

BAY CITIES PAVING & GRADING, INC.
1450 CIVIC COURT, BUILDING B, #400, CONCORD, CA 94520
PHONE: (925) 687-6666
FAX: (925) 687-2122 ESTIMATORS FAX: (925) 688-0278

STANDARD SUBCONTRACT

This agreement is made this «DATE» day of «MONTH» «YEAR», between **BAY CITIES PAVING & GRADING, INC.** (“Contractor”) and **«SUBCONTRACTOR»** (“Subcontractor”). The work described in Section 1 below shall be performed in accordance with the prime contract between Contractor and **«OWNER»** (“Owner”) and in accordance with all plans, specifications and other contract documents attached to or incorporated into the prime contract (“Contract Documents”) for the project known as **#«PROJECT»** (the “Project”). The following Exhibits are part of this subcontract:

☒ **EXHIBIT A: INSURANCE REQUIREMENTS**

☐ **EXHIBIT C: N/A**

☒ **EXHIBIT E: PAYROLL REQUIREMENTS**

☒ **EXHIBIT B: PREVAILING WAGE**

☒ **EXHIBIT D: SPECIAL PROVISIONS**

☒ **EXHIBIT F: BILLING PROCEDURES**

SCOPE Of Work (“Work”). Subcontractor agrees to furnish all labor, materials, equipment, and other facilities required to complete the following work in accordance with the Contract Documents:

PRICE AND PAYMENT. Contractor agrees to pay Subcontractor for the strict performance of its work, the sum of: «SUM TEXT» («SUM VALUE») or as set out in Attachment “A” below, subject to adjustments for changes in the work as may be directed in writing by Contractor.

<p>THIS SUBCONTRACT AGREEMENT IS SUBJECT TO ALL OF THE TERMS AND CONDITIONS, AND REQUIREMENTS ON THE FOLLOWING AND REFERENCED PAGES HEREOF. BY SIGNING ABOVE, THE PARTIES AGREE TO BE BOUND BY ALL SUCH TERMS AND REQUIREMENTS.</p>
--

TERMS AND CONDITIONS

A. CONTRACT DOCUMENTS AND COMPLIANCE. The "Contract Documents" include, without limitation, the plans, specifications, all general and special conditions, drawings, specifications, addenda, bulletins, amendments, modifications, and all other documents forming or by reference made a part of the contract between the Contractor and the Owner (collectively, the "Prime Contract"). In the event that Contractor's contract is with the direct contractor or a subcontractor, not Owner, then the term "Prime Contract" shall refer to and include not only all of documents comprising the agreement between the direct contractor and the Owner, as well as all of the documents comprising Contractor's own contract in connection with the Project. The Contract Documents are incorporated herein. Subcontractor agrees to be bound to Contractor in the same manner and to the same extent as Contractor is bound by the Contract Documents. In addition to any other rights and remedies it may have, Contractor shall have the rights and remedies with respect to Subcontractor that Owner has with respect to Contractor. In the Contract Documents, where reference is made to Contractor, and the work or specifications therein pertain to Subcontractor's trade, craft, type of work, or scope, such work or specifications shall be interpreted to apply to Subcontractor instead of to Contractor. This Agreement represents the entire agreement between Contractor and Subcontractor, and supersedes any prior oral or written agreements or representations. In addition to any other rights and remedies it may enjoy, Contractor shall have the same rights and remedies as to Subcontractor that the party hiring Contractor for the Project has with respect to Contractor. Subcontractor acknowledges that it has read the Prime Contract and all plans and specifications, is familiar with them, and agrees to comply with and perform all provisions thereof in any way applicable to Subcontractor.

B. SUBCONTRACTOR'S OBLIGATIONS. In addition to the other obligations under this Agreement, the Contract Documents, and applicable law, Subcontractor agrees to the following:

(1) **Prosecution of the Work:** Subcontractor shall at all times supply adequate tools,

appliances and equipment, a sufficient number of properly skilled workers, and a sufficient amount of materials and supplies of proper quality to prosecute its Work efficiently and promptly, and it shall timely and promptly pay for all such labor, equipment, materials, and services.

(2) **Supervision:** Subcontractor shall personally supervise the Work or have a competent foreperson or superintendent satisfactory to Contractor on site at all times during Subcontractor's performance with authority to act for Subcontractor.

(3) **Compliance with Direction and Continued Performance:** In the event of a dispute, Subcontractor shall comply with Contractor's written directives and shall continue its performance, in accordance with Paragraph O.

(4) **Submittals and Data:** Subcontractor shall submit copies of submittals and data as required by the Contract Documents. Submittals and data must be submitted to Contractor within twenty (20) working days of the award of a subcontract to Subcontractor, unless an earlier date is stated herein or in the Contract Documents. Submittals shall reference the Project title, number and applicable specification sections, and shall conform to the requirements of the Prime Contract and this Agreement.

(5) **Scheduling and Other Information:** At Contractor's request and at the time specified in such request, Subcontractor shall submit to Contractor progress, procurement and labor-hour completion schedules, satisfactory in form and content to Contractor, and upon Contractor's acceptance of the schedules shall prosecute the Work in accordance therewith.

(6) **Permits, Licenses and Inspections:** Subcontractor shall obtain and pay for all permits, licenses, and inspections necessary because of or otherwise related to its Work.

(7) **Layout:** Contractor shall establish principal axis lines and levels, and Subcontractor shall

lay out and shall be strictly responsible for the accuracy of Subcontractor's Work. Subcontractor shall exercise prudence so that actual final conditions and details shall result in perfect alignment of finished surfaces.

- (8) **Scope:** Subcontractor shall provide all labor, equipment, materials, and services needed to perform the Work and obligations referred to in this Agreement, including anything reasonably required or inferable in order (i) to furnish a complete, code-compliant and functional installation and finished work product and (ii) to comply with the requirements of this Agreement and applicable law. For purposes of this Agreement, the term "Work" refers to all of the labor, equipment, materials, and services, and all other aspects of Subcontractor's performance, as required under this Agreement, including any items or matters reasonably inferable and/or required by applicable law.

- (9) **A+B Contracts ☐**: **This section 9 only applies if the box above is checked.** On Caltrans A+B projects, or on other projects where the direct contractor's bid proposal to the owner includes not only price(s), but also durations and/or dates for performance, Subcontractor agrees that at no additional cost it shall conform to the Contractor's baseline schedule and all revisions thereto, and the activities and durations therein, which the Contractor has designated in order to meet milestones, completion dates and durations based on the direct contractor's bid, notwithstanding that the Owner's solicitation for bid proposals may have permitted the submission of a bid proposal that includes completion or milestone dates and/or greater durations.

C. PAYMENT. Contractor agrees to pay to Subcontractor monthly progress payments on account of Work actually and satisfactorily completed by Subcontractor, in sums equal to _____ percent (___%) of the prices for the labor, equipment, services and materials that have been placed in position, as reflected in Contractor's application for payment and as approved by Owner. The foregoing percentage shall be ninety percent (90%) unless otherwise stated under this Agreement or required by applicable law. Payment shall be made within

seven (7) days after Contractor's receipt of payment for such Work, provided all other conditions hereof have been satisfied and there are no grounds for withholding. As a condition to payment, Subcontractor agrees to provide waivers and releases for itself and its subcontractors and suppliers regardless of tier, as well as other evidence of payment to such persons, in a form satisfactory to Contractor, including without limitation, payroll affidavits, receipts, vouchers, Union Trust Fund releases, union status letters, DAS140 Forms with proof of transmittal to all approved training committees, or other documentation, demonstrating that Subcontractor has paid for all labor, equipment, materials, services, taxes or other charges in any way relating to Subcontractor's Work and obligations in connection with the Project.

Final payment to Subcontractor shall be made ten (10) days after the entire work required by the Prime Contract has been fully completed, with funds received by Contractor in final payment for work under the Prime Contract. Contractor, at its option, may make payments by joint check. Payment shall not constitute acceptance or acknowledgement of completion with regard to any part of Subcontractor's Work. Payments made to Subcontractor shall be deemed to be held in trust for the benefit of Contractor and of all persons who furnished labor, equipment, and materials for or on behalf of Subcontractor, as well as for the benefit of trust funds and apprenticeship programs for such sums that may be owed in connection with the Project. Unless otherwise stated, prices include all taxes, including without limitation, any amounts owed as a result of increase or changes in taxes that take effect during the course of the Project.

Notwithstanding any other term of this Agreement, Contractor shall be permitted a reasonable period of time to pursue remedies and collect from Owner or other persons for progress payments, final payments, or other payments on account of Subcontractor's Work or claims, before payment shall become due to Subcontractor. What is a "reasonable time" shall be decided based upon all relevant circumstances, but shall in no event exceed a duration which would be prohibited under applicable law.

As a cumulative remedy, Contractor may withhold and/or retroactively nullify all or part of any payment to the extent necessary to protect Contractor from: (1) loss from defective work not

remedied; (2) claims that have been asserted or are reasonably likely to be asserted; (3) failure of Subcontractor to make payments to creditors; (4) damage to Contractor or another person; (5) penalties assessed against Contractor or Subcontractor for failure of Subcontractor to comply with laws or requirements; and (6) any other ground for withholding payment allowed by law, this Agreement or the Contract Documents. Contractor may in addition withhold from any payment or retention up to 150% of the amount of any disputed item, including without limitation, amounts Contractor believes may be necessary to withhold to protect Contractor from any potential claims which may result from Subcontractor failing to furnish appropriate waivers and releases for itself or any lower tier subcontractors or suppliers. In addition, and without limiting any of its other rights and remedies Contractor shall be entitled to withhold and to setoff against any amounts owed to Subcontractor any liabilities or amounts owed to Contractor by Subcontractor; Subcontractor agrees to and accepts any such setoff as full payment under this Agreement and for purposes of mechanics' lien, stop payment notice, and bond statutes and claims.

On public works projects with the State of California or any subdivision thereof, the time period for payment of amounts (if any) which Contractor is obligated by this Agreement to pay as retention shall be within seven (7) days after receipt of retention by Contractor, subject to Contractor's right to withhold on the grounds set forth in this Agreement or otherwise provided by law; additionally, on such state or local projects, the percentage of retention withheld (when there are no additional reasons for withholding) shall not exceed the percentage under the Prime Contract. In the event that a law or local ordinance requires that payments be made within a particular time period, then the time for payment hereunder shall be adjusted accordingly.

In the event that applicable law in connection with a particular Project requires payment within time periods shorter than those identified in Section C, the time periods shall be shortened to conform to such requirements.

D. TIME AND SCHEDULE. *Time is of the essence.* Subcontractor shall conform to Contractor's progress schedule and all revisions thereto. Subcontractor shall diligently prosecute its Work and shall not delay Contractor or other subcontractors or suppliers. Subcontractor shall

coordinate its Work with other persons involved in the Project. If Subcontractor fails to maintain its part of the Contractor's schedule, it shall, without additional compensation, accelerate the Work as Contractor may direct. Contractor shall have complete control of the premises on which the Work is to be performed and shall have the right to decide the sequence and priority of Subcontractor's Work as compared with other work. If Subcontractor is delayed by the negligence or breach of the Owner or Contractor, by fire or other casualty for which Subcontractor is not responsible, or by labor action not resulting from fault or collusion on the part of the Subcontractor, then Subcontractor may be entitled to a time extension provided that Subcontractor gave written notice within 48 hours of the commencement of the delay. To the greatest extent permitted by law, a time extension is Subcontractor's sole remedy for delay and disruption; however, if Contractor obtains additional compensation from Owner on account of such delays, Subcontractor shall be entitled to a reasonable portion thereof. If Contractor prosecutes a claim against Owner for delay or claims related to Subcontractor, Subcontractor shall cooperate fully with Contractor and shall pay costs and expenses incurred in connection therewith, including actual attorney's fees incurred to prosecute the claim.

Subcontractor acknowledges that it will have to perform Work in areas occupied by other forces and that it will have to perform its Work in a sequence or manner to accommodate and facilitate the progress of the work as a whole, rather than in the manner most efficient or desirable for Subcontractor. Subcontractor's price is based upon the foregoing, and on Contractor exercising the rights under Sections D and E, as well as those indicated above, and upon Subcontractor having planned to perform its Work under such circumstances. Milestone or completion dates of segments of Subcontractor's Work within the overall schedule shall be met. Failure to meet such milestone or completion dates shall be considered a breach of contract. To the greatest extent permitted by law, if Subcontractor should default in performance of its Work or otherwise commits an act which causes delay to the Prime Contract work, Subcontractor shall be liable for all losses, costs, expenses, liabilities, and damages, including consequential damages and liquidated damages, sustained or otherwise incurred by Contractor, or for which Contractor may be liable to Owner or any other

party because of Subcontractor's default, actions, or omissions, regardless of whether they are negligent or whether other delays, including those caused by Contractor, are contributory and/or concurrent.

E. CHANGES. Contractor is authorized to make changes, including deletions, additions, and other modifications. If necessary, the Subcontract Price shall be adjusted by appropriate additions or deductions, including deductions of markup, profit and overhead for deleted Work, mutually agreed upon before the Subcontractor performs the changed Work. In no event shall such additions, deductions, profit or markups exceed those permitted under the Contract Documents. Subcontractor shall supply Contractor with all documentation necessary to substantiate the amount of the addition to or deduction from the Subcontract Price or time for performance. If Contractor and Subcontractor cannot agree on the amount of the addition or deduction in the Subcontract Price or time for performance for a change, Subcontractor shall nonetheless timely perform the Work as changed by Contractor's written direction. Subcontractor shall not make any changes without written direction from Contractor. If Subcontractor makes any changes in the Work without written direction from Contractor, such change constitutes an agreement by Subcontractor that it will not be paid for the costs associated with the change. No change shall release or exonerate, in whole or in part, any bond or any surety on any bond, and no notice to any surety is required with regard to any change or other modification of this Agreement or the Contract Documents.

Subcontractor shall not deviate from the plans and specifications except on written order from Contractor. Subcontractor shall be responsible for any damage, inconvenience, or increase of costs arising directly or indirectly from failure of Subcontractor to observe the same.

All Change Orders shall constitute a Contract Document. Unit prices from Subcontractor's bid will be utilized where, in Contractor's sole discretion, Contractor deems them to be applicable to Change Order work. If not covered by unit prices, a complete breakdown of the estimated costs for changed Work is to be submitted to Contractor for approval. If Contractor does not agree with the additional costs submitted, Contractor may, in its sole discretion, direct that the Work be performed on a not-to-

exceed time and material basis with Subcontractor providing written information concerning such hours and material each day for Superintendent's review and verification. Refusal to perform directed additional or changed Work on a time and material not-to-exceed basis shall constitute a material breach of contract.

F. INSURANCE AND BONDING. Subcontractor and its lower-tier subcontractors and suppliers shall comply with the insurance requirements and provisions of Exhibit A, which is incorporated herein. Upon execution of this Agreement, or at any time upon ten (10) days written notice, Subcontractor shall furnish a labor and material bond and a performance bond, each in an amount equal to one hundred percent (100%) of the Subcontract Price for this Agreement, both bonds to be in a form satisfactory to Contractor. Contractor will pay the cost of such bond, up to two percent (2%) of the total Subcontract Price.

G. PROTECTION OF WORK. Subcontractor shall protect its Work and materials. Subcontractor assumes the risk of all loss or damage to its Work, materials, and equipment until final completion and acceptance of the Project by Owner. If Subcontractor installs items provided by others or performs Work in areas to be constructed or prepared by others, Subcontractor shall carefully inspect and shall accept, at the time of delivery or first access, the items so provided and the work by others. Failure to conduct an inspection or to give notice of any discrepancies or problems shall be deemed to constitute acceptance by Subcontractor of the items or work of others. Loss or damage due to acts of Subcontractor shall be charged to Subcontractor. Subcontractor is responsible for all damages or losses it causes to others or to work, equipment, or property of others.

H. PROVISIONS FOR INSPECTION. Subcontractor at all times shall furnish to Contractor, Owner, and any representatives of them, safe and ample facilities for inspecting materials and work at the site of construction, shops, factories, yards or any other places of business of Subcontractor, its subcontractors or suppliers, wherever materials under this Agreement may be in the course of preparation, processing, manufacture, painting or treatment. Subcontractor shall furnish to Contractor, as often as Contractor requires, full reports of the progress of the Work at any place materials may be in the course of construction, treatment or manufacture. Such reports shall

show the progress of such construction, treatment, and manufacture in such detail as may be required by Contractor, including but not limited to, any plans, drawings, or diagrams in the course of preparation.

I. COMPLIANCE WITH LAWS AND SAFETY REQUIREMENTS. At its sole expense, Subcontractor shall investigate and comply with, and agrees to be bound by, all applicable laws and regulations, including without limitation, laws regarding licensing of contractors, the Fair Labor Standards Act, the Americans with Disability Act, the federal Family and Medical Leave Act, federal, state and local family rights and medical leave laws, civil rights and fair employment laws, the California Labor Code, Proposition 65, laws concerning wages and benefits to be paid, and all other construction, environmental, workplace and safety laws. Subcontractor accepts exclusive liability for compliance with such laws, including the Federal Social Security Act with respect to its employees, sales and use tax laws, and any other laws and regulations.

Subcontractor shall also comply, at its sole expense, with all DBE, MBE, UDBE, WBE, DVBE, LBE, local hiring and similar requirements pertaining to the Project. In the event of a termination as a result of any misrepresentation of facts relating to Subcontractor's status as a DBE, MBE, UDBE, WBE, DVBE, and/or LBE, Subcontractor shall not be entitled to any compensation not already paid.

Subcontractor acknowledges that it has conducted its own independent investigation of the wage rates to be paid and whether its Work will be subject to prevailing wage requirements or the requirements of the Davis-Bacon Act and that it has not relied upon any statements or representations by Contractor with respect to such matters. Subcontractor agrees that the Subcontract Price shall be deemed to be full compensation for compliance with such laws, regulations, or requirements, including payment of all applicable wage rates, and that no additional compensation will be owed to Subcontractor in the event that Subcontractor is required thereunder to pay higher wages or incur additional costs that Subcontractor contends that it did not anticipate.

Within three (3) days of Contractor's request, and regardless of whether a project is public or private, Subcontractor shall submit certified payroll records for itself and for any of its subcontractors,

of any tier, as well as any additional documentation or information that may be needed to verify that Subcontractor and all of its subcontractors, regardless of tier, have paid all wages, benefits, contributions, apprenticeship council payments, and/or amounts owed to unions or trust funds. Subcontractor acknowledges that it is aware of the requirements of Labor Code Section 218.7 (AB 1701) and agrees to comply fully with its requirements, and in accordance with the indemnity provisions of this Agreement, Subcontractor shall defend, hold harmless, and/or indemnify Contractor and its sureties from any claim arising from the actual or alleged failure of Subcontractor or any of its subcontractors, regardless of tier, to have paid all wages, benefits, contributions, apprenticeship council payments, and/or amounts owed to unions or trust funds. Subcontractor shall incorporate the foregoing requirements into all of its subcontracts for the project and shall likewise require all lower tier subcontracts to incorporate this requirement. Subcontractor further agrees to cooperate fully in any effort by Contractor to verify compliance with labor laws and regulations, including requirements under the Davis-Bacon Act or the California Labor Code. Such cooperation shall include, without limitation, furnishing copies and originals of records and providing access to employees or witnesses for interviews and statements. In addition to and without derogation of any other rights that Contractor may enjoy, Contractor may withhold sufficient funds to protect Contractor against any claims related to labor requirements, including without limitation, requirements under the Davis-Bacon Act or the California Labor Code.

On all projects subject to state or local prevailing wage requirements, Subcontractor shall comply with any applicable California prevailing wage laws. With respect to such projects, the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813 and 1815 are attached and incorporated. On such projects, as a condition precedent to final payment, Subcontractor agrees to provide an affidavit that complies with the terms of Labor Code Section 1775(b)(4).

Subcontractor shall comply, and shall cause any of its subcontractors and independent contractors (regardless of tier) to comply, with all statutes, regulations, orders, court decisions, and other laws relating to classification of individuals as employees or independent contractors, including without limitation and as applicable, Labor Code

Section 2781 (AB 5) and *Dynamex Operations West, Inc. v. Superior Court*, 4 Cal. 5th 903 (2018).

AB 1851 COMPLIANCE [As of 01/01/2023]. Subcontractor shall comply, with AB 1851 [Labor Code 1720.3(a)(2) which provides that the on hauling of materials used for paving, grading, and fill onto a public works site is “public works” if the individual driver’s work is integrated into the flow process of construction. If an individual driver under Subcontractor is performing any “public works” hauling, Subcontractor agrees that driver will be paid prevailing wages and submit, and maintain certified payroll records evidencing proof of certified payroll payments. Contractor shall be entitled to audit whether there has been compliance by Subcontractor and its subcontractors and sub-haulers and independent contractors (regardless of tier) with the requirements of this Section.

If Subcontractor, or its subcontractors and independent contractors (regardless of tier), utilize subcontractors who are natural persons who are not compensated and otherwise treated as employees, Subcontractor shall ensure that any such person qualifies as an independent contractor and (i) is hired pursuant to a written contract; (ii) is licensed by the Contractors State License Board and performs work only within the scope of that license; (iii) has a business license and has registered for business taxes, if the person is domiciled in a jurisdiction that requires such a license and/or registration; (iv) maintains a business location that is separate from the company that has hired it; (v) has authority to hire and fire other persons who provide and/or assist in providing the services in question; (vi) has financial responsibility for errors and omissions in connection with the labor or services provided, as evidenced by insurance, indemnity obligations, bonds, and/or warranties; and (vii) is customarily engaged in an independently established business of the same nature as that involved with the work performed by such person.

If Subcontractor, or its subcontractors and independent contractors (regardless of tier), directly or indirectly obtain construction trucking services, as defined by Labor Code Section 2781, from natural persons who are not compensated and otherwise treated as employees, Subcontractor shall ensure that any such person providing the construction trucking services qualifies as an independent contractor and (i) is

hired pursuant to a written contract; (ii) is a business entity formed as a sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation; (iii) has registered with the Department of Industrial Relations as a public works contractor; (iv) utilizes his or her own employees to perform the construction trucking services, unless the person is a sole proprietor who operates his or her own truck to perform all of the work required by his or her contract and holds a valid motor carrier permit issued by the Department of Motor Vehicles; (v) negotiates and contracts with, and is compensated directly by, a licensed contractor; (vi) has a business license and has registered for business taxes, if the person is domiciled in a jurisdiction that requires such a license and/or registration; (vii) maintains a business location that is separate from the company that has hired him or her; (viii) has authority to hire and fire other persons who provide and/or assist in providing the services in question; (ix) has financial responsibility for errors and omissions in connection with the labor or services provided, as evidenced by insurance, indemnity obligations, bonds, and/or warranties; and (x) is customarily engaged in an independently established business of the same nature as that involved with the work performed by any such person.

Subcontractor shall fully document its compliance with applicable law relating to the classification of natural persons as independent contractors and shall cause its subcontractors and independent contractors (regardless of tier) to document their compliance. At Contractor’s request, Subcontractor and its subcontractors and independent contractors (regardless of tier) shall execute and furnish written declarations under penalty of perjury, in a form satisfactory to Contractor, that establish their compliance with applicable laws, including without limitation, those relating to the classification of natural persons as independent contractors. Contractor shall be entitled to audit whether or not there has been compliance by Subcontractor and its subcontractors and independent contractors (regardless of tier) with the requirements of this Section I.

Section 1720.9 of the Labor Code (AB 219) requires that any person or entity that engages in “the hauling and delivery of ready-mixed concrete” must: (1) comply with prevailing wage laws, including payment of prevailing wages and the submission of certified payroll reports; (2) register with the Department of Industrial Relations, even

if the person or entity is not a licensed contractor; and (3) with the submission of certified payroll reports, provide a written time record that shall be certified by each driver. Subcontractor agrees strictly to comply with these requirements, and Subcontractor's failure to comply shall constitute a material breach. In particular, and without limitation, Subcontractor agrees to comply with Division 2, Part 7, Chapter 1 of the California Labor Code, Section 1720 et seq.

At its sole expense, Subcontractor shall institute and maintain a reasonable and adequate safety program that fully complies with the law, and shall fully cooperate with and adhere to any safety program or requirements of Contractor and/or Owner. All personnel of Subcontractor, its subcontractors, and suppliers shall wear hard hats, safety vests, and any other necessary safety equipment, while visiting or working at a construction site. Subcontractor shall provide material data sheets and other submittals or items necessary to comply with applicable laws. Subcontractor agrees to obtain and pay for all permits, licenses and official inspections necessary for proper completion of its Work, including DIR registration on state and local public works projects.

If hazardous or toxic substances, of a type of which an employer is required by law to notify its employees, are being used on the site by Subcontractor, its subcontractors or anyone directly or indirectly employed by them, Subcontractor shall, prior to exposure of any employees on the site to such substance, give written notice of the chemical composition thereof to Contractor in sufficient detail and time to permit compliance with such laws by Contractor, other subcontractors and employers on the site.

Subcontractor acknowledges that the EPA and California regulatory authorities, including without limitation, the State and Regional Water Quality Control Boards, have mandated certain requirements for permits under the National Pollutant Discharge Elimination System (NPDES), including Storm Water Pollution Prevention Plan (SWPPP) requirements. Subcontractor has undertaken its own independent and thorough investigation of all such matters, including without limitation, a thorough review of all requirements under the Contract Documents and/or that are imposed by any permits that apply to the Project, and Subcontractor warrants that it is not relying upon any statements or representations by Contractor or Owner with respect to such matters.

Subcontractor agrees, at its sole cost, to conform to any and all requirements of any environmental, air and water pollution statutes, regulations and measures, and/or permits, including NPDES permits, and Subcontractor also shall conform to any and all SWPPP requirements applicable to the Project. For example, on projects subject to the California Standard Specifications, such as Caltrans projects, Subcontractor's attention is directed to **California Standard Specifications Sections 13.1.01 through 13-10.03, "Water Pollution", and Sections 14-1.01 through 14.204, "Environmental Stewardship"**, and on all projects, to any special provisions or other contract provisions concerning NPDES, Department of Fish & Game, and other permits, air and water pollution statutes, regulations, and measures, and SWPPP requirements, and Subcontractor at its own cost agrees to comply fully therewith.

Subcontractor shall comply with all provisions of "Proposition 65" (California State Drinking Water Act of 1986, California statutes) which shall include, but not be limited to, posting in a timely manner of any required notices. Subcontractor shall not use or bring on to the Project any of the chemicals or compounds listed by the California State Attorney General from time to time under the provisions of Proposition 65 (the List) without delivering a clear written notice, at the time submittals are written, to Contractor and OWNER informing them of the dates and locations where such items shall be delivered, used, or stored. Notwithstanding anything to the contrary contained or indicated herein or in any of the Contract Documents or anywhere else, Subcontractor shall not incorporate into the work, or allow to be incorporated into the work, any of the items on such list without specific advanced written notice having first been delivered to Contractor prior to Subcontractor becoming actually contractually obligated to purchase or take delivery thereof from its suppliers, and then only to the extent Contractor gives clear written approval of the uses proposed in the notice. The notice shall contain clear descriptions of the type, amount, uses, locations, and content of such items incorporated into or used in said work.

J. INDEMNITY AND DEFENSE OBLIGATIONS.

Subcontractor agrees as follows:

To the greatest extent permitted by law, Subcontractor shall defend, indemnify and hold

harmless Contractor, Owner, and Owner's architect and engineer, and any of their respective directors, officers, agents, employees, parents, affiliates, subsidiaries, partners, and representatives, and any other persons or entities designated by any of them (collectively, the "Indemnitees") from and against all causes of action, penalties, assessments, fines, actions, proceedings, or investigations by governmental authorities, demands, liabilities, claims, damages, costs, losses and expenses, including but not limited to attorney's fees and costs ("Claims"), which arise out of or are in any way related to: (i) this Agreement; (ii) actual or alleged actions or omissions by Subcontractor or any of its subcontractors, suppliers, vendors, employees, or persons for whom it is responsible; or (iii) Subcontractor's presence at the Project site and/or its Work. Notwithstanding the foregoing, if any of the Contract Documents impose more stringent defense, indemnity, contribution or hold harmless obligations than are set forth herein, then to the extent permitted by law, the more stringent provisions shall apply, and Subcontractor shall owe the same defense, indemnity, contribution, and hold harmless obligations to Contractor as Contractor owes to Owner. Subcontractor's duty to defend Indemnitees shall apply, and Subcontractor shall be required to furnish a defense, notwithstanding that there has not yet been a determination, adjudication or finding of liability or fault on the part of Subcontractor or any party or person to be indemnified.

To the greatest extent permitted by law, the obligations of this Section J shall apply regardless of whether the Claims were caused in part or contributed to by Indemnitees; however, obligations specified above shall not extend: (a) to Claims that arise out of, pertain to, or relate to the active negligence or willful misconduct of Contractor, of a subcontractor to Contractor, a construction manager who is an Indemnatee, or any of their other agents, other servants, or other independent contractors who are responsible to them, (b) to defects in design furnished by the Indemnatee, or (c) to the extent Claims do not arise out of the scope of work of Subcontractor. Upon written tender by any Indemnatee, including Contractor, of a Claim, Subcontractor shall:

- (A) Defend the Claim with counsel of its choice, who is reasonably qualified and experienced in such matters and does not have a conflict of interest in

representing the tendering party, and the Subcontractor shall maintain control of the defense for any Claim or portion of a Claim to which the defense obligation applies. If Subcontractor elects to defend under this subparagraph (A), Subcontractor shall provide written notice of the election to the tendering party a reasonable time period following receipt of the written tender, and in no event later than 30 days following that receipt. Subject only to the limitations set forth above, the defense provided by Subcontractor shall be a complete defense of tendering party of all Claims or portions thereof to the extent alleged to be caused by Subcontractor, including any vicarious liability Claims the tendering party may have, resulting from Subcontractor's scope of work, but not including Claims resulting from the scope of work, actions, or omissions of the tendering party, or any other party. Any vicarious liability imposed upon the tendering party for Claims caused by Subcontractor electing to defend under this paragraph shall be directly enforceable against Subcontractor. Subcontractor shall promptly provide the tendering party with all information, documentation, or evidence, if any, relating to any assertion by Subcontractor that another party is responsible for the tendered Claim; or

- (B) Pay, within 30 days of receipt of an invoice from the tendering party, no more than a reasonable allocated share of the tendering party's defense fees and costs, on an ongoing basis during the pendency of the Claim, subject to reallocation consistent with the limitations set forth above, and including any amounts reallocated upon final resolution of Claim, either by settlement or judgment. The tendering party shall allocate a share to itself to the extent a Claim is alleged to be caused by its Work, actions, or omissions, and a share to each subcontractor to the extent that the Claim is alleged to be caused by Subcontractor's Work, actions, or omissions, regardless of whether the party seeking a defense

from the Subcontractor actually tenders the Claim to any particular subcontractor, and regardless of whether that subcontractor is participating in the defense. Any amounts not collected from any particular subcontractor may not be collected from any other subcontractor.

Notwithstanding any other provision of law, if Subcontractor fails timely and adequately to perform its obligations under subparagraph (A), the party tendering the Claim shall have the right to recover from Subcontractor for any resulting compensatory damages, consequential damages, and reasonable attorney's fees to the extent provided by Civil Code Section 2782.05. If Subcontractor fails to timely perform its obligations under subparagraph (B), the party tendering the Claim shall have the right to recover from Subcontractor for any resulting compensatory damages, interest on defense and indemnity costs, from the date incurred, at the rate set forth in subdivision (g) of former Civil Code Section 3260 (now recodified at Civil Code Section 8818), consequential damages, and reasonable attorney's fees, to the extent provided by Civil Code Section 2782.05, incurred to recover these amounts. The party tendering the Claim shall bear the burden of proof to establish both Subcontractor's failure to perform under either subparagraphs (A) or (B), and any resulting damages. In addition to the foregoing remedies, and without limitation or derogation of them, Subcontractor agrees to pay liquidated damages of \$100 per each day that Subcontractor fails to perform its obligations under either subparagraphs (A) or (B), which are intended to compensate the tendering party for loss of reputation, administrative costs, and other losses that are difficult to quantify and that are not adequately compensated under this provision and Section 2782.05 of the Civil Code. Subcontractor agrees that the sum of \$100 per day constitutes a reasonable estimate of such damages or losses.

The obligations under this Section J are in no way limited or relieved by Subcontractor having obtained insurance, by the Insurance or other provisions of this Agreement, and/or to the extent permitted by law, by the provisions of any workers compensation law, regulation or arrangement. In addition, the obligations of this Section J shall survive the expiration or termination of this Agreement, as well as Subcontractor's completion of its other obligations.

Notwithstanding the foregoing or any other provision of this Agreement, if the "Claim" for which indemnity or defense is sought is in connection with a residential building project subject to the provisions of Section 2782(d) of the Civil Code and constitutes a "claim of construction defect" as defined by Section 2782(i) of the Civil Code, then Exhibit C, for Residential Building Projects, shall apply and is incorporated herein, Indemnity and defense obligations not affected or restricted by Civil Code Section 2782(d) or (e), such as for property damage not caused by construction defects or other matters not involving defect claims, shall not be limited, impaired, or modified by the foregoing sentence, and such indemnity and defense obligations shall remain in full force and effect.

K. LABOR. Subcontractor and all lower tier subcontractors shall comply with and perform all work covered by any collective bargaining agreement(s) to which Contractor is a party or which otherwise may be applicable to the Project, under the terms of said agreement(s) and shall become signatory to the applicable agreement(s) as a condition of performing work. In addition, Subcontractor and its subcontractors, suppliers, vendors, and employees shall comply with the terms of any Project Labor Agreement that may apply to the Project. Should Contractor at its sole discretion establish a reserved gate system on the Project, Subcontractor agrees that its employees, subcontractors, and suppliers will use the reserve gate(s) designated for them by Contractor.

Subcontractor hereby expressly agrees that all of the provisions of the applicable labor agreements are incorporated into this Agreement as if they were set forth in their entirety. Subcontractor agrees to comply with all of the terms and conditions of those labor agreements as if it were a party to said agreements including signatory status if required. Subcontractor further agrees to pay the wage rates, make the required trust fund payments into the respective labor trust funds, and observe the hours and all other terms and conditions set forth in the respective labor agreements. Subcontractor agrees to comply with the terms and provisions of said agreements setting forth the grievance and arbitration provisions. Furthermore, Subcontractor agrees to comply with the terms and provisions of said agreements setting forth the jurisdiction and scope of work therein for resolution of jurisdictional disputes. In the absence of any such

procedure or if such procedure fails to promptly resolve the jurisdictional dispute, Subcontractor agrees, at its own cost and expense and upon request by Contractor, to take any and all lawful steps to secure a binding and final determination of said jurisdictional dispute by the National Labor Relations Board.

Subcontractor acknowledges that terms and conditions of the labor agreements with the unions listed herein below may require that Subcontractor comply with additional labor agreements.

Subcontractor agrees to bind and require all of its subcontractors, regardless of tier, to agree to all of the requirements under this Section K.

L. LIENS AND CLAIMS. Subcontractor shall take all necessary steps to ensure that no claims, mechanic's liens, lawsuits, stop payment notices, or other liens are asserted in connection with the Project by any of its subcontractors or suppliers (regardless of tier), its or their employees, trust funds, taxing authorities or other creditors, and pursuant to the duties set forth herein shall fully defend, hold harmless and indemnify Owner and Contractor against all such claims at Subcontractor's sole expense. At Subcontractor's sole expense, upon Contractor's request, Subcontractor shall within a reasonable period not to exceed ten (10) business days, bond around any stop payment notices or liens, so that the job and any funding therefor shall remain free from encumbrances and liens, and Subcontractor shall take such other and further steps as may be necessary to remove the effect of any liens, stop payment notices, or claims from the Project or any funds for the Project.

M. DEFAULT. If Subcontractor fails to supply sufficient qualified workers and/or proper materials, or fails to prosecute its Work diligently and properly, or fails to make prompt payment to its workers, subcontractors or suppliers (regardless of tier), or becomes delinquent with respect to contributions or payments to any benefit, apprenticeship or other employee program or trust, or fails to provide adequate assurances, or is otherwise guilty of a material breach of a provision of this Agreement or the law, and fails within forty-eight (48) hours after receipt of written notice to commence and continue satisfactory correction of such default with diligence and promptness, and to complete the cure of such default within the time period stated

in Contractor's default notice, then Contractor, without prejudice to any rights or remedies, shall have the right to any or all of the following remedies:

1. supply such workers and quantity of materials, equipment, and other facilities as Contractor deems necessary to complete Subcontractor's Work;
2. contract with other contractors to perform such part of Subcontractor's Work as Contractor shall deem appropriate;
3. terminate Subcontractor's right to perform and use any materials, equipment, or tools furnished by or belonging to Subcontractor Work without any further compensation to Subcontractor for such use; and
4. withhold payment of any monies due Subcontractor pending corrective action; provided, however, that Contractor may withhold payment without giving such notice, when authorized under this Agreement and/or applicable law.

In such an event, Contractor shall be entitled to recover from Subcontractor, backcharge against Subcontractor, and/or set off against amounts owed to Subcontractor, the actual direct and indirect costs that Contractor has incurred (including attorney's and/or consultant fees and litigation costs) plus markup of fifteen percent (15%) for overhead and ten percent (10%) for profit. In an emergency, Contractor may proceed as above without notice. In addition to any other remedies available, upon written notice Contractor shall be entitled to perform using its own or other forces those cleanup duties that Subcontractor has failed to perform, to remedy safety deficiencies, or otherwise to remedy Subcontractor's failure to have complied with requirements of this Agreement or directives by Contractor.

To secure performance by Subcontractor and the prompt payment of any funds expended by Contractor, Contractor shall have a lien upon all materials, tools, appliances, and equipment of Subcontractor at the Project or used in connection with Subcontractor's Work

N. TERMINATION FOR CONVENIENCE. On written notice, Contractor may terminate all or part

of this Agreement or Subcontractor's work for Contractor's convenience. Upon such termination, Subcontractor shall be entitled to: (1) the reasonable cost of the work completed in conformity with this Agreement; plus, (2) such other reasonable costs actually incurred by Subcontractor as are permitted by the Prime Contract and approved by Owner; plus (3) fifteen percent (15%) of the cost of the work referred to in item (1) for overhead and profit. The foregoing amounts shall be reduced by a reasonable and appropriate amount if Subcontractor would have suffered a loss on the Project. There shall be deducted from the foregoing sums the amount of any payments made to Subcontractor. Subcontractor shall not be entitled to lost profits on work not performed or any claim or claim of lien against Contractor or Owner for any additional compensation or damages in the event of such termination. The amount recoverable under a convenience termination shall not exceed the Subcontract Price. In the event that any termination other than for convenience is later determined to have been without cause or improper, Subcontractor's sole remedy shall be to have the termination converted to a termination for convenience, and Subcontractor's recovery shall be limited in accordance with the terms of this Section N. Upon any termination, whether for cause or convenience, Contractor shall have the right to take immediate possession of, utilize for any purpose, inspect, and copy any and all of Subcontractor's documents or information related to the Project, and the obligations of Subcontractor and rights and remedies of Contractor that would continue after substantial completion in the absence of a termination, including without limitation, Subcontractor's duties with regard to indemnity, payment of creditors, compliance with laws, insurance, warranty, and defective work, shall remain in full force and effect.

O. DISPUTES. Any dispute resolution procedure incorporated in the prime contract shall be deemed incorporated in this Agreement, and shall apply to any disputes arising hereunder, except disputes not involving the acts, omissions, or otherwise the responsibility of the Owner under the prime contract, those that have been waived by the making or acceptance of final payment, and questions regarding the licensure of the Subcontractor. Subject to compliance with all applicable laws, including but not limited to those relating to false claims, dispute and claim certifications, and cost and pricing data requirements, Contractor's sole obligation is to

present any timely-filed claims by Subcontractor to the Owner under such procedure and, subject to the other provisions of this Agreement, to pay to Subcontractor the proportionate part of any sums paid by Owner to which Subcontractor is entitled. For disputes not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract, the parties hereto shall submit all disputes arising under or relating to the terms and conditions of the Subcontract to arbitration in accordance with the Construction Industry Rules of the American Arbitration Association. Prior to filing an arbitration demand, the parties shall meet informally to attempt to resolve the dispute and, if requested by Contractor, shall participate in non-binding mediation, with each party to bear its own fees and costs. No demand in arbitration shall be made after the date when the institution of legal or equitable proceeding based on such dispute would be barred by the applicable statute of limitations. In any dispute resolution between the parties, the prevailing party shall be entitled, in addition to any other relief granted, to recover its costs of participation, including attorneys' fees (in-house counsel fees will be reimbursed at the prevailing market rate in the community) and experts' fees. An award rendered by an arbitrator(s) shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction. Venue for any action, litigation or claim resolution proceeding will be in Contra Costa County. The award rendered by the arbitrator(s) shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

Notwithstanding any dispute, and to the greatest extent permitted by law, Subcontractor agrees to continue with its performance and maintain the schedule of work pending resolution of any and all disputes, including disputes regarding payment or whether work is within Subcontractor's scope. The foregoing sentence constitutes an advance waiver by Subcontractor of any actual or alleged right to stop work, rescind, or abandon the Project.

Subcontractor, and its subcontractors and suppliers (regardless of tier), agree upon request by Contractor to join in and be bound by proceedings involving Contractor, including those involving Owner or other parties. It shall be the responsibility of Subcontractor at its sole expense to prepare Contractor's case, to the extent the proceedings are related to this Agreement.

Nothing herein shall be deemed to waive rights or remedies that by law may not be waived.

P. WARRANTY. Subcontractor warrants that all materials furnished shall be new unless otherwise specified and that all Work under this Agreement shall be performed in a substantial, good and workmanlike manner, shall be of best quality, free from faults and defects, and in strict conformance with the Contract Documents. Any work not conforming to such requirements shall be deemed to be defective, at Contractor's election. This warranty is cumulative with any other warranty or remedy that may exist under applicable law or the Contract Documents. All warranties hereunder shall be deemed to be continuing in nature.

Q. CLEANUP. At all times during the course of construction, Subcontractor at its own expense shall perform its Work so as to maintain the site in a clean, safe, and orderly condition. Subcontractor shall remove, as often as directed by Contractor, all rubbish and surplus material which may accumulate from the prosecution of its Work, and should Subcontractor fail to do so, Contractor may, at its option, remove or remedy the same without further notice at Subcontractor's expense.

Upon completion of the work under this Agreement, at its expense Subcontractor shall remove from the site all hazardous materials, temporary structures, debris, and waste incident to its operation and clean all surfaces, fixtures, equipment, etc., relative to the performance of this Agreement.

R. INDEPENDENT CONTRACTOR. Subcontractor is an independent contractor. Subcontractor shall pay all federal and state taxes relating to its work, including sales, use, employment, and other taxes, insurance and contributions for social security and unemployment, etc.

S. ASSIGNMENT. Without first giving written notice and then obtaining Contractor's written consent, Subcontractor shall not assign, hypothecate, transfer or sublet: (1) any portion or part of the work required or the obligations hereunder; (2) payments to Subcontractor under this Agreement; or (3) any cause of action related to this Agreement. Subcontractor acknowledges and stipulates that its performance constitutes a unique and personal obligation. Any assignment, hypothecation, transfer, or subletting by

Subcontractor without Contractor's written consent shall be void and invalid, notwithstanding actual or constructive knowledge by Contractor of the purported assignment, hypothecation, transfer or subletting.

T. USE OF EQUIPMENT. If Subcontractor uses Contractor's equipment, materials, labor, supplies, services, or facilities, Subcontractor shall reimburse Contractor at a predetermined rate, except as otherwise provided herein. Subcontractor shall conduct its own independent investigation and hereby assumes all responsibility for any physical damage to Contractor's equipment, materials, supplies, or facilities. If Subcontractor utilizes any of Contractor's employees, Subcontractor shall have full responsibility for all acts and omissions of Contractor's employees with regard to Subcontractor's use or employment of them. Subcontractor accepts any and all of Contractor's equipment, materials, labor, supplies, services, or facilities "as is."

U. UNION AGREEMENTS

CONTRACTOR IS SIGNATORY TO THE FOLLOWING UNIONS (*list*):

Laborers, Operating Engineers, Teamsters,
Cement Masons & Carpenters

V. STATUTORY NOTICE:

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS STATE LICENSE BOARD, WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE

FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CA 95826.

P. LICENSING. Subcontractor shall obtain and hold all governmental licenses (including city business licenses) for the location where the work is being performed for the duration of the Project and provide copies as a prerequisite to payment.

SUBCONTRACTOR NAME:

CONTRACTOR NAME:

Bay Cities Paving & Grading, Inc.

By: _____

California License No.: 238650

California License No.: _____

DIR Reg. No. _____

EXHIBIT A

INSURANCE REQUIREMENTS

Casualty Insurance. Subcontractor shall, at its expense, procure and maintain insurance on all of its operations, with companies acceptable to Contractor, as follows:

\$1,000,000 each occurrence (combined single limit for bodily injury and property damage)

\$1,000,000 for personal injury liability

Workers Compensation and Employer's Liability Insurance. Workers Compensation insurance shall be provided as required by any applicable law or regulation. Employer's Liability insurance shall be provided in amounts not less than:

\$2,000,000 aggregate for products-completed operations

\$2,000,000 general aggregate

\$1,000,000 each accident for bodily injury by accident

\$1,000,000 policy limit for bodily injury by disease

\$1,000,000 each employee for bodily injury by disease

If Subcontractor's employees are exposed to conditions that would subject Subcontractor to the U.S. Longshoreman and Harbor Workers Compensation Act, the Jones Act, or laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

General Liability Insurance. Subcontractor shall carry primary Commercial General Liability insurance covering all operations by or on behalf of Subcontractor providing insurance for bodily injury and property damage liability for the limits of liability indicated below and including but not limited to coverage for:

- (1) premises and operations
- (2) products and completed operations will be maintained for three years following Project completion.
- (3) contractual liability insuring tort obligations assumed by Subcontractor in this Contract
- (4) broad form property damage (including completed operations)
- (5) explosion, collapse and underground hazards (including subsidence and any other earth movement)
- (6) personal injury liability

The limits of liability shall be not less than the amounts required of Subcontractor under the Contract Documents, but in no event less than:

The general aggregate limit shall apply separately to Subcontractor's work under this Contract. For subcontracts in excess of \$250,000 an additional \$5,000,000 Excess Liability Insurance policy shall be maintained over the General Liability coverage that shall, at a minimum, include coverage for the exposures set forth in items 1-6 above.

Contractor, its officers, directors and employees, and Owner shall be named as additional insureds under the Commercial General Liability policy and Excess Liability policy and such insurance afforded the additional insureds shall apply as primary insurance. Any other insurance maintained by Contractor or Owner shall not be called upon to contribute with this insurance.

Coverage for the Contractor, its officers, directors and employees and the Owner as additional insureds shall be provided by an endorsement providing coverage at least as broad as Additional Insured (Form B) endorsement form CG 2010 1185, a combination of 20 10 10 01 and CG 20 37 10 01; or equivalent. Additional insured endorsement will be provided for four years following project completion.

Claims Made and Self Insurance Provisions. Subcontractor shall not provide general liability insurance under any Claims Made General Liability form without the express prior written consent of Contractor. Any self-insurance program providing coverage in excess of \$25,000 per occurrence requires the prior written consent of Contractor.

Automobile Liability Insurance. Subcontractor shall carry automobile liability insurance, including coverage for all owned hired and non-owned automobiles. The limits of liability shall be not less than \$1,000,000 combined single limit each accident for bodily injury and property damage. Contractor and Owner shall be named as additional

insureds.

Additional Requirements. All insurance under this provision (including, but not limited to general liability, automobile liability, and workers' compensation and employer's liability insurance) shall be provided by a California admitted carrier with an A.M. Best's Rating of A- or better, financial capacity VII or greater (except for State Fund of California for workers' compensation coverage). General liability insurance shall be written on a form at least as broad as ISO occurrence form CG 0001; Automobile Liability Insurance shall be provided pursuant to a coverage form at least as broad as ISO form CA 0001. Contractor reserves the right, in its sole and subjective discretion, to reject an insurer and require Subcontractor to obtain policies from another insurer.

Certificates of insurance, as evidence of the insurance required by this Contract and including the required "additional insured" endorsement(s) shall be furnished by Subcontractor to Contractor with its bid. Certificates shall set forth deductible amounts applicable to each policy and all exclusions or limitations not set forth in ISO Commercial General Liability Form CG 00 01. The Contractor may allow deductible provisions if Subcontractor is willing to increase retentions accordingly. Standard ISO Form CG 0001 exclusions will also be allowed. Allowance of any additional exclusions or coverage limiting endorsements is at the discretion of the Contractor, and Subcontractor's bid shall be subject to adjustment to compensate for the existence of such exclusions.

Subcontractor's insurance and additional insured coverage shall not include the following exclusions or provisions: cross-suits and/or cross-insureds exclusion of coverage, mold, water damage and/or earth movement exclusions, requirements by the insurer that subcontractors or suppliers maintain insurance or agree to defend or indemnify Contractor or Owner, residential or condominium exclusions, provisions, or limitations where the effect thereof would be to eliminate or limit coverage. Subcontractor shall cause its policies to be amended or endorsed to remove any such exclusions, provisions or limitations.

Regardless of the allowance of exclusions, coverage limitations or deductibles by the Subcontractor, Subcontractor shall be responsible for any deductible amount or any loss arising out of coverage denials by his insurance carrier(s). Certificates of insurance shall provide that there will be no cancellation or reduction of coverage without thirty (30) day's prior written notice to Contractor.

Any acceptance of insurance certificates by Contractor shall in no way limit or relieve Subcontractor of its duties and responsibilities under this Agreement, including the duty to defend, indemnify and hold harmless Owner.

Subcontractor shall take such steps as are necessary to assure Subcontractor's compliance with its obligations. Should any insurance policy lapse or be canceled during the contract period, Subcontractor shall, prior to the effective expiration or cancellation date, furnish the Contractor with evidence of renewal or replacement of the policy. Failure to continuously satisfy insurance requirements as herein provided is a material breach of contract. In the event Subcontractor fails to maintain any insurance coverage required, Contractor may, but is not required to, maintain such coverage and charge the expense to Subcontractor or terminate this contract.

Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the Subcontractor for liability in excess of such coverage nor shall it preclude the Contractor from taking such other actions as is available to it under any other provision of the contract or law. If higher limits or other forms of insurance are required in the Contract Documents, Subcontractor will comply with such requirements.

Subcontractor shall not provide any liability coverage (including auto coverage) under a claims made, "wasting" policy or other form of policy that reduces the amount of coverage, in whole or in part, by amounts expended on defense of claims. Subcontractor shall also satisfy the following additional requirements:

- (a) **Hazardous Materials.** If Subcontractor and/or its subcontractors or suppliers, regardless of tier, perform remediation of hazardous materials or if their operations create an exposure to hazardous materials as those terms are defined in federal, state or local law, Subcontractor and its subcontractors and suppliers must obtain a "Contractor's Pollution Liability" policy with limits not less than \$1,000,000 per occurrence and not less than \$2,000,000 aggregate for Bodily Injury, Personal Injury and Property Damage, naming Contractor as an additional insured. If Subcontractor or its subcontractors or suppliers haul hazardous material (including, without limitation, waste), the policy must extend pollution coverage to the transportation of hazardous materials or pollutants by waste hauling vehicles. If Subcontractor is subject to the Motor Carrier Act of 1980, the Motor Carrier

Act endorsement MCS-90 must be obtained and attached to the policy.

- (b) **Professional Liability.** If Subcontractor (or its subcontractors or suppliers, regardless of tier) performs any design/build work or services, it shall obtain a Professional Liability Insurance Policy. Design/build work includes, without limitation, design/build work with respect to mechanical, electrical, structural, plumbing and fire sprinkler systems. Evidence of coverage in the form of a Certificate of Insurance shall be provided prior to the start of the Project. Subcontractor shall obtain coverage for a minimum of three years following completion of the Project, either through continued purchase of policies for such years or through purchase of an extended reporting period. If Owner or Contractor elects to purchase a project design policy, Subcontractor's policy shall be endorsed to indicate that Subcontractor's policy shall provide coverage once the project design policy has been exhausted.
- (c) **Riggers Liability.** Should Subcontractor's work involve the moving, lifting, lowering, rigging or hoisting of property or equipment, Subcontractor shall carry Rigger's Liability Insurance to insure against physical loss or damage to the property or equipment.
- (d) **Aircraft Liability.** If Subcontractor (or its subcontractors or suppliers, regardless of tier) use any owned, leased, chartered or hired aircraft of any type in the performance of this contract, they shall maintain aircraft liability insurance in an amount of not less than \$10,000,000 per occurrence, including Passenger Liability. Evidence of coverage in the form of a certificate of insurance shall be provided prior to the start of the Project.
- (e) **Work Near Railroads.** If Subcontractor (including any lower tier subcontractor or supplier) performs any work or conducts any operations within fifty feet of any railroad (including any light rail, fixed rail or other rail system), Subcontractor shall obtain an endorsement of its Commercial General Liability Policy to delete any exclusion, including the "Contractual Liability" exclusion, for work performed within fifty feet of a railroad. A copy of such endorsement shall be provided to Contractor prior to any work or operations by Subcontractor within fifty feet of any railroad. Subcontractor shall also provide any other insurance coverage required by any owner or operator of any rail system.

- (f) **Equipment and Property Coverage.** Subcontractor shall procure and maintain at its own expense property and equipment insurance for Subcontractor's tools, equipment, temporary structures, work in progress, work in transit and/or in temporary storage.

If builders' risk insurance is not provided by Owner or Contractor, Subcontractor shall purchase and maintain installation floater coverage written to cover all risks of physical loss except those specifically excluded in the policy, and shall insure at least against the perils of fire and extended coverage, theft, vandalism, malicious mischief and collapse. This insurance shall be written in an amount to provide full protection for Subcontractor's work and equipment. This insurance shall apply on a replacement cost basis. Any deductible shall be the full responsibility of Subcontractor.

- (g) **Waiver of Subrogation.** Contractor and Subcontractor waive all rights against each other for loss or damage to the extent reimbursed by any insurance applicable to the work, except such rights as they may have to the proceeds of such insurance. If any applicable policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.
- (h) **Requirements for Sub-subcontractors, Vendors, and Suppliers.** Subcontractor shall ensure that all tiers of its subcontractors, vendors and suppliers shall maintain insurance in like form and amounts, shall comply with the additional insured requirements as set forth above, shall waive subrogation as set forth above, shall otherwise comply with all requirements of this Exhibit A, and shall provide Contractor with evidence of insurance prior to commencing work
- (i) **Wrap-Up or OCIP Insurance** (1) If there is no Wrap-Up or Owner Controlled Insurance Program ("OCIP") for the Project, all provisions of this Attachment shall apply; (2) if there is Wrap-up or OCIP coverage, the provisions of this Attachment shall apply only to the extent the OCIP does not provide such coverage and thus the provisions of this Attachment shall require coverage in addition to the coverage provided by the OCIP. For example, and without limitation, if the OCIP does not cover off-site activities or workers compensation,

then Subcontractor shall furnish all required insurance with respect to offsite activities and shall also maintain workers compensation coverage, all in accordance with the provisions of this Agreement, including this Section. Subcontractor shall at no additional cost to Contractor comply with all requirements and provisions of any such Wrap-up or OCIP coverage, including any applicable manual or provisions concerning the furnishing of credits, as if such requirements and provisions were incorporated herein.

OCIP or Wrap Policy Disclosures

[Check Box if applicable: ☐]

In accordance with Civil Code Section 2782.96, Contractor provides the following disclosures concerning a wrap-up insurance policy or other consolidated insurance program for a public works project or any other project other than a residential construction project as defined by Civil Code Section 895 et seq.:

- Total amount or method of calculation of any credit or compensation for premium required from Subcontractor or another participant (fill in one):

☐ \$ _____ or

☐ Per Exhibit _____, attached hereto.
- Policy limits: \$ _____.
- Known exclusions: See Exhibit _____, attached hereto.
- Period/length of time policy is to remain in effect: _____.

Upon written request, once Contractor itself obtains a copy of the Wrap-Up policy, a copy of the Wrap-Up policy may be inspected and copies by any person or company covered by the policy. If a policy is not yet available, upon written request, a person or company covered by the Wrap-Up policy shall be provided a copy of the insurance binder or declaration of coverage. Any person or company receiving a copy of the Wrap-Up policy, binder, or declaration ("participant") agrees not to disclose it to third parties other than the participant's insurance broker or attorney, unless required to provide or disclose it by law. Any participant who provides a copy of the Wrap-Up policy, binder or declaration to his, her or its insurance broker or attorney shall require the insurance broker or attorney not to disclose it unless required to do so by law.

EXHIBIT B

California Labor Code Provisions Labor Code Sections 1771, 1775, 1776, 1777.5, 1813 and 1815

§ 1771. Requirement of prevailing local rate for work under contract

Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

§ 1775. Forfeiture for paying less than prevailing wage rates; Amount of penalty; Payments to workers; Liability of prime contractor; Notification of complaint

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

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

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

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

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

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

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

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

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

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

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by

the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.

(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

§ 1776. Payroll record of wages paid; Inspection; Forms; Effect of noncompliance; Penalties

(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the contractor or subcontractor in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by that person's employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body

awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, the contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

§ 1777.5. Employment of apprentices on public works

(a) (1) This chapter does not prevent the employment upon public works of properly registered apprentices who are active participants in an approved apprenticeship program.

(2) For purposes of this chapter, "apprenticeship program" means a program under the jurisdiction of the California Apprenticeship Council established pursuant to Section 3070.

(b) (1) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

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

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

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

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

(d) If the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the

contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

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

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

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

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the

day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. When an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator of Apprenticeship, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

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

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

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

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

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

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

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public

at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

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

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

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

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

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

(iii) All training contributions not distributed under clauses (i) and (ii) shall be used to defray the future expenses of the Department of Industrial Relations for the administration and enforcement of apprenticeship and preapprenticeship standards and requirements under this code.

(B) An apprenticeship program shall only be eligible to receive grant funds pursuant to this subdivision if the

apprenticeship program agrees, prior to the receipt of any grant funds, to keep adequate records that document the expenditure of grant funds and to make all records available to the Department of Industrial Relations so that the Department of Industrial Relations is able to verify that grant funds were used solely for training apprentices. For purposes of this subparagraph, adequate records include, but are not limited to, invoices, receipts, and canceled checks that account for the expenditure of grant funds. This subparagraph shall not be deemed to require an apprenticeship program to provide the Department of Industrial Relations with more documentation than is necessary to verify the appropriate expenditure of grant funds made pursuant to this subdivision.

(C) The Department of Industrial Relations shall verify that grants made pursuant to this subdivision are used solely to fund training apprentices. If an apprenticeship program is unable to demonstrate how grant funds are expended or if an apprenticeship program is found to be using grant funds for purposes other than training apprentices, then the apprenticeship program shall not be eligible to receive any future grant pursuant to this subdivision and the Department of Industrial Relations may initiate the process to rescind the registration of the apprenticeship program.

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

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

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

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

§ 1813. Penalty when workman required to work excess hours; Stipulation in contract; Cognizance

and report of violation

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

§ 1815. Work performed in excess of specified hour limitations; Compensation

Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1½ times the basic rate of pay.

EXHIBIT A

INSURANCE REQUIREMENTS

Casualty Insurance. Contractor shall, at its expense, procure and maintain insurance on all of its operations, with companies acceptable to Owner, as follows:

\$1,000,000 each occurrence (combined single limit for bodily injury and property damage)

Workers Compensation and Employer's Liability Insurance. Workers Compensation insurance shall be provided as required by any applicable law or regulation. Employer's Liability insurance shall be provided in amounts not less than:

\$1,000,000 for personal injury liability

\$2,000,000 aggregate for products-completed operations

\$2,000,000 general aggregate

\$1,000,000 each accident for bodily injury by accident

\$1,000,000 policy limit for bodily injury by disease

\$1,000,000 each employee for bodily injury by disease

If there is an exposure of injury to Contractor's employees under the U.S. Longshoreman and Harbor Workers Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

The general aggregate limit shall apply separately to Contractor's work under this Contract. For Contracts in excess of \$500,000, an additional \$5,000,000 Excess Liability Insurance policy shall be maintained over the General Liability coverage that shall, at a minimum, include coverage for the exposures set forth in items 1-6 above.

Owner, its officers, directors and employees, shall be named as additional insureds under the Commercial General Liability policy and Excess Liability policy and such insurance afforded the additional insureds shall apply as primary insurance. Any other insurance maintained by Owner shall not be called upon to contribute with this insurance.

General Liability Insurance. Contractor shall carry primary Commercial General Liability insurance covering all operations by or on behalf of Contractor providing insurance for bodily injury and property damage liability for the limits of liability indicated below and including but not limited to coverage for:

Coverage for the Owner, its officers, directors and employees, and Owner shall be provided by an endorsement providing coverage at least as broad as Additional Insured (Form B) endorsement form CG 2010 1185 as published by the Insurance Services Office (ISO) (or equivalent). Additional insured endorsement will be

- (1) premises and operations
- (2) products and completed operations will be maintained for ten years following Project completion.
- (3) contractual liability insuring tort obligations assumed by Contractor in this Contract
- (4) broad form property damage (including completed operations)
- (5) explosion, collapse and underground hazards (including subsidence and any other earth movement)
- (6) personal injury liability

The limits of liability shall be not less than the amounts required of Contractor under the Contract Documents, but in no event less than:

provided for four years following Project completion.

Claims Made and Self Insurance Provisions.

Contractor shall not provide general liability insurance under any Claims Made General Liability form without the express prior written consent of Owner. Any self-insurance program providing coverage in excess of \$25,000 per occurrence requires the prior written consent of Contractor.

Automobile Liability Insurance. Contractor shall carry automobile liability insurance, including coverage for all owned hired and non-owned automobiles. The limits of liability shall be not less than \$1,000,000 combined single limit each accident for bodily injury and property damage. Owner shall be named as additional insureds.

Additional Requirements. All insurance under this provision (including, but not limited to general liability, automobile liability, and workers' compensation and employer's liability insurance) shall be provided by a California admitted carrier with an A.M. Best's Rating of A- or better, financial capacity VII or greater (except for State Fund of California for workers' compensation coverage). General liability insurance shall be written on a form at least as broad as ISO occurrence form CG 0001; Automobile Liability Insurance shall be provided pursuant to a coverage form at least as broad as ISO form CA 0001. Owner reserves the right, in its sole and subjective discretion, to reject an insurer and require Contractor to obtain policies from another insurer.

Certificates of insurance, as evidence of the insurance required by this Contract and including the required "additional insured" endorsement(s) shall be furnished by Contractor to Owner with its bid. Certificates shall set forth deductible amounts applicable to each policy and all exclusions or limitations not set forth in ISO Commercial General Liability Form CG 00 01. The Owner may allow deductible provisions if Contractor is willing to increase retentions accordingly. Standard ISO Form CG 0001 exclusions will also be allowed. Allowance of any additional exclusions or coverage limiting endorsements is at the discretion of the Owner, and Contractor's bid shall be subject to upward adjustment to compensate for the existence of such exclusions.

Contractor's insurance and additional insured coverage shall not include the following exclusions or provisions: cross-suits and/or cross-insureds exclusion of coverage, mold, water damage and/or earth movement exclusions.

Contractor shall cause its policies to be amended or endorsed to remove any such exclusions, provisions or limitations.

Regardless of the allowance of exclusions, coverage limitations or deductibles by the Contractor, Contractor shall be responsible for any deductible amount or any loss arising out of coverage denials by his insurance carrier(s). Certificates of insurance shall provide that there will be no cancellation or reduction of coverage without thirty (30) day's prior written notice to Owner. Any acceptance of insurance certificates by Owner shall in no way limit or relieve Contractor of its duties and responsibilities under this Agreement, including the duty to defend, indemnify and hold harmless Owner.

Contractor shall take such steps as are necessary to assure Contractor's compliance with its obligations. Should any insurance policy lapse or be canceled during the contract period, Contractor shall, prior to the effective expiration or cancellation date, furnish the Owner with evidence of renewal or replacement of the policy. Failure to continuously satisfy insurance requirements as herein provided is a material breach of contract. In the event Contractor fails to maintain any insurance coverage required, Owner may, but is not required to, maintain such coverage and charge the expense to Contractor or terminate this contract.

Any acceptance of insurance certificates or endorsements by Owner shall in no way limit or relieve Contractor of its duties and responsibilities under this Contract including the duty to indemnify and hold harmless Contractor.

Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the Contractor for liability in excess of such coverage nor shall it preclude the Owner from taking such other actions as is available to it under any other provision of the contract or law. If higher limits or other forms of insurance are required in the Contract Documents, Contractor will comply with such requirements.

Contractor shall not provide any liability coverage (including auto coverage) under a claims made, "wasting" policy or other form of policy that reduces the amount of coverage, in whole or in part, by amounts expended on defense of claims.

Contractor shall also satisfy the following additional requirements:

- (a) **Hazardous Materials.** If Contractor and/or its subcontractors or suppliers, regardless of tier,

perform remediation of hazardous materials or if their operations create an exposure to hazardous materials as those terms are defined in federal, state or local law, Contractor and its subcontractors and suppliers must obtain a "Contractor's Pollution Liability" policy with limits not less than \$1,000,000 per occurrence and not less than \$2,000,000 aggregate for Bodily Injury, Personal Injury and Property Damage, naming Contractor as an additional insured. If Contractor or its subcontractors or suppliers haul hazardous material (including, without limitation, waste), the policy must extend pollution coverage to the transportation of hazardous materials or pollutants by waste hauling vehicles. If Contractor is subject to the Motor Carrier Act of 1980, the Motor Carrier Act endorsement MCS-90 must be obtained and attached to the policy.

- (b) **Professional Liability.** If Contractor (or its subcontractors or suppliers, regardless of tier) performs any design/build work or services, it shall obtain a Professional Liability Insurance Policy. Design/build work includes, without limitation, design/build work with respect to mechanical, electrical, structural, plumbing and fire sprinkler systems. Evidence of coverage in the form of a Certificate of Insurance shall be provided prior to the start of the Project. Contractor shall obtain coverage for a minimum of three years following completion of the Project, either through continued purchase of policies for such years or through purchase of an extended reporting period. If Owner or Contractor elects to purchase a project design policy, Contractor's policy shall be endorsed to indicate that Contractor's policy shall provide coverage once the project design policy has been exhausted.
- (c) **Equipment and Property Coverage.** Contractor shall procure and maintain at its own expense property and equipment insurance for Contractor's tools, equipment, temporary structures, work in progress, work in transit and/or in temporary storage.

If builders' risk insurance is not provided by Owner, Contractor shall purchase and maintain installation floater coverage written to cover all risks of physical loss except those specifically excluded in the policy, and shall insure at least against the perils of fire and extended coverage, theft, vandalism, malicious mischief and collapse. This insurance shall be written in an amount to provide full protection for Contractor's work and equipment. This insurance shall apply on a replacement cost basis. Any deductible shall be the full responsibility of Contractor.

- (d) **Waiver of Subrogation.** Contractor and Owner waive all rights against each other for loss or damage to the extent reimbursed by any insurance applicable to the work, except such rights as they may have to the proceeds of such insurance. If any applicable policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will provide these endorsements to Owner with their insurance.
- (e) **Requirements for Sub-Contractors, Vendors, and Suppliers.** Contractor shall ensure that all tiers of its subcontractors, vendors and suppliers shall maintain insurance in like form and amounts, shall comply with the additional insured requirements as set forth above, shall waive subrogation as set forth above, shall otherwise comply with all requirements of this Exhibit A, and shall provide Owner with evidence of insurance prior to commencing work

EXHIBIT B

PREVAILING WAGE PROCEDURES AND LABOR CODE SECTIONS 1771 - 1815

(Applies to State and Local Public Works Projects Only Unless Otherwise Indicated)

1. The attached provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815 are incorporated into this subcontract and the subcontractor agrees to comply with all of the above-referenced provisions applicable to the performance of its work on this project. Specifically, the subcontractor agrees to:
 - a. Pay all workers not less than the general prevailing rate of per diem wages for work of similar character in the locality in which the public work is performed.
 - b. Pay all workers not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter.
 - c. Adhere to the compliance measures outlined in LC 1775(b) for any second tier subcontractor that the subcontractor chooses to use on this project.
 - d. Submit certified payroll records to the contractor on a weekly basis. Records shall be provided no later than 5 days following the last day of each workweek.
 - e. Comply with the applicable requirements and joint apprenticeship standards as required by LC 1777.5.
2. The subcontractor, prior to receiving final payment for work performed on this project, shall sign an affidavit under penalty of perjury that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees for the proper craft needed to fulfill the obligations of the subcontract. (The attached affidavit is incorporated into this subcontract.)
3. The subcontractor agrees to indemnify and hold harmless the contractor for any violations of the above-referenced Labor Code provisions, which were caused by the subcontractor's failure to comply with said provisions.
4. The Contractor reserves the right to obtain from the subcontractor any and all payroll records pertaining to this specific project including, but not limited to, copies of cancelled payroll checks, payroll reports, employee signed time cards, and benefit records, including cancelled checks for such payments.

1771. Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for Work of a similar character in the locality in which the public Work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime Work fixed as provided in this chapter, shall be paid to all workers employed on public works. This section is applicable only to Work performed under contract, and is not applicable to Work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance Work.

1775. (a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each Worker paid less than the prevailing wage rates as determined by

the director for the Work or craft in which the Worker is employed for any public Work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

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

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

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

(B) (i) The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each Worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the

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

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

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

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

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

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

(b) If a Worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of Work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified

prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for Work performed on the public works project.

(4) Prior to making final payment to the subcontractor for Work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

1776. (a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records

have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's name and social security number. A joint labor management committee may maintain an action in a court of competent jurisdiction against an employer who fails to comply with Section 1774. The court may award restitution to an employee for unpaid wages and may award the joint labor management committee reasonable attorney's fees and costs incurred in maintaining the action. An action under this subdivision may not be based on the employer's misclassification of the craft of a worker on its certified payroll records. Nothing in this subdivision limits any other available remedies for a violation of this chapter.

(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the

Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

1777.5.5. (a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

(b) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

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

employment and training of each apprentice shall be in accordance with either of the following:

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

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

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

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

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

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

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator of Apprenticeship, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

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

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

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

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

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

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

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

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

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

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

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

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

(C) All training contributions not distributed under subparagraphs (A) and (B) shall be used to defray the future expenses of the Department of Industrial Relations

for the administration and enforcement of apprenticeship standards and requirements under this code.

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

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

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

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

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

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

**AFFIDAVIT OF COMPLIANCE WITH CALIFORNIA PREVAILING WAGE
LAW, CALIFORNIA LABOR CODES SECTIONS 1720-1815**

The undersigned, being duly sworn, states as follows:

1. I am _____ [print name], the _____
[print position held] of _____ ("Subcontractor"), a
subcontractor to _____ ("Contractor") on the job
of the _____ [project name and
address] ("Project"). I am familiar with the payroll practices of Subcontractor on the
Project. One of my duties and responsibilities is to ensure that Subcontractor complies
with the California Prevailing Wage Law, California Labor Code sections 1720 through
1815 on the Project. I make this sworn statement pursuant to California Labor Code
sections 1775, subdivision (b)(4), and 1777.7, subdivision (d)(4).
2. I have reviewed the payroll practices and the payroll records for Subcontractor on the
Project. Subcontractor has paid the specified prevailing rate of wages to each of its
employees on the Project as required by Prevailing Wage Law, and has paid any amounts
due such employees under California Labor Code section 1813. Subcontractor has
employed the required number of apprentices on the Project.
3. I have also reviewed the payroll practices of each of the Subcontractor's lower tier
subcontractors on the Project. Each of Subcontractor's lower-tiered subcontractors has
paid the specified prevailing rate of wages to its employees, has paid any amount due
such employees under California Labor Code section 1813, has employed the required
number of apprentices on the Project, and has provided Subcontractor with an affidavit
that complies with California Labor Code sections 1775, subdivision (b)(4), and 1777.7,
subdivision (d)(4).
4. I understand that Contractor is relying upon the truth of the contents of this sworn
statement in making final payment to Subcontractor for work performed on the Project,
and may suffer damages if my sworn representations were not true.

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct and that this affidavit was executed on
_____ [date] in _____ [location], California.

[Name]



EXHIBIT E

PAYROLL REQUIREMENTS

BAY CITIES PAVING & GRADING INC.

Bus: 1450 Civic Court, Building B, #400, Concord, CA 94520

PHONE: (925) 687-6666

FAX: (925) 687-2122

Mail: Post Office Box #6227, Concord, CA 94524-6227

Attn: Payroll Department

From: Payroll Administrator

- This is a **Prevailing Wage** Job.
- We require weekly **Certified Payroll** on this job.
- We require **Owner-Operator Listings** and **Statements of Compliance** for truckers.
- We require **Non-Performance Statements** after you start work.
- We require **one original** of Certified Payroll/Non-Performance.
- We **do not** require Monthly Utilization Reports.
- If you pay fringe benefits to approved plans, we require a **benefit statement**.
- Training contributions **must be paid** to an appropriate agency.
- Proof of Fringes paid **must be provided** with Certified Payroll on projects requiring such information.
- Payments will not be made unless all paperwork and Certified Payrolls are received and complete.

"It is the policy of Bay Cities, all employees are treated during employment without regard to race, color, religion, sex, national origin, age, marital status, medical condition or handicap, or any other legally protected status. This will acknowledge that Bay Cities Paving and Grading Inc. is an Equal Opportunity Employer, and bound by the clauses and conditions identified in Executive Order 11246, as amended, the Vietnam Era Veterans Readjustment Act of 1974, as amended, 38 USC 2012 and section 503 of the Rehabilitation Act of 1973, as amended, and their implementing regulations and which by this clause are incorporated herein."

STATEMENT OF NON- PERFORMANCE

- **Submitted only if no work is performed for the week and if the project is not complete**
- **Original signature required**

STATEMENT OF NON-PERFORMANCE

JOB NO.: _____

PAYROLL NO.: _____

I do hereby state that no persons were employed on

the _____ project during the payroll week

beginning on the _____ of _____, 2013 and ending on the _____ of _____, 2013.

(Company Name)

(Authorized Signer)

FRINGE BENEFIT STATEMENT

- **Must be submitting along with the first Certitified Payroll**
- **Must be submitted if wage rates are updated**
- **Must be submitted if a change in fringe benefits, i.e. additions or delineations in the program**
- **Original signature required**

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
FRINGE BENEFIT STATEMENT
 CEM-2501 (REV. 8/1994)

CONTRACTOR/SUBCONTRACTOR (Please Print)	CONTRACT NUMBER	FEDERAL AID PROJECT NUMBER	DATE
TO: RESIDENT ENGINEER/DISTRICT LABOR COMPLIANCE OFFICER		BUSINESS ADDRESS	

The following information (as shown or referenced on wage rate determinations) paid to or on behalf of employees in various crafts or classifications is used to check payrolls or applied to force account work on the above contract.

THIS FORM MUST BE COMPLETED AND SUBMITTED WITH THE FIRST CERTIFIED PAYROLL, OR WHEN THERE HAVE BEEN ANY CHANGES.

CLASSIFICATION	FRINGE BENEFIT HOURLY AMOUNT	NAME AND ADDRESS OF PLAN, FUND, OR PROGRAM
Effective Date _____ _____ Subsistence and/or Travel Pay: \$ _____	Vacation \$ _____	_____ _____ _____ _____ _____
	Health & Welfare \$ _____	
	Pension \$ _____	
	Apprentice \$ _____	
	Other \$ _____	
Effective Date _____ _____ Subsistence and/or Travel Pay: \$ _____	Vacation \$ _____	_____ _____ _____ _____ _____
	Health & Welfare \$ _____	
	Pension \$ _____	
	Apprentice \$ _____	
	Other \$ _____	
Effective Date _____ _____ Subsistence and/or Travel Pay: \$ _____	Vacation \$ _____	_____ _____ _____ _____ _____
	Health & Welfare \$ _____	
	Pension \$ _____	
	Apprentice \$ _____	
	Other \$ _____	

I certify under penalty of perjury that fringe benefits are paid to the approved Plans, Funds, or Programs as listed above.

NAME AND TITLE (Please Print)

SIGNATURE

BUSINESS TELEPHONE NUMBER

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 263-2041 or TDD (916) 263-2044 or write Records and Forms Management, 1120 N Street, MS-60, Sacramento, CA 95814. CEM2501



**OWNER-OPERATOR LISTING
&
OWNER-OPERATOR LISTING
STATEMENT OF COMPLIANCE**

- **Must be submitted weekly of all independent truckers working on the project**
- **Original signature required**

OWNER-OPERATOR LISTING STATEMENT OF COMPLIANCE

CERTIFICATION UNDER PENALTY OF PERJURY

Date _____

(Name of signatory party)

(Title)

do hereby state:

(1) That I pay or supervise the payment of the persons reported on this form as Owner-operators by _____
(Contractor or subcontractor)

on the _____, that during the payroll period commencing on the _____ day of _____
(Building or work)
and ending _____ day of _____, all persons working on said project have been paid the
full weekly sums earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said
_____ from the full weekly sums earned by any person and that no deductions
(Contractor or subcontractor)
have been made either directly or indirectly from the full sums earned by any person, other than permissible deductions, as
described below:

(2) That any payrolls or listings or otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency.

(4) That

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- ☐ In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll or listings payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in Section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- ☐ Each Laborer or mechanic listed in the above referenced payroll or listings has been paid as indicated on the payroll or listings an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4(c) below:

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

Remarks:

NAME AND TITLE

SIGNATURE

On federally-funded projects, permissible deductions are defined in regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 276c).

Also, the willful falsification of any of the above statements may subject the contractor or subcontractor to civil or criminal prosecution (see Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code).

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 263-2041 or TDD (916) 263-2044 or write Records and Forms Management, 1120 N Street, MS-88, Sacramento, CA 95814.



OWNER-OPERATOR LISTING

NAME OF CONTRACTOR EMPLOYING OWNER OPERATOR(S)

PAYROLL NO

FOR WEEK ENDING

PROJECT AND LOCATION

CONTRACT NO.

NAME, ADDRESS, SOCIAL SECURITY NO. AND CONTRACTORS LICENSE NO. OF OWNER-OPERATOR (IF ANY)

[illegible]

TRUCK CAL T NO.
AND/OR EQUIP.
LICENSE NO.

DAY AND DATE

TOTAL WEEKLY HOURS

GROSS
PAYMENT
EARNED

CHECK NO.

NOTE: CERTIFICATION WILL BE ACCEPTED ONLY FROM THE CONTRACTOR EMPLOYING THE OWNER OPERATOR; IT WILL NOT BE ACCEPTED FROM THE OWNER OPERATOR HIM / HERSELF.

INSTRUCTIONS FOR PREPARATION OF STATEMENT OF COMPLIANCE

This statement of compliance meets needs resulting from the amendment of the Davis-Bacon act to include fringe benefits provisions. Under this amended law, the contractor is required to pay fringe benefits as predetermined by the department of labor, in addition to payment of the minimum rates. The contractor's obligation to pay fringe benefits may be met by payment of the fringes to the various plans, funds, or programs or by making these payments to the employees as cash in lieu of fringes.

The contractor should *show on the face of his payroll all monies paid to the employees* whether as basic rates or as cash in lieu of fringes. The contractor shall represent in the statement of compliance that *he is paying to others* fringes required by the contract and not paid as cash in lieu of fringes. Detailed instructions follow:

CONTRACTORS WHO PAY ALL REQUIRED FRINGE BENEFITS:

A contractor who pays fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the secretary of labor shall continue to show on the face of his payroll the basic cash hourly rate and overtime rate paid to his employees, just as he has always done. Such a contractor shall check paragraph 4(a) of the statement to indicate that he is also paying to approved plans, funds, or programs not less than the amount predetermined as fringe benefits for each craft. Any exception shall be noted in Section 4(c).

CONTRACTORS WHO PAY NO FRINGE BENEFITS:

A contractor who pays no fringe benefits shall pay to the employee and insert in the straight time hourly rate column of his payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on the basic or regular rate, plus the required cash in lieu of fringes at the straight time rate. To simplify computation of overtime, it is suggested that the straight time basic rate and cash in lieu of fringes be separately stated in the hourly rate column, thus \$3.25/40. In addition, the contractor shall check paragraph 4(b) of the statement to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted in Section 4(c).

USE OF SECTION 4(c), EXCEPTIONS:

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4 (c). Enter in the Exception column the craft and enter in the Explanation column the hourly amount paid the employees as cash in lieu of fringes, and the hourly amount paid to plans, funds, or programs as fringes.

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
STATEMENT OF COMPLIANCE
CEM-2503 (REV 8/98)

CONTRACTOR/SUBCONTRACTOR	CONTRACT NUMBER
FIRST DAY AND DATE OF PAY PERIOD	LAST DAY AND DATE OF PAY PERIOD

I do hereby certify under penalty of perjury:

- (1) That I pay or supervise payment to employees of the above-referenced contractor on the above-referenced contract. All persons employed on said project for the above-referenced time period have been paid their full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said contractor from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person other than permissible deductions.
- (2) That any payrolls otherwise under this control required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wages rates:
- (a) ☐ Specified in the applicable wage determination incorporated into the contract;
- (b) ☐ Determined by the Director of Industrial Relations for the county or counties in which the work is performed; that the classification set forth therein for each laborer or mechanic conform with the work he or she performed.
- (3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency.
- (4) That fringe benefits as listed in the contract:
- (a) ☐ Have been or will be paid to the approved plan(s), fund(s), or program(s) for the benefit of listed employee(s), except as noted below.
- (b) ☐ Have been paid directly to the listed employee(s), except as noted below.
- (c) ☐ See exceptions noted below.

EXCEPTION CRAFT	EXPLANATION

REMARKS:

NAME (PLEASE PRINT.)	TITLE
SIGNATURE	DATE

On federally-funded projects, permissible deductions are defined in Regulation, Part 3 (29 CFR, Subtitle A), issued by the Secretary of Labor under the Copland Act, as amended (48 Stat. 948 63 Stat. 108,72 Stat. 967;76 Stat 357:40 U. S. C. 276c).

Also, the willful falsification of any of the above statements may subject the contractor or subcontractor to civil or criminal prosecution (See Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code).

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (816) 263-2041 or TDD (816) 263-2044 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

CEM2503



CERTIFIED PAYROLL REPORT

- **Must be submitted along with a Statement of Compliance weekly**
- **Must indicate check numbers**
- **Original signature required**



☐ CONTRACT
CEM-2502 (REV 4/2001)

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 263-2041 or TDD (916) 263-2044 or write Records and Furns Management, 1120 H Street, MS-89, Sacramento, CA

CONTRACTORS/ SUBCONTRACTOR

BUSINESS ADDRESS

☐ SUBCONTRACTOR PAYROLL

PERSONAL INFORMATION NOTICE

Presented to the Federal Pharmacy Act Panel, 23-25/97 and the International Physicians Act of 1977 (CMAA Section 1700, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713, 1714, 1715, 1716, 1717, 1718, 1719, 1720, 1721, 1722, 1723, 1724, 1725, 1726, 1727, 1728, 1729, 1730, 1731, 1732, 1733, 1734, 1735, 1736, 1737, 1738, 1739, 1740, 1741, 1742, 1743, 1744, 1745, 1746, 1747, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1755, 1756, 1757, 1758, 1759, 1760, 1761, 1762, 1763, 1764, 1765, 1766, 1767, 1768, 1769, 1770, 1771, 1772, 1773, 1774, 1775, 1776, 1777, 1778, 1779, 1780, 1781, 1782, 1783, 1784, 1785, 1786, 1787, 1788, 1789, 1790, 1791, 1792, 1793, 1794, 1795, 1796, 1797, 1798, 1799, 1800, 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1819, 1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1837, 1838, 1839, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 237

[illegible]

PUBLIC WORKS CONTRACT AWARD INFORMATION

Contract award information must be sent to your Apprenticeship Committee if you are approved to train. If you are not approved to train, you must send the information (which may be this form) to ALL applicable Apprenticeship Committees in your craft or trade in the area of the site of the public work. Go to: <http://www.dir.ca.gov/das/PublicWorksForms.htm> for information about programs in your area and trade. You may also consult your local Division of Apprenticeship Standards (DAS) office whose telephone number may be found in your local directory under California, State of, Industrial Relations, Division of Apprenticeship Standards.

Do not send this form to the Division of Apprenticeship Standards.

NAME OF YOUR COMPANY	CONTRACTOR'S STATE LICENSE NO
MAILING ADDRESS- NUMBER & STREET, CITY, ZIP CODE	AREA CODE & TELEPHONE NO.
NAME & ADDRESS OF PUBLIC WORKS PROJECT	DATE YOUR CONTRACT EXECUTED
	DATE OF EXPECTED OR ACTUAL START OF PROJECT
NAME & ADDRESS OF PUBLIC AGENCY AWARDED CONTRACT	ESTIMATED NUMBER OF JOURNEYMEN HOURS
	OCCUPATION OF APPRENTICE
THIS FORM IS BEING SENT TO: (NAME & ADDRESS OF APPRENTICESHIP PROGRAM(S))	ESTIMATED NUMBER OF APPRENTICE HOURS
	APPROXIMATE DATES TO BE EMPLOYED

This is not a request for dispatch of apprentices.

Contractors must make a separate request for actual dispatch, in accordance with Section 230.1(a) California Code of Regulations

Check One Of The Boxes Below

1. ☐ We are already approved to train apprentices by the _____
Apprenticeship Committee. We will employ and train under their Standards. Enter name of the Committee
2. ☐ We will comply with the standards of _____
Apprenticeship Committee for the duration of this job only. Enter name of the Committee
3. ☐ We will employ and train apprentices in accordance with the California Apprenticeship Council regulations, including § 230.1 (c) which requires that apprentices employed on public projects can only be assigned to perform work of the craft or trade to which the apprentice is registered and that the apprentices must at all times work with or under the direct supervision of journeyman/men.

Signature _____

Date _____

Typed Name _____

Title _____

**State of California - Department of Industrial Relations DIVISION
OF APPRENTICESHIP STANDARDS**

EXHIBIT F

BILLING PROCEDURES

In order to ensure that BCPG is able to submit our pay requests to the Owner by the first of each month and that subcontractors get paid in a timely manner, we need your help in following the two steps below:

1. WHEN SUBMITTING YOUR PROGRESS PAYMENT REQUEST:

- a. Submit your progress billing **no later than the 15th of each month**. Your progress billing is to reflect work completed **projected through the end of the month**.
- b. A “Conditional Lien Release Upon Progress Payment” is required and is to accompany your progress billing. The enclosed (Bay Cities) Release Forms **must** be utilized on this project. **NO** other form will be accepted.

Note: The above documents are part of our progress billing to the Owner and without them – **NOBODY GETS PAID!**

2. Upon Receipt of Your Progress Payment:

- a. When you receive your check, please sign and return an “Unconditional Lien Release” to BCPG. If you do not return the “Unconditional Lien Release” for inclusion into the following month’s billing- **NOBODY GETS PAID!**

Please e-mail your billing directly to **Mylika Richardson** at mrichardson@baycities.us and send the original to our main office at **1450 Civic Court, Bldg. B - #400, Concord, CA94520.**

ADDITIONAL REQUIREMENTS:

- a. Preliminary Lien Information (Vendor Listing): See Attached.
- b. Provide monthly progress releases from subcontractors/material suppliers on the project and union trust funds, requested by Bay Cities as a condition of payment.
- c. Insurance Certificate (See Exhibit A of your Subcontract Agreement). **This document is required before you begin work.**
- d. City business license required, if applicable.
- e. Certified Payroll Reports – Must be submitted weekly w/Statement of Compliance. **Must submit 2 copies**, of these one must be an original (see Exhibit E of your subcontract agreement).
- f. Subcontractors that utilize NiceTouch to process their extra work bills must e-mail their EW bills to mrichardson@baycities.us for further processing. Extra work bills will not be uploaded/ submitted to the owner until 2 copies of all back up (including signed DEWR or Tentative Work Agreement) have been received by Bay Cities. Subcontractors that do not have NiceTouch, must contact Mylika Richardson to be set up in iCas for input (CDOT projects only).

Note: The above documents are required before any payment will be made to you. If any of the three items are missing – **NOBODY GETS PAID**

BAY CITIES PAVING AND GRADING, INC.

VENDOR LISTING FORM

BCPG Job #

Date

Project Name

Subcontractor Company Name

BCPG Project Manager Signautre

Subcontractor Project Manager Signature

Name of Vendor/Subcontractor	Address	Phone No.	Email Contact	Type of Supplies/Materials	Amounts
Materials Suppliers:					

I authorize Bay Cities Paving & Grading to obtain account and financial information from trade references listed above to verify our credit standing with them to release said information to Bay Cities Paving & Grading, Inc.

Print Name: _____

Signature: _____ Date _____



CONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT

NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

IDENTIFYING INFORMATION

Name of Claimant: _____

Name of Customer: _____

Job Location: _____

Owner: _____

CONDITIONAL WAIVER AND RELEASE

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: _____

Amount of Check: \$_____

Check Payable to: _____

EXCEPTIONS

This document does not affect any of the following:

Disputed claims for extras in the amount of: \$_____

SIGNATURE

Claimant's Signature: _____

Claimant's Title: _____

Date of Signature: _____



UNCONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT

NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

IDENTIFYING INFORMATION

Name of Claimant: _____

Name of Customer: _____

Job Location: _____

Owner: _____

UNCONDITIONAL WAIVER AND RELEASE

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for all labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. The claimant has been paid in full.

EXCEPTIONS

This document does not affect the following:

Disputed claims for extras in the amount of: \$ _____

SIGNATURE

Claimant's Signature: _____

Claimant's Title: _____

Date of Signature: _____



CONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

IDENTIFYING INFORMATION

Name of Claimant: _____

Name of Customer: _____

Job Location: _____

Owner: _____

Through Date: _____

CONDITIONAL WAIVER AND RELEASE

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: _____

Amount of Check: \$ _____

Check Payable to: _____

EXCEPTIONS

This document does not affect any of the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.

(3) The following progress payments for which the claimant has previously given a conditional waiver and release but has not received payment:

Date(s) of waiver and release: _____

Check payable to \$ _____

Amount(s) of unpaid progress payments \$ _____

(4) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

SIGNATURE

Claimant's Signature: _____

Claimant's Title: _____

Date of Signature _____



UNCONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

IDENTIFYING INFORMATION

Name of Claimant: _____

Name of Customer: _____

Job Location: _____

Owner: _____

Through Date: _____

UNCONDITIONAL WAIVER AND RELEASE

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. The claimant has received the following progress payment:

\$ _____

EXCEPTIONS

This document does not affect any of the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.
- (3) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

SIGNATURE

Claimant's Signature: _____

Claimant's Title: _____

Date of Signature: _____

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
Construction Contract Specifications

During the performance of this Contract, Contractor agrees as follows:

- A. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this Non-discrimination Article.
- B. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice advising the labor union or worker's representative of the Contractor's commitments under Section 202 of Executive Order 11246, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), and Section 503 of the Rehabilitation Act of 1973, as amended (41 CFR 60-250, and 60-741) which are herein incorporated by reference as part of this specification. Further, Contractor shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The Contractor shall comply with all provisions of Executive Order No. 11246, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), and Section 503 of the Rehabilitation Act of 1973, as amended (41 CFR 60-250, and 60-741) and of the rules, regulations, or relevant orders of the Secretary of Labor.
- E. The Contractor shall furnish all information and reports required by Executive Order No. 11246, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), and Section 503 of the Rehabilitation Act of 1973, as amended (41 CFR 60-250, and 60-741), and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of the Contractor's non-compliance with the non-discrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated, or suspended, in whole or in part, and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), and Section 503 of the Rehabilitation Act of 1973, as amended (41 CFR 60-250, and 60-741) and of such other sanctions as may be imposed and remedies invoked as provided by said order and/or acts, inclusive of respective amendments, or by rules, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.
- G. The Contractor shall include the provisions of sub-paragraphs "A" thru "G" in every purchase order or lower tier subcontract, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), and Section 503 of the Rehabilitation Act of 1973, as amended (41 CFR 60-250, and 60-741), so that such provisions shall be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any purchase order or lower tier subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL
BUSINESS CONCERNS OWNED AND CONTROLLED BY
SOCIALY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS

- A. It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals, including disabled Vietnam veterans shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.
- B. The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The Contractor further agrees to cooperate in any studies or surveys that may be conducted by the Small Business Administration or the contracting agency which may be necessary to determine the extent of the Contractor's compliance with this clause.
- C. (1) The term "small business concern" shall mean a small business as defined pursuant to Section 3 of the Small Business Act and in relevant regulations promulgated pursuant thereto. (SBA 13 CFR, Part 121).
- (2) The term "small business concern" owned and controlled by socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 percentum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and whose management and daily business operations are controlled by one or more of such individuals.

The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asians, Filipinos and other minorities, or any other individual found to be disadvantaged by the Small Business Administration pursuant to Section 8 (a) of the Small Business Act.

- D. Subcontractors shall provide a notarized statement to the Contractor certifying their status as either a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

UTILIZATION OF WOMEN-OWNED BUSINESS CONCERNS

- A. It is the policy of the United States Government that women-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency.
- B. The Contractor agrees to use his best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, a "women-owned business" concern means a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management. "Women" means all women business owners.

UTILIZATION OF DISABLED VIETNAM VETERANS

- A. A new classification has been created specifically addressing the Disabled Vietnam Veteran Business Concern. The term "disabled veterans" means a veteran of the military, naval or air service of the United States with a service-connected disability who is a resident of the State of California. To that designation has been added specific service in the Vietnam conflict.
- B. The Contractor agrees to use his best efforts to solicit the participation of DVBE firms in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. Again, as used above, a qualified "Disabled Vietnam Veteran Business Enterprise" means a business that is at least 51% owned by a disabled Vietnam veteran who also controls and operates it.