maintenance of such habitat helps support wildlife populations in the Sierra Nevada mixed conifer, and riparian habitat; and

F. Grantor desires to convey this Conservation Easement to the Grantee for the purpose of assuring that the open space created by working landscapes will be conserved and maintained forever in light of the changes inherent in a working forest environment, and that uses of the Property that are inconsistent with the Conservation Values will be prevented or corrected; and

G. Grantor has offered this Deed of Perpetual Conservation Easement in order to restrict the use of the Property in any manner other than for timber production and harvesting and forestry management, and in order to ensure the City that Little Deer Creek will be protected. Accordingly, this Deed of Perpetual Conservation Easement names the City of Nevada City as an intended third party beneficiary entitled to enforcement rights in accordance with the terms of this conservation easement, as set forth in Section 7, below. The Grantor, including their successors and assigns, shall provide the City with 60 days' advance notice in writing before any action is taken to amend, alter, release, or revoke this Conservation Easement.

H. The State of California has recognized the public importance and validity of conservation easements by enactment of Section 815 et seq., of the California Civil Code; and

I. Grantee is organized to protect and conserve natural areas and ecologically significant land, forests, agricultural land, and open space for scientific, charitable and educational purposes, and is a "qualified organization" within the provisions of Section 170(h) of the Internal Revenue Code of 1986, as amended (the "IRS Code"), is qualified to acquire and hold conservation easements, and meets the requirements of the IRS Code as a Section 501 (c) (3) tax-exempt non-profit corporation; and

J. To accomplish all the purposes, Grantor desires to convey to Grantee and Grantee desires to obtain from Grantor a working forest conservation easement defining, permitting and restricting the uses that may be made of the Property in order to preserve and protect forever the Conservation Values of the Property for the benefit of the people of the County of Nevada, and the people of the City of Nevada City, and agrees to accept the terms and conditions of this grant.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, based on the common law and, further, pursuant to Section 815 et seq. of the California Civil Code, Grantor grants, transfers, and conveys to Grantee, its successors and assigns, a perpetual conservation easement in gross, in, on, over and across the Property (the "Conservation Easement"); provided however, that this grant of Conservation Easement is expressly conditioned upon, and shall not be effective unless and until, a final map for the fourth phase of the Deer Creek Park II subdivision is recorded in the Official Records for the County of Nevada.:

1. PURPOSE

It is the purpose of this Conservation Easement to preserve and protect, and in the event of their degradation or destruction, to enhance and restore in perpetuity the Conservation Values of the Property including, without limitation, open space, forest productivity, wildlife and plant habitat and riparian water quality (the "Conservation Purposes"). It is further the purpose of this Easement to prevent any use of the Property that would significantly degrade, impair or interfere with its Conservation Values or Conservation Purposes. Grantor intends that this Easement will confine the use of the Property to such activities as are consistent with the purpose of this Conservation Easement consistent with its use as a working landscape. The principal objectives of this Conservation Easement are to establish and maintain productive forestry resources on the Property and, in consideration of the contribution timber products make to the economy and communities of the region and the State, to encourage the long-term, professional management of those resources and to facilitate the economically sustainable production of forest resources in a manner that minimizes negative impact and the duration of such impact on surface water quality, wildlife habitat, and other Conservation Values. Additional objectives of the Conservation Easement are to encourage sustainable management of soil resources, to conserve scenic and natural resources associated with the Property, and to maintain the essential forest characteristics of the Property's ecosystem for future generations. These objectives shall be accomplished through use of current scientific understandings of what constitutes best management practices as such practices may develop and evolve and in accordance with such Timber Harvest Plans/Forest Management Plans as may be approved by the California Department of Forestry and Fire Protection and/or any other appropriate governmental authority.

2. ACCEPTANCE

Grantee hereby accepts this Conservation Easement and agrees to hold it exclusively for the Purposes set forth in Paragraph 1, above.

3. BASELINE DOCUMENTATION REPORT

The Conservation Values of the Property are documented in a Baseline Documentation Report (the "Report") and the Final Environmental Impact Report (FEIR) prepared for the Deer Creek Park Subdivision, as certified by the County in December 2006. These documents were prepared by a qualified professional familiar with the environs, a copy of which has been provided to Grantor, and a copy of which is held by the Grantee. A copy of the Report shall be kept on file with Grantor and Grantee at their

respective addresses for notices set forth below. The Report is a material document intended to serve as an objective information baseline for monitoring compliance with the terms of this Easement. The parties acknowledge that the Report is intended to establish the condition of the Property as of the effective date of the Easement, and agree that the Report is an accurate representation of the biological and physical condition of the Property at the time of this grant. Notwithstanding the foregoing, if a controversy arises with respect to the nature and extent of the physical or biological condition of the Property, the parties shall not be precluded from utilizing any and all other relevant documents, surveys or other evidence or information to assist in the resolution of the controversy.

4. PERMITTED USES OF THE PROPERTY

Grantor retains the right to perform any act not specifically prohibited or limited by this Conservation Easement. Grantor's present uses and compatible historic uses of the Property as described in the Report, are deemed to be permitted activities consistent with the Conservation Purposes. Grantor retains all ownership rights consistent with such purposes, including, but not limited to, the right to exclude any member of the public from trespassing on the Property (other than Grantee and its representatives) and the right to sell or otherwise transfer the Property to anyone Grantor chooses.

The following are specifically permitted activities subject to the provisions of any Timber Management Plan:

A. The right to install minor, temporary structures necessary or appropriate in connection with the performance of prudent and customary land management activities, or the protection, preservation, or enhancement of the Conservation Values.

B. New structures to enhance recreational, conservation values and safety, including the capacity to manage the property as a working landscape including new watercourse crossings, culverts, bridges, picnic tables and other features may be allowed with prior Grantee written approval;

C. Forest Management. Grantor shall have the right to manage the Property, including removal of Timber/trees, brush, and vegetation, as described below, including the rights to establish and maintain a full and balanced range of stand ages and characteristics, allowed to move across the landscape over time. All removal of Timber shall be in accordance with a Timber Harvest Plan, Forest Management Plan, or similar document (the "Timber Management Plan") prepared by a licensed forester. Any Timber Management Plan must have the prior written consent of Grantee.

D. The right to trim and cut down and clear away any and all trees, brush, and vegetation, (i) which constitute a hazard to persons or property, and/or (ii) for purposes of fire management, disease or insect control or otherwise as necessary or appropriate for prudent land management, and/or (iii) for other vegetation management operations, including but not limited to fuel reduction projects, thinning of tree stands, and riparian restoration projects. The foregoing may include pesticide use to control vegetation (brush, grass, weeds, etc.) and/or insects.

E. Passive Recreational Uses. Grantor reserves the right to use the Property for hunting, fishing, passive, non-commercial recreational uses by Grantor and Grantor's invitees, provided that all such non-commercial hunting, fishing and passive recreational uses shall neither require nor result in any surface alteration, permanent structures or other development of the Property; except in areas with trail easements or future trails approved by Grantee.

F. Signs. The right to erect reasonably-sized signs to support and manage safety and permitted uses of the Property, including authorized and unauthorized entry and uses, educational or recreational content, or other appropriate markers in prominent locations on the property, such as boundary fences, trails, and access roads.

G. Water Rights. Grantor reserves the rights to hold and use all existing water rights on the Property for the benefit of the Property, to apply for additional riparian or appropriative rights as necessary for continued forest productivity and ecological uses and to obtain water supplies from any source permitted by law. This shall include the right to maintain, repair and replace minor diversion facilities subject to all applicable laws and government regulations.

H. Ecological Management Practices. The right to implement ecological management practices including, without limitation, exotic plant or animal removal, prescribed fire, and erosion control;

I. The right to control predatory and problem animals, including but not limited to, wild boars, coyotes, beavers, and ground squirrels and the right to control or eliminate noxious weeds and non-native plant species on the Property, all in accordance with applicable laws.

J. Roads or access easements to Nevada Irrigation District, the County of Nevada or other appropriate entity for a fire access road, and to the City of Nevada City for access to the property granted to the City as depicted as Parcel A on the attached Exhibit B.

K. A trail easement for trails along the alignment of the existing DS Canal and the Cascade Ditch, as depicted on the attached Exhibit D.

L. Rights previously granted to third parties for any easements over, under or through the Property.

M. Utility and water conveyance easements that may be granted to properties within the Deer Creek Park Subdivision or adjacent lands.

5. PROHIBITED USES OF THE PROPERTY.

Any activity on or use of the Property that is inconsistent with the Conservation Purposes of this Conservation Easement is prohibited. In making this grant, Grantor has considered the possibility that uses prohibited by the terms of this Conservation Easement may become of greater economic value than permitted uses, and that neighboring properties may in the future be put entirely to such prohibited uses. It is Grantor's belief that any such changes will increase the benefit to the public of the continuation of this

Conservation Easement, and it is the intent of both Grantor and Grantee that any such changes shall not be deemed to be circumstances justifying the termination, extinguishment or modification of this Easement. The following uses or activities are prohibited on the Property as not consistent with the Conservation Purposes of this Conservation Easement:

A. Inconsistent or Adverse Actions. The impairment or degradation of the Conservation Values of the Conservation Easement, except as reasonably related to the activities expressly permitted herein;

B. Structures. The construction or placement of any commercial, residential, temporary living quarters of any sort including mobile homes, house-trailers, permanent tent facilities, metal buildings, underground tanks, billboards, or other advertising.

C. Subdivision. The legal or de facto division, subdivision, or partitioning of the Property;

D. Dumping. The dumping, storage, or other disposal of non-biodegradable refuse, trash, animal carcasses or wildlife-attracting materials, sewer sludge, unsightly material (other than waste created by timber harvesting or fuels management operations on the property), toxic or Hazardous Materials;

E. Non-Native Species. The intentional introduction or release of any exotic non-native plant or animal species;

F. Agricultural Chemicals. The use of chemical fertilizers, pesticides, herbicides, biocides or other chemicals ("Agricultural Chemicals") shall be used only when (i) the Agricultural Chemicals are used only in the amounts and with that frequency of application which constitutes the minimum necessary to accomplish the objectives of using such substance, and (ii) the Agricultural Chemicals are used only in compliance with all applicable laws and regulations;

I. Commercial Uses. The establishment of any commercial or industrial use, except timber harvesting and related activities in accordance with the Timber Management Plan;

G. Natural Resource Development. The filling, dumping, placing, excavating, draining, dredging, mining, drilling, removing or exploring for or extracting of minerals, oil, gas, coal and other hydrocarbons, soils, sands, gravels, rocks, land fill or any other material on or below the surface of the Property, except for soils, sands and other material for personal use may be taken in such small amounts that do not adversely impact the Conservation Values of the Conservation Easement;

H. Alteration of Natural Water Courses. The manipulation or alteration of any natural water feature, including, without limitation, any water course, wetland, stream bank, vernal pool, shoreline or body of water, and activities or uses detrimental to water quality, including but not limited to \ degradation, pollution of any surface or subsurface waters, or rip-rapping, except as expressly provided in paragraph 4;

I. This Conservation Easement shall not sever or impair any riparian water rights appurtenant to the

Property;

J. Junk Yards. The storage or disassembly of inoperable automobiles, machinery, equipment and trucks for purposes of storage, sale, or rental of space for that purpose, except during active timber operations or during shutdown periods as may be necessary;

K. Calculation of Building Density. Use of the Property or any portion thereof for the calculation of building density under zoning laws for any lands not subject to this Conservation Easement.

L. There shall be no use of any motorized conveyance off the existing roads not directly related to forest management, infrastructure management, erosion control, forest related research, or wildlife management. Notwithstanding the foregoing, in the event of an emergency, Grantor may utilize motorized vehicles off-road if reasonably necessary for human or animal safety or care or to prevent material damage to the Property or adjacent property.

6. GRANTEE'S RIGHTS

The rights conveyed to Grantee by this Conservation Easement include, but are not limited to, the following:

A. Protection. Grantee may identify, monitor, preserve, and protect forever, the Conservation Values of the Property, and, if necessary, restore those values on the Property.

B. Implementing Activities. Grantee may perform such activities on the Property as Grantee reasonably determines are necessary or convenient to carry out these rights granted by this Conservation Easement.

C. Access. Grantee is hereby granted rights of access to enter upon the Property, including using appurtenant easements and rights of way, if any, and may enter upon the Property at reasonable times in order to inspect the Property, to identify the current uses and practices thereon and the baseline condition thereof, to monitor the uses and practices regarding the Property to determine whether Grantors' activities are in compliance with the terms of this Conservation Easement to enforce the rights herein granted, and to study and make scientific observations of the natural elements and ecosystems of the Property; provided that, except in cases in which Grantee determines in its sole judgment that immediate entry is required to prevent, terminate, or mitigate a violation of the Conservation Easement, such entry shall be upon prior reasonable notice to Grantor, and where possible, shall be at a mutually convenient time should Grantor so request. Where notice to Grantor of Grantee's entry upon the Property is required, Grantee shall notify any of the persons constituting Grantor or Grantor's authorized agents by telephone, mail, courier or in person prior to such entry.

7. REMEDIES

A. Notice of Violation; Corrective Action. If Grantee becomes aware that a violation of the terms of this Conservation Easement has occurred or is threatened to occur, or in the event that Grantor undertakes any activity requiring approval of Grantee without securing such approval, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the Conservation Values of this Conservation Easement, to restore the portion of the Property so injured at Grantor's sole cost and expense.

If Grantor fails to cure the violation within ten (10) days after receipt of notice from Grantee, or, under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fail to begin curing such violation within the ten (10) day period or fail to continue diligently to cure such violation until finally cured, Grantee shall have all remedies available at law or in equity to enforce the terms of this Conservation Easement, including without limitation the right to seek a temporary or permanent injunction with respect to such activity, to cause the restoration of the Property affected by such activity to the condition that existed prior to the undertaking of such prohibited activity, and/or to recover any damages arising from the violation, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury.

Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance, of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies.

The remedies described in this paragraph shall be cumulative and shall be in addition to all remedies hereafter existing at law or in equity. Furthermore, the provisions of California Civil Code Section 815 et seq. are incorporated herein by this reference, and this Conservation Easement shall include all the rights and remedies set forth therein.

B. Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Conservation Easement against Grantor, including costs of suit and attorney's fees, the costs of experts and other professionals and any costs of restoration necessitated by Grantor's violation of the terms of this Conservation Easement shall be borne by Grantor. If Grantor prevails in any action to enforce the terms of this Conservation Easement, Grantor's costs of suit, including reasonable attorney's fees, shall be borne by Grantee.

C. Emergency Enforcement. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the

Property, Grantee may pursue its remedies under this paragraph without prior notice to Grantor or without waiting for the period to cure to expire.

D. Grantee's Discretion. Enforcement of the terms and provisions of this Conservation Easement shall be at the discretion of Grantee, and the failure of Grantee to discover a violation or to take action under this paragraph shall not be deemed or construed to be a waiver of Grantee's rights hereunder in the event of any subsequent breach of the same or any other term of this Conservation Easement or of any of Grantee's rights under the same. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

E. Waiver of certain defenses. Grantor hereby waives any defense of laches, estoppel, or prescription.

F. Acts of Third Parties. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from acts by unrelated third parties so long as Grantor has taken all reasonable steps to control such acts.

G. Any mortgagee of the Property which wishes to receive notices of violations from Grantee pursuant to subparagraph 4.a may provide written notice to Grantee in accordance with the provisions of paragraph 19 requesting such notice. Grantee shall provide to any such requesting mortgagee the same notice as provided to Grantor of any violations of the terms of this Conservation Easement, ad shall provide to any such mortgagee the same opportunity to cure the specified violation as is provided to Grantee under this Conservation Easement. Failure to so notify any such mortgagee shall not give rise to any liability on the part of Grantee and shall not limit Grantee's rights to bring an action pursuant to subparagraph 4.a. Any such mortgagee of the Property shall not be required to cure the specified violation; nor shall such mortgagee be liable for any damages for any violation by Grantor, including any costs of enforcement as set forth in paragraph 10 herein. For the purpose of this paragraph, mortgagee shall be defined as any person, corporation, trust, partnership or entity having a legal or beneficial interest in the Property.

H. In the event the Grantee and/or City determine that any use or condition of the property does not comply with the terms of this Easement and such use or condition is a result of the activities other than by Grantor, including but not limited to actions by a trespasser, then Grantee and City shall be responsible for taking such legal action against the offending party to enjoin, correct, remediate the damage from any such third-party action as they may deem appropriate and Grantor shall not be liable to Grantee and/or City to address any such damage or changes in the property not directly caused by or expressly consented to by Grantor.

8. REPRESENTATIONS AND WARRANTIES

A. Hazardous Materials. Grantor represents and warrants that the Property (including, without limitation, any associated air, soil, groundwater, and surface water) is free of any conditions that individually or in the aggregate: (i) pose a significant risk to human health or the environment; (ii) violate any Environmental Law, as that term is defined below in Paragraph 15; or (iii) could

reasonably be expected to cause any person to incur environmental investigation, removal, remediation, or other cleanup costs. Grantor represents and warrants that to his knowledge, there are no underground tanks are located on the Property. Grantor represents and warrants that Grantor shall comply with all Environmental Laws in using the Property and that Grantor shall keep the Property free of any material environmental defect, including, without limitation, contamination from Hazardous Materials, as that term is defined below in Paragraph 15.

B. State of Title. Grantor hereby covenants to Grantee that Grantor is lawfully seized of fee simple title in the Property free and clear of encumbrances, except as of record; that Grantor has a good and lawful right and power to encumber the same; and that Grantor will forever warrant and defend the title thereto and the quiet possession thereof against the lawful claims and demands of all persons.

C. Compliance with Laws. Grantor represents and warrants that Grantor has not received notice of and has no knowledge of any material violation of any federal, state, county or other governmental or quasi-governmental statute, ordinance, regulation, law or administrative or judicial order with respect to the Property.

D. No Litigation. Grantor represents and warrants that to his knowledge, there is no action, suit or proceeding which is pending or threatened against the Property or any portion thereof relating to or arising out of the ownership or use of the Property, or any portion thereof, in any court or before or by any federal, state, county or municipal department, commission, board, bureau, agency or other governmental instrumentality.

E. Authority to Execute Conservation Easement. Grantor represents and warrants that the person executing this Conservation Easement on behalf of Grantor has been duly authorized by Grantor. Grantee represents and warrants that the person executing this Conservation Easement on behalf of Grantee has been duly authorized by Grantee.

F. No Representation or Warranty as to Tax Consequences. Grantee does not and has not made any representations or warranties as to the tax and/or legal effects of the granting of this Conservation Easement, and Grantor acknowledges that he has had the opportunity and has been advised to seek independent legal and/or accounting advice, and recognize and assume the risk of proceeding without it.

9. ACCESS

Nothing contained in this Conservation Easement shall give or grant to the public a right to enter upon or use the Property or any portion thereof where no such right existed in the public immediately prior to the execution of this Conservation Easement.

10. COSTS, LEGAL REQUIREMENTS, AND LIABILITIES

Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, use, upkeep and maintenance of the Property and agrees that Grantee shall have no duty or responsibility for the operation or maintenance of the Property, the monitoring of hazardous conditions thereon, or the protection of Grantor, the public, or any third parties from risks relating to conditions on the Property.

Grantor agrees to pay any and all real property taxes and assessments levied by competent authority on the Property before delinquency and Grantee is authorized but in no event obligated to make or advance any payment of taxes upon ten days prior written notice to Grantor, in accordance with any statement or estimate procured from the appropriate authority, without inquiry into the validity or the accuracy of the same, and the obligation created by such payment shall bear interest until paid by Grantor at the maximum rate allowed by law. Grantor shall keep Grantee's interest in the Property free of any liens, including those arising out of any work performed for, materials furnished to or obligations incurred by Grantor. Grantor shall be solely responsible for any costs related to the maintenance of general liability insurance covering acts on the Property. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any activity or use permitted by this Conservation Easement, and any activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. If more than one person or entity constitutes Grantor, the obligations of each and all of them under this Conservation Easement shall be joint and several.

11. INSURANCE AND INDEMNIFICATION BY GRANTOR.

Notwithstanding any other provision herein to the contrary, Grantor hereby agrees to indemnify, defend, and hold harmless Grantee, its members, directors, officers, employees, volunteers, agents, and contractors and their heirs, successors and assigns (the "Indemnified Parties") from and against any costs, liabilities, penalties, damages, claims or expenses (including reasonable attorney's fees) and litigation costs which the Indemnified Parties may suffer or incur as a result of or arising out of: the activities of Grantor on the Property, any representation or warranty made by Grantor being untrue, the obligations contained in paragraph 10, the existence or administration of this Conservation Easement, or any breach of this Conservation Easement. Grantee shall not be liable to Grantor for, and Grantor hereby releases Grantee from and waives any such liability for, any bodily injury, death or property damage, in or about the Property from any cause whatsoever. Grantor shall indemnify, defend by counsel satisfactory to Grantee, protect, and hold Grantee harmless from and against any claims, loss, liability, cause of action, cost or expense (including without limitation attorneys' fees) for bodily injury, death or property damage (i) occurring in or about the Property from any cause whatsoever, except any such claim resulting solely from Grantee's gross negligence, and (ii) resulting from or caused by Grantor's negligence or willful misconduct. From and after the date of this Conservation Easement, Grantor shall maintain in full force and effect, at its sole cost and expense, commercial general liability insurance in an adequate amount and Workers' Compensation and related insurance as required by applicable law. Grantee shall be named as an additional insured on Grantor's liability policy. Grantor shall deliver to Grantee a certificate from Grantor's insurer evidencing that Grantor is carrying the requisite insurance.

12. GRANTEE'S TRANSFER OF EASEMENT.

This Conservation Easement is not transferable, except that this Conservation Easement may be assigned, with the City's written approval, to an entity that is: (a) qualified under section 170(h) of the Internal Revenue Code (or any successor provision then applicable) and the applicable regulations promulgated thereunder; (b) authorized to acquire and hold conservation easements under California Civil Code 815.3 (or any successor provision then applicable); and © willing to accept the responsibilities imposed by this Conservation Easement. Upon the dissolution or other winding up of Grantee, Grantor shall ensure this Conservation Easement is assigned to an entity in accordance with this paragraph 12, or to the State of California.

13. GRANTOR'S TRANSFER OF THE PROPERTY.

A. Notification. Any time the Property itself or any interest in it is transferred by the Grantor to any third party, the Grantor shall notify the Grantee in writing prior to the transfer of the Property, and the deed of conveyance shall expressly refer to this Conservation Easement. Failure to notify Grantee or include the required reference to this Conservation Easement in the deed shall not affect the continuing validity and enforceability of this Conservation Easement.

B. Transfer Fee. A transfer of the ownership of the Property may result in an additional burden on the monitoring and enforcement responsibilities of Grantee; therefore, each such transfer (except for (i) transfers solely to change the method of holding title by the same party or parties, and (ii) inter-generational transfers between members of the same family) shall require the payment of a transfer fee to the Grantee's monitoring fund in the amount of 0.5 percent (five tenths of one percent) of the fair market value of the Fair Market Value. "Fair Market Value" shall be the sales price of the Property for an arm's length transaction. Grantee waives for any intra-family transaction involving descendants of either of the original Grantors.

C. No Merger. The Parties intend that a transfer to Grantee of the fee interest in the Property, or any portion thereof, shall not be deemed to result in a merger of the Conservation Easement into the fee title. In the event of such transfer, Grantee shall continue to manage the Property in accordance with the Conservation Purposes and, in the event of a subsequent transfer by Grantee of its fee interest in the Property, Grantee shall reserve therefrom the Conservation Easement.

14. AMENDMENT OF EASEMENT.

If circumstances arise under which an amendment to or modification of this Conservation Easement is appropriate, Grantor and Grantee may jointly amend this Conservation Easement; provided that no amendment shall be allowed that will affect the qualification of this Conservation Easement under any applicable laws, including, but not limited to, California Civil Code Section 815.1 and Internal Revenue

Code sections 501(c)(3) and 170(h) and any amendments or successor provisions thereto, and any amendment shall be consistent with the purpose of this Conservation Easement, and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of the County Recorder for the County of Nevada, California.

15. ENVIRONMENTAL INDEMNITY.

A.

A. Notwithstanding any other provision herein to the contrary, the parties do not intend this Conservation Easement to be construed such that it creates in or gives the Grantee:

(i) the obligations or liability of an "owner" or "operator" as those words are defined and used in environmental laws, as defined below, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC § 9601 et seq. and hereinafter "CERCLA");

(ii) the obligations or liability of a person described in 42 U.S.C. § 9607(a)(3) or (4);

(iii) the obligations of a responsible person under any applicable Environmental Laws, as defined below;

(iv) the right to investigate and remediate any Hazardous Substance (as defined below) associated with the Property; or any control over Grantor's ability to investigate, remove, remediate, or otherwise clean up any Hazardous Substance (as defined below) associated with the Property.

B. Environmental Liabilities and Indemnification. Grantor and Grantor's successors in interest shall indemnify, protect and defend with counsel acceptable to Grantee, and hold harmless the Grantee, its officers, directors, employees, contractors and volunteers (hereinafter, "Grantee's Indemnified Parties") from and against any claims (including, without limitation, third party claims for personal injury or death, damage to property, or diminution in the value of property), actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities (including sums paid in settlements of claims), remedial action, compliance requirements, enforcement and clean-up actions of any kind, interest or losses, attorneys' fees (including any fees and expenses incurred in enforcing this indemnity), consultant fees, and expert fees that arise directly or indirectly from or in connection with: (i) the claimed presence or Release (as defined below) of any Hazardous Substance whether into the air, soil, surface water or groundwater of or at the Property; (ii) any violation or alleged violation of Environmental Law (as defined below) affecting the Property, whether occurring prior to or during Grantor's ownership of the Property and whether caused or permitted by Grantor or any person other than Grantor; or (iii) any claim or defense by Grantor or any third party that any Grantee Indemnified Party is liable as an "owner" or "operator" of the Property under any Environmental Law. The foregoing indemnity obligations shall not apply with respect to any Hazardous Substance released or deposited as a result of action by the Grantee's Indemnified Parties on or about the Property. The indemnity obligations

of any successor in interest of Grantor pursuant to this Subsection 24 (c) shall be limited to the portion of the Property to which the successor takes title. Notwithstanding any statutory limitation otherwise applicable, the indemnity obligations of Grantor to the Grantee's Indemnified Parties pursuant to this Subsection 24(c) shall continue after transfer to a successor in interest unless a written request for consent to assignment of such indemnity obligations to a successor in interest is approved by Grantee. In considering any such request, Grantee may take into account the financial capabilities of the successor in interest, without regard to any third party financial assurances. Grantee's consent to such assignment may be denied only if there is a commercially reasonable basis for such denial.

C. Definitions.

(i) The term "Environmental Law" shall include, but shall not be limited to, each statute named or referred to below, and all rules and regulations thereunder, and any other local, state and/or federal laws, ordinances, rules, regulations, orders and decrees, whether currently in existence or hereafter enacted, which govern (i) the existence, cleanup and/or remedy of contamination or pollution on property; (ii) the protection of the environment from soil, air or water contamination or pollution, or from spilled, deposited or otherwise emplaced contamination or pollution; (iii) the emission or discharge of Hazardous Substances into the environment; (iv) the control of Hazardous Substances; or (v) the use, generation, transport, treatment, removal or recovery of Hazardous Substances.

(ii) The term "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of any Hazardous Substance into the environment (including, without limitation, the continuing migration of Hazardous Substances into, onto or through the soil, surface water, or groundwater, and the abandonment or discarding of barrels, containers, and other receptacles containing any Hazardous Substance), whether or not caused by, contributed to, permitted by, acquiesced to or known to Grantor.

(iii) The term "Hazardous Substance" shall mean (a) any oil, flammable substance, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials or pollutants which pose a hazard to the Property or to persons on or about the Property, or cause the Property to be in violation of any Environmental Law; (ib) asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls, or radon gas; (iii) any chemical, material or substance defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," or "toxic substances" or words of similar import under any applicable local, state or federal law or under the regulations adopted or publications promulgated pursuant thereto, including: CERCLA, 42 USC Section 9601, et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 USC Section 6901, et seq.; the Hazardous Materials Transportation Act, 49 USC Section 1801, et seq.; the Federal Water Pollution Control Act, 33 USC Section 1251, et seq.; the California Hazardous Waste Control Law ("HWCL"), Cal. Health & Safety Section 25100, et seq., Hazardous Substance Account Act ("HSAA"), Cal. Health &

Safety Code section 25300, et seq., the Porter-Cologne Water Quality Control Act (the "Porter-Cologne Act"), Cal. Water Code Section 13000, et seq., the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65); Title 22 of the California Code of Regulations, Division 4, Chapter 30; (iv) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority or may or could pose a hazard to the health and safety of the occupants of the Property or the owners and/or occupants of property adjacent to or surrounding the Property, or any other person coming upon the Property or adjacent property; and (v) any other chemical, materials or substance which may or could pose a hazard to the environment.

16. INTERPRETATION.

This instrument shall be interpreted under the laws of the State of California, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its Conservation Purposes. If any provision of this Conservation Easement, or the application thereof to any person or circumstances, is found to be invalid, the remainder of the provisions of this Conservation Easement, or the application of such provisions to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected. The parties acknowledge that each party and its counsel have reviewed and revised this Conservation Easement and that no rule of construction that ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Conservation Easement. If any provision in this Conservation Easement is found to be ambiguous, an interpretation consistent with the purpose of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. In the event of any conflict between the provisions of this Conservation Easement and the provisions of any use and zoning restrictions of the State of California, the county in which the Property is located, or any other governmental entity with jurisdiction, the more restrictive provisions shall apply.

17. CAPTIONS

The captions in this Conservation Easement have been inserted solely for convenience of reference and shall have no effect upon construction or interpretation.

18. PERPETUAL SERVITUDE

The easement created by this instrument shall be a servitude running with the land in perpetuity.

19. CITY OF NEVADA CITY THIRD PARTY BENEFICIARY

Grantor and Grantee and their respective heirs, personal and legal representatives, transferees, successors and assigns represent, acknowledge, covenant and agree as follows:

A. The City is an intended third party beneficiary of this Easement, with the right, subject to and on the terms set forth in this paragraph 19, to exercise independent enforcement authority against Grantor to enforce Grantor's obligations and otherwise enjoy all of the rights of Grantee subject to the procedures set forth herein below.

B. If the City in its sole discretion determines that Grantee has approved or consented to a proposed activity or use that is inconsistent with the purpose of this Easement or has not fully and/or effectively enforced any of Grantor's obligations or otherwise exercised Grantee's rights pursuant to this Easement, the City, as an intended third party beneficiary of this Easement, notwithstanding any prior approval, consent, or representation by Grantee or any exercise or non-exercise by Grantee of its rights, shall have the right, but not the duty, upon reasonable prior written notice to Grantee and Grantor and, where reasonably feasible, after conferring with Grantee and Grantor, to enjoin the inconsistent activity or use, compel performance of Grantor and otherwise exercise any and all of the rights or remedies of Grantee under the provisions of this Easement, including, but not limited to, those set forth in paragraph 4.

C. If the City exercises any of the remedies afforded to it under this paragraph 19, any sum recovered from such suit or other proceeding shall be applied first to cover the City's costs of enforcement, as further defined in paragraph 22.

D. The failure by the City to enforce any of Grantor's obligations or exercise Grantee's rights shall in no event be deemed a waiver of the right to do so thereafter.

E. Grantee and Grantor shall not cancel, terminate, rescind, or amend this Easement without the express written consent of the City.

19. NOTICES.

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by any other common method whereby receipt is confirmed, and addressed as follows or such other address as either party from time to time shall designate by written notice to the other.

To GRANTOR:

Terra Alta Development
PO Box 1657
Nevada City, Ca. 95959-1657

To GRANTEE:

Bear Yuba Land Trust
PO Box 1004
Grass Valley, CA 95945

To CITY:

City of Nevada City
317 Broad Street
Nevada City, CA 95959

With a copy to (which copy shall not constitute notice:)

City Attorney Jones & Mayer,
6349 Auburn Blvd.
Citrus Heights, CA 95621

20. CONDEMNATION

If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Conservation Easement, in whole or in part, Grantee shall be entitled to compensation in accordance with the ratio set forth in paragraph 22. All expenses reasonably incurred by Grantors and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered.

21. EXTINGUISHMENT

If circumstances arise in the future such as render the Conservation Purposes impossible to accomplish, including circumstances resulting from a default under the Conservation Easement, this Conservation Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and the amount of the compensation to which Grantee shall be entitled from any sale, exchange or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be determined as provided in Paragraph 22, below. Grantee shall use the net proceeds in a manner consistent with the Conservation Purposes of preserving land in Nevada County.

22. COMPENSATION

This Conservation Easement constitutes a real property interest immediately vested in Grantee. For the purpose of paragraph 21 (concerning extinguishment of Conservation Easement) the parties stipulate that this Conservation easement has a fair market value determined by multiplying (1) the fair market value of the Property as if it could be developed unencumbered by this Conservation Easement (minus any value attributable to improvements) by (ii) the ratio, expressed as a percentage, of the value of this Conservation Easement at the time of this grant to the value of the Property (minus any value attributable to improvements) as it could be developed unencumbered by this Conservation Easement at the time of this grant.

23. MISCELLANEOUS

A. All references in this Conservation Easement to statutes, regulations and other laws shall be deemed to refer to those statutes, regulations and laws currently in effect, or as amended (or any successor provision then applicable).

B. Grantee shall promptly record this instrument at Grantor's expense in the official records of Nevada County, California, and promptly notify the Grantor through the mailing of a conformed copy of the recorded Conservation Easement.

C. This instrument sets forth the entire agreement of the parties with respect to the Property and supersedes all prior discussions, negotiations, understandings or agreements relating to the Property, all of which are herein merged.

D. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it.

E. Should proceedings be brought to enforce or interpret any of the terms of this instrument, the prevailing party in any such proceedings shall be entitled to recover from the non-prevailing party its costs, including reasonable attorneys' fees.

F. Whenever Grantee's permission, consent or approval is required or requested pursuant to this Conservation Easement, such permission, consent or approval shall be obtained in advance and in writing from Grantee. Except as otherwise provided in this Conservation Easement, whether permission, consent or approval should be granted or denied shall be determined based upon the purposes of this Conservation Easement, and shall not be unreasonably withheld. Grantor shall be solely responsible for bearing all costs and expenses, including attorneys' and consultants' fees and costs, of: (i) Grantee's review of any request by Grantor for Grantee's permission, consent or approval of any development or other use of the Property for which Grantee's discretionary permission, consent or approval is required under this Conservation Easement; and (ii) Grantee's participation, at Grantor's request, in any regulatory proceeding for consideration of proposed development or other use of the Property allowed under this Conservation Easement.

G. Grantor remains solely responsible for obtaining any applicable governmental permits or other approvals for any activity or use allowed under this Conservation Easement. No right or privilege granted in this Conservation Easement, nor any right retained by Grantor, shall be interpreted as exempting Grantor from complying with all statutes, laws, ordinances, rules, regulations, codes, orders, or other restrictions applicable to the Property.

H. This Conservation Easement is effective upon recordation in the Official Records of the county in which the Property is located.

24. ACCEPTANCE

As attested by the signature of its Board President affixed hereto, as authorized by Grantee's Board of Directors/Trustees, in exchange for consideration, the Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Deed of Working Forest Conservation Easement.

To Have and To Hold, this Deed of Working Forest Conservation Easement unto the Grantee, its successors and assigns, forever.

In Witness Whereof, the Landowner and the Grantee, intending to legally bind themselves, have set their hands on the date first written above.

GRANTOR:

Terra Alta Development Company,
a California corporation

By: _____

Name: Laurence V. Amaral
Title: President

November 1, 2019
Date

GRANTEE

Bear Yuba Land Trust,
a California nonprofit public benefit corporation

By: _____

Name: Robert Smail
Title: President

November 1, 2019
Date

See Attached
CA Acknowledgement

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Nevada

On November 1, 2019, before me, Orion Ariel Perez Notary Public,
personally appeared Laurence V. Amaral

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing paragraph is true and correct.

ORION ARIEL PEREZ
Notary Public - California
Nevada County
Commission # 2276893
My Comm. Expires Feb 7, 2023

WITNESS my hand and official seal.

SIGNATURE

PLACE NOTARY SEAL ABOVE

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of attached document

Title or type of document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other than Named Above: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Nevada }

On November 1, 2019, before me, Orion Ariel Perez, Notary Public,
personally appeared Robert L. Smail

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing paragraph is true and correct.

ORION ARIEL PEREZ
Notary Public - California
Nevada County
Commission # 2276893
My Comm. Expires Feb 7, 2023

WITNESS my hand and official seal.

SIGNATURE

PLACE NOTARY SEAL ABOVE

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of attached document

Title or type of document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other than Named Above: _____

STATE OF CALIFORNIA) ss.
COUNTY OF NEVADA)

On this 1 day of November, 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert L. Small, known to me to be the person whose name is subscribed to the within instrument as _____ of _____ and acknowledged to me that he executed it.
IN WITNESS WHEREOF, I hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

_____
Notary Public in and for said County and State.

STATE OF CALIFORNIA) ss.
COUNTY OF NEVADA)

On _____, before me, the undersigned, 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(s) who executed the within instrument as the _____ and _____, respectively, of the BEAR YUBA LAND TRUST, a California nonprofit corporation, the corporation that executed the within instrument and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Signature_____
Notary Public in and for said County and State.

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

All that certain real property located in Nevada County, California, described as follows:

AN EASEMENT FOR THE HEREIN STATED PURPOSES situate within Sections 8, 9, 10, 15, 16, and 17 of Township 16 North, Range 9 East, M.D.M., Nevada County, California, **THE EXTERIOR OF WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

BEGINNING AT the quarter corner common to said Section 8 and 17;

THENCE FROM SAID POINT OF BEGINNING (1) along said common section line North 81°54'46" East, 77.48 feet;

THENCE (2) leaving said common section line North 17°06'12" East, 502.80 feet;

THENCE (3) North 20°59'20" East, 219.16 feet;

THENCE (4) North 13°48'20" East, 358.50 feet to a point on the boundary of the subdivision of Deer Creek Park 1B as filed in Book 4 of Subdivisions at Page 56;

THENCE (5) Following the boundaries of said Deer Creek Park 1B, North 89°47'54" East, 86.58 feet;

THENCE (6) North 86°28'05" East, 184.07 feet to the beginning of a non-tangent curve to the right, concave easterly, said curve has a radius of 230.00 feet, to which a radial line bears South 78°37'00" West;

THENCE (7) northerly along said curve through a central angle of 18°00'00" an arc distance of 72.26 feet;

THENCE (8) North 6°37'00" East, 200.00 feet to the beginning of a curve to the left, said curve has a radius of 170.00 feet;

THENCE (9) northerly along said curve through a central angle of 46°43'21" an arc distance of 138.63 feet;

THENCE (10) North 40°06'21" West, 12.00 feet to the beginning of a curve to the left, said curve has a radius of 20.00 feet;

THENCE (11) westerly along said curve through a central angle of 90°00'00" an arc distance of 31.42 feet to a point on the southerly line of Red Dog Road, a County road;

THENCE (12) along said road North 49°53'39" East, 100.00 feet the beginning of a non-tangent curve to the left, concave to the east, said curve has a radius of 20.00 feet, to which a radial line bears North 40°06'21" West;

THENCE (13) leaving said road southerly along said curve through a central angle of 90°00'00" an arc distance of 31.42 feet;

THENCE (14) South 40°06'21" East, 12.00 feet to the beginning of a curve to the right, said curve has a radius of 230.00 feet;

THENCE (15) southerly along said curve through a central angle of 46°43'21" an arc distance of 187.56 feet;

THENCE (16) South 71°04'14" East, 52.89 feet;

THENCE (17) North 24°50'00" East, 550.03 feet a point on said Red Dog Road, being the beginning of a non-tangent curve to the right, concave southerly, said curve has a radius of 130.00 feet, to which a radial line bears North 15°29'09" West;

THENCE (18) along said roadway easterly along said curve through a central angle of 23°14'56" an arc distance of 52.75 feet;

THENCE (19) South 82°14'12" East, 337.90 feet to the beginning of a curve to the right, said curve has a radius of 370.00 feet;

THENCE (20) southeasterly along said curve through a central angle of 38°42'36" an arc distance of 249.98 feet;

THENCE (21) South 43°31'36" East, 157.92 feet to the beginning of a curve to the left, said curve has a radius of 1,030.00 feet;

THENCE (22) leaving said roadway South 31°00'00" West, 764.48 feet;

THENCE (23) South 59°00'00" East, 880.61 feet;

THENCE (24) South 79°00'00" East, 149.93 feet;

THENCE (25) South 87°00'00" East, 1,010.06 feet;

THENCE (26) North 68°30'00" East, 123.28 feet;

THENCE (27) North 16°02'41" East, 252.25 feet to the beginning of a non-tangent curve to the left, concave to the northwest, said curve has a radius of 170.00 feet, to which a radial line bears South 13°00'00" East;

THENCE (28) northeasterly along said curve through a central angle of 57°00'00" an arc distance of 169.12 feet;

THENCE (29) North 20°00'00" East, 11.83 feet to the beginning of a curve to the left, said curve has a radius of 20.00 feet;

THENCE (30) northwesterly along said curve through a central angle of 97°04'06" an arc distance of 33.88 feet to the beginning of a non-tangent curve to the left, concave northerly, said curve has a radius of 230.00 feet, to which a radial line bears South 12°55'43" West;

THENCE (31) easterly along said curve through a central angle of 24°28'08" an arc distance of 98.23 feet to the beginning of a non-tangent curve to the left concave southeasterly, said curve has a radius of 20.00 feet, to which a radial line bears North 11°32'28" West;

THENCE (32) southwesterly along said curve through a central angle of 58°27'39" an arc distance of 20.41 feet;

THENCE (33) South 20°00'00" West, 46.86 feet to the beginning of a curve to the right, said curve has a radius of 230.00 feet;

THENCE (34) southwesterly along said curve through a central angle of 12°30'00" an arc distance of 50.18 feet;

THENCE (35) South 57°30'00" East, 120.00 feet;

THENCE (36) North 77°39'06" East, 71.84 feet;

THENCE (37) South 0°00'00" East, 85.00 feet;

THENCE (38) North 84°55'15" East, 137.34 feet;

THENCE (39) South 86°24'55" East, 174.83 feet;

THENCE (40) North 1°29'29" West, 114.20 feet;

THENCE (41) leaving the boundary of said Deer Creek Park Unit 1B, North 89°38'26" East, 280.99 feet to a point on the south side of Red Dog Road, a County road;

THENCE (42) along said roadway South 65°51'29" East, 29.33 feet to the beginning of a curve to the left, said curve has a radius of 1,000.00 feet;

THENCE (43) easterly along said curve through a central angle of 8°25'29" an arc distance of 147.04 feet;

THENCE (44) South 74°16'56" East, 768.89 feet to a point on the boundary of the subdivision of Deer Creek Park Unit 1A, as filed in Book 4 of Subdivisions at Page 1, Nevada County, California, being the beginning of a curve to the right, concave southerly, said curve has a radius of 350.00 feet;

THENCE (45) along said Deer Creek Park Unit 1A boundary, southeasterly along said curve through a central angle of 45°25'18" an arc distance of 277.46 feet;

THENCE (46) South 28°51'39" East, 64.15 feet to the beginning of a non-tangent curve to the left concave southerly, said curve has a radius of 20.00 feet;

THENCE (47) westerly along said curve through a central angle of 90°00'00" an arc distance of 31.42 feet;

THENCE (48) South 61°08'21" West, 230.00 feet;

THENCE (49) South 35°38'55" East, 99.22 feet;

THENCE (50) leaving said Deer Creek Park Unit 1A boundary South 79°14'59" West, 734.92 feet;

THENCE (51) South 71°09'30" West, 230.82 feet;

THENCE (52) South 50°40'58" West, 399.80 feet;

THENCE (53) South 24°21'14" West, 414.68 feet;

THENCE (54) South 2°09'24" East, 334.00 feet;

THENCE (55) South 56°36'24" West, 75.93 feet;

THENCE (56) South 56°36'24" West, 68.63 feet;

THENCE (57) South 44°21'06" West, 270.47 feet;

THENCE (58) South 13°26'36" West, 300.90 feet;

THENCE (59) South 15°38'54" East, 300.90 feet;

THENCE (60) South 46°33'24" East, 300.90 feet;

THENCE (61) South 75°38'54" East, 300.90 feet;

THENCE (62) North 73°26'36" East, 272.94 feet;

THENCE (63) North 59°47'37" East, 288.54 feet;

THENCE (64) North 38°00'00" East, 132.17 feet;

THENCE (65) North 87°44'09" East, 1,232.86 feet;

THENCE (66) North 38°03'21" East, 246.39 feet;

THENCE (67) South 71°17'50" East, 218.18 feet;

THENCE (68) North 90°00'00" East, 1,048.07 feet;

THENCE (69) North 0°00'00" East, 58.25 feet;

THENCE (70) South 80°57'56" East, 149.19 feet;

THENCE (71) South 83°30'52" East, 307.58 feet;

THENCE (72) North 81°27'45" East, 429.73 feet;

THENCE (73) North 46°05'57" East, 470.29 feet;

THENCE (74) North 10°42'19" East, 413.31 feet;

THENCE (75) North 0°00'00" East, 94.34 feet;

THENCE (76) North 3°26'36" West, 200.00 feet to a point on the boundary of the subdivision of Deer Creek Park Unit 1B filed in Book 4 of Subdivisions at Page 56, Nevada County, California;

THENCE (77) along said Deer Creek Park Unit 1B boundary, North 86°33'24" East, 149.70 feet;

THENCE (78) North 12°07'53" West, 70.00 feet;

THENCE (79) North 75°56'13" East, 144.40 feet;

THENCE (80) South 20°05'21" East, 200.00 feet;

THENCE (81) South 87°17'30" East, 865.16 feet;

THENCE (82) North 74°08'20" East, 140.00 feet;

THENCE (83) South 64°17'28" East, 150.00 feet;

THENCE (84) North 34°50'48" East, 129.87 feet to the beginning of a curve to the left, said curve has a radius of 20.00 feet;

THENCE (85) northerly along said curve through a central angle of 91°23'49" an arc distance of 31.90 feet to a point on said Red Dog Road, being the beginning of a non-tangent curve to the left concave northeasterly, said curve has a radius of 470.00 feet, to which a radial line bears South 33°26'57" West;

THENCE (86) southeasterly along said curve through a central angle of 1°23'51" an arc distance of 11.46 feet;

THENCE (87) South 55°09'12" East, 89.03 feet to the beginning of a curve to the left, concave southerly, said curve has a radius of 20.00 feet, to which a radial line bears North 34°50'48" East;

THENCE (88) leaving said Red Dog Road westerly along said curve through a central angle of 90°00'00" an arc distance of 31.42 feet;

THENCE (89) South 34°50'48" West, 130.00 feet;

THENCE (90) South 58°07'37" East, 150.00 feet;

THENCE (91) South 8°19'28" West, 90.00 feet;

THENCE (92) South 69°47'58" East, 350.00 feet;

THENCE (93) leaving said Deer Creek Park Unit 1B boundary, South 1°20'43" East, 239.61 feet to a point 100 feet from the thread of Little Deer Creek, measured horizontally and at right angles to the thread;

THENCE (94) along a line that continues 100 feet from the thread of Little Deer Creek, said line is approximated by the following meander courses: South 70°00'00" West, 89.42 feet;

THENCE (95) South 84°15'00" West, 225.51 feet;

THENCE (96) South 66°15'00" West, 119.00 feet;

THENCE (97) South 89°45'00" West, 111.70 feet;

THENCE (98) South 68°00'00" West, 97.55 feet;

THENCE (99) South 51°30'00" West, 141.50 feet;

THENCE (100) South 89°00'00" West, 182.03 feet;

THENCE (101) South 71°30'00" West, 201.40 feet;

THENCE (102) South 67°15'00" West, 197.97 feet;

THENCE (103) South 62°45'00" West, 191.38 feet;

THENCE (104) South 78°45'00" West, 149.31 feet;

THENCE (105) South 59°45'00" West, 201.42 feet;

THENCE (106) South 75°00'00" West, 67.76 feet;

THENCE (107) North 89°00'00" West, 69.39 feet;

THENCE (108) North 82°30'00" West, 147.56 feet;

THENCE (109) South 76°30'00" West, 144.96 feet;

THENCE (110) South 71°30'00" West, 109.34 feet;

THENCE (111) South 39°15'00" West, 36.76 feet;

THENCE (112) South 85°30'00" West, 71.59 feet;

THENCE (113) South 62°00'00" West, 87.39 feet;

THENCE (114) South 86°45'00" West, 15.14 feet;

THENCE (115) North 76°45'00" West, 46.97 feet;

THENCE (116) South 87°45'00" West, 39.22 feet;

THENCE (117) South 77°45'00" West, 31.99 feet;

THENCE (118) North 89°30'00" West, 56.87 feet;

THENCE (119) South 74°45'00" West, 61.28 feet;

THENCE (120) South 48°30'00" West, 39.75 feet;

THENCE (121) South 90°00'00" West, 124.62 feet;

THENCE (122) South 81°45'00" West, 62.81 feet;

THENCE (123) South 65°00'00" West, 53.03 feet;

THENCE (124) North 81°00'00" West, 45.63 feet;

THENCE (125) South 85°15'00" West, 62.15 feet;

THENCE (126) South 61°00'00" West, 173.55 feet;

THENCE (127) South 64°30'00" West, 91.99 feet;

THENCE (128) North 73°15'00" West, 100.77 feet;

THENCE (129) South 83°00'00" West, 70.45 feet;

THENCE (130) South 49°30'00" West, 63.43 feet;

THENCE (131) South 58°30'00" West, 251.04 feet;

THENCE (132) leaving said 100-foot creek meander line South 89°58'29" West, 1,317.52 feet;

THENCE (133) South 83°06'46" West, 303.09 feet;

THENCE (134) South 82°43'54" West, 649.48 feet;

THENCE (135) South 25°41'54" West, 540.00 feet to the north line of Banner Mountain Trail, a County Road;

THENCE (136) along said north road line South 88°36'26" West, 137.98 feet;

THENCE (137) South 77°36'58" West, 114.53 feet;

THENCE (138) South 63°24'18" West, 71.38 feet;

THENCE (139) South 56°02'34" West, 198.34 feet;

THENCE (140) South 67°45'18" West, 80.08 feet;

THENCE (141) South 86°16'20" West, 68.38 feet;

THENCE (142) North 73°06'28" West, 76.24 feet;

THENCE (143) leaving said north road line North 16°38'37" East, 307.82 feet;

THENCE (144) North 52°40'58" West, 566.35 feet;

THENCE (145) North 20°19'16" West, 105.27 feet;

THENCE (146) North 76°48'15" West, 219.25 feet;

THENCE (147) North 89°58'29" West, 232.59 feet;

THENCE (148) North 0°50'21" West, 1,339.62 feet;

THENCE (149) South 87°25'05" West, 2,762.03 feet;

THENCE (150) North 2°07'34" West, 1,314.30 feet to the Point of Beginning;

THIS LEGAL DESCRIPTION was prepared by me based on record data and on the approved tentative final map of Deer Creek Park II in July 2019.

Andrew R. Cassano, LS 4370
Professional Land Surveyor
Nevada City Engineering, Inc.

LICENSED LAND SURVEYOR
ANDREW R. CASSANO
L.S. #4370
STATE OF CALIFORNIA

7/30/19

EXHIBIT B

MAP OF THE PROPERTY (PARCEL A)

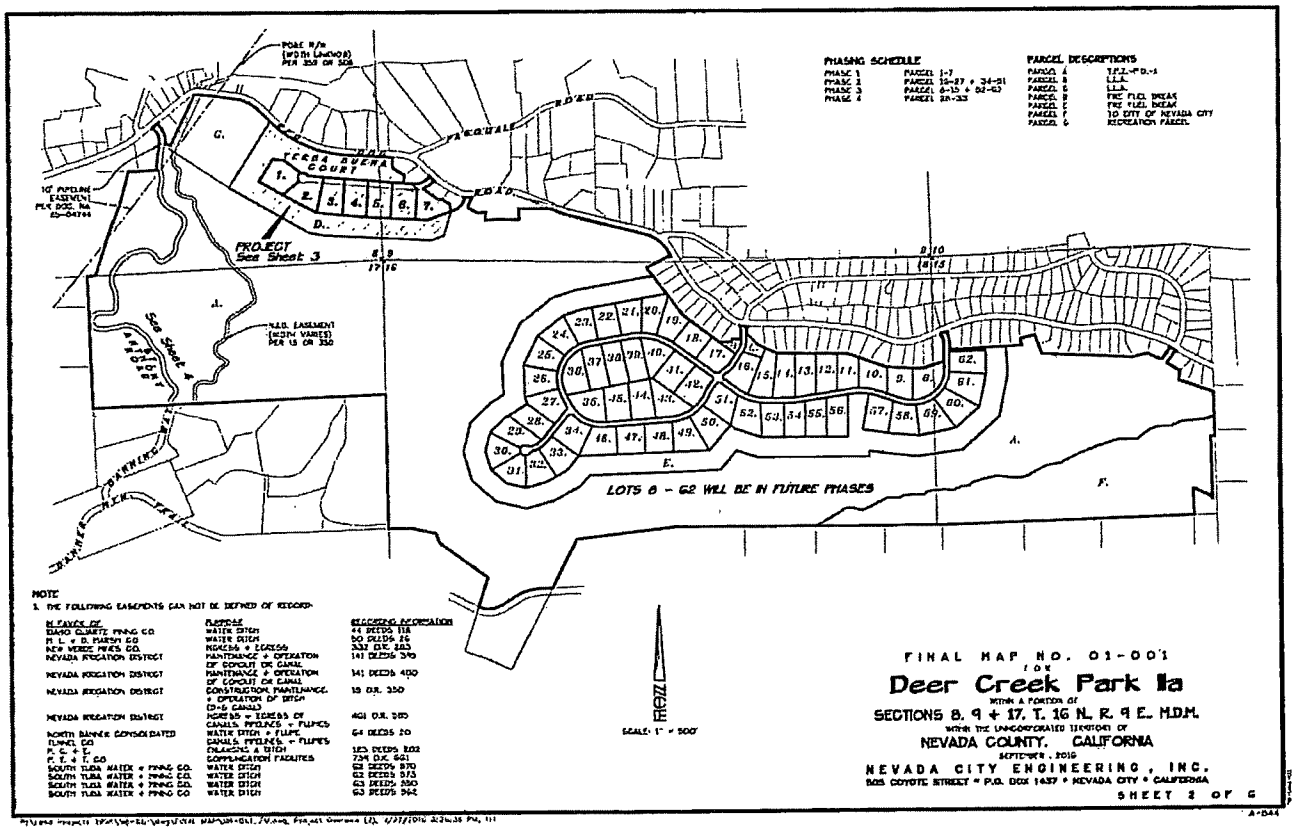

EXHIBIT C

STATEMENT CONCERNING BASELINE DOCUMENTATION REPORT

Grantor and Grantee have reviewed the following Baseline Documentation Report and hereby acknowledge that the Report accurately represents the condition of the Property at the time of execution of this Conservation Easement.

Grantor

Grantee Robert Smail Pres BHLT

EXHIBIT D

TRAIL EASEMENT

Board of Directors

Robert Smail
President
Kathryn McCamant
VP
Fred Holden
VP/Secretary
Fran Cole
Treasurer

Andy Cassano
Terry Hundemer
Letty Litchfield
Robin Milam
Trent Pridemore
Tim Ackerman

Erika Seward
Co-Executive Director

Erin Tarr
Co-Executive Director

December 3, 2019

City Council
CITY OF NEVADA CITY
317 Broad Street
Nevada City, CA 95959

Re: Deer Creek Park II Forestry Preserve Conservation Easement

Honorable Council Members:

We are pleased to report that after several months of working with the conservation easement donor, Terra Alta Development Company and their professional foresters, we have recorded a timber management conservation easement covering "Parcel A" of the approved tentative subdivision map consisting of over 300 acres of mixed forest. A copy of the recorded document has been provided to your staff.

In fashioning the final conservation easement, we considered the sample document attached to the settlement agreement between the City and Terra Alta, and we made sure to include the essential provisions of interest to the City, including but not limited to:

- Perpetual restriction prohibiting subdivision of the land area
- Perpetual restriction prohibiting construction of permanent structures in the land area
- The provision and funding for the perpetual annual monitoring of the easement area to assure compliance with the terms of the conservation easement
- Naming the City of Nevada City as having enforcement authority along with the land trust
- The land will be restricted to forestry management and timber harvest perpetually
- The baseline (existing conditions) report utilized much of the project environmental impact report's excellent studies, as well as current field reviews by our staff
- Our process included a legal defense fund contribution to be used, if needed, to defend and enforce the terms of the conservation easement.

In discussing the conservation easement with City Attorney Hal DeGraw, we noted that the recorded document is not a word-for-word match with the sample document in the City's settlement agreement. However, it does include all of the above points, which we understood to be most important to the City.

P.O. Box 1004, Grass Valley, CA 95945 • *phone:* (530) 272-5994 • *fax:* (530) 272-5997 • www.BYLT.org
12183 Auburn Rd., Grass Valley, CA 95949

Our organization has been serving this region since 1990, and we hold a number of other forestry reserve conservation easements. Our final conservation easement format started with a basic template that we have developed over the years based on our experience and which has been approved by our legal counsel. The document includes provisions needed to be in compliance with Federal Law and also to meet the national standards of land trust accreditation.

Over and above the City requirements, the landowner generously donated trail easements over the Nevada Irrigation District ditch berms to assure that they will remain open forever. We've also cooperated on a grant application that could result in substantial funding for underbrush removal for fire safety and forest health. We'll find out in March whether the grant has been funded.

It is our opinion that the document meets the intent of the settlement agreement and that it will serve the City, the general public, and the landowner well going into the future. I'm available to answer any questions that you might have regarding the document.

Respectfully submitted,

Erin Tarr
Co-Executive Director

Cc: Lance Amaral
Brian Valli

City of Nevada City

December 11, 2019

Planning Department
COUNTY OF NEVADA
950 Maidu Avenue
Nevada City, California 95959

REGARDING: FM01-001 (PLN16-0068, MCF16-0001) Deer Creek Park II, Phase 1 Final Map

Ladies and Gentlemen:

After a review of the status of the above referenced project by our staff and Council Members, we have determined that the applicant/owner has satisfied all of our requirements under the Settlement Agreement, including establishing a perpetual conservation easement on tentative map Parcel A and the fee title donation of tentative map Parcel F to the City.

Please note that we will need to review subsequent phases for compliance with on-going provisions and fees required by the agreement.

As affirmed by City Council action at our meeting of December 10, 2019, the City of Nevada City has no objection to the recording of the final map of Deer Creek Park IIa.

By:_____
Mayor

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

December 10, 2019

TITLE: Request for Placement of a Menorah Display in Robinson Plaza from December 22-30, 2019

RECOMMENDATION: Approve placement of the Menorah display; December 22-30, 2019.

CONTACT: Dawn Zydonis, Parks & Recreation Manager

BACKGROUND / DISCUSSION:
The Chabad of Grass Valley has rented Robinson Plaza the past two years for a Menorah Lighting ceremony. The attached letter has pictures and descriptions of the event. The event is not in question as the Chabad of Grass Valley has followed all rental procedures and requirements. The request being made is to allow the Menorah to stay in the Plaza beyond the times of the ceremony on December 23rd. City staff viewed this as being similar to an art display, so City Council direction is required to allow for the Menorah from the Ceremony to remain in the Plaza an extended amount of days.

The Menorah will remain in the plaza during the Chanukah holiday (December 22-30). The Festival of Lights will take place on Monday, December 23, 2019 and an additional light will be lit each night of the 9 nights that it is in Robinson Plaza and would be removed on Tuesday, December 31, 2019. The lights are on a timer and will turn themselves on, the only ceremony will be on the evening of December 23rd.

The event has been well received and attended by the community. The Police Department reported last year that the crowd did fill Robinson Plaza, but did not spill out into the street or cause any traffic hazards. The Public Works Department has no concerns with the suggested location for the Menorah. Event organizers checked in with the Chamber of Commerce to confirm there would be no conflicts with the Victorian Christmas activities. There are no other scheduled events at Robinson Plaza that would be in conflict with the Menorah placement for the requested days.

ENVIRONMENTAL CONSIDERATIONS: None

FISCAL IMPACT: Because there is an event on December 23rd and the organizers require access to electricity, they have rented the space for that night with a rental fee of $100. This fee is in place to cover costs of the City associated with such events.

ATTACHMENTS:
- ✓ Letter from Chabad of Grass Valley

ב"ה

Chabad
GRASS VALLEY

1289 Sutton Way, Grass Valley, CA 95945
530-404-0020 • rabbi@JewishGV.com
www.JewishGV.com • FB.com/JewishGV

November 13, 2019

Dear Esteemed Council Members & City Manager,

I hope this finds all of you in good health and spirits. I am writing to you concerning our proposal for the placement of a Menorah display in honor of the holiday of Chanukah at Robinson Plaza, in the center of Nevada City, near the City's Christmas tree. (Exact location: see pictures of previous years)

This year's Chanukah holiday begins on December 22nd and runs through the 30th. The Menorah is 9 feet tall and approximately 5 feet wide and holds 9 bulbs. Each night of the holiday an additional bulb would be turned on.

On Monday, December 23rd, Chabad of Grass Valley will be sponsoring its 4th annual community wide candle lighting ceremony, to which all are invited, regardless of background or race. Many council members and other elected official have attended our annual Menorah Lighting in previous years and supported our efforts to promote the Chanukah candles' message to all.

Chanukah, the "Festival of Lights", is a celebration of a great miracle - the victory of a small, beleaguered Jewish nation over its powerful oppressors. In lighting the menorah, we rejoice in the triumph of freedom over tyranny, good over evil, right over might, and light over darkness. The menorah proclaims to all that through our dedication and devotion, the light of goodness and freedom can never be obscured, that darkness will ultimately be banished forever. Thus the Menorah will truly enhance and add to the spirit of peace and harmony.

Since the late 1980s, Menorahs have become common throughout the United States including over 50 cities in Northern California. Should you wish, either myself or a representative of our organization could meet in person to explain more about the purpose and details of this proposal.

Looking forward to working with you to make this holiday season a most meaningful one for all of us. We hope that you will favorably consider this request.

Sincerely,

Rabbi Nochum Yusewitz
Director, Chabad of Grass Valley

P.S. The request of this letter is based on the Supreme Court's decision of July 3, 1989 (NOS. 87-2050 - 88-90 - 88-96) that a Chanukah Menorah Display is constitutional on Government/ Public property. Quoting from the Supreme Court's decision "Simply put, it would be a form of discrimination against Jews to allow (Pittsburgh) to celebrate Christmas as a cultural tradition while simultaneously disallowing the acknowledgment of Chanukah as a contemporaneous cultural tradition". The Court also recognized that Chanukah contains a universal message for all people of all faiths - a message of freedom, of good over evil, of light over darkness.

Chabad
GRASS VALLEY

1289 Sutton Way, Grass Valley, CA 95945
530-404-0020 • rabbi@JewishGV.com
www.JewishGV.com • FB.com/JewishGV

Rabbi Nochum & Chyena Yusewitz
Directors of Chabad of Grass Valley

Dedicated to spreading more love, goodness and kindness throughout Nevada County.

Last Year's Flyer

Chabad
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IN THE NEWS

Nevada County's first public "Menorah Lighting" on New Year's

Submitted by Rabbi Nochum Yusewitz

Nevada County's holiday celebrations will receive a significant boost this year when a 10-foot menorah is erected in the center of the county seat. An unprecedented "Menorah Lighting" celebration is scheduled for 7 p.m. on Dec. 31 at Robinson Plaza in Nevada City. Lighting the Chanukah menorah commemorates a "great miracle" in Jewish history, and remains a symbol of freedom over oppression, said Rabbi Nochum Yusewitz, director and spiritual leader of Chabad of Nevada County.

Chabad of Nevada County is one of 4,500 global centers, with a "vision to spread goodness, kindness, humanitarianism and spirituality." Yusewitz said he considers this inaugural event a significant milestone for the community.

This first celebration will include greetings from elected officials and a magical comedy show by Rob Rasner. Traditional holiday treats of sufganiyot (donuts), latkes (potato pancakes), and chocolate gelt (coins) will be served. The event, designed for all ages, will also include music, crafts, raffles, dreidels, photo booths and more.

As part of its Chanukah outreach campaign, Chabad of Nevada County joins thousands of Chabad Centers across the globe that are staging similar public displays of the Menorah and its symbolic lights. From Australia to Africa, Columbia to Hong Kong, New York City's ground zero to the White House lawn, hundreds of thousands will experience Chanukah with Chabad.

The Chanukah festival is sponsored by Chabad of Nevada County and is open to the entire community free of charge. For more information on this event, to receive a Chanukah kit or to find out more about Chabad's offerings to the community, contact Chabad of Nevada County at 530-404-0020 or email JewishGV@gmail.com.

THE UNION

ALUMNI NOTEBOOK
Grads help Sierra another tourney
SPORTS | B10

Support shown for man in animal

Hanukkah celebration lights up Nevada City

THE UNION

WEEKEN

WINTER GR
A natural ho
season celeb
HOME & GARDE

PHOTOS BY ELIAS [redacted]

Members of Chabad of Grass Valley help to light the menorah during Thursday evening's ceremony in celebration of the Jewish holiday of Hanukkah at Robinson Plaza. This is the third menorah lighting ceremony to be held in downtown Nevada City.

Lighting the way

Menorah lighting enters third year as downtown Nevada City tradition

By Elias Funez
Multimedia Reporter

"God gave us an obligation, to illuminate the world," Chabad of Grass Valley's Rabbi Nochum Yesewitz said to the crowd gathered for the third menorah lighting ceremony to take place at Robinson Plaza in downtown Nevada City.

Rabbi Yesewitz dedicated Thursday evening's ceremony to the victims of the Pittsburgh synagogue shooting where 11 people were killed in October.

"If we maximize the gifts that God gave us, we can change the world," Yesewitz said. "I will do everything in my ability to extend my arm, and see the reach that we can accomplish."

Prior to the lighting of the menorah — a sacred candelabrum used in Jewish worship during Hanukkah — attendees were treated to traditional Jewish treats, music, dancing and juggling performances from The Dancing Rabbi's from Brooklyn, New York.

"Let's reflect as we light the menorah tonight," Yesewitz said. "What is another good deed that I'll do to spread more light and change the world to combat the darkness and illuminate the entire world."

Bentzion Sheinberger and Mendel Wineberg from Brooklyn, New York make up the duo of The Dancing Rabbi's, who performed in front of Thursday evening's menorah lighting ceremony.

Chabad
GRASS VALLEY

1289 Sutton Way, Grass Valley, CA 95945
530-404-0020 • rabbi@JewishGV.com
www.JewishGV.com • FB.com/JewishGV

Photos

The Menorah Can Be Securely Mounted
in the ground in this spot (photo below).

Chabad
GRASS VALLEY

1289 Sutton Way, Grass Valley, CA 95945
530-404-0020 • rabbi@JewishGV.com
www.JewishGV.com • FB.com/JewishGV

People of all ages, faiths and backgrounds join for the Menorah Lighting to celebrate the Menorah's Universal Message.

Living and Loving Judaism

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

December 10, 2019

TITLE: Consideration of Removal or Sanctioning of the Current Mayor

RECOMMENDATION: Consider, discuss and possibly act on the removal or sanctioning of the current Mayor. Additionally, or in the alternative, provide direction to staff on whether amendments to the City Code of Conduct are desired.

BACKGROUND: A motion was made and seconded at the last regular Council meeting under Council Members Requested Items, and approved by 4 of the Council members, to agendize for the next regular meeting an item for the consideration, discussion and possible action on the removal or sanctioning of the current Mayor.

DISCUSSION:
A Special City Council Meeting was held on December 2, 2019 for Governance training with facilitator Gerry Preciado to aid Council members and staff to better understand the conduct expected and required of them. Attached are copies of materials distributed at that training session. As relevant to these proceedings, the City's Code of Conduct (copy attached) in Paragraph 18 after stating that "Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government" goes on to generally provide:

> "The City Council may impose sanctions on members whose conduct does not comply with the City's ethical standards, such as reprimand, formal censure, loss of seniority or committee assignment, or budget restriction."

ATTACHMENTS:

- ✓ Governance Training Power Point
- ✓ ILG Ethics of Speaking One's Mind (distributed at training)
- ✓ Resolution 2007-09 Nevada City Code of Conduct (distributed at training)
- ✓ Resolution 2012-27 Nevada City Succession Policy
- ✓ Rosenberg's Rules of Order (distributed at training)
- ✓ Mayors Letter
- ✓ Miscellaneous Correspondence

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Gerry Preciado

(916) 205-2264

gerrypreciado@34thstreetconsulting.com

www.34thstreetconsulting.com

Preamble to the Brown Act

Government Code §54950

Public commissions, boards, councils and other legislative bodies of local government agencies exist to aid in the conduct of the people's business. The people do not yield their sovereignty to the bodies that serve them. The people insist on remaining informed to retain control over the legislative bodies they have created.

Maintaining the Public Trust

Act in the best interest of the public

Avoid self-interested conduct and dealings

Do not abuse position or authority

Avoid the appearance of impropriety

Nevada City Needs *Leadership* Now

IN 30 DAYS WE START THE THIRD DECADE OF THE NEW MILLENNIUM. EFFECTIVE LEADERSHIP IS NEEDED NOW MORE THAN EVER!

34th Street Consulting

There is no universal definition for what constitutes a leader.

That doesn't stop people form writing countless books on the subject.

There is an almost universal definition for what constitutes leadership.

The ability to provide a common or shared objective, then motivating a group to achieve that objective.

LEADERSHIP

Everybody wants to change the world. But nobody wants to change themselves.

LEO TOLSTOY

34th Street Consulting

Paradigm – Our Lens to the World

We all view the world through a set of assumptions, beliefs, and values that basically serve as a filter or lens for our life experience.

How we respond or react to an event depends in large part on our lens to the world. There are more than 7.5 billion paradigms on planet Earth.

Who among us has been anointed King or Queen of the Paradigm Universe?

Don’t you think you’re making too much of this?

Don’t you think you’re overreacting to the situation?

You need to get thicker skin.

You are being too sensitive.

You’re wrong, that is not what they meant.

There is only one right way to do this.

Everyone knows that the best . . .

PERHAPS NONE OF US CLAIM TO BE QUEEN OR KING, BUT SOMETIMES WE ACT LIKE IT WHEN WE MAKE THESE STATEMENTS.

League of California Cities

INSTITUTE FOR LOCAL GOVERNMENT **(SEE ATTACHMENTS)**

Role of the Governance Team

VISION - Set the direction for the City

POLICIES & PROCEDURES – Adopt a framework for the City's operation and ensure it is adhered to by all

COMMUNICATE – Share the vision, expectations, and objectives for the City with the community

HIRE A CITY MANAGER – Attract, retain, and performance manage an effective leader and manager who can implement and shepherd the Council's vision

The Issue of Speech

Can I speak as a citizen?

Can I speak off the record?

What if my position is not consistent with the official position of the City or Council?

Energy Efficient Human Beings™

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Questions?

INSTITUTE FOR LOCAL GOVERNMENT℠
Promoting Good Government at the Local Level

Attributes of Exceptional Councils

Leading public organizations and governing with colleagues on a council is a challenging art of community service. The Institute recognizes that many aspects of leadership and governance are not intuitive. This piece is intended to provide councilmembers and city managers insight into the attributes of exceptional councils as well as provide practical tips to help them become exceptional.

1. Exceptional councils develop a sense of team – a partnership with the city manager to govern and manage the city

The mayor, councilmembers and city manager see themselves and work as a team as they undertake a series of tasks to further their common purpose. The individual team members work in a coordinated and collaborative manner with a high degree of respect, trust and openness. The team values diversity in style and perspective. The team thinks and acts strategically as it examines issues/situations and decides on a course of action serving their city's mission and goals.

KEY CHARACTERISTICS

- Successfully transition from candidate to a member of the council.
- Become a champion of the city. Make decisions based on the needs and interests of the community at-large / the greater good.
- Develop, communicate and support policy goals and council decisions.
- Demonstrate a willingness to work collaboratively (as a team) and have a citywide perspective.

BEST PRACTICE TIPS

Build capacity to create a more effective team. The governance team (mayor, councilmembers and city manager) should get to know each other; how each person approaches issues, decision making style and so on. This can be accomplished at annual meetings or workshops through-out the year. In the event that councilmembers disagree, clear ground rules (norms of behavior and practice) can help quell acrimony before it becomes a problem. It's important to remember that trust is built around understanding and respect, not necessarily agreement.

2. Exceptional councils have clear roles and responsibilities that are understood and adhered.

Exceptional councils understand their role is to serve as policy maker - to represent the values, beliefs and priorities of their community while serving in the community's best interest. They carry out a variety of responsibilities including: developing and adopting a vision for the city; focusing and aligning plans, policies, agreements and budgets in furtherance of this vision; and holding themselves and the city manager accountable for results.

Exceptional councils understand that the city manager is responsible for the day-to-day operations of the city. The city manager is responsible for undertaking and accomplishing the policy objectives of the council. Exceptional councils recognize the subject matter expertise of staff and utilize their knowledge and experience to guide and inform decision making.

KEY CHARACTERISTICS

- Understand the role of local government and their responsibilities.
- Know their role- to set vision and policy, avoid micromanagement.
- Councilmembers should strive to be informed about the issues facing the city and be prepared to ask questions of staff and each other.

BEST PRACTICE TIPS

Create a shared understanding of the city manager's role and the council's expectations to optimize the working relationships. This shared understanding is informed by local charter and ordinance provisions that provide the overall framework for the relationship. The council should make time to have conversations during retreats and or study sessions to define and/or reveal and refine their role and responsibilities. Since role clarity between the city council and city management is critical to mutual success, having clear protocols helps avoid misunderstandings.

3. Exceptional councils honor the relationship with staff and each other

Exceptional councils understand that a good working relationship with staff is vital for the city to be run successfully. Exceptional councils treat each other and staff with dignity and respect. They act with civility and a high level of professional decorum. Councilmembers build trust by not playing the “gotcha game” and strive to have a no secrets, no surprises approach as an operating norm. Finally, they respect the diversity of styles and perspectives among their colleagues and staff and are open to new ideas.

KEY CHARACTERISTICS

- Councilmembers have the ability to respectfully disagree (to disagree without being disagreeable). They are able to leave it at the dais; debates are about policy, not personality.
- Exceptional councilmembers reflect positive decorum/model of leadership by providing respectful tone with colleagues.
- Establish a set of behaviors ahead of time, potentially documented in a code of conduct, to help promote civility and respect.

BEST PRACTICE TIPS

Set council priorities and strategic goals at an annual meeting; these goals and priorities are a tool to guide the city manager and staff on where to focus their efforts. This annual meeting provides time for the council to reflect on community priorities as well as offer an opportunity to discuss their decorum and their relationship among each other and the relationship between the city manager/staff and the council.

4. Exceptional councils routinely conduct effective meetings

Open and public meetings are central to democratic decision-making. Exceptional councils master the art of effective meetings. They develop and adhere to meeting protocols and processes. They spend time planning and organizing the agenda with the aim of having a more focused meeting. They allocate the council’s time and energy appropriately (focused on the council’s role and responsibilities) and meeting short- and long-term priorities. They honor the public’s participation and engagement and they generally start on time and are held during reasonable hours.

Exceptional councils use public meetings not only for their intended purpose, information sharing and decision-making,

KEY CHARACTERISTICS

- Councilmembers are respectful of each other, the public and everyone’s time.
- Councilmembers use engaging body language as a way to demonstrate respect.
- Issues are not personalized, thoughtful dialogue is the objective.
- Agenda packets are read, councilmembers come prepared and have an open mind
- Respect is demonstrated for varied opinions.
- Everyone strives to be civil and act with decorum.

but they also use the meeting to demonstrate respect and civility for each other, staff and the public. Exceptional councilmembers prepare in advance of the meeting, remain focused on the city goals and objectives and mindful of their role and responsibilities.

BEST PRACTICE TIPS

Develop and adopt (with regular reviews and updates), guidelines for conducting meetings and making decisions. These governance protocols typically address meeting procedures (agenda preparation, how to put issues on the agenda, debate and voting procedures (parliamentary rules) and standards of decorum (civility)). As part of a regular self-assessment, councils should evaluate their meetings and their effectiveness and adjust behavior and practices for better results.

5. Exceptional councils hold themselves and the city accountable

Exceptional councils operate openly, ethically and work to engage the community in a myriad of decisions impacting the prosperity and well-being of their community. Toward that end, exceptional councils consistently provide short- and long-term strategic direction and goals, as well as provide budget, program and policy oversight.

Exceptional councils hold themselves accountable for the conduct, behavior and effectiveness of the council. They establish clear priorities and goals and hold the city manager accountable for results. And finally, they embrace accountability as a process and tool to calibrate ongoing efforts to address and meet policy and program objectives.

KEY CHARACTERISTICS

- Councilmembers operate ethically and with integrity.
- Councils conduct team building / goal setting exercise to track progress towards mutually agreed upon goals
- Councils taking responsibility for the results (good and bad).
- Councils celebrate success.
- Councilmembers hold themselves responsible for adhering to operating protocols and codes of conduct.

BEST PRACTICE TIPS

Annually evaluate council and city manager performance toward achieving the city's priorities and goals (consider having this be part of an annual goal setting meeting). Council should consider assessing its own behavior and effectiveness as part of its annual self-assessment.

6. Exceptional councils have members who practice continuous personal learning and development

Governance is not intuitive. In addition, the policy and economic environment impacting cities are ever changing. Exceptional councils continually provide the opportunity to build their knowledge and skills, to enhance their understanding of key issues, increase their awareness of best practices and sharpen their leadership and governance skills.

KEY CHARACTERISTICS

- Stay informed on key issues
- Gain key insights and knowledge on all aspects of governing, from budgets to plans and everything in between.
- Learning to listen is sometimes more important than learning to give a speech.

BEST PRACTICE TIPS

Seek out national, state and local professional growth and educational opportunities. These opportunities can focus on the nuts and bolts of governing to helping you gain valuable information and/or insights on key policy issues facing your city. In addition, city run orientations for newly elected officials provide a good way to acclimate new members to the council's norms and protocols as well as the budget and key policy issues.

Everyday Ethics for Local Officials

The Ethics of Speaking One's Mind

June 2008

QUESTION

I am an elected official. My colleagues on the governing board of my agency voted to oppose legislation that I personally support (it was a split vote and I voted no). I have communicated my views to our local Congress member. Now I am being accused of violating my ethical duty to support the agency's position. My view is that I have an ethical duty and a First Amendment right to share my views with anyone who wants to hear them, including our Congress member. Who is right on this issue?

ANSWER

This question poses an interesting conflict between multiple ethical values. One is the *responsibility* to advocate one's sense of what best serves the public's interests in a situation --- whether or not others share that viewpoint. The other values are *respect* for a decision-making process and *loyalty* to the organization as a whole. These values might suggest that an official accept the will of the majority and the result of the collective decision-making process.

A good question to ask when faced with conflicting or "right versus right" ethical dilemmas is, "What course of action best promotes the public's interests and its confidence in the decision-making process?" Let's analyze this dilemma using that framework.

The Importance of Starting With the Public's Interests

To start on solid ethical ground, your reason for disagreeing with the majority needs to be firmly rooted in your sense of what best serves the public's interests in your community. You say that you personally support the legislation. Is this because you think that the legislation's passage will be in your constituents' best interests?

As a public agency decision-maker, you have a duty and responsibility to put the public's interests ahead of all others --- including your own --- in your decision-making. Factors to consider include (but are not limited to):

- Whether the legislation's passage would effectively address an issue the community is grappling with;

- Whether the legislation would enhance (or not erode) the agency's authority to address issues of concern to the community; and

- Whether the legislation is consistent with the agency's legal and fiscal interests.

If you base your legislative position on other factors, you may want to rethink your position and whether you should participate in the agency's decision-making process on this item.

For example, it would be inappropriate to vote your views based on your business's interests. Furthermore, if you have a personal financial interest in the decision, you may be disqualified from participating in the decision.

Similarly, if you serve on the board of a nonprofit organization that cares deeply about the legislation, the public might reasonably question whether your position is based on the community's general interests or the narrower interests of the nonprofit. You may want to step aside from the decision-making process to avoid any questions about what motivates your position. Some officials take this concept of undivided loyalties to the point of resigning leadership positions in nonprofit organizations so they can fully commit their loyalties to the public agency and the community that the agency serves.

You may also want to make it clear in any advocacy efforts you engage in that you are doing so in your capacity as a spokesperson for the nonprofit, *not* as a public official.

Here is another important thing to keep in mind: "When one works in the public sector, and particularly as one moves up the levels of the organizational hierarchy in the public sector, one becomes less and less a 'public citizen' and more and more a 'public servant.' This is part of the responsibilities and burdens one accepts as a public official," observes Associate Professor Craig Dunn of Western Washington University, whose research includes managerial ethics and values. Being a public servant may constrain your activities in many ways, including the open expression of personal views. Having the right to engage in an activity doesn't mean exercising that right is necessarily the best course of action.

In serving the public, officials routinely face difficult policy choices in which reasonable people can conscientiously reach differing conclusions on what best serves the community's interests. All the public officials consulted on this topic said that it is not unethical for a public official to remain true to his or her sense of what best serves the public's interests, even if a majority of colleagues on the decision-making body don't share those views.

Mountain View City Manager Kevin Duggan characterizes the competing considerations in clear terms:

> ... it is good practice for members, to the greatest degree possible, to support the position of their legislative body after the vote is taken. This demonstrates respect for the deliberations and decision-making of the body and communicates a clear message of the position of the council, board, etc.
>
> However, continuing to espouse another opinion is not in and of itself unethical in my view. You could even make the point that advocating a contrary position on a matter that the board has voted on (especially a matter of consequence that a member has a fundamental objection to) could in fact be the ethical thing to do.

The question is not so much *whether* you persist in your view that the majority's view is mistaken but *how*.

Communicating Clearly When Speaking on Behalf of Others

When speaking on behalf of the city to a member of Congress, Rancho Cordova City Council Member Ken Cooley indicates that he believes he has a responsibility first to share the city's officially adopted position, even when his views are out of step with his colleagues' views. After he has shared his agency's official perspective, if he feels that it would also be helpful to the Congress member, he would also share his individual perspective.

For John Longley, Porterville city manager, whether you use your title is an important issue. He believes that a personal perspective that differs from the agency's adopted position should be shared without using your official title. This makes a clear distinction between the agency's position and your differing position.

Dick DeWees, mayor of Lompoc, adds, "The public official must make it absolutely clear in any written or oral communication that his or her position on the issue is contrary to the majority position of the agency he or she represents." This gets to the ethical value of trustworthiness --- being very forthright about the full set of facts related to an issue and leaving nothing to inference (for example, the inference that if one city official feels a certain way about an issue, then the city must also feel that way).

Bob LaSala, former city manager of Lancaster and Sunnyvale, believes a dissenting elected official "has an obligation to both the majority position as the official position of the agency *and* to her minority position on the issue." LaSala believes that as long as she is not representing her position as that of the agency (and specifically stating that she is not speaking on behalf of the agency and that there *is* an official position), then it is perfectly acceptable to present another point of view to the Congress member. LaSala says, "Doing so in this way will actually foster the process of respectful disagreement and acknowledge both the rule of the majority and the importance of the minority opinion."

The Issue of Using Public Resources

Using agency stationery or other resources to promote your minority position prompted mixed reactions. A good practice is to have a policy that sets out the collective views of the governing body or local agency on when it is OK to use agency letterhead. For example, the City of San Pablo has the following policy:

A. To the extent allowed by law, and subject to the restrictions set forth in paragraph B, individual city council members may have letters or other written communications prepared by the City Manager's Office and sent on city stationery provided that the subject matter of the correspondence concerns official city business or matters within the subject matter jurisdiction of the city council. The correspondence should clearly state that the opinions expressed therein are the personal opinions of the council member and do not necessarily reflect the consensus of the city council. Copies of all such correspondence should be sent to each member of the city council.

B. Notwithstanding paragraph A, above, whenever a matter is agendized for city council consideration, and that matter may or does result in a letter or other written communication from the city council, any such letter shall be sent on behalf of the entire city council and shall be signed by the mayor. No other letters or written communications shall be prepared by city staff on behalf of individual city council members on such matters unless so directed by city council action.

As Merced Deputy City Attorney Ken Rozell notes, policies on using agency letterhead vary. Rozell explains, "Some jurisdictions do not allow individual elected officials to use agency letterhead at all, some allow an elected official to use letterhead with his or her name on it (in other words, individualized letterhead indicating status as an elected official for the agency) while other jurisdictions allow a letter to be sent out on agency letterhead if the letter has been preapproved." Having a policy so everyone knows what is and is not OK is very helpful.

In this context, it is important to remember a key point: Both personal and political use of public resources are prohibited.[1] A local official would be well-advised not to use public resources to promote what might be perceived as (or actually be) individual personal or political agendas.

Keep the Tone of the Debate Respectful, Civil and Honest

John Beauman, mayor pro tem for the City of Brea, shares his perspective:

> It is one thing to respectfully differ with a majority opinion, expressing an opposing viewpoint objectively stating why --- but quite another to continue making a public issue of it by badmouthing one's colleagues. Everyone votes on a matter from their respective understanding of the issue, which may differ. We

> make the best decision we can under the circumstances --- which include the data we receive and from whom.
>
> To argue and publicly attack one's colleagues does not persuade anyone of the validity of one's argument, nor does it win others or public opinion over to one's viewpoint. . . . Once a matter is settled by a majority vote, continually attacking the opposing side creates a climate of distrust and contention that carries over to all future business to the point that it tends to become personal, which interferes with conducting the people's business in a professional and orderly manner.

Creating a climate of distrust and contention is not consistent with your ethical obligations as an elected official, especially if you undermine the public's trust and confidence in the decision-making process simply because your perspective did not prevail. Of course, it is never ethical to misrepresent, distort or "spin" the position or the motivations of the majority for taking the position in question --- such an approach is inconsistent with the ethical value of trustworthiness.

As Dr. Martin Luther King Jr. observed, the means one uses must be as pure as the end one seeks --- worthy ends never justify questionable means.

The Relationship Issue

There also are short- and long-term elements to the analysis of what to do in a given situation. City of Port Hueneme Council Member Murray Rosenbluth agreed that he would be inclined to share his dissenting concerns with the Congress member, making it clear that he was speaking only for himself. Council Member Rosenbluth noted that he would also need to weigh the wisdom of possibly alienating his colleagues. As a participant in a decision-making process that draws on multiple decision-makers, it can be both useful and ethical to respect the views of those with whom one disagrees on a given issue.

John F. Kennedy looked at this issue in *Profiles in Courage:*

> Realizing that the path of the conscientious insurgent must frequently be a lonely one, we are anxious to get along with our fellow legislators . . . We realize, moreover, that our influence . . . --- and the extent to which we can accomplish our objectives and those of our constituents --- are dependent in some measure on the esteem with which we are regarded by other [decision-makers].[2]

To go back to the means versus ends issue, this is a situation where using good means can also help one achieve good ends: greater effectiveness with one's colleagues. There are accounts of decision-makers, who started on the short side of a three-to-two split on a vote, winning over members of the majority because of the integrity and civility with which they conducted themselves.

Another question to ponder is whether there might be a middle ground on which all or more members of the decision-making body can agree. Kennedy also noted:

> Going along means more than just good fellowship --- it includes the use of compromise, the sense of things possible. We should not be too hasty in condemning all compromise as bad morals. For politics and legislation are not matters for inflexible principles or unattainable ideals. . . .
>
> . . . the legislator has some responsibility to conciliate those opposing forces. . . and to represent them in the larger clash of interests . . . he alone knows that there are few if any issues where all the truth and all the right and all the angels are on one side.[3]

Thinking in terms of finding common ground is a solid and ethical leadership strategy for both those in the majority and the minority, because it gives voice to more segments of the community. As the Reverend Jesse Jackson said, "Leadership has a harder job to do than just choose sides. It must bring sides together."

Conclusion

Based on the responses we received to the query presented at the beginning of this article, it is clear that local elected officials highly prize their First Amendment right to speak their conscience when they feel the public's interests are served by doing so.

It is also clear from the responses that even when one has a right to speak, there can be good reasons to think about *how* to do so. And as Mark Twain suggested, a higher purpose can sometimes be achieved by discretion: " . . . in our country we have those three unspeakably precious things: freedom of speech, freedom of conscience and the prudence never to practice either." Such prudence may enhance the public's and others' trust and confidence in your leadership.

Policies Expressing Shared Norms of Dissent Can Help

Misunderstandings and unnecessary conflict can be avoided if a decision-making body has a shared understanding of the norms associated with dealing with varying viewpoints. Draft language for such a policy appears below. Note that this policy is a statement of the body's mutual expectations and norms.

Representing the City, Personal or Other Organizations' Interests

If an elected official appears before another governmental agency, official or organization to give a statement on an issue, the official must clearly state whether his or her statement reflects personal opinion or the official position of the agency. If the elected official is representing the agency's official position, the official must explain and advocate the official agency position on an issue, not a contrary personal viewpoint. If the official feels he cannot in good conscience do so, he should ask that another official be sent to represent the agency's position.

If the elected official is representing another organization whose position is different from the agency's, the elected official should consider abstaining on the issue when it comes before the agency if the issue substantially impacts or is detrimental to the interests of the agency and those it serves.

When an organization appears before the decision-making body in which elected officials participate, the elected officials should disclose their involvement in the organization. The officials should consider abstaining from the vote on the issue if it would appear to a reasonable member of the public that the officials may have conflicting loyalties that might prevent them from putting the interests of the agency -- and those it serves -- first.

This piece originally ran in *Western City* Magazine and is a service of the Institute for Local Government (ILG) Ethics Project, which offers resources on public service ethics for local officials. For more information, visit www.ca-ilg.org/trust.

The Institute for Local Government thanks the following individuals who shared their views in connection with this column: John Beauman, mayor pro tem, City of Brea; Thomas B. Brown, attorney, Hanson Bridgett; Tom Butt, council member, Richmond; Michael N. Conneran, attorney, Hanson Bridgett; Ken Cooley, council member, Rancho Cordova; Burk E. Delventhal, deputy city attorney, Office of the San Francisco City Attorney; Dick DeWees, mayor, City of Lompoc; Kevin Duggan, city manager,

Mountain View; *Craig P. Dunn, Ph.D, associate professor, Department of Management, Western Washington University;* Martin Gibson, council member, Canyon Lake; Matt Grocott, council member, San Carlos; John Larson, council member, Seal Beach (retired); Robert LaSala, former city manager, Lancaster and Sunnyvale; Brian M. Libow, city attorney, San Pablo; John Longley, city manager, Porterville; Larry McCallon, council member, Highland; Rebecca L. Moon, assistant city attorney, Sunnyvale; Joseph W. Pannone, Aleshire & Wynder, city attorney for Baldwin Park, Bellflower and Palos Verdes Estates; Elizabeth Patterson, mayor, Benicia; Gail Reavis, council member, Mission Viejo; Murray Rosenbluth, council member, Port Hueneme; Kenneth D. Rozell, deputy city attorney, City Attorney's Office, Merced.

Endnotes:

[1] *See* Cal. Penal Code § 424; Cal. Gov't Code § 8314.

[2] Kennedy, John F., *Profiles in Courage* (HarperPerrenial:2000) at page 4 (original edition published in 1956).

[3] *Id*. at 4-5.

RESOLUTION NO. 2007-09

A RESOLUTION OF THE COUNCIL OF THE CITY OF NEVADA CITY APPROVING A CODE OF CONDUCT FOR THE CITY COUNCIL AND CITY PLANNING COMMISSION

WHEREAS, the City Council desires to ensure that the residents and businesses in Nevada City are serviced by a fair, ethical and accountable local government, and

WHEREAS, local government can govern effectively only if it has the confidence of the community, and

WHEREAS, the adoption of a Code of Conduct for the Council and the City's Commissions will help promote these important goals,

THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEVADA CITY:

Section 1. The Council hereby approves the Code of Conduct attached hereto.

Section 2. The City manager is directed to transmit copies of the Code of Conduct to all City Planning Commissioners and to make this code available to all Council candidates in future municipal elections and to all applicants for the Planning Commission.

PASSED AND ADOPTED this 14th day of March, 2007 by the following vote:

AYES: COTTRELL, HARRIS, MCKAY, STEIN, COFFMAN

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE

Steve Cottrell, Mayor

ATTEST:

City of Nevada City

Code of Conduct

Preamble

The residents and business of Nevada City are entitled to have fair, ethical and accountable local government, which has earned the public's full confidence for integrity. The effective functioning of democratic government therefore requires that:

- Public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Public officials be independent, impartial and fair in their judgment and actions;
- Public office be used for the public good, not for personal gain; and
- Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Nevada City City Council has adopted a Code of Conduct for members of the City Council and the City's Planning Commission to assure public confidence in the integrity of local government and its effective and fair operation.

City of Nevada City Code of Conduct

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Nevada City and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the City Council and the Planning Commission.

2. Comply with the Law

Members shall comply with the laws of the federal government, the State of California and the City of Nevada City in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the City Code; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government and the City ordinances and policies.

3. Conduct of Members

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the Council and Planning Commission; the staff or the public.

4. Respect for Process

Members shall perform their duties in accordance with the processes and rules of order established by the City Council and Planning Commission governing the deliberation of public policy issues, the involvement of the public, and the implementation of policy decisions of the City Council by City staff.

5. Conduct of Public Meetings

Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. Communication

Members shall publicly share substantive information that is relevant to a matter under consideration by the Council or Planning Commission, which they may have received from sources outside of the public decision-making process.

8. Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material interest, or where they have an organizational responsibility or personal relationship, which may give the appearance of a conflict of interest.

9. Gifts and Favors

Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, that are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.

10. Confidential Information

Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or private interest.

11. Use of Public Resources

Members shall not use public resources not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

12. Representation of Private Interests

In keeping with their role as stewards of the public interest, members of the Council shall not appear on behalf of the private interests of third parties before the Council or Planning Commission or proceedings of the City, nor shall members of Planning Commission appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

13. Advocacy

Members shall represent the official policies or positions of the City Council or Planning Commission to the best of their ability when designated as delegates for their purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Nevada City, nor will they allow the inference that they do.

14. Policy Role of Members

Members shall respect and adhere to the council-manager structure of city government as provided by state law and the City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, Planning Commission, and City staff.

Members therefore shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

15. Independence of Boards and Planning Commission

Because of the value of the independent advice of the Planning Commission to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of Planning Commission proceedings.

16. Positive Work Place Environment

Members shall support the maintenance of a positive and constructive work place environment for City employees and for residents and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

17. Implementation

As an example of the standards of conduct for members expected by the City, this Code of Conduct is intended to be self-enforcing. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, ethical standards shall be included in the regular orientations for candidates for City Council, applicants to the Planning Commission, and newly elected and appointed officials. Members entering office shall sign a statement affirming that they read and understand the City of Nevada City Code of Conduct.

18. Compliance and Enforcement

The Nevada City Code of Conduct expresses standards of ethical conduct expected for members of the City Council and the Planning Commission. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.
The chair of the Planning Commissions and the Mayor have the additional responsibility to intervene when actions of members that appear to be in violation of Code of Conduct are brought to their attention.

The City Council may impose sanctions on members whose conduct does not comply with the City's ethical standards, such as reprimand, formal censure, loss of seniority or committee assignment, or budget restriction. The City Council also may remove members of the Planning Commission from office.

A violation of this Code of Conduct shall not be considered a basis for challenging the validity of a Council or commission decision.

RESOLUTION 2012-27

RESOLUTION CONSOLIDATING THE POLICY AND ALL AMENDMENTS TO THE MAYORAL SUCCESSION POLICY FOR THE CITY COUNCIL OF NEVADA CITY

WHEREAS, Resolution 2007-34 establishing the policy for mayoral succession in Nevada City, was amended at the meeting of March 28, 2007 without updating the written record and was again revised at the regular Council meeting on June 23, 2010, to provide in Paragraph 6 "No member shall serve as mayor during their first two years on the City Council" (increasing the time period from one to two years and was again revised on June 27, 2012 to clarify the required term for a Mayor Pro Tem to have served for 23 months, and

WHEREAS, The City Council desires to further clarify the policy to address the appropriate tenure requirement for the Mayor Pro Tem to establish an appropriate succession of the Mayor Pro Tem to the position of Mayor after serving one year as Mayor Pro Tem, and

WHEREAS, It is most appropriate and effective to have a comprehensive policy statement adopted by the City Council for future reference.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Nevada City does hereby rescind Resolution 2007-34, Resolution 2012-23 and all other modifications to the Mayor Succession Policy in order to consolidate the original policy with all subsequent modifications into the policy stated in Attachment 'A'; and

BE IT FURTHER RESOLVED, the City Council hereby adds an additional amendment to the policy to ensure that the appointment of Council Members to Mayor Pro Tem and their subsequent succession to Mayor ensures that the maximum opportunity for serving as Mayor is afforded to all Council Members with as much experience in office as can be acquired before serving in those leadership positions. To this purpose, the policy will include the requirement that in order for a Councilmember to be appointed to the position of Mayor Pro Tem, they must have a minimum of eleven (11) months in office as a Nevada City Councilmember

PASSED AND ADOPTED by the City Council of the City of Nevada City held on 11th day of July, 2012, by the following vote:

AYES: **MCKAY, BERGMAN, HARRIS, SENUM**

NOES: **NONE**

ABSENT: **STRAWSER**

ABSTAIN: **NONE**

David McKay, Mayor

ATTEST:

Niel Locke, City Clerk

Attachment 'A' for Resolution 2012-XX

Mayoral Succession Policy in Nevada City

It has been hereby resolved by the City Council of the City of Nevada, California, that the positions of Mayor and Mayor Pro Tem of Nevada City shall rotate based upon the following policy:

1) The Mayor shall be the senior member who has served on the City Council for a minimum of twenty three (23) months and not previously served in that capacity. The term of office shall be one year, without succession, beginning at the first regularly scheduled City Council meeting each July or the first meeting following certification of a City Council election.

2) The Mayor Pro Tem shall be the next senior member who has served a minimum of eleven (11) months and not previously served as Mayor. The term of office shall run concurrent with that of the mayor as described above.

3) When two or more members have equal seniority and have not yet served as Mayor or Mayor Pro Tem, the order of succession shall be determined by the number of votes each member received at the time of their election.

4) The Mayor Pro Tem shall automatically succeed the Mayor each year, excepting that the Mayor Pro Tem may decline such succession. If the Mayor Pro Tem declines the position of Mayor, such office shall be extended to the next senior member in order, or by majority vote of the Council if all other members have served at least one year as Mayor.

5) Once all seated members have served as Mayor, succession shall be based on a majority vote of the Council, recognizing that the term of office for each position shall be one year.

Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century

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About the Author

Dave Rosenberg is an elected county supervisor representing the 4th District in Yolo County. He also serves as director of community and intergovernmental relations, director of operations, and senior advisor to the governor of California. He has served as a member and chair of numerous state and local boards, both appointed and elected, and also served on the Davis City Council for 12 years, including two terms as mayor. He has taught classes on parliamentary procedure and has served as parliamentarian for large and small governing bodies. In the fall of 2003, Gov. Davis appointed Rosenberg as a judge of the Yolo County Superior Court.

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Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century

by Dave Rosenberg

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that hasn't always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules, *Robert's Rules of Order*, which are embodied in a small but complex book. Virtually no one I know has actually read this book cover to cover.

Worse yet, the book was written for another time and purpose. If you are running the British Parliament, *Robert's Rules of Order* is a dandy and quite useful handbook. On the other hand, if you're running a meeting of a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order. Hence, the birth of "Rosenberg's Rules of Order."

This publication covers the rules of parliamentary procedure based on my 20 years of experience chairing meetings in state and local government. These rules have been simplified and slimmed down for 21st century meetings, yet they retain the basic tenets of order to which we are accustomed.

"Rosenberg's Rules of Order" are supported by the following four principles:

1. **Rules should establish order.** The first purpose of the rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate and those who do not fully understand and do not fully participate.
3. **Rules should be user-friendly.** That is, the rules must be simple enough that citizens feel they have been able to participate in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of the rules of procedure is to encourage discussion and to facilitate decision-making by the body. In a democracy, the majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself (but not dominate) and fully participate in the process.

The Chairperson Should Take a Back Seat During Discussions

While all members of the governing body should know and understand the rules of parliamentary procedure, it is the chairperson (chair) who is charged with applying the rules of conduct. The chair should be well versed in those rules, because the chair, for all intents and purposes, makes the final ruling on the rules. In fact, all decisions by the chair are final unless overruled by the governing body itself.

Because the chair conducts the meeting, it is common courtesy for the chair to take a less active role than other members of the body in debates and discussions. This does *not* mean that the chair should not participate in the debate or discussion. On the contrary, as a member of the body, the chair has full rights to participate in debates, discussions and decision-making. The chair should, however, strive to be the last to speak at the discussion and debate stage, and should not make or second a motion unless he or she is convinced that no other member of the body will do so.

> There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire to move on.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, published agenda; informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon road map for the meeting. And each agenda item can be handled by the chair in the following basic format.

First, the chair should clearly announce the agenda item number and should clearly state what the subject is. The chair should then announce the format that will be followed.

Second, following that agenda format, the chair should invite the appropriate people to report on the item, including any recommendation they might have. The appropriate person may be the chair, a member of the governing body,

a staff person, or a committee chair charged with providing information about the agenda item.

Third, the chair should ask members of the body if they have any technical questions for clarification. At this point, members of the governing body may ask clarifying questions to the people who reported on the item, and they should be given time to respond.

Fourth, the chair should invite public comments or, if appropriate at a formal meeting, open the meeting to public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of each public speaker. At the conclusion of the public comments, the chair should announce that public input has concluded (or that the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion from the governing body members. The chair should announce the name of the member who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member who seconds the motion. It is normally good practice for a motion to require a second before proceeding with it, to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and a vote on the motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion. This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the members of the governing body. If there is no desired discussion or the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or a very brief discussion, the vote should proceed immediately, and there is no need to repeat the motion. If there has been substantial discussion, it is normally best to make sure everyone understands the motion by repeating it.

Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal, too loud or too crude.

Ninth, the chair takes a vote. Simply asking for the "ayes" and then the "nays" is normally sufficient. If members of the body do not vote, then they "abstain." Unless the rules of the body provide otherwise or unless a super-majority is required (as delineated later in these rules), a simple majority determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and should announce what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members, if any, who voted in the minority on the motion. This announcement might take the following form: "The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring 10 days' notice for all future meetings of this governing body."

Motions in General

Motions are the vehicles for decision-making. It is usually best to have a motion before the governing body prior to discussing an agenda item, to help everyone focus on the motion before them.

Motions are made in a simple two-step process. First, the chair recognizes the member. Second, the member makes a motion by preceding the member's desired approach with the words: "I move …" A typical motion might be: "I move that we give 10 days' notice in the future for all our meetings."

The chair usually initiates the motion by:

1. Inviting the members to make a motion: "A motion at this time would be in order."
2. Suggesting a motion to the members: "A motion would be in order that we give 10-days' notice in the future for all our meetings."
3. Making the motion.

As noted, the chair has every right as a member of the body to make a motion, but normally should do so only if he or she wishes a motion to be made but no other member seems willing to do so.

The Three Basic Motions

Three motions are the most common:

1. **The basic motion.** The basic motion is the one that puts forward a decision for consideration. A basic motion might be: "I move that we create a five-member committee to plan and put on our annual fundraiser."
2. **The motion to amend.** If a member wants to change a basic motion that is under discussion, he or she would move to amend it. A motion to amend might be: "I move that we amend the motion to have a 10-member committee." A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

3. **The substitute motion.** If a member wants to completely do away with the basic motion under discussion and put a new motion before the governing body, he or she would "move a substitute motion." A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year."

Motions to amend and substitute motions are often confused. But they are quite different, and so is their effect, if passed.

A motion to amend seeks to retain the basic motion on the floor, but to modify it in some way.

A substitute motion seeks to throw out the basic motion on the floor and substitute a new and different motion for it.

The decision as to whether a motion is really a motion to amend or a substitute motion is left to the chair. So that if a member makes what that member calls a motion to amend, but the chair determines it is really a substitute motion, the chair's designation governs.

When Multiple Motions Are Before The Governing Body

Up to three motions may be on the floor simultaneously. The chair may reject a fourth motion until the three that are on the floor have been resolved.

When two or three motions are on the floor (after motions and seconds) at the same time, the *first* vote should be on the *last* motion made. So, for example, assume the first motion is a basic "motion to have a five-member committee to plan and put on our annual fundraiser." During the discussion of this motion, a member might make a second motion to "amend the main motion to have a 10-member committee, not a five-member committee, to plan and put on our annual fundraiser." And perhaps, during that discussion, a member makes yet a third motion as a "substitute motion that we not have an annual fundraiser this year." The proper procedure would be as follows.

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passes*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be complete. No vote would be taken on the first or second motions. On the other hand, if the substitute motion (the third motion) *failed*, the chair would proceed to consideration of the second (now the last) motion on the floor, the motion to amend.

If the substitute motion failed, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would now move to consider the main motion (the first motion) as *amended*. If the motion to amend failed, the chair would now move to consider the main motion (the first motion) in its original format, not amended.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee) or, if amended, would be in its amended format (10-member committee). And the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are *not* debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

A motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. This motion requires a simple majority vote.

A motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess, which may range from a few minutes to an hour. It requires a simple majority vote.

> The challenge for anyone chairing a public meeting is to accommodate public input in a timely and time-sensitive way, while maintaining steady progress through the agenda items.

A motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.

A motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to

be placed on "hold." The motion may contain a specific time in which the item can come back to the body: "I move we table this item until our regular meeting in October." Or the motion may contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

A motion to limit debate. The most common form of this motion is to say: "I move the previous question" or "I move the question" or "I call for the question." When a member of the body makes such a motion, the member is really saying: "I've had enough debate. Let's get on with the vote." When such a motion is made, the chair should ask for a second to the motion, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body. Note that a motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item.* This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

If you are running the British Parliament, *Robert's Rules of Order* is a dandy and quite useful handbook.

Majority and Super-Majority Votes

In a democracy, decisions are made with a simple majority vote. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions occur when the body is taking an action that effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super-majority) to pass:

Motion to limit debate. Whether a member says, "I move the previous question," "I move the question," "I call for the question" or "I move to limit debate," it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations. When choosing officers of the body, such as the chair, nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a two-thirds vote to pass.

Motion to object to the consideration of a question. Normally, such a motion is unnecessary, because the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself: the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to reconsider is made.

A motion to reconsider requires a majority vote to pass, but there are two special rules that apply only to the motion to reconsider.

First is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next meeting of the body. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted *in the majority* on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body may second the motion). If a member who voted *in the minority* seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. And at the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focus on the item and the policy in question, not on the personalities of the members of the body. Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal, too loud or too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body. Can a member of the body interrupt the speaker? The general rule is no. There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be: "Point of privilege." The chair would then ask the interrupter to "state your point." Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.

Order. The proper interruption would be: "Point of order." Again, the chair would ask the interrupter to "state your point." Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting; for example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, "Let's return to the agenda." If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair's determination may be appealed.

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Special Notes About Public Input

The rules outlined here help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.

Public input is essential to a healthy democracy, and community participation in public meetings is an important element of that input. The challenge for anyone chairing a public meeting is to accommodate public input in a timely and time-sensitive way, while maintaining steady progress through the agenda items. The rules presented here for conducting a meeting are offered as tools for effective leadership and as a means of developing sound public policy. ■

It is usually best to have a motion before the governing body prior to discussing an agenda item, to help everyone focus.

Motions to amend and substitute motions are often confused. But they are quite different, and so is their effect, if passed.

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December 5th, 2019

Nevada City City Council Members
317 Broad St.
City of Nevada City
Nevada City, Ca 95959

Re: My response to Erin Minett's statement at the November 13th Nevada City City Council Meeting asking for removal or sanction of my title as Mayor.

Dear Council Members and City Staff,

The statement given at the November 13th Nevada City City Council meeting by Vice Mayor Erin Minett, below, was the first time I heard about said complaints. Not once did Vice Mayor Minett reach out to communicate to me or alert me to such matters.

Through a California Public Records Act request it was later learned that Vice Mayor Minett wrote the below statement with her husband --making a very unprecedented move on their part. Is it customary for a council member and his/her spouse to make such a unilateral decisions asking for the sanctioning or removal of a Mayor? Did they consult with the city before doing so? I have been informed that Vice Mayor only sent the "complaints" to City Manager, Catrina Olson, and legal counsel, Hal DeGraw, the day of the Nov 13th City Council meeting.

VICE MAYOR ERIN MINETT'S STATEMENT

" I would like to request that the majority of the Council direct inclusion of an item on the next agenda for consideration, discussion and possible action for removal or sanctioning of the current mayor. I am requesting this item be agendized because…

1. I have concerns and have received public complaints about Reinette's not clarifying that the opinions she expresses regarding multiple City matters are her own and that she was not speaking on behalf of the city/city Council.

I am alarmed that this was never brought forward beforehand. Can Vice Mayor Minett put forward earlier emails, texts, or any type of communication to me, attempting to deal with this on a more professional basis? Why no communication or attempt to deal with in-house? Exactly whom is this divisive action actually serving?

2. Items such as with the tv interviews on the PSPS.

*Please see Disaster Municipal Code, (**ATTACHMENT E).** It is within the authority of the Mayor to speak to the press during a time of crisis. However, never in my nearly 8 years of being on the city council do I recall an agenda item requesting city council approval for a mayor to speak to news reporters. If this is not the case, can an example of such a agenda item be provided?*

3. And opinions expressed on the ready set go platform in relation to what is being done about fire/fire danger/evacuation.

*I asked a question on a private forum, ReadyNC: A question about **Public Safety** regarding evacuation routes throughout our area. Am I suppose to believe that a mayor cannot ask questions or engage in a dialogue on a private forum regarding a serious public safety issue?*

4. In addition, I observed and received complaints from others that in her goal to oppose 5G she has actively solicited opposition to the wireless facilities ordinance adopted by the Council 4-0-1 and represented doing so as the Mayor when she has not received any authorization from the Council to do so."

Why have these complaints not been made public? From the Public Records Act request I see there was only ONE (1) complaint made and that was the day before the November 13th City Council meeting. Again, if there was an issue why did Vice Mayor Erin Minett reach out to me OR as I have been instructed to do in the past, speak to the city manager about such issues..?

*The November 12th complaint was regarding a Facebook post that I put up the day before simply stating, "All, The wireless ordinance is agendized for Wed. November 13th. Get ready! Spread the Word." That's it. **(ATTACHMENT D)***

*So, I am to believe that I cannot alert the public about an upcoming city council meeting and agendized item? Isn't this against the Brown Act; not being allowed to "inform the public?" **(ATTACHMENT A)***

*Regarding "actively solicited opposition:" Asking for public workshops and then being forced to personally hold one because the city council would not and did not approve one is not "actively soliciting opposition." It is an attempt to educate the public on a very serious matter that will affect them, their families, for years to come, particularly in light of the threatening letter from the Verizon attorney on the day of July 10th, 2018. (**ATTACHMENT B).** As well as a subsequent headline in the Tahoe Daily Tribune regarding the 30 small cells that had been approved by their city council in June of 2019. In a terrain similar to ours and in a rural population. **(ATTACHMENT C)***

*In addition, identifying needed amendment changes to Nevada City's Wireless Telecommunications Facilities Ordinance is not "actively soliciting opposition." While it is important to speak on behalf of the city council, I have never known it necessary for a mayor to seek authorization from the city council to have a personal opinion and to work on a most important **Public Safety** issue.*

According to the Preamble of the Brown Act it is my duty to keep the public informed.

I thank you for all of your time and consideration in this matter.

Reinette Senum
Nevada City City Mayor

CALIFORNIA OATH OF OFFICE

"I do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. "

PREAMBLE TO THE BROWN ACT

Public commissions, boards, councils and other legislative bodies of local government agencies exist to and in the conduct of the people's business. The People of this State do not yield their sovereignty to the agencies which serve them, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."

ATTACHMENT A

MACKENZIE & ALBRITTON LLP
155 SANSOME STREET, SUITE #800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415 / 288-4000
FACSIMILE 415 / 288-4010

July 10, 2018

VIA EMAIL AND FEDEX

Mayor Duane Strawser
Vice Mayor David Parker
Council Members Evans Phelps,
Valerie Moberg and Reinette Senum
City Council of Nevada City
317 Broad Street
Nevada City, California 95959

Re: Withdrawal of Verizon Wireless Use Permit Application
Telecommunications Facility, 109 North Pine Street

Dear Mayor Strawser, Vice Mayor Parker and Council Members:

We write on behalf of Verizon Wireless to formally withdraw its use permit application for a screened rooftop wireless facility at 109 North Pine Street. Verizon Wireless appreciates the opportunity to meet with City officials on several occasions as well as the careful consideration of its application over the last two years by Planning Department staff, the City Attorney and Council. The hearing continuances granted by the Council allowed Verizon Wireless additional time to thoroughly review alternative sites, negotiate with perspective landlords, and evaluate facility designs. Unfortunately, Verizon Wireless has not been able to identify a viable facility for downtown Nevada City that it believes can be approved and installed in a timely manner to meet current coverage and capacity demands. As a result, Verizon Wireless will implement an interim solution of providing service from outside of the City through a collocation at a nearby existing facility. Verizon Wireless anticipates that increasing demand will require several additional small cell facilities to ensure adequate network capacity, and following installation of the collocation facility, Verizon Wireless will review placement of small cell facilities in downtown Nevada City.

We again express our gratitude to the City for its thoughtful review of this application.

Very truly yours,

Paul B. Albritton

ATTACHMENT B

Cell service is bad but towers kill? South Lake Tahoe in middle of raging debate

News | November 23, 2019

Laney Griffo
lgriffo@tahoedailytribune.com

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View of a cell tower transmitting data.
Getty Images

SOUTH LAKE TAHOE, Calif. — Cell towers are a boiling hot topic at Lake Tahoe.

In June 2019, the South Lake Tahoe city council approved a 112-foot cell tower to be installed in the Ski Run/Needle Peak neighborhood. The council has also approved the installation of 30 small cell facilities.

They will be used by Verizon Wireless.

Since then, residents have been calling city hall and attending city council meetings begging councilors to prevent the tower and boxes from being installed.

One resident, Monica Eisenstecken, has appealed the tower's placement. That appeal will be heard in January 2020.

In the meantime, residents have asked the city to draft a new ordinance that would prevent towers and boxes from being placed in residential areas.

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Events Calendar

Thursday, December 5

SUP Fitness
Truckee Donner Recreation & Park District
Truckee 11:00 am

Reflections of Life and Loss, Grief Support Group
Barton Health

View All Events | Add your event

ATTACHMENT C

THEUNION.COM

Nevada City moves forward o
wireless regulations months a

Like · Reply · 11h

Brittany Roussel

Like · Reply · 11h

ATTACHMENT D

Nevada City Municipal Code

2.44.020 - Definitions.

As used in the chapter:

The term "civil defense" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters. It shall not include, nor does any provision of this chapter apply to any condition relating to a labor controversy.

The term "disaster" means actual or threatened enemy attack, sabotage, extraordinary fire, flood, injury, loss of life or property, or such severe economic or social disruption that supplemental relief assistance is necessary for the county to recover and alleviate the damage, loss, hardship, or suffering caused thereby. At the federal level, as defined under P.L. 93-288, a disaster is any natural catastrophe, (including any hurricane, tornado, storm, flood, high water, wind-driven water, earthquake, landslide, mudslide, snowstorm, or drought), or regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of states, local governments, and disaster relief organizations.

The term "emergency" means the occurrence or imminent threat of a condition, incident, or event that requires immediate response actions to save lives; prevent injuries; protect property, public health, the environment, and public safety; or to lessen or avert the threat of a disaster. At the federal level, an emergency is defined by Title V of P.L. 93-288, Section 102(1), as any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety.

(Ord. 259 § 2, 1951)

(Ord. No. 2011-06, § III, 1-13-2011)

2.44.030 - Civil defense and disaster council—Membership.

The city defense and disaster council is created and shall consist of the following:

A. The mayor, who shall be chairman;

B. The director of civil defense and disaster, who shall be vice chairman;

C. The assistant director, appointed by the mayor with the advice and consent of the city council who, under the supervision of the director, shall develop civil defense and disaster plans and organize the civil defense and disaster program of this city, and shall have such other duties as may be as signed by the director.

D. Such deputy directors and chiefs of operating civil defense and disaster departments, services or divisions as are provided for by resolution pursuant to this chapter.

E. Such representatives of civic, business, later, veterans, professional or other organizations having an official group or organization civil defense and disaster responsibility as may be appointed by the mayor with the advice and consent of the city council.

(Ord. 259 § 3, 1951)

ATTACHMENT E

2.44.040 - Civil defense and disaster council—Powers and duties—Meetings.

A. It shall be the duty of die city civil defense and disaster council, and it is hereby empowered, to review and recommend for adoption by the city council, civil defense and disaster and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as necessary to implement such plans and agreements.

B. The civil defense and disaster council shall meet upon call of the chairman or in his absence from the city or inability to call such meeting, upon the call of the vice chairman.

C. A city emergency and/or disaster plan may be adopted by resolution. Nothing in this section is intended to preclude consideration and adoption by the city council of an emergency or disaster plan that was not prepared, reviewed, or recommended by the civil defense and disaster council.

(Ord. 259 § 4, 1951)

(Ord. No. 2011-06, § IV, 1-13-2011)

2.44.050 - Director—Powers and duties.

Until such time as an emergency and/or disaster plan for the city providing otherwise is adopted by resolution of the city council and is in full force and effect:

A. The mayor shall be the director of civil defense and disaster. The director is empowered:

1. To request the city council to proclaim the existence of a disaster and the termination thereof, if the city council is in session, or to issue such proclamation if the city council is not in session, subject to confirmation by the city council at die earliest practicable time;

2. To request the Governor to proclaim a state of extreme emergency when in the opinion of the director the resources of die area or region are inadequate to cope with the disaster;

3. To control and direct the effort of the civil defense and disaster organization of this city for the accomplishment of the purposes of this chapter;

4. To direct coordination and cooperation between divisions, services and staff of the civil defense and disaster organization of this city, and to resolve questions of authority and responsibility that may arise between them;

5. To represent the civil defense and disaster organization of this city in all dealings with public or private agencies pertaining to civil defense and disaster.

B. In the event of the proclamation of a disaster, as provided in this chapter, or the proclamation of a state of extreme emergency by the Governor or the State Director of Civil Defense, the director is empowered:

1. To make and issue rules and regulations on matters reasonably related to die protection of life Mid property as affected by such disaster; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council;

2. To obtain vital supplies, equipment and such other properties found lacking and needed for the protection of the lives and property of the people, and bind the city for the fair value thereof, and if required immediately, to commandeer the same for public use;

3. To require emergency services of any city officer or employee and, in the event of the proclamation of a state of extreme emergency by the Governor in the region in which this city is located, to command the aid of as many citizens of this community as he thinks necessary, in the execution of his duties; such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for registered civil defense and disaster worker volunteers;

C. To requisition necessary personnel or material of any city department or agency;

D. To execute all of his ordinary powers as mayor, all of the special powers conferred upon him by this chapter or by resolution adopted pursuant thereto, all powers conferred upon him by this chapter or by resolution adopted pursuant thereto, all powers conferred upon him by any statute, agreement approved by the city council or by any other lawful authority, and in conformity with Section 38791 of the Government Code, or by any other lawful authority, to exercise complete authority over the city and to exercise all police power vested in the city by the Constitution and general laws.

E. In the event that an emergency and/or disaster plan is adopted for the city that provides for activation by a person other than the mayor or any other provisions inconsistent with those contained in this section, the provisions of that plan shall control over the provisions of this section so long as that plan is in full force and effect and not repealed.

(Ord. 259 § 6, 1951)

(Ord. No. 2011-06, § V, 1-13-2011)

2.44.060 - Civil defense and disaster organization—Designated.

A. All officers and employees of this city, together with those volunteer forces enrolled to aid them during a disaster, and all groups, organizations and persons who may by agreement or operation of law, including persons pressed into service under the provisions of Section 2.44.040(C) of this chapter, be charged with duties incident to the protection of life and property in this city during such disaster, shall constitute the civil defense and disaster organization of the city.

B. The functions and duties of the city civil defense and disaster organization shall be distributed among such divisions, services and special staff as the city council shall prescribe by resolution.

C. The city council shall concurrently with the adoption of the ordinance codified in this chapter, adopt a resolution setting forth the form of organization, establishment and designation of divisions and services, the assignment of functions, duties and powers, and the designation of officers and employees. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the federal government and the Civil Defense Agency of the state.

(Ord. 259 §§ 7, 8, 1951)

From:	Erin Ruark-Minett
To:	Catrina Olson
Subject:	Fwd: Your December 10 Council agenda item
Date:	Thursday, November 14, 2019 4:42:20 PM

Please put on record

Erin Minett Vice Mayor City of Nevada City
530 478 1816
erin4nevadacity@gmail.com

---------- Forwarded message ---------
From: **Rick Cartoscelli**
Date: Thu, Nov 14, 2019, 4:05 PM
Subject: Your December 10 Council agenda item
To: <erin4nevadacity@gmail.com>

Dear Councilwoman Minett,

This recent news bulletin appeared online from The Union newspaper:

"Nevada City Mayor to face possible sanction, removal"

I applaud your initiation of the action proposed for the next Council meeting on December 10. I typically do not watch the Council's agenda and City government in general. However, I do concur that some of the Mayor's recent actions are out of line as an (elected) public official. I recently went on record with The Union newspaper (Letters to the Editor) noting my dissatisfaction with the Mayor's conduct outside of City Hall on a darkened night when local power was turned off by PG&E. There is a proper way for a public official to express one's discontent with a public utility and this was not it. Further, I doubt very much this was supported by a majority of Council members.

Rick Cartoscelli
Nevada City, CA

From:	formbuilder@municipalnotices.com
To:	Catrina Olson; Bubba Highsmith
Subject:	Report a Concern
Date:	Friday, November 15, 2019 8:02:57 AM

Form Name:
Report a Concern

Form Text:
Please provide the information requested below to report a problem or concern to City Hall. If you would like to speak directly with a staff member, you may call City Hall at (530) 265-2496, Monday – Friday 8:00 a.m.-noon & 1:00-5:00 p.m.

Please understand that this service is not to be used to report an emergency situation. **In the event of an emergency please dial 9-1-1.**

Name	Johanna Finney Nevada
Email Address	County
Street Address	Other
Phone Number	
Area of Concern	
Location of Concern	City Council
Brief Description of the Issue	Council Member Erin Minett's move to sanction and remove Mayor Senum is baseless and over-reaching. Minett is targeting Senum unfairly for voicing opinions in the press. There is no rules that state the Mayor cannot express opinions with the press, that may run counter to the decisions and opinions of the Council. The City should have Minett withdraw this baseless accusation and censure.
Response Requested	Email

Sent from IP Address: 2600:1010:b027:8010:cc07:ef5e:5d19:d6b4

From:	Erin Ruark-Minett
To:	Hal DeGraw; Catrina Olson
Subject:	Fwd: Recall process
Date:	Monday, November 18, 2019 1:32:57 PM

Erin Minett Vice Mayor City of Nevada City
530 478 1816
erin4nevadacity@gmail.com

---------- Forwarded message ---------
From: **Richard Cristdahl**
Date: Mon, Nov 18, 2019, 10:50 AM
Subject: Recall process
To: Reinette Senum <reinettesenum@gmail.com>, <erin4nevadacity@gmail.com>, <duanestrawser@gmail.com>, David Parker <davidsparkyparker569@gmail.com>, <czechgirl63@gmail.com>

The Recall Committee had agreed to wait until the December 10th Council Meeting to see if an acceptable amendment to the wireless ordinance passes, before they file a Notice to Recall. It has been brought to their attention that the four council members in question, are actually going to act on Erin Minett's proposal to sanction Mayor Senum. If that action is acted upon it will immediately trigger the recall process. These possibly corrupt council members, trying to silence the "Peoples Mayor," will add another reason for recall to be added to that Notice; for which these council members are to be recalled by.
Sincerely,
Richard Cristdahl, Secretary of the Recall Committee

From:	Erin Ruark-Minett
To:	Hal DeGraw; Catrina Olson
Subject:	Fwd: Concerns about a council member
Date:	Tuesday, November 12, 2019 5:44:06 PM

Erin Minett Vice Mayor City of Nevada City
530 478 1816
erin4nevadacity@gmail.com

---------- Forwarded message ---------
From: **Barbara Hartnick "The Shady Lady"**
Date: Tue, Nov 12, 2019, 5:40 PM
Subject: Concerns about a council member
To: Erin4nevadacity@gmail.com <Erin4nevadacity@gmail.com>

Dear Nevada City Council Member Erin Minett,

First, I want to preface this email with the statement that I am neither pro nor anti 5g. I trust that the majority of city council members, upon the advice and guidance of attorneys, have protected the best interests of the City of Nevada City in regards to Wireless Telecommunication liabilities and will continue to do so.

My concerns are with the some of the actions of council member Reinette Senum, who is currently holding the ceremonious title of Mayor of Nevada City. As she has led her like-minded followers (whether they live within the city or not) to speak at previous meetings in an attempt to manipulate decisions, the circus continues. Please see the attached screenshot of an email sent to 76 recipients by Ms. Senum using her title of Mayor of Nevada City. How is this OK? I would go as far to say it appears to be a flagrant attempt to harass and discredit her fellow council members and the attorneys. Unacceptable and NOT okay, in my opinion.

I have further concerns about Reinette's recent TV interviews regarding the power outages and not clarifying that the opinions expressed were her own and that she was not speaking on behalf of the city. Perhaps she's gotten too big for her britches. Enough said about that for now.

I feel it would be best for Senum to choose between her pursuits as an activist or her seat on the city council. Either one or the other, not both, and I wish her well in whichever her choice may be.

Regards,

Barbara Hartnick
Concerned Citizen

Nevada City, CA 95959

3 attachments, the email screenshot, window snip showing the email screenshot within a Nevada City Peeps post, and the original post where the screenshot was seen.

From:	Evans Phelps
To:	Catrina Olson; reinette senum; Valerie Moberg; Duane Strawser; Duane Strawser; David Fallside
Subject:	Our Mayor Reinette Senum
Date:	Friday, December 6, 2019 9:40:56 AM

Dear City Council Members,

As a former city council member I sympathize with the crisis you are now facing of removing from office or restricting Reinete Senum's voice so that she only speaks for herself and not the whole community. To label her facebook page as the Mayor of Nevada City, to force on a small town an issue like 5G, that we have no control over, to disrupt meeting after meeting with the never ending chants of her "followers" is a terrible distraction from what really needs to be done here.

I have known Reinette for over 30 years. I knew her when she made her epic trip along the Yukon River. I followed her trying to make it in the movie business. I watched as she became the ultimate volunteer in town championing great projects, like the Farmers Market and the Boardwalk. I sat on city council with her for two years. But what she has become as mayor is scary. She needs to be censored.

Our community is at a precarious place. Competing with Amazon just makes it harder and harder to run a small retail business in town. We need these small shops to survive financially as a community. We need to focus on our local issues, like how to deal with the PG&E blackouts, how to make our town have 100% renewable energy, how to keep getting folks to visit so we all can work and thrive here.

STOP THE MADNESS. Be strong as a city council and do what you need to to correct this imbalance. As I said, I sympathize with you.

Sincerely, Evans Phelps 550 N. Pine St. Nevada City

From:	Erin Ruark-Minett
To:	Catrina Olson
Subject:	Fwd: Flagrant disregard for parliamentary procedure
Date:	Tuesday, December 3, 2019 8:09:30 AM

Erin Minett
Vice Mayor
City of Nevada City
erin4nevadacity@gmail.com
530 478 1816

---------- Forwarded message ---------
From: **Susan Reynolds**
Date: Mon, Dec 2, 2019 at 7:35 AM
Subject: Flagrant disregard for parliamentary procedure
To: Erin Ruark-Minett <erin4nevadacity@gmail.com>, Duane Strawser <DuaneStrawser@gmail.com>, Duane Strawser <oldproracer@gmail.com>, David Parker <davidsparkyparker569@gmail.com>, <czechgirl63@gmail.com>

Dear Vice Mayor Ruark-Minett and members of the Nevada City Council.

Please do not let Reinette Senum chair any more Nevada City Council meetings. She has shown deliberate and flagrant disregard for parliamentary procedure by knowingly speaking at length regarding her opinion of 5G before the public was allowed to speak. This even after member Duane Strawser, reminded her that it was not her turn to speak, but the public should be first; even after the city attorney backed up that truth. The other members said nothing, allowing her to proceed. Why?

There are other misdeeds which should be considered, but this one action alone should no longer be ignored in your decisions re: the status of our current mayor.

Thank you,
Susan Reynolds

Sent from my iPad

All you beautiful open-minded people who have honored us with your love and support: hopefully you see us as two people who tell the truth and have high integrity and have actively engaged in helping others. This letter is to support our dear friend Reinette Senum. We know her personally very well, and know firsthand that she has also the highest integrity, tells the truth, and backs the truth with facts. And we also know that she ran for City Council because as she told us years ago, she wanted to do something to be of service to this community.

From our local paper The Union we have been seeing a coordinated “attack the messenger.” It is easy to read between the lines that there is an agenda of deflecting attention from what she is calling out. Whose agenda it is, we don’t know for sure. But we can make some educated guesses, and time will out the truth.

What are these charges against Reinette that are so extreme that she may be stripped of her mayoral title? We have read in that paper the following: she is a “conspiracy theorist,” that she says “controversial things,” and that she is is not a “neutral presence” as mayor.

Reinette’s opponents call her a conspiracy theorist. Is that the correct term for someone who does her research, and gets her scientific information from top people in the field? We used to call this intelligent decision making. “Conspiracy theory,” by the way, was a term coined by the CIA after the JFK assassination to immediately discredit people who questioned the official version of the Warren report. And

here is it being used again to keep people from listening to and examining the truth of what Reinette is pointing out. Call someone a conspiracy theorist, and that immediately ends the conversation, regardless of the truth. But we challenge that. Let's break things down to the actual facts. We say, people who are called conspiracy theorists probably have a lot more information to offer that the fear-based ad hominem deliverers of this moniker.

Reinette is trying to protect the citizens of Nevada City from a brand new technology that, according to some notable scientists, will have an adverse and potentially destructive effect on people's health and well-being. If there is a chance of 5G indeed harming sleep patterns, immune systems, and reproductive health, then shouldn't we look into these allegations seriously?

Even if the dangers were shown to be unfounded, (which we do not believe, given our own personal experience with the disruptive nature of EMFs and health), should we not see Reinette as a hero for trying to help save us, instead of shooting her down? And give her the respect of actually considering what she is saying? After all, we elected her to protect and serve our community.

Secondly, we have heard objections to the fact that she says "controversial things." The reason they are controversial is a) for many in the general public, she says things that they don't want to hear and b) her facts interfere with certain corporations' agendas, which, let's face it, have often put profit over safety. Of course most people don't want to think

that the cell phones they've been using, and the increasing strength and speed of the bandwidth from the towers that delivers their information and entertainment ever faster, could be harmful to them. Of course it would be delightful if the telecommunications companies truly did have our best interests at heart and were open to talking about the unknown elements of what they are selling. But instead, it appears that they have been consistently concealing the health risks and hazards of their technologies. There are so many examples of either ignorance or deliberate hiding of dangers by a product made by a corporation in order to keep the profits high and the shareholders happy.

You don't have to look far to find example after example of the fact that historically, many risks associated with progress and technology have been underplayed or downright denied. Think safety belts. People thought, up to the 1980s, that it was perfectly fine to hurl through space at 60 miles an hour with nothing to stop them going through their windshields. Now, people see safety belts are not only a great idea, but mandatory. Think tobacco companies, who for years all lied through their teeth under oath in Congress, stating that nicotine had no addictive qualities. Now, everyone knows not only that nicotine is addictive, but that commercial cigarettes are actually toxic and can kill you over time. Think Thalidomide, which doctors thought was safe to give to pregnant women to ease morning sickness, until they started giving birth to deformed babies. So the FDA took it off the market. Think PG & E, who deliberately buried radioactive waste outside a town in Southern California where it leaked into ground water and cause so much damage as cancers to its citizens. And they would have continued the cover-up if it

weren’t for Erin Brockovich, who exposed their deceit. People thought holding a cell phone to their heads even while driving was perfectly safe too, until the number of accidents — not to mention brain tumors — began to skyrocket.

The point is, we all know that these folks at these corporations do not necessarily have the health and well-being of our community at heart. And so many of these safety issues would not have been discovered and eventually resolved if it hadn’t been for one or more outspoken individuals who made it a priority to be of service to others by exposing these dangers. Of course, speaking the truth doesn’t necessarily make one popular.

Is it any wonder that corporations see Reinette as a threat, when here comes along another troublemaker who wants to call out the potential dangers of an untested and unproven technology, a serious obstacle to their huge profits? Reinette is a current day Erin Brockovich.

Reinette has done a lot of research and is warning us about the potential dangers of 5G technology. But don’t just take her word for it: do your own research into what she is saying about 5G. Ask yourself why Israel, which is the most cutting edge country in the world in terms of cyber technology, surveillance and telecommunications, does not allow 5G in their country. Ask yourself why they have taken out the WiFi in public schools and government buildings in France and Germany.

The fact that Reinette won't compromise her truth used to be called integrity. The fact that she speaks it out despite repeated attacks — this used to be called courage. She is strong. And people in positions of power whose personal gains are threatened by her truth, are seeking a way to get rid of her or neutralize her. It's a tried and true tactic: discredit the person, so that what she is saying will be discredited.

And what is so great about being a "neutral presence?" Shouldn't we prefer our leaders to have vision and be looking out for us and protecting us against greed and corruption? What happens when a voice like Reinette's is silenced? Do we just open the floodgates for companies to use our town and our people for their own gain? What would Nevada City have been like if it hadn't been protected by being made a historical district? Just like any other small town in America: Broad Street overrun with fast food franchises, cheap clothing chain stores, and neon lights.

To play Devil's advocate: what if cellular companies actually do have our best interests of our health at heart? We say, let them prove it. Prove that 5G is completely safe. Not just saying "it's safe." Let's see the studies conducted in trials done by a neutral third-party.

Then again, perhaps the truth is no longer valued in this community. Remember when our own Board of Supervisors (except for Terry Lamphier, and look what happened to him) was busted for lying about Measure W? On the front page of the Union, no less. Attorney Heather Burke, through the

Freedom of Information Act, found that the Board had determined not to allow medical cannabis to be grown in the county based on “hundreds of complaints,” which turned out to be a complete lie. In fact the hundreds of responses were people writing to *support* local growing of medical cannabis. The actual complaints numbered around less than 30, and they were mostly about the smell.

But there were never any repercussions for these elected leaders lying to the people and making policies based on lies. So maybe people not only expect their elected leaders to lie, but tacitly sanction these lies. Someone like Reinette who comes along and tells the truth, then, is up for attack. Interesting how someone who tells the truth is threatened with removal of her position, while those who were openly shown to have lied are given no penalty. What does this say about our values as a community?

In all our years of knowing Reinette, we have never known her to be anything other than kind, honest, in integrity, and motivated to work for the good of the community instead of personal gain. We have never known her to hurt anyone. She may be brash, sassy, opinionated and forceful, and you may not like that in a woman (we do), but her heart is good and looking out for YOU: for your health, for the welfare of our community and the health of our planet. She has devoted her political life to creating systems for good and to help keep safety and thriving in the changing world: the Nevada City Farmer’s Market, APPLE, annual downtown clean up, Goat Fund Me, just to name a few. And all for no pay or compensation.

Maybe she’s just too good for this town, but we hate to think so. We prefer to think that the specialness of this community deserves to be protected. And that we’re getting exactly what we deserve.

Saul and Elena Rayo

Who are, by the way, nobody’s “minions.” We are thinking people who happen to be in alignment with other thinking, intelligent and community-minded people. We wonder about people who call other people minions, whose minions are they? Interesting how “minions’ and “followers” are being used to discredit people by insinuating they are part of a cult, and therefore not worthy of opinion. More name-calling … ad hominem = bad debate principle

From:	formbuilder@municipalnotices.com
To:	Catrina Olson; Bubba Highsmith
Subject:	Report a Concern
Date:	Friday, November 22, 2019 8:02:20 PM

Form Name:
Report a Concern

Form Text:
Please provide the information requested below to report a problem or concern to City Hall. If you would like to speak directly with a staff member, you may call City Hall at (530) 265-2496, Monday – Friday 8:00 a.m.-noon & 1:00-5:00 p.m.

Please understand that this service is not to be used to report an emergency situation. **In the event of an emergency please dial 9-1-1.**

Name	Janet Tache
Email Address	Nevada County
Street Address	Other
Phone Number	
Area of Concern	
Location of Concern	Censuring your mayor
Brief Description of the Issue	Our family is very impressed with Mayor Senum. More than anyone we have seen, she cares for the people of Nevada City and for the town itself. She is fearless in telling the truth as she sees it. She represents the views of many people whom we know in Nevada City. If this is a matter for censure, then democracy is certainly not what it used to be. Very small minded to go after Reinette, in the opinion of our family. Re her views on 5G, she has listened to many of her constituents, done extensive research, and tirelessly advocated for the health of her town. She did not cause the public concern. She agreed with it, listened to her people and swam against a very strong current to make our voices heard. Kudos to her.
Response Requested	None

Sent from IP Address: 184.23.162.54

From:	formbuilder@municipalnotices.com
To:	Catrina Olson; Bubba Highsmith
Subject:	Report a Concern
Date:	Saturday, November 23, 2019 9:09:46 PM

Form Name:
Report a Concern

Form Text:
Please provide the information requested below to report a problem or concern to City Hall. If you would like to speak directly with a staff member, you may call City Hall at (530) 265-2496, Monday – Friday 8:00 a.m.-noon & 1:00-5:00 p.m.

Please understand that this service is not to be used to report an emergency situation. **In the event of an emergency please dial 9-1-1.**

Name	Isaac Yoder
Email Address	Nevada County
Street Address	
Phone Number	Other
Area of Concern	
Location of Concern	Nevada City
Brief Description of the Issue	NC City Council RE: Dec 10th, 2019 Agenda My name is Isaac Yoder. I am a Nevada Co. resident. I am a semi-retired environmental professional that has represented international food companies to state and federal Environmental Protection Agencies for over 20 years. I have participated in environmental events in NC and I and my family attends church there. It is my opinion that Mayor Reinette Senum represents very well the best interest of Nevada City, CA. Her views on 5G, climate change & engineering, racism -from wherever it arises, and social justice are shared by me. Her views on sensitive issues that confront NC speak well of her indomitable courage to confront danger in an unflinching manner. In my professional view she is a rare gem and as such we should undergird her with great strength. I ask that these comments be included in the Dec 10th city council agenda package.
Response Requested	None

City of Grass Valley
Police Department
"Dedication, Excellence and Partnerships"

Alexander K. Gammelgard
Chief of Police

October 29, 2019

Chief Chad Ellis
317 Broad Street
Nevada City, CA 95959

Chief Ellis:

As you are aware, on Sunday, 10/27/2019 at approximately 1:30 in the afternoon, a fire started in the undeveloped and rural area of Grass Valley near Brunswick Road and Idaho Maryland Road, in the tree-line boarding the field of Loma Rica Ranch. Because of amazing efforts by fire personnel, a disaster was averted that day. I would like to extend our deepest appreciation for the staff from the Nevada City Police Department who helped to coordinate, respond, and assist during this emergency.

As is always the case, the first responding officers and deputies performed under stressful and difficult situations at a level that should make our community incredibly proud. As important as the work of those in the field, is the work of the dispatchers in the Nevada County Regional Dispatch Center who, through their dedication to duty and passion for our community-safety went above and beyond during this stressful incident, answering over 170 911 calls in the first hour and nearly 90 additional 911 calls in the next hour, as well as an overwhelming amount of radio traffic.

I would like to extend my thanks to you and your staff for your support during the Dorsey Fire and all of their logistical and operational actions.

Sincerely,

Alexander K. Gammelgard
Chief of Police

129 South Auburn Street • Grass Valley, California 95945 • Phone (530) 477-4600

CITY MANAGER'S UPDATE DECEMBER 6, 2019

The City of Nevada City is working hard on a variety of projects and activities to serve the community. This correspondence provides the City Council and citizens with a periodic update on citywide activities and events.

~ Catrina Olson, City Manager

KUDOS

- **Elections**
  Good work to Gabi Christakes, Administrative Services Technician for doing an awesome job her first year handling all of the elections "stuff".

- **Nevada City Police Department**
  A big thank you to the Nevada City Police staff involved in coordinating, responding and assisting during the Grass Valley fire emergency at Brunswick Road and Idaho Maryland on October 27, 2019.

- **Welcome to new Nevada City Police Officer**
  Congratulations to new Officer Shawn Holland who completed the Academy November 19, 2019. Welcome aboard. Officer Holland's official start date was November 24, 2019.

COMPLETED AND ONGOING CITY PROJECTS

- **Residential Chipping Program**
  The program has slowed down but is still available. Take advantage of this program. Just because fire season is ending, doesn't mean that the vegetation clean up shouldn't continue throughout the year.

- **New Fire Engine**
  The Nevada City new Fire Engine has an extended arrival and is now due to arrive March 2020.

- **Fire Department Activity**
  Sam Goodspeed, Division Chief, attended the Greater Champion Mine Firewise meeting with Vice Mayor Minett to discuss ongoing action plans for vegetation management on City Owned properties. The new Firefighters are currently training at the Grass Valley Fire Department. Grass Valley fire is providing backup. The Fire Departments made it successfully through the recent storms without any occurrence of downed power line issues or trees damaging homes.

- **PG&E Power Line Project**
  Division Chief Goodspeed has contacted PG&E regarding a power line that runs through the Deer Creek Canyon west of Nevada City that is lacking fire clearance and creating a hazard. Nevada City Fire Department is in the early stages of developing a working group

consisting of PG&E, immediate property owners, City and County elected officials, local fire districts and Firewise Communities. This project is a work in progress.

- **High/Low Sirens**
  This program is up running across the board at both City agencies and the County agencies.

- **Unenforced Smoking Areas Pilot Project**
  Signs and receptacles are in…the unenforced smoking area pilot project is in full swing. Contact the City Manager with feedback on the program.

- **Commercial Street One-Way Pilot Project**
  August 5, 2019 the One-Way Pilot Project began. Watch for the one-way and be safe. This item is due to be discussed at the January 8, 2019 meeting.

- **Wastewater Treatment Plant and Water Treatment Plant Activity**
  Staff is continuing to work with the State on applicable compliance projects to improve the Wastewater Plant operations. In addition, a new clarifier brush system project and switch gear for the generator project are currently underway. The Little Deer Creek intake project has been completed.

- **South Pine Street Railing, Sidewalks and Wall Rebuild**
  This project is complete. The City is just waiting for the railing to be installed.

- **Deck Rehabilitation at City Hall**
  This project was completed, however during the last storms the deck was still leaking. This is being rectified by the contractor.

- **Solar at the Old Airport**
  Staff is continuing to work with SEED and Sustainable Committee members to potentially find developers interested in a solar project at the Old Airport.

- **Planning**
  Amy Wolfson, City Planner is currently working with a Consulting Attorney to update the City's ADU Ordinance that will potentially be heard at the January 22, 2019 City Council Meeting. Also underway is a parcel map at Gold Flat Road.

- **Cannabis Update**
  2 applications for type 7 volatile manufacturing, 1 application for infusion manufacturing, 1 application for added distribution to Elevation '2477 and one amendment for a manufacturing business to change over to a type 7 permit will be reviewed at the December 19, 2019 Planning Commission meeting. The next round of applications are due by December 31, 2019. At this point staff has noted that the New Mowhawk and Searls areas are full with approved applicants.

- **SB2 Grant**
  City Planner, Amy Wolfson has submitted the SB-2 grant application for projects totaling $160k. The projects are to prepare a CEQA document for the Cottage Dwelling Ordinance, General Plan Safety Element update, Zoning Ordinance update to address ADU standard, reimbursement request for the Housing element update and permit processing software.

- **Governor and OES Grant Funding**
  Police Chief, Chad Ellis submitted an OES grant application to fund several projects in relation to mitigating the PSPS events that the City and surrounding communities have

faced. The City is seeking funding for a generator to operate all of City Hall (part of the project was started back in preparation for Y2K); a generator to run the pump station that provides water to Lost Hill and Chief Kelly residents. It was noted during the outages that the pump station went down and the residents were not getting water served to their homes. Finally a generator for the Wastewater Treatment Plant Facility. Currently the WWTP has all of the necessary equipment to operate during power outages; however, that equipment is extremely aged so the City is seeking funding from OES for backup/replacement.

- **Proposition 68 Per Capita Grant Program**
  The City submitted a questionnaire in June 2019 to receive determination if the City is eligible for funding through this program. The City should hear by January 2020 if it is eligible to receive recreational funds in the ratio of the City's population as to the combined total of the State's population with the minimum allocation of $200,000.

- **Firehouse #1 and #2**
  Staff has located a possible grant for museum rehabilitations and will be reviewing grant requirements to identify if either of the Nevada City Firehouses would qualify for possible rehabilitation grant funding.

- **Old Airport**
  City Planner, Amy Wolfson, Parks, and Recreation Manager, Dawn Zydonis with the contracted Architect on the will be presenting a schematic of the Master Plan Design for the Old Airport Property at the January 8, 2019 City Council Meeting.

- **Picnic Area Bathroom Remodel**
  The bid award for this project is scheduled for the December 10, 2019 City Council Meeting.

- **2 New/Used Ford F250's for Water/Wastewater**
  The City Council will be looking to approve the purchase of 2 used Ford F250's from Teichart Co. to replace a very aged fleet.

- **Department of Public Works**
  Trial LED lights are being placed at multiple City facilities as part of the PG&E approved on bill financing loan program. Currently being considered by staff including the Police Department, fencing at the Old Stamp Mill.

- **Clampers Square**
  The Nevada County Narrow Gauge Railroad Museum is underway at Clampers Square at the off-ramp at Sacramento Street.

UPCOMING CITY PROJECTS

- **Sign Committee**
  Council Members, Valerie Moberg and Duane Strawser met with City Manager, Catrina Olson, to discuss "sprucing" up and adding new signage in Nevada City. Staff is working on reviewing intersections on Commercial Street to begin updating signage.

- **Handrails on Boulder Street – Coming January 2020**

- **Picnic Area Bathroom Remodel – Coming November 2019**

- **Water/Wastewater Underground Utility Replacement at Commercial Street – postponed**
  This project is being reviewed by staff to be replaced with rehabilitation of upper Broad Street with SB1 funds

- **Community Development Block Grant (CDBG) Curb Cuts for American Disabilities Act (ADA) – January 2020**

- **Nevada Street Bridge Rehabilitation – Spring 2020**

- **Clark Street**
  Staff is currently discussing the possibility of doing a traffic study at Clark Street for possible one-way.

ADMINISTRATION

- **Personnel**
  Police Officer Bryan Fish will be completing the Academy on December 19, 2019. The recruitment for the Police Department Records Coordinator position is complete. The successful candidate is Josephine Hodges. She will be joining the Nevada City team soon.

- **Contract Planning Consultants**
  City Planner has met with the Gallelli Project participants and they have selected to work with our newly contracted planning consultant Raney Planning and Management, Inc.

- **Extreme Weather Shelter**
  The extreme weather shelter agreement became active November 1, 2019. The agreement runs through March 31, 2019. The Extreme Weather Shelter was open at the Veteran's Building November 26 – 29, 2019.

- **Audited Financials FY 18/19**
  The audited financials for FY 18/19 will be presented at the January 22, 2019 by the audit Firm R.J. Ricciardi, Inc.

- **Candidate Filing**
  Due to the fact that not all incumbents are re-running, the candidate filing date has been extended until December 11, 2019 at 5:00 PM.

- **City Attorney**
  The City will be transition to a new City appointed Attorney through Jones and Mayer. Consulting Attorney, Hal DeGraw will remain with Jones and Mayer and will be available to work on special projects for the City.

COMING SOON….

- **Website Refresh…coming soon**
  City Manager, Catrina Olson, Administrative Services Manager, Loree' McCay, and Parks & Recreation Manager, Dawn Zydonis, will be working with MunicipalCMS, LLC. on an update and "refresh" to the Nevada City website.

- **Gracie Commons**
  12 New units with 4 new second units are getting under way. This project must be complete by February 24, 2021.

- **Pre-Treatment Discharge Ordinance for Wastewater – January 2020**
  The City will be looking to setting regulations for discharge related to business/industry that have significant impacts on the Wastewater Treatment Plant. This will help create processing efficiencies for the City's plant facility. The City has sent letters to heavy commercial dischargers to begin the discussion about mitigating impacts on the Wastewater Treatment Plant. Currently the City is in sampling mode collecting data throughout Nevada City to help better inform

- **Bureau of Land Management (BLM)**
  The City has been notified that BLM will be doing fuel reduction on the land surrounding the Water Treatment Plant with grant funding they have received.

- **Washington Ridge Crew**
  Watch for the crew to be back to work at the Old Airport property to do the big "Winter Burn". The piles that are currently at the Old Airport are being cleaned up.

- **Soap Box Derby**
  Look for the Soap Box Derby to return July 2020 at Pioneer Park, possibly the 11th of the month and being sponsored by KNCO.

DON'T FORGET AND MISCELLANEOUS INFO

- **It is that Time of Year Again**
  Staff, City Council and Planning Commission mark your calendars for December 13, 2019 for the annual Nevada City Holiday Party to be held at the Water Treatment Plant this year. Join the fun.

- **Victorian Christmas**
  Mark your calendars for December 8th, 11th, 15th, 18th and 22nd to attend Victorian Christmas. You will find Santa Claus at Firehouse #2 during the events.

- **Food and Toy Run**
  Come join the Food and Toy Run "fun" on December 14, 2019.

- **January 2020 Newsletter**
  If you want anything in the City Newsletter, please have all information to Dawn Zydonis by December 23, 2019.

- **Bathrooms at the Pioneer Park**
  We've seen the 1st snowstorm so it's time to winterize. The Tennis Court bathrooms will be the only open bathrooms during the day beginning this week. The rest will be closed for the winter.