

CONSTRUCTION CONTRACT

This contract is made and entered into on 12/20/24, by and between **Haggerty Construction, Inc.**, a **STATE OF CA (TYPE)**, with a business address at **(2474 Wigwam Dr., Stockton CA 95205)**, hereinafter called "CONTRACTOR," and CITY OF STOCKTON, a municipal corporation, hereinafter called "CITY."

WITNESSETH:

WHEREAS, plans and specifications for the construction of **BANNER ISLAND BALLPARK RENOVATION, PROJECT NO. PUR 25-004**, hereinafter called "PROJECT," were regularly adopted by **Council Resolution No. 2024-12-03-1207**, on 12/03/2024; and

WHEREAS, the contract for said work was regularly awarded to CONTRACTOR, by **Council Resolution No. 2024-12-03-1207**, on 12/03/2024.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants herein contained, the parties hereto expressly agree as follows:

CONTRACTOR agrees:

1. SCOPE OF SERVICES. To do the work and furnish all the labor, materials, tools, equipment, and insurance required for the construction of PROJECT in accordance with the plans and specifications as specified in **EXHIBIT A**. The "contract documents," which include the bid documents, project plans, specifications, all letters of clarification, and the City of Stockton Standard Specifications and Plans, are incorporated into and made a part of this contract by this reference to the same extent as if fully set forth.

2. COMPENSATION. To do and perform the work contemplated hereby in a good and workmanlike manner and to furnish all labor, materials, tools, and equipment necessary therefore at the prices specified in Exhibit A, attached hereto and by reference made a part hereof, under the direction of and to the complete satisfaction of the Director of Economic Development Department of the City of Stockton. Total compensation for services and reimbursement for costs shall not exceed **\$6,100,000.00** or as otherwise mutually agreed to in a Contract Change Order.

3. INSURANCE. CONTRACTOR shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this contract, the policies of insurance specified in Exhibit B, which is attached to this contract and incorporated by this reference, and as provided in the "contract documents" including Section 7-1.06 of the City of Stockton Standard Specifications and Plans as adopted on September 27, 2016, by Council Resolution No. 2016-09-27-1213, effective September 27, 2016.

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured.

Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured; whichever is greater.

The Additional Insured coverage under the Contractor's policy shall be "primary and non-contributory" and will not seek contribution from the City of Stockton's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.

The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess Insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Stockton (if agreed to in a written contract or Agreement) before the City of Stockton's own insurance or self-insurance shall be called upon to protect it as a named insured.

All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Payment Bond in the amount of the self-insured retention (SIR) may be required.

Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named Insured or the City of Stockton.

The City of Stockton reserves the right to obtain a full certified copy of any Insurance policy and endorsements.

Failure to exercise this right shall not constitute a waiver of right to exercise later.

Contractor shall maintain insurance as required by this contract to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event contractor fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by contractor.

Contractor agrees to include with all Subcontractors in their subcontract the same requirements and provisions of this Agreement including the indemnity and insurance requirements to the extent they apply to the scope of the Subcontractor's work. Subcontractors hired by Contractor agree to be bound to Contractor and the City of Stockton in the same manner and to the same extent as Contractor is bound to the City of Stockton under the Contract Documents. Subcontractor further agrees to include these same provisions with any Sub-subcontractor. A copy of the City of Stockton Contract

Document Indemnity and Insurance provisions will be furnished to the Subcontractor upon request. The General Contractor shall require all sub-contractors to provide a valid certificate of insurance and the required endorsements included in the Agreement prior to commencement of any work and contractor will provide proof of compliance to the City.

4. INDEMNITY AND HOLD HARMLESS. To the fullest extent permitted by law, Contractor shall hold harmless, defend, and indemnify City of Stockton 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 City of Stockton. This obligation is independent of, and shall not in any way be limited by, the minimum Insurance obligations contained in this agreement. These obligations shall survive the completion or termination of this agreement.

5. STANDARD PLANS AND SPECIFICATIONS. The performance of said work and the furnishing of said materials shall be executed in accordance with Section 8-1.04B of the City of Stockton Standard Specifications and Plans as adopted on September 27, 2016, by Council Resolution No. 2016-09-27-1213, effective September 27, 2016, and the provisions of the issued project specifications.

6. WORKING DAYS. It is agreed by the parties to the contract that in case all the work called for under the contract in all parts and requirements, is not finished or completed within the number of days as set forth, damage will be sustained by CITY, and that it is and will be impracticable and extremely difficult to ascertain the actual damage which CITY will sustain in the event of and by reason of such delay; and it is therefore agreed that CONTRACTOR will pay to CITY the sum of ONE THOUSAND DOLLARS (\$1,000) per day for each and every calendar day's delay in finishing the work in excess of the number of days prescribed; and CONTRACTOR agrees to pay said liquidated damages as herein provided; unless the delay is caused by the City, the City's agents, or through no fault of the Contractor; and in case the same are not paid, agrees that CITY, may deduct the amount thereof from any monies due or that may become due CONTRACTOR under the contract.

It is further agreed that in case the work called for under the contract is not finished and completed in all parts and requirements within the number of days as specified, due to an act of God or Contractor's actions or omissions, CITY shall have the right to increase the number of days or not, as may seem best to serve

the interest of CITY, and if CITY decides to increase the said number of days, CITY shall further have the right to charge to CONTRACTOR, CONTRACTOR's heirs, assigns or sureties, and to deduct from the final payment for the work, all or any part, as may be deemed proper, the liquidated damages as specified or the actual cost of engineering, inspection, superintendence, and other overhead expenses which are directly chargeable to the contract, and which accrue during the period of such extension, whichever is greater, except the cost of final surveys and preparation of final estimate shall not be included in such charges.

A working day shall not include, nor shall CONTRACTOR be assessed with liquidated damages nor the additional cost of engineering and inspection during any delay beyond the time named for the completion of the work caused by acts of God or of the public enemy, acts of CITY, fire, floods, epidemics, quarantine restrictions, strikes, and freight embargoes and subject to approval by the Director, inability to get materials ordered by CONTRACTOR or Subcontractor due to such causes provided that CONTRACTOR shall notify the Director in writing of the causes of delay within five (5) working days from the beginning of any such delay, and the Director shall ascertain the facts and the extent of the delay, and Director's findings of the facts thereon shall be final and conclusive.

If CONTRACTOR is delayed by reason of alterations made in these specifications, or by any act of the Director or of CITY, not contemplated by the contract, the time of completion shall be extended proportionately and CONTRACTOR shall be relieved during the period of such extension of any claim for liquidated damages, engineering or inspection charges or other penalties. CONTRACTOR shall have no claim for any other compensation for any such delay.

7. CONFORMANCE TO APPLICABLE LAWS

A. TITLE VI

Title VI of the Civil Rights Act of 1964 requires that "no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (42 USC Section 2000d)
<http://www.dol.gov/oasam/regs/statutes/titlevi.htm>.

The City of Stockton requires compliance with the requirements of Title VI in all of its programs and activities regardless of funding source.

B. DISCRIMINATION AND HARASSMENT POLICY

The City of Stockton has a Discrimination and Harassment Policy (Exhibit C). The purpose of this policy is to reaffirm the CITY's commitment to demonstrating respect for all individuals by strictly prohibiting discrimination

and harassment, including sexual harassment in the workplace, to define the types of behavior and conduct prohibited by this policy, and to set forth a procedure for reporting, investigating, and resolving complaints of discrimination and harassment in the workplace.

C. LABOR STANDARDS AND PROVISIONS/CALIFORNIA LABOR CODE

The bidder shall understand that conditions set forth in Chapter 1, Part 7, Division 2 of the California Labor Code shall be considered part of the contract agreement.

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=7.&chapter=1.&article=2.

D. PREVAILING WAGE

CONTRACTOR and any Subcontractor shall pay each employee engaged in the trade or occupation not less than the prevailing hourly wage rate. In accordance with the provisions of Section 1770 of the Labor Code, the Director of Department of Industrial Relations of the State of California has determined the general prevailing rates of wages and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in Section 1773.1, apprenticeship or other training programs authorized by Section 3093 and similar purposes applicable to the work to be done. CONTRACTOR performing the work under this contract shall obtain a copy of the wage rate determination and shall distribute copies to each Subcontractor. As the wage determination for each craft reflects an expiration date, it shall be the prime CONTRACTOR and each Subcontractor's responsibility to ensure that the prevailing wage rates of concern is current and paid to the employee.

- (i) The CONTRACTOR performing the work shall be responsible for obtaining a copy of the State wage rate determination. State wage rates may be obtained at <http://www.dir.ca.gov/OPRL/pwd/Determinations/Northern/Northern.pdf>. The CONTRACTOR shall be responsible for posting said wage rates at a prominent location at the work site and shall maintain same in a good readable condition for the duration of the work.
- (ii) Should the CONTRACTOR choose to work on a Saturday, Sunday or on a holiday recognized by the Labor Unions, the CONTRACTOR shall reimburse the CITY the actual cost of engineering, inspection, superintendence, and or other overhead expenses which are directly chargeable to the contract. Should such work be undertaken at the request of the CITY, reimbursement will not be required. To conform strictly with the provisions of Division 2, Part 7, Chapter 1, Article 2, of the Labor Code of the State of California. To forfeit as a penalty to

CITY the sum of TWENTY-FIVE AND NO/100 DOLLARS (\$25.00) for each laborer, worker, or mechanic employed by CONTRACTOR, or by any Subcontractor under CONTRACTOR, in the execution of this contract, for each calendar day during which any laborer, worker, or mechanic is required or permitted to work more than eight (8) hours and who is not paid the general prevailing rate of per diem wages for holiday and overtime work in violation of the provisions of Sections 1770 to 1781 of the Labor Code of the State of California. That all sums forfeited under the provisions of the foregoing sections shall be deducted from the payments to be made under the terms of this contract.

- (iii) The CONTRACTOR to whom the contract is awarded shall ensure that the prime and each subcontractor will in accordance with Section 1776 of the Labor Code, maintain certified payroll records. A copy of said records shall be provided with each invoice to the Economic Development Department, Attention Project Manager. It shall be the CONTRACTOR'S responsibility to obtain copies of the current prevailing wage rate determination for all subcontractors. Additionally, certified payroll records must be uploaded to the DIR website as required by labor code.
- (iv) The CONTRACTOR shall comply with the provisions established in Section 1777.5 of the Labor Code concerning the 1) certified approval by local joint apprenticeship committees for the employment and training of apprentices, and 2) contribution of funds to administer and conduct apprenticeship programs, if applicable to the job.

E. APPENDIX E OF THE TITLE VI ASSURANCES

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest agrees to comply with the Appendix E of the Title VI Assurances attached as Exhibit E.

F. SANCTIONS

Deliverables must conform with all applicable federal, state, and local laws. Such conformity includes compliance with federal sanctions, and Contractor certifies that it has not and will not engage in prohibited transactions with sanctioned persons or entities.

CITY agrees:

8. COMPENSATION. To pay CONTRACTOR for the work herein contemplated in the following manner: Progress payments will be made on or about the first day of each calendar month, in such sum as shall make the aggregate of payment up to such day equal to ninety-five percent (95%) of the proportional contract price, upon

the basis of the progress certificate of the Director of Public Works as to the amount of work done and the proportional amount of the contract price represented therefore; and all of the remaining part of the contract price not as aforesaid paid, shall be paid at the expiration of thirty-five (35) days from the completion of said work of construction and the certification by the Director of Public Works of such completion.

9. SECURITIES. Pursuant to Section 22300 of the Public Contract Code, CONTRACTOR will be permitted, at its request and sole expense, to substitute securities for any monies withheld by the CITY to ensure performance under the contract. Said securities will be deposited either with the CITY or with a State or federally chartered bank as escrow agent. Securities eligible for this substitution are those listed in Section 16430 of the California Government Code or bank or savings and loan certificates of deposit. CONTRACTOR shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

10. CHANGE ORDERS. CITY reserves the right to make such alterations, deviations, additions to or omissions from the plans and specifications, including the right to increase or decrease the quantity of any item or portion of the work, as may be deemed by the Engineer to be necessary or advisable and to require such extra work as may be determined by the Engineer to be required for the proper completion or construction of the whole work contemplated.

Any such changes will be set forth in a contract change order which will specify, in addition to the work done in connection with the change made, adjustment of contract time, if any, and the basis of compensation for such work. A contract change order will not become effective until approved by the City Manager and/or the City Council.

Processing of change orders shall be in accordance with Section 4-1.05A of the City of Stockton Standard Specifications and Plans as adopted by Council on September 27, 2016, by Resolution No. 2016-09-27-2013, effective September 27, 2016, or as otherwise amended by Council. When the compensation for an item of work is subject to adjustment under the provisions of Standard Specifications and Plans, Section 4-1.05A, CONTRACTOR shall, upon request, promptly furnish the Engineer with adequate detailed cost data for such item of work.

11. AUDITS

(a) CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under the contract. Upon request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance.

(b) CONTRACTOR agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of the contract. CONTRACTOR agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be

relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of five (5) years after final payment under the contract.

12. FHWA 1273 AND CARGO PREFERENCE ACT

Federal form FHWA 1273 is physically included in this contract as Exhibit F.

In compliance with the Cargo Preference Act of 1954 (CPA), 46 CFR §381, and the implementing regulations in 46 CFR §381.7, the Contractor agrees to the requirements contained in the Act.

13. EXHIBITS. All Exhibits are incorporated herein.

Exhibit A - Scope of Work
Exhibit B - Contractor's Bid Schedule
Exhibit C - Insurance Requirements
Exhibit D - Discrimination/Harassment Policy
Exhibit E - Appendix E of Title VI Assurances
Exhibit F - Federal Aid Funding Requirements
Exhibit G - Land Covenant
Exhibit H - Soil Remedial Plan
Exhibit I - ARPA Funding Requirements
Exhibit J - Faithful Performance Bond
Exhibit K - Labor and Material Bond

14. TERM. The contract term will be three years. Contract maybe extended by mutual agreement by both parties, in writing through an amendment to this contract.

15. WAIVER. It is expressly understood and agreed by and between the parties hereto that a waiver of any of the conditions of this contract shall not be considered a waiver of any of the other conditions thereof.

It is further understood and agreed by and between the parties hereto that time is of the essence of this contract in all respects.

IN WITNESS WHEREOF, the parties hereto have hereunto affixed their hands and seals the day and year first above written.

ATTEST:

KATHERINE ROLAND, CMC, CPMO
CITY CLERK

For

By:


KATHERINE ROLAND, CMC, CPMO
CITY CLERK

By:


HARRY BLACK
CITY MANAGER

APPROVED AS TO FORM & CONTENT:
LORI M. ASUNCION
OFFICE OF THE CITY ATTORNEY

By:

DEPUTY CITY ATTORNEY

By:


Ryan Haggerty, President
Haggerty Construction, Inc.

45-4772572

Tax Identification No.

BANNER ISLAND BALLPARK MLB RENOVATION PROJECT

SCOPE OF WORK

General contractor will renovate and construct needed improvements to the Banner Island Ball Park to meet MLB required standards, per construction drawings. The primary purpose of the proposed modifications to Banner Island Ballpark located in Stockton, CA is to ensure the facility complies with Major League Baseball (MLB) Player Development License (PDL) Requirements.

In 2022 MLB conducted a facility audit and report documenting facility non-compliance items. Conceptual plans and construction drawings have been designed by Pendulum Studio, LLC (Kansas City, MO) to resolve all identified deficiencies. Schematic Design drawings outlining proposed facility modifications were submitted to MLB by the Stockton Ports on behalf of the City of Stockton in early 2023. The documents were reviewed and approved by MLB's designated review agency (Ewing Cole) to be in compliance with MLB requirements. The approach of the plan is to modify and re-use space and equipment where practical to complete the improvements with a cost and time-sensitive method.

The improvements have been approved by MLB to be completed or largely completed by the beginning of the 2025/26 season, commencing in March 2026.

The documented scope of the project is as follows:

1. Existing Batting/Pitching Tunnel

- The existing batting/pitching tunnel located on the grade level/main concourse level along the first base line was identified as NOT being in compliance with MLB standards which requires two (2) lanes with dimensions of no less than 15'-0" feet wide by 75'-0" feet, with an additional perimeter width of at least 2'-0" feet on all sides. The required clear height of the batting tunnel is required to be 12'-0" feet which includes any potential sag of the overhead netting system. The existing batting tunnel is too low by approximately 2'-0" feet.
- The proposed solution is to repurpose the existing open air batting tunnel for use as a shared weight room facility (MLB requires a minimum of 750 SF of enclosed and conditioned space easily accessible by the home and visiting team).
- The existing netting and lighting fixtures shall be removed. The interior space in its entirety shall be enclosed and conditioned by filling any openings to the main concourse with storefront glazing or exterior grade stucco. A new rooftop mechanical unit shall be added above the space.
- The enclosed square footage area in excess of 750 SF shall be used as a new hospitality space equipped with new plumbing, lighting, and interior finishes.

2. New Batting/Pitching Enclosure

- A new 3,500 SF batting/Pitching has been located in a portion of the existing surface parking lot as a standalone building for use by the home and visiting team. The new building shall match the overall aesthetic of the existing facility and shall comply with the MLB interior spatial requirements.
- In addition to the batting/pitching lanes the required 200 SF minimum secure MLB storage room shall be housed in this new building.

3. Female Staff Locker Addition

- Although temporary measures were taken for the 2023 season to repurpose an existing public restroom for use as female staff accommodations, the fix will not comply long-term. MLB requires a minimum accommodation of two (2) showers, two (2) lavatories, two (2) water closets, and four (4) lockers for female staff use. The existing facility trash compactor shall be relocated from its existing position directly adjacent to the visitor locker room and instead placed adjacent to the new batting/pitching enclosure. This move will allow more efficient and serviceable access for garbage removal from the site through a new gate system from the slightly reconfigured surface parking lot.
- The prior trash compactor location shall be the site of a new building enclosure with the required number of fixtures for the MLB required female staff lockers.

4. Visiting Team Locker Room Program Additions

- The existing visiting team locker room does NOT comply with the MLB required locker count. It also does NOT have a MLB compliant commissary area (service kitchen) to accommodate food service for the visiting team.
- The visiting team locker room shall be expanded to accept eight (8) additional lockers as well as a new enclosed commissary area that includes the following MLB required amenities:
 - Hot and cold water sink
 - Microwave
 - Dishwasher
 - Upper and lower storage cabinets
 - Refrigerator/Freezer
 - Seating for a minimum of eight (8) individuals
- The aforementioned locker additions shall consist of repurposed lockers from the existing home team locker room. (The design intent for this project is to maximize cost efficiency by reusing as many existing furniture components as possible)
- One (1) additional MLB required whirlpool shall be added to the existing visiting team training room
- A private Visiting Team Manager's office shall be added to the locker room space equipped with a desk and two (2) lockers per MLB requirements.
- Interior finishes shall be patched and repaired as needed. At all areas that include new scope, finishes matching existing conditions shall be provided.

5. Home Team Locker Room Program Additions

- The existing home team lockers shall receive a total refresh bringing the facility up to par with comparable markets and transforming the space into a first rate but efficient and comfortable space for the home team.
- All existing home team lockers shall be removed but preserved and shall be repurposed in other areas that require lockers such as the listing team lockers, new female staff locker room and visiting coach/manager locker rooms.
- The home team player, coaches, and manager locker rooms shall receive all new lockers
- Per MLB requirements a new manager's office shall be constructed (currently does not exist).
- The existing home team weight room (currently not sharable with then visiting team and too small) shall be repurposed for use as the MLB required home team commissary and shall include the following MLB required amenities:
 - A hot and cold water sink
 - Microwave
 - Dishwasher
 - Upper and lower storage cabinets
 - Refrigerator/Freezer
 - Seating for a minimum of eight (8) individuals
- The existing laundry area shall be upgraded to include the following MLB required appliances:
 - Two (2) 50 lb commercial washers
 - One (1) 70 lb commercial dryer
- All existing floor, ceiling, and base finishes shall be refreshed.

6. Temporary Female Staff Accommodations

- The temporary female staff accommodations made for the 2023 season shall be kept in tact and used as a dedicated locker room for female umpires per MLB requirements.
- Interior finishes shall be refreshed so that the space feels permeant versus temporary.

7. Secure Player Parking

- The existing player parking adjacent to the public parking lot is not marked and is not totally secure in line with MLB requirements.
- New 8'-0" feet tall secure line fencing and a code accessible gate shall be added and 35 parking spaces shall be striped for secure player use.

8. Batter's Eye Extension

- MLB requires the batter's eye screen at dead center field to be 36'-0" feet tall by 60'-0" feet wide minimum. Currently the batter's eye screen is short by approximately 7'-0" vertically.

- A screen extension has been documented and shall be installed to bring the facility in compliance.

9. Seating Bowl Reseat

- The original stadium seating manufacturer (American Seating) is no longer in business and therefore the existing seating stock is not serviceable by means of replacement parts and stock. Many of the existing seats are broken and in some cases present the potential of injury to patrons due to broken backs and seat pans.
- All seating in the seating bowl shall be replaced and shall maintain the existing seating count one for one.

10. Field Lighting Upgrade

- MLB requires all facilities to upgrade to LED lighting with a minimum lighting level of 110 foot candles (fc) in the infield and 70 foot candles (fc) in the outfield. The current field lighting system is NOT in compliance.
- MUSCO lighting is providing an updated photometric analysis of the ballpark and a bid to bring the lighting system into full MLB compliance.

11. Existing Steel Member Repaint

- The existing structure is showing its age with an abundance of fading and peeling paint. This is likely due to the original specification of an inferior high performance coating specification.
- The documents currently call for a complete repainting of all exposed steel elements which will substantially improve the overall look and feel of the facility.



11/18/2024

Mrs. Tina McCarty

MLB Submission Revisions

Dear Tina,

We are writing to provide an update on the revisions to the previously submitted documents for MLB review and approval. These updates are being issued due to newly provided property line information from the City of Stockton following the initial review.

While most of the previously submitted information remains unchanged, the updated property line data has significantly impacted the following areas:

1. Batting/Pitching Tunnel Building Relocation

- The enclosed and conditioned batting/pitching tunnel building has been shifted approximately 60'-0" north to ensure it remains on land controlled by the City of Stockton. Originally, the building was directly adjacent to the new female staff locker room. Detail 01 on sheet MLB1 (attached) illustrates this adjustment

2. Plan West Boundary Adjustment

- The plan west boundary of the building has also been adjusted for the same property line considerations.
- **Visiting Team Locker Room:**
The existing scope of the visiting team locker room remains unchanged. Dashed lines in Detail 01 on sheet MLB1 outline the overall locker room area per our model. The total area is 801.25 SF, measured to the perimeter walls as defined by the MLB PDL document. While this area is less than the required 1000 SF, it reflects the best possible solution given the updated site constraints.
- **Visitor Commissary Addition:**
A new enclosed and conditioned visitor commissary has been added to the building's exterior, meeting the minimum area requirements specified in the MLB PDL. The floor plan includes all furniture placements to illustrate compliance.
- **Female Staff Locker Room Addition:**
A new enclosed and conditioned female staff locker room has also been added to the building's exterior, meeting MLB PDL minimum area requirements. Furniture layouts are included in the floor plan for clarity.
- **Architectural Elevations and Building Section:**
Architectural elevations of casework in both the visitor and home commissaries have been provided to demonstrate compliance with MLB PDL standards. Additionally, a building section through the batting/pitching tunnel is included for reference.
- **Shared Weight Room Facility:**
A portion of the existing batting/pitching tunnel will be repurposed as a shared weight room facility. Documentation has been provided to confirm compliance with MLB PDL requirements.

EXHIBIT A

This summary outlines all modifications to the previously submitted documents reviewed and approved by MLB. In addition to this letter we have attached the previously submitted project narrative that outlines the original scope of work for the project - all work described therein remains the same. This letter outlines only the items impacted by the property line update.

Please feel free to reach out with any questions or for further clarification.

Sincerely,

A handwritten signature in black ink, appearing to be 'JOC', with a stylized, flowing script.

Jonathan O'Neil Cole AIA, NCARB, NOMA
Principal
Pendulum



Monday, November 11, 2024

Construction Budget Proposal

Project #: 24038**Project Name:** Banner Island Ballpark Renovation**Site Address:** 404 W. Fremont St. Stockton, CA. 95203**Client:** City of Stockton-Economic Development Department, Tina McCarty**Builder:** Haggerty Construction, Inc.

The following is a Construction Proposal for work specific to the above listed project number and/or site address.

❖ Section 1 – Scope of Work

The following costs include labor, equipment and materials to renovate and construct the needed improvements to the Banner Island Ballpark per drawings by Pendulum Studio, LLC. dated 03/06/2024, specifications dated 03/05/2024, and associated documents Exhibits 1-9 provided to Haggerty Construction. This proposal is based upon Prevailing Wage rates.

❖ Section 2 – Inclusions

- ❖ **Staking** – Construction staking for rough grade, finish grade, building pad envelope, building grid lines, and trash enclosure. Includes building pad certification.
- ❖ **Hazardous Materials Testing** – Testing of existing surfaces to be demolished for lead and asbestos. A full report to be provided after testing. Soils testing per the description outlined in the Land Use Covenant.
- ❖ **Demolition** – All demolition of existing walls, ceilings, fixtures and finishes as detailed in drawings, including saw cutting of asphalt and concrete where required for new construction. Includes off-haul of all construction related debris, including removal and disposal of existing stadium bowl seating.
- ❖ **Structural & Site Concrete** – Building foundations per plan. Includes all excavating, sand, rebar, and fill needed per structural drawings. Includes footings for CMU walls and foundations for trash enclosure and soil retention walls. Includes all caulking and backer materials for concrete control joints per industry standard.
- ❖ **Masonry** – Furnish & install of CMU block walls for new Pitching/Batting Tunnel, Visitor's Locker Room Addition, and Trash Enclosure. Low CMU walls to have a precast top, and dimensional popout at exterior walls. Infill of existing CMU walls where needed.
- ❖ **Steel Framing** – Fabricate, erect, and install steel columns for building, structural roof framing, posts and gates for Trash Enclosure, and bolt-together steel for Batter's Eye. Includes 18-gauge metal decking for roof and joists supporting roof framing.

Page 1

Initials: _____



209 475 9898 haggertybuilds.com 2474 Wigwam Dr. Stockton, CA 95205
A Division of Haggerty Construction, INC. Lic. 944274



HAGGERTY

Build. Restore. Advise.

- ✦ **Building Insulation** – Furnish and install fiberglass batt insulation in walls and ceilings as depicted on the plans
- ✦ **Casework & Countertops** – Fabricate and install all P-Lam Cabinets, wood veneered lockers, and Solid Surface countertops per plans.
- ✦ **Roofing** – Provide and install ½" Dens Deck board primed with GAF vapor barrier, including full taper of ¼" per foot. Roofing to be mechanically fastened 60 mil TPO with expansion joints and pipe boots as needed. Roof to have 20-year manufacturer's warranty and 3 year subcontractor warranty.
- ✦ **Joint Sealants** – Furnish and install all exterior caulking for expansion joints, dissimilar material transitions, exterior doors, and storefront systems as required.
- ✦ **Doors and Frames** – Furnish and install all hollow metal welded door frames, metal doors, and primed wood doors including all required hardware at interior and exterior openings requiring them. Grouted frames included at CMU locations.
- ✦ **Storefronts** – Supply and install 2" x 4.5" clear anodized aluminum storefront by Oldcastle with Storefront stile entry doors. Storefront to be installed in opening of new Hospitality and Shared Weight Room.
- ✦ **Drywall** – Furnish and install all 5/8" type X drywall on new metal stud framing for interior walls and ceilings per wall types and ceiling details. Install tile backer board and mold-resistant drywall where required. Patching of existing drywall to new construction included where needed. All walls to receive Level 4 Finish.
- ✦ **Acoustical Ceilings** – Supply and install new acoustical ceiling grid suspension system, including seismic wires and compression posts. Install new ceiling tile per Finish Schedule. In some areas, existing ceiling tile will be removed and reused per plan.
- ✦ **Flooring** – Furnish and install commercial grade carpet tile, luxury vinyl tile, rubber flooring, epoxy flooring, artificial turf, and 4" wall base throughout per Finish Schedule.
- ✦ **Painting** – Apply one prime coat and two coats of finish to all drywall surfaces, both new and existing. Apply new paint to new Pitching/Batting Tunnel, Hospitality/Shared Weight Room, Visitor Locker Room/Clubhouse, Home Locker Room/Clubhouse, Paint exterior cap flashing at Batter's Eye, and doors and frames where required. Includes painting of exposed structural steel from alternates.
- ✦ **Signage** – Supply and install ADA compliant signage for Exits, Restrooms, and Occupancy designations. Supply and install 36" H x 3" Deep front lit aluminum channel letters to say "WATERFRONT SPONSOR SIGNAGE OPPORTUNITY" and 18" H x 3" Deep front lit aluminum channel letters to say "HOSPITALITY".
- ✦ **Toilet Accessories** – Furnish and install Bradley bathroom accessories in Restrooms including Grab Bars, Seat Cover Dispensers, Toilet Tissue Dispenser, Hand Soap Dispenser, Paper Towel Dispenser and Waste Receptacle. Supply and installation of Restroom and Weight Room mirrors included.
- ✦ **Fire Extinguishers** – Furnish and install five lb. ABC extinguishers in recessed cabinets per code.
- ✦ **Stadium Bowl Seating** – Remove existing stadium bowl seating and dispose. Supply and install Type 1, 2, and 3 chairs per seating submittal from Architect as Addendum #1. The total seating count to be replaced is 4,303 seats. All shipping is included.





HAGGERTY

Build. Restore. Advise.

- ◆ **Fire-Suppression Sprinkler Systems** – Design, permit, and install a complete overhead fire sprinkler system as a Deferred Submittal.
- ◆ **Plumbing** – Includes excavation and backfill of plumbing trenches and install under-slab plumbing as required. Furnish and install all domestic water lines, condensate lines, tank water closets, floor drains with trap primers, T&C gas piping fixtures and equipment for building plumbing. Includes exterior hose bibs, domestic water sub-meters, Insta-Hots, and roof drains that tie into the storm water system.
- ◆ **HVAC** – Furnish and install Carrier RTU heat pump units with curbs, heat strip, economizer and duct smoke detector, including electronic thermostats and one ductless mini-split system complete. Supply and install Greenheck Roof Exhaust fans with curb and duct, including gravity mount damper and air outlets.
- ◆ **Electrical** – Furnish and install complete electrical system per plan, including light fixtures with controls, all power distribution and equipment, and stadium lighting head replacement. Furnish and install ring-and-string in conduit for data and telephone. Includes single-point connection to all new equipment. Excavation and backfill is included.
- ◆ **Fire Detection and Alarm** – Includes design and installation of Fire Alarm system for new building addition.
- ◆ **Grading & Paving** – Furnish and install all on site demo, rough grading, finish grading and paving per plans and soils report. Off haul and disposal of contaminated soils to a location specified by reporting agency.
- ◆ **Erosion and Sedimentation Controls** – Install Photodegradable straw waddle, drain inlets, and rock construction entrances per civil drawings. Erosion Control and SWPPS program will be inspected and reported as required.
- ◆ **Pavement Markings and Signage** – Furnish and install all striping, signage, and wheel stops as required per civil drawings and site plan.
- ◆ **Fencing & Gates** – Supply and install 150 lineal feet of 8' tall wrought iron fencing with 14-gauge privacy mesh installed over fencing. Fencing to be installed in area G between shore and back of the existing Visitor Locker Room. This request was made by the City of Stockton.
- ◆ **General Conditions** – Includes site supervision, project management, project administration, site cleanup, traffic control, miscellaneous construction supplies, portable toilets, dumpsters, site security, temporary water, & final construction cleaning.

◆ Section 3 – Exclusions

- ◆ All Permit fees
- ◆ PG&E work for gas tap
- ◆ Overtime / holiday work / weekend work
- ◆ Testing / 3rd party inspections
- ◆ CWTA requirements
- ◆ Bid bond
- ◆ Handling or abatement of hazardous materials, other than soils
- ◆ Monument Signage
- ◆ Controls for BMS (Building Management System)

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Initials: _____



209 475 9898 haggertybuilds.com 2474 Wigwam Dr. Stockton, CA 95205
A Division of Haggerty Construction, INC. Lic. 944274



- ◆ Off-site work to be done by local municipality
- ◆ Stadium Bowl Seating Reset
- ◆ Emergency Responder Radio Coverage System and testing
- ◆ Phone / Data / IT Room Equipment & Racks / Punch Downs
- ◆ All furniture, including window blinds
- ◆ Stadium lighting light pole bases
- ◆ Any work not listed in the above inclusions.

◆ Section 4 – Clarifications

- ◆ Haggerty has included a \$200,000.00 contingency to be used at Haggerty's discretion for work not assumed or unforeseen. This contingency is also an allowance for plan changes that have been discussed as forthcoming but not yet seen. Any adjustments over or under the contingency will be addressed with the owner when the allowance will be met or at the conclusion of the project, whichever comes first.
- ◆ Haggerty has included Contaminated Soil Management and Testing per the Land Use Covenant and the Remedial Design and Implementation Plan. Haggerty strongly recommends having the soil testing done immediately in order to avoid any future soil remediation issues.
- ◆ Haggerty all soil remediation costs are based on removing and disposing of 180 tons of contaminated soil. If site conditions warrant removing more than 180 tons, Haggerty discuss this with the owner and submit a request for compensation of additional fees.
- ◆ This bid is based on Haggerty's preliminary schedule and phasing plan.
- ◆ This bid is based on access to the ballpark facility during the team's travel days.
- ◆ Alternates are shown on Attachment 2 "Cost Breakdown Sheet"
- ◆ Haggerty has included the cost for a Payment Performance Bond.
- ◆ Haggerty's Construction Total is separated in the Cost Breakdown Sheet. These costs cannot be standalone costs and contracted independently, with exception for the alternates.

◆ Section 5 – Attachments

- ◆ Attachment 1: Schedule of values for construction
- ◆ Attachment 2: Cost Breakdown Sheet
- ◆ Attachment 3: Haggerty Preliminary Schedule dated 10/22/2024
- ◆ Attachment 4: Haggerty Phasing Plan dated 10-28-2024

Construction Total \$5,978,659.00





****The proposed sum above is valid for (30) days and is based on prices of materials and equipment in effect as of the date of this proposal. Market conditions may affect pricing prior to signing of contract.**

The undersigned serving as authorized representatives or agents for the **Client** and **Builder** hereby agree to the spirit, nature, intent and terms of this agreement and hereby approve and authorize the **Builder** to commence the services as outlined herein this agreement.

By: _____

Date: _____

CLIENT: City of Stockton, E.D.D – Tina McCarty

By: _____

Date: _____

BUILDER: Haggerty Construction, Inc.

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Initials: _____



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EXHIBIT B - CONTRACTOR'S BID SCHEDULE



Construction Schedule of Values

Project Number: 24038
 Project Name: Banner Island B.P. Renov
 Project sf.: 20,963
 Estimator: Advise Group

Date: 11/11/24

Division	Cost Code / Description	Total Amount	%	Notes
	01 General Requirements	\$266,208.00	4.60%	Includes soil Remediation, Haul-Off, Disposal
	01 7123.00 Surveying	\$9,500.00	0.16%	
02 Existing Conditions				
	02 2600.00 Hazardous Material Assessment	\$900.00	0.02%	Asbestos and Lead Testing
	02 4100.00 Demolition	\$114,124.00	1.97%	
03 Concrete				
	03 0000.00 Concrete	\$248,400.00	4.30%	
04 Masonry				
	04 0000.00 Masonry	\$538,479.00	9.31%	Includes Precast Tops
05 Metals				
	05 1200.00 Steel-Decking	\$510,971.00	8.84%	
	06 2200.00 Caswork, Tops, & Millwork	\$114,951.00	1.99%	Includes Lockers
07 Thermal and Moisture Protection				
	07 2100.00 Thermal Insulation	\$15,000.00	0.26%	
	07 5000.00 Roofing	\$96,941.00	1.68%	
	07 9200.00 Joint Sealants	\$9,850.00	0.17%	
08 Openings				
	08 1000.00 Doors and Frames	\$41,260.00	0.71%	
	08 4100.00 Storefronts	\$59,980.00	1.04%	Infill at Hospitality
09 Finishes				
	09 2900.00 Drywall & Metal Studs	\$111,524.00	1.93%	
	09 5100.00 Acoustical Ceilings	\$58,903.00	1.02%	
	09 6816.00 Carpeting	\$115,840.00	2.00%	
	09 9100.00 Painting	\$310,131.00	5.36%	Includes painting exposed structural steel
	09 9656.00 Epoxy-Polished CC	\$74,408.00	1.29%	
10 Specialties				
	10 1400.00 Interior & Exterior Signage	\$28,201.00	0.49%	Includes Exterior Channel Letters, ADA Signage
	10 2813.00 Toilet Accessories	\$4,620.00	0.08%	
	10 4416.00 Fire Extinguishers	\$1,350.00	0.02%	
13 Special Construction				
	13 3400.00 Stadium Seating	\$0.00	0.00%	Excluded
21 Fire Suppression				
	21 1300.00 Fire-Suppression Sprinkler Systems	\$90,141.00	1.56%	Design-Build
22 Plumbing				
	22 0000.00 Plumbing	\$249,880.00	4.32%	Appliances and Tubs included
23 Heating, Ventilation, & Air Conditioning				
	23 0000.00 Heating, Ventilation, & Air Conditioning	\$227,823.00	3.94%	
26 Electrical				
	26 0000.00 Electrical	\$1,226,094.00	21.21%	Includes Stadium Lighting Upgrade
28 Electronic Safety and Security				
	28 3000.00 Security , Alarm & Monitoring	\$2,500.00	0.04%	Bay Alarm
	28 4600.00 Fire Detection and Alarm	\$19,474.00	0.34%	Design-Build
31 Earthwork				
	31 2200.00 Grading-Paving	\$222,200.00	3.84%	
	31 2500.00 Erosion and Sedimentation Controls	\$61,050.00	1.06%	
32 Exterior Improvements				
	32 1723.00 Pavmnt. Markings & Signage	\$4,000.00	0.07%	
	32 3100.00 Fences and Gates	\$90,023.00	1.56%	
Divisions 2-48 Subtotals		\$4,924,726.00	85.18%	
00 Procurement and Contracting Requirements				
	00 7200.00 General Conditions	\$447,761.96	7.74%	
	00 7316.00 Insurance Requirements	\$86,561.53	1.50%	
Division Subtotals		\$534,323.49	9.24%	
	01 4123.00 GC Fees	\$322,349.28	5.58%	
Construction Total		\$5,781,398.76	per sf.	
Performance & Payment Bond		\$45,815.00		
Builder's Risk Insurance		\$1,445.24		
Contingency		\$150,000.00		
TOTAL CONSTRUCTION BID		\$5,978,659.00		

COST TABLE FOR PRODUCTS AND SERVICES

Fee Proposal Sheet

		Price
1	Batting/Pitching Tunnels	
	Construction	\$414,501.00
2	Netting and Lighting Fixtures (not covered by Musco)	
	Construction	\$203,399.00
3	New Batting/Pitching Enclosure	
	Construction	\$1,250,183.00
4	Visiting Team Locker Room Program Additions	
	• Service Kitchen	
	• Eight (8) lockers	
	• Seating for eight (8) minimum	
	• Appliances including Sink and storage cabinets.	
	• Whirlpool	
	• Visiting Team Manager's office	
	• Two (2) lockers	
	• Interior Finishes	
	Female Staff Locker Addition	
	Construction	\$980,748.00
5	Home Team Locker Room Program Additions	
	• Service Kitchen	
	• Eight (8) lockers	
	• Seating for eight (8) minimum	
	• Appliances including Sink and storage cabinets.	
	• Whirlpool	

EXHIBIT B - CONTRACTOR'S BID SCHEDULE

	· Visiting Team Manager's office	
	· Two (2) 50-lb Commercial Washers	
	· One (1) 70-lb Commercial Dryer	
	· Interior Finishes	
	Construction	1,404,086.00
6	Temporary Female Staff Accommodations	
	· Interior Finishes	
	Construction	\$759,895.00
7	Secure Player Parking	
	· New fencing	
	Construction	\$65,020.00
8	Batter's Eye Extension	
	· Batter Eye Screen	
	Construction	\$254,667.00
9	Seating Bowl Reseat	
	Seating	
	Demolition and disposal of existing seats	
	Construction	Excluded
10	Field Lighting Upgrade	
	Construction	\$646,160.00
	Base Bid Total:	\$5,978,659.00
11	Existing Steel Member Repaint (Add Alternate)	Included in Bid
12	Kids Playground Area Relocation (Add Alternate)	\$175,000.00
13	New Right Field Bar (Add Alternate)	\$1,274,625.00

Allowance

Exhibit C:
Insurance Requirements for Construction Contracts

Contractor shall procure and maintain for the duration of the contract, *and for 5 years thereafter*, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees, or subcontractors.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$5,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability**: Insurance Services Office Form CA 0001 covering Code 1 (any auto), with limits no less than **\$2,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employers' Liability insurance with a limit of no less than **\$1,000,000** per accident for bodily injury or disease.
4. **Builder's Risk** (Course of Construction) insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions.
5. **Surety Bonds** as described below.

If the contractor maintains broader coverage and/or higher limits than the minimums shown above, the City of Stockton requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of Stockton.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City of Stockton. The City of Stockton may require the Contractor to purchase coverage with a lower

retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City of Stockton. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$25,000 unless approved in writing by City of Stockton. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. City of Stockton may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named Insured. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. City of Stockton reserves the right to obtain a copy of any policies and endorsements for verification.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **The City of Stockton, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy 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 and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used). Additional insured Name of Organization shall read "City of Stockton, its officers, officials, employees, and volunteers." Policy shall cover City of Stockton, its officers, officials, employees, and volunteers for all locations work is done under this contract.
2. For any claims related to this project, the **Contractor's insurance coverage shall be primary and non-contributory** insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City of Stockton, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City of Stockton, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies. The City of Stockton does not accept endorsements limiting the Contractor's insurance coverage to the sole negligence of the Named Insured.
3. Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with notice to the City of Stockton.

Builder's Risk (Course of Construction) Insurance

Contractor may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall **name the City of Stockton as a loss payee** as their interest may appear.

If the project does not involve new or major reconstruction, at the option of the City of Stockton, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the City of Stockton's site.

Claims Made Policies (Professional & Pollution only)

If any coverage required is written on a claims-made coverage form:

1. The retroactive date must be shown, and this date must be before the execution date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
3. If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective, or start of work date, the Contractor must purchase extended reporting period coverage for a minimum of five (5) years after completion of contract work.
4. A copy of the claims reporting requirements must be submitted to the City of Stockton for review.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractors Pollution Liability policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

Umbrella or Excess Policies

The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following

form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best rating of no less than A: VII, unless otherwise acceptable to the City of Stockton.

Waiver of Subrogation

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation** in favor of the City of Stockton for all work performed by the Contractor, its employees, agents and subcontractors.

Verification of Coverage

Contractor shall furnish the City of Stockton with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause and **a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements**. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the City of Stockton before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City of Stockton reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and Contractor shall ensure that City of Stockton is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

Duration of Coverage

CGL & Excess liability policies **for any construction related work, including, but not limited to, maintenance, service, or repair work**, shall continue coverage for a minimum of 5 years for Completed Operations liability coverage. Such Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years***

after completion of the contract of work.

Surety Bonds

Contractor shall provide the following Surety Bonds:

1. Bid Bond
2. Performance Bond
3. Payment Bond
4. Maintenance Bond

The Payment Bond and the Performance Bond shall be in a sum equal to the contract price. If the Performance Bond provides for a one-year warranty a separate Maintenance Bond is not necessary. If the warranty period specified in the contract is for longer than one year a Maintenance Bond equal to 10% of the contract price is required. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

Special Risks or Circumstances

City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

Certificate Holder Address

The address for mailing certificates, endorsements and notices shall be:

City of Stockton
Its Officers, Officials, Employees and Volunteers
400 E Main Street, 3rd Floor – HR
Stockton, CA 95202

**CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

Subject: DISCRIMINATION AND HARASSMENT POLICY	Directive No. HR-15	Page No. 1 of 14
	Effective Date: 5/1/2015	Revised From: 7/27/09 4/6/09 3/1/2010 (see below)

PER-016 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/95, 1/1/98
PER-037 (Sexual Harassment Investigative Procedures) revised from 2/15/93

I. PURPOSE

The purpose of this policy is to reaffirm the City's commitment to demonstrating respect for all individuals by strictly prohibiting discrimination and harassment, including sexual harassment in the workplace. This policy defines prohibited behavior and conduct, and sets forth a procedure for reporting, investigating and resolving complaints of discrimination, harassment, in the workplace, including retaliation and hostile work environment.

II. POLICY

- A. The City of Stockton prohibits any form of discrimination and/or harassment of any person based on race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other category or attribute consistent with state or federal law. All such discrimination and harassment is unlawful and shall not be tolerated. In addition, under the federal Affordable Care Act (ACA), the City of Stockton prohibits discrimination and/or harassment, or retaliation against an employee who obtains coverage, receives a tax credit or subsidy through the Health Care "Market Place" or "Exchange."
- B. It is an unlawful employment practice to discriminate against or to harass an unpaid intern or volunteer on the basis of any legally protected classification unless an exception applies, such as a bona fide occupational qualification.
- C. The City will neither tolerate nor condone discrimination and/or harassment of employees by managers, supervisors, co-workers, or non-employees with whom City employees have a business service, or professional relationship.
- D. All City employees and non-employees share a responsibility to assist in

**CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

Subject: DISCRIMINATION AND HARASSMENT POLICY	Directive No. HR-15	Page No. 2 of 14
	Effective Date: 5/1/2015	Revised From: 7/27/09 4/6/09 3/1/2010 (see below)

PER-016 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/95, 1/1/98
PER-037 (Sexual Harassment Investigative Procedures) revised from 2/15/93

maintaining an employment environment free of discrimination and harassment. This policy applies to all aspects of City employment, including, but not limited to, hiring, reassignment, placement, promotion, employment action, disciplinary action, layoff, reemployment, transfer, leave of absence, compensation and benefits, training; or other terms of treatment of that person in an unpaid internship, or another limited duration program to provide unpaid work experience for that person, or the harassment of an unpaid intern or volunteer.

- E. All allegations of discrimination and/or harassment shall be investigated immediately by the City, in accordance with this policy. If it is determined that any prohibited activity has occurred, remedial action shall be taken. Such action may include discipline up to and including discharge. In addition, under applicable law, individual supervisors and employees may be subject to personal liability and/or punitive damages in any litigation arising as a result of such conduct.
- F. All new hires shall attend harassment awareness training, and supervisors and managers shall attend harassment awareness and prevention training for supervisors every two years.
- G. The City of Stockton prohibits retaliation against any employee or non-employee by another employee, non-employee, supervisor, or manager for reporting, filing, testifying, assisting or participating in any manner in any investigation, proceeding, or hearing conducted by the employer or a federal or state enforcement agency.
- H. This policy applies to all officials, employees, volunteers, unpaid interns, agents, or contractors of the City.
- I. This policy shall be administered by the Director of Human Resources.

**CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

Subject: DISCRIMINATION AND HARASSMENT POLICY	Directive No. HR-15	Page No. 3 of 14
	Effective Date: 5/1/2015	Revised From: 7/27/09 4/6/09 3/1/2010 (see below)

PER-016 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/95, 1/1/98
PER-037 (Sexual Harassment Investigative Procedures) revised from 2/15/93

III. DEFINITION AND EXAMPLES OF DISCRIMINATION AND HARASSMENT

- A. "Discrimination," as used in this policy, is any action, behavior, practice, or process that is intended to deny, or results in the denial of, employment rights, privileges, or benefits because of a person's race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other prohibition identified under state and federal law. The following are examples of conduct that may constitute discrimination:
1. Soliciting applications from a source where all or most of potential workers are of the same race or color.
 2. Considering a person's gender as the basis for differences in pay, work assignments, performance evaluations, training, discipline, or any other area of employment; and
 3. Questioning a job applicant about the existence, nature and severity of a disability.
- B. "Harassment," as used in this policy, consists of any conduct affecting another person because of his or her race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, child birth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other category or attribute identified under state and federal law when such conduct has the purpose or the effect of: (1) creating an intimidating, hostile or offensive work environment; (2) unreasonably interfering with the employee's or non-employee's work performance; or (3)

**CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

Subject: DISCRIMINATION AND HARASSMENT POLICY	Directive No. HR-15	Page No. 4 of 14
	Effective Date: 5/1/2015	Revised From: 7/27/09 4/6/09 3/1/2010 (see below)

PER-016 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/96, 1/1/88
PER-037 (Sexual Harassment Investigative Procedures) revised from 2/15/93

otherwise adversely affecting an employee's or non-employee's employment opportunities.

Harassment may take many forms, including, but not limited to, the following examples:

1. **Verbal Harassment:** Epithets, derogatory and offensive comments or slurs based on race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.
2. **Physical Harassment:** Assault, impeding or blocking movement that results in the physical interference with normal work or movement on the basis of race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.
3. **Visual Harassment:** The displaying of posters, photography, notices, bulletins, e-mails, cartoons or drawings with derogatory and offensive content based on race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.

C. "Sexual harassment," as used in this policy, is a subcategory of harassment, and is specifically defined by law as unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made a term or condition of employment; or
2. Submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or

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3. Such conduct has the purpose or effect of unreasonably interfering with an employee's or non-employee's work performance or creating an intimidating, hostile or offensive working environment because of the persistent, severe or pervasive nature of the conduct.

Examples of Sexual Harassment include, but are not limited to the following:

- a. Unwelcome sexual overtures or propositions.
- b. Offering employment benefits or status in exchange for sexual favors.
- c. Making or threatening retaliation after a negative response to sexual advances.
- d. Visual conduct such as leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons, calendars or posters.
- e. Verbal conduct such as using epithets or slurs, telling sexually explicit jokes, or making derogatory or suggestive comments about a person's body or dress.
- f. Written communications of a sexual nature distributed in hard copy, soft copy or via a computer network.
- g. Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes or invitations.
- h. Physical conduct such as touching, assaulting, impeding or blocking movements.

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responsible for the investigation, shall issue written notification to the complainant and alleged harasser(s). The notification shall specify the nature of the complaint, and inform the parties that an investigation into the allegations of discrimination and/or harassment shall be conducted.

B. Investigative Guidelines

The investigation shall include the following steps taken in the order best suited to the circumstances:

1. Identify and preserve the evidence.
2. Confirm the name and position of the complainant. Interview the complainant.
3. Allow the complainant the opportunity to place the complaint in writing.
4. Obtain the identity of the alleged harasser(s).
5. Obtain as many details as possible regarding the incident(s) that prompted the complaint, including the number of occurrences, dates, times, locations, and witnesses (if applicable).
6. Ascertain how the complainant felt about the alleged incident when it occurred; complainant's response(s) to the alleged behavior; and witness statements (if applicable).
7. Ascertain if any threats or promises were made in connection with the alleged harassment.
8. Ascertain if the complainant knows of or suspects that there are other victims of harassment by the same person(s).
9. Ascertain whether the complainant has spoken to anyone, especially

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supervisors, about the harassment.

10. Ascertain what resolution would be acceptable to the complainant.
11. Interview the alleged harasser to get his or her side of the story, including any possible motivation for a false allegation.
12. Interview witnesses who were identified by the complainant regarding the alleged harasser or other persons identified during the investigation.
13. Interview witnesses who were identified by the alleged harasser or other persons identified during the investigation.
14. Advise all participants that the investigation is "confidential" and not to engage in any retaliatory conduct, as such conduct is subject to disciplinary action up to and including discharge. Confidentiality will be maintained to the extent possible. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Director of Human Resources. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction.
15. Conduct follow-up interviews, if warranted.
16. Prepare report of findings and discuss with management and designated legal staff.

VI. RESPONDING TO THE COMPLAINT

- A. Following the completion of the fact-finding investigation, either the department head or the Director of Human Resources (or either of their designees), depending on who is responsible for the investigation, shall

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make a report of findings, along with a recommendation regarding the appropriate remedial action to be taken, if warranted. The recommendation shall be made after reviewing the findings of the investigation, giving consideration to all factual information, the nature of the alleged conduct, and the totality of the circumstances. If the investigation was conducted by the Director of Human Resources, or designee, the Director, or designee, shall confer with the affected department head and both shall concur on the remedial action to be taken, if any. If the investigation was conducted by the department head, the department head shall confer with the Director of Human Resources prior to making the report of findings and both shall concur on the remedial action to be taken, if any.

- B. If either the department head or the Director of Human Resources does not concur with the findings and recommendation of the other, the City Attorney (or designee) shall review and resolve the matter in dispute.
- C. Report of findings and recommendation shall be treated as a confidential document and no other distribution shall be made without first consulting with the City Attorney's Office. A completed investigation report will not be disclosed, except as it is deemed necessary to support a disciplinary action, to take remedial action, to defend the City in adversarial proceedings, or to comply with the law or court order.
- D. Either the department head or the Director of Human Resources (or either of their designees), depending on who is responsible for the investigation shall provide a written response to the complainant and the person alleged to have committed the misconduct, discrimination and/or harassment. The response shall include a copy of the City's discrimination and harassment policy and a memorandum indicating the City's determination as to whether the complaint is:
 - 1. Unsustained: The investigation failed to disclose sufficient evidence to substantiate the allegation(s).
 - 2. Unfounded: The investigation proved that the act(s) or omission(s)

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complained of did not occur. The finding also applies when the individual employee(s) named in the complaint were not involved in the act(s) or omission(s) alleged.

3. **Sustained:** The investigation disclosed sufficient evidence to substantiate the allegation(s) made in the complaint; appropriate action will be taken.

- E. Details regarding any specific fact-findings or disciplinary action to be taken will not be communicated to the complainant. The City Attorney shall review the response for legal sufficiency before dissemination.
- F. The City shall close and retain the investigation file, in accordance with applicable laws, regulations, and City policy regarding retention of City records.

VII. DISCIPLINE

Disciplinary action imposed as a result of any investigation conducted pursuant to this policy shall be commensurate with the severity of the offense, up to and including discharge, even for a first offense.

VIII. ALTERNATIVE REMEDIES

If upon exhausting all internal remedies to file, investigate, and respond to a charges of discrimination/harassment, pursuant to title VII of the Federal Civil Rights Act of 1964 (42 U.S.C §§ 2000e *et seq.*), any person has a right to file a charge of discrimination/harassment with the Equal Employment Opportunity Commission ("EEOC"). In addition, pursuant to the California Fair Employment and Housing Act (Gov. Code §§ 12900 – 12996.) a person may also file a complaint of discrimination/harassment with the California Department of Fair Employment and Housing ("DFEH"). Employees or non-employees who believe that they have been subjected to discrimination/harassment may file a complaint with either of these

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agencies. Both the EEOC and DFEH serve as neutral fact-finders and attempt to assist parties in resolving disputes voluntarily.

IX. COMMUNICATION OF POLICY

This policy shall be provided to all managers, supervisors, employees, volunteers, unpaid interns, agents or contractors of the City and shall be posted in the appropriate places. All employees shall participate in City approved harassment awareness training as directed by management or Human Resources; and all supervisors, as required by law, shall participate in City approved interactive harassment awareness training and education sessions at least once every two years, or as otherwise specified by law.

APPROVED:



**KURT O. WILSON
CITY MANAGER**

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- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

- The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

FHWA-1273 – Revised October 23, 2023

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated 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. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

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, United States Code, as required in 23 CFR 633.102(b) (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). 23 CFR 633.102(e).

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. 23 CFR 633.102(e).

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) in accordance with 23 CFR 633.102. 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 solicitation-for-bids or request-for-proposals 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). 23 CFR 633.102(b).

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. 23 CFR 633.102(d).

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. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A 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 Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), 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 Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), 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 Part 230, Subpart A, 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 (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 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 Part 35 and 29 CFR Part 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. 23 CFR 230.409 (g)(4) & (5).

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, sexual orientation, gender identity, 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 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 or other knowledgeable company official.

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, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure 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. 23 CFR 230.409. 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, sexual orientation, gender identity, 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, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualified 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 thereunder. 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, sexual orientation, gender identity, 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, 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. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

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, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

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 more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, 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, sexual orientation, gender identity, 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), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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 (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), 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 basic hourly 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. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. 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 must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. 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 classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must 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. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

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

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must 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 be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate 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 used 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) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) 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 will be sent by the contracting officer by email to DBAconformance@dol.gov. 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.

(4) 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 will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The 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.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must 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.

d. *Fringe benefits not expressed as an hourly rate.*

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 may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* 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, in accordance with the criteria set forth in § 5.28, 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.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and 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.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

3. Records and certified payrolls (29 CFR 5.5)

a. Basic record requirements (1) Length of record retention. All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) Information required. Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; 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 [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) Additional records relating to fringe benefits. Whenever the Secretary of Labor has found under paragraph 1.e. of this section 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 [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must 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.

(4) Additional records relating to apprenticeship. Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. Certified payroll requirements (1) Frequency and method of submission. The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) Information required. The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHDL/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) Statement of Compliance. Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

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

(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(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) Use of Optional Form WH-347. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access (1) Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, 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, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices (1) Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform 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 (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must 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, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must 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 this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeymen under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. 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. 23 CFR 230.111(e)(2). 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 journeyworkers 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 as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 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 as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, 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 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 [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), 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 watchpersons 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. 29 CFR 5.5.

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 and interest from the date of the underpayment. 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 watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* 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.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, 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 that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

4. **Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. **Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

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" in paragraph 1 of Section VI 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: (based on longstanding interpretation)

(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. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), 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. Pursuant to 23 CFR 635.116(c), 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. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

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 Part 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. 23 CFR 635.108.

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 Part 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). 29 CFR 1926.10.

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 Part 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 11, 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 (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

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. 2 CFR 180.220 and 1200.220.

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. 2 CFR 180.320.

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. 2 CFR 180.325.

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. 2 CFR 180.345 and 180.350.

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, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient 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 recipient or subrecipient 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. 2 CFR 180.330.

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. 2 CFR 180.220 and 180.300.

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. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. 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 System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

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 CFR 180.325.

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 CFR 180.335;.

(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, 2 CFR 180.800;

(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, 2 CFR 180.700 and 180.800; 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. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. 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). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant 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. 2 CFR 180.365.

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, Subpart I, 180.900 – 180.1020, 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 recipient or subrecipient 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 recipient or subrecipient 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. 2 CFR 1200.220 and 1200.332.

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. 2 CFR 180.220 and 1200.220.

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 System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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. 2 CFR 180.325.

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 Implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should 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 Part 20, App. A.

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.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor 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 carriers, 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. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States 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 (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS** (23 CFR 633, Subpart B, Appendix B)
This provision is applicable to all Federal-aid projects funded
under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

RECORDING REQUESTED BY:

City of Stockton
 City Manager
 425 N. El Dorado Street
 Stockton, California 95202

DOC # 2006-151683

07/14/2006 09:24A Fee:40.00

Page 1 of 12

Recorded in Official Records

County of San Joaquin

GARY W. FREEMAN

Assessor-Recorder-County Clerk

Paid by SHOWN ON DOCUMENT



WHEN RECORDED, MAIL TO:

Department of Toxic Substances Control
 8800 Cal Center Drive
 Sacramento, California 95826
 Attention: James L. Tjosvold, P.E., Chief
 Northern California-Central Cleanup
 Operations Branch
 DTSC Project Site Code 101606

SPACE ABOVE THIS LINE RESERVED RECORDER'S USE FOR

COVENANT TO RESTRICT USE OF PROPERTY

ENVIRONMENTAL RESTRICTION

Re: North Shore Parcels

City of Stockton, San Joaquin County California 95202

Assessor Parcel Numbers: 137-410-01; 137-410-02; 137-410-04; 137-410-05;
 137-410-06; 137-410-07.

This Covenant and Agreement ("Covenant") is made by and between the City of Stockton (the "Covenantor"), the owner of property situated in the City of Stockton, San Joaquin County, State of California, depicted in Exhibit "A", attached hereto and incorporated herein by this reference (the "Property"), and the Department of Toxic Substances Control (the "Department"). Pursuant to Civil Code section 1471, the Department has determined

that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials as defined in Health and Safety Code section 25260. The Covenantor and the Department, collectively referred to as the "Parties", hereby agree that the use of the Property be restricted as set forth in this Covenant.

ARTICLE I STATEMENT OF FACTS

1.01. The Property, totaling approximately 14.5 acres is depicted in Exhibit "A" attached hereto and incorporated herein by this reference. The Property subject to this Covenant is identified by San Joaquin County Assessor Parcel Numbers: 137-410-01; 137-410-02; 137-410-04; 137-410-05; 137-410-06; 137-410-07, in the City of Stockton, State of California.

1.02. The Property was remediated under the supervision and authority of the Department in accordance with an approved Remedial Action Plan (RAP) and a Remedial Design and Implementation Plan (RDIP) pursuant to Chapter 6.8 of Division 20 of the Health and Safety Code. Because hazardous materials, including polycyclic aromatic hydrocarbons (PAHs), Total Petroleum Hydrocarbons (TPHs) in the diesel and motor oil range, and the metals lead and arsenic, remain in soil under portions of the Property, the RAP provides that a deed restriction be required as part of the site remediation. The RAP identified concentrations that would protect human and ecological health if the Property's land use would remain industrial, commercial, and/or recreational.

Remediation activities took place at the Property during 2003 and 2004. In a letter dated November 15, 2005, the Department approved the report titled *Remediation Completion Report, North Shore Parcels, Stockton Department of Housing and Development* dated August 11, 2005, submitted on behalf of the City of Stockton. The conclusion of DTSC's review of the documents provided was that contaminants of concern are present in soil at

levels above those acceptable for an unrestricted land use. Therefore, a deed restriction needs to be recorded for the site to prevent residential use of the property unless the site is remediated to a residential level.

1.03. Based upon this evaluation the Department determined that use of the Property as a residence, hospital, school for persons under the age of 21 or day care center would entail an unacceptable cancer risk and hazard. The Department further concluded that the Property, as remediated and subject to the restrictions of this Covenant, does not present an unacceptable threat to human safety or the environment, if limited to the current commercial and recreational land use.

ARTICLE II DEFINITIONS

2.01. Department. "Department" means the California Department of Toxic Substances Control and includes its successor agencies, if any.

2.02. Environmental Restrictions. "Environmental Restrictions" means all protective provisions, covenants, restrictions, prohibitions, and terms and conditions as set forth in any section of this Covenant.

2.03. Improvements. "Improvements" means, but is not limited in meaning to, buildings, structures, roads, driveways, improved parking areas, or utilities installations.

2.04. Lease. "Lease" means lease, rental agreement, or any other document that creates a right to use or occupy any portion of the Property.

2.05. Occupant. "Occupant" means Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

2.06. Owner. "Owner" means the Covenantor, its successors in interest, and their successors in interest, including heirs and assigns, who at any time hold title to all or any portion of the Property.

ARTICLE III GENERAL PROVISIONS

3.01. Runs with the Land. This Covenant sets forth Environmental Restrictions, that apply to and encumber the Property and every portion thereof no matter how it is improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. This Covenant: (a) runs with the land pursuant to Health and Safety Code section 25355.5 and Civil Code section 1471; (b) inures to the benefit of and passes with each and every portion of the Property, (c) is for the benefit of, and is enforceable by the Department, and (d) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

3.02. Binding upon Owners / Occupants. Pursuant to the Health and Safety Code, this Covenant binds all owners of the Property, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. Pursuant to Civil Code section 1471, all successive owners of the Property are expressly bound hereby for the benefit of the Department.

3.03. Written Notice of the Presence of Hazardous Substances. Prior to the sale, lease or sublease of the Property, or any portion thereof, the owner, lessor, or sublessor shall give the buyer, lessee, or sublessee notice that hazardous substances are located on or beneath the Property.

3.04. Incorporation into Deeds and Leases. This Covenant and its Environmental Restrictions set forth herein shall be incorporated by reference in each and every deed and lease for any portion of the Property.

3.05. Conveyance of Property. The Owner shall provide written notice to the Department not later than thirty (30) days after any conveyance of any ownership interest in the Property (excluding mortgages, liens, and other non-possessory encumbrances). The written notice shall include the name and mailing address of the new owner of the Property and shall reference the DTSC Project Site Code 101606. The notice shall also include the Assessor's Parcel Number(s) (APN(s)) noted on page one of this Covenant. If the new owner's property has been assigned a different APN, each such APN that covers the Property must be provided. The Department shall not, by reason of this Covenant, have authority to approve, disapprove, or otherwise affect proposed conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.

3.06. Costs of Administering this Covenant to be paid by Owner. The Department has already incurred and will in the future incur costs associated with the administration of this Covenant. Therefore, the Owner hereby covenants for himself and for all subsequent owners that the Owner shall pay the Department's costs in administering this Covenant.

ARTICLE IV RESTRICTIONS

4.01. Prohibited Uses. The Property shall not be used for any of the following purposes:

- (a) A residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation.
- (b) A hospital for humans.
- (c) A public or private school for persons under 21 years of age.
- (d) A day care center for children.

4.02. Soil Management.

- (a) No activities that will disturb the soil present at or below the ground surface (e.g., excavation, grading, removal, trenching, filling, earth movement or mining) shall be allowed on the Property without complying with the requirements outlined in the Soil Management (SMP) and Health and Safety Plan (H&SP) sections of the Department approved Remedial Design and Implementation Plan (RDIP) dated March 5, 2004 that was submitted by Treadwell & Rollo on behalf of the Stockton Department of Housing and Redevelopment, or any subsequent SMP or H&SP approved by the Department in lieu of the RDIP document noted above.
- (b) Any contaminated soils brought to the surface by grading, excavation, trenching or backfilling shall be managed in accordance with all applicable provisions of state and federal law.
- (c) The Owner shall provide the Department written notice at least fourteen (14) days prior to any building, filling, grading, mining or excavating in the Property.

4.03. Prohibited Activities. The following activities shall not be conducted at the Property.

- (a) Raising of food (cattle, food crops).
- (b) Drilling for water, oil, or gas without prior written approval by the Department.
- (c) Use of groundwater as drinking water or other beneficial uses without compliance with Regional Water Quality Control Board requirements.

4.04. Access for Department. The Department shall have reasonable right of entry and access to the Property for inspection, monitoring, and other activities consistent with the purposes of this Covenant as deemed necessary by the Department in order to protect the public health or safety, or the environment.

ARTICLE V
ENFORCEMENT

5.01. Enforcement. Failure of the Owner or Occupant to comply with this Covenant shall be grounds for the Department to require modification or removal of any Improvements constructed or placed upon any portion of the Property in violation of this Covenant. Violation of this Covenant, including but not limited to, failure to submit, or the submission of any false statement, record or report to the Department, shall be grounds for the Department to pursue administrative, civil or criminal actions.

ARTICLE VI
VARIANCE, TERMINATION, AND TERM

6.01. Variance. Owner, or any other aggrieved person, may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with Health and Safety Code section 25233.

6.02 Termination. Owner, or any other aggrieved person, may apply to the Department for a termination of or more terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with Health and Safety Code section 25234.

6.03 Term. Unless ended in accordance with the Termination paragraph above, by law, or by the Department in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

ARTICLE VII
MISCELLANEOUS

7.01. No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion thereof to the general public or anyone else for any purpose whatsoever.

7.02. Department References. All references to the Department include successor agencies/departments or other successor entity.

7.03. Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in San Joaquin County within ten (10) days of the Covenantor's receipt of a fully executed original.

7.04. Notices. Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Current Owner:

City of Stockton
City Manager
Attn: Stockton Events Center
425 N. El Dorado Street
Stockton, California 95202

To Department:

James L. Tjosvold, P.E., Chief
Northern California-Central Cleanup Operations Branch
Site Mitigation and Brownfields Reuse Program
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200
DTSC Project Site Code 101606

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

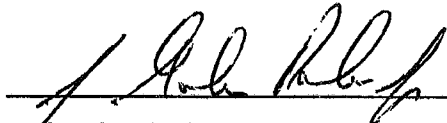
7.05. Partial Invalidity. If any portion of the Covenant or its terms set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.06 Statutory References. All statutory references include successor provisions.

7.07 Inspection and Reporting Requirements. The Owner shall conduct an annual inspection and submit an annual report to the Department by January 15th of each year. The annual report, filed by the current Owner, shall describe how all the Environmental Restrictions in this Covenant are being met.

IN WITNESS WHEREOF, the Parties execute this Covenant.

Covenantor: City of Stockton, City Manager

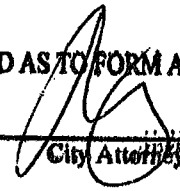


 J. Gordon Palmer
 City Manager

5/24/06

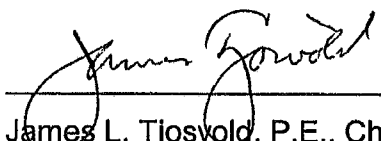
 Date

APPROVED AS TO FORM AND CONTENT

By 

 City Attorney

Department of Toxic Substances Control:



 James L. Tjosvold, P.E., Chief
 Northern California-Central Cleanup Operations Branch

6/9/06

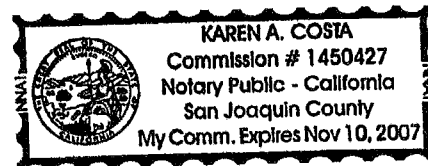
 Date

STATE OF CALIFORNIA)

COUNTY OF San Joaquin)On this 24th day of May, in the year 2006,before me Karen A. Costa ^{Notary Public}, personally appearedJ. Gordon Palmer, Jr.

personally known to me (~~or 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.

WITNESS my hand and official seal.

Signature Karen A Costa

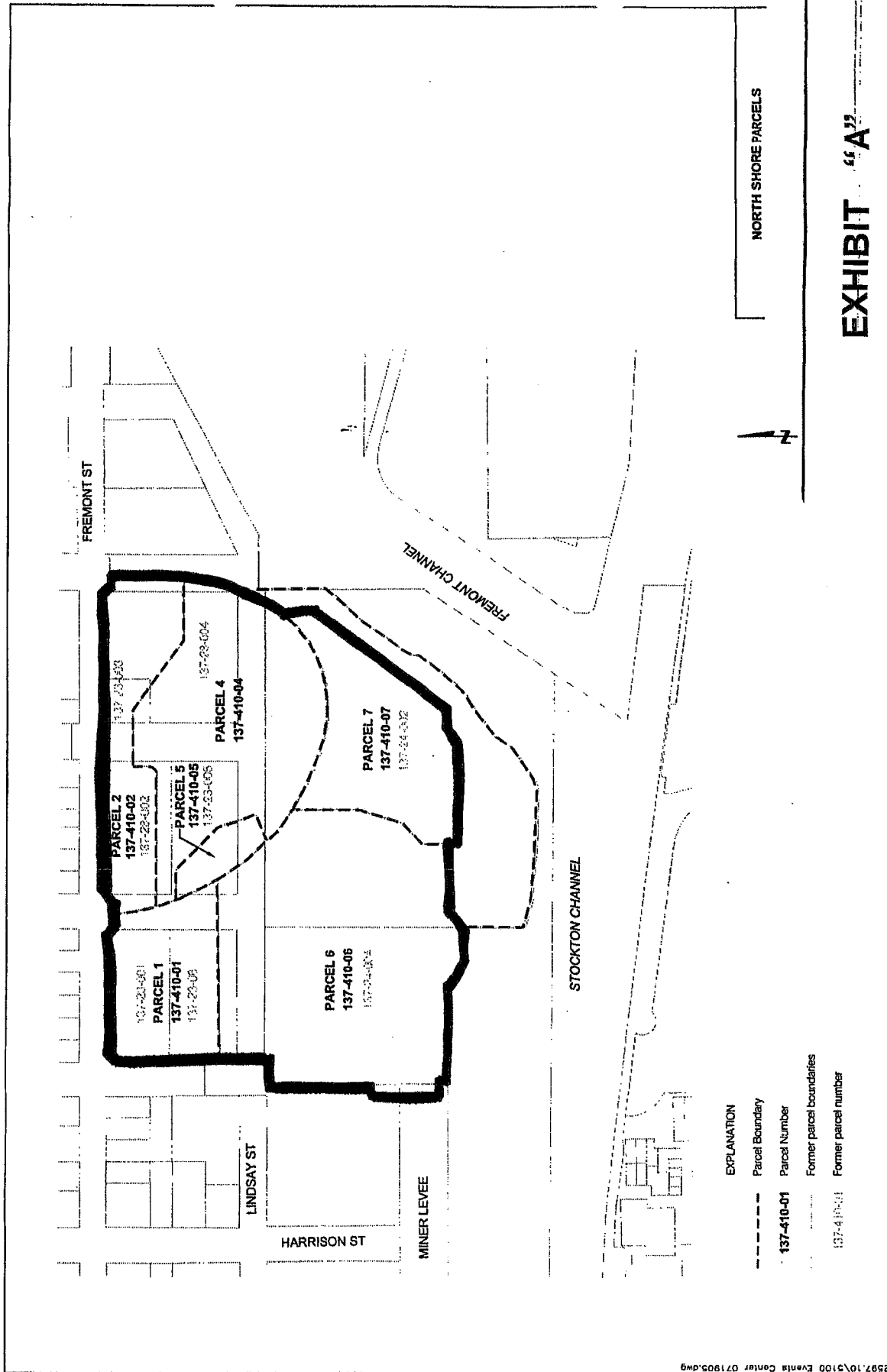


EXHIBIT "A"

North Shore Property

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Sacramento

} ss.

On

June 9, 2006

Date

before me,

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally

appeared

Name(s) of Signer(s)

☒ personally known to me

☐ 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.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

OPTIONAL

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: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Individual☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Attorney in Fact☐ Trustee☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer's Name: _____

☐ Individual☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Attorney in Fact☐ Trustee☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

**REMEDIAL DESIGN AND IMPLEMENTATION PLAN
NORTH SHORE PARCELS
Stockton, California**

**Stockton Department of Housing and Redevelopment
Stockton, California**

**5 March 2004
Project No. 2597.10**

Treadwell&Rollo

Environmental and Geotechnical Consultants

Banner Island Ballpark Renovation – PROJECT NO. PUR 25-004 (Updated 10/18/23)



Mr. Jerry Lile
Project Manager
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826

Subject: Final Remedial Design and Implementation Plan
North Shore Parcels (Stockton Event Center)
Stockton, California

Dear Mr. Lile

In accordance with the requirements of the California Department of Toxic Substances Control (DTSC) as documented in the Voluntary Cleanup Agreement of 15 January 2004, the subject report is hereby submitted. This report has been revised to address DTSC's comments of 4 March 2004 to the Draft Remedial Design and Implementation Plan of 29 January 2004.

Please contact me or Philip Smith at 415-955-9040 if you have any questions regarding this report.

Sincerely,
TREADWELL & ROLLO, INC.

A handwritten signature in black ink, appearing to read "Brian K. Moore".

Brian K. Moore, P.E.,
Senior Project Engineer



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ACRONYMS AND ABBREVIATIONS

bgs	below ground surface
BTEX	benzene, toluene, ethylbenzene, and xylenes
CCR	California Code of Regulations
CFR	Code of Federal Regulations
COC	chain-of-custody
cy	cubic yards
DTSC	Department of Toxic Substances Control
DUP	duplicate
EB	equipment rinsate blank
FB	field blank
FS	Feasibility Study
HSO	Health and Safety Officer
HASP	Health and Safety Plan
MTBE	methyl tertiary butyl ether
OU1	Operable Unit One
OU2	Operable Unit Two
PAH	polycyclic aromatic hydrocarbon
RAO	Remedial Action Objectives
RAP	Remedial Action Plan
RDIP	Remedial Design and Implementation Plan
RI	Remedial Investigation
RPD	relative percent differences
RWQCB	Regional Water Quality Control Board
SDHR	Stockton Department of Housing and Redevelopment
SJCEHD	San Joaquin County Environmental Health Department
SVOC	semi-volatile organic compound
TB	trip blank
1,1,1-TCA	1,1,1-trichloroethane
TPH	total petroleum hydrocarbons
TPHd	total petroleum hydrocarbons as diesel
TPHg	total petroleum hydrocarbons as gasoline
TPHmo	total petroleum hydrocarbons as motor oil
USCS	Unified Soil Classification System
USEPA	United States Environmental Protection Agency
UST	underground storage tank
VOC	volatile organic compound

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REMEDIAL DESIGN AND IMPLEMENTATION PLAN NORTH SHORE PARCELS Stockton, California

1.0 INTRODUCTION

This *Remedial Design and Implementation Plan* (RDIP) has been prepared by Treadwell & Rollo, Inc. (Treadwell & Rollo) for the Stockton Department of Housing and Redevelopment (SDHR) as part of the SDHR's oversight and consultation agreement with the California Department of Toxic Substances Control (DTSC) for properties collectively referred to as the North Shore Parcels (Figure 1). This RDIP describes the remedy that was previously chosen in the *Revised Feasibility Study* (FS) and subsequent addendum (Treadwell & Rollo, 2000 a,b,c) and will be implemented at the North Shore Parcels. The selected remedy, which consists of selective excavation of "hot spots" of soil contamination and soil disposal at appropriate facilities, was outlined in the *Remdial Action Plan* (RAP) (Treadwell & Rollo, 2001) and has been approved by DTSC, per a letter to Mr. Stephen Pinkerton of SDHR dated 30 August 2001 (DTSC, 2001). The groundwater remedy, which has consisted of a mix of continued monitoring and ozone sparging at three locations, is being performed under the oversight of the San Joaquin County Environmental Health Department (SJCEHD), which is the Local Oversight Agency performing oversight for leaking underground storage tank site remediations for the California Department of Water Quality Control Board (RWQCB). Groundwater remediation is outside the scope of this RDIP.

2.0 BACKGROUND

The North Shore Parcels site consists of six parcels, referred to as areas, which have been grouped into two Operable Units (OUs). Operable Unit 1 (OU1) consists of Area 10, Area 11, and Area 20, and Operable Unit 2 (OU2) consists of Area 15, Area 16, and Area 21. OU1 is comprised of parcels with only soil contamination, while OU2 contains parcels with both groundwater and soil contamination. Analytical results of groundwater samples collected during

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previous site investigations at OU1 did not detect elevated concentrations of constituents that would require clean-up. The relative locations of the parcels are shown in Figure 2. A brief description of each parcel, including the compounds of concern for each parcel, follows.

Operable Unit 1

Area 10 is referred to as the Banner Island Site and is owned by the SDHR. Banner Island was formerly a delta island and was reclaimed during the 1920s. The site was leased by the City of Stockton to the Guntert and Zimmermann Construction Division, Inc. and was used for shipbuilding and repair and steel storage until the 1970s. No structures remain, and the site is partially covered by pavement. The compounds of concern for Area 10 soil are total petroleum hydrocarbons (TPH) as diesel (TPHd) and as motor oil (TPHmo), as well as selected polynuclear aromatic hydrocarbons (PAHs). As stated earlier, analytical results did not detect constituents of concern that would require clean-up.

Area 11 was reportedly formerly a delta island and was reclaimed in the 1920s. The site was used for steel fabrication until the early 1970s. No structures remain, although a reinforced concrete slab, likely the floor of the former warehouse, covers approximately half the parcel. The compounds of concern for Area 11 soil are TPHd, TPHmo, PAHs, and lead. As stated earlier, analytical results did not detect constituents of concern that would require clean-up.

Area 20 was originally used as a switching yard for the Western Pacific Rail Road. The compound of concern for Area 20 soil is arsenic. As stated earlier, analytical results did not detect constituents of concern that would require clean-up.

Operable Unit 2

Area 15 was originally developed in the early 1900s and redeveloped in the 1950s for use as an auto repair facility. The site currently has several buildings that are vacant or are used for automobile repair. The remainder of the site is paved. Underground storage tanks (USTs), which reportedly stored gasoline, diesel, and 1,1,1-trichloroethane (1,1,1-TCA), have been removed, and remediation

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activities are ongoing under the oversight of the SJCEHD. The compounds of concern for Area 15 soils are TPHd and arsenic.

Area 16 was originally developed in the early 1900s and redeveloped in the mid-1960s or later for use as an automobile dealership. Currently the site is used for automobile salvage or repair, and as an automobile towing yard. A 1,000-gallon UST, which reportedly stored gasoline and diesel, was removed in 1986, and remediation activities are ongoing under the oversight of the SJCEHD.

Area 21 has been in use as a dairy distribution center since at least 1965. A dairy distribution business currently occupies the eastern half of the parcel; the western half of the parcel is vacant and unpaved. A 10,000-gallon UST, which was used to store gasoline, was removed in 1986. The compounds of concern for soil at Area 21 are PAHs and arsenic. Groundwater at this site is currently being addressed under SJCEHD oversight.

3.0 PROJECT ORGANIZATION

The following summarizes the project contacts, client, Treadwell & Rollo project personnel and subcontractors associated with the project.

Project Information & Telephone Numbers North Shore Parcels, Stockton, California			
DTSC Contact:		Jerry Lile	(916) 255-3744
SDHR Contacts:	Project Manager	Jim Rinehart	(209) 937-8977
	Alternate Project Contact	Kitty Walker	(209) 937-8811
Regent Contacts	Project Manager:	Mike Courtney	(916) 418-1671 Cell: (916) 801-5456
	Alternate Project Contact	Darrell Petray	(916) 418-1662
Swinerton Contacts:	Project Manager	Rick Bishoff	Cell: (408) 289-5345
	Swinerton Health and Safety Officer	TBD	
Treadwell & Rollo Contacts:	Program Manager:	Philip Smith	(415) 955-9040 ext. 249 Cell (415) 279-8604
	Project Manager:	Brian Moore	(415) 955-9040 ext. 264 Cell (925) 899-1025

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Project Information & Telephone Numbers North Shore Parcels, Stockton, California			
	T&R Health and Safety Officer:	Michael Chamberlain	(415) 955-9040 ext. 267 Cell (925) 980-3202
	Field Team:	Danielle Widemann	(510) 874-4500 ext. 542 Cell (510) 508-9643
		Eric Deratzian	(510) 874-4500 ext. 545 Cell (510) 520-5273
		Dustyne Sutherland	(415) 955-9040 ext. 283 Cell (510) 508-3436
		Rhonda Richards	415-955-9040 ext. 254 Cell (925) 997-4936

4.0 WELL ABANDONMENT PROCEDURES

A total of 44 groundwater monitoring, 4 groundwater extraction, 26 air sparge, 26 ozone, and 8 vapor extraction wells will be destroyed prior to site excavation activities. All monitoring wells will be destroyed in accordance with California well destruction guidelines and SJCEHD requirements. Permits for OU2 well abandonment have been approved by SJCEHD and well destruction commenced on 1 March 2004. Permits for OU1 abandonment are waiting on DTSC and RWQCB notification to SJCEHD that wells can be abandoned.

5.0 DESCRIPTION OF REMEDIAL ACTIVITIES

5.1 Selected Remedy for North Shore Parcels

As described in the Final RAP (Treadwell & Rollo, 2001b), the selected remedy for impacted soil at both OU1 and OU2 is excavation and off-site disposal. The remedy for impacted groundwater is outside the scope of the Final RAP and therefore also of this RDIP. San Joaquin County Environmental Health Department (SJCEHD) is the Local Oversight Agency for the California Regional Water Quality Control Board in the remediation of leaking underground fuel tanks. Remediation of groundwater impacted by leaking underground fuel tanks has been

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performed at Areas 15, 16, and 21. The SJCEHD project manager for these sites is Mr. Jeffery Wong (209-468-0335).

"Hot spot" excavation will be performed at all soil sampling locations that exceed the remedial action objectives (RAOs) outlined in the Final RAP, which are listed in the table below.

Remedial Action Objectives

Soil	
Arsenic	20 mg/kg
Lead	750 mg/kg
Total petroleum hydrocarbon-diesel	100 mg/kg
Total petroleum hydrocarbon-motor oil	1,000 mg/kg
Polynuclear aromatic hydrocarbons	
Benzo (a) anthracene	0.3 mg/kg
Benzo (b) fluoranthene	0.4 mg/kg
Benzo (k) fluoranthene	0.4 mg/kg
Benzo (a) pyrene	0.21 mg/kg
Chrysene	0.5 mg/kg
Dibenz (a,h) anthracene	0.25 mg/kg
Indeno (1,2,3) pyrene	0.3 mg/kg

Specific excavation areas were selected based on the identification of soil that contained one or more chemicals of concern at concentrations exceeding the RAOs. At locations where there is an exceedance, the initial excavation will be limited to six feet long by six feet wide and one foot deeper than the sample exceeding the RAOs. Prior to any excavation activities, Underground Service Alert (USA) will be contacted according to established USA procedures.

Tables 1 through 5 detail the boring locations where sample concentrations exceeded the RAOs. For this report, samples exceeding the RAOs will be termed "hot spot samples" and samples below the RAOs will be termed "clean samples". Initial excavation depths will be one foot

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deeper than the depth of the hot spot sample. Hot spot sample locations shown in Figures 3 through 6.

5.2 Excavation Confirmation Sampling

A typical excavation, with dimensions of six feet wide by six feet long by six feet deep, contains only 8 cy of material. Confirmation samples will be collected from each of the sidewall and bottom of the excavation and analyzed individually for comparison to the RAOs except for the following:

5.2.1 Sidewall Sampling

A sample will be collected from each sidewalls of an excavation from approximately the same depth as the sample exceeding the RAO. Each sample will be analyzed for the same compounds that exceeded the RAOs at the corresponding Remedial Investigation (RI) sampling location. If a confirmation sample exceed the RAOs, the excavation will expand in that direction.

Additional lateral excavation will be performed in 2-foot stepouts, and sidewall sample(s) will be collected from the new face(s) of the excavation and submitted to the laboratory for analysis.

Excavation and re-sampling will continue in an iterative fashion until all sidewalls meet the RAOs.

Example: RI sample 10B-23-3.0 exceeded the RAOs for TPHd, TPHmo and PNAs. The range of excavation associated with this sample is from the ground surface to four feet below the ground surface (bgs). Therefore, the confirmation samples would be collected from a depth of approximately three feet bgs and the confirmation analyses would consist of analyses for the same compounds (EPA Method 8015M for TPHd and TPHmo and EPA Method 8310 for PNAs).

If the dimensions of an excavation increase to the extent that a sidewall is longer than 12 feet, one sample will be collected for every six feet of sidewall. If an excavation is deeper than four feet, one sample will be collected for every four feet of depth.

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Example: If an excavation is six feet square and seven feet deep, each sidewall will be sampled in one location (sidewalls are less than 12 feet in length), and each sidewall location will be sampled at two depths (one in the upper 4 feet, and one between 4 and 7 feet in depth).

5.2.2 Bottom Sampling

Initial excavation depths will be one foot deeper than the depth of the hot spot sample. If the bottom of the excavation does not appear contaminated through visual inspection, a confirmation sample will be collected for laboratory analyses. If the area appears contaminated through visual inspection, additional soil may be excavated prior to collecting the bottom sample.

Example: Location 10B-15 at a depth of six feet (10B-15-6.0) exceeded both the TPHd and TPHmo RAOs and there were no deeper samples analyzed. Therefore, this location will be excavated to minimum depth of 7 feet, one foot deeper than the sample, where the excavation will be visually examined for evidence of petroleum staining. If the bottom of the excavation appears suitable, a confirmation sample will be collected for TPHd and TPHmo analyses. If the bottom of the excavation appears contaminated, additional soil may be excavated prior to collecting the bottom sample.

If there is a clean sample above a hot spot excavation sample, soil to a depth of one foot deeper than the clean sample will be excavated and stockpiled for reuse onsite. The stockpiled soil will be tested for all RAO's (arsenic, lead, TPHd, TPHmo, PAHs) prior to reuse onsite. Soil from one foot below the clean sample to one foot below the hot spot sample will be excavated for off-site disposal.

Example: Location 10B-8 has a clean sample at a depth of three feet (10B-8-3.0) and a hot spot excavation sample at a depth of six feet (10B-8-6.0) which exceeded the RAO for arsenic. Therefore, soil between 0 and 4 feet below ground surface (bgs), one foot deeper than the clean sample, is associated with the clean sample and stockpiled onsite for reuse. Soil between 4 and 7 feet bgs, one foot deeper than the hot spot sample, is associated with the hot spot sample and excavated for disposal offsite.

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Because there are no clean samples within the three foot depth below the hot spot sample, a bottom confirmation sample will be collected and analyzed for arsenic.

Depths for each excavation are listed in Table 6 along with a column that indicates whether the excavation requires a confirmation bottom sample or not. Estimated excavation volumes are listed on Figures 3 through 6.

It is anticipated that all excavation work will most likely be performed with backhoes with excavated soil stockpiled for consolidation, additional analysis, if required by the disposal facilities, and future loading. Loading from stockpiles onto trucks will most likely be performed with front-end loaders or backhoes. Due to good accessibility to the parcels, transportation of soil for off-site disposal will likely be performed with the largest trucks available at the time of the performance of the work.

5.3 Quality Assurance/Quality Control

Field quality control samples include equipment rinsate blanks, field blanks and trip blanks, and will be collected on a schedule of one rinsate blank per sampling device per mobilization, one field blank per mobilization, and one trip blank per cooler containing samples for PNA analyses. The laboratory will supply trip blanks. One set of field duplicates will be collected for every ten "hot spot" excavations.

5.3.1 Sample Designation Procedures

Each sample collected for analytical testing will be assigned a unique number consisting of an alphanumeric code that identifies the sampling location, matrix, and depth for soil samples.

Further details on sample labeling procedures are presented below.

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Sample Labels

Each sample will be labeled with sample identification, date and time collected and sampler name and firm.

Sample Identification

The following provides a brief description of the naming system for sampling locations and samples, including field quality control samples. Soil sample identification numbers will include the number of the area where they were collected (10, 11, 15, 16, 20, or 21) the name of the boring and the sampling depth. Example sample names include:

10B-4-ESW-2.0 A soil sample collected at 2.0 feet bgs from the east side wall (ESW) from Boring B-4 in Area 10.

Field duplicates will be given a fictitious identity by using the sample number from a non-existent boring or well (e.g., a primary sample labeled 10B-4-ESW-2.0, with the duplicate sample labeled 10B-10-ESW-2.0).

The following are examples of unique sample identifications for field QC samples:

EB-1-2004-01-16 First equipment rinsate blank collected during the field investigation, with date (16 January 2004).

TB-1-2004-01-16 First trip blank collected during the field investigation, with date (16 January 2004).

FB-1-2004-01-16 First field blank collected during the field investigation, with date (16 January 2004).

The actual sample location, type, sequential number, and depth (if required) will be clearly noted in the field documentation.

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Confirmation Sampling

Surficial and shallow subsurface soil samples (0 to 4 feet bgs) may be collected as warranted using trowels, hand-augers, and/or slide hammer equipment. Samples collected from depths greater than four feet bgs will be brought to the surface with the excavating equipment and sampled from the equipment bucket using the same sampling procedures.

The appropriate sampling equipment will be chosen as dictated by conditions. Samples will be collected using laboratory-cleaned or field-decontaminated equipment as required in the project work plan. Samples will be collected in stainless steel liners. With the exception of volatile organic constituents, the soil sample should be well mixed to produce a representative sample. The stainless steel tube will be labeled with an adhesive label and placed in a zip-lock bag. The sample will then be placed on ice in a cooler. Standard chain-of-custody procedures will be followed.

The soil sample liners retained for chemical analysis will be immediately sealed with Teflon tape, fastened with a plastic cap, and labeled. The samples will then be placed into an ice chest containing sufficient volume of ice to maintain a temperature of 4 degrees centigrade (°C) for transport to the off-site analytical laboratory following chain-of-custody protocols for 24-hour to 5-working day turnaround on results.

Equipment Decontamination Procedures

All equipment used during investigation activities that could come into contact with the samples will be thoroughly cleaned, before and after each use. In between soil sampling intervals, the soil samplers will be rinsed with tap water, rinsed with non-phosphate detergent solution, and double rinsed with tap water to remove detergent, and air dried.

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5.3.2 Sample Handling and Analysis

This section describes the field procedures that will be followed in the handling of the collected samples prior to delivery to the analytical testing laboratory for analysis, including sample custody and documentation, sample labels, groundwater sample data collection forms, chain of custody, sample shipping, and laboratory custody procedures.

Test Methods

Samples will be analyzed for various combinations of the following:

- PAHs by EPA Method 8310,
- TPHd and TPHmo by EPA Method 8015 modified, and
- Total lead and total arsenic by EPA Method 6010.

Photographic Documentation

Color photographs will be taken of representative sampling locations and the surrounding site to show the area, sampling equipment, and related Site activities. Photo numbers will be logged on an appropriate field documentation form to identify photographs with the correct location.

Field Data Forms

Records of all sampling activities and field measurements will be documented in field data forms. The field data forms will be used as a record of daily field activities showing the sequence of events. At a minimum, this form will include the following information:

- Project name and number,
- Date,
- Starting/ending time and nature of each major field activity,
- Names of all personnel on the Site, including visitors,
- Weather conditions,

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- References to appropriate field logs for details of each activity performed,
- Identification of any photographs taken, and
- Signature of reviewer or Field Investigation Manager.

Variance Log

Significant variations from approved operating procedures will be documented on a variance log. The Project Manager must approve variances affecting project scope and/or schedule. Variance from the HSP must be signed off by the Health and Safety Officer prior to task implementation. Copies of the variance log will be retained in the project file.

Document Maintenance

Field personnel are responsible for recording field activities on the appropriate field documentation form in sufficient detail to allow the event to be reconstructed without relying on memory. It is the responsibility of the Field Investigation Manager to check that all documents are complete and legible. At the end of each day, all documents completed that day will be reviewed by the Field Investigation Manager for accuracy, completeness, and legibility. The following field documentation forms or records will be used during the field activities, at a minimum:

- Sample Chain of Custody record
- Field activity daily log
- Variance log form

Each completed form will be maintained on-site in chronological order with other completed forms of the same type until completion of the field activity. Copies will be provided to the Field Investigation Manager on a daily basis for review.

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5.4 Soil Management

Due to the limited volume anticipated from each "hot spot" excavation, it will likely be most efficient to temporarily stockpile the excavated soil until a sufficient quantity of material has accumulated to mobilize a truck fleet. To facilitate loading, stockpiles may be grouped according to the approved disposal facility. If the disposal facility has not been approved, the material will be stockpiled adjacent to the excavation until a disposal facility is approved.

Stockpiles will be underlain by plastic sheeting, with berms to prevent run-on or run-off of surface water. Stockpiles will be covered with plastic sheeting overnight, or immediately upon excavation if it is raining, to prevent fugitive dust emissions or excess moisture accumulation from rainfall.

5.5 Open Excavations

Excavations that do not require confirmation depth samples will have the extents of the excavation staked and the excavation backfilled before the end of the day. Excavations that require bottom confirmation samples may remain open for a period of a few days after completion, pending receipt of laboratory analytical results for confirmation samples. Shallow excavations not exceeding three feet in depth will be surrounded by traffic barricades and yellow "caution tape". Excavations greater than three feet in depth will be surrounded by traffic barricades and orange "snow fencing". If excavation sidewalls are not sufficiently stable for the excavation to remain open until confirmation sample analytical results are received, the excavation may be temporarily backfilled with clean import fill, with the original sidewalls and bottom delineated with plastic tape or fencing.

5.6 Stockpile Sampling

No stockpile sampling is anticipated except for solubility testing associated with arsenic and lead. Truckloads will be pre-approved by the disposal facility, and pre-approval will be the responsibility of the remediation contractor. Due to the significant amount of data available, it is

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anticipated that pre-approval can be obtained on the basis of RI data and confirmation sampling results. However, should stockpile sampling be required for waste characterization, it will be performed as follows. One four-point composite sample will be collected for every 150 cubic yards (cy) of similar material. The sample will be composited in the laboratory, and analyzed for the constituents of concern for the subject stockpile. For example, soluble lead and arsenic samples may be required by the landfills to determine the acceptability of the excavated soil.

The following provides a brief description of the naming system for stockpile samples.

Stockpile sample identification numbers will include the number of the area where the stockpile is placed (10, 11, 15, 16, 20, or 21), abbreviation of the location of the stockpile on the parcel (e.g., N, S, SW), the designation of SP for stockpile, date, a letter designating individual samples within a group of samples to be composited. Example sample names include:

10-NWSP-2004-01-16-A A soil sample collected from the northwest stockpile on parcel 10. The sample was collected on 16 January 2004 and is individual sample A to be composited by the lab.

5.7 Off-Site Disposal

All soil exceeding RAOs will be transported off-site for disposal. It will be the responsibility of the remediation contractor to obtain pre-approval from the disposal facility for each load. It will also be the responsibility of the remediation contractor to select appropriate disposal facilities in advance for the material to be excavated. However, SDHR reserves the right to review the contractor's list of selected disposal facilities and reject any facility, in which case the contractor will be asked to identify an alternate disposal facility.

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6.0 MATERIALS HANDLING, TRANSPORTATION, AND DISPOSAL PLAN

The results of our environmental investigations indicate that there are potentially three waste classification types at the site:

- Non-hazardous,
- California non-RCRA hazardous, and
- Federal, or RCRA hazardous (potentially).

The waste types anticipated for the project, and their anticipated handling, are as follows:

- Concrete and brick, may be directly disposed of as construction debris,
- Asphalt, may be directly disposed of as construction debris,
- Soil, may be stockpiled onto liner material or directly loaded to end-dump trucks for shipment, and
- Hazardous wastes, may be placed onto liner material, stockpiled, or directly loaded to end-dump trucks for shipment

As outlined in the *Revised Feasibility Study* (Treadwell & Rollo, 2000), the likely disposal facilities for waste removed from the site will be the Altimont Landfill in Livermore, California or Forward Landfill in Manteca, California for Class II non-hazardous material. Alternatively, Kettleman City Landfill in Button Willow, California for Class I, California non-RCRA hazardous waste and (potentially) Class I, Federal RCRA hazardous waste will be used.

Hauling and transfer operations will be supervised to prevent truck traffic in unauthorized areas. Permissible traffic routes are shown on Figure 7. Trucks are expected to enter the Project Site from West Fremont Street. Trucks leaving the Project Site will make the right on West Fremont Street, right on North Center Street, to California Highway 4. From Highway 4, access to all anticipated disposal facilities is accomplished via State or interstate highways. An emergency response and contingency plan for waste transportation is provided in Appendix E.

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We will provide this document to City of Stockton Public Works, Police, and Fire Departments for comment prior to commencing transportation activities. If field conditions necessitate, these routes may be changed.

All offsite disposals will comply with local, State, and Federal regulations (e.g., proper manifesting). Final project quantities will be reported at the conclusion of the work.

7.0 SCHEDULE

Final RDIP Submittal	5 March 2004
DTSC Approval of RDIP	12 March 2004
Mail Fact Sheet	15 March 2004
Commence Remedial Excavation and Off Site Disposal	22 March 2004
Finish Remedial Excavation and Off Site Disposal	2 April 2004
Remedial Action Completion Report Submittal	2 May 2004

8.0 HEALTH AND SAFETY PLAN

Treadwell & Rollo has prepared a Health & Safety Plan (HASP) in accordance with the California Code of Regulations (CCR), Title 8, Section 1592 and the Code of Federal Regulations (CFR), Title 29, Section 1910.120, to address the excavation activities to be conducted by Treadwell & Rollo personnel (Appendix A). HASPs for Swinerton Builders and their subcontractors are provided for DTSC's review as Appendices B and C.

The purpose of the HASP is to provide field personnel with an understanding of the potential chemical and physical hazards, protection of any off-site receptors, procedures for entering the project site, health and safety procedures, and emergency response to hazards should they occur. All project personnel shall read and adhere to the procedures established in this HASP. A copy of this plan will be kept onsite during field activities and will be reviewed and updated as necessary.

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The general public will be protected through the following measures:

- The site will be fenced
- The construction site will be watered at least twice a day to prevent visible dust from migrating off-site
- Soil stockpiles will be covered
- Water will be misted or sprayed during the loading of soil onto trucks for off haul
- Trucks transporting contaminated soil will be covered with a tarpaulin or other cover
- The wheels of the trucks exiting the site will be cleaned prior to entering public streets
- Public streets will be swept daily if soil is visible
- Excavation and loading activities will be suspended if winds exceed 20 miles per hour.

9.0 PUBLIC PARTICIPATION DOCUMENTS

Treadwell & Rollo has prepared a start-of-work notification to advise residents in Stockton, California of the remediation work to be performed. A copy of this notification is presented in Appendix B and will be mailed or delivered to residences upon approval of this RDIP. We will coordinate public participation with Ms. Heidi Nelson of DTSC.

10.0 LIST OF DEED RESTRICTIONS

A list of deed restrictions will be submitted to DTSC for approval after the RDIP Summary Report is completed and approved.



REFERENCES

Department of Toxic Substances Control. 2001.

Treadwell & Rollo. 2000a. Remedial Investigation Report, North Shore Parcels, Stockton, California, 24 August.

Treadwell & Rollo. 2000b. Feasibility Study Report, North Shore Parcels, Stockton, California, 21 September.

Treadwell & Rollo. 2000c. Addendum to Revised Feasibility Study Report, North Shore Parcels, Stockton, California, 15 November.

Treadwell & Rollo. 2001a. Second Addendum to Revised Feasibility Study Dated 15 November 2000, North Shore Parcels, Stockton, California, 25 May.

Treadwell & Rollo. 2001b. Final Remedial Action Plan (RAP), North Shore Parcels, Stockton, California, 29 August.

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TABLES

Sample Number	Boring Number	Depth (feet)	TPH as Diesel (mg/kg)	Polynuclear Aromatic Hydrocarbons (mg/kg)			Total Excavation Volume (cubic yards)
				Chrysene	Dibenz (a,h) anthracene	Indeno (1,2,3-cd) pyrene	
10B-1-1.0	10B-1	1	100	500	250	300	
10B-2-1	10B-2	1	1,400	--	--	--	2.7
10B-3-3.0	10B-03	3	--	--	--	--	2.7
10TP-4-1.0	10TP-4	1	<10	1,400	<140	1200	5.3
10TP-4-6.0	10TP-4	6	300	--	--	--	2.7
10B-4-3.0	10B-04	3	130	--	--	--	8.0
10TP-5-1.0	10TP-5	1	32	230	<34	600	5.3
10B-6-3.0	10B-06	3	<1.0	--	--	--	2.7
10B-7-6.0	10B-07	6	290	110	76	140	5.3
10B-8-6.0	10B-08	6	120	430	290	900	9.3
10B-14-3.0	10B-14	3	99	18	27	<3.3	9.3
10B-15-6.0	10B-15	6	320	35	<34	120	5.3
10B-18-6.0	10B-18	6	770	430	<34	73	9.3
10B-18-10.0	10B-18	10	270	540	<34	630	9.3
10B-19-3.0	10B-19	3	300	51	<68	<33	6.7
10B-19-6.0	10B-19	6	150	110	85	<17	5.3
10B-23-3.0	10B-23	3	350	85	<6.8	100	5.3
10B-24-3.0	10B-24	3	1,300	430	<68	<33	5.3
TR-1-3	TR-1	3	--	--	--	--	5.3
TR-3-3	TR-3	3	--	--	--	--	5.3
TR-5-3	TR-5	3	--	--	--	--	5.3
TR-6-3	TR-6	3	--	--	--	--	5.3
TR-9-3	TR-9	3	--	--	--	--	5.3
TR-12-3	TR-12	3	--	--	--	--	5.3
TR-14-3	TR-14	3	--	--	--	--	5.3
B-2	B-2	3	--	--	--	--	5.3

Total cubic yards = 148

Notes

RAO = Remedial Action Objective

TPH = Total Petroleum Hydrocarbon

PNA = Polynuclear Aromatic Compounds - EPA Methods 8270 and D221

Excavation Volume = Based on an excavation (6) feet X (6) feet X (sample depth)

* = Hydrocarbon measured as TRPH using Method 5520F

mg/kg = milligram per kilogram

TABLE 2
AREA 11 SOIL ANALYSES EXCEEDING RAO'S
FOR TPH AS DIESEL MOTOR OIL, LEAD, AND PHA
 North Shore Parcels
 Stockton, California

Sample Number	Boring Number	Depth (feet)	TPH as Diesel (mg/kg)	TPH as Motor Oil (mg/kg)	Lead (mg/kg)	Polynuclear Aromatic Hydrocarbons (mg/kg)							Total Excavation Volume (cubic yards)
						Benzo (a) anthracene	Benzo (b) fluoranthene	Benzo (k) fluoranthene	Benzo (e) pyrene	Chrysene	Dibenz (a,h) anthracene	Indeno (1,2,3-cd) pyrene	
RAO			100	1,000	750	300	400	400	210	500	250	300	
11B-7-1.0	11B-7	1	<1.0	48	1,300	<500	<500	<1,000	110	<500	<200	<1,000	2.7
11B-13-1.0	11B-13	1	<1.0	<50	75	900	900	ND	740	1300	ND	<67	2.7
11B-18-6.0	11B-18	6	600	3,500	—	—	—	—	—	—	—	—	9.3
11B-19-6.0	11B-19	6	400	1,500	—	—	—	—	—	—	—	—	9.3

Notes

RAO = Remedial Action Objective

TPH = Total Petroleum Hydrocarbon

Excavation Volume = Based on an excavation (6) feet X (6) feet X (sample depth + 1 ft) / 27 cubic yards/foot

mg/kg = milligram per kilogram

Total cubic yards = 24

3/5/2004

TABLE 3
AREA 15 SOIL ANALYSES EXCEEDING RAO'S
FOR TPH AS DIESEL AND ARSENIC
 North Shore Parcels
 Stockton, California

Sample Number	Boring Number	Depth (feet)	TPH as Diesel (mg/kg)	Arsenic (mg/kg)	Total Excavation Volume (cubic yards)
RAO			100	20	
15B-2-6.0	15B-2	6	<10	41	9.3
15B-3-1.0	15B-3	1	280	1.6	2.7
15B-6-6	15B-06	6	520	--	9.3
15B-6-10	15B-06	10	220	--	13.3
15B-6-10	15B-06	15	400	--	22.7

Total cubic yards =	57
---------------------	----

RAO = Remedial Action Objective

TPH = Total Petroleum Hydrocarbon

Excavation Volume = Based on an excavation (6) feet X (6) feet X (sample depth + 1 ft) / 27 cubic yards/foot

mg/kg = milligram per kilogram

RDIP 25971009 bkm - Table 3 - Area 15

1

TABLE 4
AREA 20 SOIL ANALYSES EXCEEDING RAO's FOR ARSENIC
 North Shore Parcels
 Stockton, California

Sample Number	Boring Number	Depth (feet)	Arsenic (mg/kg)	Total Excavation Volume (cubic yards)
RAOs			20	
20TP-1-1.0	20TP-1	1	43	2.7
20TP-4-1.0	20TP-4	1	33	2.7
20B-4-6.0	20B-4	6	52	9.3
20TP-5-1.0	20TP-5	1	110	2.7
20TP-5-6.0	20TP-5	6	32	8.0
20B-9-10.0	20B-9	10	27	14.7

Total cubic yards = 40

RAO = Remedial Action Objective
 mg/kg = milligram per kilogram

EXHIBIT H

TABLE 5
AREA 21 SOIL ANALYSES EXCEEDING RAO's
FOR PNA AND ARSENIC
North Shore Parcels
Stockton, California

Polynuclear Aromatic Compound (mg/kg)																
Sample Number	Boring Number	Depth (feet)	Benzo (a) anthracene	Benzo (b) fluoranthene	Benzo (k) fluoranthene	Benzo (a) pyrene	Chrysene	Dibenz (a,h) anthracene	Indeno (1,2,3-cd) pyrene	Arsenic (mg/kg)	Total Excavation Volume (cubic yards)					
RAOs			300	400	400	210	500	250	300	20						
21B-2-1.0	21B-2	1	<330	334	371	<330	442	<330	<330	23	2.7					

Total cubic yards = 2.7

RAO = Remedial Action Objective
PNA = Polynuclear Aromatic Compounds - EPA Methods 8270 and D216
mg/kg = milligram per kilogram

TABLE 6
EXCAVATION DEPTHS AND CONFIRMATION ANALYSES
 North Shore Parcels
 Stockton, California

EXHIBIT H

Confirmation Analyses									
Location	Representative Sample	Initial Depth (feet)	Bottom Sample Req'd?	Confirmation Sample Depth	TPH as Diesel	TPH as Motor Oil	TTLC Arsenic	TTLC Lead	PNAs
Area 10									
10B-1	10B-1-1.0	2	Yes	0-2	X				
	10B-2-1.0	2	Yes	0-2		X			
10B-3	10B-3-3.0	4	Yes	0-4					X
10B-4	10B-4-3.0	4	Yes	0-4					X
10B-6	10B-6-3.0	4	Yes	0-4	X	X			
10B-7	10B-7-3.0	--	--	0-4					
10B-7	10B-7-6.0	7	Yes	4-7	X				X
10B-8	10B-8-3.0			0-4*					
	10B-8-6.0	7	Yes	4-7			X		
10B-14	10B-14-3.0	4	Yes	0-4	X	X			
10B-15	10B-15-3.0	--	--	0-4*					
	10B-15-6.0	7	Yes	4-7	X	X			
10B-18	10B-18-3.0	--	--	0-4					
	10B-18-6.0	--	--	4-7	X	X			X
	10B-18-10.0	11	Yes	7-11	X	X			
10B-19	10B-19-3.0	--	--	0-4	X	X		X	
	10B-19-6.0	7	Yes	4-7	X	X			
10B-23	10B-23-3.0	4	Yes	0-4	X	X			X
10B-24	10B-24-3.0	4	Yes	4-7			X		
10TP-4	10TP-4-1.0	--	--	0-4	X				
	10TP-4-6.0	7	Yes	4-7	X				
10TP-5	10TP-5-1.0	2	Yes	0-2				X	

TABLE 6
EXCAVATION DEPTHS AND CONFIRMATION ANALYSES
North Shore Parcels
Stockton, California

Location	Representative Sample	Initial Depth (feet)	Bottom Sample Req'd?	Confirmation Analyses					
				Confirmation Sample Depth	TPH as Diesel	TPH as Motor Oil	TTLc Arsenic	TTLc Lead	PNAs
TR-1	TR-1-3	4	Yes	0-4		X			
TR-3	TR-3-3	4	Yes	0-4		X	X	X	
TR-5	TR-5-3	4	Yes	0-4		X		X	
TR-6	TR-6-3	4	Yes	0-4				X	
TR-9	TR-9-3	4	Yes	0-4		X			
TR-12	TR-12-3	4	Yes	0-4		X			
TR-14	TR-14-3	4	Yes	0-4		X			
B-2	B-2	4	Yes	0-4				X	
11B-7	11B-7-1.0	2	Yes	0-2				X	X
11B-13	11B-13-1.0	2	Yes	0-2					X
11B-18		--	--	0-4	X	X			
	11B-18-6.0	7	Yes	4-7	X	X			
11B-19				0-4	X	X			
	11B-19-6.0	7	Yes	4-7	X	X			
15B-2	--	--	--	0-4			X		
	15B-2-6.0	7	Yes	4-7			X		
15B-3	15B-3-1.0	2	Yes	0-2	X				
15B-6	--	--	--	0-4	X				
	15B-6-6	--	--	4-7	X				
	15B-6-10	--	--	7-11	X				
	15B-6-15	16	Yes	11-16	X		X		

TABLE 6
EXCAVATION DEPTHS AND CONFIRMATION ANALYSES
 North Shore Parcels
 Stockton, California

Location	Representative Sample	Initial Depth (feet)	Bottom Sample Req'd?	Confirmation Analyses					
				Confirmation Sample Depth	TPH as Diesel	TPH as Motor Oil	TTLc Arsenic	TTLc Lead	PNAs
Area 20									
20B-4	20B-4-3.0	--	--	0-4*					
	20B-4-6.0	7	Yes	4-7			X		
20B-9	20B-9-1.0	--	--	0-4*					
	--	--	--	4-7			X		
	20B-9-10.0	11	Yes	7-11			X		
20TP-1	20TP-1-1.0	2	Yes	0-2			X		
20TP-4	20TP-4-1.0	2	Yes	0-2			X		
20TP-5	20TP-5-1.0	--	--	0-4			X		
20TP-5	20TP-5-6.0	7	Yes	4-7			X		
Area 21									
21B-2	21B-2-1.0	2	Yes	0-2			X		X

Notes:

* No confirmation testing required from this depth interval because investigation soil sample does not exceed RAOs. Stockpile soil for re-use onsite.

TPH = total petroleum hydrocarbons

TTLc =

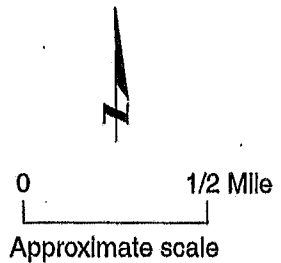
PNAs = Polynuclear Aromatic Hydrocarbons

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FIGURES



Base map: The Thomas Guide
San Joaquin County
1988



NORTH SHORE PARCELS - RDIP
Stockton, California

SITE LOCATION MAP

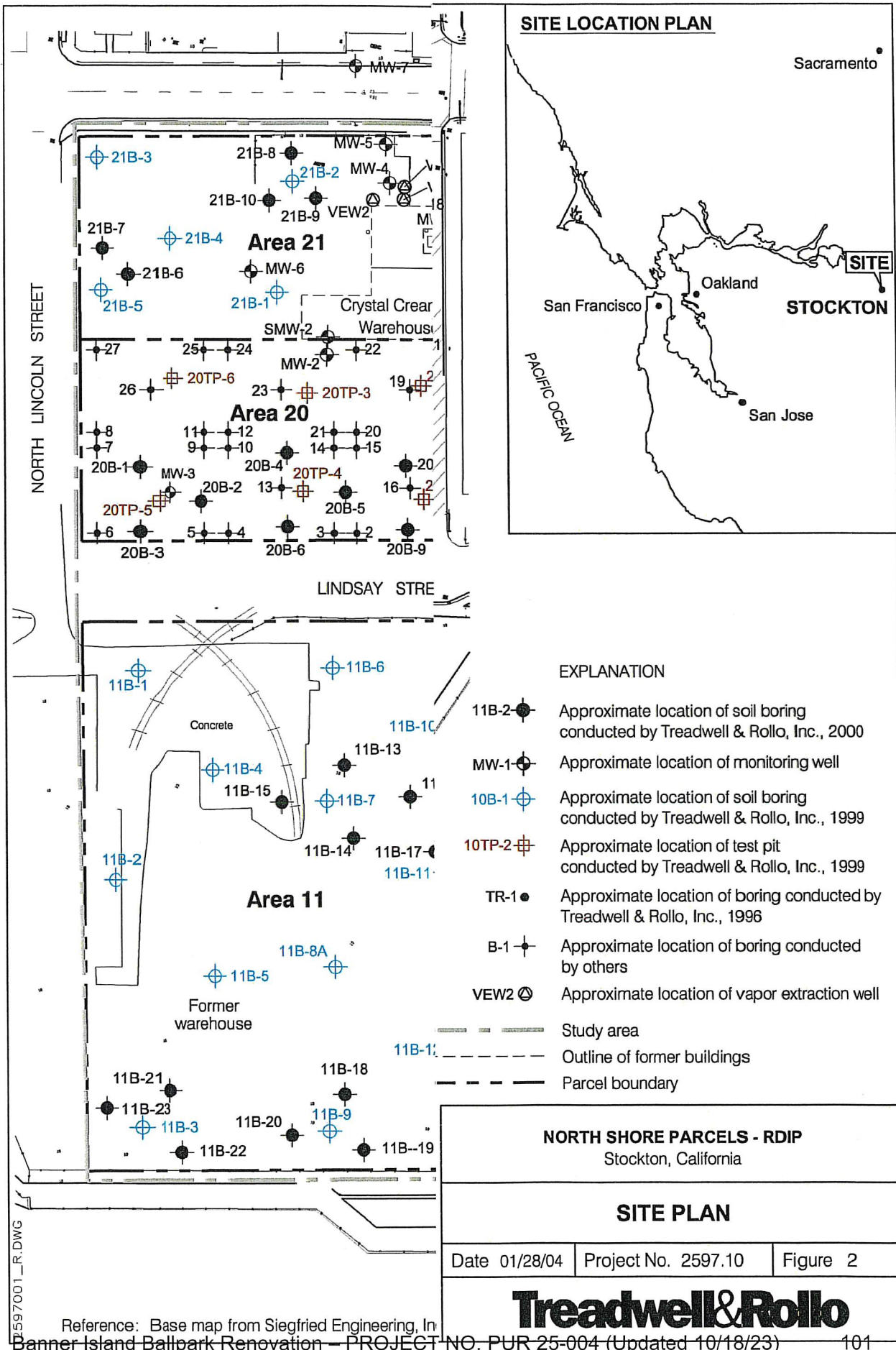
Treadwell & Rollo

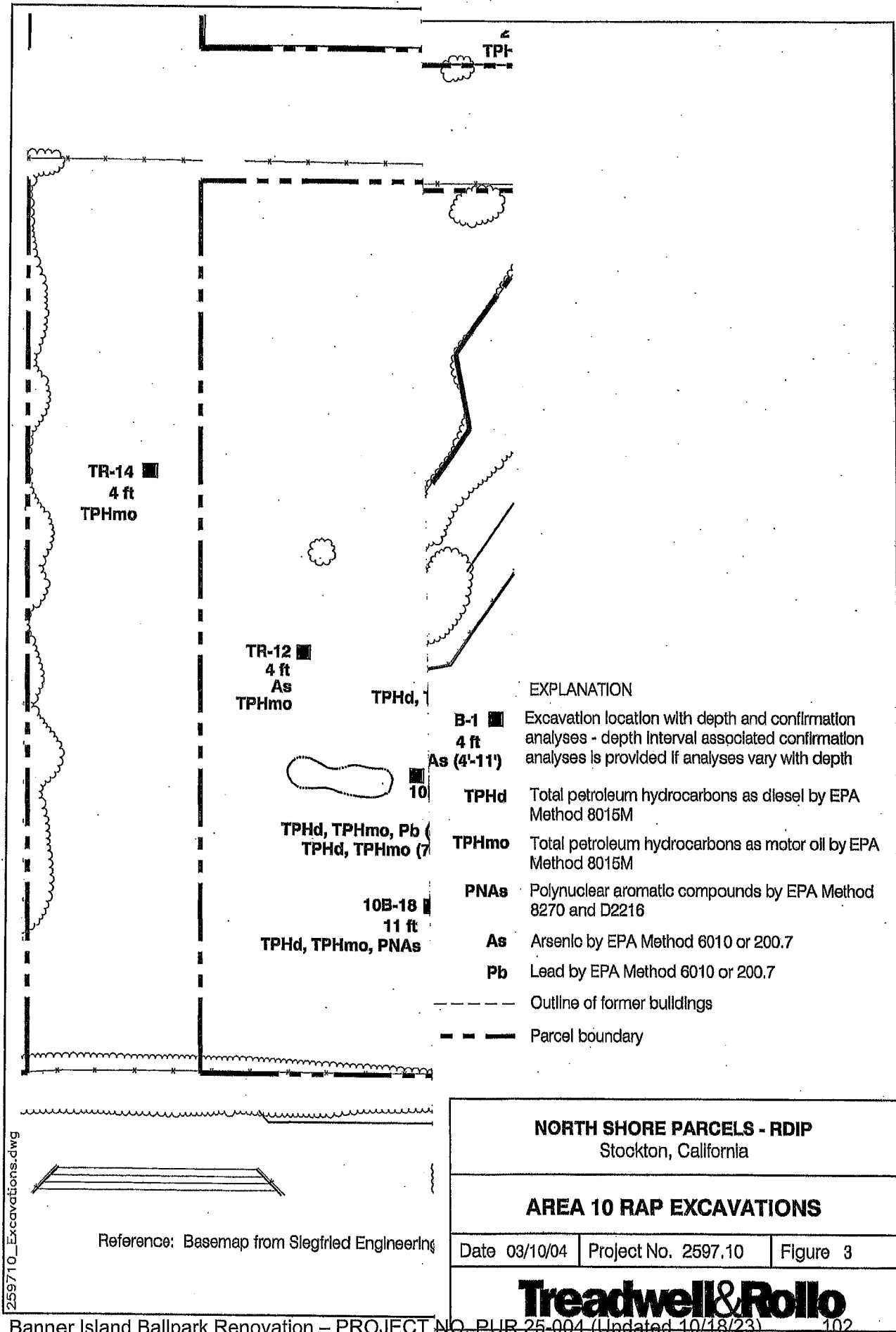
Banner Island Ballpark Renovation = PROJECT NO. 2597-10

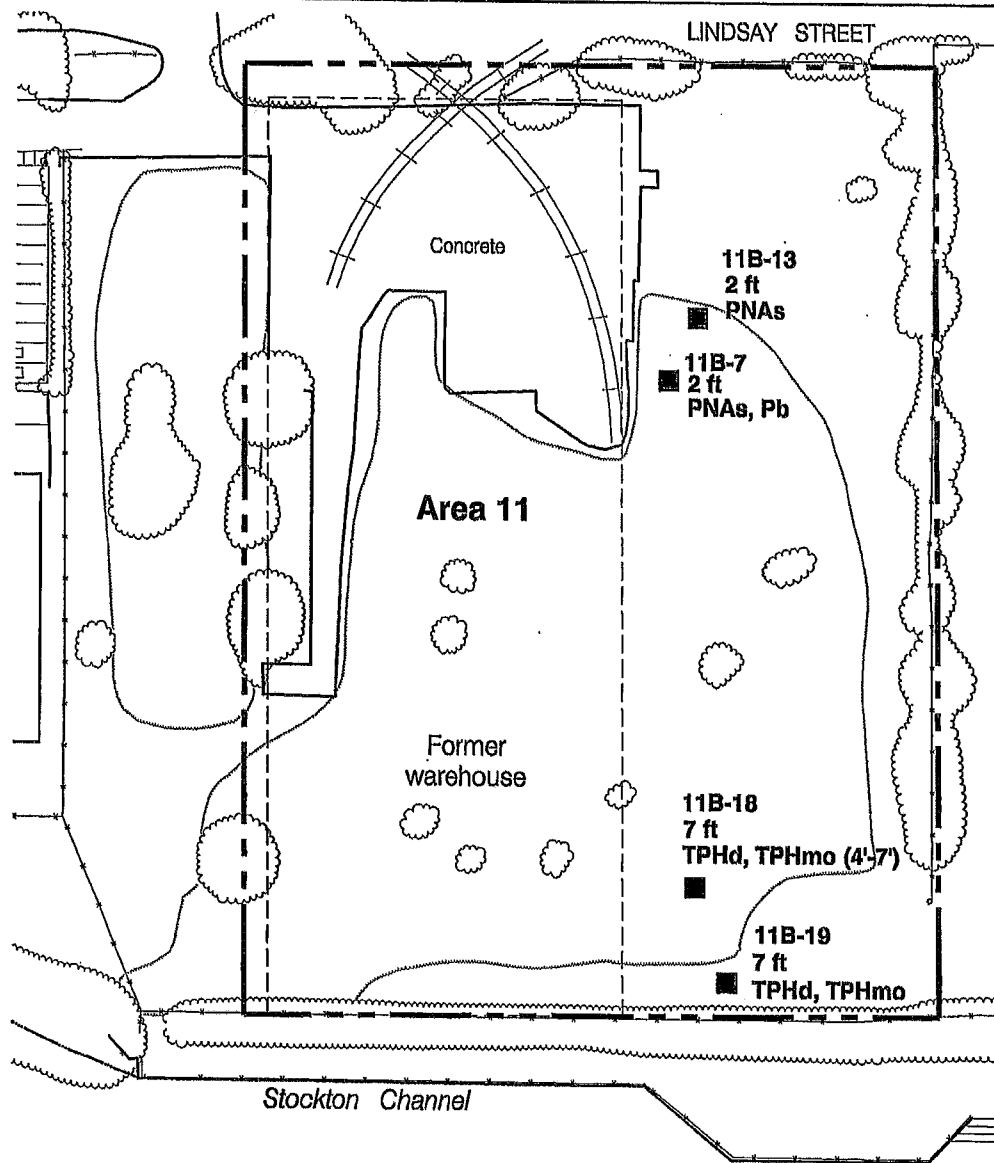
Date 01/28/04 Project No. 2597-10

Figure 1

PUR 25-004 (Updated 10/18/23)







EXPLANATION

- B-1** ■ Excavation location with depth and confirmation analyses -
4 ft depth interval associated confirmation analyses is provided
PNAs (4'-11') If analyses vary with depth
- TPHd** Total Petroleum hydrocarbons as diesel by EPA Method 8015M
- TPHmo** Total petroleum hydrocarbons as motor oil by EPA Method 8015M
- PNAs** Polynuclear aromatic compounds by EPA Method 8270 and D2216
- Pb** Lead by EPA Method 8010 or 200.7
- Outline of former buildings
- Parcel boundary

Stk



0 80 Feet
Approximate scale

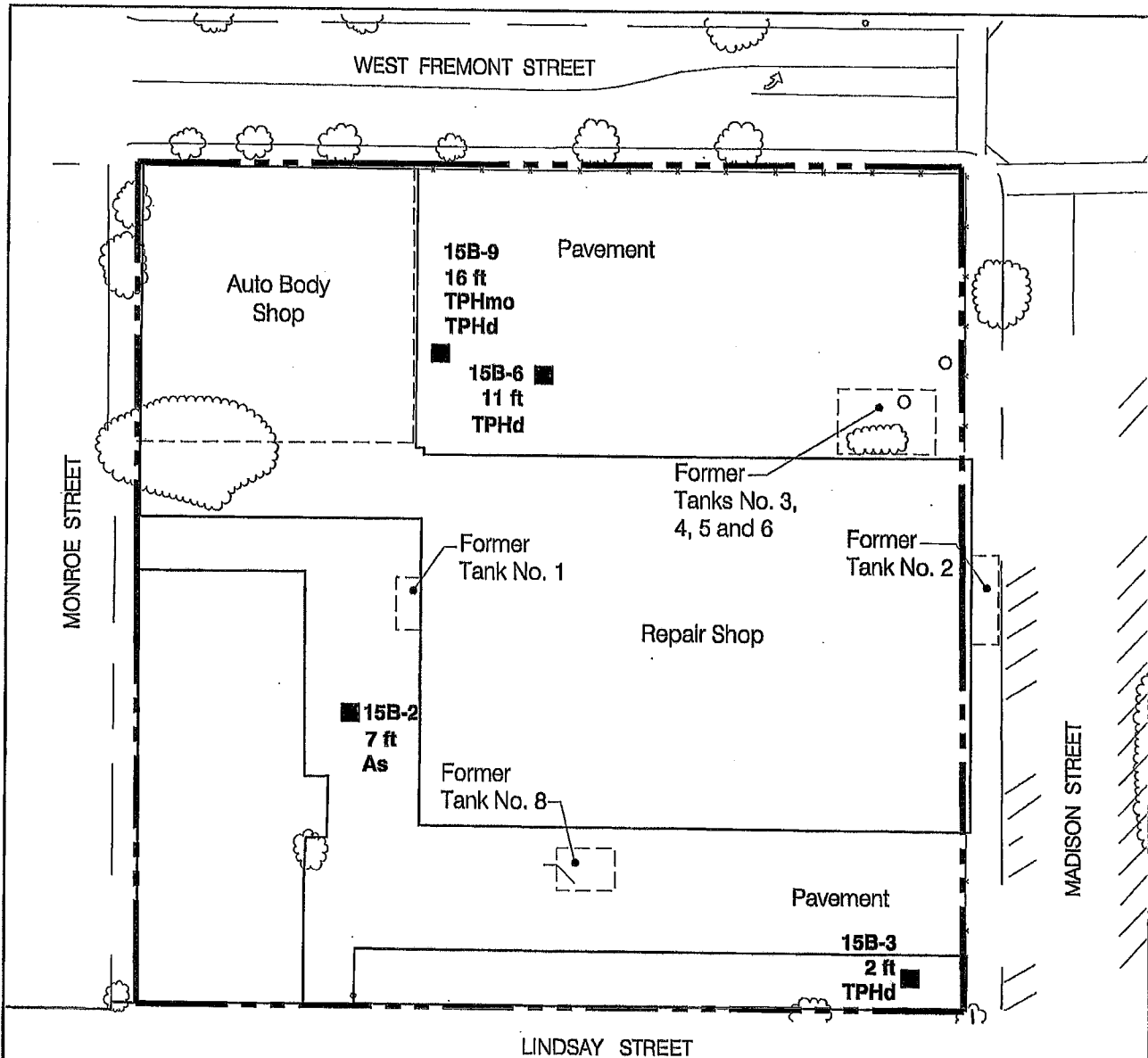
Reference: Base map from Siegfried Engineering, Inc., 1999.

NORTH SHORE PARCELS - RDIP
Stockton, California

AREA 11 RAP EXCAVATIONS

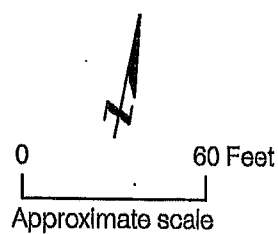
Treadwell&Rollo

Date 01/28/04 Project No. 2597.10 Figure 4



EXPLANATION

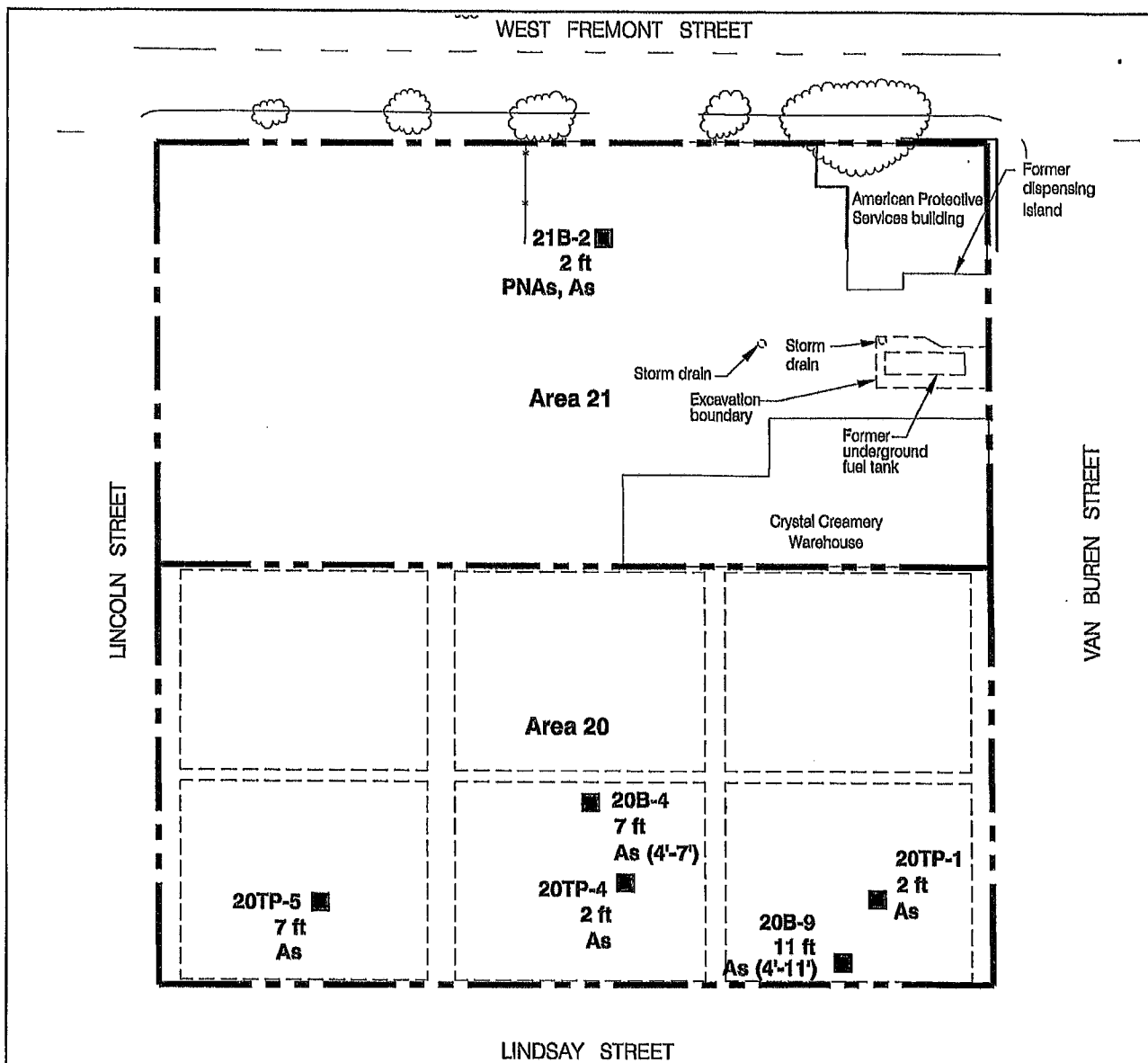
- B-1** ■ Excavation location with depth and confirmation analyses
- 4 ft**
- As**
- TPHd** Total petroleum hydrocarbons as diesel by EPA Method 8015M
- TPHmo** Total petroleum hydrocarbons as motor oil by EPA Method 8015M
- As** Arsenic by EPA Method 6010 or 200.7
- Outline of former buildings
- - - Parcel boundary



Reference: Basemap from Slegfried Engineering, Inc., 1999.

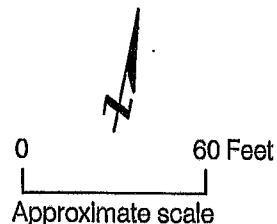
2597.10 - Excavations.dwg

NORTH SHORE PARCELS - RDIP Stockton, California	AREA 15 RAP EXCAVATIONS		
Treadwell&Rollo	Date 03/05/04	Project No. 2597.10	Figure 5
	Banner Island Ballpark Renovation - PROJECT NO. PUR 25-004 (Updated 10/18/23)		



EXPLANATION

- B-1** ■ Excavation location with depth and confirmation analyses - depth interval associated confirmation analyses is provided
4 ft
PNAs (4'-11') If analyses vary with depth
- PNAs** Polynuclear aromatic compounds by EPA Method 8270 and D2216
- As** Arsenic by EPA Method 6010 or 200.7
- Outline of former buildings
- Parcel boundary



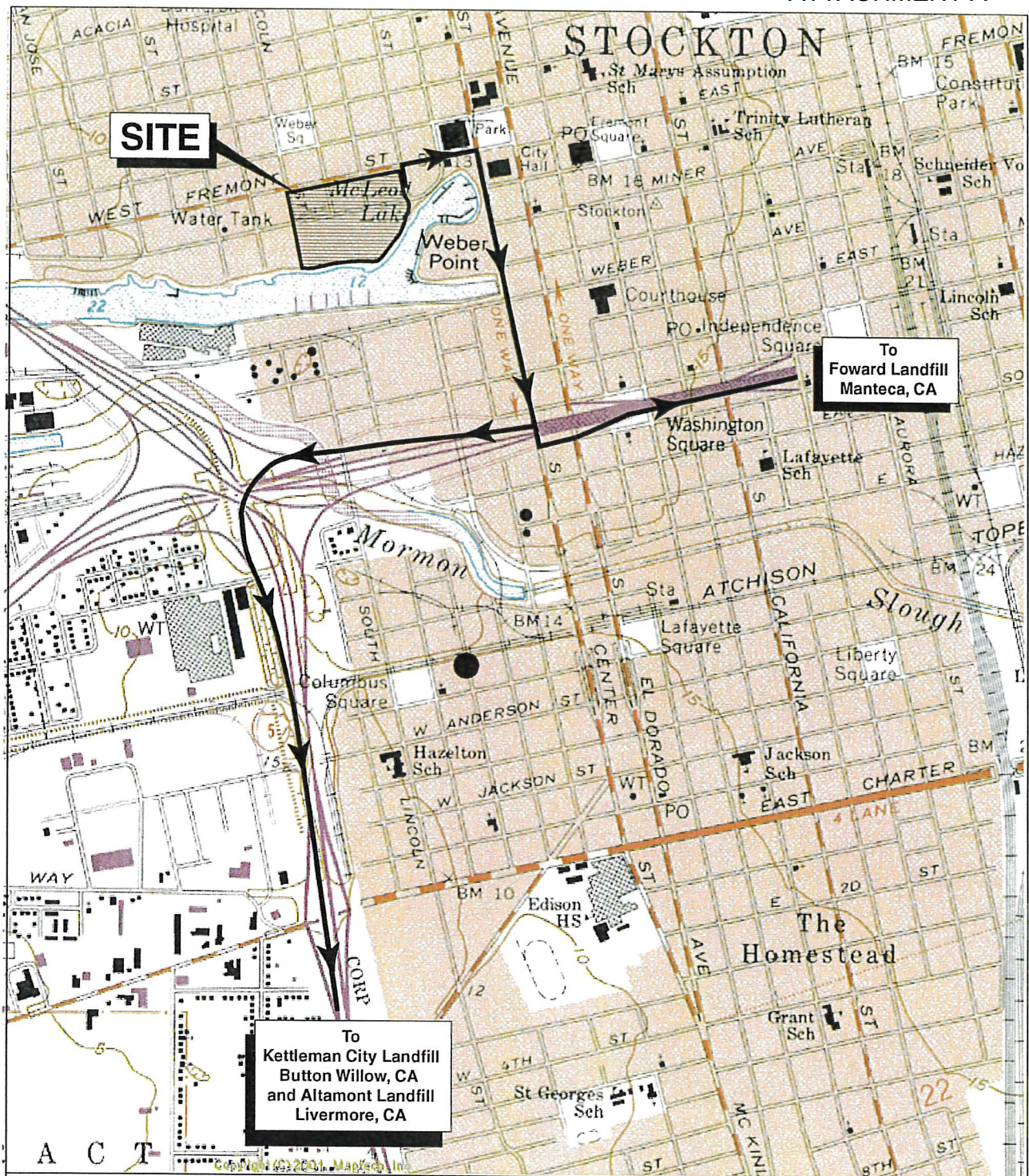
Reference: Basemap from Slegfried Engineering, Inc., 1999.

NORTH SHORE PARCEL - RDIP
 Stockton, California

AREA 20 AND 21 RAP EXCAVATIONS

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Date 01/28/04 Project No. 2597.10 Figure 6



NORTH SHORE PARCELS - RDIP
Stockton, California

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APPROVED HAUL ROUTES

Date 01/28/04

Project No. 2597.10

Figure 7

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APPENDIX A

HEALTH AND SAFETY PLAN

TREADWELL & ROLLO, INC.

Treadwell&Rollo**Amendment to
Site Health and Safety Plan**

Project Name: North Shore Parcels, Stockton Department of Housing and Redevelopment
Project Number: 2597.10

Location: Area 10 (Banner Island), Area 11 (300 N. Harrison Street), Area 15 and 16 (Chase Chevrolet), Area 20 (Western Rail road), and Area 21 (Crystal Creamery)

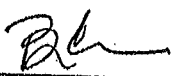
Changes in field activities or hazards: 1) Update Project Contact List, 2) Add Excavation Oversight and Soil Confirmation Sample Collection field task, and 3) Add Monitoring Well Abandonment field task.

Proposed Amendment

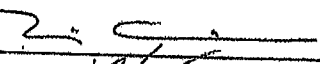
DTSC Contact: Mr. Jerry Lile (916) 255-3744
T&R Project Manager: Brian Moore (415) 955-9040 ex 264, cell (925) 899-1025
T&R Health & Safety Officer: Michael Chamberlain (415) 955-9040 ex 267, cell (925) 980-3202
T&R Field Team: Danielle Widemann (510) 874-4500 ex 542, cell (510) 508-9643
Eric Derazian (510) 874-4500, ex 545, cell (510) 520-5273
Dustyne Sutherland (415) 955-9040, ex 283, cell (510) 508-3436
Rhonda Richards (415) 955-9040, ex 254, cell (925) 997-4936

Excavation Oversight and Soil Conformation Sample Collection: Task includes contractor oversight during soil excavation and truck loading from soil stockpiles. Additional physical hazards include working around operating heavy equipment, with special attention paid to excavator swing and pinch points. Maintain eye contact with equipment operator.

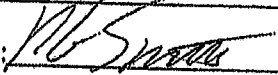
Monitoring Well Abandonment: No addition physical or chemical hazards. See Tables 1 and 4.

Project Manager Approval: 

Date: 12/23/03

H&S Officer Approval: 

Date: 12/23/03

Program Manager Approval: 

Date: 12/23/03

Declined by: _____

Date: _____

Amendment No.: 1

Amendment
Effective Date: 12/23/03

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Signature Section

Prepared By: David Dixon

24 March 2000

Reviewed By: _____
Date

Onsite Personnel

I have read and reviewed this Site Safety Plan and will comply with the requirements stated herein and directions from the site safety officers.

Name

Signature & Date

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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HEALTH & SAFETY PLAN NORTH SHORE PARCELS Stockton, California

1.0 INTRODUCTION

This Health & Safety Plan (HSP) was prepared in accordance with the California Code of Regulations (CCR), Title 8, Section 1592 and the Code of Federal Regulations (CFR), Title 29, Section 1910.120. This HSP addresses the anticipated activities associated with the field investigation to be conducted by Treadwell & Rollo (T&R) at the North Shore Parcels site in Stockton, California (Figure 1).

This plan has been written for use by T&R field personnel who will provide oversight for the field investigation. The purpose of the HSP is to provide T&R field personnel with an understanding of the potential chemical and physical hazards and health and safety procedures and emergency response to hazards should they occur. All project personnel shall read and adhere to the procedures established in this HSP.

This plan will be kept onsite during field activities and will be reviewed and updated as necessary. Changes in this HSP will be amended in writing.

2.0 BACKGROUND AND DESCRIPTION

The Stockton Department of Housing and Redevelopment (DHR) has identified the North Shore Parcels as Area 10 (Banner Island), Area 11 (300 North Harrison Street), Areas 15 and 16 (Chase Chevrolet), Area 20 (Western Rail Road) and Area 21 (Crystal Creamery) as shown on Figure 2. All of these sites have had previous soil and groundwater investigations conducted at them and three have active or planned soil and/or groundwater remediation systems. The following are brief summaries of the former uses and environmental conditions of each area.

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2.1 Area 10

This site is referred to as the Banner Island Site and is owned by the DHR. The site is north of the Stockton Deep Water Channel, south of West Lindsay Street, and between Van Buren and North Madison Streets. Banner Island was formally a delta island, reclaimed during the 1920s. The site was leased by the City of Stockton to the Guntert and Zimmerman Construction Division, Inc., and used for shipbuilding and repair and storage of steel until the 1970s. All structures were demolished and removed, and underground utilities were reportedly removed. Currently the surface is predominantly soil with some areas of pavement and concrete.

Previous site investigations demonstrated that shallow soil at Area 10 has been impacted by lead and fuel hydrocarbons.

2.2 Area 11

This site is located west of Area 10 at 300 North Harrison Street. This site was reportedly formally a delta island, reclaimed during the 1920s, and was used for steel fabrication until the early 1970s. Currently there are no structures on site, although approximately half of the site is capped with a steel-reinforced concrete slab that was likely the floor for the former warehouses. Previous site investigations have demonstrated that the site soil is minimally impacted by petroleum fuel hydrocarbons, and by lead.

2.3 Area 15

This site, located north of Area 10, is referred to as the 423 North Madison Street site and as the Chase Chevrolet Site. The site was originally developed in the early 1900s and redeveloped in the 1950s for use as an auto repair facility. Currently the site has several buildings which are vacant or involved with automobile repair. Areas between buildings are paved with asphalt or covered with concrete slabs.

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Underground storage tanks (USTs) which reportedly stored gasoline, diesel, and trichloroethane (TCA) have been removed and petroleum hydrocarbon contamination has been documented. TCA has been detected in soil and groundwater from the area of the former TCA tank.

2.4 Area 16

This site is located west of Area 15 and is referred to as the 424 North Van Buren Street site and the Chase Chevrolet site. This site was originally developed in the early 1900s and re-developed sometime after the mid 1960s for use as an auto dealership. Currently the site has several buildings which are vacant or involved with automobile salvage or repair. An automobile towing yard is also present. Areas between buildings are paved with asphalt or covered with concrete slabs.

USTs which stored gasoline and diesel have been removed and petroleum hydrocarbon contamination has been documented. A soil vapor extraction system was constructed in 1999 to mitigate the soil contamination and was reportedly operating as of November 1999. Groundwater has been impacted by petroleum hydrocarbons.

2.5 Area 20

This site is referred to as the former Western Pacific Rail Road site. The site, currently a vacant dirt lot, is north of West Lindsay Street, between North Harrison and North Madison Streets, and was originally used as a switching yard for the Western Pacific Rail Road.

A 1992 investigation indicated that no volatile or semivolatile compounds, including petroleum hydrocarbons, were detected in soil or groundwater, and Title 22 metals detected in soil and groundwater did not exceed Total Threshold Limit Concentrations. A 1999 investigation detected arsenic in soil exceeding EPA Residential PRGs.

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2.6 Area 21

This area is referred to as the Crystal Creamery site at 404 West Fremont Street. The eastern half of the site is currently being used as a dairy distribution center and is paved and covered with buildings. The western half of the site is vacant and unpaved.

A leaking UST was reportedly removed in 1986, and subsequent work performed in 1994 reported that free-phase petroleum hydrocarbons were found in monitoring wells at the site. Two soil vapor extraction wells have been installed as part of a system to treat soil and groundwater contaminated with fuel hydrocarbons. Work performed in 1999 confirmed the presence of fuel hydrocarbons in groundwater.

3.0 SOIL AND GROUNDWATER INVESTIGATION

The field activities are anticipated to be conducted by T&R, with some field activities to be performed by others at Areas 15 and 16.

3.1 Project Organization

The following summarizes the project contacts, client, T&R project personnel and subcontractors associated with the project. A description of responsibilities for T&R personnel are described in Section 3.3.

Project Information & Telephone Numbers North Shore Parcels		
Project Contacts:	- Stokton Department of Housing and Redevelopment - Cal EPA Department of Toxic Substances Control	Kitty Walker (209) 397-8358 Jerry Lile (916) 255-3744
T&R Contacts:	<u>Program Manager:</u> <u>Project Manager:</u> <u>Health and Safety Officer:</u> <u>Field Team:</u>	Philip Smith (415) 955-9040 Brian Moore (415) 955-9040 Michael Chamberlain (415) 955-9040 Danielle Widemann, Eric Deratzian, Dustyne Sutherland, Rhonda Richards

3.2 Description of Tasks

The tasks to be performed will be conducted in various phases to evaluate the presence of potential contaminants in the soil, and/or groundwater. The tasks will include the following activities:

- Groundwater level measurements and sampling
- Drilling and sampling to include:
 - Collection of soil samples
 - Collection of groundwater grab samples

3.3 Description of Responsibilities

The following T&R management structure will be implemented for the purpose of completing this project.

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Project Manager

The Project Manager is responsible for overall planning, execution and supervision of the project. The project manager will direct all technical and administrative aspects of the field work and is responsible for the selection, authorization and supervision of all field team members and subcontractors. The project manager is also responsible for oversight of the Health and Safety Officer and to assure that the HSP is being implemented.

Health and Safety Officer

The Health and Safety Officer is responsible for the overall coordination, oversight and implementation of the HSP. The Health and Safety Officer is required to perform observations, conduct meetings, document activities and implement safe work practices as discussed in Sections 5.2 and 5.3. Specific duties include the following:

- Verify current certifications of T&R field staffs medical fitness and safety training prior to conducting field activities;
- Arrange for health and safety equipment and supplies to be available in accordance with this plan and provide routine inspection and proper maintenance of monitoring equipment;
- Conduct site safety meetings at regular intervals;
- Establish and maintain site controls including establishment of work zones and implement air monitoring procedures and engineering controls;
- Locate nearest telephone to the site in the event of an emergency and verify local emergency contacts and hospital routes;
- Document activities and prepare accident/incident reports, if necessary; and
- Modify the HSP plan as required

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Field Team Personnel

All T&R field personnel shall be responsible for acting in compliance with all health and safety procedures outlined in this HSP. Field personnel shall perform only those tasks that they can do safely and shall inform the Health and Safety Officer of any physical or adverse conditions that may affect their ability to perform the planned field tasks. Hazardous work situations or procedures should be reported to the Health and Safety Officer so that appropriate corrective action can be taken. The Project Manager or Health and Safety Officer have the authority to halt any operation that does not follow the provisions of this HSP.

Subcontractors

Subcontractors are responsible for providing and adhering to their own health and safety plan to address potential health and safety hazards associated with their activities during this project. A copy of this HSP will be provided to subcontractors working on the north shore parcels site for their information. Subcontractors may adopt this plan or may use the information provided in this HSP as a guide to prepare their own plan. Health and safety plans prepared by subcontractors must have at least as stringent requirements as those specified in this HSP, and must comply with all applicable state and federal regulations including OSHA Title 8, CCR, Section 1592 that regulates hazardous waste operations and emergency response and Title 29, CFR, Section 1910.120, which regulates health and safety training and medical monitoring. T&R does not assume responsibility for the health and safety of its subcontractors and site visitors including representatives of north shore parcels.

Each subcontractor will provide its own safety equipment as required in its HSP. T&R reserves the right to review the subcontractor's HSP at any time during this project. T&R may suspend the subcontractor's site work if it appears the subcontractor is not adhering to its HSP or applicable health and safety regulations, or is in any manner creating an unnecessary hazard to onsite personnel.

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4.0 HAZARD EVALUATION AND CONTROL

There are chemical and physical hazards associated with conducting the proposed field tasks at the North Shore Parcels. The overall chemical exposure and physical hazards for the project are considered to be low. The work will be conducted in modified Level D as described in Sections 4.3 and 4.4. Engineering and/or administrative controls will be implemented to provide a safe and healthy working environment.

4.1 Chemical Hazards And Controls

Potential effects of exposure to hazardous chemicals are dependent on several factors such as: toxicity of substance, time frame of exposure, concentration of substance producing the exposure, general health of the person exposed, and individual use of hazard reduction methods. Table 1 presents a summary of the known contaminants of concern in the soil and groundwater at the North Shore Parcels. This table also includes the recommended and permissible exposure limits, physical characteristics of each chemical and typical symptoms of exposure. Personnel should be aware that chemical contaminants may mimic or enhance symptoms of other illnesses.

4.2 Physical Hazards And Controls

General physical hazards associated with the field activities include heavy vehicular traffic, subsurface utilities, heat stress and a variety of hazards as summarized in Tables 2, 3 and 4. Engineering or administrative controls will be used to reduce hazards to site personnel. Personnel are expected to adhere to the safe work practices as described in section 5.3.

Signs of heat stress include heat rash; heat cramps (muscle spasms, or pain in extremities); heat exhaustion and heat stroke (Table 3). Physical condition, level of acclimatization, age and weight may affect a worker's vulnerability to heat stress. Provide plenty of liquids such as juices, juice products, and water to replace lost body fluids. As the temperature increases, more frequent and longer rest periods are required (Table 2).

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4.3 Personal Protective Clothing and Equipment

The minimum acceptable level of personal protective equipment for this project is modified Level D. All personnel will minimize contact with potentially hazardous materials. Changes to the level of protection must be approved by the Health and Safety Officer. Personal protective clothing and equipment for the project shall include, at a minimum:

- Hardhat
- Safety Glasses
- Steel-toed Boots
- Latex Gloves
- Orange Safety Vest (on roadways)
- Organic Vapor Monitor (OVM)

4.4 Air Monitoring and Site Action Levels

Air monitoring equipment shall include a flame ionization detector (FID) during field investigation activities. Monitoring will be conducted in the breathing zones to obtain accurate estimates of exposure. The measures total volatile organic compounds (VOCs) and does not usually respond to any particular substance where mixtures may be present. The FID instrument shall be calibrated and properly maintained per the manufacturer's guidelines. Personnel responsible for monitoring shall review the manufacturer's information prior to use of an instrument to familiarize themselves with proper operation and limitations. The project air monitoring action levels and equipment are summarized below.

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Air Monitoring Action Levels North Shore Parcels			
Instrument	Frequency	Action Levels	Calibration/Gas
Organic Vapor Monitor (OVM)	At the beginning of operations and before sampling	<u>Breathing Zone:</u> <5 ppm Level D >5 ppm for 5 continuous minutes Reevaluate level of protection if levels continue to exceed 5 ppm in the breathing zone	Calibrate per manufacturers procedures

5.0 HEALTH AND SAFETY REQUIREMENTS

The following section discusses hazardous waste training and medical monitoring requirements, required observations, meetings, and documentation, site control and safe work practices including general decontamination procedures.

5.1 Training and Medical Monitoring Requirements

All personnel working on this site who may be exposed to hazardous substances must have completed a 40-hour training program on the recognition, evaluation, and control of site hazards and three days of supervised field training. In addition, management personnel, such as the Health and Safety Officer, shall complete an eight-hour supervisors training course. Once personnel have received the above training, they must complete an 8-hour refresher course annually. Documentation of medical clearance will be required prior to the start of work.

5.2 Observations, Meetings and Documentation

The Health and Safety Officer will conduct daily observations of all onsite work areas in order to evaluate the effectiveness of the HSP. Observations will typically include: availability of emergency response equipment, condition, and proper use of personal protective clothing and equipment, site control measures, identification of health and safety hazards, decontamination

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methods, and assessment of subcontractor health and safety procedures. Any observed deviations from the requirements of the site health and safety plan will be corrected and reported to the Health and Safety Officer.

Health and safety meetings shall include a discussion of site work activities, contents of the HSP, site chemical and physical hazards, personal protective clothing and equipment, monitoring procedures, decontamination procedures, and emergency procedures and route to the hospital. Health and safety meetings shall be conducted by the Health and Safety Officer at the beginning of each day and whenever new field personnel arrive at the project site.

Health and safety information and meetings will be documented in the project field log book. All accidents or incidents will be documented by the Health and Safety Officer and the Project Manager must be notified as soon as possible after an accident/incident takes place. The air monitoring results, maintenance and calibration will be recorded in the project field log book.

5.3 Site Control and Safe Work Practices

The purpose of site control and safe work practices is to eliminate or minimize potential exposure to chemicals and the physical hazards associated with performing the work. Work at the site will be conducted according to established protocol for the safety and health of all involved. The Health and Safety Officer and field team are responsible for implementing site control and safe work practices. Site control measures and safe work practices that will be implemented at the site include:

- Project preparation including availability of health and safety equipment and engineering controls;
- Establish work zones with controlled personnel access;
- Enforce the use of Modified Level D personal protective clothing and equipment;

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- Establish safe work practices - use engineering and administrative controls to reduce the physical hazards at the site;
- Implement the buddy system (no person shall be permitted to work alone - drillers or other subcontractors can fulfill the role of buddy) for the following purposes:
 - Provide assistance as necessary;
 - Observe for signs of chemicals or heat exposure;
 - Check integrity of personal protective clothing; and
 - Notify others if emergency services are needed.
- No smoking, eating, or drinking in the work area. Wash hands and face prior to eating and drinking with soap and water and shower after work;
- Contact lenses may not be worn on site principally because if chemical substances enter the eyes, proper flushing would be impeded;
- Implement decontamination procedures for personnel and equipment;
- Establish and maintain communication between personnel; and
- Field activities will be halted if unforeseen hazards occur that necessitate greater precautions.

5.4 General Decontamination Procedures

Equipment decontamination procedures are described in the Sampling and Analysis Plan. Disposable items (i.e., Tyvek coveralls, gloves) will be changed daily unless grossly contaminated and the risk of cross-contamination between sampling points is present. All contaminated articles and waste materials shall be properly containerized and appropriately disposed.

6.0 EMERGENCY RESPONSE PLAN

Emergency response procedures include pre-emergency planning, lines of authority and communication, emergency recognition and prevention, site control, evacuation routes, decontamination and emergency medical treatment and first aid. Many of these items have been previously discussed in other sections. The Health and Safety Officer is the primary authority for directing site operations under emergency conditions. Emergency communications both on and offsite will additionally be directed through the Project Manager. The field team members will first notify the Health and Safety Officer and then notify the Project Manager of the situation immediately after emergency procedures are implemented.

6.1 Medical Procedures and Emergency Telephone Numbers

In the event of an accident or emergency situation, immediate action must be taken by the first person to recognize the event. The project personnel telephone numbers are provided in Section 3.0. The emergency phone numbers are listed below.

Emergency Phone Numbers North Shore Parcels	
Ambulance, fire, police, poisoning:	911
Nearest Hospital: (see map)	St. Joseph Hospital 1800 N. California, Stockton, California 95204 (209) 943-2000

Immediately call for medical assistance (911) during a medical emergency. The Stockton Department of Housing and Redevelopment will be contacted in the event of a gas pipeline break (Section 3.0). Call for assistance (911) in the event of physical injuries, poisoning, fires, burns or other medical emergencies. If necessary, initiate cardiopulmonary resuscitation (CPR). CPR should only be administered by a qualified person. When transporting an injured person to a hospital, notify the receiving hospital of the nature of physical injury or chemical overexposure and bring this HSP to assist medical personnel with diagnosis and treatment. The hospital location map with the most direct route to the hospital is shown on Figure 3.

If the injury is minor, administer first aid and immediately notify the Health and Safety Officer. First aid equipment will be located onsite inside the T&R field vehicle. Call for an ambulance or medical assistance, if necessary. When the skin is exposed to chemicals; wash off skin with a large amount of potable water immediately. Remove any contaminated clothing and rewash skin using soap, if available. When eyes are exposed to chemical(s); hold eyelid open and rinse the eye immediately with copious amounts of water for 15 minutes. The wearing of contact lenses by site personnel is prohibited. However, if someone at the site is wearing contacts, have the person remove his/her contact lenses, if possible. Never permit the eyes to be rubbed. Transport person to a hospital, if necessary.

6.2 Emergency Evacuation Procedures

Various emergencies may warrant a site evacuation. These may include: fire, explosion, chemical release, or personal injury. Field team personnel encountering a hazardous situation shall instruct others on site to shut down operations and immediately evacuate the vicinity. Contact the Health and Safety Officer and/or the Project Manager for instructions.

In the event of an evacuation, the work crew will move upwind, if possible. The post-evacuation meeting place will be identified at the daily health and safety meeting. If the Health and Safety Officer and Project Manager determine that conditions warrant evacuation of downwind residences and commercial operations, local agencies will be notified and assistance requested.

Exhibit I
SUBAWARD AGREEMENT
Special Funding Terms and Conditions

The City of Stockton has entered into this agreement using funds governed by the American Rescue Plan Act, distributed by the U.S. Department of the Treasury ("Treasury"). The funding available is governed under sections 602 and 603 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act of 2021 ("ARPA"). The ARPA established the Coronavirus State and Local Fiscal Recovery Funds (the "SLFRF statute") for eligible recipients to address the economic and health consequences of the pandemic. Under ARPA, the SLFRF statute is to be used for payments for specified uses to certain non-entitlement units of local government. In consideration of the mutual promises contained in this AGREEMENT to carry out the purposes of the subaward on behalf of the City, the CITY and CONTRACTOR agree as follows:

1. **SURVIVAL OF PROMISES.** All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the AGREEMENT expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable federal or state statutes of limitation.
2. **SEPARATE ACCOUNTING.** The CONTRACTOR will establish a separate account for all funds specified in this AGREEMENT and will use the funds to purchase necessary supplies, defray travel, and will employ the necessary personnel to perform the Work specified in this AGREEMENT. The CONTRACTOR shall also establish and maintain, if applicable, such accounting and documentation of matching expenditures of the CONTRACTOR to satisfy the requirements of the PROJECT.
3. **AUDIT.** The CITY, and any other appropriate government agency authorized by law, or their duly authorized representatives shall, until five (5) years after final payment under this AGREEMENT, have access to any of the CONTRACTOR's records related to this AGREEMENT, at the CONTRACTOR's regular place of business, for the purpose of conducting audits. The period of access for records relating to a) appeals under a dispute, b) litigation or settlement of claims arising from the performance of this AGREEMENT, or c) costs and expenses of this AGREEMENT to which exception has been taken shall continue until such appeals, litigation, claims, or exceptions are disposed of.
4. **AUTHORIZED USE OF FUNDS.** The CONTRACTOR shall use or expend the funds provided by this AGREEMENT only for the purposes for which they were appropriated. Further, the funds provided by the CITY shall be used by the CONTRACTOR only for the purpose and activities specified in the AGREEMENT, including associated attachments and exhibits which is attached hereto and incorporated herein by reference as if fully set forth here.
5. **COMPLIANCE WITH COST PRINCIPLES AND RELATED REGULATIONS.** The CONTRACTOR will not be reimbursed for expenditures under this AGREEMENT that do not comply with the ARPA and Related Regulations that are incorporated.
6. **PUBLICATIONS.** The CONTRACTOR shall be free to publish results of the Work provided that the terms of the PROJECT are met and the review copies of materials intended for publication are submitted to the CITY's PROJECT Director at least 45 days prior to publication.
7. **CONFIDENTIAL INFORMATION.** CONTRACTOR acknowledges that it may be necessary for CITY to disclose certain confidential and proprietary information to CONTRACTOR in order for CONTRACTOR to perform duties under this AGREEMENT. CONTRACTOR acknowledges that any disclosure to any third party or any misuse of this proprietary or confidential information may irreparably harm the CITY. Accordingly, CONTRACTOR will not disclose or use, either during or after the term of this AGREEMENT, any proprietary or confidential information of the CITY without the CITY's prior written permission.

8. DELAYS. CONTRACTOR shall notify the CITY promptly of any expected delay in performance of services. However, CONTRACTOR shall not be liable for delays in performance beyond reasonable control.
9. ARPA GUIDELINES – CONTRACTOR AS SUBRECIPIENT

CONTRACTOR is classified as a Subrecipient under ARPA, which is an entity that receives a subaward from the CITY to carry out a program on behalf of the CITY using SLFRF funds. As a beneficiary of SLFRF funds from the CITY, CONTRACTOR must comply with the ARPA guidelines in order to be eligible for a grant. The guidelines, titled *Compliance and Reporting Guidelines: State and Local Fiscal Recovery Funds*, as amended by Treasury (the "Guidelines"), are incorporated into this AGREEMENT by reference. The Guidelines can be found at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities>. In ensuring compliance with these Guidelines, CONTRACTOR serves as a first line of defense against fraud, waste, and abuse of federal money.

As further described in the Guidelines, CONTRACTOR will generally be subject to the requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards, 2 CFR Part 200. This includes, but is not limited to,

- A. The implementation of internal controls and effective monitoring to ensure compliance with 2 CFR Part 200, including generally identifying direct and indirect costs and treating each cost consistently in like circumstances.
- B. Ensuring that procurements using SLFRF funds, or payments under procurement contracts using such funds, are consistent with the procurement standards set forth in the Uniform Guidance at 2 CFR § 200.317 through 2 CFR § 200.327, as applicable.
- C. If CONTRACTOR expends more than \$750,000 in Federal awards during its fiscal year, submitting to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F.

The CITY may request detailed expenditure information from CONTRACTOR in order for CITY to comply with its own reporting obligations. CONTRACTOR will be required to promptly provide any requested information to the CITY, even after the award term has expired. Among other things, the CITY may require information about the structure and objectives of the PROGRAM and information about how many individuals have been served by CONTRACTOR.

BOND FOR FAITHFUL PERFORMANCE

KNOW ALL MEN BY THESE PRESENTS:

That we, **(CONTRACTOR)**, a **STATE OF CA CORPORATION**, as Principal and _____, a corporation, organized and existing under the laws of the State of _____ and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the City of Stockton, a municipal corporation, duly created and existing under and by virtue of the laws of the State of California, as obligee, in the just and full sum of _____ **DOLLARS (\$X,XXX,000.00)**, in lawful money of the United States of America (being 100% of the contract price) for the payment whereof well and truly to be made to the said CITY, the said Principal and Surety bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that the above bounded Principal has simultaneously entered into a contract with the CITY, to do and perform the following work, to wit:

**BANNER ISLAND BALLPARK RENOVATION
PROJECT NO. PUR 25-004**

NOW, THEREFORE, if the above bounded Principal, CONTRACTOR, Company or Corporation or its Subcontractor, shall well and truly perform the work contracted to be done under said contract, then this obligation to be null and void; otherwise to remain in full force and effect.

No prepayment or delay in payment and no change, extension, addition or alteration of any provision of said contract, or in said plans or specifications agreed to between the said CONTRACTOR and the said CITY, and no forbearance on the part of the said CITY shall operate to relieve any Surety or Sureties from liability on this bond, and consent by said Surety is hereby given, and the said Surety hereby waives the provisions of Sections 2819 and 2845 of the Civil Code of the State of California.

SIGNED AND SEALED on _____

APPROVED AS TO SURETY:

By _____
PRINCIPAL

SURETY

APPROVED AS TO FORM & CONTENT:
LORI M. ASUNCION
OFFICE OF THE CITY ATTORNEY

By _____
DEPUTY CITY ATTORNEY

By _____
ATTORNEY-IN-FACT

BOND FOR LABOR AND MATERIAL

KNOW ALL MEN BY THESE PRESENTS:

That we, **(CONTRACTOR)**, a **STATE OF CA CORPORATION**, as Principal and _____, a corporation, organized and existing under the laws of the State of _____ and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the City of Stockton, a municipal corporation, duly created and existing under and by virtue of the laws of the State of California, and unto any and all material suppliers, persons, companies, or corporations furnishing materials, provisions, provender or other supplies used in, upon, for or about the performance of the work contemplated to be executed or performed under the contract hereinafter mentioned, and all persons, companies, or corporations renting or hiring teams, or implements of machinery, for or contributing to said work and all persons who perform work or labor upon the same, and all persons who supply both work and materials, and whose claims have not been paid by the contractor, company or corporation in the just and full sum of _____ **DOLLARS (\$X,XXX,000.00)**, in lawful money of the United States of America (being 100% of the contract price) for the payment whereof well and truly to be made to said City of Stockton and to said persons jointly and severally, the said principal and Surety bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligations is such that the above bounden Principal has simultaneously entered into a contract of even date herewith, with the CITY, to do and perform the following work, to-wit:

**BANNER ISLAND BALLPARK
PROJECT NO. PUR 25-004**

NOW, THEREFORE, if the above bounden Principal, **CONTRACTOR**, Company or Corporation or its Subcontractor, fail to pay for all materials, provisions, provender, or other supplies, or teams, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, the Surety on this bond will pay the same, in an amount not exceeding the sum specified in this bond,

provided that any and all claims hereunder shall be filed and proceedings had in connection therewith as required by the provisions of Division 3, Part 4, Title 15, Chapter 5, Article 1 of the Civil Code of California, provided that in case suit is brought upon this bond, a reasonable attorney's fee shall be awarded by the Court to the prevailing party in said suit; said attorney's fee to be fixed as costs in said suit, and to be included in the judgment therein rendered.

No prepayment or delay in payment and no change, extension, addition or alteration of any provision of said contract or in said plans or specifications agreed to between the said CONTRACTOR and the said CITY and no forbearance on the part of the said CITY shall operate to relieve any surety or sureties from liability on this bond, and consent to make such alterations without further notice to or consent by any such surety is hereby given, and the said sureties hereby waive the provisions of Sections 2819 and 2845 of the Civil Code of the State of California.

SIGNED AND SEALED on _____.

APPROVED AS TO SURETY:

By _____
PRINCIPAL

SURETY

APPROVED AS TO FORM & CONTENT:

LORI M. ASUNCION OFFICE OF THE CITY ATTORNEY

By _____
ATTORNEY-IN-FACT

By _____
DEPUTY CITY ATTORNEY