



**PROJECT
PLANS AND SPECIFICATIONS
FOR**

**Project #813-0242
Parking Program Implementation-Wayfinding
Signage**

**Bid Opening
Friday, January 19th at 2.00 PM**

Approved by Town Council for the Town of Los Gatos

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Parking Program Implementation - Wayfinding Signage #813-0242

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PART I-BID AND CONTRACT FORMS

NOTICE TO CONTRACTORS

Electronic bids must be uploaded on the Town of Los Gatos' bidding site www.bidnetdirect.com//townoflosgatos by **2 PM on Friday, January 19, 2023** for the following project:

Project #813-0242 PARKING PROGRAM IMPLEMENTATION-WAYFINDING SIGNAGE

at which time they will be opened electronically. Bidders must register for an account on the Bidnet site www.bidnetdirect.com//townoflosgatos to submit bids electronically. Plans, Specifications, and Addendums (if any) may be viewed and downloaded free of charge via the internet at www.bidnetdirect.com//townoflosgatos. To be included on the Plan Holder's List for the Project, registered users must download the Plans and Specifications from bidding website. Bidders must verify and acknowledge all addendums before submitting a bid. Hard copies of the Plans, Specifications, and Addendums (if any) will not be provided by the Town.

Bids submitted on the Bidding portal will be opened in the Clerk's Office at 110 E. Main Street, Los Gatos, CA 95030 and publicly read aloud during a Zoom meeting after bids have closed on the day and time listed above. Please contact Janice Chin at jchin@losgatosca.gov for the Zoom link to participate. After the bid opening, bid bonds from the lowest three responsible bidders must be submitted to the Town of Los Gatos Parks and Public Works Director at 41 Miles Avenue, Los Gatos, CA 95030 and be postmarked within three business days of the bid opening date.

This following information is presented to indicate the size of the project and no warrant is made or intended as to final quantities:

The project includes removal/replacement/installation of new Wayfinding signs and posts (as needed) townwide.

All contractors and subcontractors have been required since April 1, 2015 to be registered with the Department of Industrial Relations (DIR). No contractor or subcontractor may be listed on a bid proposal or may work on a public works project unless registered with DIR.

All contractors and subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner (aka Division of Labor Standards Enforcement). For additional information, visit the DIR website at: <http://www.dir.ca.gov/Public-Works/PublicWorks.html>.

Each bid must be accompanied by a Bidder's Bond executed by a corporate surety authorized to engage in such business in the State of California, payable to the Town of Los Gatos, in an amount not less than ten percent (10%) of the amount of the Base Bid. The successful bidder will be required to furnish a Performance Bond in an amount equal to one hundred percent (100%) of the contract price, and a Labor and Material Bond in an amount equal to one hundred percent (100%) of the contract price. Said bonds shall also be executed by a corporate

surety authorized to engage in such business in the State of California and be made payable to the Town of Los Gatos. Original Bidder's Bond with surety seal must accompany the bid.

If the successful bidder fails, neglects, or refuses for TEN (10) calendar days after the award of the contract to enter into the contract to perform the work, the cashier's check, certified check, or Bidder's Bond accompanying the bid and the amount therein named, shall be declared forfeited to the Town and shall be collected by it and paid into its general fund. No bidder may withdraw his/her bid for a period of SIXTY (60) calendar days after the date set for the opening thereof, and the same shall be subject to acceptance by the Town during this period.

The Town reserves the right to reject any or all bids, waive any irregularities in any bids and its determination as to which bid is the lowest responsible bid and is for the best interest of the Town shall be final. The Town shall have SIXTY (60) calendar days from and after the opening of the bids within which to make its determination.

The Contractor receiving the award of the contract shall begin work within FIFTEEN (15) calendar days after receipt of the Notice to Proceed and shall diligently prosecute the same to completion within the time restrictions as listed in the technical specifications and all work shall be completed by the time allotted in the technical specifications.

The Contractor shall have **One hundred and twenty (120) working days** to complete this project (including manufacturing and installation). Working days will be counted upon the Contractor's receipt of the Notice to Proceed, as noted above.

At the time the Contractor's bid proposal is submitted, the Contractor shall possess a valid Class A California General Contractor's License. The Contractor shall also possess a valid Town of Los Gatos Business License at the time the contract is awarded.

The Town of Los Gatos hereby notifies all bidders that it will affirmatively insure that the contract entered into pursuant to this advertisement will be awarded to the lowest responsible bidder without discrimination on the grounds of race, color, national origin, sex, religion, age or disability. **The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract, or such other remedy as recipient deems appropriate.**

Prevailing Wage. This project is subject to the requirements of Section 1720 et seq. of the California Labor Code requiring the payment of prevailing wages, the training of apprentices and compliance with other applicable requirements. Contractors and all subcontractors who perform work on the project are required to comply with these requirements. Prevailing wages apply to all projects over \$1,000 which are defined as a "public work" by the State of California. This includes: construction, demolition, repair, alteration, maintenance, and the installation of

photovoltaic systems under a Power Purchase Agreement when certain conditions are met under Labor Code Section 1720.6. This include service and warranty work on public buildings and structures. For additional information see the State of California Department of Industrial Relations web page at <https://www.dir.ca.gov/public-works/prevaling-wage.html>.

For any moneys earned by the Contractor and withheld by the Town to ensure the performance of the contract, the Contractor may, at the Contractor's request and expense, substitute securities equivalent to the amount withheld in the form and manner and subject to the conditions provided in Article 8, (commencing with Section 10263), Chapter 1, Part 2, Division 2 of the Public Contract Code of the State of California.

Plans, Specifications, and Addendums (if any) may be viewed at no cost and downloaded from the Los Gatos bidding portal www.bidnetdirect.com//townoflogatos.

ATTEST:

/s/Wendy Wood, Town Clerk

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BID FORM

TO: **The Town of Los Gatos, County of Santa Clara,
State of California, herein called Owner**

FROM: _____, herein called Contractor

Pursuant to and in compliance with your Notice to Contractors and the Contract Documents relating to the **Project #813-0242 Parking Program Implementation-Wayfinding Signage** including Addenda No. _____, _____, _____, _____, _____, the undersigned bidder, having become thoroughly familiar with the terms and conditions of the Contract Documents and with the local conditions affecting the performance and the costs of the Work at the place where the Work is to be done, and having inspected the site in all particulars, hereby proposes and agrees to fully perform the work within the time stated and in strict accordance with the Contract Documents (including the furnishing of any and all labor and materials) and do all the work required to construct and to complete said work in accordance with the Contract Documents, and that Contractor will take in full payment therefore the amounts shown on the following unit price schedule:

A – UNIT PRICE SCHEDULE

Project #23-813-0242 Parking Program Implementation-Wayfinding Signage					
CONTRACTOR'S NAME:					
Sign Type No.	Sign Type	Unit	Quantity	Unit Cost	Extended Cost
G1	Branded Town Gateway	Ea.	1		
G2	Vertical Branded Banner	Ea.	11		
V10	Wayfinding Directional	Ea.	15		
V20	Parking Directional (<i>assumes these mount to existing posts</i>)	Ea.	16		
V30	Overhead Garage Parking	Ea.	2		
P10	Two-Posted Parking Lot ID	Ea.	10		
P20	Single-Posted Parking Lot ID (<i>two panels back to back</i>)	Ea.	10		
P25	North Side Parking Lot ID (<i>two panels back to back</i>)	Ea.	1		
P30	Parking Garage ID	Ea.	2		
P35	Parking Rules and Regulations (<i>assumes all existing posts</i>)	Ea.	19		
P37	Parking Garage Directional (<i>assumes existing posts</i>) (2 back to back panels)	Ea.	2		
P40	Pedestrian Directional (<i>assumes new posts and footings</i>) (2 back to back panels)	Ea.	13		
P40	Pedestrian Directionals (<i>assumes existing posts</i>) (1 panel)	Ea.	6		
	GRAND TOTAL		108		
<i>Sign type estimate includes installation and new posts unless otherwise noted. Signs are non-illuminated unless otherwise noted.</i>					

B. APPROXIMATE ESTIMATE

The quantities shown on this bid form are approximate only, being given as a basis for the comparison of bids, and the Owner does not, expressly or by implication agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount or class or portion of the work as may be deemed necessary or advisable by the Director of Parks & Public Works. This bid will be rejected if bidder fails to provide a bid for each item. The Owner reserves the right to make a comparison of bids based on any combination of the above alternate bid items.

C. RESERVATION

It is understood that the Owner reserves the right to reject this bid, but that this bid shall not be withdrawn for a period of 60 days from the date prescribed for its opening.

D. SUBCONTRACTORS

Attached hereto and incorporated herein is the complete and entire list of subcontractors to be employed by the undersigned in the performance of the work.

E. NOTICE

If written notice of the acceptance of this bid is mailed or delivered personally to the undersigned within 60 days after the date set for the opening of this bid, or at any time thereafter before it is withdrawn, the undersigned bidder shall execute and deliver the Contract Documents to Owner in accordance with this bid as accepted, and will also furnish and deliver to Owner the Performance Bond, Labor and Material Bond as specified, and proof of insurance coverage as required in Part I, under "Construction Agreement," of these Specifications, all within 10 calendar days after personal delivery or after deposit in the mails, of the notification of acceptance of this bid. The above-mentioned bonds shall be satisfactory to, and on the forms approved by Owner.

Notice of acceptance or request for additional information may be addressed to the undersigned at the address set forth below.

F. DISCLOSURE

The undersigned declares that this bid is not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation; that the bid is genuine and not collusive or sham; that the undersigned has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid and has not directly or indirectly colluded or agreed with any bidder or anyone else to put in a sham bid or to refrain from bidding; that the undersigned has not directly or indirectly sought by agreement, communication or conference with anyone to fix his/her bid price or the bid price of any other

bidder, or to fix any overhead, profit or cost element of such bid price or of that of any other bidder, or to secure any advantage against the Town of Los Gatos or anyone interested in the proposed Contract; that the only persons or parties interested in this bid as principals are those named herein; that all statements contained in this bid are true; that the undersigned has not directly or indirectly, submitted his/her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any other persons, partnership, corporation, or association except to such person or persons as have a direct financial interest in bidder's general business; and that the undersigned has not accepted any bid from any subcontractor or vendor through any bid depository, the Bylaws, Rules or Regulations of which prohibit or prevent the undersigned from considering any bid from any subcontractor or vendor, which is not processed through said bid depository, or which may prevent any subcontractor or vendor from bidding to any general contractor who does not use the facilities of or accept bids from or through such bid depository; and that the undersigned has not paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

G. WORDS AND PHRASES

Wherever in this bid an amount is stated in both words and figures, in case of discrepancy between words and figures, the words shall prevail; if all or any portion of the proposal is required to be given in unit prices and totals and a discrepancy exists between any such unit prices and totals so given, the unit prices shall prevail.

H. CERTIFICATION

The undersigned certifies that the Contract Documents have been thoroughly read and understood and that, except as may be specifically noted and contained in addenda, there are no discrepancies or misunderstandings as to the meaning, purpose or intent of any provision in the Contract Documents or as to the interpretation of the same. The undersigned hereby incorporates by reference, the same as though set out in full, all provisions of the Notice to Contractors and Information for Bidders published by Owner and pertaining to the work described in this bid.

Accompanying this bid is **bidder's bond** in amount equal to at least 10% of total of the bid, naming the Owner as Obligee or Payee, as applicable.

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

IMPORTANT NOTICE: If bidder or other interested person is a corporation, give legal name of corporation, state where incorporated and names of the president and secretary thereof; if a partnership, give name of the firm, also names of all individual co-partners composing firm; if bidder or other interested person is an individual, give first and last names in full.

I. LICENSING

The undersigned is licensed in accordance with State Law providing for the registration of Contractors, License No. _____. [A class "A" California Contractor's License is required.] The License expiration date is _____. No payment for work or material under this Contract will be made by Owner unless and until the Owner receives verification from the State Registrar of Contractors that the records of the Contractor's State License Board indicate the successful bidder was properly licensed at the time the Contract was awarded.

Any bidder not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, an appropriate disciplinary action by the Contractor's State License Board.

In addition, failure of the bidder to obtain and maintain proper and adequate licensing for the Contract shall constitute a failure to execute or perform this Contract and shall result in the forfeiture of the security of the bidder. The representations made herein are under penalty of perjury.

NOTE: If bidder is a corporation, the legal name of the corporation shall be set forth below, together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation; if bidder is a co-partnership, the name of the firm shall be set forth below, together with the signatures of the partner or partners authorized to sign contracts in behalf of the co-partnership; and if bidder is an individual, his/her signature shall be placed below.

I declare under penalty of perjury that I have the authority to execute this bid form and that the foregoing is true and correct.

BIDDER: _____
(FIRM NAME)

SIGNATURE: _____ PRINTED NAME: _____

TITLE: _____ DATE: _____

ADDRESS / TELEPHONE / E-MAIL: _____

DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REGISTRATION NUMBER: _____

LIST OF SUBCONTRACTORS

In compliance with the provisions of §§4100-4107 of the Public Contracts Code of the State of California, and any amendments thereof, the undersigned bidder has set forth below the name and the location of the place of business of each subcontractor who will perform work or labor or render service to the undersigned in or about the construction of the Work to be performed under the Contract Documents to which the attached bid is responsive, or of a person who will, off the job site, specially fabricate a portion of the Work or improvement according to detailed drawings contained in the Contract Documents, and the portion of the Work which will be done by each such subcontractor or person that will be in an amount in excess of ½ of 1% of the prime Contractor's total bid, or \$10,000, whichever is greater. Prime Contractor shall list the California Department of Industrial Relations (DIR) number for all subcontractors working on the project.

SUBCONTRACTOR	BUSINESS ADDRESS	DESCRIPTION OF WORK	COST OF WORK	DIR#

Bidder's Signature

BIDDER'S BOND

KNOW ALL PERSONS BY THESE PRESENTS:

That we, _____ as Principal, and _____ as Surety, are held and firmly bound unto the Town of Los Gatos, a municipal corporation of the State of California (hereinafter called "Town") in the penal sum of 10% of the total aggregate amount of the bid of the Principal above named, submitted by said Principal to the Town for the Project listed below, for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. In no case shall the liability of the Surety hereunder exceed the sum of _____ (\$ _____) dollars.

Project #813-0242 Parking Program Implementation-Wayfinding Signage

The condition of this obligation is such that a bid to the Town for this project, for which bids are to be opened on **Friday, January 19th at 2.00 PM**, has been submitted by Principal to Town:

BID TOTAL from BID SCHEDULE: _____

The quantities shown on the bid form are approximate only, being given as a basis for the comparison of bids, and the Owner does not, expressly or by implication agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount or class or portion of the work as may be deemed necessary or advisable by the Director of Parks & Public Works.

NOW THEREFORE, if the Principal is awarded the Contract and within the time and manner required under the Specifications, after the prescribed forms are presented to the Principal for signature, enters into a written contract, in the prescribed form, in accordance with the bid, and files 2 bonds with the Town, to guarantee faithful performance of the Contract and to guarantee payment for labor and materials as provided by law as well as files insurance certificates and equal employment opportunity documentation required under the bid, then this obligation shall be null and void; otherwise, it shall remain in full force.

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

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20____.

PRINCIPAL:

(Seal)

(Seal)

(Seal) (Principal)

(Address)

(City, State, Zip)

(Phone Number)

SURETY:

(Seal)

(Seal)

(Seal) (Principal)

(Address)

(City, State, Zip)

(Phone Number)

NOTE: Attach Notary Acknowledgment for signatures of those executing for **PRINCIPAL** (owner) and **SURETY**.

CONSTRUCTION AGREEMENT

This Agreement is dated for identification this (DATE), and is made by and between the TOWN OF LOS GATOS, a California municipal corporation, whose address is 110 East Main Street, Los Gatos, California 95030 (hereinafter "TOWN"), and (Contractor Name), identified as an () and whose address is _____ (hereinafter "CONTRACTOR").

NOW, THEREFORE, the parties agree:

ARTICLE I: WORK TO BE DONE AND DOCUMENTS FORMING THE CONTRACT.

That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the said TOWN, and under the conditions expressed in the two bonds hereunto annexed, the said CONTRACTOR agrees with the said TOWN, at his own proper cost and expense, to do all the work and furnish all the materials and equipment necessary to construct and complete, in accordance with the plans and specifications hereinafter mentioned, in a good, workmanlike and substantial manner, under the supervision of the Town Engineer, or his, of the TOWN OF LOS GATOS, California, all the works and improvements described, mentioned and set forth in those plans and specifications on file in the Office of the Parks and Public Works of said TOWN, entitled:

" Project #813-0242 Parking Program Implementation-Wayfinding Signage"

which said plans and specifications and all the documents therein contained, including the TOWN OF LOS GATOS's Standard Provisions, are hereby specially referred to and by such reference made part of this contract.

ARTICLE II: CONTRACTOR'S ACCEPTANCE

CONTRACTOR agrees to receive and accept the prices shown on Exhibit "A" (AMOUNT), which is attached hereto and incorporated by reference herewith, as full compensation for furnishing all materials and equipment and for doing all the work described in the contract documents; also for all loss or damage as provided in the contract documents in the prosecution of the work until its acceptance by the Town Council of the TOWN OF LOS GATOS, and for well and faithfully completing the work, and the whole thereof, in the manner and according to the contract documents, plans and specifications, and the requirements of the Town Engineer.

ARTICLE III: ACCEPTANCE BY TOWN

The said TOWN hereby promises and agrees with the said CONTRACTOR to employ, and does hereby employ the said CONTRACTOR to provide the materials and to do the work according to the terms and conditions herein contained and referred to, for the prices aforesaid, and hereby contracts to pay the same at the time, in the manner and upon the conditions above set forth;

and the said parties for themselves their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

ARTICLE IV: COMPLETION OF AGREEMENT

Reference is made to Part I–Page 1 of the TOWN's Project Specifications Notice to Contractors which are hereby made a part of this contract. Inasmuch as the work called for under this contract concerns a needed public improvement, the time of performance and completion of this work is of the essence of this contract. It is expressly understood and agreed by the parties hereto that all the work called for under this contract, in all its parts and requirements, shall be completed thirty (30) working days from Notice to Proceed.

ARTICLE V: HOURS OF LABOR

The CONTRACTOR shall forfeit, as a penalty, to the TOWN, Twenty-Five Dollars (\$25) for each workman employed in the execution of the contract by him or by any subcontractor for each calendar day during which any workman is required or permitted to labor more than eight (8) hours in violation of the provisions of Sections 1810-1815 inclusive of the Labor Code and all amendments thereto.

ARTICLE VI: APPRENTICES

Attention is directed to the provisions in Sections 1777.5, 1777.6 and 1777.7 of the Labor Code governing the employment of apprentices by the CONTRACTOR or any subcontractor under him. CONTRACTOR and any of his subcontractors shall comply with the requirements of said sections of the Labor Code; CONTRACTOR shall have full responsibility for compliance with the said sections regardless of any other contractual or employment relationships alleged to exist.

Information relative to apprenticeship standards and other requirements may be obtained from the Director of Industrial Relations ex officio the Administrator of Apprenticeship, San Francisco, California or from the Division of Apprenticeship Standards at its branch offices.

ARTICLE VII: NONDISCRIMINATION

The CONTRACTOR sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. CONTRACTOR shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts.

Failure by 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 recipient deems appropriate.

ARTICLE VIII: INDEPENDENT CONTRACTOR

It is agreed that CONTRACTOR is an independent contractor, and all persons working for or under the direction of CONTRACTOR are CONTRACTOR's agents, servants and employees, and said persons shall not be deemed agents, servants or employees of TOWN.

ARTICLE IX: OWNERSHIP OF DATA AND DOCUMENTS

CONTRACTOR agrees that all records, specifications, data, maps, designs, graphics, writings, recordings and other tangible materials regardless of form or format, including, without limitation, electronically transmitted documents and ACAD files, and other collateral materials collected, compiled, drafted, prepared, produced and/or generated in the performance of this Agreement shall be the property of TOWN. CONTRACTOR shall regularly provide such documents to TOWN upon TOWN's request. In the event that this Agreement is terminated prior to completion of the scope of work, CONTRACTOR shall provide all such data and documents to TOWN forthwith.

ARTICLE X: INSURANCE

a. Commercial General Liability/Automobile Liability Insurance:

CONTRACTOR shall obtain and maintain Commercial General Liability insurance in the amount of Two Million Dollars (\$2,000,000) and Automobile Liability insurance in the amount of One Million Dollars (\$1,000,000) per occurrence. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this contract or the general aggregate limit shall be twice the required occurrence limit. CONTRACTOR's insurance coverage shall be written on an occurrence basis.

b. Workers' Compensation Insurance:

CONTRACTOR shall obtain and maintain statutory Workers' Compensation insurance and Employer's Liability insurance in the amount of One Million Dollars (\$1,000,000) per accident.

CONTRACTOR is familiar with the Workers' Compensation laws of California (generally contained in Section 3700 of the Labor Code), including those provisions which provide for specific exemptions from the requirement that all employers must carry Workers' Compensation insurance, and CONTRACTOR maintains they are exempted under the law from the requirement to maintain Workers' Compensation insurance coverage.

In addition, during the term of any work for TOWN under said agreement: (1) CONTRACTOR will not employ any person in any manner so as to become subject to the Workers' Compensation laws of California, or (2) should CONTRACTOR become subject to the Workers' Compensation provisions of Section 3700 of the Labor Code for any reason,

CONTRACTOR shall forthwith comply with those provisions and send evidence of financial compliance to TOWN.

c. Acceptability of Insurers: Insurance is to be placed with insurers with a current *Best Rating* of A:VII unless otherwise acceptable to TOWN.

d. Verification of Coverage: Insurance, deductibles or self-insurance retentions shall be subject to TOWN's approval. Original Certificates of Insurance with endorsements shall be received and approved by TOWN before work commences, and insurance must be in effect for the duration of the contract. The absence of insurance or a reduction of stated limits shall cause all work on the project to cease. Any delays shall not increase costs to TOWN or increase the duration of the project.

e. Other Insurance Provisions:

(1) The TOWN OF LOS GATOS, its officers, officials, employees and volunteers are to be covered as additional insured by Endorsement CG 20 10 11 85 or other endorsement approved by Town Attorney for Commercial General and Automobile Liability coverage.

(2) For any claims related to this project, CONTRACTOR's insurance coverage shall be primary and any insurance or self-insurance maintained by TOWN, its officers, officials, employees and volunteers shall not contribute to it.

(3) Each insurance policy required shall be endorsed that a thirty (30) day notice be given to TOWN in the event of cancellation or modification to the stipulated insurance coverage.

(4) In the event CONTRACTOR employs subcontractors as part of the work covered by this Agreement, it shall be the responsibility of CONTRACTOR to ensure that all subcontractors comply with the same insurance requirements that are stated in this Agreement.

(5) Approval of the insurance by TOWN or acceptance of the Certificate of Insurance by TOWN shall not relieve or decrease the extent to which CONTRACTOR may be held responsible for payment of damages resulting from CONTRACTOR's services or operation pursuant to this Agreement, nor shall it be deemed a waiver of TOWN's rights to insurance coverage hereunder.

(6) If, for any reason, CONTRACTOR fails to maintain insurance coverage that is required pursuant to this contract, the same shall be deemed a material breach of contract. TOWN, at its sole option, may terminate this contract and obtain damages from CONTRACTOR resulting from said breach. Alternately, TOWN may purchase such required insurance coverage, and without further notice to CONTRACTOR, TOWN may deduct from sums due to CONTRACTOR any premium costs advanced by TOWN for such insurance.

ARTICLE XI: HOLD HARMLESS

CONTRACTOR hereby agrees to and shall hold TOWN, its elective and appointive boards, commissions, officers, agents, registered volunteers, and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage and any other claims of any sort whatsoever, including, but not limited to, any liabilities, claims, losses, or expenses in any manner caused by, arising out of, or in connection with, either directly or indirectly, the construction or installation of the work, the guarding of the work, the use of improper materials in construction of the work, or the negligent, willful, or intentional acts or omissions by CONTRACTOR or CONTRACTOR's subcontractors, agents, or employee operations under this Agreement, whether such operations by CONTRACTOR or by any of CONTRACTOR's subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for CONTRACTOR or any of CONTRACTOR's subcontractors during the progress of the work or at any time before its completion and final acceptance, excepting suits and actions brought by the CONTRACTOR for default of this Agreement or arising from the sole active negligence or willful misconduct of the TOWN. The Town Council may retain so much of the money due to the CONTRACTOR as shall be reasonably necessary to protect the TOWN, until disposition has been made of such suits or claims for damages as aforesaid.

CONTRACTOR agrees to and shall pay TOWN's cost of defense (or, at the sole option of the TOWN, CONTRACTOR shall defend with counsel approved by the TOWN Attorney) and indemnify TOWN and its elective and appointive boards, commissions, officers, agents, and employees from any suits or actions at law or in equity arising out of the execution, adoption or implementation of this Agreement (exclusive of any such actions brought by CONTRACTOR), such indemnification to include all costs of defense, judgments, and any awards of attorneys' fees.

Should any accident or incident causing death, personal injury or property damage occur between the date CONTRACTOR is notified that its General Liability and/or Workers Compensation Insurance is canceled and the effective date of such cancellation, CONTRACTOR's obligation to indemnify, defend and save harmless the TOWN, as provided for hereinabove, shall in no manner be affected by the fact that the TOWN had not received the notice of cancellation prior to the date of such accident or incident.

ARTICLE XII: BONDING REQUIREMENT

CONTRACTOR agrees to post a Faithful Performance Bond and a payment bond for Labor and Materials, or other guarantees, in the required amounts upon bond forms provided by the TOWN, guarantying the performance of the terms of this Agreement. Surety issuing bonds for CONTRACTOR shall be approved by the U.S. Department of Treasury's Financial Management Service and shall be listed on the most current Treasury Circular 570 as contained in the Federal Register.

Contractor agrees to allow five percent of the faithful performance bond to remain in effect for a period of two years following Town Council project acceptance as guarantee for any needed

repair or replacement caused by defective materials and workmanship.

ARTICLE XIII: MAINTENANCE AND GUARANTY

CONTRACTOR shall promptly repair, replace, restore, or rebuild, as the TOWN may determine, any finished product in which defects of materials or workmanship may appear or to which damage may occur because of such defects, during a two (2) year period subsequent to the date of final acceptance.

This article does not in any way limit the guaranty on any items for which a longer guaranty is specified or on any items which a manufacturer gives a guaranty for a longer period, nor does it limit the other remedies of the TOWN in respect to a latent defect, fraud or implied warranties. CONTRACTOR shall furnish the TOWN all appropriate guaranties or warranty certificates upon completion of the project.

ARTICLE XIV: SHORING FOR TRENCHES

If the contract specifies an expenditure of Twenty-Five Thousand Dollars (\$25,000) or greater for trenching, and if the depth of the trench is five feet (5') or more, then Section 6705 of the Labor Code shall also be applicable.

ARTICLE XV: APPLICABLE LAWS AND ATTORNEY'S FEES

This Agreement shall be construed and enforced pursuant to the laws of the State of California. Should any legal action be brought by a party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court. Reasonable attorneys' fees of the TOWN Attorney's Office, if private counsel is not used, shall be based on comparable fees of private attorneys practicing in Santa Clara County.

ARTICLE XVI: LIQUIDATED DAMAGES

It is mutually agreed by CONTRACTOR and TOWN that in the event that completion of the construction by CONTRACTOR under this Agreement is delayed beyond DATE, TOWN will suffer damages and will incur other costs and expenses of a nature and amount which is difficult or impractical to determine. The Parties agree that by way of ascertaining and fixing the amount of damages, costs and expenses, and not by way of penalty, CONTRACTOR shall pay to TOWN the sum of Five Hundred Dollars (\$500.00) per day in liquidated damages for each and every calendar day such delay in completion of the services under this Agreement continues beyond DATE. In the event that the liquidated damages are not paid, CONTRACTOR agrees that TOWN may deduct the amount of unpaid damages from any money due or that may become due to CONTRACTOR under this Agreement.

ARTICLE XVII: INTERPRETATION OF CONTRACT

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal of said CONTRACTOR, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

ARTICLE XVIII: AMENDMENTS AND CHANGE ORDERS

This Agreement may be amended from time to time as necessary by formal and written amendment or authorized change order executed by the Town Manager or designee and principal acting on behalf of the CONTRACTOR.

ARTICLE XIX: DBE RESPONSIBILITIES

For projects that are State or Federal funding; With respect to Disadvantaged Business Enterprises, CONTRACTOR shall do the following:

(1) Pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the prime contractor receives from TOWN. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of TOWN. This clause applies to both DBE and non-DBE subcontractors.

(2) Release all retainage owed to a subcontractor for satisfactory completion of the accepted work within thirty (30) days after TOWN's payment to CONTRACTOR. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of TOWN. This clause applies to both DBE and non-DBE subcontractors.

ARTICLE XX: PREVAILING WAGES

Prevailing Wage. This project is subject to the requirements of Section 1720 et seq. of the California Labor Code requiring the payment of prevailing wages, the training of apprentices and compliance with other applicable requirements. Contractors and all subcontractors who perform work on the project are required to comply with these requirements. Prevailing wages apply to all projects over \$1,000 which are defined as a "public work" by the State of California. This includes: construction, demolition, repair, alteration, maintenance and the installation of photovoltaic systems under a Power Purchase Agreement when certain conditions are met under Labor Code Section 1720.6. This include service and warranty work on public buildings and structures.

1. The applicable California prevailing wage rate can be found at www.dir.ca.gov and are on file with the Town of Los Gatos Parks and Public Works Department, which shall be

available to any interested party upon request. The contractor is also required to have a copy of the applicable wage determination posted and/or available at each jobsite.

2. Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime, weekend and holiday pay, and shift pay must be paid pursuant to applicable Labor Code section.
3. The public entity for which work is being performed or the California Department of Industrial Relations may impose penalties upon contractors and subcontractors for failure to comply with prevailing wage requirements. These penalties are up to \$200 per day per worker for each wage violations identified; \$100 per day per worker for failure to provide the required paperwork and documentation requested within a 10-day window; and \$25 per day per worker for any overtime violation.
4. As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, the contractor agrees to present to the TOWN, along with its request for payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term "certified payroll" shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional documentation requested by the Agency or its designee including, but not limited to: certified payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.
5. In addition to submitting the certified payrolls and related documentation to the TOWN, the contractor and all subcontractors shall be required to submit certified payroll and related documents electronically to the California Department of Industrial Relations. Failure to submit payrolls to the DIR when mandated by the project parameters shall also result in the withholding of progress, retention and final payment.
6. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
7. No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors MUST be a registered "public works contractor" with the DIR AT THE TIME OF BID. Where the prime contract is less than \$15,000 for

maintenance work or less than \$25,000 for construction alternation, demolition or repair work, registration is not required.

8. Should any contractor or subcontractors not be a registered public works contractor and perform work on the project, Contractor agrees to fully indemnify the TOWN for any fines assessed by the California Department of Industrial Relations against the TOWN for such violation, including all staff costs and attorney's fee relating to such fine.
9. The TOWN shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted, reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., the TOWN may continue to hold sufficient funds to cover estimated wages and penalties under the contract.

ARTICLE XXI: ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements or understandings (whether oral or written) between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein.

ARTICLE XXII: PUBLIC RECORDS

The parties recognize and acknowledge that TOWN is subject to the California Public Records Act, California Government Code Section 6250 and following. Public records are subject to disclosure.

ARTICLE XXIII: NOTICES

Any notice required to be given to CONTRACTOR shall be deemed to be duly and properly given if mailed to CONTRACTOR, postage prepaid, addressed to:

CONTRACTOR NAME
ADDRESS
CITY, ST ZIP

or personally delivered to CONTRACTOR at such address or at such other addresses as CONTRACTOR may designate in writing to TOWN.

Any notice required to be given TOWN shall be deemed to be duly and properly given if mailed to TOWN, postage prepaid, addressed to:

Nicolle Burnham
Parks and Public Works Director

TOWN OF LOS GATOS
41 Miles Avenue
Los Gatos, California 95030

or personally delivered to TOWN at such address or at such other addresses as TOWN may designate in writing to CONTRACTOR.

ARTICLE XXIV: SECTION 7106 FORM

Attached to the Agreement is a fully executed and sworn non-collusion affidavit as required by Section 7106 of the California Public Contracts Code. Said affidavit is incorporated herein by this reference.

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

APPROVED AS TO CONTENT:

"TOWN":
TOWN OF LOS GATOS

Nicolle Burnham
Director of Parks and Public Works

By: _____
Laurel Prevetti
Town Manager

APPROVED AS TO FORM:

Attest:

Gabrielle Whelan, Town Attorney

Wendy Wood, CMC, Town Clerk

CONTRACTOR:

By: _____

Name:

Title: _____

Address: _____

By: _____

Tax ID No. or SSAN:

Title: _____

CONTRACTOR'S BOND FOR LABOR AND MATERIAL

KNOW ALL MEN BY THESE PRESENTS:

That _____, as Principal, and _____, incorporated under the laws of the State of _____, and authorized to execute bonds and undertakings as Surety, are held and firmly bound unto any and all materialmen, persons, companies or corporations furnishing materials, provisions, provender or other supplies used in, upon, for or about the performance of the work contracted to be executed or performed under the contract hereinafter mentioned, and all persons, companies or corporations renting implements or machinery, or hiring crews, for or contributing to said work to be done, and all persons who perform work or labor upon the same, and all persons who supply both work and materials, and whose claim has not been paid by the contractor, company, or corporations in the just and full sum of _____ Dollars (\$_____), for the payment whereof, well and truly to be made, said Principal and Surety bind themselves, their administrators, successors and assigns, jointly and severally firmly by these presents.

The condition of the foregoing obligation is such that; WHEREAS, the above-bounden Principal has entered into a certain contract attached hereto and incorporated herein by reference as though fully set forth, with the TOWN OF LOS GATOS, to do and perform the following work; to wit:

Project #813-0242 Parking Program Implementation-Wayfinding Signage

as required by the plans and specifications, pursuant to the award made to said contractor by the Council of the TOWN OF LOS GATOS, on _____ 2023, as will more fully appear by reference to the minutes of said Council of said TOWN of said date.

NOW, THEREFORE, if the above-bounden Principal, contractor, person, company, or corporation, or his agent, or the subcontractors, fails to pay for any materials, provisions, provender, or other supplies, or crews 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, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, or for any amount required to be deducted, withheld, and paid over to Franchise Tax Board, from the wages of employees of the contractor or subcontractor, pursuant to Section 18806 of the Revenue and Tax Code, then the Surety of this bond will also pay the same in an amount not exceeding the sum specified in the bond; and also, in case suit is brought upon this bond, a reasonable attorney's fee, which shall be awarded by the court to the prevailing party in said suit, said attorney's fee to be taxed as costs in said suit and to be included in the judgment therein rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or to the specifications accompanying the same shall in any way affect its obligation on this bond and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

This bond is executed and filed to comply with the provisions of Sections 3247, *et seq.*, of the Civil Code.

Signed and sealed this _____ day of _____, 2023.

BY: _____

CONTRACTOR

(CORPORATE SEAL)

BY: _____

SURETY (Address and Phone No.)

(SURETY SEAL)

CONTRACTOR'S BOND FOR FAITHFUL PERFORMANCE

KNOW ALL MEN BY THESE PRESENTS:

That _____, as Principal, and _____, incorporated under the laws of the State of _____, and authorized to execute bonds and undertakings as Surety, are held firmly bound unto the TOWN OF LOS GATOS, a municipal corporation of the State of California, in the sum of _____ Dollars (\$_____), for payment whereof, well and truly to be made, said Principal and Surety bind themselves, their administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that: WHEREAS, the above-bounden Principal has entered into a certain contract attached hereto and incorporated herein by reference as though fully set forth, with the TOWN OF LOS GATOS, to do and perform the following work; to wit:

Project #813-0242 Parking Program Implementation-Wayfinding Signage

as required by the plans and specifications, pursuant to the award made to said contractor by the Council of the TOWN OF LOS GATOS, on _____, 2023, as will more fully appear by reference to the minutes of said Council of said date.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or to the specifications accompanying the same shall in any way affect its obligation on this bond and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

NOW, THEREFORE, if the above-bounden Principal shall well and truly perform the work contracted to be performed under said contract, then this obligation shall be void; otherwise, to remain in full force and effect.

Signed and sealed this _____ day of _____, 2023.

BY: _____

CONTRACTOR

(CORPORATE SEAL)

BY: _____

SURETY (Address and Phone No.)

(SURETY SEAL)

PART II-GENERAL CONDITIONS

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SECTION 1 DEFINITIONS AND TERMS

1-1.01 DEFINITIONS

Wherever in these Specifications and other Contract Documents the following terms or pronouns in place of them are used, the intent and meaning shall be interpreted as follows:

- A. Agency. The Town of Los Gatos, Department of Parks and Public Works.
- B. Contract Documents. The Notice to Contractors, Information for Bidders, Bid Form, Designation of Subcontractors, Agreement, Bidder's Bond, Performance Bond, Labor and Material Payment Bond, Progress Schedule, General Conditions, Equal Employment Opportunity Conditions if applicable, Technical Provisions, Plans, Specifications, and such provisions of the Standard Specifications of the State of California, Department of Transportation, dated 2010, except as specifically noted in the Technical Specifications, are hereby incorporated by reference.
- C. Contractors. The person, firm, partnership, or corporation to whom this Contract is awarded by Owner and who is subject to the terms thereof.
- D. Director of Parks and Public Works. The Director of Parks and Public Works of the Town of Los Gatos and the representative of the Director of Parks and Public Works, duly authorized and appointed by the Director of Parks and Public Works.
- E. Engineer. The Town Engineer of the Town of Los Gatos, or the representative of the Town Engineer duly authorized and appointed by the Town Engineer. In the event Owner has hired any person or corporation as an independent Contractor to act in lieu of the Town Engineer, the term "Engineer" shall be deemed to include such person or corporation.
- F. Governing Body of the Owner. The Town Council of the Town of Los Gatos.
- G. Inspector. The Inspector employed by Owner to perform inspection during construction of the work, under the direction of the Director of Parks and Public Works.
- H. Owner. The Town of Los Gatos, a municipal corporation in the State of California.
- I. Plans. The Official Plans, working drawings or exact reproductions thereof, approved by the Governing Body of the Owner which show the location, character, dimensions and details of the work on the Project and the work to be done. The Plans are to be considered as a part of the Contract Documents, complementary to the Specifications.
- J. Project. The entire public improvement proposed by Owner to be constructed in whole or in part, pursuant to this Contract.
- K. Revocable. Items noted as "Revocable" in the Proposal may be deleted entirely or in part at the sole discretion of the Town. The provision of Section 9-1.06, "Changed Quantity Payment Adjustments," shall not apply to entire or partial deletion of Revocable items.
- L. Specifications. The directions, provisions, and requirements contained herein, or contained in any Specifications referred to herein, pertaining to the method and

manner of performing the work on the Project, or to the quantities, or the quality of materials to be furnished under the Contract.

- M. Standard Specifications. The Standard Specifications of the State of California, Department of Transportation, dated 2010, except as specifically noted in the Technical Specifications.
- N. Subcontractor. A person, firm, partnership, or corporation having a direct contract with Contractor and not with Owner, for the performing of work or labor or the rendering of service to Contractor for the work.
- O. Surety. Any persons, firm, partnership, or corporation that executes as Surety on Contractor's Performance Bond or Contractor's Labor and Material Bond or Bidder's Bond.
- P. Work. Work to be performed on the Project under this Contract, including work normally done at the site of the Project plus labor and materials.

1.1.02 SPECIFICATIONS

Wherever in these Specifications the term "Standard Specifications" is used, it shall mean the State of California, Department of Transportation, Standard Specifications, dated 2010, except as specifically noted in the Technical Specifications. In case of conflict between the Standard Specifications and these Specifications, these Specifications shall take precedence over and be used in lieu of such conflicting portions.

Any item not covered in these Specifications shall be performed in accordance with the appropriate section of the Standard Specifications. Whenever in the Standard Specifications the following terms are used, they shall be understood to mean and refer to the following:

- A. Department of Public Works. The Town of Los Gatos, Department of Parks and Public Works.
- B. Director of Parks and Public Works. The Town of Los Gatos, Director of Parks and Public Works.
- C. Engineer. The Engineer is defined as acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties entrusted to them.
- D. Laboratory. The designated laboratory authorized by the Town of Los Gatos to test materials and work involved in the Contract.
- E. State. The Town of Los Gatos.

1-1.03 GENERAL

All work shall be done in conformance with the applicable provisions of the Standard Specifications except as modified herein. Payment for work, equipment and materials not specifically covered herein shall be included in the payment for related items of work. No additional payment will be made for work, equipment or materials not covered in these plans and specifications, but necessary to ensure a completed project as specified. Any plan or

method of work suggested by the Owner or the Engineer to Contractor but not specified or required, if adopted or followed by Contractor in whole or in part, shall be used at the risk and responsibility of Contractor; and the Owner and the Engineer shall assume no responsibility therefor and in no way be held liable for any defects in the work which may result from or be caused by use of such plans or method of work.

1-1.04 STATEMENT OF WORK

Furnish all labor, equipment and materials and perform all work called for in the Contract Documents and as necessary to furnish to the Town a complete project ready for use.

1-1.05 DRAWINGS

Drawings are also referred to as the Plans. One set of the Contract Plans and Specifications will be furnished without charge to the Contractor to whom the contract for the work is awarded. The Plans and Specifications are available at the Parks and Public Works, Engineering Division, 41 Miles Avenue, Los Gatos, California.

1-1.06 BUSINESS LICENSE

All Contractors, whether they be general Contractors or subcontractors, who transact or carry on business in the Town of Los Gatos, shall acquire a Business License in conformance with Chapter 14 of the Los Gatos Town Code.

1-1.07 MINORITY AND WOMEN BUSINESS ENTERPRISES

It is the policy of the Town of Los Gatos to encourage the participation of Minority and Women Business Enterprises in the bidding process for all Town contracts. Any reference using the word "his" is to be construed as meaning "his, hers, or its".

1-1.08 PROOF OF COMPETENCY OF BIDDER

Any bidder may be required to furnish evidence satisfactory to Owner that he/she and his/her proposed subcontractors have sufficient means and experience in the type of work called for to insure completion of the contract in a satisfactory manner.

1-1.09 SPECIAL NOTICE

Bidders are required to inform themselves fully of the conditions relating to construction and labor under which the work will be or is now performed, and, so far as possible, the successful bidder must employ such methods and means in carrying out his/her work as will not cause any interruption or interference with any other Contractor.

SECTION 2 PROPOSAL REQUIREMENTS AND CONDITIONS

2-1.01 GENERAL

The bidder's attention is directed to the provisions of Section 2, "Bidding," of the Standard Specifications, all of which are applicable to this Contract.

2-1.02 LICENSES

The Contractor shall possess a valid Class "A" or Class "C-8" California Contractor's License. Failure to possess the specified license shall render the bid as non-responsive and shall act as a bar to award the Contract to any bidder not possessing said license at the time of bid and forfeiture of the bid will result. All contractors and subcontractors shall have and maintain a current and valid contractor license of the required classification from the State of California throughout the course of this project. In addition, all contractors and subcontractors working in the Town of Los Gatos must have a valid Town of Los Gatos Business License.

2-1.03 EXAMINATION OF PLANS, SPECIFICATIONS AND SITE WORK

Before submitting a bid, each bidder shall carefully read and review the Plans, Specifications, and all other Contract Documents. The bidder shall visit the site of the Project and shall fully inform himself/herself as to all existing conditions and limitations under which the work is to be performed, and he/she shall include in his/her bid a sum to cover the cost of all items necessary to perform the work as set forth in the Contract Documents. No allowance of any kind whatsoever will be made to any bidder because of lack of such examination or knowledge. The submission of a bid shall be conclusive evidence that the bidder has made such an examination.

If any person contemplating submitting a bid for the construction of the Project is in doubt as to the true meaning of any part of the Plans, Specifications, or other Contract Documents, or finds discrepancies in, or omissions from the Plans or Specifications, he/she may submit to the Owner a written request for an interpretation or correction thereof not later than five (5) working days before the date bids will be opened. The person submitting the request will be responsible for its prompt delivery. Any interpretation or correction of the Contract Documents will be made only by addendum and will be mailed or delivered to each person receiving a set of such documents. The Owner will not be responsible for any other explanation or interpretation of the Contract Documents.

2-1.04 CONTENTS OF BID

In order to receive consideration, all bids shall be made in accordance with the following instructions:

- A. Bids shall be made upon the form provided therefor, properly executed and with all items filled out; the signature of all persons signing shall be in longhand.

- B. Blank spaces in the bid must be properly filled in, and the phraseology thereof must not be changed. Additions must not be made to the items mentioned therein. Any unauthorized conditions, limitations or provisions attached to a proposal may cause its rejection. Alterations by erasures or interlineation must be explained or noted in the bid over the signature of the bidder.
- C. Late bids will be returned to the bidder unopened.
- D. Due to COVID-19, only electronic bids will be received on the Town of Los Gatos plan room at www.losgatosplanroom.com on or before the day and hour set for the opening of bids. It is the sole responsibility of the bidder to see that the bid is received in proper time. After the bid opening, original bid bonds from the lowest three responsible bidders must be submitted to the Town of Los Gatos, Parks and Public Works Director at 41 Miles Avenue, Los Gatos, CA 95030 and be postmarked within three days of the bid opening date.

2-1.05 WITHDRAWAL OF BID

Any bidder may withdraw his/her bid, either personally or by a written request, at any time prior to the scheduled time for opening of bids.

2-1.06 WITHDRAWAL OF BIDS AFTER OPENING

No bidder may withdraw his/her bid for a period of 60 calendar days after the date set for the opening thereof, and the same shall be subject to acceptance by the Owner during this period.

2-1.07 BIDDERS INTERESTED IN MORE THAN ONE BID

No person, firm or corporation shall be allowed to make or file or be interested in more than one bid for the same work, unless alternate bids are called for. A person, firm or corporation submitting a sub-proposal to a bidder, or who has quoted prices on materials to a bidder, is not thereby disqualified from submitting a sub-proposal or quoting prices to other bidders.

2-1.08 SUBMISSION OF BIDS; AGREEMENT TO ASSIGN

In accordance with Government Code §4552, the bidder shall conform to the following requirements. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, he/she/it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under §4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act [Chapter 2 (commencing with §16700) of Part 2 of Division 7 of the Business and Professions Code], arising from purchase of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.

2-1.09 LIST OF SUBCONTRACTORS

Bidders must submit a list of their proposed subcontractors in compliance with §§4100-4113 of the Public Contract Code of the State of California. Forms for this designation are furnished in the Bid Documents, Part I.

2-1.10 INSURANCE

At or prior to the delivery of the signed Agreement, the Contractor shall deliver to the Owner the policies of insurance or insurance certificates as are required by the Plans and Specifications. All policies or certificates of insurance shall be approved by the Director of Parks and Public Works before the successful bidder may proceed with the work. Failure or refusal to furnish insurance policies or certificates in the form satisfactory to the Director of Parks and Public Works shall subject the bidder to penalties for delay in commencement of the Work.

2-1.11 BIDDER'S BOND

Each bid shall be accompanied by cash, a certified or cashier's check, or a bidder's bond in the sum of not less than 10% of the total aggregate of the bid and said checks or bond shall be made payable to the order of the Town of Los Gatos (herein after referred to as "Owner"). Cash and certified or cashier's checks shall not be accepted unless accompanied by a waiver of all interest on the amount paid to the Town. In case the successful bidder fails to file satisfactory bonds or provide the insurance required by the Contract Documents or refuses to enter into a contract within the specified time, he/she shall be liable for any difference by which the cost of procuring the work exceeds the amount of his/her bid and the bond or the amount of cash or check shall be available to offset such difference. If the bid is not accepted by the Owner within 60 calendar days after the date set for the opening of bids, or if the bidder to whom the contract is awarded executes and delivers to Owner the required Contract Documents and insurance, the cash, or the amount of the certified or cashier's check without interest shall be returned to the bidder.

2-1.12 GUARANTEE OF MATERIALS AND EQUIPMENT

All materials and equipment furnished, and the work performed under these Specifications and/or drawings, shall be guaranteed in writing for a period of two years from the date of final acceptance against defective material, design and workmanship. In addition, the Contractor shall guarantee in writing that the system as a whole shall be free of defects for a period of two years from the date of final acceptance, the system shall operate perfectly, and all apparatus shall perform in accordance with their individual Specifications.

The Contractor shall allow 10% of the faithful performance bond to remain in effect for a period of two years following Town Council project acceptance as guarantee for any needed repair or replacement caused by defective materials and workmanship.

2-1.13 PROPOSAL GUARANTY

The Bidder's Bond shall conform to the bond form included in the Proposal for the project and shall be properly filled out and submitted with the Proposal.

2-1.14 PRE-BID SITE INSPECTION

Prospective bidders shall carefully examine the jobsite. The submission of the bid shall be conclusive evidence that the bidder has investigated and is satisfied as to the conditions to be encountered, as to character, quality, and scope of work to be performed, the quantity of materials to be furnished, and as to the requirements of the proposals, plans, specifications, and the contract. All questions related to this project must be submitted in writing and received a minimum of five (5) working days prior to the bid opening date and shall be directed to:

Town of Los Gatos, Parks and Public Works Department
41 Miles Avenue, Los Gatos, CA 95030
Attention: Gary Heap, Town Engineer
Telephone: (408) 399-5773
E-mail: gheap@losgatosca.gov

SECTION 3 AWARD AND EXECUTION OF CONTRACT

3-1.01 GENERAL

The bidder's attention is directed to the provisions of Section 3, "Contract Award and Execution," of the Standard Specifications, all of which are applicable to this Contract.

3-1.02 AWARD OR REJECTION OF BIDS

The Contract, if awarded, will be awarded to the lowest responsible bidder subject to Owner's right to reject any or all bids and to waive any informality in the bids or the bidding. The award of the contract, if it be awarded, will be to the lowest responsible bidder whose bid complies with all the requirements prescribed.

All bids will be compared on the basis of the Bid Form of quantities of work to be done. The determination of the low bid will be based on the total base bid items of work. The contract will be awarded to the lowest responsible bidder meeting the contract requirements.

Bid protests are to be delivered to the following:

Town of Los Gatos, Parks and Public Works Department
41 Miles Avenue, Los Gatos, CA 95030
Attention: Gary Heap, Town Engineer
Telephone: (408) 399-5773
Fax: (408) 354-8529

The award of the contract, if it be awarded, will be to the lowest responsible bidder whose bid complies with all the requirements prescribed. **The award of the alternative items shall depend on the maximum award amount as approved by the Town Council.**

The contract shall be executed by the successful bidder and shall be returned together with the contract bonds, to the Town so that it is received within ten (10) days, not including Saturdays, Sundays and legal holidays, after the bidder has received the Notice of Award. Failure to do so shall be just cause for forfeiture of the proposal guaranty. The executed contract documents shall be delivered to the following address: Town of Los Gatos, Department of Parks and Public Works, 41 Miles Avenue, Los Gatos, CA 95030.

3-1.03 REJECTION OF PROPOSALS

The Town, at its sole discretion, may reject all bids. Additionally, individual proposals may be rejected if (among other things) they any alteration of form, additions not called for, conditional bids, incomplete bids, erasures, or irregularities of any kind, or a disproportionate amount of payment being made on any item of work during any phase of the project, or fail to provide a price on al bid items, including all alternates or proposals submitted which are in

strict compliance with the directions in the Notice to Contractors. The Town may, in its sole discretion, waive any informalities or minor irregularities in the bid or proposal.

Proposals not submitted in strict compliance with the directions in the Notice to Contractors may, in Town's sole discretion, be deemed non-responsive and rejected on that basis.

When proposals are signed by an agent, other than the officer or officers of a corporation authorized to sign contracts on its behalf or a member of a co-partnership, a "Power of Attorney" must be on file with the Town Clerk prior to opening bids or shall be submitted with the proposal; otherwise, the proposal may be rejected at the Town's sole discretion as irregular and unauthorized.

Proof of authority of the person or persons signing on behalf of the bidder shall be provided to the Town upon request after the bid opening.

3-1.04 SUBSTITUTION OF SUBCONTRACTORS

No Contractor whose bid is accepted shall:

- A. Substitute any person as subcontractor in place of the subcontractor listed in the original bid, except where the Town, or its duly authorized officer, may, except as otherwise provided, have consented to the substitution in any of the following situations:
 1. When the subcontractor listed in the bid after having had a reasonable opportunity to do so fails or refuses to execute a written contract, when that written contract, based upon general terms, conditions, plans and specifications for the project involved or the terms of that subcontractor's written bid, is present to the subcontractor by the Contractor.
 2. When the listed subcontractor becomes bankrupt or insolvent.
 3. When the listed subcontractor fails or refuses to perform its subcontract.
 4. When the listed subcontractors fails or refuses to meet the bond requirements of the Contractor.
 5. When the Contractor demonstrates to the Town that the name of the subcontractor was listed as the result of an inadvertent clerical error.
 6. When the listed subcontractor is not licensed at the time of bid pursuant to the Contractor License Law on non-federally funded projects or at the time of award on federally funded projects.
 7. When the Town determined that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the subcontractor is substantially delaying or disruption the progress of the work.

Prior to the approval of the Contractor's request for a substitution of subcontractor, the Town shall give notice in writing to the listed subcontractor of the Contractor's

request to substitute and of the reasons for the request. The notice shall be served by certified or registered mail to the last known address of the subcontractor. The listed subcontractor who has been notified shall have 5 working days within which to submit written objections to the substitution to the Town. Failure to file these written objections shall constitute the listed subcontractor's consent to the substitution.

If a written objection is filed, the Town shall give notice in writing of at least 5 working days to the listed subcontractor of a hearing by the Town on the Contractor's request for substitution.

- B. Permit any subcontractor to be voluntarily assigned or transferred or allow it to be performed by anyone other than the subcontractor listed in the original bid, without consent of the Town.
- C. Other than in the performance of change orders causing changes or deviations from the original contract, sublet or subcontract any portion of the work in excess of ½ of one percent of the prime contractor's total bid as to which the Contractor's original bid did not designate a subcontractor.

3-1.05 PERFORMANCE BOND AND LABOR AND MATERIALS BOND

At or prior to the delivery of the signed Agreement, the Contractor shall deliver to the Owner the Performance Bond and Labor and Material Payment Bond as are required per these Specifications. All bonds shall be on forms provided by Owner, and each shall be in an amount equal to 100% of the contract price. All bonds shall be approved by the Director of Parks and Public Works before the successful bidder may proceed with the Work. Failure or refusal to furnish bonds in the form satisfactory to the Director of Parks and Public Works shall subject the bidder to penalties for delay in commencement of the Work or revocation of the Award of Contract.

Pursuant to California Public Contract Code §22300, the Contractor will be permitted, at its request and sole expense, to substitute securities for any monies withheld by the Town to ensure performance under the contract. Said securities will be deposited either with the Town or with the state or federally chartered bank as escrow agent. Securities eligible for this substitution are those listed in California Government Code §16430 or bank or savings and loan certificate of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other mutually agreed to by Contractor and the Owner. The Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

3-1.06 WORKER'S COMPENSATION

Attention is directed to Standard Specifications Section 7-1.06C, "Workers' Compensation and Employer's Liability Insurance," and the following:

Before commencing work in the Town of Los Gatos, the Contractor must provide the Town with a copy of one of the following:

1. Certificate of Workers' Compensation Insurance; or
2. Certificate of consent to self-insure issued by the Director of Industrial Relations; or
3. Certificate of exemption from the Workers' Compensation Laws.

3-1.07 INSURANCE REQUIREMENTS

Attention is directed to Section 7-1.06, "Insurance." The Contractor agrees that they will assume sole and complete responsibility for job site conditions during the course of the work, including safety of all persons and property; that this requirement shall apply continuously and not be limited to normal working hours.

In addition to any other indemnity obligation incorporated herein, the Contractor shall indemnify, defend and hold harmless Town, its agents, officers, attorneys. Employees, officials and volunteers, to the fullest extent permitted by law from any and all claims, causes of action, injuries, losses, liabilities, cost (including reasonable defense costs and attorneys' fees) or damages arising out of or related to, or alleged to arise out of or relate to the performance of this contract or any acts or omissions of Contractor, its agents, officers, employees, or anyone rendering services on their behalf, except for any claims, causes of action, injuries, losses, liabilities or damages proximately caused by the active negligence, sole negligence or willful misconduct of Town.

Notwithstanding any other indemnity provisions imposed under this contract, with respect to any design professional services provided by the Contractor, the Contractor agrees to indemnify, defend and hold harmless the Town, its officers, agents and employees from any and all claims, actions, causes of action, losses, damages, costs and liabilities of every nature, including all costs of defending any claim, caused by, pertaining or relating to, or arising out of, or alleged to have been caused by or arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, except for any claims, actions, causes of action, losses, damages or liabilities proximately caused by the sole negligence or willful misconduct of Town. The Town shall not be liable for acts of the Contractor in performing services described herein.

The foregoing indemnity provisions are intended to fully allocate all risk of liability to third-parties. No other rights of indemnity or contribution shall exist between the parties in law or in equity. The provisions set forth in this section shall survive the termination of this Agreement.

3-1.08 EXECUTION OF AGREEMENT

The form of agreement which the successful bidder, as Contractor, will be required to execute is included in the Contract Documents and must be carefully examined by each bidder. The bidder to whom the Contract is awarded by Owner shall, within 10 calendar days after *Notice of*

Award, execute and deliver to Owner one original and one counterpart of the Agreement.

3-1.09 NOTIFICATION BY CONTRACTOR

- A. The Contractor shall notify the Director of Parks and Public Works and the project inspector at least 24 hours prior to commencing work and shall comply with any Notifications or approvals mentioned in the Specifications, Part III.
- B. The Contractor shall notify residents and business owners adjacent to the Work, as noted in the Special Provisions of these Specifications.
- C. Immediately after the award of Contract by the Town of Los Gatos and where applicable and required by the Plans and Specifications, the Contractor shall notify the following agencies:

AT&T Broadband 1900 S. Tenth Street, San Jose, CA 95112 Telephone: (408) 918-3200	Santa Clara Valley Water District 5750 Almaden Expressway, San Jose, CA 95118 Telephone: (408) 395-8121 ext. 2132; Fax: (408) 395-3627
Pacific Gas and Electric Co. 10900 N. Blaney Avenue, Cupertino, CA 95014 Telephone: (408) 725-2011; Fax: (408) 725-2034	U.S.A. Cable Locator (Notify two weeks prior) Telephone: 1 (800) 227-2600
Frontier Communications 15 Montebello Way, Los Gatos, CA 95030 Telephone: (408) 354-6372; Fax: (408) 354-6377	Verizon 15900 Los Gatos Boulevard, Los Gatos, CA 95030 Telephone: (408) 358-6757; Fax: (408) 356-8756
San Jose Water Company 1221 S. Bascom Ave., San Jose, CA 95128 Telephone: (408) 279-7866; Fax: (408) 292-7868	West Valley Sanitation District 100 E. Sunnyoaks Avenue, Campbell, CA 95005 Telephone: (408) 378-2407; Fax: (408) 364-1821

3-1.10 PRE-CONSTRUCTION CONFERENCE

A pre-construction conference will be held shortly after the contract award in accordance with Section 8-1.03, "Preconstruction Conference," and Section 10-1, "General Construction Requirements." The Contractor shall prepare in advance the proposed progress schedule in accordance with Section 8-1.02, "Schedule," and Section 10-1, "General Construction Requirements," and a traffic control plan in accordance with Section 10-2, "Traffic Control."

SECTION 4 SCOPE OF WORK, TIME OF COMPLETION, AND LIQUIDATED DAMAGES

4-1.01 GENERAL

- A. The bidder's attention is directed to the provisions of Section 4, "Scope of Work," of the Standard Specifications, all of which are applicable to this Contract.
- B. Attention is directed to the provisions in Section 8-1.04, "Start of Job Site Activities," Section 8-1.05, "Time," and Section 8-1.10, "Liquidated Damages," of the Standard Specifications.

4-1.02 TIME OF COMPLETION

The Contractor shall begin work as stipulated in the Notice to Proceed.

The Contractor shall diligently prosecute the work to completion before the expiration of **THIRTY (30) WORKING DAYS** after the date of the first working day. The time of completion shall include all allowances for mobilization and total completion of all work including final punch list work and final clean up.

4-1.03 LIQUIDATED DAMAGES

Time is of the essence for completion of this project. The Contractor shall pay to the Town of Los Gatos the sum of Five Hundred Dollars (\$500.00) per day for each and every calendar day's delay in the finishing of the work in excess of working days prescribed above. Liquidated damages shall also be assessed for non-compliance with the requirements stated in "Hours of Work" under Section 10-1, "General Construction Requirements," of the Technical Specifications.

If the Work is not completed by Contractor in the time specified herein, or within any period of extension as above authorized, it is understood that the Owner will suffer damage; and it being impracticable and infeasible to determine the amount of actual damage, it is agreed that the Contractor shall pay to the Owner, as fixed and liquidated damages, and not as a penalty, the sum as stated in the Contract, and the Contractor and the Contractor's Surety shall be liable for the amount thereof; provided, however, that the Contractor shall not be charged liquidated damages because of any delays in the completion of the work due to unforeseeable causes beyond the control and without the fault or negligence of Contractor (including, but not restricted to, Acts of God or of the public enemy, acts of the Government, acts of the Owner, fires, floods, epidemics, quarantine restrictions, strikes and freight embargoes).

The Contractor shall, within 10 calendar days from the beginning of any such delay, notify the Owner in writing of the cause of the delay and the amount of time extension requested, if any; whereupon the Owner shall ascertain the facts and the extent of the delay and extend the time

for completing the Work when, in its judgment and for the amount of time if any, the findings of fact justify such an extension. The Director of Parks and Public Works' determination shall be final and binding on the parties hereto.

4-1.04 LOCATION OF WORK

The Town reserves the right to add or delete from quantities of work during the project and to add or delete locations. Locations of work for this project are set out in the Plans and Specifications and incorporated herein.

Refer to maps included in ATTACHMENT B-Final Design Intent for the locations of work.

4-1.05 CHANGES TO THE WORK

The bidder's attention is directed to the provisions of Section 4, "Scope of Work," of the Standard Specifications and the following modifications, all of which are applicable to this Contract:

- A. Owner, without invalidating the Contract, may order additions to or deductions from the Work, the Contract Sum being adjusted accordingly. Any claim for extension of time cause thereby shall be adjusted at the time of ordering such change. See Section 9 of these Specifications regarding measurement and payment for increased or decreased quantities.
- B. Any alteration or alterations made in the Plans and Specifications which are a part of this Contract, or any provision of this Contract shall not operate to release any surety or sureties from liability on any bond or bonds attached hereto and made a part hereof, and consent to make such alterations is hereby given, and the sureties to said bonds hereby waive the provisions of Civil Code §2819.
- C. In giving instructions, the Engineer shall have authority to issue written change orders not inconsistent with the purpose of the Work. All change orders require issuance of a purchase order. Except in an emergency endangering life and property, no extra work or change shall be made unless in pursuance of such written order, and no claim for an addition to the Contract Sum shall be valid unless the additional work was so ordered.
- D. Any change order that is in excess of the original Contract amount, plus any contingency, must be approved in the same manner as the original Contract.
- E. Any change order exceeding the amount of the approved budget is invalid unless and until a budget adjustment has been approved by the Town Council.
- F. Unit prices in any change order shall be the same as those unit prices in the original Contract.

4-1.06 CHANGED CONDITIONS

- A. Differing Site Conditions

1. During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed. If you fail to promptly notify the Engineer, you waive the differing site condition claim for the period between your discovery of the differing site condition and your notification to the Engineer. If you disturb the site after discovery and before the Engineer's investigation, you waive the differing site condition claim.
 2. Upon written notification, the Engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the Contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The Engineer will notify the Contractor of the determination whether or not an adjustment of the contract is warranted.
 3. No Contract adjustment which results in a benefit to the Contractor will be allowed unless the Contractor has provided the required written notice.
 4. No Contract adjustment will be allowed under this clause for any effects caused on unchanged work.
- B. Suspensions of Work Ordered by the Engineer
1. If the performance of all or any portion of the work is suspended or delayed by the Engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the Contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.
 2. Upon receipt, the Engineer will evaluate the contractor's request. If the Engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the Contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The Contractor will be notified of the engineer's determination whether or not an adjustment of the Contract is warranted.
 3. No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.

4. No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.
- C. Significant Changes in the Character of Work
- The Engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.
1. If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the Engineer may determine to be fair and equitable.
 2. If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.
 3. The term "significant change" shall be construed to apply only to the following circumstances:
 - When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
 - When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

4-1.07 NOTIFICATION OF CHANGE IN CONDITION

Pursuant to Public Contracts Code §7104, when trenches or other excavations must be dug pursuant to this Contract that extend deeper than 4 feet below the surface, the Contractor shall promptly, and before the following conditions are disturbed, notify the Owner in writing of any:

- A. Material that the Contractor believes may be material that is hazardous waste, as defined in Health & Safety Code §25117, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; or,
- B. Subsurface or latent physical conditions at the site differing from those indicated; or,

- C. Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in the work of the character provided for in the Contract.

The Owner will promptly investigate the conditions identified by the Contractor, and if the Owner finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Owner's cost of, or the time required for, performance of any part of the work will issue a change order under the procedures described in the Contract Documents.

In the event a dispute arises between the Owner and the Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the Contract Documents, but shall proceed with all work to be performed under the Contract Documents. The Contractor shall retain any and all rights provided either by the Contract Documents or by law which pertain to the resolution of disputes and protects between the contracting parties.

SECTION 5 CONTROL OF WORK

5-1.01 GENERAL

The bidder's attention is directed to the provisions of Section 5, "Control of Work," of the Standard Specifications, all of which are applicable to this Contract.

SECTION 6 CONTROL OF MATERIALS

6-1.01 GENERAL

The bidder's attention is directed to the provisions of Section 6, "Control of Materials," of the Standard Specifications, all of which are applicable to this Contract.

6-1.02 TOWN FURNISHED MATERIALS

Temporary "No Parking" signs shall be provided by the Town for the Contractor's use on this project.

6-1.03 SUBMITTALS

The Contractor shall submit to the Engineer the following at least three (3) working days before the pre-construction conference:

1. Construction Schedule
2. Traffic Control Plan
3. Notice to Residents, Businesses, and Schools (draft form)
4. Materials Submittals Binder
5. Storm Water Pollution Prevention Plan (SWPPP) (if applicable)

All submittals listed above must be received and processed by the Engineer prior to the issuance of the Notice to Proceed. Any exceptions or rejected submittals will be remedied and resubmitted for the Engineer's review prior to the issuance of the Notice to Proceed. Payment shall be deemed included in the various other items of work and no additional compensation shall be allowed therefore.

6-1.04 MATERIALS SUBMITTAL LIST

The materials proposed by the Contractor to be used on this contract shall be submitted for approval to the Engineer three (3) working days before the pre-construction conference.

The Contractor shall submit one (1) set of original submittals to the Engineer for approval in a three-ring binder, at least two inches in thickness, and include numbered index tabs separating each submittal. Submittal index tabs shall follow the numbering system identified in the list below. Subsequent re-submittals, including the original and all copies shall be submitted in loose-leaf form or via PDF.

Submittals and support information shall be separated and clearly labeled when submitted to the Engineer for approval. The submittal list supplied is intended to be comprehensive, but no claim for its completeness is implied and submittal of the complete list will not relieve the Contractor of supplying all the information needed or of complying with any of the other

requirements of the plans or specifications. Revised lists may be issued and items may be added to the list supplied.

Manufacturer's specifications shall be supplied along with submittal list for all applicable products on the list.

Certificates of Compliance shall be submitted in accordance with Section 6-3.05E, "Certificates of Compliance," of the Standard Specifications, including the individual material specification of these Special Provisions.

Submittals shall contain:

1. The date of submission and the dates of any previous submissions, including identification of revision or re-submittals.
2. The Project title and number.
3. Contractor identification, names of subcontractors, suppliers, and manufacturers.
4. Specification section number(s) and bid item(s) which pertain.
5. Applicable standards, such as ASTM, Federal, or Standard Specification numbers. Certified test results indicating performance of materials/products with regard to Standard Specification requirements.
6. A 5"x 3" blank space for the Engineer's stamp.
7. The Contractor is required to initial or sign the submittal, certifying the review of submittals and verification of products, field construction criteria, and coordination of the information within the submittal and the project Plans and Specifications.

The Contractor shall be required to review and approve all submittals and provide them signed as evidence thereof, prior to submitting to the Engineer for review. Submittals that are not signed by the Contractor will be rejected. Submittals shall be numbered consecutively.

The preparation of plans, drawings, and necessary documents, including submittals shall be considered as part of the requirements of other items of work and no additional compensation shall be allowed therefore.

The Engineer reserves the right to reject any item that does not fulfill the requirements of the Plans, the Standard Specifications, and the Special Provisions.

6-1.05 Record Drawings

The Contractor shall mark all project conditions, locations, configurations, and any other changes or deviations, which may vary from the plans represented on the original Contract documents, including buried or concealed construction and utility features which are revealed during the course of construction. The Contractor shall keep and maintain the said records and submit a monthly updated set of Record Drawings to the Engineer. Progress payments may be withheld until the Contractor submits the monthly updated Record Drawing to the Engineer. No

final payment will be made until the record drawings are delivered.

6-1.06 Materials Testing

Materials testing shall be done in accordance with the Plans, Specifications, and Standard Specifications.

The Contractor shall allow sufficient time for test to be conducted and results reviewed prior to continuing with the work, which may be affected by any test results.

SECTION 7 LEGAL RELATIONS AND RESPONSIBILITIES

7-1.01 GENERAL

The bidder's attention is directed to the provisions of Section 7, "Legal Relations and Responsibility to the Public," of the Standard Specifications, all of which are applicable to this Contract.

7-1.02 PREVAILING WAGE

Attention is directed to Section 7-1.02K(2), "Wages," of the Standard Specifications and as determined/published by the Department of Industrial Relations for the State of California, as indicated in the following website: <http://www.dir.ca.gov/dlsr/pwd/index.htm>.

If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, said published rate of wage shall be in effect for the life of this contract. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the Department of Industrial Relations, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this contract in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of the contract, each successive predetermined wage rate shall apply to this contract on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rate expires during the life of this contract, such wage rate shall apply to the balance of the contract.

Pursuant to California Labor Code §1770, any Contractor who is awarded a public works project and intends to use a craft of classification not shown on the general prevailing wage determinations, may be required to pay the wage rate of that craft of classification most closely related to it as shown in the general determinations effective at the time of the calls for bids.

Statutory provisions for penalties for failure to pay prevailing wages and for failure to comply with state wage and hour laws will be enforced. Eight hours of labor constitutes a day's work. The Contractor must comply with the statutory requirements relating to certified copies of payroll records, including the maintenance of the records, their certification and their availability for inspection.

7-1.03 PAYROLL RECORDS

The Contractor shall comply with Section 7-1.02K(3), "Certified Payroll Records," of the Standard Specifications. It shall be amended to include:

Certified payroll records shall be submitted weekly for the life of the project to a representative

of the body awarding the contract. Electronic certified payroll records must be submitted weekly or at the conclusion of each payroll period directly to the Labor Commissioner using DIR's online system.

7-1.04 LABOR NONDISCRIMINATION

Attention is directed to Section 1735 of the Labor Code, which reads as follows:

"No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such persons, except as provided in Section 12940 of the Government Code, and every Contractor for public works violating this section is subject to all the penalties imposed for a violation of this chapter."

Attention is directed to the following "Nondiscrimination Clause" that is required by Chapter 5 of Division 4 of Title 2, California Code of Regulations.

NONDISCRIMINATION CLAUSE

1. During the performance of this contract, the Contractor and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. The Contractor and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. The Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. The Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
2. This Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

STANDARD CALIFORNIA NONDISCRIMINATION CONSTRUCTION CONTRACT SPECIFICATIONS (GOV. CODE, SECTION 12990)

These specifications are applicable to all state Contractors and subcontractors having a construction contract or subcontract of \$5,000 or more.

1. As used in the specifications:

- a. Administrator” means Administrator, Office of Compliance Programs, California Department of Fair Employment and Housing or any person to whom the Administrator delegates authority;
- b. “Minority” includes:
 - i. Black (all persons having primary origins in any of the black racial groups of Africa, but not of Hispanic origin);
 - ii. Hispanic (all persons of primary culture or origin in Mexico, Puerto Rico, Cuba, Central or South America or other Spanish derived culture or origin regardless of race);
 - iii. Asian/Pacific Islander (all persons having primary origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); and
 - iv. American Indian/Alaskan Native (all persons having primary origins in any of the original peoples of North America and who maintain culture identification through tribal affiliation or community recognition).
- 2. Whenever the Contractor or any subcontractor subcontracts a portion of the work, it shall physically include in each subcontract of \$5,000 or more the nondiscrimination clause in this contract directly or through incorporation by reference. Any subcontract for work involving a construction trade shall also include the Standard Specifications Construction Contract, either directly or through incorporation by reference.
- 3. The Contractor shall implement the specific nondiscrimination standards provided in paragraph 6(a) through (e) of these Specifications.
- 4. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women, shall excuse the Contractor's obligations under these specifications, Government Code, Section 12990, or the regulations promulgated pursuant thereto.
- 5. In order for the non-working training hours of apprentices and trainees to be counted, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor or the California Department of Industrial Relations.
- 6. The Contractor shall take specific actions to implement its nondiscrimination program. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor must be able to demonstrate fully its efforts under Steps (a) through (e) below:

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and at all facilities at which the Contractor's employees are assigned to work. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligations to maintain such a working environment.
 - b. Disseminate the Contractor's equal employment opportunity policy by providing notice of the policy to unions and training, recruitment and outreach programs and requesting their cooperation in assisting the Contractor to meet its obligations; and by posting the company policy on bulletin boards accessible to all employees at each location where construction work is performed.
 - c. Ensure all personnel making management and employment decisions regarding hiring, assignment, layoff, termination, conditions of work, training, rates of pay or other employment decisions, including all supervisory personnel, superintendents, general foremen, on-site foremen, etc., are aware of the Contractor's equal employment opportunity policy and obligations, and discharge their responsibilities accordingly.
 - d. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the equal employment opportunity policy and the Contractor's obligations under these specifications are being carried out.
7. The Contractors are encouraged to participate in voluntary associations, which assist in fulfilling their equal employment opportunity obligations. The efforts of a contractor association, joint contractor-union, contractor-community, or other similar groups of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under these specifications provided that the Contractor actively participates in the group, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's.
8. The Contractor is required to provide equal employment opportunity for all minority groups, both male and female, and all women, both minority and non-minority.
9. The Contractor shall not use the nondiscrimination standards to discriminate against any person because of race, color, religion, sex, national origin, ancestry, physical handicap, medical condition, marital status or age over 40.
10. The Contractor shall not enter into any subcontract with any person or firm decertified from state contracts pursuant to Government Code Section 12990.
11. The Contractor shall carry out such sanctions and penalties for violation of these specifications and the nondiscrimination clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Government Code Section 12990 and its implementing regulations by the awarding agency. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Government Code Section 12990.

12. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company equal employment opportunity policy is being carried out, to submit reports relating to the provisions hereof as may be required by OCP and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status, (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in any easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.

NOTE: Authority cited: Sections 12935(a) and 12990(d), Government Code. References: Section 12990, Government Code.

7-1.05 LEGAL RELATIONS AND RESPONSIBILITY

- A. *Notices.* Any notice from one party to the other under this Contract shall be in writing and shall be dated and signed by the party giving such notice, or by a duly authorized representative of such party. Any such notice shall not be effective for any purpose whatever unless served in the following manner:
 1. If the notice is given to Owner, it must be by personal delivery thereof to the Director of Parks and Public Works or by depositing the same in the United States mails, enclosed in a sealed envelope, addressed to Owner for the attention of said Director of Parks and Public Works, 41 Miles Avenue, Los Gatos, California 95030, postage prepaid and registered;
 2. If the notice is given to the Contractor, it must be by personal delivery thereof to the Contractor, or to the Contractor's foreman at the site of the work, or by depositing the same in the United States mails, enclosed in a sealed envelope addressed to the Contractor at the Contractor's regular place of business or at such other address as may have been established for the conduct of the work, postage prepaid and registered; or
 3. If the notice is given to the Surety or any other person, by personal delivery to such Surety or by depositing the same in the United States mails, enclosed in a sealed envelope, addressed to such Surety or person at the address of such Surety or person last communicated by him to the party giving the notice, postage prepaid and registered; and
 4. The effective date of such notice(s) shall be the date personal delivery is made or the date shown on the return receipt of the registered mailed notice.
- B. *Entire Contract.* No verbal agreement or conversation with any officer, agent or employee of Owner, either before, during or after the execution of this Contract, shall affect or modify any of the terms or obligations contained in the Contract

Documents, nor shall such verbal agreement or conversation entitle the Contractor to any additional payment whatsoever under the terms of this Contract.

7-1.06 EMPLOYMENT OF APPRENTICES

- A. Attention is directed to the provisions of Labor Code §§1777.5 and 1777.6 concerning the employment of apprentices by the Contractor or any subcontractor under Contractor. Section 1777.5 does not apply to contracts less than \$30,000.
- B. Section 1777.5 requires the Contractor or subcontractor, employing workers in any apprenticeable craft or trade, to apply to an apprenticeship program near to the site of the public works project that administers the apprenticeship program in that craft or trade for a certificate of approval. The certificate will also fix the ratio of apprentices to journeypersons that will be used in the performance of the contract. Section 1777.5 also requires submission of specified award information to the apprenticeship program.
- C. The ratio of apprentices to journeypersons in such cases shall not be less than 1 to 5, except that the joint committee may grant a certificate, subject to the approval of the Administrations of Apprenticeship, exempting a Contractor from the 1 to 5 ratio, when it finds that any one of the following conditions are met;
 - 1. In the event unemployment for the previous 3-month period in such area exceeds an average of 15%, or
 - 2. In the event the number of apprentices in training in such area exceeds a ratio of 1 to 5, or
 - 3. If there is a showing that the apprenticeable craft or trade is replacing at least 1/13th of its journeyperson annually through apprenticeship training, either on a statewide basis, or on a local basis, or
 - 4. If assignment of an apprentice to any work performed under a public works contract would create a condition which would jeopardize apprentice's life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyperson.
- D. The Division of Apprenticeship Standards may grant a certificate exempting the Contractor from the 1 to 5 ratio upon proper showing by the Contractor that it employs apprentices in a specific apprenticeable craft or trade in the state on all its contracts on an annual average if not less than 1 apprentice to each 5 journeypersons.
- E. The Contractor is required to make contributions to funds established for the administration of apprenticeship programs if the Contractor employs registered apprentices or journeypersons in any apprenticeable trade on such contracts, and if other Contractors in the area of the public works site are making such contributions.
- F. The Contractor and any subcontractor under Contractor shall comply with the requirements of §§1777.5 and 1777.6 in the employment of apprentices.
- G. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations ex officio

the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

- H. Responsibility for compliance with this section and this section's reference to the Standard Specifications lies with the Contractor.

7-1.07 PUBLIC SAFETY

The following paragraphs are hereby added to Section 7-1.04, "Public Safety," of the Standard Specifications:

The Contractor shall maintain a safe workplace throughout the job including, but not limited to, maintenance of barricades, maintenance of safe pedestrian walkways and handicap access throughout or around the project site, and maintenance of pavement within the limits of the roadway and driveways with a suitable traffic-bearing surface. The Contractor shall fulfill the requirements of this section 24 hours per day, seven days a week, including holidays, from the time of the Notice to Proceed is issued until the project is formally accepted.

7-1.08 ADDITIONAL SURETIES

If at any time during the continuance of the Contract the Sureties, or any of them, shall, in the opinion of the Owner, become irresponsible, the Owner shall have the right to require additional and sufficient Sureties which the Contractor shall furnish to the satisfaction of the Owner within 10 working days after notice.

7-1.09 INSURANCE

Bidders' attention is directed to the insurance requirements below. It is highly recommended that bidders confer with their respective insurance carriers or brokers to determine in advance of bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low bidder fails to comply strictly with the insurance requirements, that bidder may be disqualified from award of the contract.

The Contractor shall procure and maintain for the duration of the Contract 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, Contractor's agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's bid and shall not be otherwise recoverable from Owner.

- A. Minimum Scope of Insurance. Coverage shall be at least as broad as:
 - 1. Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form GC 0001).

2. Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability, code 1 "any auto" and endorsement CA 0025.
 3. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.
- B. Minimum Limits of Insurance. The Contractor shall maintain limits no less than:
1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project/Location or the general aggregate limit shall be twice the required occurrence limit.
 2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
 3. Workers' Compensation and Employers Liability: Worker's compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.
- C. Deductibles and Self-insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Town of Los Gatos. At the option of the Town of Los Gatos, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Town of Los Gatos, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- D. Other Insurance Provision. The policies are to contain, or be endorsed to contain the following provision:
1. General Liability and Automobile Liability Coverages
 - a. The Town of Los Gatos, its officers, officials, employees and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Contractor, products and completed operations of the Contracts, premises owned, occupied or used by the Contractor, or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Town of Los Gatos, its officers, officials, employees, or volunteers.
 - b. The Contractor's insurance coverage shall be primary insurance as respects the Town of Los Gatos, its officers, officials, employees, and volunteers. Any insurance or self-insurances maintained by the Town of Los Gatos, its officers, officials, employees, or volunteers shall be excess of the Contractors Insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Town of Los Gatos, its officers, officials, employees, or volunteers.
 - d. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the Town of Los Gatos, its officers, officials, employees, or volunteers for losses arising from work performed by the Contractor for the Town of Los Gatos.
 3. All Coverages. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after 30 days prior written notice by certified mail, return receipt required, has been given to the Town of Los Gatos.
- E. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than B+.
 - F. Verification of Coverage. The Contractor shall furnish the Town of Los Gatos with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by the Town of Los Gatos. Where by statute, the Town of Los Gatos' workers' compensation-related forms cannot be used, equivalent forms approved by the State Insurance Commissioner are to be substituted. All certificates and endorsements are to be received and approved by the Town of Los Gatos before work commences. The Town of Los Gatos reserves the right to require complete, certified copies of all required insurance policies, at any time.
 - G. Subcontractors. The Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
 - H. Indemnification. The Contractor shall save, keep and hold harmless indemnify and defend the Town its officers, agent, employees and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by a willful or negligent act or omissions of the Contractor, or any of the Consultant's officers, employees, or agents or any subcontractor.

7-1.10 CONTRACT DOCUMENTS ON SITE

The Contractor shall maintain on the job site an official set of Contract Documents, available at all times to the Director of Parks and Public Works, Inspector, or their representatives.

7-1.11 COORDINATION OF WORK WITH OTHER CONTRACTS

The Contractor must ascertain to the Contractor's own satisfaction the scope of the Work and the nature of any other Contracts that have been or may be awarded by the Owner in the prosecution of the Work, to the end that the Contractor may perform this Contract in the light

of such other Contracts, if any. Nothing herein contained shall be interpreted as granting to the Contractor exclusive occupancy of the site of the work. The Contractor shall not cause any unnecessary hindrance or delay to any other Contractor working on any project which encompasses the Work. If the performance of any Contract for the work is likely to be interfered with by the simultaneous execution of some other Contract or Contracts, the Owner shall decide which the Contractor shall cease work temporarily and which the Contractor shall continue or whether the work can be coordinated so that the Contractors may proceed simultaneously. The Owner shall not be responsible for any damage suffered or extra costs incurred by the Contractor resulting directly or indirectly from the award or performance or accepted performance of any other Contract or Contracts on the Work or caused by any decision or omission of Owner respecting the order of precedence in the performance of the Contracts awarded for the completion of the Work.

The Owner reserves the right to do the Work with its own forces or to let other Contracts for work on or contiguous to the Work set forth in the Plans and Specifications.

7-1.12 TRAFFIC CONTROL PLAN AND DEVICES

The Contractor shall supply, place, and maintain all necessary traffic control devices during construction in accordance with the applicable requirements of the Standard Specifications and Section 10-2, "Traffic Control."

7-1.13 EQUIPMENT AND MATERIAL REPLACEMENT

- A. The Contractor shall replace at Contractor's cost and expense any piece of equipment, or part thereof, or any material furnished under these Specifications, which fails because of defective material or workmanship, within 2 years following completion and acceptance of the Work.
- B. All decisions regarding acceptable equipment or installation shall be made by the Director of Parks and Public Works, and the Director of Parks and Public Works decision shall be final.

7-1.14 PUBLIC SAFETY – NOISE

It shall be the Contractor's responsibility to keep noise pollution due to construction activities as low as possible. In no case shall noise levels produced by the Contractor exceed either of the following maximums:

- A. No individual piece of equipment shall produce a noise level exceeding 85dBA at a distance of 25 feet.
- B. The noise level at no point outside of the property line or temporary construction area shall not exceed 85 dBA. No equipment violating these standards will be allowed to operate.

In no case shall the Contractor's operations violate the noise ordinance (Chapter 16) of the Town Code.

7-1.15 EQUAL EMPLOYMENT OPPORTUNITY POLICY

From and after the award of the Contract and during the course of the work on the project, the Contractor shall comply with the following Equal Employment Opportunity Conditions. The Contractor adopts and accepts as its operating policy the following statement:

"It is the policy of this company to assure that applicants are employed and that employees are treated during employment without regard to their race, religion, sex, color, or national origin. Such action shall include employment, upgrading, demotion, transfer, recruitment and recruitment advertising, termination, pay, and selection for training, including apprenticeship."

7-1.16 EQUAL EMPLOYMENT OPPORTUNITY OFFICER

The Contractor shall designate and make known to the Director of Parks and Public Works an Equal Employment Opportunity Officer capable of administering and promoting an active Contractor program of equal opportunity who will be assigned adequate authority and responsibility to do so.

7-1.17 DISSEMINATION OF POLICY

All members of the Contractor's organization with authority to hire, supervise, promote, and terminate employees, or who recommend such action, shall be made fully cognizant of and shall implement the Contractor's Equal Employment Opportunity policy: The following actions shall be taken as a minimum:

- A. Periodic meetings of supervisory personnel shall be conducted before start of work and at least once every 3 months for the purpose of reviewing and explaining the Contractor's Equal Employment Opportunity Policy and its implementation. The meetings shall be conducted by the Equal Employment Opportunity Officer or other knowledgeable company officials.
- B. All new supervisory employees shall be indoctrinated as to the Contractor's Equal Employment Opportunity obligations within 30 calendar days following their reporting for duty with the Contractor.
- C. The Equal Employment Opportunity Officer or appropriate company official will instruct all employees engaged in recruitment and hiring as to the methods followed by the Contractor in recruiting and hiring qualified employees.

7-1.18 RECRUITMENT

- A. When advertising for employees, the Contractor shall include in all advertisements for employees the notation *An Equal Opportunity Employer*. It shall insert all such advertisements in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
- B. If the Contractor does not restrict individuals who are hired as employees exclusively to those who are related by blood or marriage to persons possessing an ownership interest in the Contractor's business, in those case where the Contractor is not precluded therefor by a valid collective bargaining agreement, systematic and direct recruitment shall be conducted through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the Contractor shall, through its Equal Employment Opportunity Officer, identify sources of potential minority group employees and establish with such identified sources procedures whereby minority group applicants may be referred to the Contractor for employment consideration.
- C. If the Contractor does not restrict individuals who are hired as employees exclusively to those who are related by blood or marriage to persons possessing an ownership interest in the Contractor's business, the Contractor shall encourage present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants shall be provided to such employees.

7-1.19 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, or national origin. The following procedures shall be followed:

- A. The Contractor shall conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- B. The Contractor shall periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- C. The Contractor shall periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the Contractor shall 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 shall investigate all complaints of alleged discrimination made to the Contractor in connection with its obligations under this contract, shall attempt to resolve such complaints, and shall take appropriate corrective action. 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 shall inform every complainant of all of his/her avenues of appeal.

7-1.20 TRAINING AND PROMOTION

If the Contractor does not restrict individuals who are hired as employees exclusively to those who are related by blood or marriage to persons possessing an ownership interest in the Contractor's business, programs designed to increase the skills of all employees and applicants for employment shall be promoted as follows:

- A. Consistent with its manpower requirements and as permissible under Federal and State regulations, the Contractor shall make full use of training programs, such as pre-apprenticeship, apprenticeship, and/or on-the-job training programs for the geographical area of contract performance.
- B. The Contractor shall advise employees and applicants for employment of available training programs and entrance requirements for each.
- C. The Contractor shall periodically review the training and promotion potential of employees and shall encourage eligible employees to apply for such training and promotion.

7-1.21 UNIONS

If the Contractor relies in whole or in part upon unions as a source of Contractor's work force, the Contractor shall use its best efforts to incorporate an Equal Employment Opportunity clause into all union agreements which defines responsibilities for non-discrimination in hiring, referral, up-grading and training, and otherwise implements an affirmative anti-discrimination program in terms of the union's specific areas of skill and geography, to the end that all qualified workers will be available and given an equal opportunity for employment, and such unions will be contractually bound to refer applicants without regard to their race, color, religion, sex or national origin.

In the event a union is unable to refer applicants as requested by the Contractor within the time limit set forth within the union agreement, the Contractor shall, through its recruitment procedures, fill the employment vacancies without regard to race, color, religion, sex or national origin, making full efforts to obtain qualified persons.

7-1.22 SUBCONTRACTING

The Contractor shall use its best efforts to assure subcontractor compliance with their Equal Employment Opportunity obligations.

7-1.23 DEBARRED CONTRACTORS AND SUBCONTRACTORS

Pursuant to Public Contract code § 6109, Contractors and subcontractors who are ineligible pursuant to Labor Code §§ 1777.1 and 1777.7 are prohibited from work on the project

7-1.24 NOTICES AND POSTERS

The Contractor shall make known its Equal Employment Opportunity responsibilities under this Contract by the following methods:

- A. Executed copies of the Contractor's *Fair Employment Practices Statement* shall be:
 - 1. Conspicuously posted in all areas where job applicants and potential employees appear for purposes of gaining employment by the Contractor;
 - 2. Conspicuously posted on all employee bulletin boards and in other areas where employees of the Contractor congregate; and,
 - 3. Transmitted to each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding, and to all other sources or employee referrals, including schools and employment agencies.
- B. Posters containing the following wording shall be conspicuously posted in all areas where job applicants and potential employees appear for purposes of gaining employment by the Contractor: "(NAME OF CONTRACTOR)" is an Equal Employment Employer."
- C. The Contractor's Equal Employment Opportunity policy, as described in these Specifications, and shall be distributed in written form to all employees.

7-1.25 FAIR EMPLOYMENT PRACTICES STATEMENT

The Contractor shall execute the following Fair Employment Practices Statement:

"Fair Employment Practices Statement": (Name of Contractor) is an Equal Employment Opportunity Employer, as such has adopted the policy and will take affirmative action to employment without regard to their race, color, religion, ancestry or national origin. On (Date), (Name of Contractor) was awarded a public works contract by the Town of Los Gatos, a municipal corporation situated in the County of Santa Clara, State of California, for the work of (Name of Contract). Under said Contract (Name of Contractor) has agreed to comply with those Equal Employment Opportunity Conditions described in Section 7 of the Contract Documents for said project, and has agreed, among other things, that damages will be paid to the Town in event it is found that the requirements of said Conditions have not been satisfied.

Dated: _____

Signed: _____

7-1.26 RECORDS

The Contractor shall keep such records as are necessary to determine compliance with its Equal Employment Opportunity obligations under this Contract. Such records shall be retained for a

period of 2 years following completion of the project. Such records show:

- A. The number of minority and non-minority group members employed in each work classification on the project.
- B. The efforts and progress being made in cooperation with unions to increase minority group employment opportunities (applicable only to Contractors who rely in whole or in part on Unions as a source of their work force).
- C. The efforts and progress being made in locating, hiring, training, qualifying, and upgrading employees.

The above-described records, together with the Contractor's records of employment, employment advertisements, application forms, and other pertinent data shall, upon request, be opened to inspection and copying by the Director of Parks and Public Works or the Director of Parks and Public Works authorized representative, or any other agency of the State of California designated by the Director of Parks and Public Works, for purposes of investigating whether the Contractor has complied with the Equal Employment Opportunity conditions of this Contract.

7-1.27 REPORTS

Between the date of the award of the Contract and the date of the commencement of work on the project, the Contractor shall in conformity and compliance with the directions of the Director of Parks and Public Works, submit to the Director of Parks and Public Works a basic compliance report which shall include the following:

- A. The name, business address and telephone number of the Contractor's Equal Employment Opportunity Officer.
- B. An executed copy of the Contractor's Fair Employment Practices Statement.
- C. A description of the Contractor's sources of potential employees, and the identity of the person or persons who have responsibility for determining who the Contractor will hire and whether or not to hire.
- D. Such evidence as is required by the Director of Parks and Public Works, showing that the Contractor has notified all supervisors, foremen, and other personnel officers, in writing, of the content of the Contractor's Equal Employment Opportunity policy.
- E. Such evidence as is required by the Director of Parks and Public Works showing that the Contractor has transmitted its *Statement of Fair Employment Practices* to all sources of employee referrals.
- F. Such evidence as is required by the Director of Parks and Public Works showing that the Contractor has posted bulletins, posters, and the *Fair Employment Practices Statement* in the manner required by these Equal Employment Opportunity Conditions.

7-1.28 BREACH OF EQUAL EMPLOYMENT CONDITIONS

In the event the Director of Parks and Public Works, as a result of supervising the Contractor's performance under the Contract or after investigating a complaint by a third party, finds that the Contractor is or has been in violation of its agreement to comply with these Equal Employment Opportunity Conditions, notice of such violations shall be filed with the Director of Parks and Public Works and given to the Contractor by depositing same in the United States mail, postage prepaid, addressed to the last known business address of the Contractor, with return receipt requested. Not later than 15 calendar days after the filing of said notice with the Director of Parks and Public Works, a hearing shall be held by the Town Council for the purpose of ascertaining whether the charges contained in the notice are true, and, if true, whether the Contractor has failed to make a reasonable and substantial effort to comply with these Equal Employment Opportunity Conditions. Notice of the time and place of said hearing shall be given the Contractor not less than 5 days prior thereto in the same manner as the notice of violations is given. During said hearing, the Town Council shall receive and consider any evidence offered by the Director of Parks and Public Works, the Contractor, and any third party. At the conclusion of said hearing, the Town Council shall determine the matter and its determination shall be final.

If after the hearing above described the Town Council determines that the Contractor has failed to comply with these Equal Employment Opportunity Conditions, and has failed to make a reasonable and substantial effort to comply with said conditions, the Contractor shall be deemed in material breach of the Contract. It is understood that the Owner will have suffered damage by virtue of said breach; and it being impractical and unfeasible to determine the amount of actual damage, it is agreed that the Contractor shall pay to Owner, as fixed and liquidated damages, and not as a penalty, the sum of \$50.00 for each calendar day during which the Contractor is found to have been in noncompliance. Such monies may be recovered from the Contractor and its Surety. The Owner may deduct any such damages from monies due the Contractor.

7-1.29 DISQUALIFICATION FROM FUTURE CONTRACTS

A finding by the Town Council that the Contractor has failed to comply with these Equal Employment Opportunity Conditions and has failed to make a reasonable and substantial effort to so comply, or a finding of willful violation of the nondiscrimination provisions of the State of California Fair Employment Practices Act, or similar provisions of Federal law or Executive Order, in the performance of work on the project shall be deemed a basis for determining the Contractor to be not a "responsible bidder" as to future contracts for which the Contractor may submit bids. A finding of willful violation of the nondiscrimination provisions of the State of California Fair Employment Practices Act shall be deemed to have occurred upon receipt by the Owner of written notice from the California Fair Employment Practices Commission that it has investigated and determined that the Contractor has violated said Fair Employment Practices Act and has issued an order under Government Code §12970, or obtained judgment and order of enforcement under Government Code §12973.

7-1.30 OTHER REMEDIES

Nothing contained in these Equal Employment Opportunity Conditions shall be construed in any manner or fashion so as to prevent the Owner from pursuing any other remedies that may be available at law or in equity.

7-1.31 PUBLIC WORKS CONTRACTS; ASSIGNMENT TO AWARDING BODY

In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act ([15 U.S.C. Sec. 15](#)) or under the Cartwright Act (Chapter 2 of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract (California Public Contract Code §7103.5). This assignment shall be made and become effective at the time the Owner tenders final payment to the Contractor, without further acknowledgment by the parties.

7-1.32 UNFAIR BUSINESS PRACTICE CLAIMS

Pursuant to Public Contract Code § 7103.5, the Contractor agrees to assign all unfair business practices claims under the Clayton Act and the Cartwright Act to the Town of Los Gatos.

7-1.33 CLAIMS

The Contractor shall not be entitled to the payment of any additional compensation for any act, or failure to act, by the Engineer, including failure or refusal to issue a change order, or for the happening of any event, thing, occurrence, or other cause, unless the Contractor shall have given the Engineer due written notice of potential claim specified in the Standard Specifications and these Special Provisions.

The written notice of potential claim shall set forth the reasons for which the Contractor believes additional compensation will or may be due, the nature of the costs involved, and insofar as possible, the amount of the potential claim. The notice as above required must have been given to the Engineer prior to the time that the Contractor shall have performed the work giving rise to the potential claim for additional compensation, if based on an act or failure to act by the Engineer, or in all other cases within 10 days after the happening of the event, thing, occurrence, or other cause, giving rise to the potential claim. Town may request additional information from Contractor regarding the Contractor's claim which shall be provided to the Town within 10 days of the request. If the Contractor fails to provide notice as stipulated in this section, the Claim will be considered invalid, and no compensation will be allowed therefore.

It is the intention of this section that differences between parties arising under and by virtue of the contract be brought to the attention of the Engineer at the earliest possible time in order

that such matters may be settled, if possible, or other appropriate action promptly taken. The Contractor hereby agrees that they shall have no right to additional compensation for any claim that may be based on any such act, failure to act, event, thing or occurrence for which no written notice of potential claim as herein required was filed.

In addition to the written notice of potential claim, the Contractor shall submit written statement of all claims arising under or by virtue of the contract so that the Engineer receives the written approval or statement of claims no later than close of business of the thirtieth (30th) day after receiving the proposed final estimate. If the thirtieth (30th) day falls on a Saturday, Sunday, or legal holiday, then receipt of the written approval or statement of claims by the Engineer shall not be later than close of business of the next business day. No claim will be considered that was not included in the written statement or claims, nor will any claim be allowed as to which a notice or protest is required under these provisions in Section 4-1.05, "Changes and Extra Work," Section 4-1.06, "Differing Site Conditions," Section 5-1.36D, "Nonhighway Facilities," Section 5-1.43, "Potential Claims and Dispute Resolution," and Section 8-1.10, "Liquidated Damages," of the Standard Specifications unless the Contractor has complied with the notice or protest requirements in those sections.

Claims filed by the Contractor shall be in sufficient detail to enable the Engineer to ascertain the basis and amount of said claims. If additional information or details are required by the Engineer to determine the basis and amount of the claims, the Contractor shall furnish additional information or details so that the additional information or details are received by the Engineer no later than the fifteenth (15th) day after receipt of the written request from the Engineer. If the fifteenth (15th) calendar day falls on a Saturday, Sunday or legal holiday, then receipt of the information or details by the Engineer shall not be later than close of business of the next business day. Failure to submit the information and details to the Engineer within the time specified will be sufficient cause for denying the claim.

The Contractor shall keep full and complete records of the costs and additional time incurred for any work for which a claim for additional compensation is made. The Engineer or any designated claim investigator or auditor shall have access to those records and any other records as may be required by the Engineer to determine the facts or contentions involved in the claims. Failure to permit access to those records shall be sufficient cause for denying the claims.

Claims submitted by the Contractor shall be accompanied by a notarized certificate containing the following language:

Under the penalty of law for perjury or falsification and with specific reference to the California False Claims Act, Government Code Section 12650 et. seq., the undersigned,

(Name)

(Title)

(Company)

hereby certifies that the claim for the additional compensation and time, if any, made herein for the work on this contract is a true statement of the actual costs incurred and time sought, and is fully documented and supported under the contract between parties.

Dated _____

/s/ _____

State of California)
) ss.
County of _____)

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 20____.

Signature of Notary Public

(Notary Seal)

Failure to submit the notarized certificate will be sufficient cause for denying the claim.

Any claim for overhead type expenses or costs, in addition to being certified as stated above, shall be supported by an audit report of an independent Certified Public Accountant. Any claim for overhead shall also be subject to audit by the Town at its discretion.

Any costs or expenses incurred by the Town in reviewing or auditing any claims that are not supported by the Contractor's cost accounting or other records shall be deemed to be damages incurred by the Town within the meaning of the California False Claims Act.

The Engineer will make the final determination of any claim which remains in dispute after completion of the claim review. The Contractor may be allowed to make a presentation in support of those claims.

Upon final determination of the claims, the Engineer will then make and issue the Engineer's final estimate in writing and within 30 days thereafter the Town will pay the entire sum, if any, found due thereon. That final estimate shall be conclusive and binding against both parties to the contract on all questions relating to the amount of work done and the compensation payable therefore, except as otherwise provided in Section 5-1.27, "Records," and Section 9-1.21, "Clerical Errors," of the Standard Specifications.

SECTION 8 PROSECUTION AND PROGRESS

8-1.01 GENERAL

The bidder's attention is directed to the provisions of Section 8, " Prosecution and Progress," of the Standard Specifications, all of which are applicable to this Contract, except that it shall be the bidder's responsibility to contact the utility companies and to determine for itself what, if any utility construction, removal, alteration or relocation work might delay or otherwise affect its operations under this Contract, and the Contractor shall not be entitled to any compensation for such delay or effect, except that time extensions may be granted, at the option of the Engineer as provided for in the Standard Specifications and these Specifications.

8-1.02 PROGRESS SCHEDULE

Prior to beginning work, the Contractor shall submit to the Engineer for approval a detailed construction schedule for accomplishing the Work within the time allowed.
The detailed construction schedule shall include evidence of a capable work force, availability of construction materials and ability to prosecute the Work diligently to completion.

As a minimum, the construction schedule shall identify all major tasks necessary to complete the Work, shall indicate when each such task will be started and how many working days will be used in completing it, shall indicate the time relationship among the activities, and shall indicate the amount of each Contract item that will be completed after each 10% increment of Contract time has elapsed.

Whenever performance falls behind the approved construction schedule rates, the Contractor shall, by the next day, submit to the Engineer for approval, a revised construction schedule indicating how the remaining work will be completed within the remaining time.

The Contractor shall also submit to the Engineer each Friday a detailed plan and schedule for the proposed construction during the following week.

If and when the Engineer determines that the Contractor will exceed the Contract time allowance, plus approved time extensions, the Engineer shall suspend further payments due the Contractor until such time as the revised construction schedule is approved and the Contractor demonstrates satisfactory progress in accordance with the approved revised schedule.

Full compensation for providing, updating, and revising the project schedule shall be considered as included in the contract unit prices paid for the various items of work required to be listed in the progress schedule and no further compensation will be made therefor.

8-1.03 START OF WORK AND TIME OF COMPLETION

The Contractor shall mobilize within the time frame set forth in the Notice to Proceed and the Special Provisions. Entire contract shall be completed within the time set forth in the Notice after Contractor's receipt of said Notice.

8-1.04 LIQUIDATED DAMAGES

Liquidated damages will be assessed as noted in Section 4 of the Special Provisions for each calendar day any work remains incomplete beyond the time fixed above for completion.

8-1.05 ADJUSTMENT AND PRESERVATION OF UTILITIES

This section is supplemental to the Standard Specifications. In case of conflict, these conditions shall govern insofar as applicable.

It shall be the sole responsibility of the Contractor to pothole and verify the exact locations and depths of all utilities prior to making borings or excavations. Power poles and overhead wires shall be protected. Call Underground Service Alert (USA) at 1-800-227-2600 prior to any digging.

The Contractor shall notify the Engineer of the Contractor's findings in writing where possible conflicts may exist.

The Contractor shall bear full responsibility for all damages and cost of repairs to existing utilities and surface improvements that are to remain or not in direct conflict. If any utilities or improvements, including sprinklers, are damaged during the course of construction, all expenses, or whatever nature, arising from the restoration of improvements to its original conditions shall be borne by the Contractor, and no additional compensation shall be allowed therefor.

Any damaged, broken or cracked utility boxes must be brought to the attention of the Public Works Inspector prior to construction or the Contractor shall assume liability for the damaged boxes.

Unless otherwise indicated on the drawings or specified herein, the Contractor shall maintain in service all water, gas, and sewer lines and any lighting, power, and telephone surface and sub-surface structures of any nature that may be affected by the work.

If the Contractor fails to maintain and protect such facilities, the Town of Los Gatos reserves the right, if requested by the owners of the utilities, to permit the Owner to move or maintain the utilities at the Contractor's expense.

Should it become necessary in the performance of the work to disconnect or re-route any underground utility due to a direct conflict with the new work, Contractor shall inform the respective utility company involved.

8-1.06 SUPERVISION

The Contractor shall have a qualified superintendent on the job site at all times when the work is in progress. The Contractor shall submit the superintendent's name and resume of experience to the Engineer for approval at the pre-construction meeting.

8-1.07 PRE-CONSTRUCTION CONFERENCE

The Contractor shall arrange for a pre-construction conference meeting with the Engineer. This meeting shall be held at least one (1) week before the Contractor intends to start construction.

At the pre-construction conference, the Contractor shall provide the Engineer with the name(s) and telephone number(s) of the Contractor's personnel who can be reached and who can respond during non-working hours in the event of an emergency or other contingency requiring the Contractor's immediate attention.

SECTION 9 MEASUREMENT AND PAYMENT

9-1.01 GENERAL

The bidder's attention is directed to the provisions of Section 9, "Payment," of the Standard Specifications, all of which are applicable to this Contract.

9-1.02 MEASUREMENT AND PAYMENT

- A. Payment for Increased or Decreased Quantities. Should there be any variance between the estimated amount of the work to be done and the actual amount of authorized work performed, the provisions of Section 4. "Scope of Work," which provide for an adjustment of the unit price by reason of overruns or underruns in excess of 25% of the Engineer, shall apply.

It is the Contractor's responsibility to continually analyze and apply the estimated quantities provided in the Contract Documents and to use the knowledge gained from site visits, construction, and professional experience, to update the estimated quantities as the work progresses. If and when the Contractor reaches 90% of the estimated quantities of materials required for any portion of the work as specified in the Plans and Specifications and has any reasonable belief that the Contractor will be required to exceed those estimated quantities by more than 10%, the Contractor shall provide written notice to the Owner of the possibility and the estimated quantities required to complete the work. If the Contractor fails to provide that written notice before delivering materials in excess of the originally estimated quantities, the Contractor shall not be entitled to any additional compensation or payment for the additional work or materials needed for the additional materials above 110%, but nevertheless shall be required to complete the Work.

- B. Progress Payments. On or before the 20th day of each month, the Contractor shall prepare and forward to Owner an estimate, in writing, of the total amount of the work completed in place, and the value thereof as of the 15th day of each month.

The Owner shall retain 5% of such estimated value of the work completed in place, unless otherwise approved by the Engineer, and shall pay to the Contractor, while carrying on the work, the balance not retained, as aforesaid, after deducting therefrom all previous payments, and all sums to be kept or retained under the provisions of this Contract. No such estimate or payment shall be construed to be an acceptance of any defective work or improper materials.

Work completed in place, as estimated, shall be an estimate only, and no inaccuracy or error in said estimates shall operate to release the Contractor or any Surety from damages arising from such work or from enforcing each and every provision of this Contract, and the Owner shall have the right subsequently to correct any error made in any estimate for payment. The Contractor shall not be entitled to have any payment

estimates processed, or be entitled to have any payment made for work performed, so long as any lawful or proper direction concerning the work or any portion thereof given by Owner or the Engineer are not addressed. In addition to the amount which Owner may retain, as provided herein above, the Owner may withhold a sufficient amount or amounts of any payment or payments otherwise due to the Contractor as in its judgment may be necessary to cover:

1. Payments which may be past due and payable for just claims against the Contractor or any subcontractor for labor or materials furnished in or about the performance of the work on the project under this Contract;
2. For defective work not remedied;
3. For failure of the Contractor to make proper payments to any of the Contractor's subcontractors;
4. A reasonable doubt that the Contractor will complete the work within the agreed time limits;
5. Costs to the Owner resulting from failure of Contractor to complete the work within the proper time;
5. Damage to other work on property;
6. Potential liquidated damages.

Whenever the Owner shall, in accordance herewith, withhold any monies otherwise due the Contractor, written notice of the amount withheld and the reasons therefor shall be given the Contractor, and when the Contractor shall remove the grounds for such withholding, the Owner will promptly pay the Contractor the amount so withheld.

- C. Progress Payment Requests. Pursuant to Public Contracts Code §20104.50, the Owner will promptly process all requests for progress payments pursuant to this Contract. As to any undisputed payments that are made more than 30 days after receipt of an undisputed and properly submitted payment request from the Contractor, the Owner will pay interest equivalent to the legal rate set forth in Code of Civil Procedure §685.10. This section shall not apply to progress payments received between July 1 and August 1 which may take up to an additional 6 weeks to process payments.
- D. Acceptance of the Work and Final Payment
 1. The final payment for the work done under this Contract shall be made 60 calendar days after acceptance of the work by Owner.
 2. Owner shall deduct from the final payment for the work done under this Contract any unpaid fees for business licenses required in conformance with Section 1-1.06 of these Specifications.
 3. Upon receipt of written notice from the Contractor that the work is ready for final inspection and acceptance, the Engineer shall promptly make such inspection, and when the Engineer finds the work acceptable under this Contract and this Contract fully performed, the Engineer shall promptly issue a final certificate to Governing Body or Owner, stating that the work provided for in this Contract has been completed and is accepted by Engineer under the terms and conditions thereof.

4. Acceptance of the work will be made by the Governing Body of Owner only upon filing with said Governing Body of a certificate by the Engineer showing the work has been given a final inspection and approval by Engineer and that Contractor has submitted satisfactory evidence to the Engineer that all payrolls, material bills, and other indebtedness connected with said work have been paid. The acceptance will be made only by action of the Governing Body of Owner to regular session.
5. If, after the work has been substantially completed, full completion thereof is materially delayed through no fault of Contractor, and Engineer so certifies, Owner shall, upon certificate of the Engineer, and without terminating this Contract, make payment of the balance due for that portion of the work completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.
6. The acceptance by Contractor of said final payment shall constitute a waiver of all claims against the Owner arising under this Contract.

Submission of Requests for Payment/Invoices. The Contractor shall submit all original requests for payments or invoices directly to the Owner as follows: Town of Los Gatos Finance Department, Attn: Accounts Payable, Post Office Box 655, Los Gatos, California 95031. A copy of such request or invoices shall also be sent to the Engineer.

Void Contract Provisions. Payment of undisputed contract amounts by the Owner are contingent upon the Contractor furnishing the Owner with a release of all claims against the Owner arising by virtue of the public works contract related to those amounts. Disputed contract claims in stated amounts may be specifically excluded by the Contractor from the operation of the release.

Damages. Any provision in the Contract which limits the Owner's liability to an extension of time for delay for which the Owner is responsible and which delay is unreasonable under contemplation of the circumstances involved, and not within the parties' control, shall not be construed to preclude the recovery of damages by the Contractor or subcontractor. This section shall not be construed to void any provision in this Contract which requires notice of delays, provides for arbitration or other procedure for settlement, or provides for liquidated damages.

PART III- SPECIAL PROVISIONS & TECHNICAL SPECIFICATIONS

SECTION 10 TECHNICAL SPECIFICATIONS & SPECIAL PROVISIONS

SECTION 10-1 GENERAL CONSTRUCTION REQUIREMENTS

Project Plans

ATTACHMENT A – Message Schedule and ATTACHMENT B – Final Design Intent shall be considered as the Plans & Technical Specifications.

Mobilization

Mobilization shall not be separately paid for but shall be considered as included in the payments for other items of work. This shall include full compensation for furnishing all labor and materials, including tools, equipment and incidentals, and for performing all of the work involved in placing, removing, storing, maintaining, moving to new locations, replacing and disposing of equipment and materials as specified in the Standard Specifications, these Special Provisions, and as directed by the Engineer.

Order of Work

Order of Work shall conform to the provisions in Section 5-1.02, “Contract Components,” of the Standard Specifications and these Special Provisions.

At least five (5) working days before any work is started, the Contractor shall furnish to the Engineer a written schedule for the work, listing the dates on which individual areas are to be subject to project related work and the extent of impact caused by the work. Additionally, the Contractor shall submit any request for approval for special traffic consideration including but not limited to lane closures, etc. The Contractor shall thenceforth adhere diligently to said written schedule in the prosecution of the work.

Work for this project needs to be coordinated with the FY 2022/23 Street Repair and Resurfacing Project. Resurfacing work will generally follow the concrete work, but certain work may need to occur around the same time. The Engineer shall be the main contact for the coordination of the work.

The concrete project is anticipated to start construction on Monday, May 1 with a tentative completion of June 12, 2023.

The street may not be available for work if scheduling is not requested by the Contractor and approved by the Engineer (5) working days prior to the desired workday.

Attention is directed to Section 10-2, “Traffic Control Requirements,” of these Special Provisions.

Cooperation

Attention is directed to Section 5-1.36D, "Nonhighway Facilities," of the Standard Specifications.

It is the Contractor's responsibility to work with utility companies to coordinate the removal, relocation, raising to grade, installation of the new facilities, or any other utility work as shown on the plans or indicated in the specifications with the appropriate utility company. The Contractor shall provide advance notification and shall allow sufficient time and work space for the utility company to complete the work necessary.

If in the opinion of the Engineer, the Contractor's operations are delayed by reason of utility facilities not being removed or relocated, the Contractor will be entitled to an extension of time only. The Contractor shall be entitled to no other compensation for such delay.

Progress Schedule

The Contractor shall submit a project progress schedule for approval by the Engineer within eight (8) days, not including Saturdays, Sundays, and legal holidays from the date of the Notice of the Award of Contract or 3 days before the pre-construction conference, whichever comes first. Failure to submit an acceptable progress schedule shall result in rejection of the Contractor's proposal. The progress schedule shall be in the form specified below unless otherwise specified in the Special Provision or approved by the Engineer. Updated progress schedules shall be provided by the Engineer monthly with the estimates of work required in Section 9-1.16, "Progress Payments," of the Standard Specifications. No partial payments will be made for any work until an updated schedule has been submitted and approved by the Engineer. Updated schedules shall incorporate all current schedule information, including actual progress, approved time adjustments, and proposed changes in sequence and logic.

The Contractor must furnish a computerized schedule prepared by the critical path method (CPM) which shows the order in which the Contractor proposes to carry out the work; the sequence and interdependence of construction activities; all salient features of the work (including procurement of materials and equipment); the dates on which the Contractor will start the salient features of the work; and the scheduled dates for completing the said salient features. The construction schedule shall include:

- a. Time for submittals and reviews;
- b. Time for fabrication and delivery of manufactured products for the work; and
- c. The interdependence of procurement and construction activities.

The construction schedule shall:

- a. Be a timescaled network diagram referenced to specific calendar dates;
- b. Include time for the Engineer to review submittals or inspect the work; and
- c. Identify the activities which constitute the controlling operations or critical path.

The construction schedule shall not contain multiple critical paths.

Scheduling of change order work is the responsibility of the Contractor. The Contractor shall revise the schedule to incorporate all activities involved in completing the change order work, and submit a new schedule to the Engineer for review.

Delays or changes to non-critical activities will not be considered for a contract time extension. Non-critical activities are those activities which when delayed, do not affect the contract completion time.

The project schedules submitted shall be consistent in all respects with the time and order of work requirements of the contract. The Engineer, at his or her sole discretion, retains the right to reject any and all construction schedules submitted by the Contractor, including when the Engineer determines that the Contractor has too many items on the Critical Path, or the logic of the schedule is in error, or if the Engineer determines salient items of work are missing from the schedule.

Subject to the above provisions, nothing herein shall preclude the Contractor from early completion of the contract.

The Contractor shall submit updated progress schedules to the Engineer as a condition of approval for the monthly progress payments and final acceptance.

Record Drawings

The Contractor shall keep and maintain on the job site, one record set of drawings. On these, the Contractor shall mark all project conditions, locations, configurations, and any other changes or deviations which may vary from the details represented on the original contract documents, including buried or concealed construction and utility features which are revealed during the course of construction. Final payment will not be approved until the Contractor prepared record drawings have been delivered to the Engineer.

General Measurement and Payment Requirements

The Contractor shall submit in all field quantities completed to date for payment with each monthly pay estimate. The Contractor shall provide, in writing, who from their team will be responsible for field measuring quantities with the Town's representative. Upon completion of a contract bid item, the Contractor's representative shall field measure the final quantities with the Town's representative. This agreed upon amount will be considered final and no re-measuring of these field quantities will be allowed without the approval of the Engineer. All supporting documentation required for payment of an item, shall be submitted by the Contractor within two pay periods following the work. Documentation submitted more than two pay periods after the work was completed will not be paid and the cost of this work shall be borne by the Contractor.

Truck Routes

Per the Town Ordinance Section 15.30.410, the following streets and highways or portions

thereof within the Town limits are designated Truck Routes and are authorized for use by operators of trucks and other vehicles, which exceed a maximum gross weight of ten thousand (10,000) pounds:

- Highway 17
- Los Gatos-Saratoga Road (Highway 9)
- Los Gatos-Almaden Road
- Los Gatos Boulevard
- Blossom Hill Road
- Winchester Boulevard
- Lark Avenue

Other Town streets are unauthorized for truck routes unless otherwise approved by the Engineer.

Hours of Work

Unless otherwise approved in writing by the Engineer or specified in these Special Provisions, the hours of work for this project are Monday through Friday, 8:00 AM to 5:00 PM, unless otherwise approved by the Engineer.

The work hours will be strictly enforced. The Engineer has full authority to implement the working hours and completely shut down the construction operations outside the hours of work specified. Should the provisions of this section not be met, liquidated damages of One Thousand Dollars (\$1,000.00) for every 60-minute time period (or portion thereof) beyond the hours of work allowable shall be withheld from moneys due to the Contractor.

24-Hour Contact Number

The Contractor shall assign a project superintendent who has the complete authority to make decisions on behalf of the Contractor. The project superintendent shall be on the job at all times during construction and shall be available and on call 24 hours a day for the duration of the project. The Contractor shall provide to the Engineer and to the Los Gatos-Monte Sereno Police Department a 24-hour contact number for the project superintendent. This number shall not direct calls to a recorder or other message taking service.

Advance Public Notification

Two weeks prior to beginning any work in an area, the Contractor shall deliver written notice to all adjoining residents and businesses, tenants and other applicable parties listed below and all other properties where their only ingress/egress is through the project's work area. Individual or separate notices shall be given for general construction activity in an area as well as specific activities which will, in any way, inconvenience the resident/property owner/tenant or affect their operations or access to their properties. Such notices shall include the expected date for start of construction, a general description of the construction activity to take place, expected duration of the activity, and the name, address, and the contact number of the Contractor's

superintendent. The Contractor shall provide accurate information regarding the construction schedule and activities to be incorporated into the “two-week” notification. The Contractor shall make every effort to coordinate work with individual residents and businesses whose access will be disrupted in order to minimize the disruption and impacts on the resident or business.

The Contractor shall also provide and hand-deliver two “two-day” notices. The first notice shall be distributed two working days prior to the rubberized chip seal placement. The second notice shall be distributed two days prior to the application of the slurry seal. The “two-day” notices shall be delivered to all adjoining residents and businesses, tenants, and other applicable parties listed below and any other properties whose sole ingress/egress is through the project’s work area.

Copies of all notices shall be provided to the Engineer for approval five (5) working days prior to the desired distribution date.

Should the Contractor’s schedule change and/or differ in any capacity from the schedule initially mentioned in the notification to the resident/property owner/tenant or from the updates to the Town website, the Contractor shall re-notify all applicable parties (residents/property owner/tenant and/or businesses mentioned below) five (5) working days prior to the beginning of any work on that street.

The Contractor shall contact and coordinate the work with the following parties throughout the project. The “two-week” and “two-day” notifications shall also be given to the following parties prior to beginning any work:

Santa Clara Valley Transportation Agency—(408) 321-2300
West Valley Collection and Recycling—(408) 283-8500
U.S. Postal Service—Post Master—(408) 395-7526
Los Gatos/Monte Sereno Police Department—(408) 354-8600
Santa Clara County Fire Department—(408) 378-4010

The Contractor shall also give written notice to residents, businesses, medical offices, etc. for any driveway closures or anticipated service disruptions. The notice shall be distributed two working days prior to the anticipated disruption. The Contractor shall coordinate all disruptions with the appropriate utility, property owner, resident, business and the Town. Notice shall be given in advance and specify the duration of the disruption of any utility, and the temporary closure of access to any driveway. Such notice will comply with the requirements for closure of driveway access as specified under Special Provision Section 10-2, “Traffic Control Requirements.”

Lack of proper advance notification and coordination shall result in the work being shut down. All costs associated with the stoppage of work shall be borne by the Contractor.

Meetings

Prior to commencement of any work on the project, a pre-construction conference will be scheduled by the Town and held at the Town's Engineering Building or hosted via virtual meeting for the purpose of review and discussion of the project schedule and construction procedures. The Contractor's project manager and/or project superintendent and representatives from all listed subcontractors shall be required to attend the pre-construction conference. The Contractor shall prepare and submit at the pre-construction meeting the proposed project schedule, water pollution control plan, traffic control plan, public notification letter, and other submittals as specified under Section 8, "Materials," of the Special Provisions.

The Contractor shall also schedule and conduct weekly field meetings at locations to be determined by the Town. The meetings shall be held at the same time and place each week and shall include all subcontractors working on the project and discussions of scheduled work on the project during the week of the meeting. The Contractor shall notify the Engineer of the time, date, and location of these meetings 72 hours in advance of the first meeting. Detailed schedules for the following two weeks shall be submitted to the Engineer at each weekly meeting.

Waste Haulers and Recycling Operations

The Contractor shall not impair or impede waste hauler and recycling operations scheduled to be conducted within the project area. It is the Contractor's responsibility to determine which waste hauler and recycling operators are scheduled to operate within the project area, and to develop a project schedule that will not impair or impede the waste hauler or recycling operations.

Project Appearance and Street Sweeping

The Contractor shall maintain a clean work site. Debris developed during construction shall be disposed concurrently with its generation. Stockpiling of debris or construction materials shall not be allowed unless otherwise approved by the Engineer.

The Town prohibits the use of any public property or public right-of-way locations as construction staging points, unless specifically approved by the Engineer.

Right-of-Way

The Contractor shall operate within the public right-of-way only.

Work in Private Property

The Contractor shall secure right-of-entry agreements with each private property owners before any work in private properties. The language for the right-of-entry agreement must be approved by the Town.

Tree Protection

The Contractor shall comply with the Town Ordinance Chapter 29, Division 2, "Tree Protection." The Contractor shall provide protective tree fencing per the Town Ordinance Sec. 29.10.1005,

“Protection of trees during construction.” The Engineer and Town Arborist shall be notified of any damages that occurs to a protected tree during construction.

Staging/Disposal Areas

The Contractor shall survey the area for construction staging. Staging areas shall not be located in a residential area.

The following requirements shall apply to the contractor’s staging area:

- No stockpiles or staging area will be allowed in the right-of-way or on undeveloped lots unless specifically approved by the Engineer
- The staging area will be included in the Contractor's SWPPP
- The staging area will not be located in an environmentally or culturally sensitive area and/or impact water resources (rivers, streams, bays, inlets, lakes, drainage sloughs).
- The staging area will not be located in a regulatory floodway or within the base floodplain (100-year).
- The staging area will not affect access to properties or roadways.

The Contractor shall obtain the approval of the Engineer before staging equipment or storing materials in the public right-of-way or on Town property. In addition, the Contractor shall provide proof of an agreement when using private property for staging, if requested by the Engineer.

All debris shall be hauled off and disposed of the same working day in which the material was generated.

Personal vehicles of the Contractor’s employees shall not be parked in the neighborhood or on the traveled way. When entering or leaving roadways carrying public traffic, the Contractor’s equipment, whether empty or loaded, shall in all cases yield to public traffic and shall travel in the normal direction of travel.

Dust Control

The following requirements shall be applicable to this contract in lieu of the requirements of Section 14-9.03, “Dust Control,” of the Standard Specifications:

- A. The Contractor shall provide an acceptable plan for preventing the generation of dust due to the Contractor’s operations in the construction zones, along the haul routes, or equipment parking areas. This plan may consist of water sprinkling sweepers or an equivalent service. No separate payment will be made for dust control and all costs in connection therewith shall be included in the payment items to which the work is incidental.
- B. In the event the control of dust is not satisfactory to the Owner, the Owner shall take such measures as may be necessary to ensure satisfactory dust control and deduct the cost of such measures from any payments due to the Contractor.

Water for Construction

The costs of water as required for the construction and post-construction on this project, including dust control, shall be considered as included in the costs of items bid for applicable item of work and no separate payment will be made therefor. The Contractor shall conform to the requirements of the water company from which water is purchased. In no case shall the Contractor violate the Town's water conservation ordinance.

Sanitation

The Contractor shall provide for sanitary facilities for the use of the workers on the job. Such facilities shall be placed and maintained by the Contractor so as not to be a nuisance to the neighbors, nor offensive to the senses nor the community standards of decency. The Engineer shall be the sole judge of the adequacy of the facility, the placement, and the maintenance thereof. Upon notification by the Engineer of deficiencies in any of these areas, the Contractor shall make immediate corrections. Failure to take corrective action within 24 hours shall give the Engineer due cause to stop the work in the contract and to order the corrective work to be done on the sanitary facility and to charge all costs of such work against the monies due or to become due to the Contractor.

Water Pollution Control

Water pollution control work shall conform to the provisions in Section 13, "Water Pollution Control," of the Standard Specifications and these Special Provisions, with the exception of payment. Payment shall be covered under "Measurement and Payment" under Section 10-1 of these Special Provisions.

The Contractor shall be responsible for ensuring that all work conforms to the "Best Management Practices for the Construction Industry" found in the Storm Water Pollution Prevention Plan (SWPPP), the "Blueprint for a Clean Bay" handout, and the Town Code.

The Contractor shall comply with the requirements of the State Water Resource Control Board (SWRCB) National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharge Associated with Construction and Land Disturbance Activities.

The Contractor shall not violate any discharge prohibition contained in the California Regional Water Quality Control Board San Francisco Bay Basin Water Quality Control Plan ("Basin Plan").

A storm water information handout, "Blueprint for a Clean Bay," has been prepared for this contract and is available in **ATTACHMENT C**.

Measurement and Payment

Full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all of the work involved in compliance with the Plans, Specifications and Special Provisions of Section 10-1, "General Construction Requirements," shall be deemed included in the price paid for other contract items and no additional compensation shall be allowed

therefore.

SECTION 10-2 TRAFFIC CONTROL REQUIREMENTS

General

Traffic control shall conform to the provisions of Section 12 "Temporary Traffic Control" of the 2018 Standard Specifications, the California 2014 Manual on Uniform Traffic Control Devices (CA MUTCD) with latest revisions, and these Special Provisions. Nothing in these Special Provisions shall be construed as relieving the Contractor from the responsibilities specified in Section 7-1.04, "Public Safety," of the 2018 Standard Specifications and these Special Provisions.

The traffic control plan shall be prepared in compliance with the Caltrans Standard Plans and/or CA MUTCD and shall be prepared by a certified traffic engineer or a qualified traffic control professional. The Contractor shall submit a scaled drawing with detailed information, such as lanes to be closed or narrowed, time and days of operation, transitions, cones and barricades, signs, arrow boards, pedestrian and bicycle provisions, etc. The traffic control plan should show length of transitions, cone spacing, sign spacing, etc. based on the posted speed limits or the posted construction zone speed limits. The traffic control plan shall also include a provision for the Contractor to contact and coordinate with the Valley Transportation Authority (VTA) if a bus stop is affected.

The Contractor shall maintain a safe workplace throughout the job including, but not limited to, providing all flaggers, safety equipment, flashing arrow boards, changeable message signs (minimum of two), traffic control devices; maintenance of barricades, safe pedestrian passages along sidewalks, maintenance of handicap access throughout the project site where applicable and maintenance of pavement within the limits of the roadway and driveways with a suitable traffic bearing surface.

The Contractor shall provide and maintain all necessary traffic control devices to ensure safe pedestrian and vehicular access through and around the job site. Warning signs shall be installed at locations in accordance with the CA MUTCD—Part 6: "Temporary Traffic Control." The Contractor shall fulfill the requirements of this section, 24 hours per day, seven days a week, including holidays, from the time the Notice to Proceed is issued until the project is formally accepted.

Should the Contractor fail to perform these duties, the Engineer, at the Engineer's sole discretion, may elect to have City, or contract forces, perform the duties, deducting the expenses incurred from any moneys that are due, or to become due, to the Contractor. By exercising this option, the Contractor is in no way relieved of the responsibility to perform these duties.

The Contractor shall provide a minimum of two competent and qualified flaggers dedicated solely to directing traffic if traffic lanes have been reduced to only one lane for two-way traffic,

in and out of driveways and cross-streets and/or across the construction area as deemed to ensure safe traffic control during construction operations. Flaggers shall be equipped with all necessary tools to properly control the traffic.

Traffic Control/Management Plan

A traffic control plan shall be submitted by the Contractor to the Engineer a minimum of five (5) working days prior to any work commencing on the project. The traffic control plan shall be reviewed and accepted by the Engineer prior to any work commencing on the project. All traffic plans shall be prepared in accordance with Part 6, "Temporary Traffic Control," of the CA MUTCD, Section 12 "Temporary Traffic Control," of the 2018 Standard Specifications, and these Special Provisions.

No Parking Signs

Prior to the start of work which requires parking restriction, the Contractor shall request approval to post and maintain temporary "No Parking" signs on each street where the operations will take place. It shall be the Contractor's responsibility to post "No Parking" signs in the areas where the Contractor's work will require restricted parking. The Town will provide signs for the Contractor's use. To be enforceable, the signs must be posted not less than 72 hours prior to the start of the work at a maximum spacing of 60 feet. The signs must clearly show the date(s) and hours of the parking prohibition, as well as the date and time the signs were posted, and the project name and contractor's phone number. If the work is not performed during the timeframe indicated on the "No Parking" signs, the work will be rescheduled with at least five (5) working days advance notice. The Contractor shall perform all re-posting of "No Parking" signs and re-notification of businesses, tenants, and residents as a result of his failure to meet the posted schedule. Any delays caused by failure of the Contractor to adhere to the approved schedule will be at the Contractor's sole expense. No additional compensation will be allowed for costs resulting from said delays.

The Contractor shall remove the "No Parking" signs immediately when they are no longer needed for use in the respective area of the project. The Contractor shall notify the Los Gatos/Monte Sereno Police Department directly after posting and immediately upon removal of the said signs at (408) 354-8600.

During the morning of each scheduled workday, the Contractor shall be responsible for calling the Los Gatos/Monte Sereno Police Department Police Dispatch to tow cars, if necessary, as approved by the Engineer. The Contractor shall have available for the police responding to the call photo documentation of the "No Parking" signs being posted if the signs were removed or vandalized the previous night.

Detours, Temporary Striping, and Barriers

Any approved detours or barriers, signing and striping necessary to complete the construction of the project shall be provided, installed, maintained, and removed by the Contractor at his expense. Temporary striping shall be self-sticking traffic marking tape, vinyl or otherwise, developed for such use, and shall be used for temporary striping as required, unless shown

otherwise on the plans or specified in the special provisions. No painted temporary striping or markings will be allowed unless the temporary markings will be entirely covered by the permanent markings.

Notify the Los Gatos/Monte Sereno Police Department daily at (408) 354-8600 of street or lane closures or detours within the roadway prior to setting up and upon removal of traffic control devices.

Additional Construction Area Signs and Controls

In addition to the requirements of the CA MUTCD, the following traffic controls will be required as specified by the Engineer. These additional requirements in no way relieve the Contractor from his obligation to comply with the standards set forth in that manual.

- "Road Work Ahead" (Type C-23(CA)) signs shall be posted in advance of the first major cross street before the start of the work zone to allow traffic to avoid the work zone prior to entering the zone. The signs shall also be posted at the approaches to the project site.
- "End Road Work" (Type G20-2) signs shall be placed at all public road exits from the project site.
- The Contractor shall provide, install and maintain a minimum of four (4) lighted barricades for each individual construction site for concrete improvements (i.e. for curb and gutter removal & replacement and for accessibility ramp installation).
- Changeable message board signs will be used starting one (1) week prior to construction beginning and will be maintained in place until construction impacts to the public no longer exist as determined by the Engineer.
- "Bikes May Use Full Lane" (R4-11)—modified for temporary construction sign

The Contractor shall be responsible for locating existing poles on which to mount these signs or shall provide temporary stands or poles on which to place the required signs. The Engineer shall approve the method of attachment to existing poles prior to sign installation. No sign shall be mounted on decorative street light poles unless the Contractor can clearly show that the mounting method will not damage the finish on the poles.

Upon completion of the work, the signs and posts shall be removed and disposed of outside the public right of way in conformance with the provisions in the Standard Specifications.

Maintenance of Pedestrian Access and Circulation

Safe pedestrian access and circulation that is fully wheelchair accessible shall be maintained by the Contractor through or around the project area. All walkways, pedestrian crossings, ramps and other pedestrian facilities removed or blocked by the Contractor's operations shall be replaced with temporary facilities unless otherwise approved by the Engineer.

Pedestrian access at each individual project site may be diverted for a maximum of five (5) calendar days with approved traffic control plan. Drop off from existing improvements to

excavated areas shall be temporarily ramped. Ramps shall be maintained at 12:1 or flatter with compacted sub-grade or base rock material until final improvements are installed.

Lane Closures

Requests for lane closures shall be made a minimum of five working days prior to the proposed closure. Once the lane closure has been approved by the Town, the Contractor shall post a minimum of five (5) working days in advance of the proposed lane closure a changeable message board sign at the limits of each closure or as specified by the Engineer. These changeable message board signs shall also be used on the day of the actual closure. The changeable message board signs shall indicate the days and hours of the proposed lane closure and the type of work being done during that lane closure.

Flashing arrow signs shall be used for all lane closures. The Contractor shall check with the Engineer to confirm any lane closure restrictions that may be in effect before closing any lanes.

The Contractor shall leave the streets open to traffic until just prior to starting the work, and will provide all barricades, signs and traffic control measures necessary to protect the work.

No work that interferes with public traffic shall be performed outside of the working hours, except as otherwise approved by the Engineer. All traffic lanes shall be open to traffic outside of the working hours.

A minimum of one paved, or surfaced traffic lanes and one paved bicycle lane, not less than fifteen (15) feet wide (10 foot wide for the traveled vehicle lane and 5 feet wide for the bicycle lane), shall be open for use by public traffic in each direction of travel. Traffic may not be routed over unpaved roadways unless authorized by the Engineer.

In addition, the full width of the traveled way on each street shall be open for public use on Saturdays and Sundays (except for those streets approved by the Engineer for weekend work), on designated legal holidays, and when construction operations are not actively in progress. Designated legal holidays are: January 1, the third Monday in January, the third Monday in February, June 19, the last Monday in May, July 4, the first Monday in September, the fourth Thursday of November, and December 25. When a designated holiday falls on a Saturday, the preceding Friday shall be treated as a legal holiday. When a designated holiday falls on a Sunday, the following Monday shall be treated as a legal holiday.

Deviations from the requirements of this section concerning hours of work, which do not change the cost of the work, may be permitted upon the written request of the Contractor, if in the opinion of the Engineer, the general public will be better served and the work expedited. Such deviations shall not be implemented until the Engineer has provided the Contractor with written approval to do so. All other modifications will be made by contract change order.

The Contractor shall pay the Town liquidated damages in the amount of \$1,000 per hour (or part of an hour) for traffic control that is set-up before the designated and approved hours of

work. Liquidated damages for failure to open streets by the required time shall be \$1,000.00 per hour.

Traffic Control System for Lane Closure

A traffic control system shall consist of closing traffic lanes in accordance with the details shown on Caltrans Standard Plans T-10, T-10A, T-11, T-11A, T-12, and T-13, the provisions of Section 12, "Temporary Traffic Control," of the 2018 Standard Specifications, and these Special Provisions.

The provisions in this section will not relieve the Contractor from the responsibility to provide additional devices or take measures as may be necessary to comply with the provisions of Section 7-1.04, "Public Safety," of the 2018 Standard Specifications.

Each vehicle used to place, maintain and remove components of a traffic control system on multilane roads shall be equipped with a Type II flashing arrow sign which shall be in operation when the vehicle is being used for placing, maintaining, or removing the components. Vehicles equipped with a Type II flashing arrow sign not involved in placing, maintaining, or removing the components when operated within a stationary type lane closure shall only display the caution display mode. The sign shall be controllable by the operator of the vehicle while the vehicle is in motion.

If any component of the traffic control system is displaced, or ceases to operate or function as specified from any cause, during the progress of the work, the Contractor shall immediately repair the component to its original condition or replace the component, and shall restore the component to its original location.

When lane closures are made for work periods only, at the end of each work period, all components of the traffic control system, except portable delineators placed along open trenches or excavations adjacent to the traveled way, shall be removed from the traveled way and shoulder. If the Contractor so elects, the components may be stored at selected central locations, approved by the Engineer.

Temporary Pavement Delineation

Temporary pavement delineation shall comply with Section 10-2 of these Special Provisions and with Section 12-3, "Temporary Traffic Control Devices," of the 2018 Standard Specifications, California MUTCD, and these Special Provisions.

Property Access Requirements

The Contractor shall maintain property access to all residents and businesses at all times unless otherwise approved by the Engineer. Upon approval by the Engineer, access to certain properties may be temporarily closed if all of the following conditions can be met:

- a. No options exist to maintain property access and complete the project.

- b. The Contractor has discussed the closure with the resident or business owner in person.
- c. Residents or business owners has been notified, in writing, at least five (5) calendar days in advance of the time and length of closure
- d. Resident or business owners have been reminded of the closure, in writing, at least two (2) working days prior to the actual closure.
- e. The Contractor has provided the resident or business with a contractor name and number to call with questions regarding the closure.
- f. Closure will last no longer than three (3) working days

Signalized Intersections

The Contractor shall be responsible for contacting and coordinating with the Town's signal maintenance contractor for any work at signalized intersections. No additional working days will be given due to the Contractor for not scheduling the work with the Town's signal maintenance contractor prior to the start of work.

Measurement and Payment

Full compensation for preparing traffic control plans, temporary pavement delineation plans, providing construction and detour signs, and for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all of the work involved in compliance with the Plans, Specifications, and Section 10-2, "Traffic Control Requirements," of the Special Provisions, including any changeable message board signs, shall be deemed included in the total bid amount and no additional compensation shall be allowed therefore.

SECTION 10-3 EXISTING FACILITIES

General

Existing Facilities shall conform to Section 15, "Existing Facilities," of the Standard Specifications, the Plans, and these Special Provisions.

Protect Existing Facilities to Remain

The Contractor shall work around and protect all existing improvements to remain, including but not limited to existing utilities, monumentation, bench marks, storm drainage facilities, utility vaults, traffic detector loops, home runs and handholes, concrete and hot mix asphalt pavement, pavement markings, landscaping, irrigation facilities, and appurtenances that are within or adjacent to the construction areas.

The Contractor shall notify Underground Service Alert (USA) prior to beginning any work. Notification shall be in full compliance with USA. At the conclusion of the project, the Contractor must remove all USA markings from all paved and concrete surfaces throughout the job site without damaging said surfaces. The method of removing the USA markings is at the Contractor's discretion.

Existing utility lines are not shown on plans. The Contractor is responsible for locating and field verifying the locations of all existing utilities prior to all construction activities and protecting all facilities during construction. The Contractor shall protect existing electroliers when placing construction signs.

The Contractor shall immediately repair or remove and replace any item damaged or injured by his operations at his sole expense and to the satisfaction of the Engineer. The Contractor shall immediately notify the appropriate owner of the improvement or facility and the Engineer of any damage as a result of his operations to existing improvements or facilities. If the improvement belongs to a private residence and the property owner or occupant is not at home, such notification shall be attached to the front door of the property. All underground facilities that are damaged by the Contractor during construction shall be restored by the Contractor within two (2) hours after the damage is done.

All existing improvements, including but not limited to, irrigation systems, brick work, stone work, fences, mailboxes, turf and landscaping, on public right-of-way which are obstacles to forming operations may be removed as necessary for this type of work. The Contractor shall notify the adjacent property owner and the Engineer prior to removal of any existing improvements. After removing the forms, all the existing improvements shall be restored to their original condition at no additional cost to the Town. If the Contractor fails to comply in providing the necessary restoration work as defined, the Engineer may elect to have the Town or other contract forces perform all these duties, deducting all the expenses incurred from any moneys that are due, or to become due, to the Contractor. By exercising this option, the Contractor is in no way relieved of the responsibilities to perform these duties.

Measurement and Payment

Full compensation for preparing traffic control plans, temporary pavement delineation plans, providing construction and detour signs, and for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all of the work involved in compliance with the Plans, Specifications, and Section 10-2, "Traffic Control Requirements," of the Special Provisions, including any changeable message board signs, shall be deemed included in the total bid amount and no additional compensation shall be allowed therefore.

SECTION 10-4 CLEARING AND GRUBBING

General

Clearing, grubbing and removal of obstructions shall conform to Section 16, "Clearing and Grubbing," of the Standard Specifications, the Plans, and these Special Provisions.

The work consists of removal of bushes, plants, and vegetation indicated on the plans; and removal and disposal or relocation/replacement of all other existing obstructions in the way of the improvements indicated on the Plans, Special Provisions, as directed by the Engineer, or as noted by the Contractor during the pre-bid site visit.

All existing improvements designated to be removed and replaced shall be replaced with like materials to match the existing improvements. Improvements designated to be removed and relocated shall not be damaged during the relocation. Those improvements that are damaged during removal and cannot be relocated will be replaced with like materials to match the existing improvements, at no additional cost to the Town.

All existing trees, bushes, vegetation, or other improvements not specifically identified on the Plans to be removed, reinstalled, or replaced to install new improvements shall remain in their original condition and location undisturbed. The Contractor shall protect trees and shrubs to remain and their root systems from damage. The Contractor shall replace any damaged tree, shrub, or other existing improvement intended to remain at no expense to the Town.

The Contractor, at no cost to the property owner or Town, shall replace any irrigation system that is damaged by the Contractor's operation. Replacement or repair shall occur within three (3) calendar days after damage has occurred. Liquidated damages will be assessed in the amount of \$1,000 for each calendar day that any sprinkler or irrigation system repair work remains incomplete beyond the three (3) days allowed. Any irrigation lines within the area of new improvements shall be relocated or removed and capped at the right of way line as directed by the Engineer.

Landscaping Obstruction

In the event that there are landscaping obstructions such as ivy, lawn, juniper branches, grass, or other encroaching vegetation, the Contractor shall trim or prune such obstruction only to the extent necessary to conduct the installation of improvements in the public right-of-way. Landscaping or other improvements outside the limits of work shall be protected by the Contractor and shall be replaced in kind if the Contractor's operations damage the existing improvements. If the Contractor fails to comply in providing the necessary replacement as defined, the Engineer may elect to have the Town or contract forces perform all these duties deducting all the expenses incurred from any moneys that are due, or to become due, to the Contractor. By exercising this option, the Contractor is in no way relieved of the responsibilities to perform these duties.

Tree Trimming

If existing trees or shrubs, including median island plantings and private trees, encroach into the public right-of-way and threaten to obstruct the Contractor's operation, the Contractor shall request permission to trim the existing trees or shrubs from the Town Arborist, at least five (5) working days prior to the date of scheduled tree trimming. All tree and shrub trimming must have prior approval of the Town Arborist and shall be performed by a Contractor possessing a C-27 or a D-49 license. If required, obtain Tree Permits from the Parks and Public Works Department. Tree permit fees shall be waived for the Town project. All costs for tree or shrub trimming and proper disposal shall be paid by the Contractor.

A special notice pertaining to the tree trimming shall be delivered to the adjacent home or

business at least two working days before the tree is trimmed. The notice shall be reviewed and approved by the Engineer before delivery.

Materials Testing and Inspections

The Contractor shall coordinate with the Town to schedule materials testing and inspections for soil compaction, concrete placement, and for other operations as instructed by the Engineer. The Contractor shall notify the Engineer, at minimum 72 hours in advance, of when compaction testing and concrete sampling for concrete pours are to be scheduled. Materials testing may occur daily during the duration of the project.

SECTION 10-5 SIGNAGE

General

Work shall conform to Section 56, "Signs," of the Standard Specifications, the Plans, these Special Provisions, and the California MUTCD except as noted herein.

The Contractor shall inventory existing sign locations prior to removal. Signs to be salvaged shall be removed, cleaned, and stored by the Contractor unless another location is specified. For locations where the Contractor is to remove and/or relocate existing signposts as shown on the Plans, the Contractor shall also remove the existing foundation and/or footing. Damaged sidewalk shall be replaced from scoreline to scoreline per Town Standards. Voids created by the removal shall be backfilled with cement slurry (2-sack mix) where concrete pavement is to be installed. Voids created by the removal of the signposts not in the concrete pavement area shall be backfilled with soil and compacted to at least 90% relative compaction or as specified by the Engineer.

The street signs that are obstructing the construction work shall be removed and signs shall be installed by the Contractor. New signs shall be placed on a new signpost. Prior to installation, the Engineer shall approve the location of the signs. The Contractor shall call Underground Service Alert (USA) at 1-800-227-2600 prior to digging for the sign pole installation. The Contractor shall neatly core the existing sidewalk, concrete pavement, etc. and shall install the signposts per the Town Standard Plans. The Contractor shall provide all fasteners required to install all signs as indicated on the Plans and as directed by the Engineer.

The Contractor, at the Contractor's sole expense, shall repair materials to be salvaged that are damaged as a result of the Contractor's operations or install a new sign as replacement per the Town of Los Gatos Standard Plans to the satisfaction of the Engineer.

SECTION 10-6 MEASUREMENT AND PAYMENT

Full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in compliance with the Plans, Specifications, Special Provisions of Section 10-1, "General Construction Requirements", shall be deemed included in the bid price without any additional compensation. The Contractor shall submit a Schedule of Values showing breakdown of work items and costs once a contract has been awarded.