



CITY OF PITTSBURG AGENDA

MARCH 02, 2020

**CITY HALL COUNCIL CHAMBER
65 CIVIC AVENUE, PITTSBURG, CA**

**CLOSED SESSION
6:30 P.M.**

**REGULAR MEETINGS
7:00 P.M.**

**CITY COUNCIL
PITTSBURG ARTS AND COMMUNITY FOUNDATION
PITTSBURG POWER COMPANY
SOUTHWEST PITTSBURG GEOLOGIC HAZARD ABATEMENT DISTRICT II
SUCCESSOR AGENCY**

PRESIDING

**Jelani Killings, Mayor/Chair
Marilyn "Merl" Craft, Vice-Mayor/Chair
Holland Barrett White, Council Member/Board Member
Shanelle Scales-Preston, Council Member/Board Member
Juan Antonio Banales, Council Member/Board Member**

**FOR HOUSING AUTHORITY:
S.L. Floyd, Housing Authority Member
Annie Hill Herring, Housing Authority Member**

Pittsburg City Council meetings are held the first and third Mondays of each month at 7:00 p.m. The Housing Authority meets in conjunction with the City Council on the third Monday of each month. The Pittsburg City Council meets regularly in the Council Chamber at 65 Civic Avenue, unless otherwise noted above. The City Council also sits as the Board of Directors of several other City agencies. The stipends for all agency members conform to state statutes governing compensation amounts. All other Agencies meet on an as needed basis and will be listed above if applicable. Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except from noon to 1:00 p.m. and City holidays). The agenda and reports are also located on the City's website at www.ci.pittsburg.ca.us. Additionally, if any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports and documents will also be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

AUDIENCE REMARKS

The Audience Remarks period is for the public to comment on any items scheduled to be heard during the Closed Session portion of the meeting, if applicable.
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6:30 P.M. - CONVENE IN CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Pursuant to Section 54956.8):

Property: 51 Marina Blvd. (APN 085-030-006); Agency Negotiator: Garrett Evans and Fritz McKinley; Negotiating Parties: Dietrick Burks; Under Negotiation: Both price and terms of payment

7:00 P.M. - CONVENE IN OPEN SESSION FOR REGULAR MEETING

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

2. Inspire Pittsburg: Cadence Strange
3. Inspire Pittsburg: Branches of Community Services

CITY MANAGER REPORTS/REMARKS

The City Manager may make brief announcements or informal comments at this time and brief the Council on items of interest. (No Action Required)

CITIZENS REMARKS

Members of the audience who wish to address the City Council or Agency Boards on issues that are not scheduled for the agenda and on any items listed as part of the Consent Calendar should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given three minutes to address the Council unless additional time is allowed as provided for spokespersons. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. (No Action Required)

COMMITTEE REPORTS

Council Members may make a report on their committee assignments at this time. (see attached list of adhoc committees and other public agencies in which Council members participate). (No Action Required)

CITY COUNCIL MEETING

CONSIDERATION

4. Adoption of a City Council Resolution to Authorize Allocation of the State of California Highway Patrol Every Fifteen Minutes Program Contract

The Pittsburg Police Department submitted a preliminary application to the California Highway Patrol for funding under the Every Fifteen Minutes Program in the amount up to \$8,500. This application was approved by the California Highway Patrol Research and Planning Section.

5. Adoption of a City Council Resolution Establishing a Commemorative Flag and

Proclamation Schedule

On October 21, 2019, the City Council adopted a minute order establishing an ad hoc committee to review the protocol for raising flags in honor of nationally proclaimed monthly observances. The proposed action would establish a schedule for flag flying and proclamations read in commemoration of annual events during the calendar year.

6. Introduce and Waive First Reading of an Ordinance to Rescind and Amend the Pittsburg Municipal Code, Title 15, Buildings and Construction, to Adopt by Reference the 2019 California Building Code, Residential Code, Electrical Code, Fire Code, Mechanical Code, Plumbing Code, Historical Building Code, Green Building Standards Code, Existing Building Code and Energy Code with State of California and Local Amendments

The California Building Standards Code is published every three years and amends the California Code of Regulations, Title 24. These codes are commonly referred to as the California Building Code ("Codes") and include building, plumbing, mechanical, electrical, energy, residential, historical and green standards.

7. Adoption of a City Council Resolution Approving a Project Development Agreement between the City of Pittsburg and SiFi Networks Pittsburg LLC for Deployment of a Citywide Fiber Optic System

The proposed Project Development Agreement with SiFi Networks Pittsburg LLC ("SiFi") will result in a Citywide Fiber Optic System delivered to all residences and businesses within the City.

CONFLICT OF INTEREST STATEMENT

City Council/Agency Members may make any conflict of interest declarations pertaining to Consent Calendar items at this time.

COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION, SOUTHWEST PITTSBURG GHAD II AND SUCCESSOR AGENCY CONSENT CALENDAR

8. Minutes of February 18, 2020
9. Adoption of a City Council Resolution to Approve Sewer System Management Plan (SSMP) Update

The State Water Resources Control Board requires that all sewer agencies perform a comprehensive review of their Sewer System Management Plan (SSMP) and update the document at least once every five years. The attached document fulfills those requirements.

10. Adoption of a City Council Resolution Approving the Final Map, Subdivision Improvement Agreement and Improvement Plans for Subdivision 9235 Vista Del Mar II

The Final Map, Improvement Plans, and Subdivision Improvement Agreement for Subdivision 9235 Vista Del Mar II are ready for approval. This Resolution will authorize the City Manager to execute the Subdivision Improvement Agreement and approve the Final Map and Improvement Plans.

11. Adoption of a City Council Resolution to Establish the 2020/2021 Annual Stormwater Utility Area Fee

Each year, the City Council establishes the amount of the Stormwater Utility Area fee paid by property owners to support drainage maintenance and other activities required by the federal Clean Water Act and the City's Joint Municipal permit for the National Pollutant Discharge Elimination System (NPDES) program. Staff recommends no change be made to the current fee, which is \$30.00 per Equivalent Runoff Unit (ERU). No increase is proposed.

12. By Minute Order, Authorization of a Sign to Commemorate the Bay View Saloon to be Installed at the City Marina

The City Council has been approached by members of Chapter 13 of E Clampus Vitus to approve a sign and authorize its placement at the City's Marina. The application was reviewed and recommended for approval by the City Council's ad hoc Pittsburg Recognition Committee.

13. Adoption of a City Council Resolution to Adopt Chapter 10 of the California Department of Transportation Local Assistance Procedures Manual for Consultant Selection for Grant Funded Projects

The City has been awarded state and federal grants for infrastructure projects that improve roadways and facilities for bicycles and pedestrians. The California Department of Transportation (Caltrans) administers the grants and requires recipients to adopt procedures for selecting consultants for grant-funded projects. If approved, the resolution will adopt Chapter 10, Consultant Selection of Caltrans' Local Assistance Procedures Manual.

COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

Council Members may request items to be considered for future agendas. An item will only be brought forward with a majority vote and will appear on a future agenda with staff recommendations for further Council consideration.

COUNCIL MEMBER REMARKS

Council Members may make brief announcements or informal comments at this time. (No Action Required)

ADJOURNMENT to March 16, 2020

NOTICE TO PUBLIC

GENERAL INFORMATION

Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except City holidays). The full packets are also located on the City's website at www.ci.pittsburg.ca.us. If any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports or documents will be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

SPEAKER'S CARD

Members of the audience who wish to address the City Council on issues that are not scheduled for the agenda and on any items listed as part of the agenda should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given three minutes to address the Council unless additional time is allowed as provided for spokespersons. Speakers are not permitted to yield their time to another speaker. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. Pursuant to the Brown Act, no action may be taken by the City Council on items not already scheduled on the agenda; however, the City Council may refer your comments/concerns to staff or request that the item be placed on a future agenda.

PUBLIC HEARINGS

Persons who wish to speak on Public Hearings listed on the agenda will be heard when the Public Hearing is opened, except on Public Hearing items previously heard and closed to public comment. After the public has commented, the item is closed to public comment and brought to the Council/Agency level for discussion and action. Further comment from the audience will not be received unless requested by the Council/Agency.

There is a 90-day limit for the filing of a challenge in the Superior Court to certain City administrative decisions and orders which require a hearing by law, the receipt of evidence, and the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge an action taken by the City Council in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised in the public hearing, or in written correspondence delivered to the City Council prior to or at the public hearing. The City Council may be requested to reconsider a decision if the request is made prior to the next City Council meeting, regardless of whether it is a regular or special meeting.

NOTICE TO THE DISABLED AND VISUALLY OR HEARING IMPAIRED

In compliance with the Americans with Disabilities Act, the City of Pittsburg will provide special assistance for disabled citizens. Upon request, an agenda for any meeting shall be made available in appropriate alternative formats. The Council Chamber is equipped with sound amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the sound amplifier from the City Clerk for personal use during Council meetings. If you need special assistance to participate in this meeting, or are requesting a specially formatted agenda, please contact the City Clerk at 925-252-4850. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format. (28 CFR 35.102-35.104 ADA Title II)

DISRUPTIVE CONDUCT

The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

LIVE MEDIA BROADCASTING ADVISEMENT

City Council meetings are webcast live on the City's website at www.ci.pittsburg.ca.us on the Streaming Media page. Past meetings are also archived on that webpage. City Council meetings are also broadcast live on CCTV, Channel 24 also re-run at a later date. For more information, please contact the City Clerk's office at 252-4850.

City Council Outside Agency / Liaison / Sub-Committees Assignments - 2020

Updated February 3, 2020

<u>OUTSIDE AGENCY BOARDS</u>	<u>COUNCIL MEMBER(S)</u>	<u>TYPE</u>	<u>MEETS</u>	<u>STAFF</u>
ABAG	Jelani Killings / Merl Craft Alternate	Standing	Annual	G. Evans
Delta Diablo**	Juan Banales / Shanelle Scales-Preston Alt.	Standing	2 nd Wednesday	F. McKinley
East Co. Co. County Habitat Conservancy	Juan Banales / Holland White Alternate	Standing	Monthly	K. Pollot
East County Water Management	Merl Craft / Holland White Alternate	Standing	Annual	F. McKinley
MCE Clean Energy Board	Shanelle Scales-Preston / Juan Banales Alt.	Standing	4 Per Year	D. Buchanan
TRANSPLAN / ECCRFFA	Juan Banales / Holland White Alternate	Standing	2 nd Thursday	J. Hecht
Tri-Delta Transit (2 reps)***	S. Scales-Preston & Merl Craft / Jelani Killings Alt.	Standing	Last Wednesday	J. Hecht
<u>LIAISON TO</u>	<u>COUNCIL MEMBER(S)</u>	<u>TYPE</u>	<u>MEETS</u>	<u>STAFF</u>
East Bay League of Calif. Cities	Jelani Killings / Juan Banales Alt.	Standing	3 rd Thursday	*Rotational
Mayor's Conference	Juan Banales / Jelani Killings Alt.	Standing	1 st Thursday	G. Evans
School Districts Committee (2x2)	Holland White & Jelani Killings / Merl Craft Alt.	Standing	4 th Thursday even months	G. Evans
<u>SUBCOMMITTEES</u>	<u>COUNCIL MEMBER(S)</u>	<u>TYPE</u>	<u>MEETS</u>	<u>STAFF</u>
CAC CDBG Subcommittee	S. Scales-Preston & Jelani Killings / Holland White Alt.	Standing	As needed	M. Aliotti
Camp Stoneman Anniversary Celebration	Merl Craft & Shanelle Scales-Preston	Ad Hoc	As needed	Evans/Simonton
City Infrastructure and Transportation	Juan Banales & S. Scales-Preston / Holland White Alt.	Standing	TBD	G. Evans
Community Services Subcommittee	Juan Banales & Holland White	Ad Hoc	As needed	G. Evans/M. Aliotti
Flag Protocols	Holland White & Shanelle Scales-Preston	Ad Hoc	As needed	J. Davis
Hills Committee	Juan Banales & Holland White / Merl Craft Alt.	Ad Hoc	As needed	G. Evans
Pittsburg Recognition Committee	Merl Craft / Juan Banales Alt.	Ad Hoc	As needed	J. Hecht
Economic Develop/Waterfront Subcommittee	Jelani Killings & Holland White / Juan Banales Alt.	Standing	Quarterly	K. Simonton
Finance Subcommittee	Jelani Killings & Juan Banales / Merl Craft Alt.	Standing	As needed	B. Farmer
Land Use Subcommittee	Juan Banales & Holland White / Merl Craft Alt.	Ad Hoc	As needed	K. Pollot
Pittsburg Arts & Community Foundation	Merl Craft & S. Scales-Preston / Jelani Killings Alt.	Standing	As needed	G. Evans
Pittsburg Police Activities League (PAL)	S. Scales-Preston & Holland White / Juan Banales Alt.	Standing	Monthly	B. Addington
Power Company Advisory	S. Scales-Preston & Holland White / Merl Craft Alt.	Standing	As needed	D. Buchanan
Sister City Committee	Jelani Killings & Merl Craft / Holland White Alt.	Ad Hoc	As needed	K. Simonton
Successor Agency Subcommittee	Merl Craft & Jelani Killings / S. Scales-Preston Alt.	Standing	As needed	M. Aliotti

*Rotational Staff as assigned by City Manager

**Stipend of \$209 per month

***Stipend of \$100 per month

COMMISSION/SUBCOMMITTEE MEETING SCHEDULE

Following is a tentative list of currently scheduled Commission meetings for the upcoming month. For further information, please visit our website at www.ci.pittsburg.ca.us and click on the CALENDAR link for meetings, dates, times and locations.

Commission	Tentative Meeting Dates
Planning Commission	2 nd and 4 th Tuesdays
Community Advisory Commission	1 st Wednesday

Planning Commission meetings are regularly held the second and fourth Tuesdays of the month in the Pittsburg City Hall Council Chambers.

Community Advisory Commission meetings are regularly held the first Wednesday of the month in the Pittsburg City Hall Council Chambers.

In addition to the Commission Meetings listed above, there are several Council Member Subcommittees that meet on an “as needed basis”. For a list of subcommittees that Council Members and staff are assigned to, please see the “Council Committee List” attached to the agenda.

Subcommittee Meetings that are anticipated to occur in the coming month vary. The meeting dates, times and locations for these meetings are yet to be determined. This information will be posted on the City’s website, www.ci.pittsburg.ca.us, as soon as it is determined. Please check the Calendar on the City’s website for information.

For further information, contact the City staff member assigned to that Commission or Subcommittee.



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution to Authorize Allocation of the State of California Highway Patrol Every Fifteen Minutes Program Contract

MEETING DATE: March 2, 2020

EXECUTIVE SUMMARY

The Pittsburg Police Department submitted a preliminary application to the California Highway Patrol for funding under the Every Fifteen Minutes Program in the amount up to \$8,500. This application was approved by the California Highway Patrol Research and Planning Section.

FISCAL IMPACT

No impact to the City's General Fund. Upon award of the grant funds the Police Department is requesting appropriation of up to \$8,500 to the Fiscal Year 2019-20 budget to be used for the implementation of the program. The program will be held at Pittsburg High School on March 16-17, 2020. Any costs incurred over the \$8,500 grant will be absorbed by the other Police Department funds and the School District.

RECOMMENDATION

Staff recommends City Council approval of the attached resolution authorizing the appropriation of Every Fifteen Minute grant funds and authorizing the City Manager or his designee to act on the City's behalf relative to this grant including the establishment of necessary fiscal accounting.

BACKGROUND

School-based alcohol prevention programs are essential in helping to reduce and eliminate alcohol use among adolescents. The title of this program, Every 15 Minutes, comes from the unfortunate fact that during the early 1980s every 15 minutes someone in the United States was killed in an alcohol-related traffic collision. While the implementation of new laws and programs such as this have helped bring the death rate down to one death every 30 minutes, this figure continues to be unacceptable.

This event includes the participation of our Police and Fire Departments, High School Staff, Local Hospital, Video Production Crew, Community Officials, District Attorney's Office, Funeral Homes and a wide cross-section of the community at-large. It is our goal to utilize the strength, talent and resources of business and industry to prevent drunk driving and texting while driving.

With the support of the Every Fifteen Minutes Program, the Pittsburg Police Department and other participating agencies will enhance its outreach to the entire Pittsburg High School student body. The two-day program will focus on challenging the students to genuinely think about drinking, driving, personal safety, and the responsibility of making mature decisions and the impact their decisions have on family, friends, and many others.

The last Every Fifteen Minutes program was held in 2018. The goal of the Pittsburg Police Department is to bring this program back to the high school every two years. This would ensure each student experiences the program during their high school experience.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

The Pittsburg Police Department has applied and been approved for up to \$8,500 from the State of California Highway Patrol for the Every Fifteen Minutes Program. The Department requests authorization to accept and appropriate the grant funds.

ATTACHMENTS:

Report Prepared By: Brian Addington, Chief of Police

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Authorizing the Acceptance)
And Appropriation of the State of California)
Highway Patrol Every Fifteen Minutes)
Program Contract)

RESOLUTION NO. 20-

The Pittsburg City Council finds and determines as follows:

WHEREAS, the Pittsburg Police Department has applied and been approved for up to \$8,500 from the State of California Highway Patrol for The Every 15 Minutes Program; and

WHEREAS, school-based alcohol prevention programs are essential in helping to reduce and eliminate alcohol use among adolescents; and

WHEREAS, with the support of The Every 15 Minutes Program, the Pittsburg Police Department and other participating agencies will enhance its outreach to the entire Pittsburg High School student body.

NOW, THEREFORE, the City Council DOES RESOLVE as follows:

Section 1. The above recitals are true and correct and are incorporated herein.

Section 2. The Police Department is authorized to accept and appropriate the State of California Highway Patrol Funds to implement The Every Fifteen Minutes Program Scheduled March 16-17, 2020 at Pittsburg High School in an effort to reduce and eliminate alcohol use among adolescents.

Section 3. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 2nd day of March 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Establishing a Commemorative Flag and Proclamation Schedule

MEETING DATE: March 2, 2020

EXECUTIVE SUMMARY

On October 21, 2019, the City Council adopted a minute order establishing an ad hoc committee to review the protocol for raising flags in honor of nationally proclaimed monthly observances. The proposed action would establish a schedule for flag flying and proclamations read in commemoration of annual events during the calendar year.

FISCAL IMPACT

There is a minor fiscal impact associated with the adoption of the proposed commemorative flag and proclamation schedule for purchasing flags. The cost impact will be absorbed within the City Manager's Office budget.

RECOMMENDATION

City Council adopt the attached resolution establishing a schedule for flag flying and proclamations read in commemoration of annual events during the calendar year.

BACKGROUND

On June 24, 2019, the City Council adopted an Outdoor Flagpole Display Policy that provides guidance and standards for the outdoor display of flags at City flagpoles. Per the adopted policy, the City Council shall only consider a request to display a commemorative flag if the request is made by a member of the Pittsburg City Council. At the June 24, 2019, meeting, the City Council also voted to direct staff to fly the Rainbow Pride flag in honor of LGBTQ Pride Month.

On October 21, 2019, the City Council adopted a resolution directing staff to fly the Filipino and Italian flags in honor of Filipino American History Month and Italian American Heritage and Culture Month, respectively. At this meeting, the City Council also adopted a minute order establishing an ad hoc committee to review requests to raise flags in honor of

nationally proclaimed monthly observances and create a guideline for these requests in anticipation of requests for both proclamations and flag raising.

SUBCOMMITTEE FINDINGS

On November 18, 2019, and December 2, 2019, the ad hoc committee met and discussed possible options for a commemorative flag and proclamation schedule. The ad hoc committee members directed staff to seek input from the community on a potential schedule.

On February 5, 2020, staff presented a preliminary commemorative flag schedule for calendar year 2020 to the Community Advisory Commission (CAC). The CAC voted 7-0 in favor of recommending a schedule that included continuing to fly the commemorative flags approved in 2019 during the applicable months of celebration (LGBTQ Pride Flag during the month of June; Italian Flag and Filipino Flag during the month of October), as well as a flag commemorating Black History Month in February, and the Japanese Flag in the event delegates from Pittsburgh's Sister City, Shimonoseki, Japan, make a formal visit. The CAC did not make any recommendations regarding proclamations.

STAFF ANALYSIS

As previously mentioned, during calendar year 2019, three commemorative flags were flown, including the Rainbow Pride Flag during the month of June, and the Italian and Filipino flags during the month of October. Staff is recommending that the same flags flown in 2019 be flown in 2020 and future calendar years, as these requests were made by sitting Councilmembers consistent with the adopted flag policy. In addition, staff is recommending the Japanese flag to be flown during any formal visit by students/delegates from Shimonoseki, and that the Pan-African flag be flown in honor of Black History Month, as recommended by the CAC; however, as the month of February has ended, the Pan African flag would not be flown this year, and it's inclusion would serve as a recommendation for subsequent schedules. Further, adoption of the proposed resolution would not preempt any member of the City Council from bringing forward a proposal to fly any additional commemorative flag during the 2020 or future calendar years, should the need arise.

Staff has also included a proposed schedule of proclamations to be read during the calendar year. This schedule includes those proclamations that are generally read each year in support or commemoration of annual events and would not preempt the inclusion of other proclamations.

The proposed commemorative flag schedule and images of the proposed flags to be flown at the City Hall outdoor flags poles is included as Attachment 2. The proposed commemorative proclamation schedule is included as Attachment 3.

ATTACHMENTS:

1. Proposed Resolution
2. Exhibit A to Proposed Resolution – Commemorative Flag Schedule
3. Exhibit B to Proposed Resolution – Commemorative Proclamation Schedule

Report Prepared By: Jordan Davis, Assistant to the City Manager

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Establishing a Commemorative)
Flag and Proclamation Schedule)

RESOLUTION NO. 20-

The Pittsburgh City Council FINDS AND DETERMINES as follows:

WHEREAS, the City of Pittsburgh has a diverse and storied history, and seeks to commemorate and support the people, groups, heritage, culture, and history that has helped to shape the City; and

WHEREAS, the African American, Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ), Italian-American, and Filipino-American communities have played an important role in the culture, history, and heritage of the City of Pittsburgh, and the City of Pittsburgh is dedicated to supporting visibility, dignity, and equity for all people in the community; and

WHEREAS, the City of Pittsburgh has developed a strong and welcoming relationship with our sister city, Shimonoseki, Japan, from which delegates regularly visit to continue to grow the cultural and economic connection between the two cities; and

WHEREAS, cities across the United States recognize and celebrate February as Black History Month; and

WHEREAS, cities across the United States recognize and celebrate June as LGBTQ Pride month; and

WHEREAS, cities across the United States recognize and celebrate October as Italian American Heritage and Culture Month as well as Filipino American History Month; and

WHEREAS, on June 24, 2019, the Pittsburgh City Council adopted an Outdoor Flagpole Display Policy, which specifies that any requests to fly a commemorative flag at City Hall shall be brought forward by a sitting Councilmember, and shall be voted on by the City Council; and

WHEREAS, on October 21, 2019, the City Council, by minute order, established an Ad Hoc Committee on Flag Protocols to review protocols for raising flags in honor of nationally proclaimed monthly observances as well as to create guideline for these requests in anticipation of requests for both proclamations and flag raising in the future; and

WHEREAS, the flying of the identified commemorative flags in honor of these celebrations has originated from a request made by one or more seated Councilmembers and is consistent with the Outdoor Flagpole Display Policy.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Pittsburgh hereby establishes a Commemorative Flag schedule, as shown in Exhibit A to this Resolution, as well a proclamation schedule, as shown in Exhibit B to this Resolution, and directs the City Manager to implement this Resolution in accordance with the City's adopted Outdoor Flagpole Display Policy. The established schedule shall not be construed as to preempt any sitting member of the City Council from bringing forward a request to fly an additional commemorative flag per the City's adopted Outdoor Flagpole Display Policy or preempt the reading of further proclamations as necessary.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 2nd day of March 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk

Exhibit A – Commemorative Flag Schedule

MONTH	CELEBRATION	FLAG
JANUARY	none	n/a
FEBRUARY	Black History Month	Pan African Flag
MARCH	none	n/a
APRIL	none	n/a
MAY	none	n/a
JUNE	LGBTQ Pride Month	Rainbow Flag
JULY	none	n/a
AUGUST	none	n/a
SEPTEMBER	none	n/a
OCTOBER	Italian American Heritage and Culture Month Filipino American History Month	Italian Flag Filipino Flag
NOVEMBER	none	n/a
DECEMBER	none	n/a
OTHER	Sister City Visits (Shimonoseki) Honor Prisoner of War/Missing in Action	Japanese Flag POW/MIA

Approved Flags Images:

Pan African Flag:



Rainbow Pride Flag:



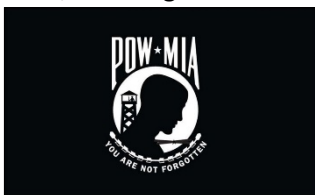
Italian Flag:



Philippine National Flag:



POW/MIA Flag



Japanese National Flag

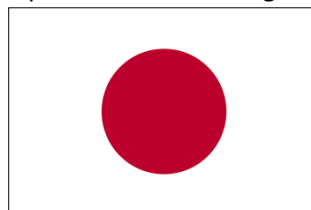


Exhibit B – Commemorative Proclamation Schedule

Event (Month of Celebration/Event)

Martin Luther King Jr. Day (*January*)

Human Trafficking Awareness Month (*January*)

Black History Month (*February*)

Red Cross Month (*March*)

World Down Syndrome Day (*March*)

Cesar Chavez Day (*March*)

National Sexual Assault Awareness Month (*April*)

National Library Week (*April*)

National Fair Housing Month (*April*)

Arbor Day (*April*)

Earth Day and Civic Pride Day (*April*)

Bike to Work Day (*May*)

LGBTQ Pride Month (*June*)

Juneteenth (*June*)

Relay for Life (*June*)

National Night Out (*August*)

National Hispanic Heritage Month (*September 15 – October 15*)

Clean Air Day (*September*)

National Breast Cancer Awareness Month (*October*)

National Arts and Humanities Month (*October*)

National Filipino American History Month (*October*)

National Italian American Heritage Month (*October*)

National Immigrants Day (*October*)

Veteran's Day (*November*)

* Whenever possible, proclamations shall be read prior to and/or during the month in which the event falls.



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Introduce and Waive First Reading of an Ordinance to Amend the Pittsburg Municipal Code, Title 15, Buildings and Construction, to Adopt by Reference the 2019 California Building Code, Residential Code, Electrical Code, Fire Code, Mechanical Code, Plumbing Code, Historical Building Code, Green Building Standards Code, Existing Building Code and Energy Code with State of California and Local Amendments

MEETING DATE: March 2, 2020

EXECUTIVE SUMMARY

The California Building Standards Code is published every three years and amends the California Code of Regulations, Title 24. These codes are commonly referred to as the California Building Code ("Codes") and include building, plumbing, mechanical, electrical, energy, residential, historical and green standards.

FISCAL IMPACT

None from this action.

RECOMMENDATION

City Council introduce, waive further reading, and pass to second reading of the attached Ordinance to rescind and amend Chapters 15.08, 15.16, 15.18, 15.20, 15.22, 15.26, 15.28, 15.32, 15.60, and 15.64 of the Pittsburg Municipal Code.

BACKGROUND

The 2019 California Codes took effect statewide on January 1, 2020. Building regulations or standards have the same force of law and are confirmed 180 days after their publication unless otherwise stipulated. This code applies to all occupancies in the State of California as annotated.

This is the first reading of an ordinance to amend sections of the Pittsburg municipal code to reflect the 2020 California Building Code, California Code of Regulations, Title 24, Part 2,

Volumes 1 and 2, California Building Standards Commission, based upon the 2018 International Building Code as published by the International Code Council;

The 2019 California Electrical Code, California Code of Regulations, Title 24, Part 3, California Building Standards Commission, based upon the 2017 National Electrical Code as published by the National Fire Protection Association;

The 2019 California Mechanical Code, California Code of Regulations, Title 24, Part 4, California Building Standards Commission, based upon the 2018 Uniform Mechanical Code as published by the International Association of Plumbing and Mechanical Officials;

The 2019 California Plumbing Code, California Code of Regulations, Title 24, Part 5, California Building Standards Commission, based upon the 2018 Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials;

The 2019 California Historical Building Code, California Code of Regulations, Title 24, Part 8, as published by the California Building Standards Commission;

The 2019 Green Building Standards Code, California Code of Regulations, Title 24, Part 11, California Building Standards Commission as published by the International Code Council;

The 2019 California Existing Building Code, California Code of Regulations, Title 24, Part 10, California Building Standards Commission based upon the 2018 International Existing Building Code;

The 2019 Residential Code, California Code of Regulations, Title 24, Part 2.5, California Building Standards Commission, based upon the 2018 International Residential Building Code as published by the International Code Council;

The 2019 California Fire Code, California Code of Regulations, and Appendix Chapter 1, Administration, Title 24, Part 9 based on the 2018 International Fire Code published by the International Code Council.

The 2019 California Energy Code, Title 24, Part 6, California Building Standards Commission as published by the International Code Council.

The City may establish more restrictive building standards as reasonably necessary because of local climatic, geological, or topographical conditions. The proposed amendments are based upon these tangible conditions and past practice.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

Adoption of this ordinance formalizes the City's participation in enforcing the building codes as adopted by the State Building Standards Commission. This will provide necessary clarification regarding the adopted regulations governing property development, building construction and maintenance.

ATTACHMENTS:

Exhibit "A", Copy of Ordinance to Adopt 2019 California Codes
Exhibit "B", Copy of the 2019 California Building Code, Volumes 1 and 2
Exhibit "C", Copy of the 2019 California Electrical Code
Exhibit "D", Copy of the 2019 California Mechanical Code
Exhibit "E", Copy of the 2019 California Plumbing Code
Exhibit "F", Copy of the 2019 Historical Building Code
Exhibit "G", Copy of the 2019 California Green Building Standards Code
Exhibit "H", Copy of the 2019 California Residential Building Code
Exhibit "I", Copy of the 2019 California Fire Code
Exhibit "J", Copy of the 2019 California Energy Code
Exhibit "K", Copy of the 2019 Existing Building Code

Report Prepared By: Kent Kampton, Building Inspection Supervisor

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Ordinance to Amend Pittsburg Municipal Code)
Chapters 15.08, 15.16, 15.18, 15.20, 15.22,) ORDINANCE NO. 20-1472
15.26, 15.28, 15.32, 15.60 and 15.64 Which)
Adopts by Reference the 2019 California Codes)

The City Council of the City of Pittsburg DOES ORDAIN as follows:

SECTION 1. Amend Chapter 15.08 of the Pittsburg Municipal Code entitled "Building Code."

Chapter 15.08, "Building Code" of Title 15 "Buildings and Construction" of the Pittsburg Municipal Code is hereby amended in its entirety to read as follows:

Section 15.08.040 Amendments to Appendix Chapter 1, Administration.

Set forth below are the local amendments, additions, and deletions to the Administrative portion of the 2019 California Building Code. Chapter and section numbers used herein are those of Chapter 1 of the 2019 California Building Code.

Section 107.5, Retention of Construction Documents, is hereby amended to read:

Section 107.5 Maintenance of Building Plans. The building division of the City of Pittsburg shall maintain an official copy, which may be on microfilm or other type of photographic copy of the plans of every building, during the life of the building, for which the department issued a building permit. "Building Division" means the department, bureau, or officer charged with the enforcement of laws or ordinances regulating the erection, construction, or alteration of buildings. Except for plans of a common interest development as defined in Section [1351](#) of the Civil Code, plans need not be filed for:

- (a) Single or multiple dwellings not more than two stories and basement in height.
- (b) Garages and other structures appurtenant to buildings described under subdivision (a).
- (c) Farm or ranch buildings.
- (d) Any one-story building where the span between bearing walls does not exceed 25 feet.

The exemption in this subdivision does not apply to a steel frame or concrete building.

Section 109.4 is hereby added to read:

Section 109.4 Work Before Permits. Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be

subject to a fee established by the building official that shall be in addition to the required permit fees.

Section 109.9 "Reinspection Fees" is hereby amended to read:

Section 109.5 "Fees" Reinspections. If reinspections are required, fees for the same may be assessed in accordance with Section 109.

To obtain a re-inspection, the permittee shall pay any assessed re-inspection fee. In those instances where the building official has assessed a re-inspection fee, the building inspector shall perform no additional inspections of the work until the required fee has been paid.

SECTION 2. Amend Chapter 15.16 of the Pittsburg Municipal Code entitled "Electrical Code."

Sections 15.16.010 and 15.16.040 of the Pittsburg Municipal Code are hereby amended in their entirety to read as follows:

Section 15.16.010 Adoption.

- A. Pursuant to Sections 50022.1 to 50022.10, inclusive, of the Government Code, the City Council adopts and enacts as the electrical code of the City, the 2019 California Electrical Code (CEC), California Code of Regulations, Title 24, Part 3, and Appendices [based on the 2017 National Electrical Code published by the National Fire Protection Association].
- B. One copy of the CEC is on file with the Building Division for use and examination by the public, along with changes, additions and deletions relating to sections of the CEC as set forth in this chapter. In addition, all subsequent supplements to the CEC and related publications are adopted by reference.

Section 15.16.040 Amendments, Additions, and Deletions to the National Electrical Code.

Set forth below are the local amendments, additions, and deletions to the 2019 California Electrical Code. Chapter and section numbers used herein are those of the 2019 California Electrical Code.

Section 89.108.8 "Appeals Board" is replaced by Section 113 "Board of Appeals" of Appendix Chapter 1 of the 2019 California Building Code.

Article 100, Definitions, is hereby amended by the addition of the following words or phrases:

"CITY or THE CITY" shall refer to the City of Pittsburg as the text requires.

"CITY COUNCIL" shall refer to the City Council of the City of Pittsburg.

“ELECTRICAL CONTRACTOR” shall refer to a contractor in possession of a valid license issued in accordance with the provisions of the California Contractors State License Board.

“ELECTRICAL INSPECTOR” shall refer to the Building Official of the City of Pittsburg or his or her authorized representative.

“ELECTRICAL WORK” shall refer to the installation, construction, maintenance, and repair of electrical equipment.

“PERSON” shall refer to a natural person, his or her heirs, executors, administrators, or assignees, and also includes a firm, partnership, or corporation, its’ or their successors or assignees, or the agent of any of the aforesaid.

“SINGLE FAMILY DWELLING” shall refer to a residential building containing one or two dwelling units.

SECTION 3. Amend Chapter 15.18 of the Pittsburg Municipal Code entitled “Historical Building Code.”

Section 15.18.010 of the Pittsburg Municipal Code is hereby amended in its entirety to read as follows:

Section 15.18.010 Adoption.

- A. Pursuant to Sections 50022.1 to 50022.10, inclusive, of the Government Code, the City Council adopts and enacts as the historical building code of the City, the 2019 California Historical Building Code (CHBC), California Code of Regulations, Title 24, Part 8, [as published by the California Building Standards Commission].
- B. One copy of the CHBC is on file with the Building Division for use and examination by the public, along with changes, additions and deletions relating to sections of the CHBC as set forth in this chapter. In addition, all subsequent supplements to the CHBC and related publications are adopted by reference.

SECTION 4. Amend Chapter 15.20 of the Pittsburg Municipal Code titled “Fire Code – Regulations.”

Section 15.20.010 of the Pittsburg Municipal Code is hereby amended to read as follows:

Section 15.20.010 Adoption.

- A. Pursuant to Sections 50022.1 to 50022.10 inclusive of the Government Code, the City Council adopts and enacts as the fire code of the City the 2019 California Fire Code (California Code of Regulations, and Appendix Chapter 1. Administration, Title 24, Part 9 [based on the 2018 International Fire Code published by the International Code Council].

- B. One copy of the CFC is on file with the city clerk for use and examination by the public, along with changes, additions, all subsequent supplements to the CFC and related publications are adopted by reference.

SECTION 5: Amend Section 15.20.040 (H) of the Pittsburg Municipal Code to add the following:

Section 903.2.10.2 Group S-2 Low Hazard Storage. An automatic sprinkler system shall be provided throughout all buildings containing a Group S-2 occupancy exceeding 5,000 square feet.

Exception: Open Parking Garages, Canopies and Photovoltaic Panel Systems (with open parking underneath) The requirement for an automatic sprinkler system shall be in accordance with Table 506.2 of the California Building Code.

SECTION 6. Amend Chapter 15.22 of the Pittsburg Municipal Code entitled "Green Building Standards Code."

Section 15.22.010 of Pittsburg Municipal Code is hereby amended in its entirety to read as follows:

Section 15.22.010 Adoption.

- A. Pursuant to Sections 50022.1 to 50022.10, inclusive, of the Government Code, the City Council adopts and enacts as the green building code of the City, the 2019 California Green Building Standards Code (CGBSC), California Code of Regulations, Title 24, Part 11, [as published by the California Building Standards Commission].
- B. One copy of the CGBSC is on file with the building division for use and examination by the public, along with changes, additions and deletions relating to sections of the CGBSC as set forth in this chapter. In addition, all subsequent supplements to the CGBSC and related publications are adopted by reference.

SECTION 7. Amend Chapter 15.26 of the Pittsburg Municipal Code entitled "Residential Code."

Section 15.26.010 of the Pittsburg Municipal Code is hereby amended in its entirety to read as follows:

Section 15.26.010 Adoption.

- A. Pursuant to Sections 50022.1 to 50022.10, inclusive, of the Government Code, the City Council adopts and enacts as the residential code of the City, the 2019 California Residential Code (CRC), California Code of Regulations, Title 24, Part 2.5, [based upon the 2018 International Residential Code as published by the International Code Council].
- B. One copy of the CRC is on file with the building division for use and examination by the public, along with changes, additions and deletions relating to sections of the CRC as

set forth in this chapter. In addition, all subsequent supplements to the CRC and related publications are adopted by reference.

SECTION 8. Amend Chapter 15.28 of the Pittsburg Municipal Code entitled “Mechanical Code.”

Sections 15.28.010, 15.28.030 and 15.28.040 of the Pittsburg Municipal Code are hereby amended in their entirety to read as follows:

Section 15.28.010 Adoption.

- A. Pursuant to Sections 50022.1 to 50022.10, inclusive, of the Government Code, the City Council adopts and enacts as the mechanical code of the City, the 2019 California Mechanical Code (CMC), California Code of Regulations, Title 24, Part 4, and Appendices [based on the 2018 Uniform Mechanical Code published by the International Association of Plumbing and Mechanical Officials].
- B. One copy of the CMC is on file with the Building Division for use and examination by the public, along with changes, additions and deletions relating to sections of the CEC as set forth in this chapter. In addition, all subsequent supplements to the CMC and related publications are adopted by reference.

Section 15.28.030 Adoption, Appendix Chapter 1, Administration.

Appendix Chapter 1, Administration, 2019 California Building Code (Code of Regulations, Title 24, Part 2, Volume 2) is hereby adopted as the administrative chapter for the Mechanical Code for the City of Pittsburg.

Section 15.28.040 Amendments, Additions, and Deletions to the Mechanical Code.

Set forth below are the local amendments, additions, and deletions to the 2019 California Mechanical Code. Chapter and section numbers used herein are those of the 2019 California Mechanical Code.

Appendix Chapter 1 is hereby adopted as the administrative chapter for this code.

Reference is made to the Appendix Chapter 1 Administration of 2019 California Building Code, which is based on the 2018 International Building Code as published by the International Code Conference and amended by the City of Pittsburg. Where there is a conflict between administrative requirements of each code the administrative requirements of the Building Code shall prevail.

Section 101.0 “Title” The first sentence of Section 101.0 is hereby amended to read:

Section 101.1 This ordinance may be cited and shall be known as the “Mechanical Code of the City of Pittsburg”.

Section 114.1 “Permit Issuance” is hereby amended to read:

Section 104.4 Applicant Qualifications. No permit shall be issued to any person to do or cause to be done any plumbing work regulated by this chapter unless such applicant qualifies under one of the following:

- A. Applicant possesses a valid, unexpired and unrevoked plumbing contractor's license issued to him / her under the applicable provisions of the Business and Professions Code of the state; or
- B. Applicant is the bona fide owner of the property, which property consists of a single-family dwelling, duplex or single unit in a condominium complex used exclusively as a dwelling, and all accessory buildings thereto; provided, that the owner or a member of his/her immediate family shall perform all labor pursuant to the permit.

Section 203, Definition of Terms, is hereby amended to read:

ADMINISTRATIVE AUTHORITY shall mean the City Building Official of the City of Pittsburg or his or her duly authorized representative.

"CITY OF" or "THE CITY" shall refer to the City of Pittsburg as the text may require.

"CITY COUNCIL" shall refer to the City Council of the City of Pittsburg.

SECTION 9. Amend Chapter 15.32 of the Pittsburg Municipal Code entitled "Plumbing Code."

Sections 15.32.010, 15.32.040 and 15.32.050 of the Pittsburg Municipal Code are hereby amended in their entirety to read as follows:

Section 15.32.010 Adoption.

- A. Pursuant to Sections 50022.1 to 50022.10, inclusive, of the Government Code, the City Council adopts and enacts as the plumbing code of the City, the 2019 California Plumbing Code (CPC), California Code of Regulations, Title 24, Part 5, and Appendices [based on the 2018 Uniform Plumbing Code published by the International Association of Plumbing and Mechanical Officials].
- B. One copy of the CPC is on file with the Building Division for use and examination by the public, along with changes, additions and deletions relating to sections of the CPC as set forth in this chapter. In addition, all subsequent supplements to the CPC and related publications are adopted by reference.

Section 15.32.040 Adoption, Appendix Chapter 1, Administration.

Appendix Chapter 1, Administration, 2019 California Building Code (Code of Regulations, Title 24, Part 2, Volume 2) is hereby adopted as the administrative chapter for the building codes for the City of Pittsburg.

Section 15.32.050 Amendments, Additions, and Deletions to the Uniform Plumbing Code.

Set forth below are the local amendments, additions, and deletions to the 2019 California Plumbing Code. Chapter and section numbers used herein are those of the 2019 California Plumbing Code.

Reference is made to the Appendix Chapter 1 Administration of 2019 California Building Code, which is based on the 2018 International Building Code as published by the International Code Conference and amended by the City of Pittsburg. Where there is a conflict between administrative requirements of each code the administrative requirements of the Building Code shall prevail.

Section 101.0, Title. This ordinance may be cited and shall be known as the “Plumbing Code of the City of Pittsburg”.

Section 103.3 “Permit Issuance” is hereby amended to read as follows:

Section 104.4 Permit Issuance.

104.4.1.1 Applicant Qualifications. No permit shall be issued to any person to do or cause to be done any plumbing work regulated by this chapter unless such applicant qualifies under one of the following:

- C. Applicant possesses a valid, unexpired and unrevoked plumbing contractor’s license issued to him/her under the applicable provisions of the Business and Professions Code of the state; or
- D. Applicant is the bona fide owner of the property, which property consists of a single-family dwelling, duplex or single unit in a condominium complex used exclusively as a dwelling, and all accessory buildings thereto; provided, that the owner or a member of his/her immediate family shall perform all labor pursuant to the permit.

Section 203, Definition of Terms, is amended by adding:

ADMINISTRATIVE AUTHORITY shall mean the City Building Official of the City of Pittsburg or his or her duly authorized representative.

“CITY OF” or “THE CITY” shall refer to the City of Pittsburg as the text may require.

“CITY COUNCIL” shall refer to the City Council of the City of Pittsburg.

SECTION 10. Amend Chapter 15.60 of the Pittsburg Municipal Code entitled “Existing Building Code.”

Section 15.60.010 of the Pittsburg Municipal Code is hereby amended in its entirety to read as follows:

Section 15.60.010 Adoption.

- A. Pursuant to Sections 50022.1 to 50022.10, inclusive, of the Government Code, the City Council adopts and enacts as the existing building code of the City, the 2019 Existing Building Code (CEBC), California Code of Regulations, Title 24, Part 10, [based upon portions of the 2018 International Existing Building Code published by the International Code Council].
- B. One copy of the CEBC is on file with the Building Division for use and examination by the public, along with changes additions and deletions relating to sections of the CEBC as set forth in this chapter. In addition, all subsequent supplements to the CEBC and related publications are adopted by reference.

SECTION 11. Amend Chapter 15.64 of the Pittsburg Municipal Code titled "Energy Code."

Sections 15.64, "Energy Code" of Title 15 "Buildings and Construction" of the Pittsburg Municipal Code is hereby amended to read as follows:

Section 15.64.010 Adoption.

- A. Pursuant to Sections 50022.1 to 50022.10, inclusive, of the Government Code, the City Council adopts and enacts as the energy code of the City, the 2019 California Energy Code, California Code of Regulations, Title 24, Part 10, [as published by the California Building Standards Commission].
- B. One copy of the California Energy Code is on file with the building division for use and examination by the public, along with changes additions and deletions relating to sections of the California Energy Code as set forth in this chapter. In addition, all subsequent supplements to the California Energy Code and related publications are adopted by reference.

SECTION 12. Effective Date.

This ordinance shall be in full force and effective thirty (30) days after its adoption.

SECTION 13. Publication.

The City Clerk shall either (a) have this ordinance published once within 15 days after adoption in a newspaper of general circulation or (b) have a summary of the ordinance published twice in a newspaper of general circulation, once 5 days before its adoption and again 20 days after its adoption.

The foregoing ordinance was introduced at a meeting of the City Council of the City of Pittsburg held on March 2, 2020, and was adopted and ordered published at a meeting of the City Council held on _____, 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Approving a Project Development Agreement between the City of Pittsburg and SiFi Networks Pittsburg LLC for Deployment of a Citywide Fiber Optic System

MEETING DATE: March 2, 2020

EXECUTIVE SUMMARY

The proposed Project Development Agreement with SiFi Networks Pittsburg LLC ("SiFi") will result in a Citywide Fiber Optic System delivered to all residences and businesses within the City.

FISCAL IMPACT

Installation and operation of the proposed fiber optic to the premises system would be at no cost to the City. As part of the proposed Project Development Agreement, SiFi would pay the adopted plan check and inspection fee of \$100 in accordance with the fee pilot program approved by the City Council on February 3, 2020 (Resolution No. 20-13745). In addition, SiFi shall pay an amount not to exceed \$75,000 ("Cap") annually beginning on the date of SiFi submitting its first permit application, to pay for the City to employ a single point of contact ("SPOC") within the City's Engineering Division or a consultant hired by the City until construction of the System is completed to the point where service is able to be provided to the Primary Premises.

RECOMMENDATION

Staff recommends that the City Council adopt the attached Resolution approving a Project Development Agreement with SiFi Networks Pittsburg LLC for deployment of a Citywide Fiber Optic System.

BACKGROUND

In mid-2019, staff began conducting "business walks" with dozens of local companies to discuss issues affecting their operations. One item that was noted by multiple companies was slow internet connection speeds, which have or could potentially impact the ability for businesses to conduct online sales, or utilize more cloud-based business software, payment

options, etc. Per feedback gathered from the City Council workshops held in January and November 2019, as well as established goals adopted by the City Council, staff has also been looking for ways to attract new, innovative businesses to Pittsburgh. It has been discussed that a crucial step in attracting businesses is high-speed internet connectivity. In January 2020, staff began communicating with SiFi Networks regarding a potential project that would bring potential fiber optic connectivity to the entire City.

SUBCOMMITTEE FINDINGS

On January 27, 2020, the potential for a Citywide fiber optic system installation was brought before the Economic Development/Waterfront Development Subcommittee. During this meeting, the members of the Subcommittee conveyed general support for staff continuing to work with SiFi on a potential project in Pittsburgh.

STAFF ANALYSIS

The concept proposed is for SiFi to privately fund the design and construction of a Citywide fiber optic network. The network would be built to serve all residences, businesses, and institutions within Pittsburgh with gigabit-level internet and data transfer speeds, something that is not currently available to all users.

SiFi is not an internet service provider (ISP); however, once constructed, SiFi would lease the fiber lines to one or more ISPs to whom customers may subscribe. SiFi would continue to own the backbone infrastructure and would retain responsibility for maintenance and repair of the physical fiber network. SiFi would also install 20-25 above ground boxes. Residents and businesses would have the option to continue obtaining service from their existing ISPs or seek subscriptions with providers who have leased fiber from SiFi and receive a fiber service drop directly into their homes or businesses. This agreement does not prevent any other service providers from installing their own citywide fiber optic networks or expanding their existing fiber infrastructure and providing a similar service.

As part of the proposed agreement, SiFi would have full access to the public right-of-way to install cables, mainly via micro-trenching technology; the microtrench would generally be 12 inches deep and no more than two inches wide, and would be located along the seam between the concrete curb/getter and paved roadway. The fiber lines would be installed on both sides of the street or other right-of-way, in order to easily serve any parcel(s). The closed-loop fiber system installed by SiFi would also allow for a future interconnect for each City-owned facility, park, and other property with gigabit-level network speeds, and allow the City's entire computer network to communicate via this interconnected system, should the City so choose.

Additional pertinent deal points in the Project Development Agreement include:

- The initial term of the agreement is for 25 years with two 25-year automatic term extensions available to SiFi. While not a traditional utility company, SiFi's subsurface infrastructure will provide a new type of utility service to individual property-based customers, and the proposed contract term will ensure that SiFi is able to amortize their significant initial capital investment in the fiber network. The agreement also does not preclude other private telecommunications companies from expanding their existing fiber networks in Pittsburgh for a similar purpose.

- SiFi will pay the City \$75,000 per year to employ a single point of contact to manage this project on the City's behalf. This arrangement will ensure City Staff time isn't reallocated toward this significant project and the City can retain a consultant to augment staff on this project.
- Until after the first anniversary of the Effective Date, the City shall not solicit, accept offers from or enter into an agreement with any third party regarding any competing fiber optic cable system within the City's Boundary, subject to any obligation or requirements imposed upon the City in its capacity as a land use authority under federal or state law or regulation. Notwithstanding the above, the City may allow installation of fiber optic cables by any established internet service provider with an existing, as of the Effective Date, franchise agreement with the City of Pittsburgh. Additionally, any City-owned properties subject to an option agreement ("Option Properties") in effect as of the Effective Date of this Agreement shall have the right to install a dedicated fiber optic system exclusively serving the Option Properties.
- SiFi shall pay the adopted \$100 flat fee in accordance with the recently approved fee pilot program for plan check and inspection.
- More than one (1) ISP will have the opportunity to operate on the network.
- Should SiFi abandon the fiber network, the City would assume ownership of that asset.
- In the event SiFi has not: (i) applied for any development permit within two (2) years from the Effective Date, or (ii) commenced construction within three (3) years from having been issued a permit, and/or (iii) completed installation within seven (7) years, of the Effective Date of the Agreement, SiFi Networks shall be considered in breach of the Agreement; provided that, SiFi Networks shall have a right to cure, as described in the Agreement.

In the event SiFi is determined to be in breach of, and does not cure pursuant to the requirements of the Agreement, the City shall have the right to purchase the System from SiFi or permit SiFi Networks continue all network operations necessary to maximize use of the existing network in accordance with this Agreement, but shall have the sole authority over all extensions of the network in the public way.

ATTACHMENTS:

1. Resolution
2. Project Development Agreement

Report Prepared By: Jordan Davis, Assistant to the City Manager

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Approving a Project	)	RESOLUTION NO. 20-_____
Development Agreement between the City	)	
Of Pittsburg and SiFi Networks Pittsburg	)	
LLC for Deployment of a Citywide Fiber	)	
<u>Optic System</u>	)	

WHEREAS, the City of Pittsburg wishes to facilitate economic development, as well as expand its tax base and the employment opportunities for residents, while retaining its discretion to review and consider potential approval of development projects; and

WHEREAS, the City of Pittsburg ("City") wishes to further the development of quality infrastructure and amenities throughout the City in order to help grow and sustain existing businesses as well as attract new, innovative businesses; and

WHEREAS, the City desires to implement a Citywide fiber optic network in order to allow business to continue to thrive as their standard operating procedures and sales become increasingly internet-based; and

WHEREAS, the City desires to provide its residents with high quality internet service to support the increasing use of technology in the home; and

WHEREAS, SiFi Networks Pittsburg LLC ("SiFi") desires to install a fiber optic network throughout the City, with installation and maintenance at the sole cost of SiFi; and

WHEREAS, SiFi owns the rights to proprietary fiber optic cable system technology; and

WHEREAS, the parties intend in a Project Development Agreement to set forth terms and conditions concerning the development of the Citywide fiber optic system and the respective roles of the Parties; and

WHEREAS, the City has agreed to grant to SiFi access to and a license to use public ways for SiFi to install and operate a point of presence and/or a series of distributive cabinets and other equipment and materials in connection with the installation of the fiber optic system.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburg does hereby resolve as follows:

Section 1. The above recitals are true and correct.

- Section 2. The City Council of the City of Pittsburgh hereby approve the Project Development Agreement between the City of Pittsburgh and SiFi Networks Pittsburgh LLC.
- Section 3. The City Manager is hereby authorized to execute the Project Development Agreement and take any and all other actions necessary to carry out this Resolution.
- Section 4. The City Manager is hereby authorized to make any non-substantive amendments deemed necessary.
- Section 5. The City Clerk of the City of Pittsburgh shall certify as to the adoption of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 2nd day of March 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk

PROJECT DEVELOPMENT AGREEMENT

This Project Development Agreement is made this 2nd day of March, 2020 (“**Effective Date**”) as it may be extended or amended, the “**Agreement**”), between the City of Pittsburgh, a municipal corporation (the “**City**”) and SiFi Networks Pittsburgh, LLC, a Delaware limited liability company (“**SiFi Networks**” or “**SiFi**”) (each sometimes referred to as a “**Party**” and collectively referred to as the “**Parties**”).

RECITALS

WHEREAS, the City desires to implement a fiber optic network using the FOCUS system in the City and SiFi Networks desires to install a fiber optic network using the FOCUS system in the City;

WHEREAS, SiFi Networks owns the rights to the FOCUS (as defined below) proprietary fiber optic cable system technology;

WHEREAS, the City has agreed to grant to SiFi Networks Access to and a license to use the Public Way (as defined below) for purposes of installing the FON (as defined below) in the City;

WHEREAS, the City has agreed to grant to SiFi Networks access to and a license to use the Public Way for SiFi Networks to install and operate a point of presence and/or a series of distributive cabinets and other equipment and materials in connection with the installation of the FON; and

NOW, THEREFORE, in consideration of the mutual obligations of the Parties, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties covenant and agree as follows:

SECTION 1

1. Definition of Terms.

1.1 **Terms**. For the purpose of this Agreement, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below.

“**Access**” means facilitation of permits encroachments and/or lease agreements for specified areas within the Public Way and/or Sewer System.

“**Block**” means its commonly understood meaning of a group of homes or business separated by streets and alleys.

“**Boundary**” means the legal boundaries of the City as of the Effective Date, and any additions or subtractions to the City legal boundaries, by annexation or other legal means.

“Cabinets” means above ground enclosures placed within the Public Way for the protection of active and passive equipment for the provision of Service throughout the System.

“Commencement Date” means the date that Substantial Completion, as that term is defined herein, of the System has been achieved.

“Construction” means breaking ground for the installation of the System.

“Construction Contractor” or **“Contractor”** means the construction company(ies) performing the physical work.

“Core and Trunk” means the section of the fiber optic network constructed in the Public Way from the interconnect point with the backhaul circuit to a duct or ducts at the plot boundary of the premises at the edge of the public right-of-way.

“Drop” means the fiber optic cable run from the Core and Trunk to the ONT as defined herein on the Premises Wall.

“Facility” means the secure space including space required for screening that the City agrees to make available to SiFi Networks during the Term.

“FOCUS” means SiFi Networks’ trademarked FOCUS™ system including the patented Wastewater Fiber Technology, know-how and other proprietary rights, comprising, among other things, a combination of blown fiber, aerial, wastewater and other conventional techniques to enable multi gigabit technologies.

“FON” means SiFi Networks’ fiber optic network built using the FOCUS™ design utilizing a combination of blown fiber, aerial, wastewater and/or other conventional techniques as well as electronics to enable multi gigabit technologies. All fiber specifications conform to ITU G.652 specifications.

“Hazardous Materials” means (i) any hazardous or toxic wastes, substances, or materials, and any other pollutants or contaminants, which are regulated by any applicable local, state or federal laws, including, but not limited to 33 U.S.C. Section 1251 et seq., 42 U.S.C. Section 6901 et seq., 42 U.S.C. Section 9601 et seq., 42 U.S.C. Section 7401 et seq., 42 U.S.C. 960 et seq., and the California Health and Safety Code Section 25100 et seq., and 25300 et seq., the California Water Code, Section 13020 et seq., or any successor(s) thereto; (ii) petroleum; (iii) asbestos; (iv)

flammable explosives; (v) polychlorinated biphenyls; and (radioactive materials.

“Home” means a residential single-family dwelling, accessory dwelling unit (ADU), or a residential single dwelling unit located within a Multiple Dwelling Unit, located within the Boundary.

“Multiple Dwelling Unit” means an apartment building or other building containing more than four dwelling units located within the Boundary.

“Microtrenching” means the process of cutting a trench with a dry cut machine whereby the typical depth of the trench is 12 inches, the typical width is 1.5 inches, and the minimum cover is 5 inches.

“ONT” means an Optical Network Terminal device that converts optic light signals to copper/electric signals usable for delivery of Services to Subscribers and serves as the demarcation point at a Premises.

“OLT” means an Optical Line Terminal device that converts standard signals used by a service provider to the frequency and framing used by the passive optical network and coordinates the multiplexing between ONT’s located on the subscriber’s premise.

“Pass” or **“Passes”** means constructing the System to the curbside of a residential Premises, or the engineered point at or near a commercial Premises from which a Drop can be connected.

“Person” means any natural person or any association, firm, partnership, joint venture, corporation, limited liability company, or other legally recognized entity, whether for profit or not for profit, but shall not mean the City or SiFi Networks.

“PoP” means a point of presence containing equipment such as the Optical Light Terminal, necessary for the operation of the System and from which the fiber optic cables for the System may emanate.

“Premises” means a Home, Multiple Dwelling Unit, office or other building located within the Boundary.

“Premises Wall” means the exterior of an outside wall of a Premises to which the fiber optic cable can be terminated.

“Primary Premises” means the Premises within the City boundary as of the Effective Date.

“Public Way” shall mean the surface of, and the space above and below, any now existing or future: public street, road, highway, parkway,

driveway, freeway, lane, path, court, sidewalk, bridge, alley, boulevard, traffic signals, lamp post, wastewater assets including sanitary and storm systems and the Sewer System, public way, or other public right-of-way or easement including, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by, granted or dedicated to or under the jurisdiction of the City within the Boundary. For the avoidance of doubt, the term “Public Way” shall also mean any easement now or hereafter held by the City within the Boundary for the purpose of public travel, or for utility or public service use dedicated for compatible uses and shall include all other easements or rights of way held by the City within the Boundary.

“Release” when used with respect to Hazardous Material means any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any existing improvements or any improvements constructed hereunder, including the System.

“Service” means internet, voice, data, and video service or any combination thereof, provided by the City or another Service Provider over the System.

“Service Providers” means any entity, which enters into a contract with SiFi Networks to provide Services over the System.

“Sewer System” or **“Sewer”** means the City-owned wastewater assets presently in place and as may be added within the Boundary, including all sanitary and storm systems and all of their components.

“Subscribe” means an agreement to receive from a Service Provider.

“Subscriber” means any Person (which for purposes of this definition shall include the City) that has entered into an agreement to receive or otherwise lawfully receives Service.

“Substantial Completion” means the date on which, the Core and Trunk of the System has been installed such that it Passes the addresses of each of the Primary Premises and the System is capable of providing Service to each such Primary Premises (but for the lack of a Drop) or four (4) years post Construction being commenced, whichever event occurs first; provided, however in the event SiFi Networks cannot install the Core and Trunk of the System or other necessary equipment or otherwise make the System available to a particular Primary Premises because of a lack of a right to access and use the Public Way due to the City not possessing the right, title, interest or authority to permit SiFi Networks to use and occupy

the Public Way or other lack of access or right to access and use property, or if there would be an incremental material cost to access property or install the System such that the cost to do so would be at least ten percent (10%) higher than the average cost to provide service to other Primary Premises within the Boundary, or where such Premises already have a pre-existing fiber service available to them, SiFi Networks shall not be required to make the System available to such Primary Premises. Substantial Completion shall be deemed to be achieved notwithstanding the failure to Pass and make the Service available to such Primary Premises. In the event that Substantial Completion is deemed to have occurred due to the expiration of four (4) years post Construction being commenced, SiFi shall use commercially reasonable efforts to complete, subject to the conditions in the proviso above, such construction as is necessary to provide service to all Primary Premises within a commercially reasonable time, but no later than seven (7) years following the Effective Date of Agreement.

“System” means all parts of the FON system in the City that is designed to support the delivery of Service to Subscribers, including the fiber optic cable and its component parts and appurtenances, and the other cables, wires, components, facilities, cabinets, ducts, conduits, connectors, vaults, manholes, manhole covers, pedestals, appliances, splitters, attachments, and other property, equipment, components, materials, apparatus and appurtenances to the FON system.

“Wastewater Fiber Technology” means SiFi Networks’ patented technology, know-how and other proprietary rights, comprising, among other things, the use of a loose laid cable placed in the City Sewer System, the cable being specifically constructed with a high-density polyethylene (HDPE) sheath and steel wire armor.

SECTION 2

2. **Grant of Authority.**

2.1 **Grant of Rights.**

2.1.1 **SiFi Networks Rights to Public Way.** This Agreement sets forth the basic terms and conditions upon which SiFi is granted authority to install the System in the Public Way. The particular terms and location of each portion of the System shall be specified in the applicable permit as described in Section 3.2 Permits and General Obligations. The City hereby grants and conveys to SiFi Networks the full Access, right, power, authority to erect, install, construct, repair, replace, reconstruct, maintain, operate or retain in, on, over, under, upon, across, or along any Public Way, the System including, wires, cables, Facilities, Cabinets,

components, materials, apparatus ducts, conduits, connectors, vaults, manholes, manhole covers, pedestals, appliances, splitters, pots, attachments, and other related property or equipment as may be necessary or appurtenant to the System, within the Boundary, and all extensions and additions thereto, subject to the review and approval, which shall not be unreasonably withheld, delayed or conditioned, of all necessary construction plans by the City. SiFi Networks shall have the right to determine the final engineering design and location of all equipment and other parts of the System; Both Parties agree to cooperate during the design and permitting process and SiFi Networks must first disclose all engineering designs to the City for permit approval. Notwithstanding the foregoing, installation of the System and use of the Public Way is subject to the applicable permit for a specific location. It is understood that SiFi's right to place the System is non-exclusive, but that upon issuance of the applicable permit, the area utilized for the installation of the System specified therein shall be exclusive for the System, subject to the terms and conditions of this Agreement. Further, SiFi's rights granted under this Agreement and the particular permit are irrevocable until the expiration or sooner termination of this Agreement and/or the permit as provided herein or therein. To the extent any encroachment permits are necessary, the City will grant such permits in accordance with Sections 2.1, 2.4 and 3.2.

2.1.2 Abandonment of the System upon Termination of Agreement. Upon the expiration or termination of this Agreement, SiFi Networks shall have the right, but not the obligation, to remove from or abandon in place all or any part of the System in the Public Way. Any part of the system abandoned by SiFi Networks as described in this agreement shall become the property of the City. Within ninety (90) days of the expiration or termination of this Agreement, SiFi shall notify the City in writing of its intent not to abandon the System and the parties can mutually agree on extending the Term. If SiFi fails to provide a notice of its intent to not abandon the System or is unreachable by the City within one hundred and eighty (180) days from termination or expiration of the second Renewal Term of this Agreement, the System shall be deemed abandoned.

2.2 Term of Agreement. This Agreement shall become effective upon the execution and delivery of this Agreement by the Parties (the "**Effective Date**"). The term of this Agreement shall commence on Commencement Date and run until midnight on the date that is twenty-five (25) years after the Commencement Date (the "**Initial Term**"). Following the Initial Term, if installation of the System has been completed City-wide, this Agreement shall automatically renew for two additional terms, each of twenty-five (25) years, commencing on the twenty-fifth (25th) anniversary and the fiftieth (50th) anniversary of the Commencement Date ("**Renewal Terms**," and, collectively with the Initial Term, the "**Term**") unless SiFi Networks provides written notice to the City of its intent not to renew at least one hundred eighty

(180) days prior to end of the Initial Term and thereafter at least one hundred eighty (180) days prior to end of the first Renewal Term. If SiFi Networks elects to not renew this Agreement the system will be deemed abandoned and shall become the property of the City.

- 2.3 **Exclusivity.** Until after the first anniversary of the Effective Date, the City shall not solicit, accept offers from or enter into an agreement with any third party regarding any competing fiber optic cable system within the City's Boundary, subject to any obligation or requirements imposed upon the City in its capacity as a land use authority under federal or state law or regulation. Notwithstanding the above, the City may allow installation of fiber optic cables by any established internet service provider with an existing, as of the Effective Date, franchise agreement with the City of Pittsburgh. Additionally, any City-owned properties subject to an option agreement ("Option Properties") in effect as of the Effective Date of this Agreement shall have the right to install a dedicated fiber optic system exclusively serving the Option Properties.

2.4 **Efficient Permitting Process.**

2.4.1 During the Term, the City shall provide expedited, diligent review of all applications for permits by SiFi and/or its contractors, to the extent reasonably possible and to the extent permits are necessary, including permits or other necessary items for construction work on the System within the Public Way. The City acknowledges and agrees that in order for SiFi Networks to perform its obligations under this Agreement, time is of the essence in connection with permitting, licensing, and approval of the System. Accordingly, the City agrees to the process and timeframes below in connection with all applications for permits by SiFi Networks and/or its contractors in connection with this Agreement:

(i) The City shall, within forty-eight (48) hours of submittal by SiFi Networks and/or its contractors of an application or other request for a permit in connection with this Agreement, provide written acknowledgment to SiFi Networks and/or its contractor confirming receipt of such submittal; and

(ii) The City shall, within five (5) calendar days of submittal by SiFi Networks and/or its contractors of an application or other request for a permit in connection with this Agreement, acknowledge in writing that such application is properly submitted and complete, or in the event such application is not properly submitted and complete, provide SiFi Networks and/or its contractors with a detailed written explanation of any deficiencies. Upon curing any such deficiencies, the City shall undertake an expedited review of the application or other request for permit by SiFi Networks and/or its contractors in order to comply with this Section 2.4.1.

(iii) The City shall, within fifteen (15) calendar days of submittal by SiFi Networks and/or its contractors of an application or other request for a permit in connection with this Agreement, provide written notification of initial review and provide in writing to SiFi Networks and/or its contractors a detailed explanation of any additional information needed for the City to complete its review process. In the event no additional information is needed, the City shall so notify SiFi Networks and/or its contractors in writing.

(iv) The City shall, within twenty-one (21) calendar days inclusive of any approvals required by the City Engineering Division of submittal by SiFi Networks and/or its contractors of an application or other request for a permit in connection with this Agreement, issue any necessary approval or permits to SiFi Networks and/or its contractors, subject to approval, which approval shall not be unreasonably withheld, delayed or conditioned, by the City Engineering Division when SiFi Networks materially deviates from the specifications attached in Exhibit C or the SiFi Construction Methods.

2.4.2 Such permitting process shall be facilitated by SiFi Networks' grant of funds to the City, not to exceed \$75,000 ("Cap") annually beginning on the date of SiFi submitting its first permit application, to pay for the City to employ a single point of contact ("**SPOC**") within the City's Engineering Division or a consultant hired by the City. The SPOC will be responsible for facilitating and expediting the plan check, permitting process, inspections and communicating with SiFi and its contractors, the City Council, and the general public regarding the construction process and progress. Such funding shall be maintained until construction of the System is completed to the point where service is able to be provided to the Primary Premises. Upon receipt of the City's monthly invoice for SPOC services up to the Cap and, once the Cap is met, SiFi shall have no liability to pay any SPOC invoices in excess of the Cap until the following calendar year so long as this obligation remains for such year as provided in this Agreement, SiFi Networks shall remit payment within 30 days. This payment for SPOC up to the annual Cap, is in lieu of the City's traditional plan check fees, encroachment permit fees and inspection fees and SiFi Networks shall have no liability for any other fees to the City.

2.4.3 Permit applications shall be submitted by SiFi Networks in substantially the form as set forth in Exhibit B (approved form of permit application). The engineering details provided in Exhibit B are a sample of typical details that may or may not change during the final engineering design process.

2.4.4 Nothing herein shall be construed as a promise, warranty, or guarantee of approval of any permit, license, or other land use approval which may be required. Provided that no permit, license, or other land use approval or any other approval requested by or required of SiFi Networks shall be unreasonably withheld, conditioned or delayed. Furthermore, SiFi Networks shall have no liability beyond reimbursement of funds used for SPOC, which shall be charged pro rata, for any of its obligations hereunder, if the necessary permits, licenses or approvals are not issued by the City.

2.5 **Fees, Expenses and other Charges.** Except as expressly set forth herein, each Party shall bear and be responsible for all of its own costs, fees and expenses incurred in executing and performing this Agreement. Except for the payments described in Section 2.4.2 and Section 3.2 for the avoidance of doubt, SiFi Networks shall not be responsible for any other fees or payments to the City in connection with this Agreement or the permitting process, or for any assessment or tax levied by the City for its use of the Public Way. The City agrees that this Agreement shall not require SiFi Networks to comply with or otherwise be subject to any obligations or liabilities as a grantee of a franchise under the City's municipal code, ordinances or similar laws. The City agrees that City bonding and insurance requirements will be satisfied by bonds and insurance coverage provided as part of the encroachment permit application and supplied by the Construction Contractor (as principal) performing the construction of the System, with the exception of any insurance requirements contained within Section 6 of this Agreement. Such bonds and insurance documentation to be supplied prior to the start of Construction. Notwithstanding anything to the contrary contained in this Agreement, the provisions of this Section 2.5 will survive expiration or termination of this Agreement.

2.6 **Relocation, Modification, or Alternations.** Excluding relocations requested by the City pursuant to this Agreement and repairs or maintenance to the System, SiFi may not relocate, materially modify, or materially alter the System components any time after issuance of the permit(s) for the System, except upon City's written approval which approval will not be unreasonably withheld, delayed, or conditioned.

SECTION 3

3. **The System.**

3.1 **System Description.** SiFi Networks agrees to install the System within the Boundary using the Public Way. The System shall use fiber optic cable emanating from the PoP to the Public Way and from there to the Premises Wall. The City acknowledges and agrees that SiFi Networks has the right to install the System within the Boundary using the Public Way in order to

make the delivery of Service over the System available to all Premises within the Boundary. The Parties acknowledge and agree that there is no agreed design or configuration of the actual location of the System within the Public Way at this time and that SiFi Networks shall submit such designs specification, plan and associated details to the City for approval when ready. The City will work with SiFi Networks to approve the physical location of the fiber optic cable and other equipment and components of the System in, on, over, under, upon, across, or along the Public Way and from the Public Way to the Premises Wall.

- 3.2 **Permits and General Obligations.** SiFi shall have the right to locate the System within the Boundary, subject to applicable permits, licenses, or other forms of plan review and approval or authorization necessary to construct, install, operate, maintain, replace, reconstruct, or repair the System, or any part thereof, during the term of this Agreement and any extensions. SiFi Networks shall provide plans to the City for City approval for the issuance of permits to construct the System. The City agrees to expedite its review and approval of the plans and issuance of permits to construct the System and in any event agrees to use good faith efforts to complete its review, approval and issuance of such plans and permits within twenty one (21) days after submission of the plans by SiFi Networks to the City. As part of this process, the City shall provide plan check and inspections for a fee of \$100 in accordance with City Resolution No. 20-13745. Construction and installation of the System shall be performed in a safe manner using materials of good and durable quality. All permits shall provide for and allow standard work hours daily from 7am to 7pm local time unless City has different requirements which must be provided to SiFi Networks in advance. All transmission and distribution structures and equipment installed by SiFi Networks for use in the System in accordance with the terms and conditions of this Agreement shall be located so as to minimize interference with the proper use of the Public Way and the rights of property owners who own property that adjoin any such Public Way. If installed in the Sewer, the System shall be placed in such a way as to not materially obstruct the flow of water or debris in the pipes, or to materially interfere with maintenance and operation of the Sewer System, as provided in the Maintenance Specifications referenced in Section 7.1.

SECTION 4

4. **Construction and Facilities.**

- 4.1 **Construction of the System.** SiFi Networks will use commercially reasonable efforts to commence Construction on or before a date that is twenty-four (24) months after the Effective Date (the “**Construction Commencement Deadline**”); provided however, in the event of a Force Majeure Event, the Construction Commencement Deadline shall be

extended by the time impact resulting from the Force Majeure Event. In addition, SiFi Networks will use commercially reasonable efforts to complete construction of the System on or before a date that is forty eight (48) months after the Construction Commencement Deadline (the “**Construction Completion Deadline**”); provided however, in the event of a Force Majeure Event, the Construction Completion Deadline shall be extended by the time impact resulting from the Force Majeure Event. The timeline shall also be extended due to and for the length of any delay by the City in performing its obligations hereunder or issuing the permits, licenses and approvals to SiFi or its contractors. Both Parties recognize and agree that SiFi Networks cannot guarantee the Construction Commencement Deadline or the Construction Completion Deadline as many elements are outside of its control. SiFi Networks will keep the City informed of the progress of its schedule at reasonable intervals. In the event SiFi Networks cannot install the Core and Trunk of the System or other necessary equipment or otherwise make the System available to a particular Primary Premises because of a lack of a right to access and use the Public Way due to the City not possessing the right, title, interest or authority to permit SiFi Networks to use and occupy the Public Way or other lack of access or right to access and use property, or if there would be an incremental material cost to access property or install the System such that the cost to do so would be at least ten percent (10%) higher than the average cost to provide service to other Primary Premises within the Boundary, or where such Premises already have a pre-existing fiber service available to them, SiFi Networks shall not be required to make the System available to such Primary Premises, Substantial Completion shall be deemed to be achieved notwithstanding the failure to Pass and make the Service available to such Primary Premises.

4.1.1 The City acknowledges and agrees that SiFi Networks intends to use varying construction techniques for the System Construction and deployment, which may include, any of the following:

- (i) Traditional open trench and/or directional boring;
- (ii) Slot cut micro-trenching with a minimum cover from the top of the duct to top of the asphalt of 7” as set forth in the specifications set forth in Exhibit C to this Agreement;
- (iii) Fiber optic cable placed in the Sewer System using the SiFi Networks Wastewater Fiber Technology;
- (iv) Aerial cables, subject applicable law and existing agreements, and under the sole discretion of the City Engineer or their designee; and/or
- (v) Techniques ancillary to or related to the foregoing.

The City approves each of the above referenced construction methods ("SiFi Construction Methods") and agrees to work cooperatively with SiFi Networks in reviewing all other potential construction methods.

4.1.2 SiFi shall be solely responsible for all repairs, maintenance, and adjustments, and damage to the System, not caused by City's active negligence or willful misconduct. The City shall be liable to the extent any loss or damages to the System or other property and equipment results from the active negligence or willful misconduct of the City or its agents.

4.2 **Location of Equipment/Facilities.**

4.2.1 **Facility.** During the Term, the City shall provide, and shall grant and approve any required encroachment permits, engineering constructions permits, and any other permits and licenses, pursuant to and as more fully described in Sections 2.1, 2.4 and 3.2, SiFi Networks with Access to and use of the Facility at no cost to SiFi Networks for the installation and operation of SiFi Networks' Facility (approximately 300 square feet per location plus any additional area required for screening), distributed cabinets and other System equipment, components, parts, and other appurtenances for the System and related facilities, and from which the fiber optic cables will be deployed.

4.2.2 **Cabinet/Facilities Location.** SiFi Networks agrees to provide engineering designs including intended locations of Cabinets and/or the Facilities required for the System to the City prior to Construction in accordance with City's permitting process. The City and SiFi Networks agree to cooperate in the selection of suitable sites for the Facilities (approximately 300 square feet per location plus any additional area required for screening) and Cabinets, and that each Facility shall be substantially screened in accordance with the City's adopted Design Review and Development Guidelines, Appendix 1. However, City has sole and absolute discretion to reject a proposed location; provided that, the City will use reasonable efforts to offer suitable alternative locations.

4.3 **Subscriber Connections.**

4.3.1 **Fiber to the Premises Wall.** SiFi Networks will provide a terminated fiber to each Subscriber's Premises receiving a Drop in a manner to be determined by SiFi Networks. The location and the method of the Drop will vary depending on the circumstances of the location of the Subscriber's Premises.

4.3.2 **System Connection to the Premises Wall.** The following will apply to the connection to each Premises receiving a Drop:

(i) The City will assist but is not responsible for SiFi Networks or its designee in securing private property easement access rights necessary, advisable or appropriate to connect the System from the Subscriber property boundary to the Premises Wall. For the avoidance of doubt, in the event SiFi Networks cannot install fiber optic cable or other necessary equipment on private property because of a lack of a right to access the property, SiFi Networks shall not be required to make the System available to such Premises.

(ii) SiFi Networks shall have no duty to provide any additional connection after the terminated fiber has been taken to the ONT on the Premises Wall.

SECTION 5

5. **Oversight and Regulation by City.**

5.1 **Oversight of Construction.** In accordance with applicable law, the City shall have the right to oversee and inspect the Construction of the System in the Public Way.

5.2 **Compliance with Applicable Laws.** SiFi Networks and the City shall, at all times during the Term, be subject to and comply in all material respects with all applicable federal, state laws and local laws regarding the Construction of the System in the Public Way.

5.3 **Treatment of Confidential Information.** Subject to local, state and federal law, including without limitation, the California Public Records Act, the City agrees that, without the prior written consent of SiFi Networks, all information regarding the System, including plans, drawings, designs, conceptual renderings, cost information, specifications, photographs, reports, manuals, and other documents except permit applications, soil studies, or any other information required to be submitted as part of the standard application process and determined, in the sole reasonable discretion of the City, to be a public record (“**Confidential Information**”), is proprietary and shall be kept confidential and shall not be disclosed to any Persons other than the City's authorized employees, representatives, staff and consultants (collectively, “**Representatives**”) with a need to know such information and such Confidential Information shall not be used to the detriment of SiFi Networks. The City shall cause its Representatives to observe the confidentiality obligations described herein and shall be responsible for any breach of these obligations by any of its Representatives. The City agrees to assert applicable exemptions to any California Public Records request for Confidential Information and to promptly notify SiFi Networks if the City receives a California Public Records Act request relating to SiFi Networks or the System. Promptly upon the written request of SiFi Networks or the termination of this Agreement, the

City will return to SiFi Networks or destroy (any such destruction shall certified in writing by an officer of the City) all copies of the Confidential Information and all other documents prepared by the City that contain or reflect the Confidential Information, unless, in the sole reasonable discretion of the City, the document is a public record and may not be destroyed or returned pursuant to state law. Notwithstanding anything to the contrary contained in this Agreement, the City's obligations set forth in this Section 5.3 will survive expiration or termination of this Agreement.

SECTION 6

6. Insurance.

SiFi shall procure and maintain from the date of start of Construction for the duration of the term of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the SiFi, its agents, representatives, employees, contractors, or subcontractors.

6.1 Minimum Scope and Limit of Coverage.

Coverage shall be at least as broad as:

A. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence and \$4,000,000 policy aggregate. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit. Coverage shall include blanket contractual liability and broad form property damage, premises, operations, explosion, collapse, underground hazard (commonly referred to as "X", "C" and "U" coverages

B. Automobile Liability: Insurance Services Office Form CA 0001 covering Code 1 (any auto), with limits no less than \$2,000,000 per accident for bodily injury and property damage.

C. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.

D. Builder's Risk (Course of Construction) insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal

to the completed value of the project and no coinsurance penalty provisions.

E. Cyber Professional Liability with limits no less than \$2,000,000 per occurrence or claim, and \$4,000,000 policy aggregate. The retroactive date must be shown, and this date must be before the execution date of the contract or the beginning of contract work. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of contract work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective, or start of work date, the SiFi must purchase extended reporting period coverage for a minimum of five (5) years after completion of contract work. A copy of the claims reporting requirements must be submitted to the City for review.

F. Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than \$2,000,000 per occurrence or claim, and \$2,000,000 policy aggregate. If the services involve lead-based paint or asbestos identification/remediation, the Pollution Liability policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

If the Contractor or SiFi maintains broader coverage and/or higher limits than the minimums shown above for all policies, the City requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor or SiFi. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City to the extent necessary to cover any actual damages suffered by the City.

6.2 Self-Insured Retentions.

Self-insured retentions must be declared to and approved by the City. At the option of the City, SiFi shall cause the insurer to reduce or eliminate such self-insured retentions as respects the City, its officers, officials, employees, and volunteers; or SiFi shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

6.3 Other Insurance Provisions:

A. Additional Insured. The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of SiFi including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of SiFi. General liability coverage can be provided in the form of an endorsement to the SiFi's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

B. Primary Insurance. For any claims related to this project, SiFi's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the SiFi's insurance and shall not contribute with it.

C. Notice of Cancellation. SiFi shall provide thirty (30) days written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. In the event of any cancellation or reduction in coverage or limits of any insurance, SiFi shall forthwith obtain and submit proof of substitute insurance.

D. Builder's Risk (Course of Construction) Insurance. SiFi may, if requested by the City, submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall name the City as a loss payee as their interest may appear.

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

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

F. Waiver of Subrogation. SiFi hereby agrees to waive rights of subrogation which any insurer of SiFi may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer. However, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

G. Verification of Coverage. SiFi shall furnish, upon request, the City with Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to City before the date of the start of Construction. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

H. Contractor/Subcontractors. SiFi shall require and verify that the Contractor and all subcontractors maintain insurance meeting all the requirements stated herein, and SiFi shall require, to the extent possible, the Contractor and all the subcontractors to list City as an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

I. Special Risks or Circumstances. City reserves the right to modify, at any time, these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

SECTION 7

7. Parties' Obligations.

7.1 **Obligations of the City.** In addition to all other duties and obligations contained elsewhere in this Agreement, City has the following duties and obligations:

(i) Provide a single point of contact (“**SPOC**”) for SiFi Networks, which SPOC will be responsible to address all issues related to the System, providing coordination with and act as a liaison to City departments, and serving as a communication and troubleshooting resource for SiFi Networks.

(ii) Offer the full cooperation of all City departments with respect to relevant issues with respect to the System. Such cooperation will be supervised by the SPOC.

(iii) Subject to Section 3.2, provide SiFi Networks and its representatives with access to all City property and all City assets and infrastructure for which a permit has been issued to SiFi for the installation and inspection of the System and for any other reasonable business purpose with respect to the System, with no charge by the City for such access through completion of construction. SiFi Networks and/or any contractors it hires will be required to obtain encroachment permits and pay any related permit and inspection fees and comply with all other standard encroachment permit conditions of approval for future maintenance and/or repairs and/or alterations to its system located within the public-right-of-way once installed and operational.

(iv) Participate in regular status meetings for the coordination of all matters related to the System.

(v) Provide expedited, diligent, good faith review of all applications for permits submitted by SiFi Networks or its representatives or contractors, including permits or other necessary items for construction work on the System within the Public Way.

(vi) In the event emergency repairs to the System, the Public Way or the Sewer System are necessary, coordinate the repairs with SiFi Networks, any utilities or other users of the Public Way, in order to facilitate prompt repairs, such coordination to be supervised by the SPOC and the SPOC shall keep SiFi Networks continually apprised of the status of such repairs.

(vii) When reasonably able, City will provide SiFi Networks with a least thirty (30) days advance notice of any work in the Public Way that requires the relocation of the System. In addition, where necessary, the City will provide SiFi Networks with an opportunity to access the System at the time of the excavation in the Public Way

by others. City shall, both itself and through its contractors, indemnify SiFi Networks for any damage to the System caused by work by or on behalf of the City in the Public Way.

7.2 **Obligations of SiFi Networks.** In addition to all other duties and obligations contained elsewhere in this Agreement, SiFi Networks has the following duties and obligations:

(i) Work closely with the SPOC of the City and relevant City departments with respect to the construction of the System.

(ii) Comply with all requirements of City for permit and Public Way use applications, to the extent they may be required.

(iii) Maintain or provide for the maintenance of the System.

(iv) SiFi Networks and its contractors shall register with California DigAlert.

(v) SiFi Networks to relocate its facilities as needed for City capital improvement projects provided however that such City capital improvements project shall be limited to only those projects impacting, directly or indirectly, more than three hundred (300) contiguous feet of the Core and Truck or any other aspect of the System in the Public Way or the Sewer System ("Major Public Works Project"). Such Major Public Works Project(s) shall not include routine maintenance and repair that does not impact the System, including without limitation repair of pot holes, milling and repaving of roadways, and repair and replacement of sewer pipes and/or other aspects of the Sewer System. The City shall provide SiFi Networks with not less than one hundred and twenty (120) days written notice of such Major Public Works Project. In the event SiFi Networks determines in its sole discretion that such Major Public Works Project will have a material impact on the System such that it would be in the best interests of the Parties to temporarily or permanently relocate some or all of the System, the City agrees to provide all reasonable accommodations as reasonably requested by SiFi Networks and with no cost or charge by the City to SiFi Networks other than standard encroachment permit application and inspection fees, to allow and facilitate SiFi Networks the ability to temporarily or permanently relocate such portion of the System in or around the Public Way or Sewer System in a manner sufficient to maintain the operation of the System pursuant to the terms of the Agreement. SiFi Networks shall be responsible for the cost of any such temporary or permanent relocation of any portion of the System in connection with a Major Public Works Project. The City shall follow the procedures

set forth in the Method Statement set forth in Exhibit D of this Agreement) in connection with any relocation of the System.

(vi) SiFi Networks will endeavor to facilitate an introductory meeting between the City and Service Provider(s) who use the Network to provide services to residential and business, and further will advise any such Service Provider(s) that the City may require fees as required by law or regulation.

(vii) Provide response times in connection with repairs to be undertaken by SiFi Networks and/or contractors retained by SiFi Networks (as opposed to repairs to be undertaken by the City) and to establish the necessary personnel levels for required dispatch, repair, inventory, maintenance, and service of the System commencing no earlier than Substantial Completion as follows:

(i) Depending upon the type of fault or the method of identification, the City shall notify SiFi of a suspected fault and the generation of a service ticket. The City shall issue to SiFi one of the following service ticket(s), for which SiFi shall provide the corresponding response time:

(1) Standard Response ("STANDARD")

a) Description: Construction in progress, capital improvement and other such projects impacting or potentially impacting the SiFi System and/or may impact the SiFi System, about which the City is aware of in advance. Examples of such projects include mill and fill projects, side relocations, road reclamation projects, and other similar projects, provided that any such STANDARD repair is subject to the then current California Dig Safe laws and regulations, and all other applicable laws and regulations.

b) SiFi response time: On-site within forty-five (45) business days.

(2) Non-life threatening Emergency Response ("NON-LTER")

a) Description: Curb and gutter projects, and utility (including telecommunications) projects requiring relocation, repair, or replacement that are

impacted by the SiFi System and/or may impact the SiFi System, provided that any such NON-LTER repair is subject to the then current California Dig Safe laws and regulations, and all other applicable laws and regulations.

b) SiFi response time: On-site within seventy-two (72) hours.

(3) Life Threatening Emergency Response (“LTER”)

a) Description: Break or hit in the main gas, main electric, main water, or main sewer line in the Public Way that has an immediate and direct impact to the traveling safety of the public in or around the Public Way, and wherein the City’s ability to implement repairs are impacted by the SiFi System and/or City repairs may impact the SiFi System.

b) SiFi response time: On-site within four (4) hours.

(ii) Upon receipt of a service ticket as set forth herein, SiFi will use reasonable efforts to dispatch a technician to the specified fault location as identified by the City. SiFi, working with the City, will then make the determination as to whether the technician will proceed with the repair(s) if possible, wait for arrival of a City contractor, if necessary for investigation and/or repair of work, or leave the site.

SECTION 8

8. **Breach; Rights and Remedies; Termination; Indemnification.**

8.1. **SiFi Networks Breach or Default.** In the event the City believes that SiFi Networks has not complied with or is otherwise in default with regard to any material term of this Agreement, the City shall promptly notify SiFi Networks in writing with specific details regarding the exact nature of the alleged noncompliance or default (a “**City Breach Notice**”).

8.1.1 **SiFi Networks’ Right to Cure or Respond.** SiFi Networks shall have forty-five (45) days from its receipt of a City Breach Notice (the “**Initial SiFi Cure Period**”) to:

(i) respond to the City, contesting the assertion of noncompliance or default and in such event the Parties shall use commercially reasonable efforts to promptly resolve such contest and to the extent the Parties are unable to resolve such contest within thirty (30) days of SiFi Networks' response, each Party shall be entitled to seek any and all rights and remedies available to it at law or in equity to resolve such contest; or

(ii) cure an actual default or noncompliance; provided, however, in the event that the default is curable but due to the nature of the default or noncompliance, such default or noncompliance cannot be cured within the Initial SiFi Cure Period, so long as SiFi Networks initiates reasonable steps to remedy and continuously and diligently uses all reasonable efforts to cure such default or noncompliance promptly and notifies the City of the steps being taken and the projected date that they will be completed, the Initial SiFi Cure Period shall be extended for a reasonable amount of time to permit such cure but not to exceed ninety (90) days from SiFi Networks' receipt of a City Breach Notice (the "**Extended SiFi Cure Period**") and together with the Initial SiFi Cure Period, the "**SiFi Cure Period**").

8.1.2 **City Rights and Remedies.**

(i) Except as provided in Sections 8.1.2(ii), (iii) and (iv) below which shall control in connection with the events described therein, if SiFi Networks fails to cure any actual noncompliance or default as provided in Section 8.1.1(ii) above within the SiFi Networks' Cure Period, the City may:

(a) seek specific performance of any provision of this Agreement which lends itself to such remedy as an alternative to money damages;

(b) seek money damages from SiFi Networks; or

(c) in the event of the breach of, noncompliance with or default under any material term of this Agreement, terminate this Agreement and seek any and all rights and remedies available to it at law or in equity.

(ii) Subject to Section 10.2 below, in the event SiFi Networks fails to commence Construction on or before the Construction Commencement Deadline in accordance with Section 4.1 above and subsequently fails to commence Construction within the SiFi Cure Period, the City may provide written notice to SiFi Networks and its lender(s) of the City's intent to terminate this

Agreement for such failure. SiFi Networks shall have an additional sixty (60) day period after the SiFi Cure Period to commence Construction (the “**Additional SiFi Cure Period**”). If SiFi Networks fails to commence Construction by the last day of the Additional SiFi Cure Period, SiFi Networks’ lender(s) shall have an additional ninety (90) days from the end of the Additional SiFi Cure Period to commence Construction (the “**Additional Lender Cure Period**”). If SiFi Networks’ lender(s) fails to commence Construction by the last day of the Additional Lender Cure Period, the City may terminate this Agreement by written notice to SiFi Networks and its lender(s) and neither Party shall have any liability or obligation under this Agreement.

(iii) Subject to Section 10.2 below, in the event SiFi Networks fails to complete construction of the System by the Construction Completion Deadline in accordance with Section 4.1 above and subsequently fails to complete said construction within the SiFi Cure Period, the City may provide written notice to SiFi Networks and its lender(s) of the City's intent to terminate this Agreement for such failure. SiFi Networks shall have an additional sixty (60) day period after the SiFi Cure Period to complete construction (the “**Additional SiFi Completion Cure Period**”). If SiFi Networks fails to cure said deficiency by the last day of the Additional SiFi Completion Cure Period, SiFi Networks’ lender(s) shall have an additional ninety (90) days from the end of the Additional SiFi Completion Cure Period to achieve Substantial Completion complete construction (the “**Additional Lender Completion Cure Period**”). If SiFi Networks’ lender(s) fails to complete said construction by the last day of the Additional Lender Completion Cure Period, the City may terminate this Agreement by written notice to SiFi Networks and its lender(s). In the event of such termination pursuant to this subsection, the City shall within thirty (30) days of the effective date of such termination elect to either (i) purchase the System by paying to SiFi Networks by wire transfer of immediately available funds within sixty (60) days of the effective date of the termination a sum equal to SiFi Networks’ costs of designing, financing and constructing the System for use in the City plus ten percent (10%) of such costs and upon such payment neither Party shall have any liability or obligation under this Agreement; or (ii) permit SiFi Networks continue all network operations necessary to maximize use of the existing FON in accordance with this Agreement, the City shall however have authority over all extensions of the FON in the Public Way. In the event City elects to permit SiFi to continue all network operations, such permission may include mutually agreed and executed amendment of this Agreement, including but not

limited to a requirement for additional compensation to be mutually agreed upon by City and Sifi.

(iv) Subject to Section 10.2 below, at any time after Substantial Completion is achieved, in the event no internet, voice, data, or video service of any kind is capable of being provided over the System due to the acts or omissions of SiFi Networks for a period in excess of one hundred twenty (120) consecutive days and SiFi Networks fails to restore such capability within the SiFi Cure Period, the City may provide written notice to SiFi Networks and its lender(s) of the City's intent to terminate this Agreement. SiFi Networks shall have an additional thirty (30) day period after the SiFi Cure Period to restore the capability of the System to provide Service (the "**Additional SiFi Service Cure Period**"). If SiFi Networks fails to restore the capability of the System to provide Service by the last day of the Additional SiFi Service Cure Period, SiFi Networks' lender(s) shall have an additional ninety (90) days from the end of the Additional SiFi Service Cure Period to restore the capability of the System to provide Service (the "**Additional Lender Service Cure Period**"). If SiFi Networks' lender(s) fails to restore the capability of the System to provide Service by the last day of the Additional Lender Service Cure Period, the City may terminate this Agreement by written notice to SiFi Networks and its lender(s). In the event of such termination pursuant to this subsection, the City shall within thirty (30) days of the effective date of such termination elect to either (i) purchase the System by paying to SiFi Networks by wire transfer of immediately available funds within sixty (60) days of the effective date of the termination a sum equal to SiFi Networks' costs of designing, financing and constructing the System for use in the City plus ten percent (10%) of such costs and upon such payment neither Party shall have any liability or obligation under this Agreement; or (ii) permit SiFi Networks continue all network operations necessary to maximize use of the existing FON in accordance with this Agreement, the City shall however have authority over all extensions of the FON in the Public Way. In the event City elects to permit SiFi to continue all network operations, such permission may include mutually agreed and executed amendment of this Agreement, including but not limited to a requirement for additional compensation to be mutually agreed upon by City and SiFi.

(v) Notwithstanding anything to the contrary in this Agreement, in no event shall the City be permitted to terminate this Agreement if the City is in breach of or default under this Agreement.

8.2 **City Breach or Default.** In the event SiFi Networks believes that the City has not complied with or is otherwise in default with regard to any term of

this Agreement, SiFi Networks shall promptly notify the City in writing with specific details regarding the exact nature of the alleged noncompliance or default (a “**SiFi Breach Notice**”). The failure to promptly provide such notice, however, shall not act as a waiver of any rights and remedies of SiFi Networks hereunder unless and only to the extent that the City is materially prejudiced by such failure.

8.2.1 City's Right to Cure or Respond. The City shall have forty-five (45) days from its receipt of a SiFi Breach Notice (the “**City Cure Period**”); provided that the City Cure Period for a failure of the City to review permit applications and issue a permit(s) necessary to construct the System as required under Sections 3.2 and 7.2.1(iv) (a “**Permit Issuance Breach**”) shall be seven (7) days from its receipt of a SiFi Breach Notice) to:

(i) respond to SiFi Networks, contesting the assertion of noncompliance or default and in such event the Parties shall use commercially reasonable efforts to promptly resolve such contest and to the extent the Parties are unable to resolve such contest within thirty (30) days of the City’s response, each Party shall be entitled to seek any and all rights and remedies available to it at law or in equity to resolve such contest; or

(ii) cure an actual default or noncompliance; provided, however, in the event that the default is curable but due to the nature of the default or noncompliance, such default or noncompliance cannot be cured within the City Cure Period, so long as the City initiates reasonable steps to remedy and continuously and diligently uses all reasonable efforts to cure such default or noncompliance promptly and notifies SiFi Networks of the steps being taken and the projected date that they will be completed, the City Cure Period shall be extended for a reasonable amount of time to permit such cure but not to exceed ninety (90) days from the City’s receipt of a SiFi Breach Notice (the “**Extended City Cure Period**”); provided further, however, no Extended City Cure Period shall apply to a Permit Issuance Breach.

8.2.2 SiFi Networks Rights and Remedies. If the City fails to cure any actual noncompliance or default as provided in Section 8.2.1(ii) above within the applicable City Cure Period, SiFi Networks may:

(i) seek specific performance of any provision of this Agreement which lends itself to such remedy as an alternative to money damages;

(ii) seek money damages from the City; or

(iii) in the event of the breach of, noncompliance with or default under any material term of this Agreement, terminate this Agreement and seek any and all rights and remedies available to it at law or in equity.

8.3 **Additional Rights to Terminate.**

8.3.1 At any time prior to commencing Construction or in the event the City fails to comply with the requirements of the Agreement, SiFi Networks shall have the immediate right, at its option, upon notice to the City to terminate this Agreement and shall be entitled to any and all other rights and remedies available to it at law or in equity.

8.3.2 A Party shall have the right, at its option, upon notice to the other Party to terminate this Agreement if the other Party becomes (i) insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority, or (ii) subject to any bankruptcy or insolvency proceeding under federal, state or foreign statutes which is not rescinded or dismissed within thirty (30) days.

8.3.3 In the event SiFi Networks determines that the project is not feasible following a feasibility study SiFi shall have the right to terminate, by providing written notice to City, the Agreement without any obligation or liability to City except for any negligent acts or willful misconduct by SiFi by the effective termination date.

8.3.4 In the event SiFi Networks has not: (i) applied for any development permit within two (2) years from the Effective Date, or (ii) commenced construction within three (3) years from having been issued a permit, and/or (iii) completed installation within seven (7) years, of the Effective Date of the Agreement, SiFi Networks shall be considered in breach of this Agreement; provided that, SiFi Networks shall have a right to cure, as described in Section 8.1 of this Agreement.

8.4 **Indemnification.**

8.4.1 The City agrees to indemnify, defend, and hold harmless SiFi Networks and its affiliates and their respective directors, officers, managers, members, equity and debt holders, partners, employees, contractors, agents and representatives and their heirs, successors and assigns at the City's sole expense from and against any and all claims, suits, and demands of liability, loss, cost, expense or damage, including reasonable attorney's fees (collectively, "**Damages**"), arising out of third party claims resulting from (i) breach of this Agreement in any material respect by the City or (ii) the City's willful misconduct or gross negligence in its performance of this Agreement. Notwithstanding anything to the contrary contained in this

Agreement, the indemnity obligations set forth herein will survive expiration or termination of this Agreement. The defense obligation shall be required whenever any claim, action, complaint, or suit asserts as its basis the acts or omissions of the City, its officers, agents, and/or employees, whether or not the City, its officers, agents, and/or employees are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the City shall not be liable for the defense or indemnification of the SiFi Indemnitees for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the SiFi Indemnitees.

8.4.2 SiFi Networks shall defend, indemnify and hold the City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner which actually or allegedly arise out of or are incident to any alleged acts, omissions, negligence or willful misconduct of SiFi Networks, its officials, officers, employees, agents, and subcontractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all attorney's fees and other related costs and expenses except where caused by the active negligence, sole negligence, or willful misconduct of the City its officers, officials, employees and volunteers. SiFi Networks shall defend, at its own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the City, its directors, officials, officers, employees, agents or volunteers. SiFi Networks shall pay and satisfy any judgment, award or decree that may be rendered against the City or its directors, officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. SiFi Networks shall reimburse the City, its officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. SiFi Networks' obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its officials, officers, employees, agents, or volunteers.

- 8.5 **Limitation of Liability.** EXCEPT WITH RESPECT TO A BREACH OF THE CITY'S CONFIDENTIALITY OBLIGATIONS UNDER SECTION 5.3, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, RELIANCE, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING ANY LOST SAVINGS OR HARM TO BUSINESS. EACH PARTY HEREBY RELEASES THE OTHER PARTY AND ITS AFFILIATES AND THEIR RESPECTIVE DIRECTORS, OFFICERS, MANAGERS, MEMBERS, EQUITY AND DEBT HOLDERS, PARTNERS, EMPLOYEES, CONTRACTORS AND REPRESENTATIVES AND THEIR HEIRS, SUCCESSORS AND ASSIGNS, FROM CLAIMS FOR ANY SUCH

DAMAGES. Notwithstanding anything to the contrary contained in this Agreement, the provisions of this Section 8.5 will survive expiration or termination of this Agreement.

SECTION 9

9. Disputes.

- 9.1 For all claims, disputes or controversies arising out of, or in connection with, the breach, interpretation, application, or enforcement of this Agreement, or arising out of, or in connection with, the System which cannot be settled through negotiation, the Parties agree first to try in good faith to settle the matter by mediation in Contra Costa County, California, prior to commencing litigation.
- 9.2 All claims, disputes or controversies arising out of, or in connection with, the breach, interpretation, application, or enforcement of this Agreement, or arising out of, or in connection with, the System, shall be decided in a court of law. The sole and exclusive venue for all claims, disputes or controversies arising out of, or in connection with, the breach, interpretation, application, or enforcement of this Agreement, or arising out of, or in connection with, the System, shall be the United States District Court for the Northern District of California, or if there is no federal court jurisdiction, the state courts of Contra Costa County, California.

SECTION 10

10. Miscellaneous Provisions

- 10.1 **Assignment.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and each of their respective successors and assigns as provided herein. The City shall not be permitted to assign, sell or transfer this Agreement, or its rights and duties under this Agreement, without the prior written consent of SiFi Networks, which consent shall not be unreasonably withheld, conditioned, or delayed. SiFi Networks shall have the right to assign, novate, sell, encumber, or transfer this Agreement and the System or any part thereof, without the consent of the City to SiFi's principal, affiliates, subsidiaries, subsidiaries of its principal or to any entity which acquires all or substantially all of the SiFi's assets in the market by reason of a merger, acquisition, or other business reorganization, provided such assignee, purchaser, or transferee has all appropriate licenses, to the extent SiFi's licenses, permits and approvals cannot be assigned or transferred, for the operation, management, and maintenance of the facilities contemplated herein and sufficient financial resources to fulfill all applicable terms and obligations under this

Agreement. At least thirty (30) days prior to the effective date, or as soon as practicable, of any such assignment, sale or transfer, SiFi shall provide City with a fully executed copy of the assignment, sale or transfer document, signed by both SiFi and assignee/purchaser/transferee, indicating the assignee's/purchaser's/ transferee's assumption of all of SiFi's performance duties, liabilities and obligations under this Agreement. SiFi shall not be relieved of its performance duties, liabilities or obligations under this Agreement until City is in receipt, of a fully executed copy of the document evidencing such assignment of the obligations herein and the assignee's/purchaser's/transferee's assumption of SiFi's performance duties, liabilities, and obligations under this Agreement. SiFi may not otherwise assign this Agreement or the System without City's consent, City's consent not to be unreasonably withheld, conditioned, or delayed. Upon any such assignment, sale, transfer, or novation, SiFi Networks shall be released from all obligations and liabilities under this Agreement from and after the date of such assignment. SiFi Networks shall give the City thirty (14) days' advance notice of such assignment, sale, transfer or novation disclosing the identity of the Person to whom it has been assigned, transferred, sold or novated. The City agrees from time to time to promptly deliver (and in no event later than ten (10) days after request by SiFi Networks) to SiFi Networks an estoppel certificate addressed to the assignee, buyer or transferee designated by SiFi Networks, affirming for the benefit of such buyer, assignee or transferee the following (to the extent that the following are then true): the Agreement is in full force and effect; SiFi Networks is not in default thereunder; and such other matters as such assignee, buyer or transferee may reasonably request.

- 10.2 **Force Majeure**. Except as otherwise expressly set forth in this Agreement, SiFi Networks will not be held in default under, or in breach or noncompliance with, the provisions of this Agreement, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of this Agreement), where such noncompliance or alleged defaults occurred or were caused by any of the following events (each a "**Force Majeure Event**"): failure by the City to issue permit(s) required to construct the System or any part thereof to SiFi Networks or its contractor(s), failure by the City to comply with this Agreement, conduct by the City that materially interferes with SiFi Networks' ability to perform, labor strike, riot, war, earthquake, flood, hurricane, drought, tornado, unusually severe weather conditions, or other act of nature, labor disputes, failure of utility service necessary to construct the System, governmental, administrative or judicial order, or other event that is beyond SiFi Networks' reasonable control. Force Majeure Events also include work delays caused by waiting for utility providers to service or monitor their own utility infrastructure on which SiFi Networks' fiber optic cable and/or equipment may be deployed, as well as unavailability of materials and/or reasonably qualified labor to perform the work.

- 10.3 **Notice**. All notices and communications hereunder shall be in writing and shall be served upon the other party by hand delivery, nationally recognized overnight delivery service, United States certified mail, return receipt requested, electronic mail, or by facsimile with confirmed transmission and addressed as follows:

IF TO THE CITY:

City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
Attn: City Manager

With a copy to:

City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
Attn: City Attorney

IF TO SIFI NETWORKS:

SiFi Networks
841 Apollo Street, Suite 470
El Segundo, CA 90245

or to such other address as such Party may hereafter specify for the purpose by notice to the other Party in the manner provided in this Section 10.3. All such notices, requests and other communications will be deemed received on the date of receipt if received prior to 5 p.m. on any business day in the place of receipt. Otherwise, any such notice, request or communication will be deemed not to have been received until the next succeeding business day in the place of receipt. Rejection or other refusal to accept or inability to deliver because of change of address of which no notice was given shall be deemed to be receipt of the notice.

- 10.4 **Entire Agreement**. This Agreement, including all Exhibits, embodies the entire understanding and agreement of the City and SiFi Networks with respect to the subject matter hereof. This Agreement supersedes all other agreements whether written, verbal, or otherwise between SiFi Networks and the City with respect to the subject of this Agreement.
- 10.5 **Severability**. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement (which other terms and provisions shall remain in full force and

effect) or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

10.6 **Governing Law.** This Agreement shall be deemed to be executed in the State of California and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of California as applicable to contracts entered into and performed entirely within the State, irrespective of conflict of laws principles.

10.7 **Modification. Amendment.** This Agreement shall not be amended or otherwise modified, in whole or in part, except by an instrument, as further described below in Sections 10.7.1-10.7.3, in writing, duly executed by the City and SiFi Networks. For the avoidance of doubt, this Agreement cannot be amended or modified orally or by course of conduct, and no executory agreement, oral agreement or course of conduct shall be effective to amend or modify this Agreement in whole or in part.

10.7.1 Major Amendments to Agreement.

A Major Amendment shall be any modification that makes a substantive change, modification, or deviation in the terms of this Agreement or any Exhibits or Schedules attached hereto. Approval of any Major Amendment shall require a noticed hearing and must be authorized by formal action of the Planning Commission and the City Council.

10.7.2 Minor Amendments to Agreement

A Minor Amendment shall be any modification that does not make a substantive change modification or deviation in the terms of this Agreement or any Exhibits or Schedules attached hereto. Minor Amendments may be approved by the prior written consent of the City Manager.

10.7.3 Discretion of City Manager.

The City Manager has the sole but reasonable discretion to determine whether any proposed change modification or deviation is a Major Amendment or Minor Amendment for purposes of this Agreement or is neither and thus not requiring the Manager's or the City Councils review and approval.

10.8 **No Third Party Beneficiaries.** Nothing in this Agreement or in any prior agreement is or was intended to confer third party beneficiary status on any

party or Person not a party to this Agreement including a member of the public.

10.9 **No Waiver of Rights.** Nothing in this Agreement shall be construed as a waiver of any rights, substantive or procedural that SiFi Networks or the City may have under federal or state law unless such waiver is expressly stated herein.

10.10 **No Rights to the System.** The City expressly agrees that, except as expressly set forth in this Agreement, it does not and shall not claim at any time any interest or estate of any kind or extent whatsoever in the System, throughout the term of this Agreement. Except as provided in Section 8.1.2 (iii) and Section 8.1.2 (iv) above, SiFi Networks shall, at all times, retain title to and ownership of the System and all future extensions of the System, and shall have the right to lease the System or parts thereof to a provider of internet, data, voice, video and other services.

10.11 **Representations and Warranties.**

10.11.1 The City represents and warrants to SiFi Networks that: (a) it has full authority (including the authority required by any applicable law, ordinance, rule or regulation) to enter into and perform this Agreement and the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby and thereby are within the right, power and authority of the City and have been duly authorized by all necessary action on the part of City, (b) this Agreement has been duly executed and delivered by the City and it constitutes a legal, valid and binding agreement of the City enforceable against the City in accordance with its terms (except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity) and (c) the execution and delivery of this Agreement by the City and its performance hereunder and thereunder will not violate any law, ordinance, rule, or regulation applicable to the City.

10.11.2 SiFi Networks represents and warrants to the City that: (a) it has full authority to enter into and perform this Agreement and the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby and thereby are within the power and authority of SiFi Networks and have been duly authorized by all necessary action on the part of SiFi Networks, (b) this Agreement has been duly executed and delivered by SiFi Networks and it constitutes a legal, valid and binding agreement of SiFi Networks enforceable against SiFi Networks in accordance with its terms (except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity) and (c) the execution and

delivery of this Agreement by SiFi Networks and its performance hereunder and thereunder will not violate any law, rule, or regulation applicable to SiFi Networks.

10.11.3 SIFI NETWORKS MAKES NO REPRESENTATIONS OR WARRANTIES TO THE CITY OR ANY PERSON WITH RESPECT TO THE SYSTEM (OR THE COMPONENTS THEREOF) AND HEREBY DISCLAIMS ANY AND ALL EXPRESS, IMPLIED, OR STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AVAILABILITY, ERROR-FREE OR UNINTERRUPTED OPERATION, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. TO THE EXTENT THAT SIFI NETWORKS MAY NOT AS A MATTER OF APPLICABLE LAW DISCLAIM ANY IMPLIED WARRANTY, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW.

- 10.12 **Third Parties.** Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either SiFi Networks or the City.
- 10.13 **No Partnership.** Nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship between the City and SiFi Networks or any other relationship other than a contractual relationship as expressly set forth in this Agreement. Neither Party shall in any manner act or indicate to any third party that is acting as the agent of the other Party. SiFi Networks shall at all times remain an independent contractor. Neither Party shall control or direct the day-to-day affairs of the other Party, or their mode or method of performing their respective obligations hereunder.
- 10.14 **Headings.** The headings and captions of this Agreement are solely for the convenience of the Parties and shall not be deemed to modify or vary any of the substantive terms thereof.
- 10.15 **Construction.** Each of the Parties acknowledge that each Party to this Agreement has been represented by counsel in connection with this Agreement. Legal or equitable principles that might require the construction of this Agreement or any provision hereof against the party drafting this Agreement shall not apply in any construction or interpretation of this Agreement and is expressly waived. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. The words “hereof”, “herein” and “hereunder” and words of like import used in this Agreement will refer to this Agreement as a whole and not to any particular provision of this Agreement.

References to Articles, Sections, and clauses are to Articles, Sections and clauses of this Agreement unless otherwise specified. Any singular term in this Agreement will be deemed to include the plural, and any plural term the singular. Whenever the words “include”, “includes” or “including” are used in this Agreement, they will be deemed to be followed by the words “without limitation”, whether or not they are in fact followed by those words or words of like import. “Writing”, “written” and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form. References to any agreement or contract are to that agreement or contract as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof. References to any Person include the successors and permitted assigns of that Person. References from or through any date mean, unless otherwise specified, from and including or through and including, respectively.

- 10.16 **Counterparts**. This Agreement may be signed in any number of counterparts, each of which will be deemed an original, with the same effect as if the signatures were upon the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission (including PDF) shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.
- 10.17 **Further Assurances**. Each Party agrees that it will execute and deliver such other documents and take such other action as may be reasonably requested by the other Party to effectuate the purposes and intention of this Agreement.
- 10.18 **No Waiver**. No provision of this Agreement may be waived unless such waiver is in writing and signed by the Party against whom the waiver is to be effective. No failure or delay by a Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Development Agreement to be executed as of the day and year stated above.

CITY OF PITTSBURG,
a municipal corporation

Garrett Evans, City Manager

Dated: _____, 2020

Approved as to form:

Donna Mooney, City Attorney

Attest:

Alice Evenson, City Clerk

SIFI NETWORKS PITTSBURG LLC,
a Delaware limited liability company

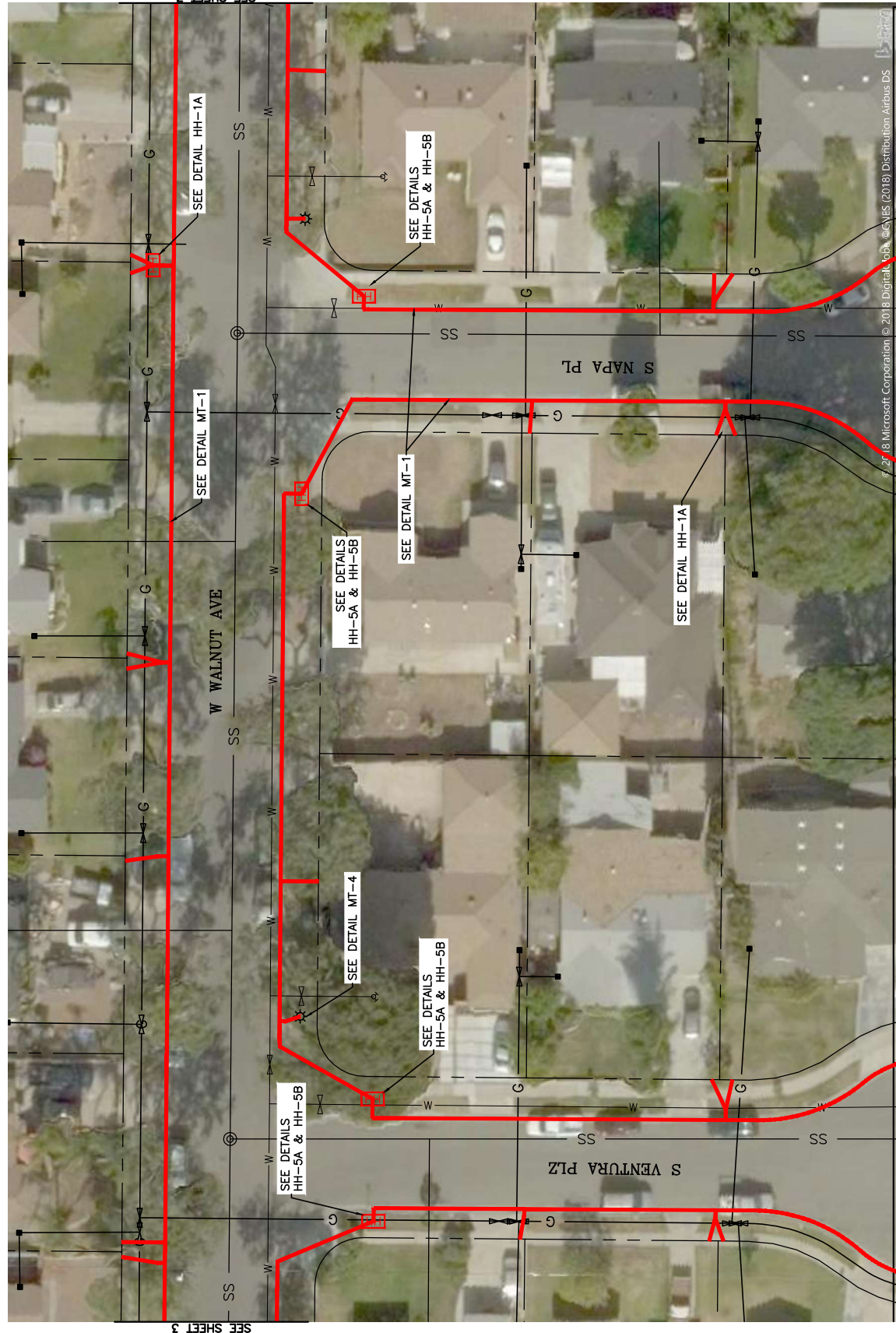
By: _____
Its: _____

Dated: _____, 2020

EXHIBIT A
[RESERVED]

EXHIBIT B
FORM OF PERMIT APPLICATION

EXHIBIT B
FORM OF PERMIT APPLICATION



SEE SHEET 3

SEE SHEET 4

LEGEND

MICROTRENCH LINES	SANITARY SEWER	GAS METER	POWER POLE
PARCEL LINES	STORM SEWER	MANHOLE	STREET LIGHT
GAS	HANDHOLES	VALVE	
WATER	FIRE HYDRANT	WATER METER	

SEE SHEET 7

SAMPLE

DRAWN BY: MJW

CHECKED BY: CER

SUBMITTALS	
DATE	DESCRIPTION

PERMIT AREA FOR CITY REVIEW

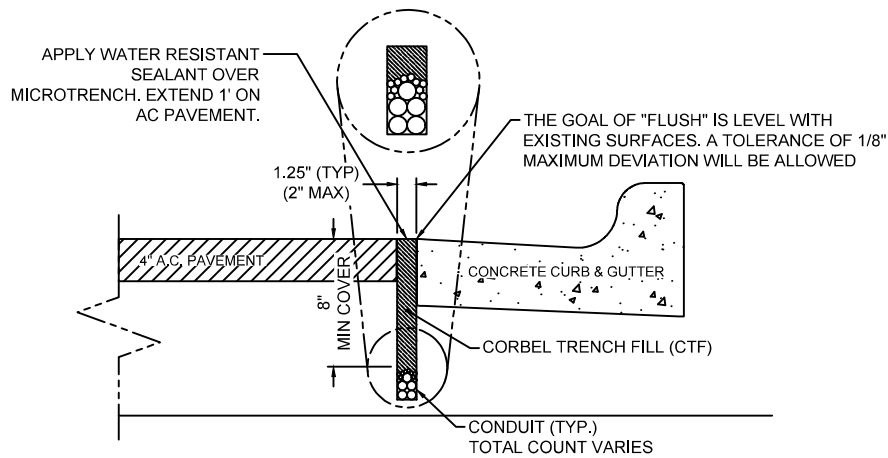
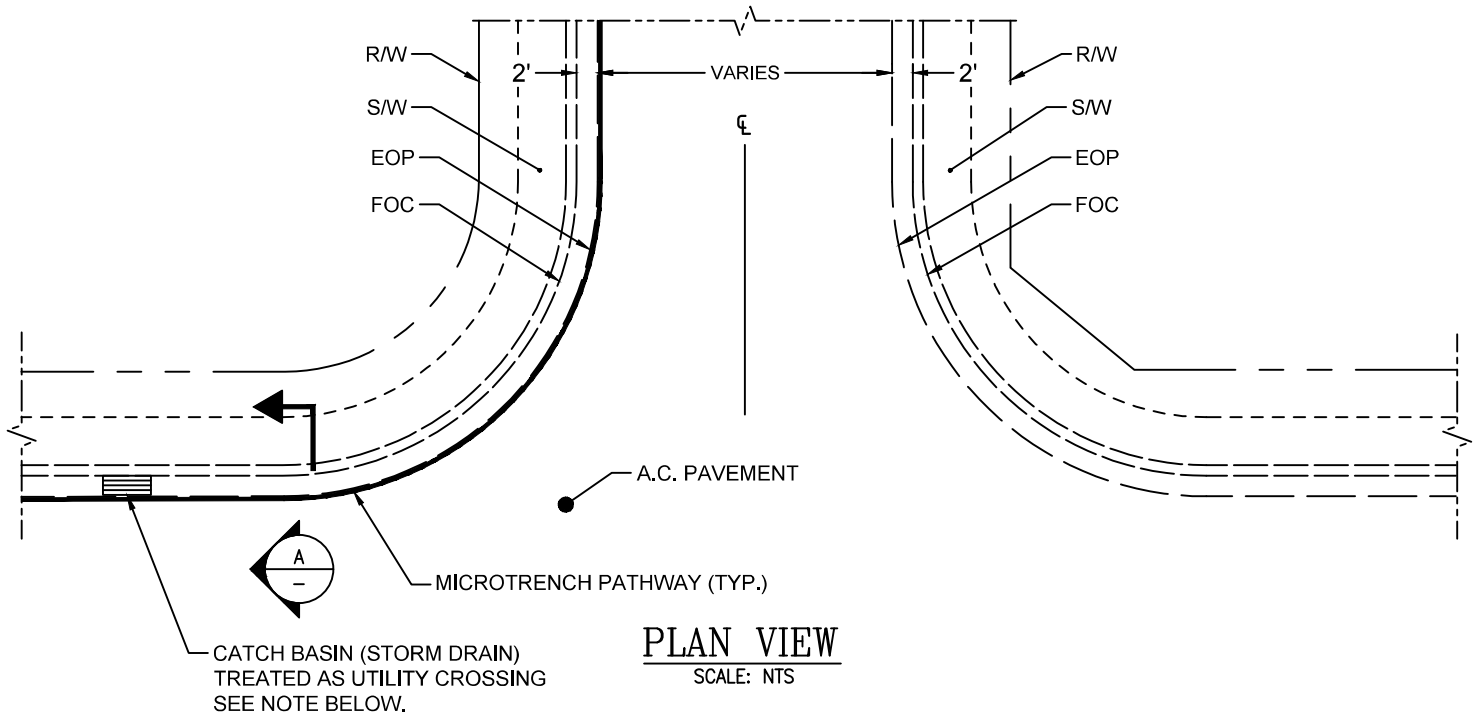
PROJECT NO.

SHEET TITLE
CONSTRUCTION SHEET

ENGINEER STAMP

SHEET NUMBER

ROADWAY WITH A CURB RETURN



Note: For Catch Basin/Storm Drain
information reference City of _____
Standard Drawings #128A, #128B, #128C.

The construction details represented on this
page reference City of _____ Standard
Drawings #123, #124, #125, & Corbel
Trench Fill material data sheet.

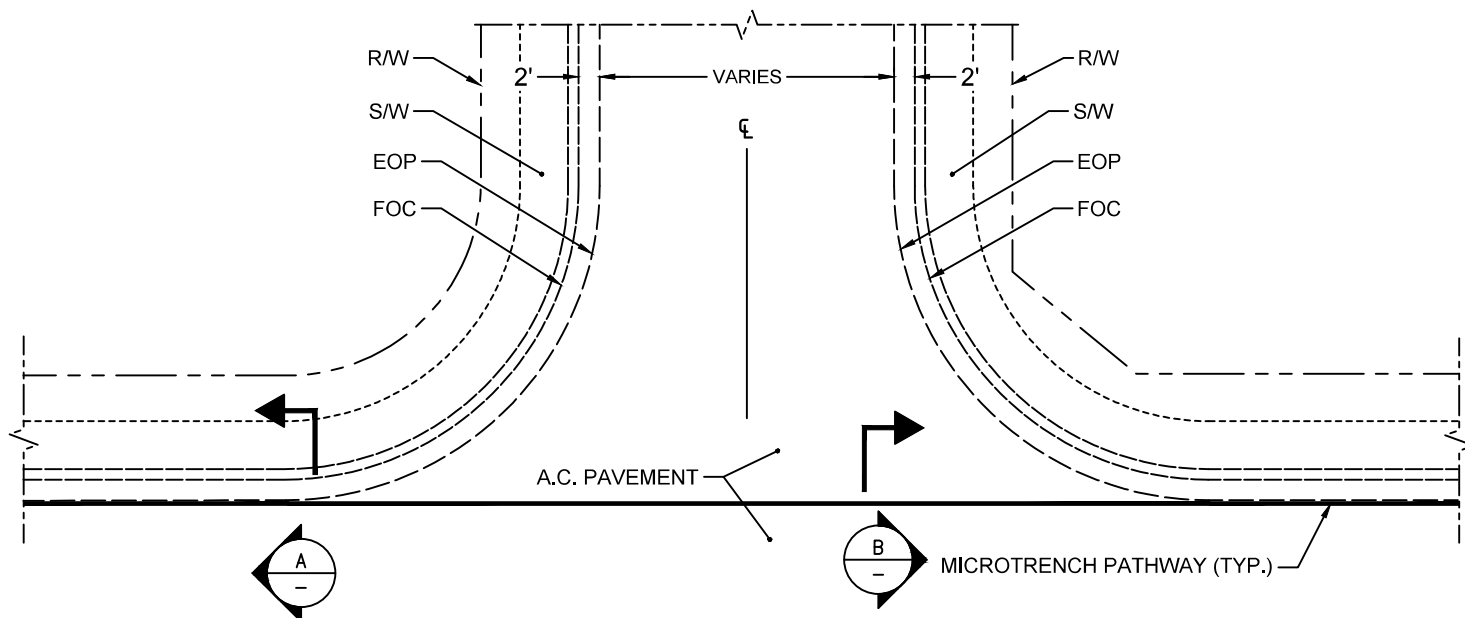
ACCEPTANCE:	
DATE	CITY ENGINEER



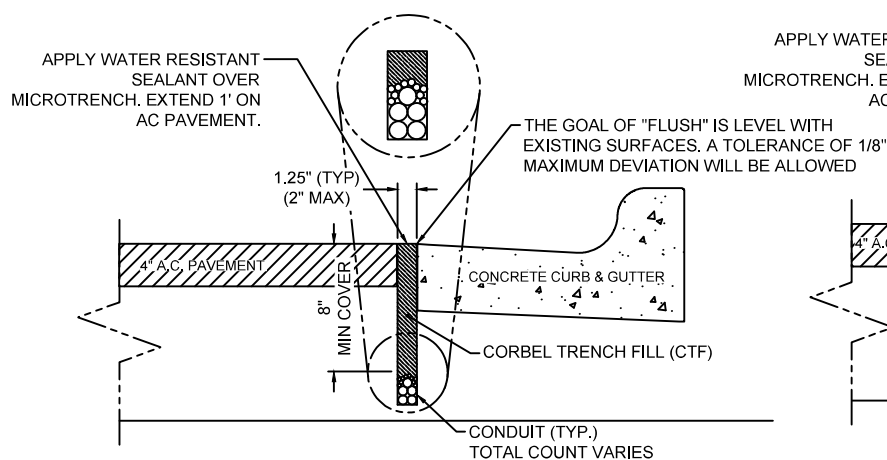
0	RELEASE FOR APPROVAL	JDN	10/25/2019
NO.	REVISIONS	BY	DATE
STD DWG		JTELO01-CF	
NOT TO SCALE		10/25/2019	0
		JNORRIS	



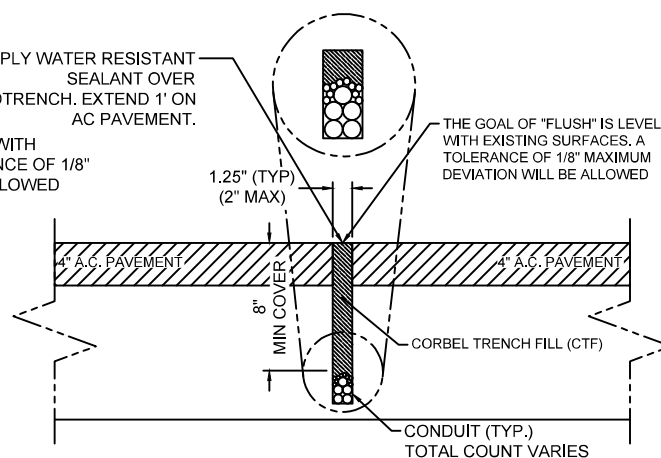
ROADWAY WITH CURB & GUTTER - VARIANT A



PLAN VIEW



SECTION VIEW A-A



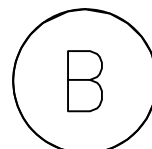
SECTION VIEW B-B

The construction details represented on this page reference City of Standard Drawings #101, #102, #103, #120, & Corbel Trench Fill material data sheet.

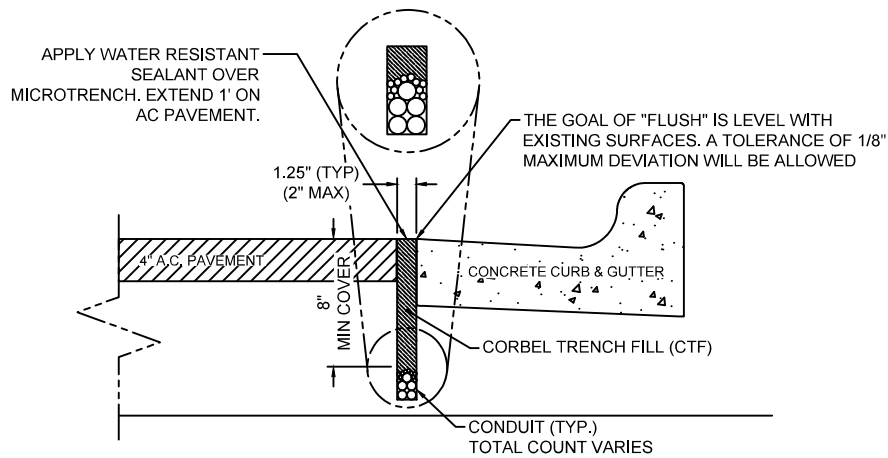
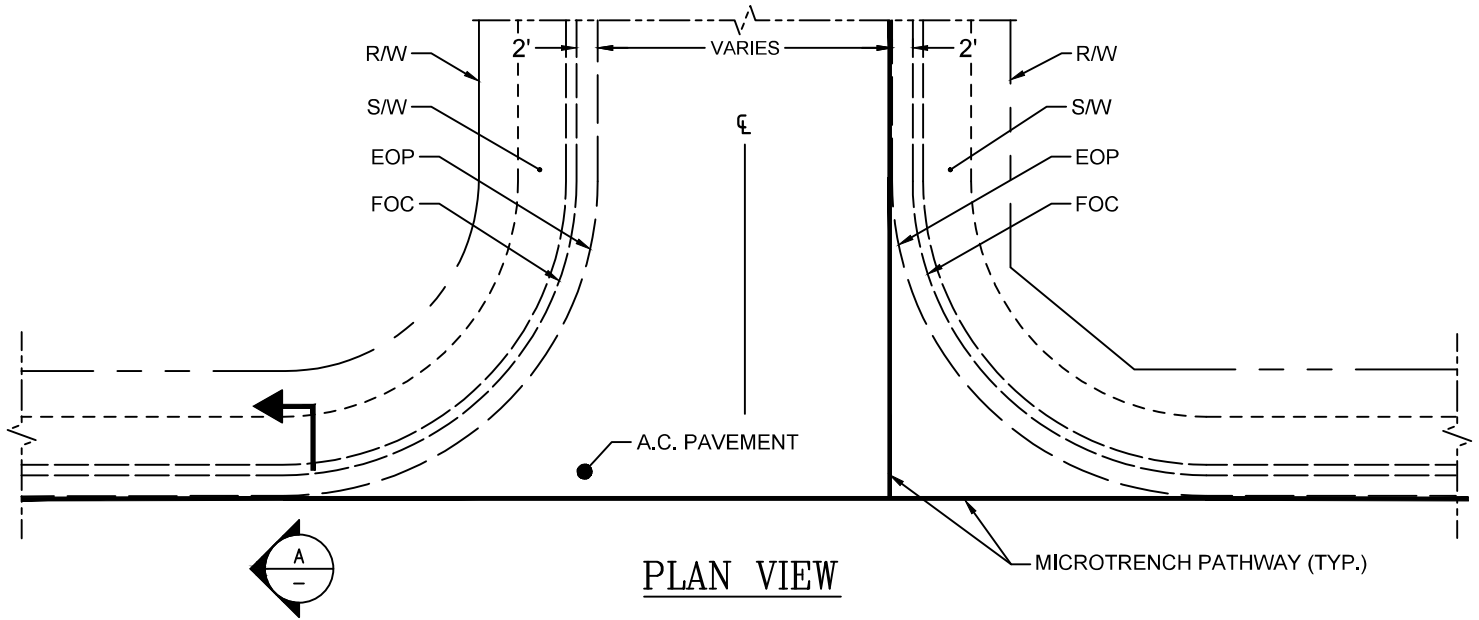
ACCEPTANCE:	
DATE	CITY ENGINEER



0	RELEASE FOR APPROVAL	JDN	10/25/2019
NO.	REVISIONS	BY	DATE
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NOT TO SCALE		10/25/2019	0
		JNORRIS	



ROADWAY WITH CURB AND GUTTER - VARIANT B

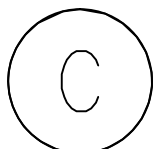


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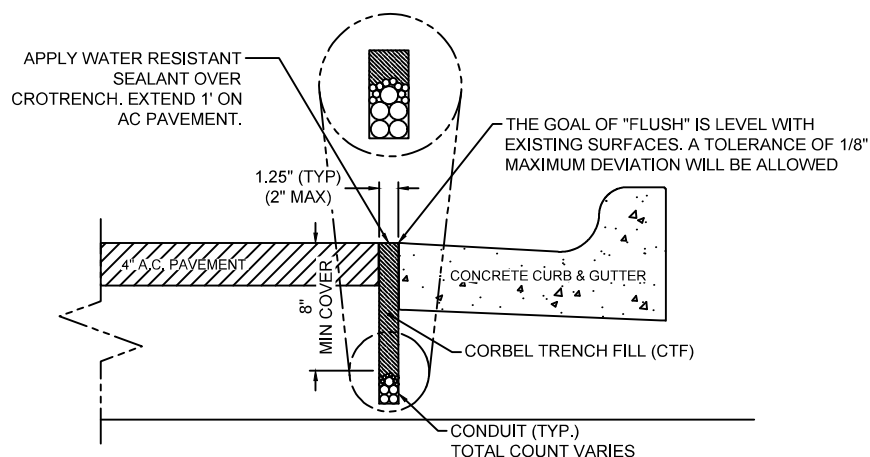
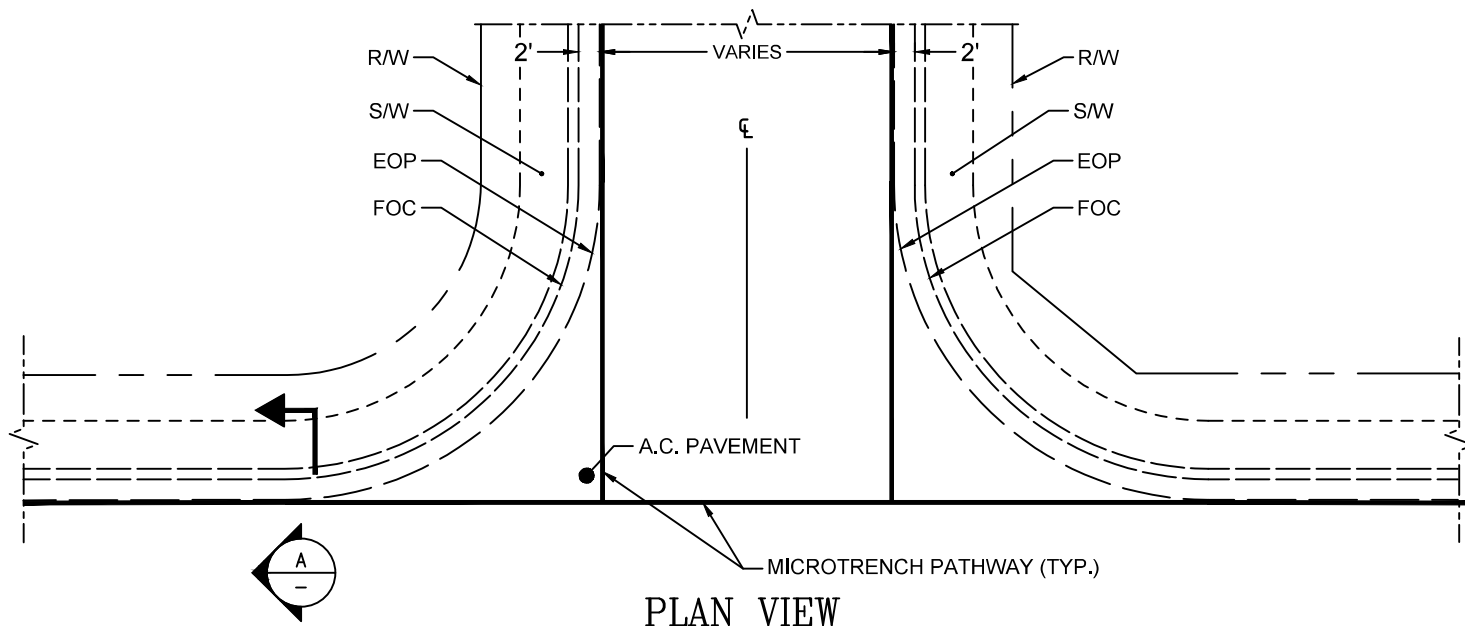
ACCEPTANCE:	
DATE	CITY ENGINEER



0	RELEASE FOR APPROVAL	JDN	10/25/2019
NO.	REVISIONS	BY	DATE
STD DWG		JTEL003-CF	
NOT TO SCALE		10/25/2019	0
		JNORRIS	



ROADWAY WITH CURB AND GUTTER - VARIANT C



The construction details represented on this page reference City of Standard Drawings #123, #124, #125, & Corbel Trench Fill material data sheet.

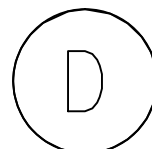
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DATE

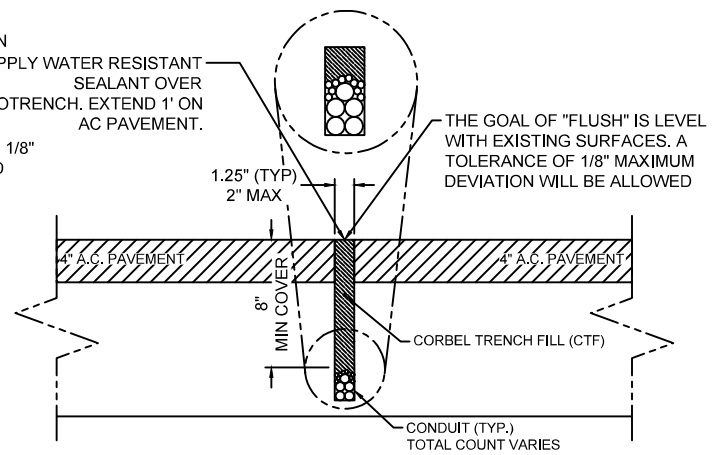
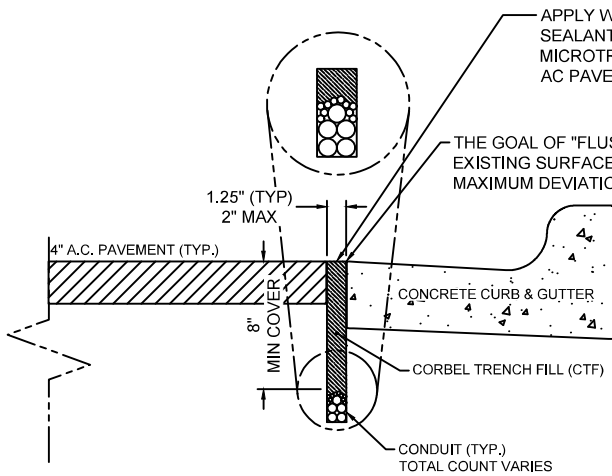
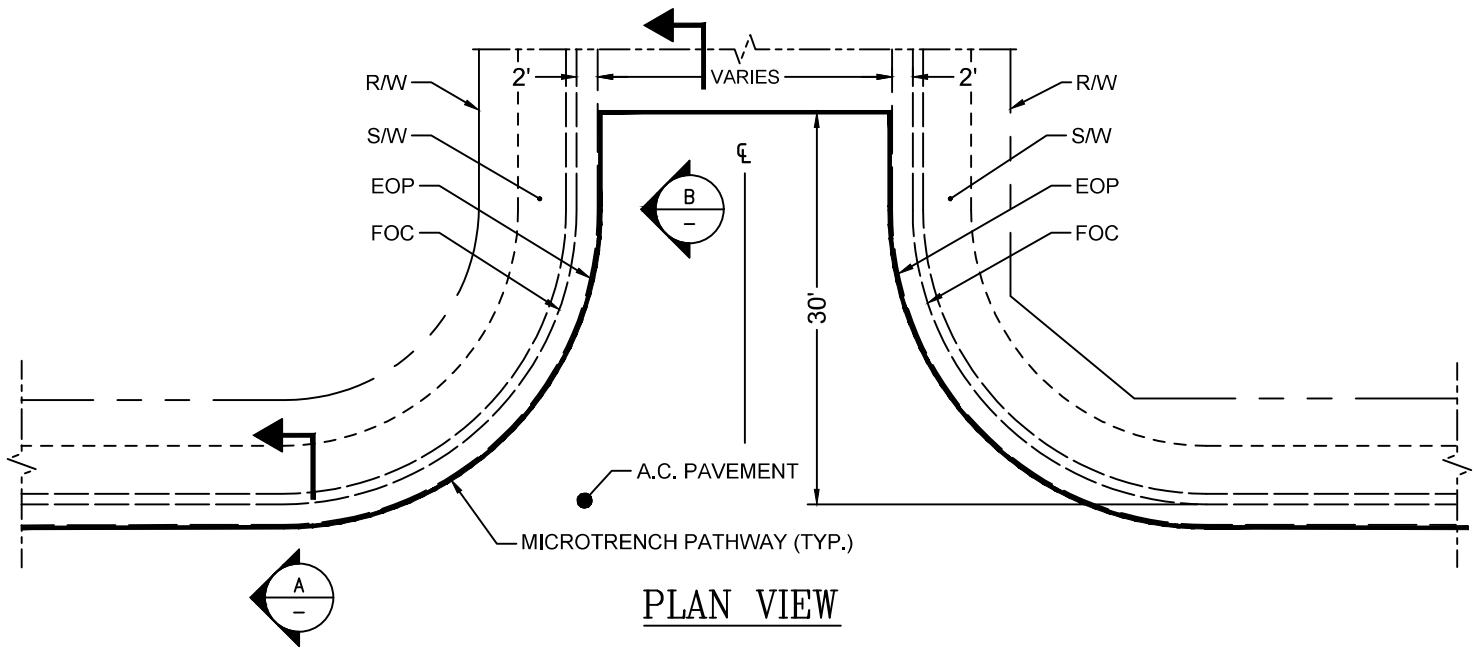
CITY ENGINEER



0	RELEASE FOR APPROVAL	JDN	10/25/2019
NO.	REVISIONS	BY	DATE
STD DWG		JTEL004-CF	
NOT TO SCALE		10/25/2019	0
		JNORRIS	



STREET CROSSING



The construction details represented on this page reference City of _____ Standard Drawings #123, #124, #125, & Corbel Trench Fill material data sheet.

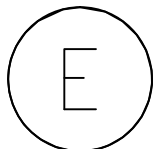
ACCEPTANCE:

DATE

CITY ENGINEER



0	RELEASE FOR APPROVAL	JDN	10/25/2019
NO.	REVISIONS	BY	DATE
	STD DWG	JTEL005-CF	
	NOT TO SCALE	10/25/2019	0
		JNORRIS	




SAMPLE

DRAWN BY:

MJW

CHECKED BY:

CER

SUBMITTALS

DATE	DESCRIPTION	REV

PROJECT NO.

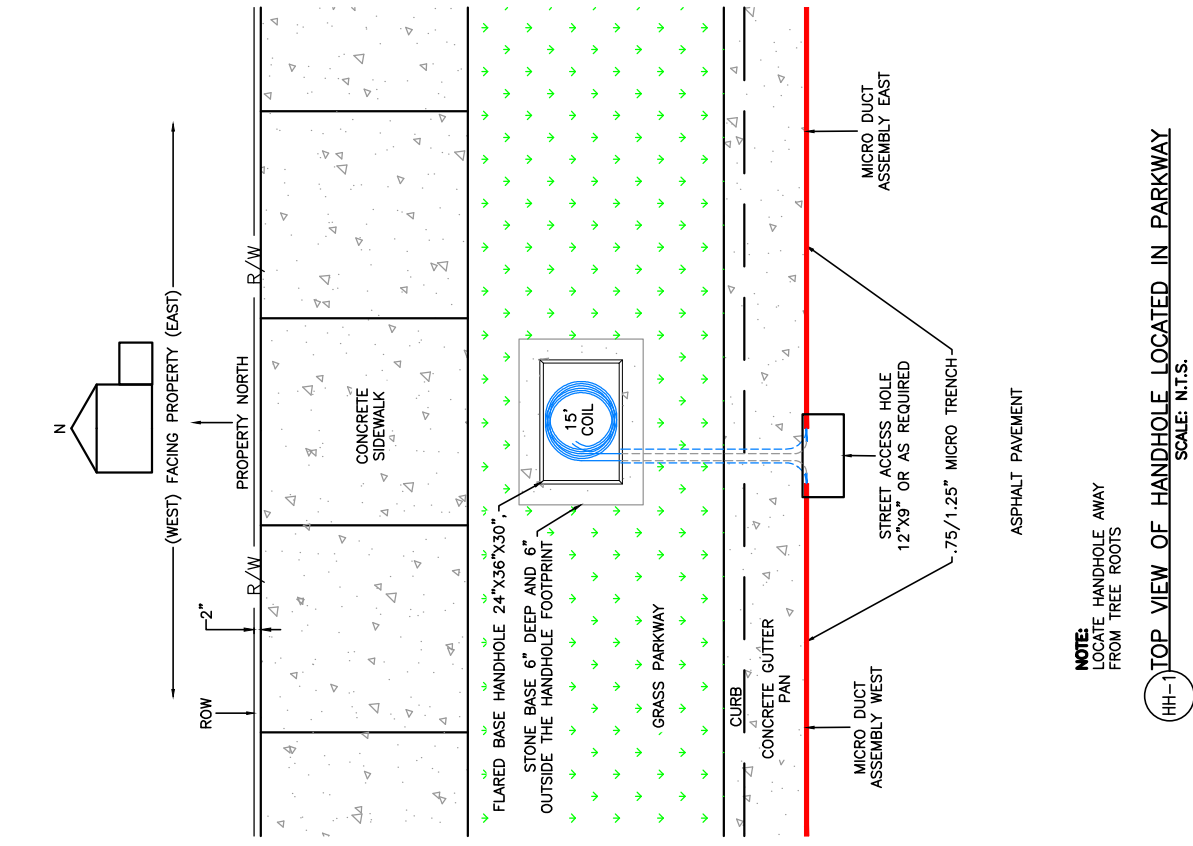
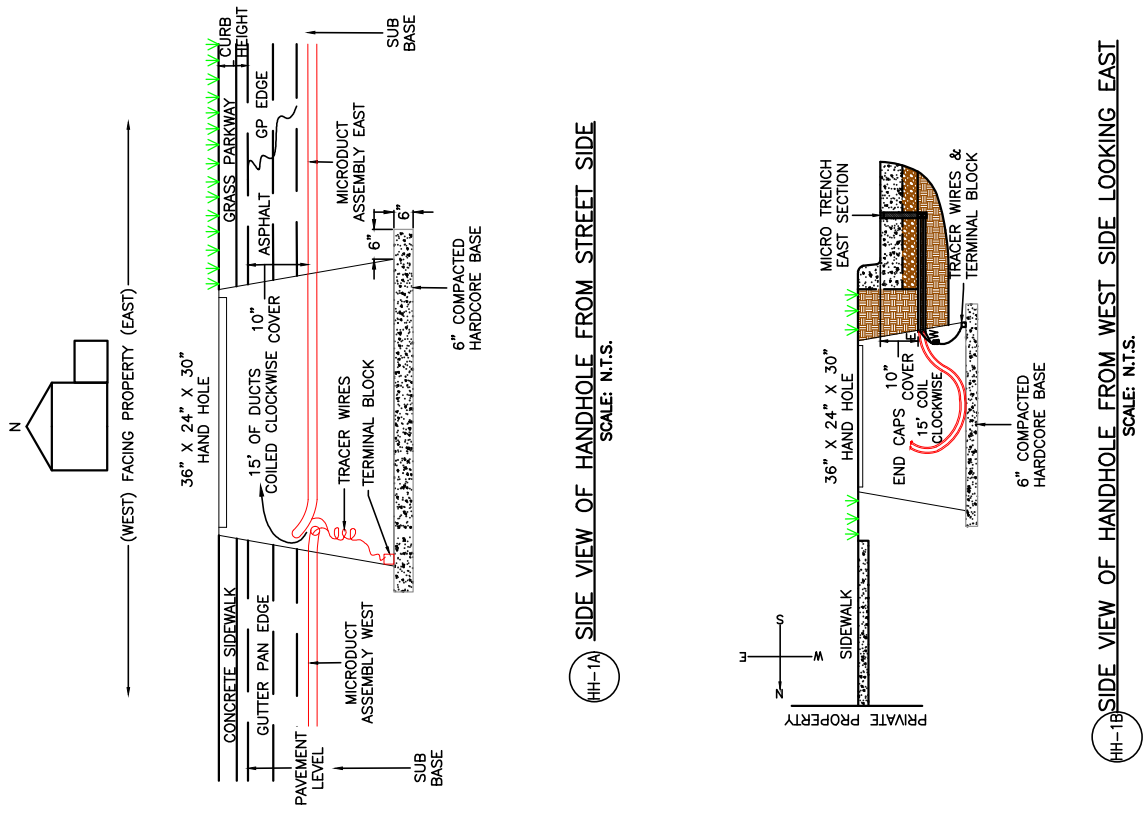
SHEET TITLE

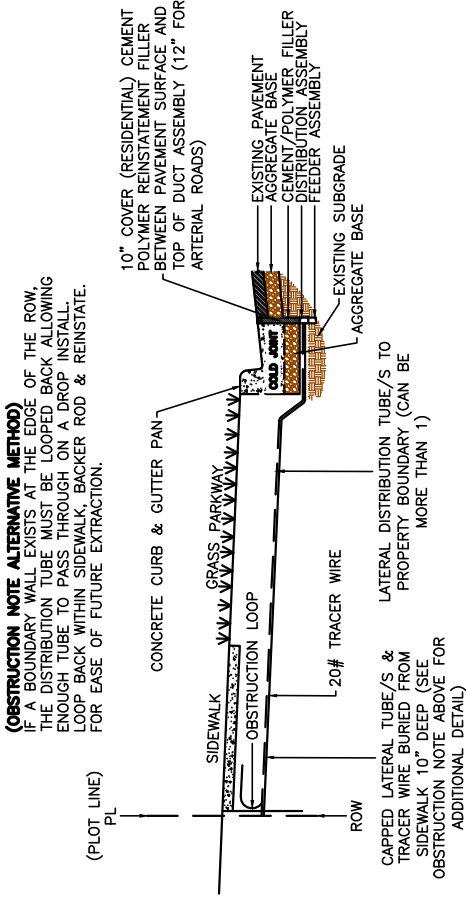
MICROTRENCH DETAILS



CONTACT 811 OR
800-422-4133
BEFORE YOU DIG

SHEET NUMBER

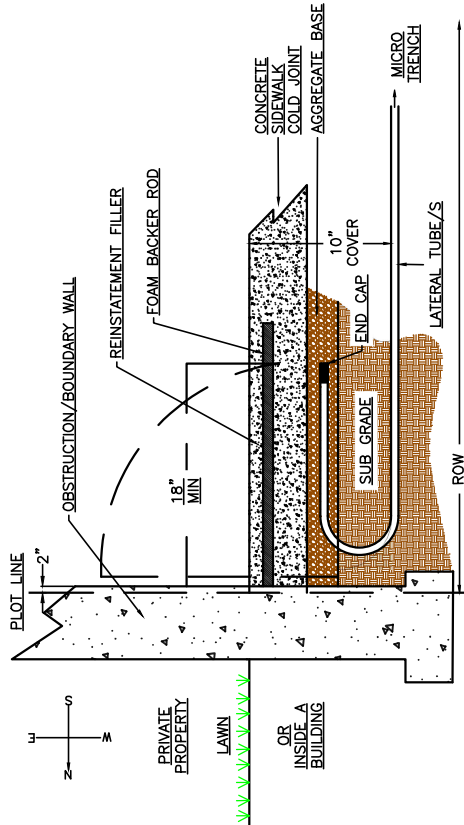




SIDE VIEW DETAIL OF LC-1 LATERAL CUT & LATERAL DISTRIBUTION TUBE/S INSTALL

SCALE: N.T.S.

LC-1A

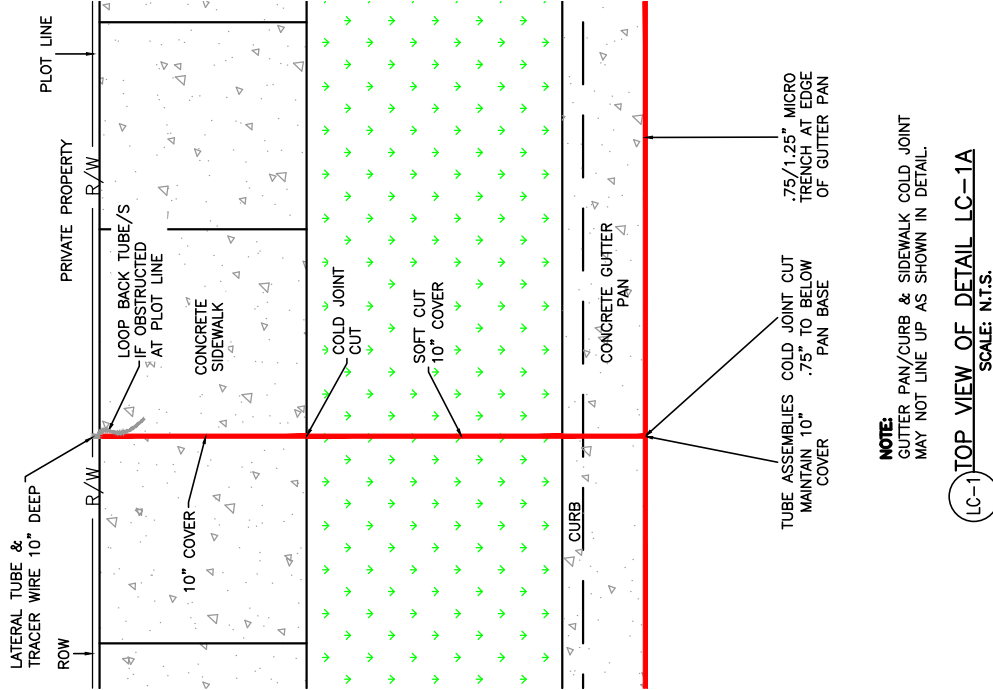


SIDE VIEW OF LATERAL TUBE OBSTRUCTION LOOP AT PROPERTY BOUNDARY. SEE ALSO LC-1A

SCALE: N.T.S.

LC-1B

		SAMPLE	
		CONTACT 811 OR 800-422-4133 BEFORE YOU DIG	
PROJECT NO.		SHEET TITLE HANDHOLE DETAILS	
DRAWN BY: M.W.		CHECKED BY: CER	
SUBMITTALS DATE DESCRIPTION REV		SHEET NUMBER	

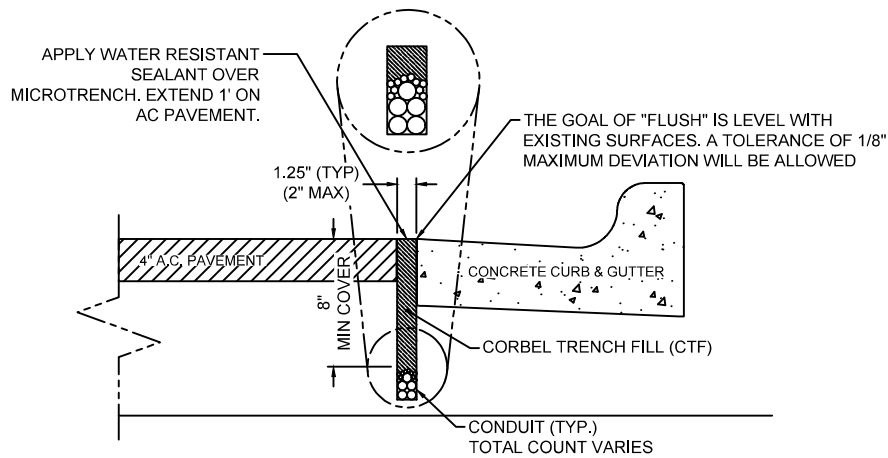
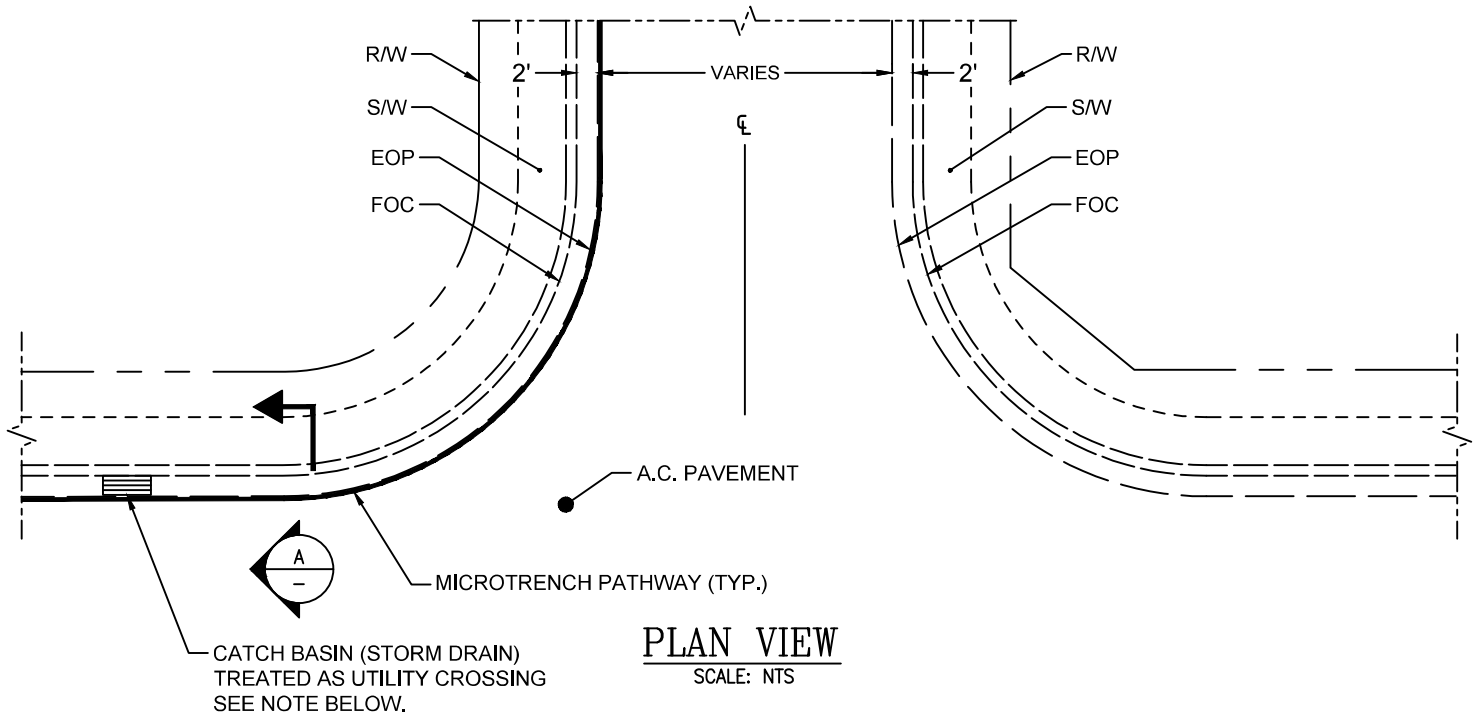


NOTE:
GUTTER PAN/CURB & SIDEWALK COLD JOINT MAY NOT LINE UP AS SHOWN IN DETAIL.

LC-1 TOP VIEW OF DETAIL LC-1A
SCALE: N.T.S.

EXHIBIT C
SPECIFICATIONS

ROADWAY WITH A CURB RETURN



Note: For Catch Basin/Storm Drain information reference City of _____ Standard Drawings #128A, #128B, #128C.

The construction details represented on this page reference City of _____ Standard Drawings #123, #124, #125, & Corbel Trench Fill material data sheet.

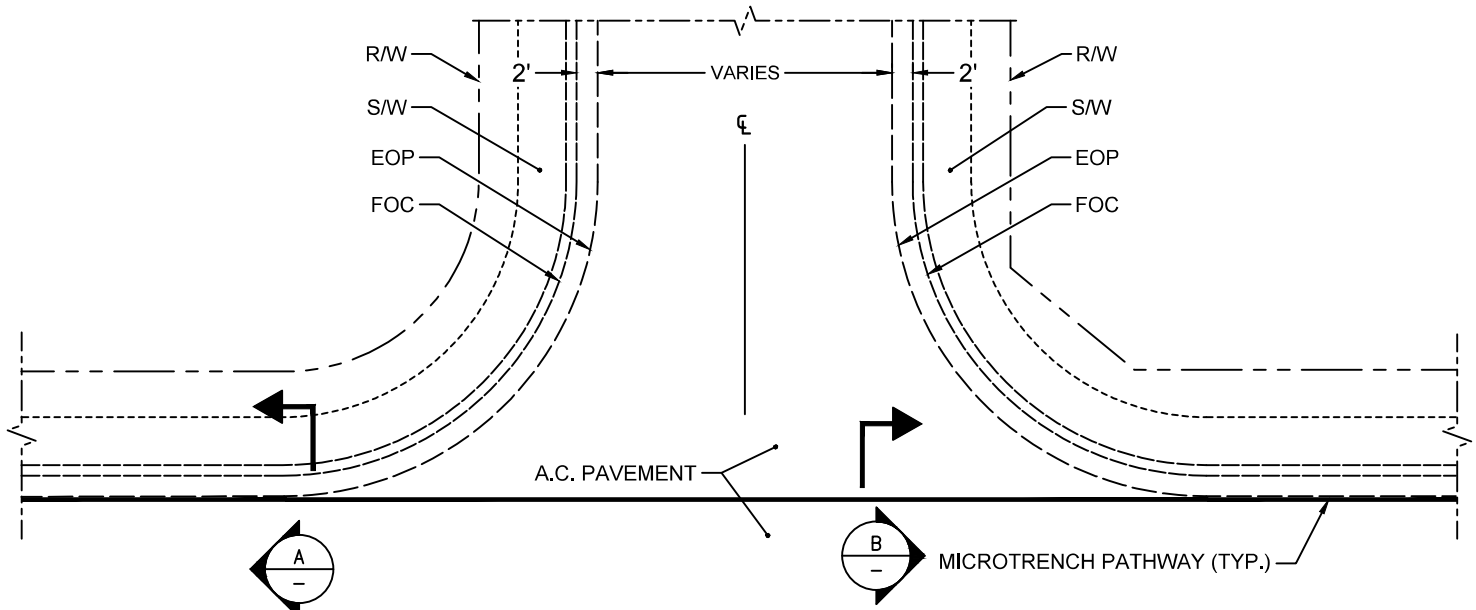
ACCEPTANCE:	
DATE	CITY ENGINEER



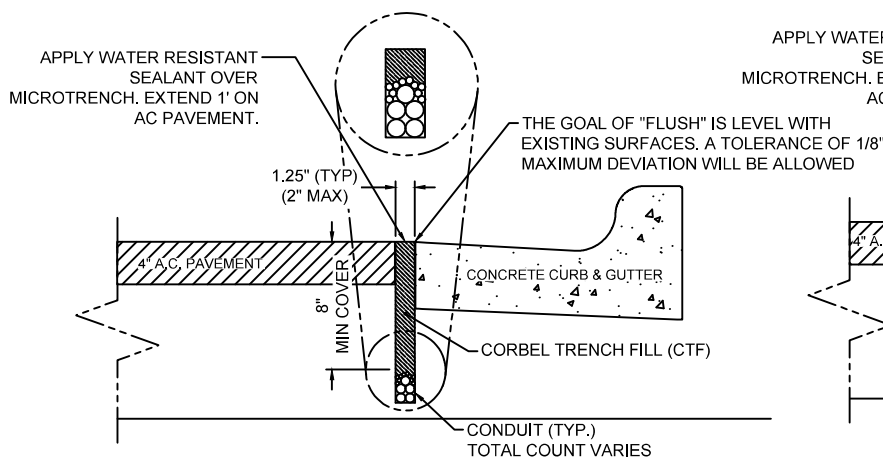
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NO.	REVISIONS	BY	DATE
STD DWG		JTEL001-CF	
NOT TO SCALE		10/25/2019	0
		JNORRIS	



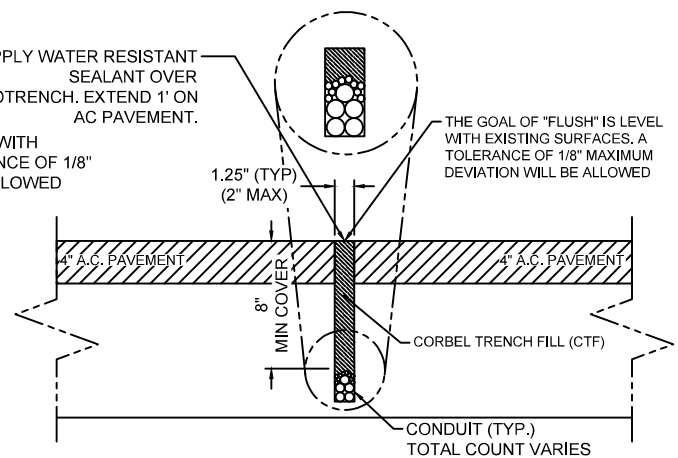
ROADWAY WITH CURB & GUTTER - VARIANT A



PLAN VIEW



SECTION VIEW A-A



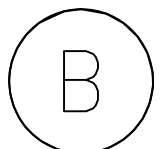
SECTION VIEW B-B

The construction details represented on this page reference City of Standard Drawings #101, #102, #103, #120, & Corbel Trench Fill material data sheet.

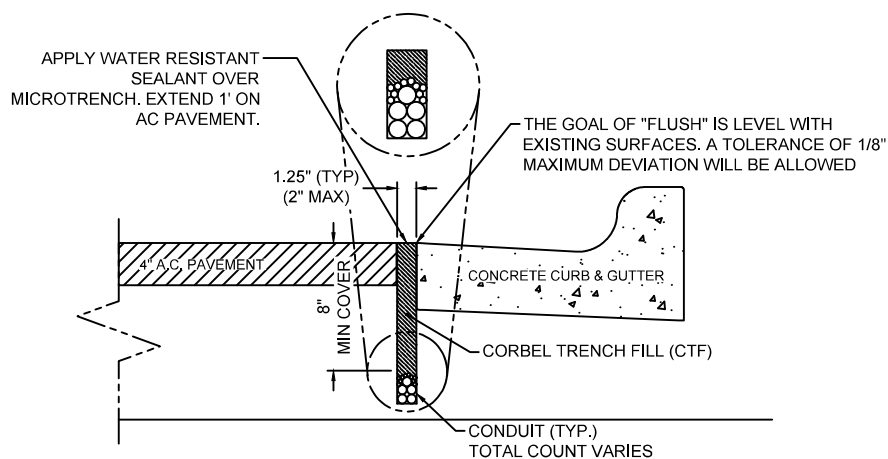
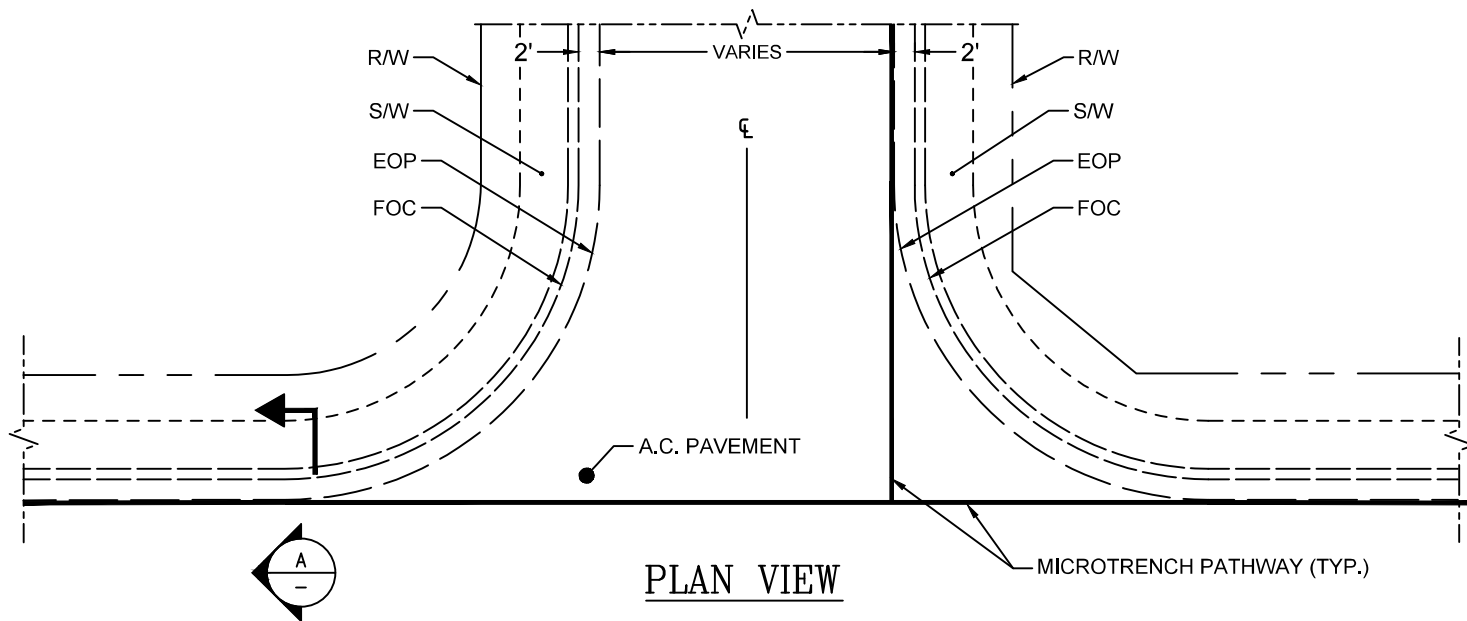
ACCEPTANCE:	
DATE	CITY ENGINEER



0	RELEASE FOR APPROVAL	JDN	10/25/2019
NO.	REVISIONS	BY	DATE
STD DRAWING		JTELO02-CF	
NOT TO SCALE		10/25/2019	0
		JNORRIS	



ROADWAY WITH CURB AND GUTTER - VARIANT B

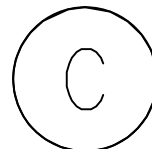


The construction details represented on this page reference City of _____ Standard Drawings #123, #124, #125, & Corbel Trench Fill material data sheet.

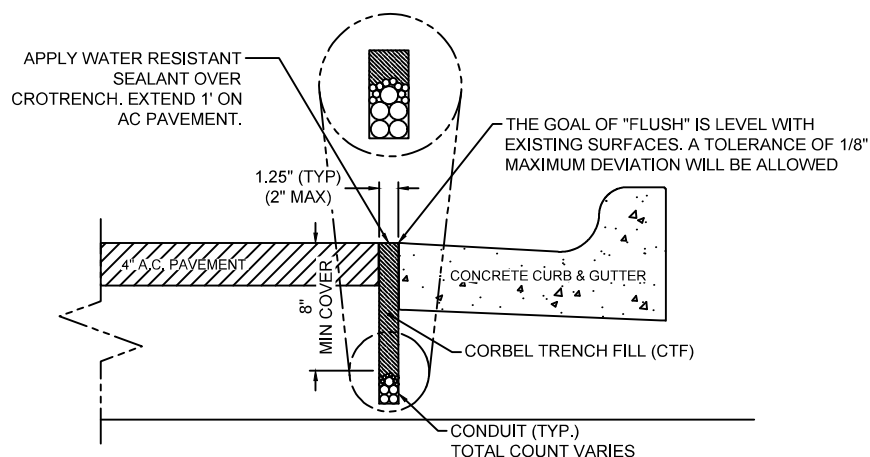
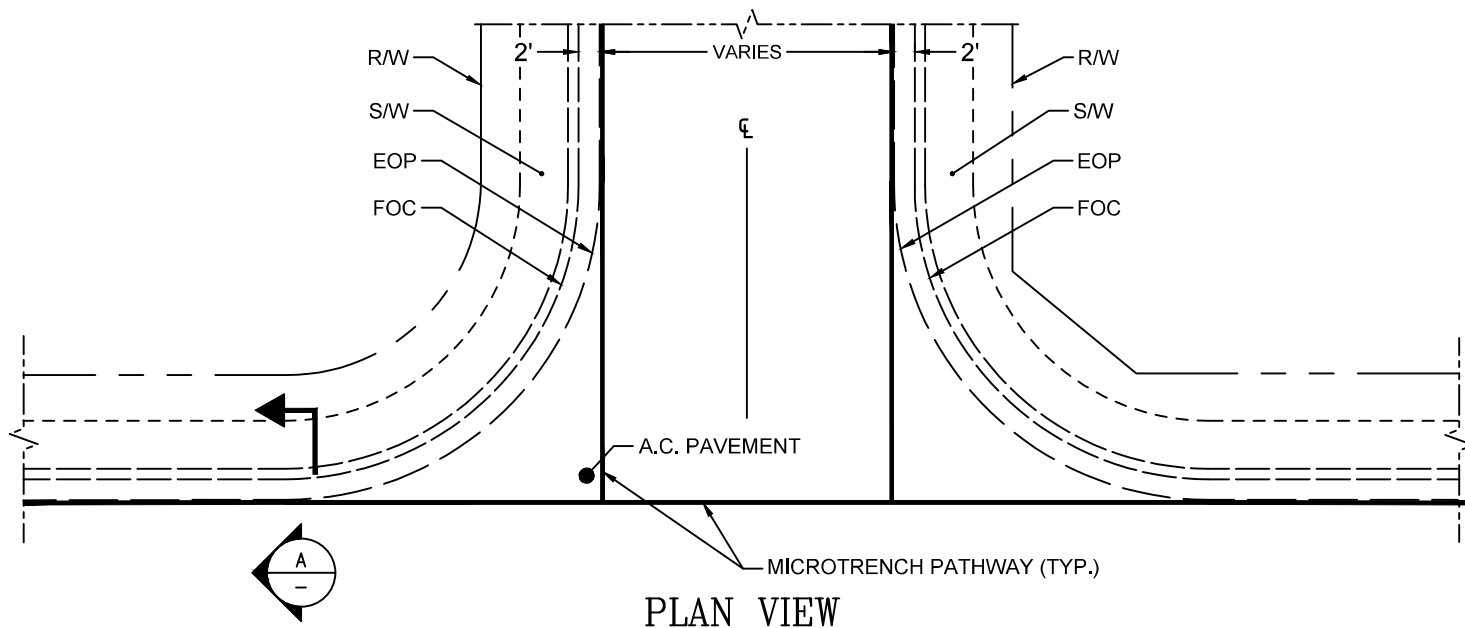
ACCEPTANCE:	
DATE	CITY ENGINEER



0	RELEASE FOR APPROVAL	JDN	10/25/2019
NO.	REVISIONS	BY	DATE
STD DWG		JTEL003-CF	
NOT TO SCALE		10/25/2019	0
		JNORRIS	



ROADWAY WITH CURB AND GUTTER - VARIANT C

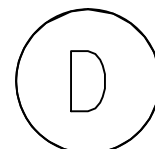


The construction details represented on this page reference City of _____ Standard Drawings #123, #124, #125, & Corbel Trench Fill material data sheet.

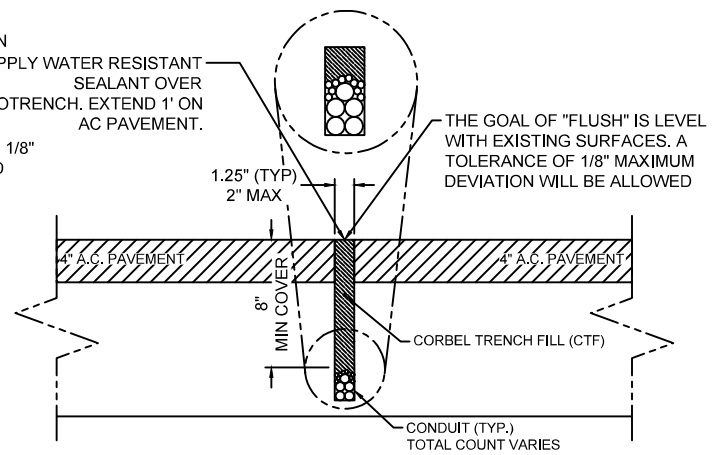
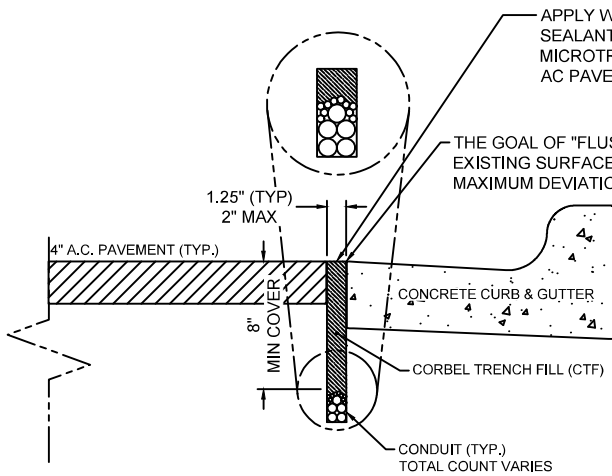
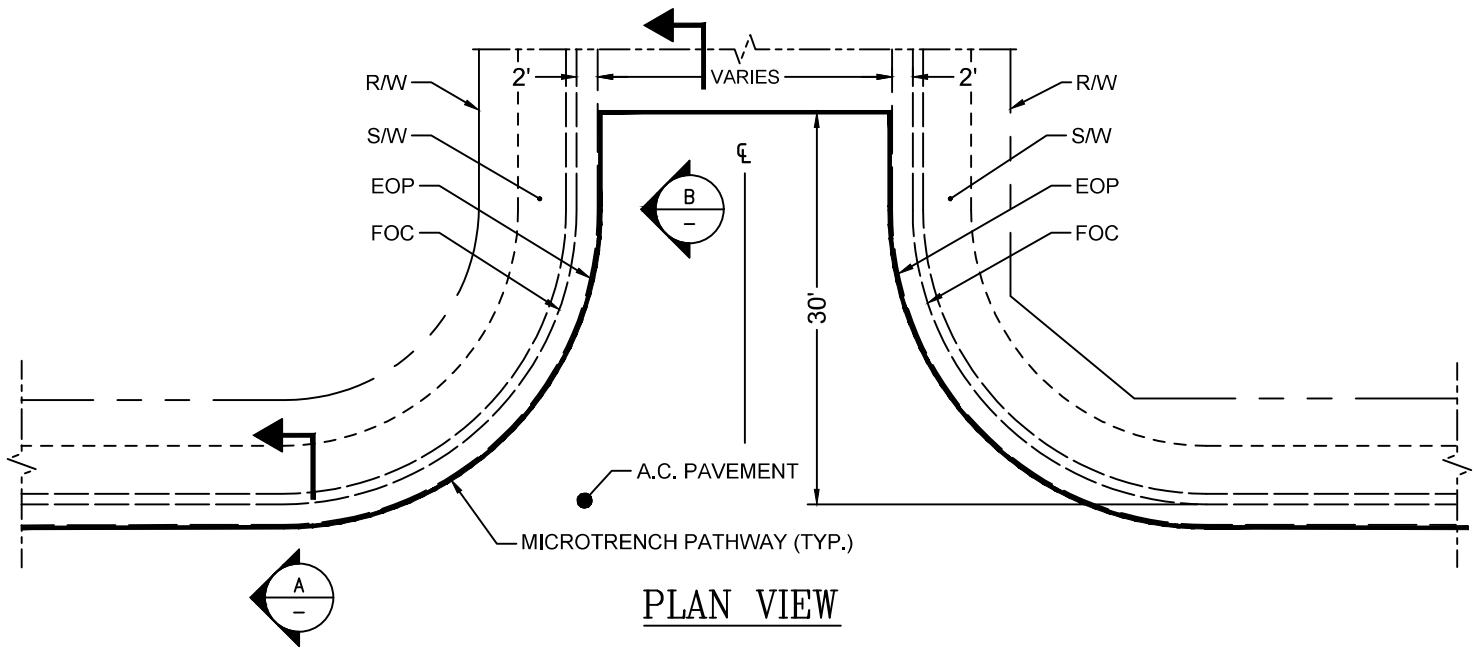
ACCEPTANCE:	
DATE	CITY ENGINEER



0	RELEASE FOR APPROVAL	JDN	10/25/2019
NO.	REVISIONS	BY	DATE
STD DWG		JTEL004-CF	
NOT TO SCALE		10/25/2019	0
		JNORRIS	



STREET CROSSING



The construction details represented on this page reference City of Standard Drawings #123, #124, #125, & Corbel Trench Fill material data sheet.

ACCEPTANCE:	
DATE	CITY ENGINEER



0	RELEASE FOR APPROVAL	JDN	10/25/2019
NO.	REVISIONS	BY	DATE
STD DWG		JTEL005-CF	
NOT TO SCALE		10/25/2019	0
		JNORRIS	

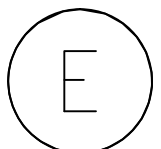


EXHIBIT D
METHOD STATEMENT

Exhibit D – Method Statement

1. City notifies SIFI of pending relocation work. SiFi dispatched internal engineering team to verify and qualify SOW.
2. SIFI notifies users on network prior to start of construction and rolls as much active customer traffic off Fiber Optic Cable (FOC) as possible due to limits of SOW.
3. City crews shall open a new trench alongside SiFi micro-trench to expose the segment of Fiber Optic Network (FON) to be relocated;
4. SiFi and its authorized contractors will supervise City crews whilst using a gas powered 36" walk behind up cut saw or other pre-approved equipment, with a diamond blade to cut on either side of the SiFi micro-trench the entire length of FON to be relocated; the extent of the cut area along FON will be determined by SIFI personal in conjunction with the City Engineers
5. The relocation team must first cut the splice point or lateral past the end of the FON segment(s) to be relocated;
6. Then the micro duct should be lifted out of the ground, and protected with plates or bars to allow the work to take place, wherein the area lifted out of the ground should be;
7. Alternatively, if the microtrenched area must be lowered, slack would need to be taken from the end points, or laterals/ splice points, after which the area beneath the micro-trench should be dug out and the FON conduit can be lowered and moved laterally underneath the curb or subgrade. The ends would then be coupled with split duct and tied back into the original end points;
8. At that point the temporary relocation would be considered complete until the City notifies SiFi that the construction area is safe for SIFI to place the duct in its final location;
9. Once Duct is in its final location coordinated with the City, the relocation is complete.
10. SIFI will as-built new trench lines, depth or other changes in the FON and submit to City for record.

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**CITY OF PITTSBURG
CITY COUNCIL/AGENCY CONCURRENT MEETING MINUTES**

DATE: February 18, 2020

LOCATION: Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

CITY COUNCIL.AGENCY MEMBERS

Jelani Killings, Mayor/Chair
Marilyn Craft, Vice-Mayor/Chair
Holland Barrett White, Council/Agency Member
Shanelle Scales-Preston, Council/Agency Member
Juan Antonio Banales, Council/Agency Member
S.L. Floyd, Agency Member
Annie Hill Herring, Agency Member

APPOINTED OFFICIALS

Garrett Evans, City Manager/Executive Director
Donna Mooney, City Attorney/Legal Counsel
Alice E. Evenson, City Clerk/Agency Secretary (elected)
Nancy Parent, City Treasurer (elected)

Mayor Killings called the meeting of the City Council to order at 7:00 P.M. in the City Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, CA after convening in Closed Session at 6:00 P.M. for the following items:

1. CONFERENCE WITH LABOR NEGOTIATORS Pursuant to Section 54957.6:

City designated representatives: Garrett Evans, Stacy Shell, Fritz McKinley, Brad Farmer

Employee organizations: American Federation of State, County, and Municipal Employees Local 512 Management/Professional/Confidential Unit and Miscellaneous A Unit; Pittsburg Police Officers' Association; Pittsburg Police Managers Group; Teamsters Local 856

Unrepresented employees: Management Group; Senior Executive Team

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Pursuant to Section 54956.8):

Property: 610-690 Railroad Avenue (APN 085-390-077); Successor Agency Negotiator: Garrett Evans and Maria Aliotti; Negotiating Parties: Global Resources Trading LLC; Under Negotiation: Both price and terms of payment

City Attorney Mooney stated there was no reportable action taken in Closed Session.

ROLL CALL

Member Scales-Preston was absent and excused.

PLEDGE OF ALLEGIANCE

Chief Addington led the Pledge of Allegiance.

PROCLAMATIONS

3. Inspire Pittsburg: Stefany Ramirez

Stefany Ramirez accepted the proclamation.

4. Inspire Pittsburg: Pittsburg Community Theatre

Members of the Pittsburg Community Theatre accepted the proclamation.

CITY MANAGER REPORTS/REMARKS

City Manager Evans announced upcoming events.

CITIZENS REMARKS

There were no citizens remarks for items not on the agenda.

COMMITTEE REPORTS

Member Banales, along with Mayor Killings, attended the Finance Subcommittee meeting.

CONSIDERATION

6. By Minute Order, Select Commission Appointments to Vacancies on the Planning Commission and Community Advisory Commission

On Motion by Vice-Mayor Craft, seconded by Member White to re-appoint Patt Young to the Community Advisory Commission and carried by the following vote:

AYES: Banales, Craft, White, Killings
ABSENT: Scales-Preston

On Motion by Member White, seconded by Member Banales to appoint Karen Lewis to the Community Advisory Commission and carried by the following vote:

AYES: Banales, Craft, White, Killings
ABSENT: Scales-Preston

On Motion by Vice-Mayor Craft, seconded by Member White to appoint Candida Duperrior to the Community Advisory Commission and carried by the following vote:

AYES: Banales, Craft, White, Killings
ABSENT: Scales-Preston

Member Banales stated he reached out to Punita Bhasin, who had applied for the Community Advisory Commission, to see if she would be interested in the Planning Commission vacancy. She accepted.

On Motion by Member Banales, seconded by Member White to re-appoint James Coniglio and Sarah Foster to the Planning Commission, and to appoint Punita Bhasin to the Planning Commission and carried by the following vote:

AYES: Banales, Craft, White, Killings
ABSENT: Scales-Preston

CONFLICT OF INTEREST STATEMENT

There were no conflict of interest statements.

COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION, PITTSBURG POWER COMPANY AND SOUTHWEST PITTSBURG GHAD II AND SUCCESSOR AGENCY CONSENT CALENDAR

On Motion by Member Banales, seconded by Vice-Mayor/Chair Craft to adopt and carried by the following vote:

AYES: Banales, Craft, White, Killings
ABSENT: Scales-Preston

7. Minutes of February 3, 2020
8. Adoption of a Minute Order to Initiate a Study to Amend the General Plan Land Use Designation and Zoning Classification of City-Owned Land in Order to Allow for Development of an LED Billboard
9. Adoption of a City Council Resolution to Accept Contract 2018-15, Pittsburg Marina Basin II Maintenance Dredging Project as Complete and Authorize the City Engineer to File a Notice of Completion
10. Receive and File the Treasurer's Report for the Quarter Ending December 31, 2019

COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

There were no requests for future agenda items.

COUNCIL MEMBER REPORTS AND REMARKS

Member White thanked PACF and Karen Lewis for hosting The Love Games at the California Theatre. He also thanked PACF for the new art gallery and looked forward to its opening.

Vice Mayor Craft noted she has a block of tickets available for teens for the movie Harriet which will be shown at the California Theatre.

Mayor Killings attended the Day at the Museum event led by historian Vince

Ferrante, followed by a tour of the Old Town area. He conducted a tour of City Hall for the RES Success group, serving disabled adults, and thanked the Police Department for the tour of the department. He also thanked the Police Department for the First Annual Blades and Badges Community Forum, helping build community relations.

ADJOURNMENT

The City Council meeting adjourned at 7:21 P.M. to March 2, 2020.

Respectfully submitted,

Alice E. Evenson, City Clerk



**Office of the City Manager
65 Civic Avenue
Pittsburg, CA 94565**

MEMO: March 2, 2020
TO: Mayor and Council Members
FROM: Garrett Evans, City Manager
RE: Adoption of a City Council Resolution to Approve Sewer System Management Plan (SSMP) Update

EXECUTIVE SUMMARY

The State Water Resources Control Board requires that all sewer agencies perform a comprehensive review of their Sewer System Management Plan (SSMP) and update the document at least once every five years. The attached document fulfills those requirements.

FISCAL IMPACT

None.

RECOMMENDATION

City Council adopt Resolution approving the City's updated Sewer System Management Plan pursuant to the statewide General Waste Discharge Requirements set forth by the State Water Resources Control Board.

BACKGROUND

In May 2006, the State Water Resources Control Board (SWRCB) adopted requirements for agencies that own and operate sanitary sewer collection systems pursuant to the requirements included in SWRCB Order No. 2006-0003-DWQ. The requirements include preparation of a Sewer System Management Plan (SSMP) with specific provisions to provide proper and efficient management, operation, and maintenance of sanitary sewer systems.

The SSMP is required to have a spill response and reporting plan establishing standard procedures for immediate response to a sanitary sewer overflow. The response must be

designed to minimize water quality impacts and potential nuisance conditions. The SWRCB required a phased-in approach with full implementation by May 2, 2009.

On October 2, 2008, the City Council approved Resolution 08-11103 adopting the City's SSMP and certifying its completion through the California Integrated Water Quality System. The SWRCB requires that every five years, all sewer agencies perform a comprehensive review of their SSMP and update the document if needed. The SSMP was last reviewed and updated in 2014.

The SSMP update must be adopted by the City Council to meet SWRCB requirements. The Performance Audit is required every two years.

SUBCOMMITTEE FINDINGS

This item was not reviewed by a subcommittee.

STAFF ANALYSIS

A team of City staff directly responsible for different aspects of the SSMP and those familiar with sanitary sewer system operations, maintenance, and response conducted the performance audit and update. The review team focused on the effectiveness of the SSMP Program, compliance with waste discharge requirements, and identification of any deficiencies in the program.

To prepare the update, the team reviewed the amended General Waste Discharge Requirement Monitoring and Reporting Program (Revised Order No. 2013-0058-EXEC), Historical System Performance Data, the City's Operating Budget, and the City's Five - year Capital Improvement Program (CIP).

The most significant changes in the update are to comply with the latest requirements for a sewer overflow emergency response plan, as detailed in Section 6 of the Plan. Other minor changes include updates to lists of staff, inventory and completed projects.

The Sanitary Sewer Management Plan must be adopted by the governing board of the agency prior to certification by the state regulatory agency. Staff recommends the City Council adopt the attached resolution to adopt the updated SSMP.

Once approved, the revised SSMP and supporting documents will be kept on file and available for review.

ATTACHMENTS: Resolution
2019 SSMP

Report Prepared By: Hilario Mata, Assistant Director of Public Works

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Adoption of a Resolution to Approve the)
Sewer System Management Plan Update)

RESOLUTION NO. 20-

The PITTSBURG City Council FINDS AND DETERMINES as follows:

WHEREAS, on May 2, 2006, the State Water Resources Control Board (SWRCB) adopted Statewide General Waste Discharge Requirements (GWDR) for Sanitary Sewer Systems, SWRCB Order No. 2006-0003, and Amendment Order No. WQ 2013-0058-EXEC on September 9, 2013; and

WHEREAS, pursuant to the statewide GWDR, public agencies that own and operate sanitary sewer systems greater than one mile in length must develop a Sewer System Management Plan (SSMP) in accordance with the SWRCB requirements; and

WHEREAS, On October 2, 2008, the City Council approved Resolution 08-11103 adopting the City's SSMP and certifying its completion through the California Integrated Water Quality System; and

WHEREAS, the SWRCB requires that all sewer agencies perform a comprehensive review of their SSMP and update the document at least once every five years; and

WHEREAS, the City has updated its SSMP to meet the most current wastewater discharge requirements of the SWRCB; and

WHEREAS, the complete updated SSMP must be approved by the City Council, as the governing body, before it can be considered complete.

NOW, THEREFORE that the City Council DOES RESOLVE to hereby approve the updated 2019 Sewer System Management Plan.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 2nd day of March 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

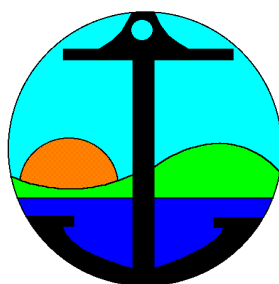
ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk

CITY OF PITTSBURG



Sewer System Management Plan

August 31, 2008

Last Update
December 4, 2019

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Introduction

Background

This Sewer System Management Plan (SSMP) has been prepared in compliance with the State Water Resources Control Board (SWRCB) Order 2006-0003: Statewide General Waste Discharge Requirements for Sanitary Sewer System (GWDR), as revised by Order No. WQ 2008-0002.EXEC on February 20, 2008. The GWDR prohibits sanitary sewer overflows (SSOs) and requires reporting of SSOs using a new statewide electronic reporting system.

This initial SSMP has been prepared by the City of Pittsburg (City) with assistance from Larson Consulting.

Organization of SSMP

The structure of this document follows the section numbering and nomenclature used in the GWDR. The SSMP includes eleven sections, as follows:

- I. Goals
- II. Organization
- III. Legal Authority
- IV. Operation and Maintenance Program
- V. Design and Performance Provisions
- VI. Overflow Emergency Response Plan
- VII. Fats, Oils and Grease (FOG) Control Program
- VIII. System Evaluation and Capacity Assurance Plan
- IX. Monitoring, Measurement, and Program Modifications
- X. SSMP Audits
- XI. Communication Program

System Overview

The City's sanitary sewer system serves a population of approximately 72,437 in a 17.2 square mile service area. The sanitary sewer system facilities include approximately 180 miles of gravity sewers and two small pump stations. Wastewater is discharged into the Delta Diablo system for treatment and disposal. The City is responsible for maintaining the lower laterals.

Definitions, Acronyms, and Abbreviations

Best Management Practices (BMP) - Refers to the procedures employed in commercial kitchens to minimize the quantity of grease that is discharged to the sanitary sewer system. Examples include scraping food scraps into the garbage can and dry wiping dishes and utensils prior to washing.

Calendar Year (CY)

California Integrated Water Quality System (CIWQS) - Refers to the State Water Resources Control Board online electronic reporting system that is used to report SSOs, certify completion of the SSMP, and provide information on the sanitary sewer system. The electronic reporting requirement became effective on May 2, 2007 for Region 2.

Capital Improvement Plan (CIP) - Refers to the document that identifies planned capital improvements to the City's sanitary sewer system.

City - Refers to the City of Pittsburgh.

Closed Circuit Television (CCTV) - Refers to the process and equipment that is used to internally inspect the condition of gravity sewers.

Fats, Oils, and Grease (FOG) - Refers to fats, oils, and grease typically associated with food preparation and cooking activities that can cause blockages in the sanitary sewer system.

First Responder – Refers to the City employee who provides the City's initial response to a sewer system event.

Fiscal Year (FY)

Food Service Establishment (FSE) - Refers to commercial or industrial facilities where food is handled/prepared/served that discharge to the sanitary sewer system.

Force Main - Refers to a pressure sewer used to convey wastewater from a pump station to the point of discharge.

Full-time Equivalent (FTE) - Refers to the equivalent of 2,080 paid labor hours per year by a regular, temporary, or contract employee.

General Waste Discharge Requirements (GWDR) - Refers to the State Water Resources Control Board Order No. 2006-0003, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, dated May 2, 2006, as revised on February 20, 2008.

Geographical Information System (GIS) - Refers to the City's system that it uses to capture, store, analyze, and manage geospatial data associated with the City's sanitary sewer system assets.

Global Positioning System (GPS) - Refers to the handheld unit used to determine the longitude and latitude of sanitary sewer overflows for use in meeting CIWQS reporting requirements.

Grease Removal Device (GRD) - Refers to grease traps or grease interceptors that are installed to remove FOG from the wastewater flow at food service establishments.

Infiltration/Inflow (I/I) - Refers to water that enters the sanitary sewer system from storm water and groundwater and increases the quantity of flow. Infiltration enters through defects in the sanitary sewer system after flowing through the soil. Inflow enters the sanitary sewer without flowing through the soil. Typical points of inflow are holes in manhole lids and direct connections to the sanitary sewer (e.g. storm drains, area drains, and roof leaders).

Lateral - See sewer service lateral.

Legally Responsible Official (LRO) - Refers to the individual who has the authority to certify reports and other actions that are submitted through CIWQS.

Lower Lateral – Refers to the portion of the sewer service lateral between the property line and the public sewer

Manhole (MH) - Refers to an engineered structure that is intended to provide access to a sanitary sewer for maintenance and inspection.

Monitoring, Measurement, and Program Modifications (MMPM)

National Pollution Discharge Elimination System (NPDES)

Office of Emergency Services (OES) - Refers to the California Governor's Office of Emergency Services.

Operation and Maintenance (O&M)

Overflow Emergency Response Plan (OERP)

Preventative Maintenance (PM) - Refers to maintenance activities intended to prevent failures of the sanitary sewer system facilities (e.g. cleaning, CCTV, inspection).

Regional Water Quality Control Board (RWQCB) - Refers to the San Francisco Bay Regional Water Quality Control Board.

Sanitary Sewer Overflow (SSO) - Any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system. SSOs include:

- (i) Overflows or releases of untreated or partially treated wastewater that reach waters of the United States;
- (ii) Overflows or releases of untreated or partially treated wastewater that do not reach waters of the United States; and
- (iii) Wastewater backups into buildings and on private property that are caused by blockages or flow conditions within the publicly owned portion of a sanitary sewer system.

Sanitary Sewer System - Refers to the portion of the sanitary sewer facilities that are owned and operated by the City of Pittsburgh.

Sensitive Area – Refers to areas where an SSO could result in a fish kill or pose an imminent or substantial danger to human health.

Sewer Service Lateral - Refers to the piping that conveys sewage from the building to the City's sewer system. See also Lower Lateral.

Sewer System – See Sanitary Sewer System.

Sewer System Management Plan (SSMP)

State Water Resources Control Board (SWRCB) - Refers to the California Environmental Protection Agency (EPA) State Water Resources Control Board and staff responsible for protecting the State's water resources.

Surface Waters – See water of the State.

System Evaluation and Capacity Assurance Plan (SECAP)

Water Body – A water body is any stream, creek, river, pond, impoundment, lagoon, wetland, or bay.

Water of the State – Water of the State means any water, surface or underground, including saline waters, within the boundaries of California. In case of a sewage spill, storm drains are considered to be waters of the State unless the sewage is completely contained and returned to the sewer system and that portion of the storm drain is cleaned.

Work Order - Refers to a document (paper or electronic) that is used to assign work and to record the results of the work.

References

New Requirements for Preparing Sewer System Management Plans, California Regional Water Quality Control Board San Francisco Bay Region letter to Sewer System Authorities, July 7, 2005 (www.cwea.org/conferences/sso/Reg2Letter-SSMP0705.pdf).

Sewer System Management Plan (SSMP) Development Guide, San Francisco Bay Regional Water Quality Control Board in cooperation with Bay Area Clean Water Agencies, July 2005 (www.swrcb.ca.gov/rwqcb2/download/).

State Water Resources Control Board Order No. 2006-0003 Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, California State Water Resources Control Board, May 2, 2006.

Monitoring and Reporting Program 2006-0003 Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, State Water Resources Control Board, May 2, 2006 (www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2008/wqo/wqo2008_0002_exec.pdf).

State Water Resources Control Board Monitoring and Reporting Program No. 2006-0003-DWQ (as revised by Order No. WQ 2008-0002.EXEC) Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, California State Water Resources Control Board, February 20, 2008 (www.cwea.org/pdf/2008-0002-EXEC.pdf).

Section 1. Goals

1.1. Introduction

This section of the SSMP presents the City's goals for the management, operation, and maintenance of its sanitary sewer system.

1.2. Regulatory Requirements for Goals Element of SSMP

The summarized requirements for the Goals element of the SSMP are:

1.2.1. RWQCB Requirement

The goal of the SSMP is to develop goals to manage, operate, and maintain all parts of its collection system. The goals should address the provision of adequate capacity to convey peak wastewater flows, as well as a reduction in the frequency of sanitary sewer overflows (SSOs) and the mitigation of their impacts.

1.2.2. GWDR Requirement

The goal of the SSMP is to provide a plan and schedule to properly manage, operate, and maintain all parts of the sanitary sewer system. This will help reduce and prevent Sanitary Sewer Overflows (SSOs), as well as mitigate any SSOs that do occur.

1.3. SSMP Goals

The City's goals are:

1. To properly manage, operate, and maintain all portions of the City's wastewater collection system.
2. To provide adequate capacity to convey the peak wastewater flows. Adequate capacity, for the purposes of this SSMP, is defined as the capacity to convey the peak wastewater flows that are associated with the design storm event.
3. To minimize the frequency of SSOs.
4. To mitigate the impacts that are associated with any SSO that may occur.
5. To meet all applicable regulatory notification and reporting requirements.

Section 2. Organization

2.1. Introduction

The intent of this section of the SSMP is to identify City staff who are responsible for implementing this SSMP, responding to SSO events, and meeting the SSO reporting requirements. This section also includes the designation of the Authorized Representative to meet SWRCB requirements for completing and certifying spill reports.

2.2. Regulatory Requirements for Organization Element of SSMP

The requirements for the Organization element of the SSMP are summarized below:

2.2.1. RWQCB Requirement

The SSMP must identify staff (names and phone numbers) responsible for implementing measures outlined in the SSMP, including management, administration, and maintenance positions. Identify the chain of communication for reporting and responding to SSOs.

2.2.2. GWDR Requirement

The SSMP must identify:

1. The name of the responsible or authorized representative;
2. The names and telephone numbers for management, administrative, and maintenance positions responsible for implementing specific measures in the SSMP program. Include lines of authority as shown in an organization chart or similar document with a narrative explanation; and
3. The chain of communication for reporting SSOs, from receipt of a complaint or other information, including the person responsible for reporting SSOs to the State and Regional Water Board and other agencies if applicable (such as County Health Officer, County Environmental Health Agency, Regional Water Board, and/or State Office of Emergency Services (OES)).

2.3. Organization

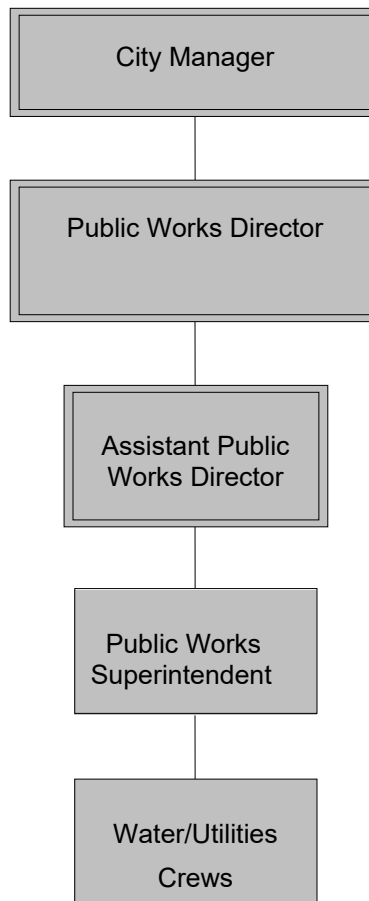
The organization chart for the management, operation, and maintenance of the City's wastewater collection system is shown on Figure 2-1.

2.4. Authorized Representative

The City's Authorized Representatives in all wastewater collection system matters is the Assistant Public Works Director. The Assistant Director are authorized to submit verbal, electronic, and written spill reports to the RWQCB, SWRCB, Contra Costa County Health Services Agency, and OES. They are the City's designated LRO, and are authorized to certify electronic spill reports submitted to the SWRCB.

The Public Works Superintendent/Water Utilities are authorized to submit verbal, electronic, and written spill reports to the SWRCB, RWQCB, County Health Agency, and OES. The Public Works Superintendent/Water Utilities is authorized to act as the City's LRO in the Directors' and Assistant Directors' absence.

Figure 2-1: Organization Chart and SSO Reporting Chain of Communication



2.5. Responsibility for SSMP Implementation

The Assistant Public Works Director is responsible for developing, implementing, and maintaining all elements of the City's SSMP.

Other City Staff responsible for developing, implementing, and maintaining specific elements of the City's SSMP, along with their job titles and contact information, are shown in Appendix 2-A.

2.6. *SSO Reporting Chain of Communication*

The SSO Reporting Chain of Command follows the Organization Chart shown on Figure 2-1. The SSO Reporting process and responsibilities are described in detail in Section 6 of the SSMP, Overflow Emergency Response Plan.

Appendix 2-A: SSMP Development, Implementation, and Maintenance Responsibilities

Name	Job Title	Phone Number	SSMP Responsibility	Section
Hilario Mata	Assistant Public Works Director	(925) 252-4951	Maintain SSMP	All
Dick Abono	City Engineer	(925) 252-4930	O&M Program – map updates *	4.3
Hilario Mata	Assistant Public Works Director	(925) 252-4951	Legally Responsible Official (LRO)	All
Delta Diablo		(925) 756-1920	FOG Source Control	Table 7-1
Dick Abono	City Engineer	(925) 252-4930	Standards - FOG reduction/ plan review/ construction inspection/ enforcement actions/ CIP	Table 7-1
Hilario Mata	Assistant Public Works Director	(925) 252-4951	O&M - FOG pipeline cleaning / Public Information	Table 7-1

* Maps to be updated at least annually

Section 3. Legal Authority

3.1. Introduction

This section of the SSMP presents the City's legal authority to comply with the SSMP requirements, as provided in its Municipal Code and agreements with other agencies.

3.2. Regulatory Requirements for Legal Authority Element of SSMP

The summarized requirements for the Legal Authority element of the SSMP are:

3.2.1. RWQCB Requirement

The City must demonstrate that it has the legal authority (through ordinances, service agreements, and other binding procedures) to control infiltration and inflow (I/I) from satellite collection systems and private service laterals; require proper design, construction, installation, testing, and inspection of new and rehabilitated sewers and laterals; and enforce violation of ordinances.

3.2.2. GWDR Requirement

The City must demonstrate, through collection system use ordinances, service agreements, or other legally binding procedures, that it possesses the necessary legal authority to:

- a) Prevent illicit discharges into its wastewater collection system (examples may include infiltration and inflow (I/I), storm water, chemical dumping, unauthorized debris and cut roots, etc.);
- b) Require that sewers and connections be properly designed and constructed;
- c) Ensure access for maintenance, inspection, or repairs for portions of the lateral owned or maintained by the City;
- d) Limit the discharge of fats, oils, and grease and other debris that may cause blockages;
- e) Enforce any violation of its sewer ordinances;
- f) Authority to inspect grease producing dischargers; and
- g) Authority to enforce sewer-related ordinances.

3.3. Municipal Code

The *Pittsburg Municipal Code* describes the City's current legal authorities. The City has adopted the California Plumbing Code (CPC) which also provides a basis for the City's legal authorities. The City's legal authorities are summarized on Table 3-1.

Table 3-1: Legal Authority

Requirement	Legal Authority Reference	Meets GWDR Requirements?
General		
Prevent illicit discharges into the wastewater collection system	Municipal Code 13.20.094	Yes
Limit the discharge of fats, oils, and grease and other debris that may cause blockages	Municipal Code 13.20.090	Yes
Require that sewers and connections be properly designed and constructed	CPC Chapter 7 Parts 1 & 2	Yes
Require proper installation, testing, and inspection of new and rehabilitated sewers	CPC Section 103.5.1	Yes
Laterals		
Clearly define City responsibility	Municipal Code 13.26.020 13.26.030	Yes
Ensure access for maintenance, inspection, or repairs for portions of the service lateral owned or maintained by the City	Municipal Code 13.20.080	Yes
Control infiltration and inflow (I/I) from private service laterals	CPC Section 714.1	Yes
FOG Source Control		
Requirements to install grease removal devices (such as traps or interceptors), design standards for the grease removal devices, maintenance requirements, BMP requirements, record keeping and reporting requirements	Municipal Code 13.20.050	Yes
Authority to inspect grease producing facilities	Municipal Code 13.20.080	Yes
Enforcement		
Enforce any violation of its sewer ordinances	Municipal Code 1.16 CPC Section 103.1 & 102.5.1	Yes

There are two areas where the City's legal authority originally did not meet the requirements of the GWDR. They were:

- Prevent illicit discharges into the wastewater collection system
- Ensure access for maintenance, inspection, or repairs for portions of the service lateral owned or maintained by the City.

The City amended its Municipal Code to provide this legal authority on April 5, 2010.

The City also provided Delta Diablo with the legal authority to permit and inspect FOG producing facilities within the City's service area. The City amended its Municipal Code to provide this legal authority on April 5, 2010.

Section 4. Operations and Maintenance Program

4.1. Introduction

This section of the SSMP provides an overview of the City's sewer system operations and maintenance program. It is also intended to provide a checklist to support future SSMP audits.

4.2. Regulatory Requirements for Measures and Activities (O&M) Element of SSMP

4.2.1. RWQCB Requirement (Measures and Activities):

- a) Maintain up-to-date maps of the wastewater collection system facilities
- b) Allocate adequate resources for the operations, maintenance and repair of the collection system
- c) Prioritize preventive maintenance activities
- d) Identify and prioritize structural deficiencies and implement a program of short-term and long-term actions to address them
- e) Provide contingency equipment to handle emergencies, and spare/replacement parts intended to minimize equipment/facility downtime
- f) Provide training on a regular basis for staff in collection system operations, maintenance, and monitoring
- g) Implement an outreach program to educate commercial entities involved in sewer construction or maintenance about the proper practices for preventing blockages in private laterals. This requirement can be met by participating in a region-wide outreach program.

4.2.2. GWDR Requirement (Operations and Maintenance):

The summarized requirements for the Operations and Maintenance Program are:

- 1) Maintain an up-to-date map of the sanitary sewer system, showing all gravity line segments and manholes, pumping facilities, pressure pipes and valves, and applicable storm water conveyance facilities;
- 2) Describe routine preventive operation and maintenance activities by staff and contractors, including a system for scheduling regular maintenance and cleaning of the sanitary sewer system with more frequent cleaning and maintenance targeted at known problem areas. The Preventative Maintenance (PM) program should have a system to document scheduled and conducted activities, such as work orders;
- 3) Develop a rehabilitation and replacement plan to identify and prioritize system deficiencies and implement short-term and long-term rehabilitation actions to address each deficiency. The program should include regular visual and TV inspections of manholes and sewer pipes, and a system for ranking the condition of sewer pipes and scheduling rehabilitation. Rehabilitation and

replacement should focus on sewer pipes that are at risk of collapse or prone to more frequent blockages due to pipe defects. Finally, the rehabilitation and replacement plan should include a capital improvement plan that addresses proper management and protection of the infrastructure assets. The plan shall include a time schedule for implementing the short- and long-term plans plus a schedule for developing the funds needed for the capital improvement plan;

- 4) Provide training on a regular basis for staff in sanitary sewer system operations and maintenance, and require contractors to be appropriately trained; and
- 5) Provide equipment and replacement part inventories, including identification of critical replacement parts.

4.2.3. Organization of Section

The majority of the RWQCB and GWDR requirements for the Operations and Maintenance Program element of the SSMP are in agreement. The following presents the GWDR requirements first. The RWQCB requirements that are not satisfied by the response to the GWDR requirements follow at the end of this section.

4.3. Collection System Mapping

The City has a Geographical Information System (GIS) that includes the information for its wastewater collection system assets. The City also has information in its GIS for its storm drainage system. The GIS information is available to appropriate City staff.

The field crews use hard copy maps that are produced using the GIS. The hard copy maps are updated annually. Corrections that are identified by the field crews are entered on a single map set that is maintained in the office. Corrections and new facilities are incorporated into the maps during the annual update.

4.4. Preventive Maintenance

The elements of the City's sewer system O&M Program include proactive, preventive, and corrective maintenance of gravity sewers, and periodic inspection and preventive maintenance for the pump station. The details of the City's O&M programs are described in this section.

4.4.1. Gravity Sewers

The City proactively cleans its sewer system every three years, and it preventively cleans sewers with a history of problems every 1, 2, 3, 6, or 12 months. Two sewer cleaning crews are assigned to these activities.

The City uses a Cues CCTV truck for both periodic condition assessment and for follow-up on SSO events.

The City corrects problems identified by the sewer cleaning crews or CCTV with its own crews or by contract, depending on the project's requirements. Repairs are completed in priority order.

The wastewater collection system staff maintains a list of known structural deficiencies. This list is maintained in priority order. High priority structural

deficiencies are repaired as soon as possible by the City's sewer repair crew or by an outside contractor on an as-needed basis.

Gravity sewer maintenance is currently scheduled using maps and lists of "chronic" maintenance line segments. Completed gravity sewer maintenance is recorded using work orders. The City has selected and implemented a computerized maintenance management system (CMMS) with implementation started in 2007. The CMMS is used to track work completed, which is recorded in the field using work order forms.

The City's standard operating procedure for sewer cleaning is included as Appendix 4-A.

4.4.2. Pump Stations

The City conducts a weekly operational inspection of its one pump station which serves approximately 200 residences. The wet well is cleaned every 4 months. The mechanical and electrical equipment preventive maintenance is scheduled annually.

4.4.3. Non-Routine Maintenance

Non-routine maintenance activities include investigation and response to any complaints regarding a manhole overflow, missing or shifted manhole covers, manhole covers that are excessively noisy, residential plumbing troubles, pump station malfunction, unexpected sewer odor, etc. Sewer complaints received by the Public Works Department are investigated and appropriate actions are taken to resolve the source of the problem.

4.5. Rehabilitation and Replacement Plan

The City is planning on annual projects over the next five years to assess the condition of its gravity sewers using CCTV. These projects are shown in Appendix 4-B. The information gathered during the condition assessment will be used to select gravity sewers for repair/rehabilitation/replacement.

The City has an annual sewer rehabilitation and replacement program to rehabilitate or replace the portions of its wastewater collection system where conditions warrant. The projects that are included in the City's Capital Improvement Program are shown in Appendix 4-B.

The funds that support the Capital Improvement Program come from the City's Sewer Fund. The Sewer Fund is an enterprise fund and sewer fees are established to meet projected needs.

4.6. Training Program

4.6.1. City Staff

The City uses a combination of in-house classes; on the job training; and conferences, seminars, and other training opportunities to train its wastewater collection system staff.

The City encourages its wastewater collection system employees to be certified in Collection System Maintenance by the California Water Environment Association.

There are over 10 employees holding certificates. The certification process requires employees to demonstrate that they have participated in 12 hours or more of training every two years in order to renew their certificates.

4.6.2. Staff Contracted for City Projects

The City's contract language requires contractors working in the wastewater collection system to provide training for their employees.

4.7. Equipment and Parts Inventory

The list of the major equipment that City uses in the operation and maintenance of its sewer system is included in Appendix 4-C.

The City has a Replacement Parts List (Appendix 4-D). The list will be updated semi-annually.

4.8. Resources

The City's Public Works Department resources that are allocated to the maintenance of the collection system facilities are shown on Table 4-1. As stated above, repairs are completed by City Staff or by contract. The major equipment to support the maintenance activities is listed in Appendix 4-C. The allocated resources exceed the projected workload of 4.6 FTEs.

Table 4-1: Collection System Maintenance Resources

Position/Activity	FTEs
Assistant Public Works Director	0.2
Public Works Superintendent/Water Utilities	0.5
Public Works Lead Worker	1.0
Sewer Cleaning Crews	4.0
Pump Station Maintenance	0.1
Total	5.8

The City's Capital Improvement Program allocates approximately \$1.5 million per year for condition assessment and rehabilitation/replacement projects. This equates to an investment of approximately 1% of the replacement value of its collection system facilities per year. This value compares favorably to the investment being made by other collection system agencies.

4.9. Outreach Program

The City intends to participate in the Bay Area Clean Water Agencies region-wide outreach program.

Appendix 4-A: Standard Operating Procedure for Sewer Cleaning

Purpose

The purpose of this Standard Operating Procedure is to ensure that sewer cleaning is performed in a manner that will produce a high-quality work product. Quality is important because it ensures that the sanitary sewers will not experience problems prior to their next scheduled cleaning.

Goal

The goal of cleaning a gravity sewer is to restore the flow area to 95% of the original flow area of the pipe.

Required Equipment and Tools

1. Personal Protective Equipment (hardhat, steel toe boots, gloves, eye/face protection, hearing protection)
2. Calibrated gas detector
3. Proper safety cones/barricades/flagging/signs or other traffic control devices
4. Confined space entry equipment – tripod, harness, and ventilation blower
5. Sanitary sewer system map book
6. Combo (jet rodder/vacuum) truck
7. Warthog sewer cleaning nozzle
8. Six-wire skid (“proofer”) in sizes that will be encountered during the day
9. Debris traps in the sizes that will be encountered during the day
10. Manhole hook or pickaxe
11. Measuring wheel
12. Disinfectant

Required Forms

1. Cleaning Work Order
2. Daily Truck Report Form
3. Damage Report Form

Procedures for Supervisor

1. Assign crew’s work at least three days in advance, when possible.
2. Determine if there are any special traffic conditions that need to be addressed for the assignment. For heavy traffic areas, plan traffic control in advance so that ample traffic control devices and personnel can be transported to the

- jobsite. Give at least 24 hour notice to any business that will be adversely impacted by traffic control or the cleaning operations.
3. Identify the schedule for cleaning. When possible, cleaning operations should be conducted during normal business hours. When in residential areas, cleaning operations should not begin before 8:00AM nor continue after 5:00PM unless there is an emergency that warrants working outside of these hours. Door hangers shall be put out the day prior to any cleaning in a residential area when the cleaning will occur before 8:00AM or after 5:00PM.

Procedures for Sewer Cleaning Crew

Prior to Leaving the Yard

1. Plan the work so that it starts in the upstream portion of the area and moves downstream.
2. Wherever possible, plan to clean sewers from the downstream manhole.
3. Inspect the sewer cleaning nozzles for wear. Replace nozzles that are excessively worn.
4. If this is the crew's first day with this cleaning unit, inspect the first 200 feet of hose and couplings for damage or wear.
5. Perform vehicle inspection and complete the form.

At the Jobsite

1. Wear proper personnel protective equipment (PPE).
2. Fill the water tank at or near the first jobsite.
3. Determine and confirm location of upstream and downstream manholes (use street addresses, if possible).
4. Look for any overhead utilities that may come into contact with the vacuum boom during the cleaning operation.
5. Set up proper traffic control by placing traffic signs, flags, cones and other traffic control devices.
6. Move the cleaning unit into the traffic control so that the hose reel is positioned over the manhole.
7. Open the manhole or insert detector probe through opening and use the gas detector to determine if it is safe to proceed with the cleaning operation.
8. Install the 45 degree or Warthog nozzle on the hose.

Cleaning Operation

1. Insert the debris trap.
2. Start the auxiliary engine.
3. Remove debris from the manhole using vacuum unit.

4. Lower the hose, with a guide or roller to protect the hose, into the manhole and direct it into the sewer to be cleaned.
5. Start the high pressure pump and set the engine speed to provide adequate pressure for the sewer cleaning operation.
6. Open the water valve and allow the hose to proceed up the sewer. The hose speed should not exceed 3 feet per second.
7. Allow the hose to proceed 25% of the length of the sewer and pull the hose back.
8. Observe the nature and the quantity of debris pulled back to the manhole.
9. If there is little or no debris, allow the hose to proceed to the upstream manhole.
10. If there is moderate to heavy debris, clean the remaining portion of the sewer in steps not to exceed 25% of the length of the sewer.
11. Open the upstream manhole and verify that the nozzle is at or past the manhole.
12. The sewer has been adequately cleaned when:
 - Successive passes with a cleaning nozzle do not produce any additional debris, and
 - The sewer is able to pass a full size, six-wire skid ("proofer") for its entire length.
 - Determine the nature and quantity of the debris removed during the cleaning operation. Use the following codes to report the nature and quantity of debris.

Type of Debris	Clear (no debris)	Light	Moderate	Heavy
Sand, grit, rock	CLR	DL	DM	DH
Grease	CLR	GL	GM	GH
Roots	CLR	RL	RM	RH
Other (specify)	CLR	OL	OM	OH

13. Remove the debris from the manhole using the vacuum unit.
14. Rewind the hose on the reel.
15. Remove the debris trap.
16. Clean the mating surface and close the manhole. Ensure that the manhole is properly seated.
17. Enter the results on the Work Order.
18. Move the cleaning unit, break down and stow the traffic controls.

19. Fill water tank before going to next job site.
20. Proceed to the next cleaning jobsite.

At the End of the Day

1. Inspect the equipment and tools for problems.
2. Report any problems with equipment, tools, or sewers that were cleaned during the day to the Supervisor.
3. Turn in all completed Cleaning Work Orders to the Supervisor at end of shift.

Sewer Maintenance in Back Yards Safety Operations Procedure

1. Minimum of three-person crew for pulling hose.
2. Do not pressurize hose until at least 4 feet of the lead hose is in the sewer line.
3. Do not pressurize hose until you communicate with crew and you get the okay from both co-workers.
4. Operator always has to be by the sewer combo truck or jet rodder.
5. If the hose gets stuck and a crew goes to the upstream manhole or rodding inlet to investigate, remove back engine inline fuse to disable water system, turn truck off, and remove the keys. (Operator or Maintenance Aide always need to be by the truck.)

Appendix 4-B: Capital Improvement Program

Project Number	Project Title	Estimated Project Costs	Current Funded Projects	FY 2019-2020	FY 2020-2021	FY 2021-2022	FY 2022-2023	FY 2023-2024
SS-2	2022/23 Sewer Replacement/ Rehabilitation Program (Central Addition Phase I)	\$2,900,000					400,000	2,500,000
SS-20	P/A Highway Sewer Line Improvements	\$605,000						
SS-23	Highway 4 Trunk Line Relief (Segment A) & Bailey Rd Sewer Main	\$3,404,000	200,000					
SS-29	Highway 4 Trunk Line Relief (Segment B)	\$1,554,000						
SS-30	2014/15 Sewer/Water Replacement/Rehabilitation Program	\$10,000,000	10,000,000					
SS-34	2016/17 Sewer Replacement/Rehabilitation Program	\$12,927,500	11,627,500	1,300,000				
SS-36	2020/21 Sewer Replacement/Rehabilitation Program	\$2,100,000	2,100,000		500,000	1,600,000		
TOTALS		\$33,490,500	\$23,927,500	\$1,300,000	\$500,000	\$1,600,000	\$400,000	\$2,500,000

Appendix 4-C: Major Sewer System Equipment Inventory

Inventory Date November 14, 2019

Inventory/Condition Checked by Greg Justice

Equipment Number	Major Equipment Type	Year Purchased
561	Combination Hydroflush Truck	2016
562	Combination Hydroflush Truck	2018
563	Combination Hydroflush Truck	2014
564	Cues CCTV Tuck	2017
990	6" portable pump	2010
981	Bobcat Mini Excavator	2009
585	F-750 Dump truck	2008

Appendix 4-D: Critical Sewer System Replacement

Last Inventory Date 11/14/2019

Inventory/Condition Checked by Jorge Esparza

Part Description	Minimum number	Number in Inventory	Location
10" Plastic to plastic couplings	4	6	Sewer shop
10" Clay to plastic couplings	4	4	Sewer shop
10" AC to plastic couplings	4	6	Sewer shop
10" Sewer wye	2	4	Sewer shop
8" Plastic to plastic couplings	4	13	Sewer shop
8" Clay to plastic couplings	4	20	Sewer shop
8" AC to plastic couplings	4	5	Sewer shop
8" Sewer wye	4	5	Sewer shop
6" Plastic to Plastic couplings	4	10	Sewer shop
6" Clay to plastic couplings	8	24	Sewer shop
6" AC to plastic couplings	8	35	Sewer shop
6" Plastic to plastic couplings	8	10	Sewer shop
4" Plastic to plastic couplings ABS	4	4	Sewer shop
6" Sewer wye	6	19	Sewer shop
4" Clay to plastic couplings	10	14	Sewer shop
4" AC to plastic couplings	10	25	Sewer shop
4" Sewer popper caps	12	16	Sewer shop
10" Sewer pipe SDR 26	20'	90'	Pipe rack
8" Sewer pipe SDR 26	15'	160'	Pipe rack
6" Sewer pipe SDR 35	20'	150'	Pipe rack
4" Sewer pipe SDR 35	20'	80'	Pipe rack

Section 5. Design and Performance Provisions

5.1. Introduction

This element of the SSMP presents the City's Design and Construction Standards.

5.2. Regulatory Requirements for Design and Construction Standards Element of SSMP

The summarized requirements for the Design and Construction Standards element of the SSMP are:

5.2.1. RWQCB Requirement

The Collection System Agency shall identify minimum design and construction standards and specifications for the installation, rehabilitation and repair of new and existing sewer systems. The Collection System Agency must evaluate if the existing design standards are appropriate and up to date. If the Collection System Agency believes its current standards are appropriate, the Collection System Agency can refer to existing documentation.

The Collection System Agency shall identify procedures and standards for inspecting and testing the installation of new sewers, pump stations, and other appurtenances; and for rehabilitation and repair projects. As with design and construction standards, the SSMP should refer to existing documentation if standards for inspection and testing are already in place.

5.2.2. GWDR Requirement

The Enrollee must have design and construction standards and specifications for the installation of new sewer systems and for the rehabilitation and repair of existing sewer systems.

The Enrollee must also have procedures and standards for inspecting and testing the installation of new sewers, pump stations, and other appurtenances; and for rehabilitation and repair projects.

5.3. Standard Specifications for Wastewater Facilities

The City's standards pertaining to the design, construction, and inspection of gravity sewer systems, sewer force mains, and other facilities to be operated and maintained by the City are included in the current version of the Central Contra Costa Sanitary District Standard Specifications (Design Standards). The intent of the Design Standards is to provide design engineers with information on the requirements and preferences for facilities to be conveyed to the City for ownership, operation, and maintenance. The Design Standards provide information on the type of facilities and equipment that are acceptable to the City. The Design Standards also cover the requirements for inspection and testing prior to acceptance by the City. Standards for the repair and rehabilitation of existing facilities are also addressed in the Standard Specifications.

Section 6. Overflow Emergency Response Plan

6.1. Introduction

6.1.1. Purpose

The purpose of the Overflow Emergency Response Plan (OERP) is to support an orderly and effective response to Sanitary Sewer Overflows (SSOs). The OERP provides guidelines for City personnel to follow in responding to, cleaning up, and reporting SSOs that may occur within the City's service area.

6.2. Regulatory Requirements for OERP Element of SSMP

6.2.1. RWQCB Requirement

The collection system agency must develop an overflow emergency response plan that provides procedures for SSO notification, response, reporting, and impact mitigation.

6.2.2. GWDR Requirement

The collection system agency shall develop and implement an overflow emergency response plan that identifies measures to protect public health and the environment. At a minimum, this plan must include the following:

- (a) Proper notification procedures so that the primary responders and regulatory agencies are informed of all SSOs in a timely manner;
- (b) A program to ensure appropriate response to all overflows;
- (c) Procedures to ensure prompt notification to appropriate regulatory agencies and other potentially affected entities (e.g. health agencies, regional water boards, water suppliers, etc.) of all SSOs that potentially affect public health or reach the waters of the State in accordance with the Monitoring and Reporting Program (MRP). All SSOs shall be reported in accordance with this MRP, the California Water Code, other State Law, and other applicable Regional Water Board Waste Discharge Requirements or National Pollutant Discharge Elimination System (NPDES) permit requirements. The Sewer System Management Plan should identify the officials who will receive immediate notification;
- (d) Procedures to ensure that appropriate staff and contractor personnel are aware of and follow the Emergency Response Plan and are appropriately trained;
- (e) Procedures to address emergency operations, such as traffic and crowd control and other necessary response activities; and
- (f) A program to ensure that all reasonable steps are taken to contain untreated wastewater and prevent discharge of untreated wastewater to Waters of the United States and minimize or correct any adverse impact on the environment resulting from the SSOs, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the discharge.

6.3. Goals

The City's goals with respect to responding to SSOs are:

- Respond quickly to minimize the volume of the SSO;
- Eliminate the cause of the SSO;
- Contain the spilled wastewater to the extent feasible;
- Minimize public contact with the spilled wastewater;
- Mitigate the impact of the SSO; and
- Meet the regulatory reporting requirements.

6.4. SSO Detection

The processes that are employed to notify the City of the occurrence of an SSO include: observation by the public, receipt of an alarm, or observation by City Staff during the normal course of their work.

6.4.1. Public Observation

Public observation is the most common way that the City is notified of blockages and spills. Contact information for reporting sewer spills and backups are in the phone book and on the City's website: www.ci.pittsburg.ca.us. The City's telephone number for reporting sewer problems is (925) 252-4936.

6.4.1.1. Normal Work Hours

The City's regular working hours are Monday through Friday from 7:00 a.m. to 3:30 p.m., except holidays. When a report of a sewer spill or backup is made during normal work hours, City staff receives the call, takes the information from the caller, and communicates it to the field crew.

The information regarding the service call is documented in a log book.

6.4.1.2. After Hours

Service calls are forwarded to the Answering Service who receives the call, takes the information from the caller, and communicates it to the City's Public Works Standby Crew.

The Answering Service confirms receipt of the service call with the pertinent information received from the caller in a FAX sent to the City.

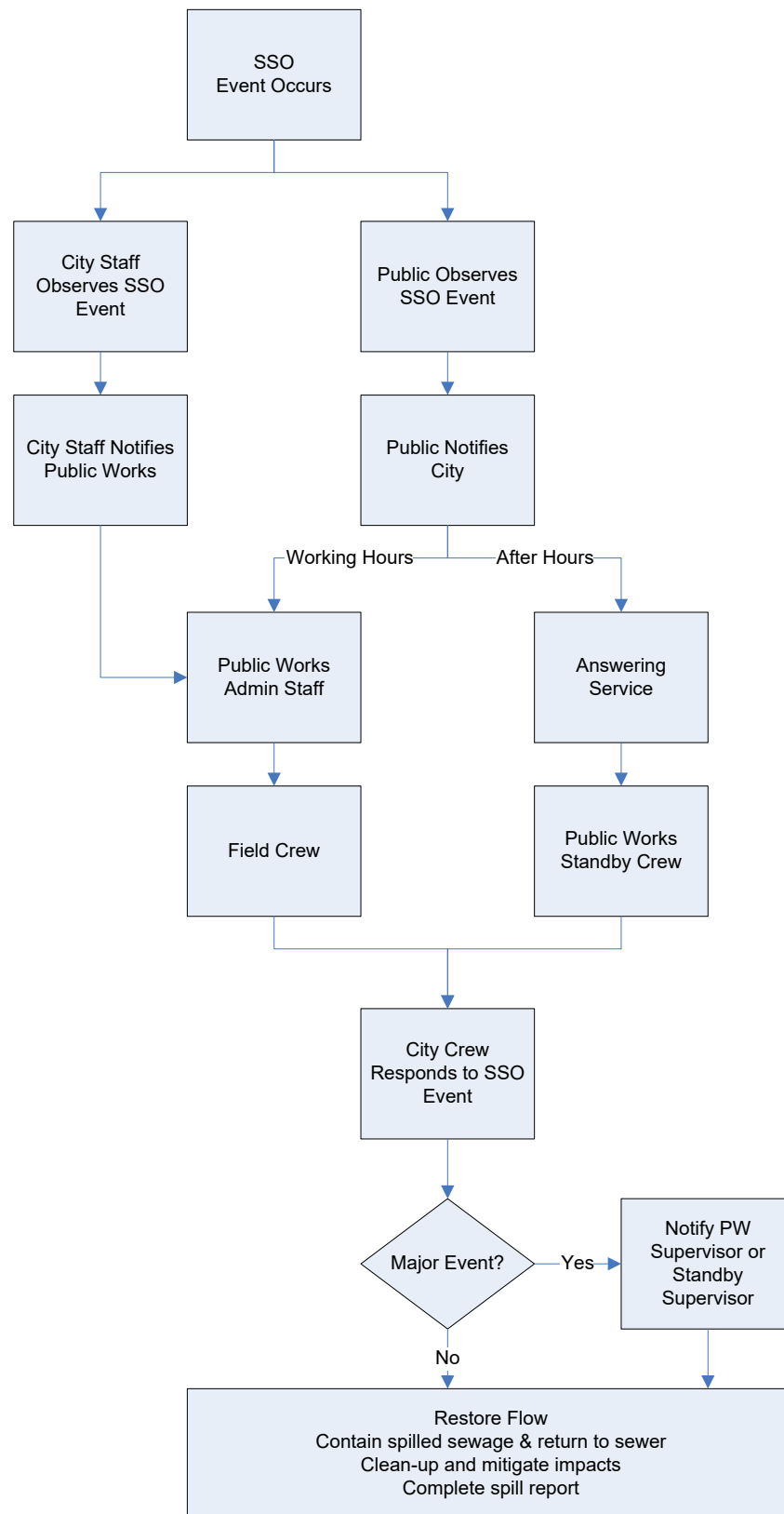
6.4.2. City Staff Observation

City staff conducts periodic inspections of its sewer system facilities as part of their routine activities. Any problems noted with the sewer system facilities are reported to appropriate City staff who, in turn, respond to emergency situations. Work orders are issued to correct non-emergency conditions.

6.5. SSO Response Procedures

Sewer service calls are considered high priority events that demand a prompt response. The notification and response procedure flow chart are shown on Figure 6-1.

Figure 6-1: Notification and Response Procedure Flow Chart



6.5.1. First Responder Priorities

The first responder's priorities are:

- To follow safe work practices.
- To respond promptly with the appropriate equipment.
- To contain the spill wherever feasible.
- To restore the flow as soon as practicable.
- To minimize public access to and/or contact with the spilled sewage.
- To promptly notify the Public Works Superintendent/Water Utilities (working hours) or the On Call Supervisor (after hours) in event of major SSO.
- To return the spilled sewage to the sewer system.
- To restore the area to its original condition (or as close as possible).

6.5.2. Safety

The first responder is responsible for following safety procedures at all times. Special safety precautions must be observed when performing sewer work.

There may be times when City personnel responding to a sewer system event are not familiar with potential safety hazards peculiar to sewer work. In such cases it is appropriate to take the time to discuss safety issues, consider the order of work, and check safety equipment before starting the job.

6.5.3. Initial Response

The first responder must respond to the reporting party/problem site and visually check for potential sewer stoppages or overflows.

The first responder should:

- Note arrival time at site using Collection System Service Call/Overflow Field Report. Sample report is included as Appendix 6-A.
- Verify the existence of a sewer system spill or backup.
- Identify and assess the affected area and extent of spill.
- Contact caller if time permits.
- Notify the Public Works Superintendent/Water Utilities (working hours) or the On-Call Supervisor (after hours)
 - If the spill appears to be large, flowing to a storm drain, in a sensitive area, or there is doubt regarding the extent, impact, or how to proceed.
 - If additional help is needed.
- If the spill is large or in a sensitive area, document conditions upon arrival with photographs. Decide whether to proceed with clearing the blockage to restore the flow or to initiate containment measures. The guidance for this decision is:
 - Small spills – proceed with clearing the blockage.

- Moderate or large spill where containment is anticipated to be simple – proceed with the containment measures.
- Moderate or large spills where containment is anticipated to be difficult – proceed with clearing the blockage; however, call for additional assistance after 15 minutes without clearing the blockage and implement containment measures.

6.5.4. Restore Flow

- Using the appropriate cleaning equipment, set up downstream of the blockage and hydro clean upstream from a clear manhole. Attempt to remove the blockage from the system and observe the flows to ensure that the blockage does not recur downstream.
- If the blockage cannot be cleared within a reasonable time (15 minutes), or sewer requires construction repairs to restore flow, then initiate containment and/or bypass pumping. If assistance is required, immediately contact other employees, contractors, and equipment suppliers.

6.5.5. Initiate Spill Containment Measures

The first responder should attempt to contain as much of the spilled sewage as possible using the following steps:

- Determine the immediate destination of the overflowing sewage.
- Plug storm drains using air plugs, sandbags, and/or plastic mats to contain the spill, whenever appropriate. If spilled sewage has made contact with the storm drainage system, attempt to contain the spilled sewage by plugging downstream storm drainage facilities.
- Contain/direct the spilled sewage using dike/dam or sandbags.
- Pump around the blockage/pipe failure/pump station.

6.6. Water Quality Sampling and Testing

Water quality sampling and testing is required whenever 50,000 gallons or more of spilled sewage enters a water body to determine the extent and impact of the SSO.

6.6.1. Spill more than 50,000 gallons (see Flow Chart – Figure 6-2)

For spills greater than 50,000 the water quality sampling procedures are:

- The first responder should notify the City's Water Quality Laboratory or DDSD to collect samples. Samples should be collected as soon as possible after the discovery of the SSO event.
- The water quality samples should be collected from upstream of the spill, from the spill area, and downstream of the spill in flowing water (e.g. creeks). The water quality samples should be collected near the point of entry of the spilled sewage and every 100 feet along the shore on stationary water bodies.
- Storm drain manholes are to be tested after cleaning to verify that all spillage has been removed. Use the Ammonia nitrogen test kit (Hach).

State Water Board (CIWQS) Requirements:

Water quality results are required to be uploaded into CIWQS for Category 1 SSOs in which 50,000 gallons or greater are spilled to surface waters.

Required Elements:

- Sampling protocols are to be done as per laboratory direction.
- City will account for spill travel time based on water body flow rates.
- Bacterial indicator – 5. Within 48 hours of the enrollee becoming aware of the SSO, require water quality sampling for, at a minimum, the following constituents:
 - i. Ammonia
 - ii. Appropriate Bacterial indicator(s) per the applicable Basin Plan water quality objective or Regional Board direction which may include total and fecal coliform, enterococcus, and e-coli.
- Samples will be analyzed by accredited or certified laboratory.
- Sampling equipment/instruments/supplies will be maintained an/or calibrated by certified laboratory staff, as necessary.

SSO Technical Report (CIWQS)

Submit within 45-calender days after the end date of any Category 1 SSO in which 50,000 gallons or greater are spilled to surface waters.

Required Elements:

1. Causes and Circumstances of the SSO

- a. Explanation for how and when SSO was discovered.
- b. Diagram showing the SSO failure point, appearance point(s), and final destination(s).
- c. Description of method and data used to calculate SSO volume, including volume recovered.
- d. Description of cause(s) of SSO.
- e. Copies of original field crew records used to document SSO.

2. Historical maintenance records for failure location. Enrollee's Response to SSO

- a. Narrative description of chronological actions taken to end SSO.
- b. Explanation of how the SSMP Overflow Emergency Response plan was implemented to respond to and mitigate the SSO.
- c. Final corrective action(s) completed and/or planned to be completed, including a schedule for actions not yet completed.

3. Water Quality Monitoring

- a. Description of water quality sampling activities conducted including analytical results and evaluation of the results.
- b. Detailed location map illustrating water quality sampling points.

6.6.2. Spill greater than 1,000 gallons and less than 50,000 gallons

Refer to Flow chart (Figure 6-2) and SWRCB Order (Appendix).

Conduct water quality sampling **within 48 hours** after initial SSO notification for Category 2 SSOs where greater than 1,000 gallons and less than 50,000 gallons are spilled to surface waters.

- Storm drain manholes are to be tested after cleaning to verify that all spillage has been removed. Use the Ammonia Nitrogen test kit (Hach).

6.7. Recovery and Clean-Up

The recovery and clean-up phase begins when the flow has been restored and the spilled sewage has been contained to the extent possible. The SSO recovery and clean-up procedures are:

6.7.1. Estimate the Volume of Spilled Sewage

Use the methods outlined in Appendix 6-E to estimate the volume of the spilled sewage. Document the estimate using photos of the SSO site before and during the recovery operation.

6.7.2. Recovery of Spilled Sewage

Vacuum up and/or pump the spilled sewage and discharge it back into the sanitary sewer system.

6.7.3. Clean-up and Disinfection

Clean-up and disinfection procedures should be implemented to reduce the potential for human health issues and adverse environmental impacts that are associated with an SSO event. The procedures described are for dry weather conditions and should be modified as required for wet weather conditions. Where clean-up is beyond the capabilities of City staff, a clean-up contractor will be used.

6.7.3.1. Private Property

City crews may take responsibility for the clean-up when the property damage is minor in nature. In all other cases, the City will call a water damage restoration contractor to complete the clean-up and restoration.

6.7.3.2. Hard Surface Areas

Collect all signs of sewage solids and sewage-related material either by hand or with the use of rakes and brooms.

Wash down the affected area with clean water until the water runs clear. Take reasonable steps to contain and vacuum up the wastewater.

Disinfect all areas that were contaminated from the overflow using the disinfectant solution. Apply minimal amounts of the disinfectant solution using a hand sprayer. Document the volume and application method of disinfectant that was employed.

Allow area to dry. Repeat the process if additional cleaning is required.

6.7.3.3. *Landscaped and Unimproved Natural Vegetation*

Collect all signs of sewage solids and sewage-related material either by hand or with the use of rakes and brooms.

Wash down the affected area with clean water until the water runs clear. The flushing volume should be approximately three times the estimated volume of the spill.

Either contain or vacuum up the wash water so that none is released.

Allow the area to dry. Repeat the process if additional cleaning is required.

6.7.3.4. *Natural Waterways*

The Department of Fish and Game should be notified in the event an SSO impacts any surface water. Fish and Game will provide the professional guidance needed to effectively clean-up spills that occur in these sensitive environments.

Clean-up should proceed quickly in order to minimize negative impact. Sewage causes depletion of dissolved oxygen which will kill aquatic life.

Any water that is used in the clean up should be de-chlorinated prior to use.

6.7.3.5. *Wet Weather Modifications*

Omit flushing and sampling during heavy storm events with heavy runoff where flushing is not required and sampling would not provide meaningful results.

6.8. *Public Notification*

6.8.1. *When SSO Signage is Used*

Signs are posted when an SSO occurs in a publicly sensitive area. These areas include schools, parks, walkways and /or a creek that has received an SSO. A sample warning sign is included as Appendix 6-G. Creeks, streams and beaches that have been contaminated as a result of an SSO should be posted at visible access locations until the risk of contamination has subsided to acceptable background levels. The warning signs, once posted, should be checked every day to ensure that they are still in place.

In the event that an overflow occurs at night, the location should be inspected first thing the following day. The field crew should look for any signs of sewage solids and sewage-related material that may warrant additional cleanup activities.

Major spills may warrant broader public notice. The City Manager will authorize contact with local media when significant areas may have been contaminated by sewage.

6.8.2. Deciding Number and Location of SSO Signage

There are no set criteria for the distance between multiple signs. Signs are posted as needed to inform the public that an SSO has occurred. Post signs and place barricades to keep vehicles and pedestrians away from contact with spilled sewage.

6.8.3. When SSO Signage is Removed

SSO signs stay posted until the area has been cleaned and disinfected or, in the case of an SSO into a creek, until sampling of the creek has been analyzed and determined clear by the laboratory. Do not remove the signs until directed by the Water Utility Director or the Public Works Supervisor/ Water Utilities

6.9. Failure Analysis Investigation

The objective of the failure analysis investigation is to determine the “root cause” of the SSO and to identify corrective action(s) needed that will reduce or eliminate future potential for the SSO to recur.

The investigation should include reviewing all relevant data to determine appropriate corrective action(s) for the line segment. The investigation should include:

- Reviewing and completing the Collection System Service Call/Overflow Field Report.
- Reviewing past maintenance records.
- Reviewing available photographs.
- Conducting a CCTV inspection to determine the condition of the line segment immediately following the SSO and reviewing the video and logs.
- Interviewing staff who responded to the spill.

The product of the failure analysis investigation should be the determination of the root cause and the identification of the corrective actions. The Collection System Failure Analysis Form (Appendix 6-D) should be used to document the investigation.

6.10. SSO Categories

The California State Water Resources Control Board (SRWCB) has established guidelines for classifying and reporting SSOs. Reporting and documentation requirements vary based on the type of SSO.

CATEGORY 1 - Discharges of untreated or partially treated wastewater of **any volume** resulting from an enrollee’s sanitary sewer system failure or flow condition that:

- Reach surface water and/or reach a drainage channel tributary to a surface water; or
- Reach a Municipal Separate Storm Sewer System (MS4) and are not fully captured and returned to the sanitary sewer system or not otherwise captured and disposed of properly. Any volume of wastewater not recovered from the MS4 is considered to have reached surface water unless the storm drain system discharges to a dedicated storm water or groundwater infiltration basin (e.g., infiltration pit, percolation pond).

CATEGORY 2

- Discharges of untreated or partially treated wastewater of **1,000 gallons or greater** resulting from an enrollee's sanitary sewer system failure or flow condition that **do no** reach surface water, a drainage channel, or a MS4 unless the entire SSO discharged to the storm drain system is fully recovered and disposed of properly.

CATEGORY 3 – All other discharges of untreated or partially treated wastewater resulting from an enrollee's sanitary sewer system failure or flow condition.

PRIVATE LATERAL SEWAGE DISCHARGE (PLSD)

Discharges of untreated or partially treated wastewater resulting from blockages or other problems **within a privately owned sewer lateral** connected to the enrollee's sanitary sewer system or from other private sewer assets. PLSDs that the enrollee becomes aware of may be voluntarily reported to the California Integrated Water Quality System (CIWQS) Online SSO Database.

6.11. SSO Documentation and Reporting

All SSOs should be thoroughly investigated and documented for use in managing the sewer system and meeting established reporting requirements. The procedures for investigating and documenting SSOs are:

6.11.1.1. Internal SSO Reporting Procedures

6.11.1.2. Category 2 & 3 SSOs

the first responder will fill out the Collection System Service Call/Overflow Field Report and distribute it to those listed on the Field Report.

6.11.1.3. Category 1 SSOs

- **Notify:** The field crew will immediately notify the Public Works Utilities Supervisor (working hours) or the On Call Supervisor (after hours).
- **Immediate Phone Notification:** The Supervisor will notify the Public Works Superintendent for spills estimated to be over **1,000** gallons, or if expected to enter a local waterway.
- **Onsite Supervisor:** Will provide notification to the Public Works Superintendent as soon as logistically possible by cell phone or e-mail..
- **Notification Will Include:**
 - Location
 - Spill Start Time
 - Spill Rate (Estimated)
 - Current Estimated Volume
 - Current Mitigation Efforts in Progress

- Additional Pertinent Information Such as Traffic Disruption, Residential or Infrastructure Damage, etc.
 - Who is the Lead Operator?
 - Who is in Charge on Scene?
 - Is There any Public or Media on Scene (How Many?)
- **Follow Up Notification:** Will be provided as necessary when conditions change (Examples as follows: Spill is stopped, spill gets significantly worse, reporters or politicians call or show up at spill site, homeowner damage begins to occur, etc.). Method of notification will be dependent on the type of change being reported.

6.11.1.4. External SSO Reporting Procedures¹

The California Integrated Water Quality System (CIWQS) electronic reporting system should be used for reporting SSO information to the SWRCB whenever possible. A flow chart is included as Figure 6-2 showing the external reporting response requirements based on the type of SSO.

6.11.1.5. Notification:

Within two hours of becoming aware of any Category 1 SSO **discharged to surface water or spilled in a location where it probably will be discharged to surface water, notify** the California Office of Emergency Services (Cal OES) at (800) 852-7550 or (916) 845-8911 and obtain a notification control number.

6.11.1.6. CIWQS Not Available

In the event that CIWQS is not available, the Public Works Maintenance Lead Worker or Supervisor will fax all required information to the RWQCB office in accordance with the time schedules identified above. In such event, the City will submit the appropriate reports using CIWQS as soon as practical. The RWQCB FAX number for Region 2 is (510) 622-2460.

6.11.1.7. Reporting

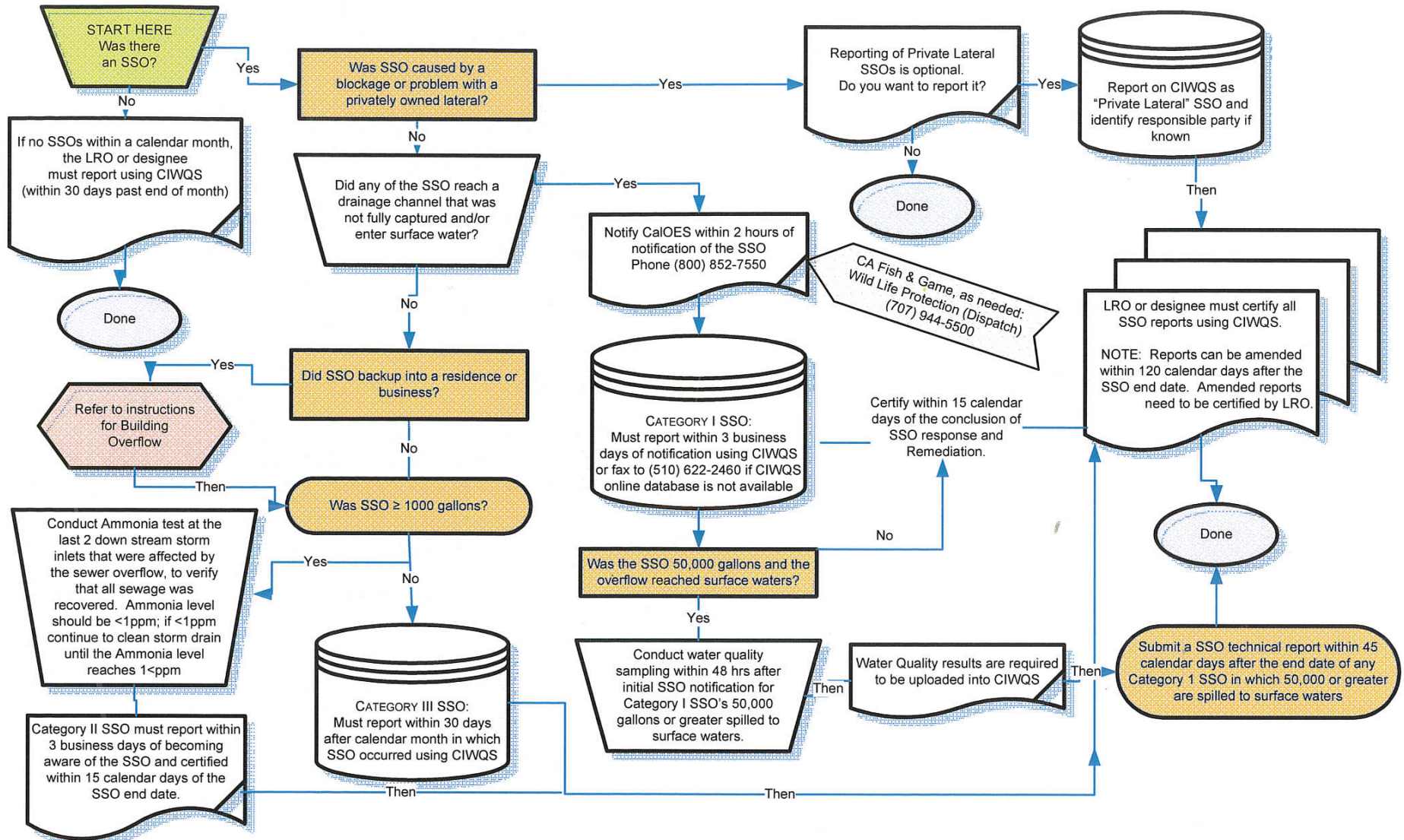
- **Category 1 SSO:** Submit draft report within three business days of becoming aware of the SSO and certify within 15 calendar days of the SSO end date.
- **Category 2 SSO:** Submit draft report within 3 business days of becoming aware of the SSO and certify within 15 calendar days of the SSO end date.
- **Category 3 SSO:** Submit certified report within 30 calendar days of the end of month in which the SSO occurred.

¹ State Water Resources Control Board Monitoring and Reporting Program No. 2006-0003-DWQ (as revised by Order No. WQ 2008-0002.EXEC) Statewide General Waste Discharge Requirements for Sanitary Sewer Systems

- **CIWQS SSO Technical Report:** Submit within 45 calendar days after the end date of any Category 1 SSO in which 50,000 gallons or greater are spilled to surface waters. See Section 6.7.1 for report details.
- **“No Spill” Certification:** Certify that no SSOs occurred within 30 calendar days of the end of the month or, if reporting quarterly, the quarter in which no SSOs occurred.
- **Collection System Questionnaire:** Update and certify every 12 months
- If **multiple appearance points** for SSO from sewer system, complete one SSO report in CIWQS.
- **CIWQS Report Amendments** – The City has 120 days to change an SSO report, however you can request more time by providing justification for why the additional information was not available prior to the end of the 120 days to the State Water Board SSO Reduction Program staff.

**City of Pittsburg
Sewer System Management Plan**

Figure 6-2: External Reporting Requirement Flow Chart



6.12. Internal SSO Documentation

6.12.1.1. Category 1, 2, and 3 SSOs

The first responder will complete a work order and the Collection System Service Call/Overflow Field Report and provide copies to Public Works Supervisor.

The Public Works Supervisor will complete the Sewer Overflow Building History Form (Appendix 6-B) and refer to Private Property Damage Procedures (Appendix 6-C) if an SSO has occurred in a residence or building.

The Public Works Superintendent will prepare a file for each individual SSO. The file should include the following information:

- Initial service call information
- Collection System Service Call/Overflow Field Report form
- Copies of the CIWQS report forms
- Volume estimate

The following are optional for Categories 2 and 3

- Failure analysis investigation results
- Appropriate maps showing the spill location
- Photographs of spill location
- Water quality sampling and test results, if applicable

6.12.2. External SSO Record Keeping Requirements²

The GWDR requires that individual SSO records be maintained by the City for a minimum of **five years** from the date of the SSO. This period may be extended when requested by a Regional Water Board Executive Officer. All records shall be made available for review upon State or Regional Water Board staff's request. Records shall be retained for all SSOs, including but not limited to the following when applicable:

- SSO event records;
- Records documenting Sewer System Management Plan (SSMP) implementation and changes/updates to the SSMP.
- Records to document Water Quality Monitoring for SSOs of 50,000 gallons or greater spilled to surface waters.
- Collection system telemetry records if relied upon to document and/or estimate SSO Volume.
- Self-maintained records shall be available during inspections or upon request.

² State Water Resources Control Board Monitoring and Reporting Program No. 2006-0003-DWQ (as revised by Order No. WQ 2008-0002.EXEC) Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (as revised by Order No. 2013-0058-EXEC)

6.13. SSO Documentation and Reporting

All SSOs should be thoroughly investigated and documented for use in managing the sewer system and meeting established reporting requirements. Every SSO event is an opportunity to evaluate the response and reporting procedures. Each overflow event is unique, with its own elements and challenges including volume, cause, location, terrain, and other parameters.

As soon as possible after major SSO events, all of the participants, from the person who received the call to the last person to leave the site, should meet to review the procedures used and to discuss what worked and where improvements could be made in responding to and mitigating future SSO events. The results of the debriefing should be recorded and tracked to ensure the action items are completed.

The procedures for investigating and documenting SSOs are:

6.13.1. Internal SSO Reporting Procedures

6.13.1.1. Category 1 and 2 SSOs

The first responder will complete a work order and the Collection System Service Call/Overflow Field Report and provide copies to Public Works Supervisor – Sewer.

The Public Works Utilities Supervisor – Sewer will complete the Sewer Overflow Building History Form (Appendix 6-B) and refer to Private Property Damage Procedures (Appendix 6-C) if an SSO has occurred in a residence or building.

The Public Works Supervisor – Sewer will prepare a file for each individual SSO. The file should include the following information

- Initial service call information
- Collection System Service Call/Overflow Field Report form
- GBA Spill Report
- Copies of the CIWQS report forms
- Volume estimate
- Failure analysis investigation results

The following are optional for Category II SSOs:

- Appropriate maps showing the spill location
- Photographs of spill location
- Water quality sampling and test results, if applicable

6.13.1.2. Category 1 and 2 SSOs

The field crew will immediately notify the Public Works Utilities Supervisor (working hours) or the On Call Supervisor (after hours). The Supervisor will immediately notify the Assistant Director of Water Utilities or Public Works Superintendent.

The field crew will fill out the Collection System Service Call/Overflow Field Report and turn it in to the Public Works Utilities Supervisor. The Public Works Utilities Supervisor

will forward the report to the Water Utility Assistant Director, or in his/her absence the Maintenance Superintendent. The Public Works Utilities Supervisor (working hours) or the On Call Supervisor (after hours) will meet with field crew(s) at the site of the SSO event to assess the situation and to document the conditions with photos.

In the event of a very large overflow or an overflow in a sensitive area, the Assistant Water Utility Director or the Maintenance Superintendent will notify the City Manager or Assistant City Manager. The City Manager or Assistant City Manager may notify the City Council.

6.13.1.3. Category 3 SSOs

The field crew will fill out the Collection System Service Call/Overflow Field Report and turn it in to the Public Works Supervisor. The Public Works Utilities Supervisor will forward the report to the Assistant Director of Water Utilities.

6.13.2. External SSO Reporting Procedures³

The California Integrated Water Quality System (CIWQS) electronic reporting system should be used for reporting SSO information to the SWRCB whenever possible. A flow chart is included as Figure 6-2 showing the external reporting response requirements based on the type of SSO. See Appendix 6-H for requirements

- **Category 1 SSO:** Submit draft report within three business days of becoming aware of the SSO and certify within 15 calendar days of SSO end date.
- **Category 2 SSO:** Submit draft report within 3 business days of becoming aware of the SSO and certify within 15 calendar days of the SSO end date.
- **Category 3 SSO:** Submit certified report within 30 calendar days of the end of month in which the SSO occurred.
- **No Spill Certification** (monthly) If there are no SSOs during the calendar month, the Public Works Utilities Supervisor will submit an electronic report that the City did not have any SSOs, **within 30 calendar days after the end of each calendar month.** The Assistant Director of Water Utilities or Public Works Maintenance Superintendent will certify the report.

6.13.2.1. CIWQS Not Available

In the event that CIWQS is not available, the Public Works Maintenance Lead Worker or Utilities Supervisor will fax all required information to the RWQCB office in accordance with the time schedules identified above. In such event, the City will submit the appropriate reports using CIWQS as soon as practical. The RWQCB FAX number is (510) 622-2460.

³ State Water Resources Control Board Monitoring and Reporting Program No. 2006 0003-DWQ (as revised by Order No. WQ 2013-0058.EXEC) Statewide General Waste Discharge Requirements for Sanitary Sewer Systems

6.13.3. Internal SSO Documentation

6.13.3.1. Private Lateral SSOs

The first responder will complete the Collection System Service Call/Overflow Field Report and provide copies to Public Works Supervisor. The Public Works Utilities Supervisor will complete the Sewer Overflow Building History Form if an SSO has occurred in a residence or building.

A separate file will be prepared for each individual SSO, at the Public Works Superintendent's discretion. The file should include any relevant information from the above list.

6.13.4. External SSO Record Keeping Requirements⁴

The GWDR requires that individual SSO records be maintained by the City for a minimum of **five years** from the date of the SSO. This period may be extended when requested by a Regional Water Board Executive Officer.

All records shall be made available for review upon State or Regional Water Board staff's request.

Records shall be retained for all SSOs, including but not limited to the following when applicable:

- Record of Certified report;
- All original recordings for continuous monitoring instrumentation;
- Service call records and complaint logs of calls received by the City;
- SSO calls;
- SSO records;
- Steps that have been and will be taken to prevent the SSO from recurring and a schedule to implement those steps.
- Work orders, work completed, and any other maintenance records from the previous five years which are associated with responses and investigations of system problems related to SSOs;
- A list and description of complaints from customers or others from the previous 5 years; and
- Documentation of performance and implementation measures for the previous five years.

If water quality samples are required by an environmental or health regulatory agency or State law, or if Voluntary monitoring is conducted by the City or its agent(s), as a result of any SSO, records of monitoring information shall include:

- The date, exact place, and time of sampling or measurements;
- The individual(s) who performed the sampling or measurements;

⁴ State Water Resources Control Board Monitoring and Reporting Program No. 2006 0003-DWQ (as revised by Order No. WQ 2008-0002.EXEC) Statewide General Waste Discharge Requirements for Sanitary Sewer Systems

- The date(s) analyses were performed;
- The individual(s) who performed the analyses;
- The analytical technique or method used; and,
- The results of such analyses.

6.14. Equipment

This section provides a list of specialized equipment that is required to support this Overflow Emergency Response Plan.

Closed Circuit Television (CCTV) Inspection Unit -- A CCTV Inspection Unit is required to determine the root cause for all SSOs from gravity sewers.

Camera -- A digital or disposable camera is required to record the conditions upon arrival, during clean up, and upon departure.

Emergency Response Truck -- A utility body pickup truck is required to store and transport the equipment needed to effectively respond to sewer emergencies. The equipment and tools should include containment and clean up materials.

GPS Unit (Global Positioning System) -- A handheld GPS unit is required to determine the coordinates of spills for use in meeting RWQCB SSO reporting requirements.

Portable Generators, Portable Pumps, Piping, and Hoses -- The list of portable equipment that is required to support this plan is included in the Public Works Standby procedures book.

Combination Sewer Cleaning Truck -- A combination high velocity sewer cleaning truck with vacuum tank is required to clear blockages in gravity sewers, vacuum spilled sewage, and wash down the impacted area following the SSO event.

6.15. SSO Response Training

This section provides information on the training that is required to support this Overflow Emergency Response Plan.

6.15.1. Initial and Annual Refresher Training

All City personnel who may have a role in responding to, reporting, and/or mitigating a sewer system overflow should receive training on the contents of this OERP. All new employees should receive training before they are placed in a position where they may have to respond. Current employees should receive annual refresher training on this plan and the procedures to be followed.

6.15.2. SSO Response Drills

Periodic training drills should be held to ensure that employees are up to date on the procedures, the equipment is in working order, and the required materials are readily available. The training drills should cover scenarios typically observed during sewer related emergencies (e.g. mainline blockage, mainline failure, force main failure, pump station failure, and lateral blockage). The results and the observations during the drills should be recorded and action items should be tracked to ensure completion.

6.15.3. SSO Training Record Keeping

Records should be kept of all training that is provided in support of this plan. The records for all scheduled training courses and for each overflow emergency response training event and should include date, time, place, content, name of trainer(s), and names of attendees.

6.16. Contractors Working On City Sewer Facilities

All contractors working on City sewer facilities will be required to develop a project-specific OERP. All contractor personnel will be required to receive training in the contractor's OERP and to follow that OERP in the event that they cause or observe an SSO.

Appendix 6-A: Collection System Service Call/Overflow Field Report

Collection System Service Call/Overflow Field Report			
For Office Use			
Date:	Call Received:	am/pm	Received by:
Caller's Name:		Caller's Phone No:	
Caller's Address:			
Location of Overflow:			
Cross Street:			
Time & Names of Crew Members Contacted:			
Description of Complaint:			
<i>Note: Provide Field Report, Gas Detector, Radio, GPS, Camera, and Video Camera to Collection System Employee upon Arrival</i>			
Field Report – For Response Crew Use			
Time Arrived at Site:		Crew Names:	
Asset #:	Work Area:	U/S- D/S Asset #:	
Size of Line:	Length of Line:	Easement: Yes ☐ No ☐	
Caller Contacted: Yes ☐ No ☐		Sunny ☐ Cloudy ☐ Rainy ☐ Weather: Rain for Several Days ☐	
Complete Remainder of Form if an Overflow (SSO) has Occurred			
SSO Started: am/pm	SSO Stopped: am/pm	Duration: days/hrs	
Est. Overflow Volume:	Estimation Method Used:	Eyeball Est. ☐ Duration/Flowrate ☐ Measured Vol. ☐ Other	
Any Fish Killed: Yes ☐ No ☐	SSO Volume Released:	SSO Volume Recovered:	
Est. Volume that Reached Surface Water, Drainage Channel, or Not Recovered from Storm Drain:			
SSO Source:	Manhole ☐ Pipe ☐ Pump Station ☐ (name)	Clean Out ☐	Private Lateral ☐
		Other:	

Collection System Service Call/Overflow Field Report

Final Spill Destination:	Storm Drain ☐ Captured Storm Drain ☐ Building ☐ Yard/Land ☐ Surface Water ☐ No Water Involved ☐ Other	
Cause of Overflow:	Roots ☐ Grease ☐ Debris ☐ Vandalism ☐ Construction Damage ☐ Capacity (Heavy Rain) ☐ Power Failure ☐ Other	
Cleanup Method/Actions Taken:		
Disinfection: Yes ☐ No ☐		Disinfection Amount/Type:
Time Cleanup Began:		Time Cleanup Complete:
Signs Posted: Yes ☐ No ☐ No. of Signs		Barricaded: Yes ☐ No ☐ No. of Days
Pictures Taken: Digital ☐ Film ☐ Video ☐		Neighbors Notified: Yes ☐ No ☐
Samples Taken By:		Location of Samples:
Water Quality Samples Analyzed for:	☐ Total Coliform ☐ Fecal Coliform ☐ BOD	☐ Dissolved Oxygen ☐ Ammonia Nitrogen ☐ Other:
Receiving Waters Description:		
Spill Risk Magnitude:	Did spill discharge to a drainage channel and/or surface water? Yes ☐ No ☐ Did spill discharge to a storm drainpipe that was not fully captured and returned to the sanitary sewer system? Yes ☐ No ☐ More than 1,000 gallons? Yes ☐ No ☐ Less than 100 gallons? Yes ☐ No ☐ Private lateral spill? Yes ☐ No ☐	
Customer Notified Regarding Status: Yes ☐ No ☐ If No, Why:		
List all Personnel Responding to Spill:		
Additional Information:		
If Asset was Manhole, Pipe, or Clean Out, complete the following:		
Asset Type		GPS Coordinates
Overflowing MH #:		
Upstream MH #:		
Downstream MH #:		
Cleanout #:		
Pipe Size (inches):	Pipe Material:	Pipe Age (estimated):

Collection System Service Call/Overflow Field Report

Notifications		
Agency Notified	Contact Information	Date/Time
OES (800) 852-7550 or (916) 845-8911	OES Spill #	
RWQCB www.swrcb.ca.gov/ciwqs Fax (510) 622-2460 if website down	SSO Event ID	
Contra Costa County Health Environmental Health (925) 646-2500 (Business Hours) or (925) 383-5445 or (925) 383-4945		
Contra Costa County Health Hazardous Materials Spills (925) 646-1112		
California Dept of Fish & Game (707) 944-5500		
Other		
Name of Person making Notifications:		
Sketch of Area (Include Manholes, Intersections, Location of Stoppage, etc). Use back of page if needed.		
This Report was Completed By:		Date/Time:
This Report was Submitted To:		Date/Time:

Appendix 6-B: Sewer Overflow Building History Form

Sewer Overflow Building History Form		
Complete this Form if an Overflow (SSO) has Occurred in a Residence or Building		
Customer Clean Out was:	Non-Existent ☐ Full ☐ Empty ☐	
City Clean Out was:	Non-Existent ☐ Full ☐ Empty ☐	
Year Home was Built:	No. of Bathrooms:	No. of Rooms Affected:
No. of Residents at this Address:	Approx. Time Sewage was Sitting:	
Type of Flooring in Area(s) Affected:	Tile ☐ Carpet ☐ Wood ☐ Other ☐	
Condition of Flooring and Seams:	Cracking ☐ Visible Open Spaces ☐ Other ☐	
Condition/Type of Baseboards:	Are there Baseboards Yes ☐ No ☐ Baseboard Material: Bottom has Tight Seal with Floor ☐ Top has Tight Seal with Wall ☐ Space between Bottom & Floor ☐ Space between Top & Wall ☐	
Were Residents Relocated to a Hotel: Yes ☐ No ☐ If Yes, Hotel Name _____		
Name of Cleaning Contractor: _____		
Is Manhole Visibly Higher than the Drain that Overflowed: Yes ☐ No ☐		
Is Finished Floor 12" or More Below the Nearest Upstream Manhole: Yes ☐ No ☐		
Is there a Backflow Prevention Device (BPD) Installed on the Property: Yes ☐ No ☐		
Was BPD Functioning: Yes ☐ No ☐	Is Property Required to have BPD Installed (by Ordinance): Yes ☐ No ☐	
Has the Customer had any Plumbing Work Done Recently: Yes ☐ No ☐		
Has the Area been Remodeled: Yes ☐ No ☐	Any Active Plumbing Projects Observed: Yes ☐ No ☐	
Any Plumbing Projects within the Last 3 Years: Yes ☐ No ☐		
Have there ever been any Other Spills at this Location: Yes ☐ No ☐ If Yes, When: _____		
Supervisor Review Date: _____	Superintendent Review Date: _____	

Appendix 6-C: Private Property Damage Procedures

Customer Relations Guidelines

It is important for employees to communicate effectively with the City's customers, especially in a sewage backup situation. How we communicate – on the phone, in writing, or in person – is how we are perceived. Good communication with the homeowner results in greater confidence in our ability to address the problem satisfactorily, less time to resolve the claim, and less damage done to the property.

As a representative of the City, you will occasionally have to deal with an irate homeowner. A backup is a stressful event and even a reasonable homeowner can become irate should he/she perceive us as being indifferent, uncaring, unresponsive, or incompetent.

Although sometimes difficult, effective management of a sewage backup situation is critical. If it is not managed well, the situation can end up in a costly prolonged process with the homeowner. We want the homeowner to feel assured that we are responsive and the homeowner's best interest is a top priority.

Communication Tips

1. Give the homeowner ample time to explain the situation or to vent. Show interest in what the homeowner has to say, no matter how many times you have heard it before, or how well you understand the problem.
2. As soon as possible, let the customer know that you will determine if the source of the sewer backup is in the sewer main and, if it is, will have it corrected as quickly as you can.
3. Acknowledge the homeowner's concerns. For example, if the homeowner seems angry or worried about property damage, say something like, "I understand you're concerned about the possible damage to your property, but a professional cleanup crew can restore the area, and if it is determined that the City is at fault, the property owner has the right to file a claim for any reasonable repairs or losses resulting from this incident".
4. Express regret for any inconveniences caused by the incident, but do not admit fault.
5. As much as possible, keep the homeowner informed on what is being done and will be done to correct the problem.
6. Keep focused on getting the job done in a very professional manner. Don't wander from the problem with too much unnecessary small talk with the homeowner.
7. Don't find fault or lay blame on anyone.
8. Make sure someone follows up with a telephone call to ensure everything is being handled as it should be.

Before you leave, make sure the homeowner has the name and telephone number of someone at the City to call if he/she has questions or wants information. The

Customer Information Letter contains this information and you should take the time to review this with the homeowner.

Customer Information Letter Regarding Sewer Backup Claims

Dear Mr./Ms.: _____ Date: _____

Address: _____

We recognize sanitary sewer backflow incidents can be stressful. The City of Pittsburg (City) has prepared this brief set of instructions to help you minimize the impact of the loss by responding promptly to the situation.

The City is not responsible for clean up charges or damages caused by blockages in the property owner's sewer lateral or caused by code violations. At this time, the City is investigating the cause of the loss and does not assume liability for damages. However, if the investigation determines the City is responsible for this incident, the costs you incur for reasonable and necessary clean up will be included in the settlement of your claim. Regardless of whether you or the City is responsible for the loss, it is up to you to arrange for the repair of your property and to present a claim for the City's consideration.

You or the property owner should immediately contact a contractor for clean up of the affected areas. If you do not know of a company to call for service, the following 24-hour emergency restoration companies are available to respond:

- TMB Link (800) 413- 2999
- Restoration Management Co. (800) 400-5058
- Emergency Service Restoration (800) 577-7537
- Ideal Restoration (800) 379- 6881
- Diablo Flooring (925) 426-7847
- SOS Carpet Cleaning (925) 754-0944

This list is provided as a resource only. The City does not require or endorse the use of any of these contractors. This list is not to be construed as exclusive, comprehensive or limiting in any way. Qualified contractors can be found in the Yellow Pages under "Water Damage Restoration" or "Fire & Water Damage Restoration". However, be sure you hire a contractor with experience in sewer backups and enough resources to get the job done quickly.

What you need to do now:

- ✓ Contact a restoration contractor for clean up and removal of affected surfaces.
- ✓ Do not attempt to clean the area yourself, let the contractor you hire handle this.
- ✓ Keep people and pets away from the affected area(s).
- ✓ Turn off heating/air conditioning systems.
- ✓ Prevent any material from reaching floor vents to prevent contamination.
- ✓ Do not remove items from the contaminated area – the contractor you hire will handle these contents.
- ✓ Contact your homeowners' insurance carrier to report a claim.
- ✓ File your claim with the City as soon as practical. The California Government Code, Sections 900 – 960 requires filing a written claim and outlines specific time lines and notice procedures that must be used.

I/We acknowledge receipt of this letter.

Employee Signature: _____ Date: _____

Customer Signature: _____ Date: _____

Appendix 6-D: Collection System Failure Analysis Form

Collection System Failure Analysis Form			
Incident Report #		Prepared By	
SSO/Backup Information			
Event Date/Time		Address	
Volume Spilled		Volume Recovered	
Cause			
Summary of Historical SSOs/Backups/Service Calls/Other Problems			
Date	Cause	Date Last Cleaned	Crew
Records Reviewed By		Record Review Date	
Summary of CCTV Information			
CCTV Inspection Date		Tape Name/Number	
CCTV Tape Reviewed By		CCTV Review Date	
Observations			
Recommendations			
	No Changes or Repairs Required		
	Maintenance Equipment		
	Maintenance Frequency		
	Repair (Location and Type)		
	Add to Capital Improvement Rehabilitation/Replacement List: Yes ☐ No ☐		
Supervisor Review Date		Superintendent Review Date	

Appendix 6-E: Methods for Estimating Spill Volume

A variety of approaches exist for estimating the volume of a sanitary sewer spill. This appendix documents the three methods that are most often employed. The person preparing the estimate should use the method most appropriate to the sewer overflow in question and use the best information available.

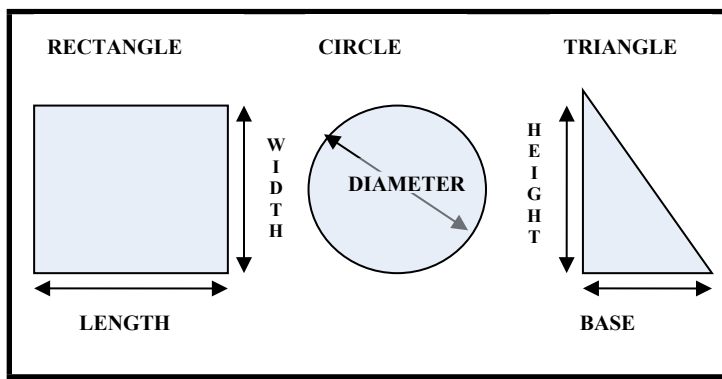
Method 1 Eyeball Estimate

The volume of small spills can be estimated using an “eyeball estimate”. To use this method imagine the amount of water that would spill from a bucket or a barrel. A bucket contains 5 gallons and a barrel contains 50 gallons. If the spill is larger than 50 gallons, try to break the standing water into barrels and then multiply by 50 gallons. This method is useful for contained spills up to approximately 200 gallons.

Method 2 Measured Volume

The volume of most small spills that have been contained can be estimated using this method. The shape, dimensions, and the depth of the contained wastewater are needed. The shape and dimensions are used to calculate the area of the spills and the depth is used to calculate the volume.

Common Shapes and Dimensions



- Step 1 Sketch the shape of the contained sewage (see figure above).
- Step 2 Measure or pace off the dimensions.
- Step 3 Measure the depth at several locations and select an average.
- Step 4 Convert the dimensions, including depth, to feet.
- Step 5 Calculate the area in square feet using the following formulas:
Rectangle: $\text{Area} = \text{length (feet)} \times \text{width (feet)}$
Circle: $\text{Area} = \text{diameter (feet)} \times \text{diameter (feet)} \times 0.785$
Triangle: $\text{Area} = \text{base (feet)} \times \text{height (feet)} \times 0.5$
- Step 6 Multiply the area (square feet) times the depth (in feet) to obtain the volume in cubic feet.
- Step 7 Multiply the volume in cubic feet by 7.5 to convert it to gallons

Method 3 Duration and Flowrate

Calculating the volume of larger spills, where it is difficult or impossible to measure the area and depth, requires a different approach. In this method, separate estimates are made of the duration of the spill and the flowrate. The methods of estimating duration and flowrate are:

Duration: The duration is the elapsed time from the time the spill started to the time that the flow was restored.

Start time: The start time is sometimes difficult to establish. Here are some approaches:

- Local residents can be used to establish start time. Inquire as to their observations. Spills that occur in rights-of-way are usually observed and reported promptly. Spills that occur out of the public view can go on longer. Sometimes observations like odors or sounds (e.g. water running in a normally dry creek bed) can be used to estimate the start time.
- Changes in flow on a downstream flowmeter can be used to establish the start time. Typically the daily flow peaks are “cut off” or flattened by the loss of flow. This can be identified by comparing hourly flow data during the spill event with flow data from prior days.
- Conditions at the spill site change over time. Initially there will be limited deposits of toilet paper and other sewage solids. After a few days to a week, the sewage solids form a light-colored residue. After a few weeks to a month, the sewage solids turn dark. The quantity of toilet paper and other materials of sewage origin increase over time. These observations can be used to estimate the start time in the absence of other information. Taking photographs to document the observations can be helpful if questions arise later in the process.
- It is important to remember that spills may not be continuous. Blockages are not usually complete (some flow continues). In this case the spill would occur during the peak flow periods (typically 10:00 to 12:00 and 13:00 to 16:00 each day). Spills that occur due to peak flows in excess of capacity will occur only during, and for a short period after, heavy rainfall.

End time: The end time is usually much easier to establish. Field crews on-site observe the “blow down” that occurs when the blockage has been removed. The “blow down” can also be observed in downstream flowmeters.

Flow Rate: The flowrate is the average flow that left the sewer system during the time of the spill.

There are three common ways to estimate the flowrate:

- The San Diego Manhole Flowrate Chart: This chart, included as Appendix 6-F, shows sewage flowing from manhole covers at a variety of flowrates. The observations of the field crew can be used to select the appropriate flowrate from the chart. If possible, photographs are useful in documenting basis for the flowrate estimate.
- Flowmeter: Changes in flows in downstream flowmeters can be used to estimate the flowrate during the spill.
- Counting Connections: Once the location of the spill is known, the number of upstream connections can be determined from the sewer maps. Multiply the number of connections by 200 to 250 gallons per day per connection or 8 to 10 gallons per hour per connection.

For example: 22 upstream connections x 9 gallons per hour per connection
= 198 gallons per hour / 60 minutes per hour
= 3.3 gallons per minute

Spill Volume: Once duration and flowrate have been estimated, the volume of the spill is the product of the duration in hours or days and the flowrate in gallons per hour or gallons per day.

For example:

Spill start time = 11:00

Spill end time = 14:00

Spill duration = 3 hours

3.3 gallons per minute x 3 hours x 60 minutes per hour
= 594 gallons

Appendix 6-F: Manhole Overflow Flowrate Guide



City of San Diego
Metropolitan Wastewater Department

Reference Sheet for Estimating Sewer Spills from Overflowing Sewer Manholes

All estimates are calculated in gallons per minute (gpm)

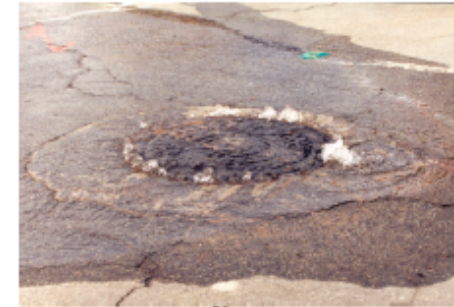
Wastewater Collection Division
(619) 654-4160



5 gpm



25 gpm



50 gpm



100 gpm



150 gpm



200 gpm



225 gpm



250 gpm



275 gpm

All photos were taken during a demonstration using metered water from a hydrant in cooperation with the City of San Diego's Water Department.

rev. 4/99

Appendix 6-G: Sample Warning Sign



Contaminated Water

**DO NOT come into contact, wade,
swim, or fish in this water.**

**Keep children and pets
out of the area.**

**Questions concerning exposure, posting,
and clean up should be directed to:**

**City of Pittsburgh
(925) 252-4936**

Section 7. FOG Control Program

7.1. Introduction

This section presents the FOG Control Program for the Antioch, Bay Point, and Pittsburg service areas. This FOG Control Program will be managed, staffed, and administered by Delta Diablo.

7.2. Regulatory Requirements for FOG Control Element of SSMP

The summarized requirements for the FOG Control element of the SSMP are:

7.2.1. RWQCB Requirement

The collection system agency must evaluate its service area to determine whether a Fats, Oils, and Grease (FOG) control program is needed. If so, a FOG control program shall be developed as part of the SSMP. If the collection system agency determines that a FOG program is unnecessary, proper justification must be provided.

7.2.2. General Waste Discharge Requirement (GWDR)

The collection system agency shall evaluate its service area to determine whether a FOG control program is needed. If the collection system agency determines that a FOG program is not needed, the collection system agency must provide justification for why it is not needed. If FOG is found to be a problem, the collection system agency must prepare and implement a FOG source control program to reduce the amount of these substances discharged to the sanitary sewer system. The FOG source control program shall include the following as appropriate:

- (a) An implementation plan and schedule for a public education outreach program that promotes proper disposal of FOG;
- (b) A plan and schedule for the disposal of FOG generated within the sanitary sewer system service area. This may include a list of acceptable disposal facilities and/or additional facilities needed to adequately dispose of FOG generated within a sanitary sewer system service area;
- (c) The legal authority to prohibit discharges to the system and identify measures to prevent SSOs and blockages caused by FOG;
- (d) Requirements to install grease removal devices (such as traps or interceptors), design standards for the grease removal devices, maintenance requirements, BMP requirements, record keeping and reporting requirements;
- (e) Authority to inspect grease producing facilities, enforcement authorities, and determination of whether the Agency has sufficient staff to inspect and enforce the FOG ordinance;
- (f) An identification of sewer system sections subject to FOG blockages and the establishment of a cleaning maintenance schedule for each section; and

- (g) Development and implementation of source control measures, for all sources of FOG discharged to the sewer system, for each sewer system section identified in (f) above.

7.3. Nature and Extent of FOG Problem

Data regarding the nature and extent of the FOG problems in the three sewer systems was analyzed including the location of FOG-related service calls (which include blockages), FOG-related SSOs, frequent preventive maintenance, and food service establishments (FSEs). There are approximately 166 FSEs in Antioch, 19 FSEs in Bay Point, and 96 FSEs in Pittsburg as shown in Figure 7-1. Of the nine FOG-related SSOs during the period between May 2, 2007 and July 14, 2008, eight were in residential areas with one in a mixed commercial/residential area. The locations of FOG-related SSOs are shown in Figure 7-2.

Figure 7-1: FSE Locations

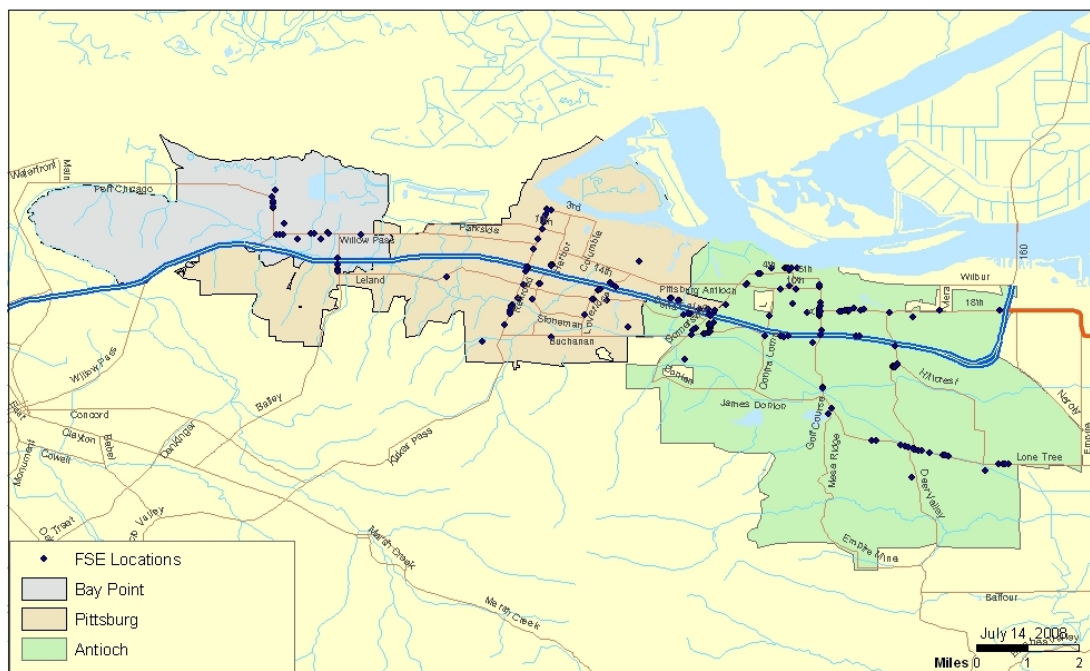
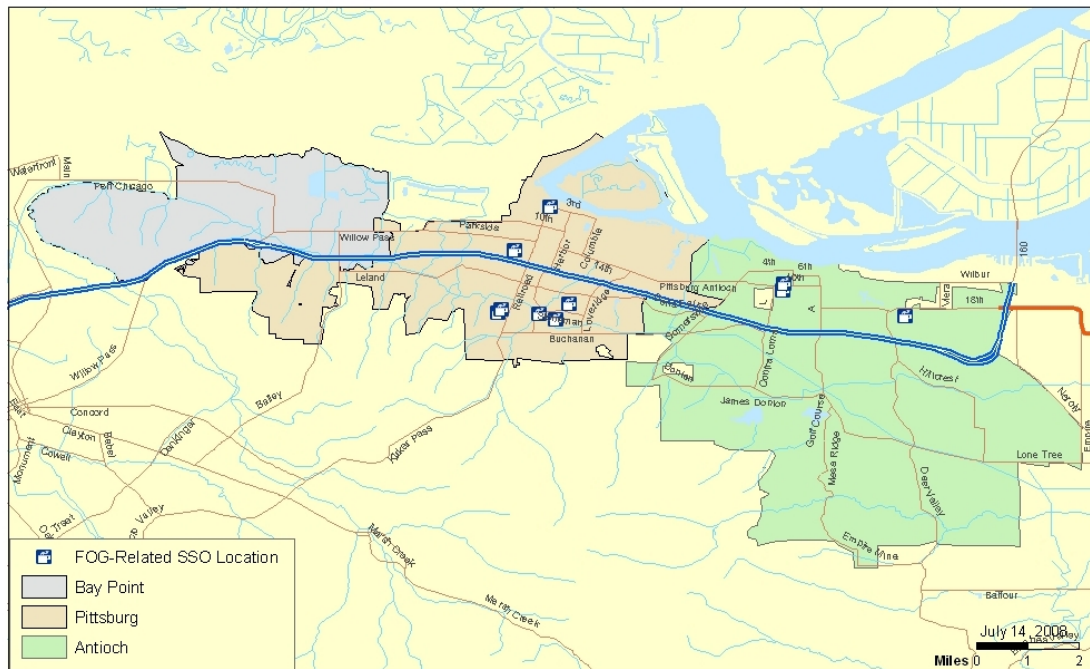


Figure 7-2: Locations of FOG-Related SSOs



The following sections present the nature and extent of FOG-related problems in each of the three service areas.

7.3.1. Antioch Sewer System

The City reported three grease caused SSOs during the period May 2, 2007 through July 14, 2008. This represents 10% of the reported SSOs for this period. These recent SSOs all occurred in residential areas.

The City's preventive maintenance efforts combined with the District's FOG Source Control Program appear to be effective in minimizing the problems associated with commercial FOG sources.

Figure 7-3: Antioch FOG FOG-Related SSOs

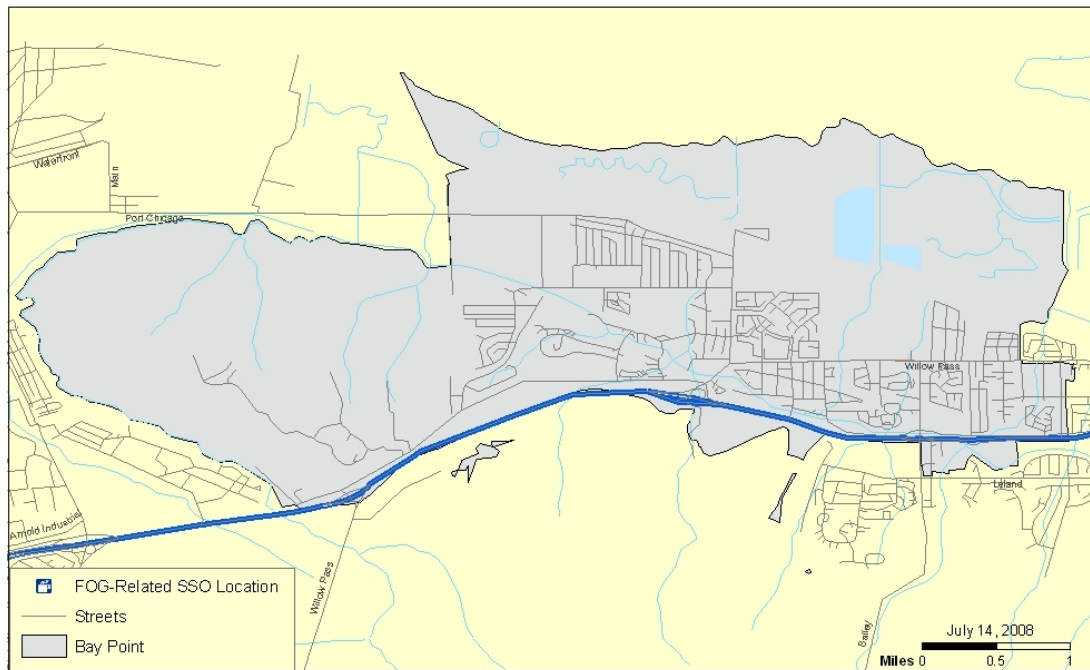


7.3.2. Bay Point Sewer System

The District has not had any SSOs during the period May 2, 2007 to July 14, 2008.

The District's preventive maintenance efforts combined with the FOG Source Control Program appear to be effective in minimizing the problems associated with commercial and residential FOG sources.

Figure 7-4: Bay Point FOG-Related SSOs



7.3.3. *Pittsburg Sewer System*

The City reported six grease caused SSOs during the period May 2, 2007 to July 14, 2008. These SSOs represent 26% of the reported SSOs for this period. Five of the six SSOs occurred in residential areas.

The City's preventive maintenance efforts combined with the FOG Source Control Program appear to be effective in minimizing the problems associated with commercial FOG sources.

Figure 7-5: Pittsburg FOG-Related SSOs



7.3.4. *Summary of FOG Data Analysis*

The analysis of the SSO, FSE, and frequent maintenance lines shows that FOG is a factor in each of the three service areas. The current FOG Source Control Program and the preventive maintenance programs have been effective at reducing the frequency of SSOs in commercial areas. The ongoing FOG-related problems appear to be associated with high density residential and, to a lesser extent, low density residential sources.

7.4. FOG Source Control Program

The FOG Source Control Program will be continued by the District and the Cities. The responsibilities of each of the three agencies for the elements of the FOG Source Control Program are shown on Table 7-1.

Table 7-1: FOG Control Program Activities and Responsibilities

Focus	Activity	Antioch	Bay Point	Pittsburg	DDSD
Commercial Sources	Focused Food Service Establishment (FSE) Program (permits, inspections) (1)				X
	Inspect Grease Removal Device (GRD) maintenance				X
	Develop common standards for GRD	X	X	X	X
	Review plans and specify GRD(s) required	X	X	X	
	Inspect GRD installation	X	X	X	
	Identify FOG disposal sites and distribute to grease haulers				X
	Study feasibility of FOG disposal at DDSD TP				X
	Outreach to businesses				X
	Provide information re: FOG problems to District inspector(s)	X	X	X	
	Enforcement action	X	X	X	
High Density Residential Sources	Optimize sewer cleaning	X	X	X	
	Repair/replace problem sewers	X	X	X	
	Prepare outreach materials				X
	Outreach to upstream property managers	X	X	X	
	Enforcement action	X	X	X	

Focus	Activity	Antioch	Bay Point	Pittsburg	DDSD
Low Density Residential Sources	Optimize sewer cleaning	X	X	X	
	Repair/replace problem sewers	X	X	X	
	Prepare outreach materials				X
	Outreach to upstream residents	X	X	X	
Gather Information	Gather information for next SSMP update	X	X	X	

(1) Notice of Violation by DDSD.

7.5. Public Outreach Program

District and City crews provide information on proper FOG disposal to residents that have experienced a FOG-related blockage or SSO.

The blockages and SSOs that are caused by FOG appear to be from primarily residential sources at this time. The District will prepare materials to be used as the basis for a focused public education/outreach program. The District and the Cities will provide the public education/outreach materials to commercial and residential sources that are tributary to sewers that experience FOG-related stoppages and SSOs.

7.6. Acceptable FOG Disposal Facilities

A list of facilities in the San Francisco Bay Area that accept grease from grease haulers is included as Appendix 7-A. Lists of grease haulers approved by the East Bay Municipal Utility District (EBMUD) and the Sacramento Regional County Sanitation District (SRCSD) are included as Appendices 7-B and 7-C.

The District will update the list of acceptable FOG disposal facilities annually. There is no indication at this time that additional grease disposal facilities are needed to handle the FOG generated within the District's service area.

7.7. FOG Inspections

7.7.1. FOG Legal Authority

The District's Code and the City Municipal Codes will be modified to provide the legal basis for the FOG Source Control Program as shown in Section 3 – Legal Authority.

7.7.2. Staffing

The District will assess the staffing required to inspect and enforce the FOG ordinance by December 31, 2009.

7.7.3. Facility Inspections

The District will conduct periodic facility inspections of permitted FSEs that are located in identified FOG Hot Spot areas to ensure that Best Management Practices (BMPs) are being followed, that GRDs are properly installed, and that operating/maintenance requirements are being followed. The frequency of inspection will be based on the historical performance of the facility. Poor performing facilities will be inspected more frequently. FSEs will be inspected at least once every three years. The City will endeavor to report new businesses to DDSD monthly.

7.7.4. Investigation and Enforcement

The District and the Cities will work together to identify FSEs that cause FOG-related blockages or SSOs. The District will conduct facility inspections to determine the source of the FOG in these instances.

The District and the Cities will initiate enforcement action against FSEs in their service areas that are determined to be in violation of the requirements of the FOG Control Program. Enforcement actions may include a verbal warning, a written warning, administrative orders (which may include fines), and disconnection from the public sewer system.

7.8. FOG Preventative Maintenance

The District's and Cities' preventive maintenance programs are currently focused on the problematic sewer line segments. The ongoing identification of FOG Hot Spots will provide the basis for the FOG Control Program. FOG sources that cause blockages or SSOs will be included in the FOG Control Program. The results of the sewer cleaning operations will be used to revise sewer cleaning frequencies.

The District/City staffs will provide the DDSD FOG Source Control Program Inspectors with timely notice when gravity sewers experience FOG-related blockages or SSOs.

DDSD and the Cities will work together to update the FOG Hot Spot areas annually. The District and the Cities will provide preventive maintenance for gravity sewers in their service areas that are located in the FOG Hot Spot areas at the frequency that is required to minimize recurring FOG-related blockages and SSOs.

7.9. GRD Requirements

7.9.1. Design Standards, Plan Review, and Inspection

The District and the Cities will develop common specifications for the installation and sizing of GRDs.

Each of the Cities will be responsible for reviewing proposed development plans to ensure that they address the installation of GRDs.

The Cities will develop processes to ensure the GRDs are properly installed during new construction and remodels as part of their Code Enforcement.

7.9.2. Maintenance Standards and BMPs

The District and the Cities will develop common standards for the proper maintenance of GRDs. FSEs that discharge significant quantities of grease will be tracked using discharge permits administered by the District.

The District will encourage FSEs to employ BMPs as part of their efforts to control the discharge of FOG to the public sewer system. The BMPs that will be encouraged include:

- Posting “No Grease” signs over sinks and dishwasher;
- Collecting and recycling cooking oil;
- “Dry wiping” pots, pans, and kitchen equipment before cleaning;
- Maintaining grease traps on a regular schedule;
- Checking grease interceptor on a regular schedule (grease and solids should not exceed 25% of interceptor depth);
- Using absorbent paper under fryer baskets;
- Using absorbent (such as rice hulls, cat litter) to pick up oil and grease spills; and
- Not using emulsifiers or solvents other than dishwashing detergents.

The District’s activities will include the distribution of placards and literature promoting the use of BMPs and observations/comments during facility inspections to encourage the use of BMPs.

7.9.3. Record Keeping and Reporting

The District and the Cities will work together to update the list of FSEs in each service area annually.

Appendix 7-A FOG Disposal Sites

The following locations accept grease from liquid waste haulers in the San Francisco Bay Area as of June 2008.

Business Name	Location	Phone Number	Services
Blue Sky Bio-Fuel Inc.	Oakland	(510) 436-6654 (415) 250-9114	Primarily yellow grease, some brown grease. Can accept 7,000 gallons per day.
East Bay Municipal Utility District	Oakland	(510) 287-1632	Accepts grease.
Palo Alto Wastewater Treatment Plant	Palo Alto	(650) 329-2598	Accepts 5,000 to 6,000 gallons per day on first come first serve basis. They are in the process of increasing their ability to accept more (as of July 2008)
Sacramento Regional County Sanitation District	Sacramento	(916) 875-FATS	
Salinas Tallow	Salinas	(800) 621-9000	Will consider accepting grease from other reputable haulers. They purchase yellow grease and process the interceptor grease with residue going to landfill.
San Jose Tallow Company	San Jose	(408) 452-8777	They don't accept interceptor grease, but would consider accepting from outside haulers if it wouldn't impact any of their grease hauling routes.
South Bayside Systems Authority	Redwood City	(650) 591-7121	Accepts grease.

Appendix 7-B East Bay Municipal Utility District Approved Grease Haulers

EBMUD Approved Grease Haulers as of February 27, 2008

East Bay Municipal Utility District (EBMUD), Environmental Services Division

Telephone (510) 287-1651

Name	Phone Number
A-1 Septic Tank Service, Inc.	(510) 886-4455
A-1 Septic – Little River	(707) 937-0496
Able Septic Tank Service	(408) 377-9990
All Valley Environmental, Inc.	(559) 498-8378 or (559) 217-5949
Ameriguard Maintenance Services	(800) 347-7876
Blue Sky Bio-Fuels	(510) 868-9229
Burr Plumbing and Pumping	(408) 287-2877
Coast Environmental	(800) 588-7762
Darling International, Inc.	(415) 647-4890
Ernie's Plumbing	(925) 228-5242
Joe's Farmers Septic and Grease Service	(707) 546-3236
Liquid Environmental Solutions of California	(866) 694-7327
North Coast Sanitary	(707) 884-1095
Pioneer Liquid Transport	(800) 366-6808
Portosan – Santa Rosa	(707) 566-2000
R & D Grease Trap Cleaning	(707) 632-5827
Roto Rooter Plumbing	(510) 483-2324
SRC Pumping Company	(916) 363-1342
Trap Recyclers	(800) 994-7867

Appendix 7-C Sacramento Regional County Sanitation District Approved Grease Haulers

SRCSO Approved Grease Haulers as of July 2008.

Sacramento Regional County Sanitation District (SRCSO)

Telephone (916) 875-FATS

Name	Address	Phone Number
A-1 Septic Service	P.O. Box 762, West Sacramento, CA 95691	(916) 371-4160
ABC Plumbing, Heating & Air Conditioning	205 22nd Street, Sacramento, CA 95816	(916)448-0801
Ace Plumbing, Heating & Air	4405 Franklin Blvd., Sacramento, CA 95820	(916) 422-2333
Advanced Septic Service	6513 Auburn Blvd., Citrus Heights, CA 95621	(916) 726-5150
All Pumping & Septic	1289 Sonoma Avenue, Sacramento, CA 95815	(916) 925-1333
All Valley Environmental Inc.	523 N. Brawley Avenue, Fresno, CA 93706	(559) 498-8378
Ameriguard Maintenance Services, LLC*	4681 E. Vine Avenue, Fresno, CA 93725	(559) 497-2925
APS Environmental Inc.	6643 32nd Street 103, North Highlands, CA 95660	(916) 454-2000
Best Construction & Maintenance Inc.	8550 Jackson Road, Sacramento, CA 95826	(916) 383-4533
Chucks & Auburn Septic	4504 Yankee Hill Ct., Rocklin, CA 95677	(916) 624-8500
Cook's Portable Toilets & Septic	1402 Riosa Road, Lincoln, CA 95648	(916) 645-8560
Darling International*	11946 Carpenter Road, Crows Landing, CA 95313	(209) 667-9153
G & C Septic Service	12851 Stockton Blvd., Galt, CA 95632	(916) 366-1111
Howards Grease Trap Pumping	8185 Cashel Way, Sacramento, CA 95829	(916) 681-0433

Name	Address	Phone Number
Liquid Environmental Solutions of CA	Corporate Office, 12626 High Bluff Drive, Suite 240, San Diego, CA 92130-2070	
Roto Rooter Plumbers	2551 Albatross Way, Sacramento, CA 95815	(916) 482-1422
Sacramento Rendering Company*	dba SRC Pumping Co., P.O. Box 276424, Sacramento, CA 95830	(916) 363-4821
Sweet Septic Systems	5701 Mother Lode Drive, Placerville, CA 95667	(916) 622-8768

Section 8. System Evaluation and Capacity Assurance Plan

8.1. Introduction

This section of the SSMP presents the City's programs and activities to provide adequate system capacity and thereby prevent system overflows.

8.2. Regulatory Requirements for the System Evaluation and Capacity Assurance Plan Element of SSMP

The summarized requirements for the System Evaluation and Capacity Assurance Plan element of the SSMP are:

8.2.1. RWQCB Requirement⁵

- a) Each wastewater collection system agency shall establish a process to assess the current and future capacity requirements for the collection system facilities.
- b) Each wastewater collection system agency shall prepare and implement a capital improvement plan to provide hydraulic capacity of key sewer system elements under peak flow conditions.

8.2.2. GWDR Requirement⁶

The Enrollee shall prepare and implement a capital improvement plan (CIP) that will provide hydraulic capacity of key sanitary sewer system elements for dry weather peak flow conditions, as well as the appropriate design storm or wet weather event. At a minimum, the plan must include:

- a) Evaluation: Actions needed to evaluate those portions of the sanitary sewer system that are experiencing or contributing to an SSO discharge caused by hydraulic deficiency. The evaluation must provide estimates of peak flows (including flows from SSOs that escape from the system) associated with conditions similar to those causing overflow events, estimates of the capacity of key system components, hydraulic deficiencies (including components of the system with limiting capacity) and the major sources that contribute to the peak flows associated with overflow events.
- b) Design Criteria: Where design criteria do not exist or are deficient, undertake the evaluation identified in (a) above to establish appropriate design criteria.
- c) Capacity Enhancement Measures: The steps needed to establish a short- and long-term CIP to address identified hydraulic deficiencies, including

⁵ **Sewer System Management Plan (SSMP) Development Guide**, San Francisco Bay Regional Water Quality Control Board in cooperation with Bay Area Clean Water Agencies, July 2005.

⁶ **State Water Resources Control Board Order No. 2006-0003 Statewide General Waste Discharge Requirements for Sanitary Sewer Systems**, California State Water Resources Control Board, May 2, 2006.

prioritization, alternatives analysis, and schedules. The CIP may include increases in pipe size, inflow and infiltration (I/I) reduction programs, increases and redundancy in pumping capacity, and storage facilities. The CIP shall include an implementation schedule and shall identify sources of funding.

- d) Schedule: The Enrollee shall develop a schedule of completion dates for all portions of the capital improvement program developed in (a)-(c) above. This schedule shall be reviewed and updated consistent with the SSMP review and update requirements as described in Section D. 14 (of the GWDR).

8.3. Evaluation – Wastewater Collection System Master Plan

The City completed a Wastewater Collection System Master Plan (Master Plan) in April 2003 (Master Plan). The master planning effort included flow monitoring and the development of a hydraulic model. Flows were monitored at seven locations (4 permanent and 3 temporary metering sites).

The flows were estimated for gravity sewers 10 inches in diameter and larger (some 8 inch sewers were included in the model) using Wallingford HydroWorks™ flow modeling software and a 5 year-6 hour return interval design storm. Gravity sewers flowing full ($d/D > 1$) were judged to be deficient.

The 2003 Master Plan identified three capacity deficiencies: Highway 4 Trunk, West Leland Road, and Bailey Road. The three projects are needed to serve new developments in the southwest portion of the City. These three projects will be funded by the facility reserve charges collected from new development and they will be implemented as the developments proceed. The details of these projects are shown on Appendix 8-A.

The Master Plan was updated in February 2007, using revised peak wet weather design flows derived from the modified base wastewater flow projections. The model results suggest that no new capacity relief is required. The projects identified in the Master Plan and Amendment No. 2 provide sufficient relief to the major problem areas. However, it should be noted that, after the current projects are implemented, portions of the Highway 4 trunk will still be flowing full at design peak weather flow. Any additional development above that currently envisioned will therefore result in need for further upsizing.

The Master Plan will be updated every five years, or as needed to address changes in the General Plan. The CIP will be reviewed and updated annually.

In addition, during the annual review of SSO data, any identified capacity-related overflows will be evaluated and addressed.

8.4. Design Criteria

The capacity-related design criteria, including base wastewater flow and peaking factors, are included in Section 5 of the SSMP, Design and Performance Provisions.

8.5. Capacity Enhancement Measures - Capital Improvement Program

The City's Capital Improvement Program for sewer main capacity improvements is shown on Appendix 4-B.

8.6. References

Wastewater Collection System Master Plan, Final Report, Montgomery Watson Harza, April 2003.

Wastewater Collection System Master Plan, Amendment No. 2, Montgomery Watson Harza, February 2007.

Sewer Projects, City of Pittsburgh FY 2004/5 – 2008/9 Five Year Capital Improvement Program.

City of Pittsburgh Five Year CIP 2019/2020 - 2023/2024

Section 9. Monitoring, Measurement, and Program Modifications

9.1. Introduction

This section of the SSMP presents the City's Monitoring, Measurement, and Program Modifications.

9.2. Regulatory Requirements for Monitoring, Measurement, and Program Modifications Element of SSMP

The requirements for the Monitoring, Measurement, and Program Modifications (MMPM) section of the SSMP are:

9.2.1. RWQCB Requirement

Each wastewater collection system agency shall monitor the effectiveness of each SSMP element and update and modify SSMP elements to keep them current, accurate, and available for audit as appropriate.

9.2.2. GWDR Requirement

The City shall:

- (a) Maintain relevant information that can be used to establish and prioritize appropriate SSMP activities;
- (b) Monitor the implementation and, where appropriate, measure the effectiveness of each element of the SSMP;
- (c) Assess the success of the preventative maintenance program;
- (d) Update program elements, as appropriate, based on monitoring or performance evaluations; and
- (e) Identify and illustrate SSO trends, including: frequency, location, and volume.

9.3. Performance Measures

The indicators that the City will use to measure the performance of its wastewater collection system and the effectiveness of its SSMP are:

- Total number of SSOs;
- Number of SSOs for each cause (roots, grease, debris, pipe failure, capacity, pump station failures, and other);
- Portion of sewage contained compared to total volume spilled,
- Volume of spilled sewage discharged to surface water, and
- Planned to actual performance for preventive maintenance.

9.4. Baseline Performance

The baseline performance, which shows the performance of the City's wastewater collection prior to the development and implementation of the SSMP, is shown on Table 9-1.

Trends will be added in future years as data becomes available for analysis.

Table 9-1: Baseline Performance May 1, 2007 through July 14, 2008

Performance Indicator	Mains	Lower Laterals
Number of SSOs	8	15
Volume, gallons	1,288	241
Volume Recovered, gallons	1,138	198
Portion Recovered	88%	82%
Volume to Surface Waters, gallons	120	10
Portion to Surface Waters	11%	5%
Size of System, miles	126	33
SSO Rate/100 Miles/Year	5.4	38.9
Median Volume, gallons	100	4

9.5. Performance Monitoring and Program Changes

The City will evaluate the performance of its wastewater collection system at least annually using the performance measures identified in Section 9.3, Performance Measures, above. The City will update the data and analysis of performance measures at the time of the evaluation.

The City may use other performance measures in its evaluation. The City will prioritize its actions and initiate changes to this SSMP and the related programs based on the results of the evaluation.

Section 10. SSMP Program Audits

10.1. Introduction

This section of the SSMP presents the process that the City will follow to audit its SSMP program.

10.2. Regulatory Requirements for the SSMP Program Audits Section of SSMP

The summarized regulatory requirements for the SSMP are:

10.2.1. RWQCB Requirement

Each wastewater collection system agency shall conduct an annual audit of their SSMP which includes any deficiencies and steps to correct them (if applicable), appropriate to the size of the system and the number of overflows, and submit a report of such audit along with their annual report by March 15th of the following year.

10.2.2. GWDR Requirement

As part of the SSMP, the Enrollee shall conduct periodic internal audits, appropriate to the size of the system and the number of SSOs. At a minimum, these audits must occur every two years and a report must be prepared and kept on file. This audit shall focus on evaluating the effectiveness of the SSMP and the Enrollee's compliance with the SSMP requirements identified in this subsection (D.13 [of the GWDR]), including identification of any deficiencies in the SSMP and steps to correct them.

10.3. SSMP Audits

The City will audit its SSMP every year. The audit will determine whether the SSMP meets the current requirements of the GWDR, whether the SSMP reflects the City's current practices, and whether the City is following the SSMP. The first audit was completed by March 1, 2009 and covered CY 2008.

The audit was conducted by a team consisting of City Public Works Department Staff. The audit team may also include members from other areas of the City, outside agencies, and/or contractors.

The scope of the audit will cover each of the sections of the SSMP. The SSMP Audit Checklist, based on the requirements in the GWDR, will be used for the audit (included as Appendix 10-A).

The results of the audit will be included in an SSMP Audit Report. The SSMP Audit Report will focus on the effectiveness of the SSMP program, compliance with the GWDR requirements, and identification of any deficiencies in the SSMP. The SSMP Audit Report will identify revisions that may be needed for a more effective program. Information collected as part of Section 9 of the SSMP, Monitoring, Measurement, and Program Modifications, will be used in preparing the audit. Tables and figures or charts will be used to summarize information about these indicators. The Audit Report to the RWQCB will include:

- A description of progress made on development of SSMP elements, and if the City is on schedule in development of the SSMP. The Audit Report will provide justification if the SSMP development is behind schedule;
- How the City implemented SSMP elements during the past year;
- The City's effectiveness in implementing the SSMP elements;
- A description of the additions and improvements made to the sanitary sewer collection system in the past reporting year; and
- A description of the additions and improvements to the SSMP that is planned for the upcoming reporting year with a projected schedule for implementation.

The Audit Report will be submitted to the RWQCB, along with the Annual Report of SSOs, by March 15th of each year. Copies of the annual Audit Reports will be maintained by the City for five years.

10.4. SSMP Updates

The City will update its SSMP at least every five years. The first update was completed in March 2014.

The City will determine the need to update its SSMP more frequently based on the results of the annual audit and the performance of its sanitary sewer system using information from the Monitoring and Measuring Program. In the event that the City decides that an update is warranted, the process to complete the update will be identified at that time. The City will complete the update within one year following identification of the need for the update.

The City Staff will seek the approval from the City Council for any significant changes to the SSMP. The authority for approval of minor changes such as employee names, contact information, or limited procedural changes is delegated to the Assistant Public Works Director.

Appendix 10-A: SSMP Audit Checklist

Audit

Date _____

Audit Team

Members _____

Section	Title	Requirement	SSMP Meets Current Requirements?	SSMP Current?	SSMP Implemented?
I	Goals	Reduce, prevent, and mitigate SSOs			
II	Organization	Designate LRO			
		Names and phone numbers for key management personnel			
		Names and phone numbers for key administrative personnel			
		Names and phone numbers for key maintenance personnel			
		Chain of communication for reporting SSOs			
III	Legal Authority	Prevent illicit discharges to sanitary sewer system			
		Require sewers and connection be properly designed and constructed			
		Ensure access for inspection, maintenance, and repairs (includes public portion of lateral)			

Section	Title	Requirement	SSMP Meets Current Requirements?	SSMP Current?	SSMP Implemented?
		Limit discharge of FOG and debris that may cause blockages			
		Require the installation of grease removal devices			
		Ability to inspect FOG producing facilities			
		Enforce violations of the City's sewer ordinances			
IV	O&M Program	Maintain up-to-date maps of the sanitary sewer system			
		Describe routine preventive maintenance program			
		Document completed preventive maintenance using system such as work orders			
		Rehabilitation and replacement plan that identifies and prioritizes sanitary sewer system defects			
		Provide regular technical training for City sanitary sewer system staff			
		Require contractors to provide training for their workers who work in the City's sanitary sewer system facilities			
		Maintain equipment inventory			
		Maintain critical spare part inventory			
V	Design and Performance Provisions	Design and construction standards for new sanitary sewer system facilities			

Section	Title	Requirement	SSMP Meets Current Requirements?	SSMP Current?	SSMP Implemented?
		Design and construction standards for repair and rehabilitation of existing sanitary sewer system facilities			
		Procedures for the inspection and acceptance of new sanitary sewer system facilities			
		Procedures for the inspection and acceptance of repaired and rehabilitated sanitary sewer system facilities			
VI	OERP	Procedures for the notification of primary responders			
		Procedures for the notification of regulatory agencies			
		Program to ensure appropriate response to all SSOs			
		Proper reporting of all SSOs			
		Procedure to ensure City staff are aware of and follow OERP			
		Procedure to ensure City staff are trained in the OERP procedures			
		Procedure to ensure contractor personnel are aware of and follow OERP			
		Procedure to ensure contractor personnel are trained in the OERP procedures			
		Procedures to address emergency operations such as traffic and crowd control			

Section	Title	Requirement	SSMP Meets Current Requirements?	SSMP Current?	SSMP Implemented?
		Program to prevent the discharge of sewage to surface waters			
		Program to minimize or correct the impacts of any SSOs that occur			
		Program of accelerated monitoring to determine the impacts of any SSOs that occur			
VII	FOG Control Program	Public outreach program that promotes the proper disposal of FOG			
		Plan for the disposal of FOG generated within the City's service area			
		Demonstrate that the City has allocated adequate resources for FOG control			
		Identification of sanitary sewer system facilities that have FOG-related problems			
		Program of preventive maintenance for sanitary sewer system facilities that have FOG-related problems			
VIII	SECAP	Identification of elements of the sanitary sewer system that experience or contribute to SSOs caused by hydraulic deficiencies			
		Established design criteria that provide adequate capacity			
		Short term CIP that addressed known hydraulic deficiencies			

Section	Title	Requirement	SSMP Meets Current Requirements?	SSMP Current?	SSMP Implemented?
		Long term CIP that addressed known hydraulic deficiencies			
		Procedures that provide for the analysis, evaluation, and prioritization of hydraulic deficiencies			
		The short and long term CIPs include schedules for the correction of each identified hydraulic deficiency			
IX	Monitoring, Measurement, and Program Modifications	Maintain relevant information to establish, evaluate, and prioritize SSMP activities			
		Monitor implementation of the SSMP			
		Measure, where appropriate, performance of the elements of the SSMP			
		Assess success of the preventive maintenance program			
		Update SSMP program elements based on monitoring or performance			
		Identify and illustrate SSO trends			
X	SSMP Program Audits	Conduct periodic audits			
		Record the results of the audit in a report			
		Record the changes made and/or corrective actions taken			
XI	Communications Program	Communicate with the public regarding the preparation of the SSMP			

Section	Title	Requirement	SSMP Meets Current Requirements?	SSMP Current?	SSMP Implemented?
		Communicate the public regarding the performance of the SSMP			
		Communicate with tributary or satellite sewer systems			

Section 11. Communication Program

11.1. Introduction

This section of the SSMP outlines the process involved in communicating with interested members of the public regarding the development, implementation, and performance of this plan. This Communication Program also addresses communication between Antioch, DDSD, and Pittsburg.

11.2. Regulatory Requirements for the Communications Program Element of SSMP

The requirements for the Communication Program section of the SSMP are:

11.2.1. RWQCB Requirement

The RWQCB does not require a Communication Program.

11.2.2. GWDR Requirement

The City shall:

- (a) Communicate on a regular basis with the public on the development, implementation, and performance of its SSMP. The communication system shall provide the public the opportunity to provide input to the Enrollee as the program is developed and implemented.
- (b) Create a plan of communication with systems that are tributary and/or satellite to the Enrollee's sanitary sewer system.

11.3. Communication during SSMP Development and Implementation

The City posted a notice on its website to inform interested members of the public it was developing an SSMP. The notice was:

The City of Pittsburg is developing and implementing a Sewer System Management Plan (SSMP) pursuant to State Water Resources Control Board Order 2006-0003, Statewide General Discharge Requirements of Sanitary Sewer Systems. The goal of the SSMP is to minimize the frequency and severity of sanitary sewer overflows. The SSMP covers the management, planning, design, and operation and maintenance of the agency's sanitary sewer system. The development process began in January 2007 and was complete by August 2008. The duration of the implementation is unknown at this time. The SSMP Development Plan and Schedule are available for review at the Public Works Corporation Yard, 357 East 12th Street, during normal business hours. Interested parties can contact Hilario Mata at (925) 252-4936 or Hmata@ci.pittsburg.ca.us for additional information.

The information provided upon request to interested parties included: a copy of the SSMP Development Plan and Schedule, a copy of completed sections of the SSMP, a

copy of the draft sections of the SSMP that have been reviewed and approved for distribution by the SSMP Coordinating Committee, and contact information and/or opportunities for input into the development and implementation process.

11.4. Communicating Sanitary Sewer System Performance

The City reports SSOs electronically to the California Integrated Water Quality System (CIWQS). The electronic SSO data are available by agency or region at:

<http://www.waterboards.ca.gov/ciwqs/publicreports.html>.

The City will place a notice on its website that the sanitary sewer performance information is available at the CIWQS public access website.

11.5. Communication with Tributary/Satellite Sanitary Sewer Systems

The City is a satellite sanitary sewer system; it discharges into the DDSD conveyance system. The City, the City of Pittsburg, and DDSD worked together to develop and implement their SSMPs. The primary means of communication during the SSMP development and implementation phase was through the SSMP Coordinating Committee that meets regularly. Each of the three agencies was represented on the committee and could place items on the committee meeting agenda.

Once the SSMP documents have been completed and implemented, the three agencies will continue to work together. The opportunities for communication during this period will be:

- Annual SSMP Coordinating Committee meetings
- Annual Training Events including SSMP refresher training and emergency response drills
- SSMP Program Audits – The three agencies intend to form an Audit Task Force with representation from each agency for the purpose of conducting the mandated SSMP Program Audits (see Section 10 of the SSMP, SSMP Program Audits, for details).

The point of contact at each of the three agencies to communicate any SSMP-related issues is:

City of Antioch	Jeff Cook	(925) 779-6953	jcook@ci.antioch.ca.us
DDSD	Terry Spurgeon	(925) 756-1921	terrrys@deltadiablo.org
City of Pittsburg	Hilario Mata	(925) 252-6966	hmata@ci.pittsburg.ca.us



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Approving the Final Map, Subdivision Improvement Agreement and Improvement Plans for Subdivision 9235 Vista Del Mar II

MEETING DATE: March 2, 2020

EXECUTIVE SUMMARY

The Final Map, Improvement Plans, and Subdivision Improvement Agreement for Subdivision 9235 Vista Del Mar II are ready for approval. This Resolution will authorize the City Manager to execute the Subdivision Improvement Agreement and approve the Final Map and Improvement Plans.

FISCAL IMPACT

Costs for plan review and processing of the project plans are revenue neutral. Staff costs are recovered through typical revenues collected for major subdivision projects in Fund 110 (General Fund).

RECOMMENDATION

City Council adopt the attached resolution authorizing the City Manager to execute the Subdivision Improvement Agreement for Subdivision 9235 Vista Del Mar and approving the Final Map and Improvement Plans.

BACKGROUND

On October 18, 2004, the City Council adopted Resolution 04-10168 certifying that the final Environmental Impact Report (EIR) for the Vista Del Mar project was prepared in accordance with California Environmental Quality Act (CEQA) guidelines.

On November 29, 2004, the City Council approved Resolution 04-10197 approving CEQA findings, and adopting a statement of overriding considerations and a Mitigation and Monitoring and Reporting Program (MMRP) for the Vista Del Mar project.

On January 20, 2009, the City Council adopted Ordinance 08-1312 approving the Alves Ranch Master Plan and EIR addendum.

On July 15, 2019, the City Council adopted Ordinance 19-1470 approving a zoning map amendment and the Fourth Amendment to the Development Agreement for the Alves Ranch Project.

On October 31, 2019, the Fourth Amendment to the Development Agreement relating to the changes in the zoning classification from Commercial Office to Community Commercial and modify the number of affordable housing units to be constructed was executed.

The Vista Del Mar II subdivision is the first phase of the original Alves Ranch project to be constructed and consists of 166 single family homes.

SUBCOMMITTEE FINDINGS

This item was not presented at a subcommittee.

STAFF ANALYSIS

The Final Map, and Improvement and Grading Plans for Subdivision 9235, Vista Del Mar II, are in substantial conformance with the approved Vesting Tentative Map, subdivision regulations, and construction standards.

The Developer shall fully comply with the Development Agreement dated January 5, 2005, and subsequent amendments, including payment of fees referenced therein. The City and the Developer will enter into a Subdivision Improvement Agreement guaranteeing satisfactory completion by the Developer of all improvements related to Subdivision 9235 Vista Del Mar II.

ATTACHMENTS: Resolution
 Subdivision Improvement Agreement
 Site Plan
 Final Map (Copy Available with the City Clerk)
 Improvement Plans (Copy Available with the City Clerk)

Report Prepared By: Jolan Longway, Clean Water Program Coordinator

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Approving the Final Map)
Subdivision Improvement Agreement)
And Improvement Plans for)
Subdivision 9235, Vista Del Mar II)

RESOLUTION NO. 20-

The Pittsburg City Council FINDS AND DETERMINES as follows:

WHEREAS, on October 18, 2004, the City Council adopted Resolution 04-10168 certifying that the final Environmental Impact Report (EIR) for the Vista Del Mar project was prepared in accordance with California Environmental Quality Act (CEQA) guidelines; and

WHEREAS, on November 29, 2004, the City Council approved Resolution 04-10197 approving CEQA findings, adopting a statement of overriding considerations, and a Mitigation and Monitoring and Reporting Program (MMRP) for the Vista Del Mar project; and

WHEREAS, on January 20, 2009, the City Council adopted Ordinance 08-1312 approving the Alves Ranch Master Plan and EIR addendum; and

WHEREAS, on July 15, 2019, the City Council adopted Ordinance 19-1470 approving a zoning amendment and authorizing a Fourth Amendment to the Development Agreement; and

WHEREAS, on October 31, 2019, the Fourth Amendment to the Development Agreement relating to the changes in the zoning classification from Commercial Office to Community Commercial and modify the number of affordable housing units to be constructed was executed; and

WHEREAS, the Vista Del Mar II subdivision is the first phase of the original Alves Ranch project to be constructed and consists of 166 single family homes; and

WHEREAS, the City Engineer certifies that the Final Map and Improvement Plans for Subdivision 9235, Vista Del Mar II are in substantial conformance with the approved Vesting Tentative Map; and

WHEREAS, the City and Alves Ranch, LLC (Developer) will enter into a Subdivision Improvement Agreement (Improvement Agreement) guaranteeing satisfactory completion by the Developer of all improvements related to Subdivision 9235, Vista Del Mar II; and

WHEREAS, Developer shall fully comply with the Development Agreement dated January 5, 2005 and subsequent amendments, including payment of fees referenced therein; and

WHEREAS, Developer will pay all other required fees and provide all necessary bond requirements as outlined in the Subdivision Improvement Agreement.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Pittsburg hereby approves the Final Map, and Improvement Plans and authorizes the City Manager to execute the Subdivision Improvement Agreement, and authorizes and directs the City Engineer and Secretary of the Planning Commission to execute their respective statements on the Final Map.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 2nd day of March 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk

Recorded At The Request Of:
CITY OF PITTSBURG

Return Recorded Copy To:

CITY OF PITTSBURG
ENGINEERING RECORDS
65 CIVIC AVENUE
PITTSBURG, CA 94565-1518

SUBDIVISION IMPROVEMENT AGREEMENT
Subdivision 9235 Alves Ranch

THIS AGREEMENT is made and entered into on _____, 2020 by and between William Lyon Homes, Inc, a California corporation ("Lyon") and Alves Ranch LLC., a California Limited Liability company ("Alves Ranch") (Alves Ranch and Lyon are herein collectively referred to as "Developer" and the City of Pittsburg, a municipal corporation, (hereinafter referred to as "City").

WHEREAS, Developer will construct certain public and private improvements in connection with Subdivision 9235 Alves Ranch for which Improvement Plans have been approved and are on file in the office of the City Engineer. Said improvements include, but are not limited to, those shown and described on the approved Improvement Plans for said subdivision.

NOW, THEREFORE, DEVELOPER AGREES TO:

1. Comply with and/or satisfy all conditions of approval as they relate to SUBD 9235 as imposed by the City Council and/or its Commissions.
2. Construct all infrastructure improvements as indicated in the approved Improvement Plans and Grading Plans, dated _____, in compliance with the City's Standard Specifications and the City's Standard Details, unless otherwise determined by the City Engineer.
3. All subdivision improvements shall be completed within thirty six (36) months from the date of approval of the Final Map by the City Council.
4. Incorporate all reasonable modifications to the approved plans during construction as directed by the City Engineer, when necessitated by field conditions and/or public safety.

5. Obtain written approval from the City Engineer prior to performance of any construction not in compliance with the approved plans and specifications.
6. Conform to all applicable provisions of state and federal law and the Pittsburg Municipal Code.
7. Comply with all of the Contra Costa Fire Protection District's requirements including, but not limited to fire flow, residual pressure, hydrant locations, and accessibility, unless otherwise determined in writing by Contra Costa Fire Protection District.

Pay the following fees and deposits to the City, prior to the execution of this Agreement:

8. A Major Subdivision Map Processing Fee of Thirty-Three Thousand, Six Hundred Fifty Dollars (\$ 33,650).
9. An Improvement Plan review fee of One Hundred Sixty-Five Thousand, Two Hundred Fifty-Nine Dollars (\$165,259).
9. An Improvement Inspection Fee in the amount of Two Hundred and One Thousand, Three Hundred Sixty-Eight Dollars (\$201,368).
10. A Grading Plan Review Fee of Eighteen Thousand, Three Hundred Thirty-Eight Dollars (\$18,338)
11. A Grading Inspection Fee in the amount of (Twenty-Two Thousand and Five Dollars (\$22,005)
12. A Sanitary Sewer Closed Circuit Television Inspection Deposit in the amount of Four Thousand Three Hundred Dollars (\$4,300)
13. A Geographical Information System Fee (G.I.S.) in the amount of Sixteen Thousand Six Hundred Dollars (\$16,600)
14. The developer shall pay an NPDES Plan Review fee of Four Thousand One Hundred Fifty-Seven Dollars (\$4,157)
15. The developer shall pay an NPDES inspection deposit of Twelve Thousand Dollars (\$12,000)

The Developer shall pay the following fees prior to issuance of Building Permits:

16. The developer shall pay the Park In Lieu Fee equivalent to providing 5 acres of park area per one thousand persons residing within the new development and shall be based on the fair market value of developed parkland, or as established with separate agreement as approved by the City Engineer.
17. The developer shall pay the City of Pittsburg Facilities Reserve Charge (PMC Chapters 13.08, 13.12 and 13.24) (the "FRC") to the Engineering Department, for water and sewer service in the amounts in effect when the applicant obtains a Building Permit. The applicant understands that the current FRC on file, effective August 20, 2005, shall be paid in accordance with the fee schedule approved by Resolution No. 05-10290, and amended by Resolution No. 12-11778, on February 21, 2012, a copy of which is available at the City. The FRC shall be paid to the Engineering Department prior to the issuance of a Building Permit.
18. The developer shall pay the Local Transportation Mitigation Fee (PMC Chapter 15.90) (the "LTMF") amount in effect when the applicant obtains a building permit. The applicant understands that the LTMF is reviewed and adjusted annually to the current Construction Cost Index (CCI) and may be increased at the City Council's discretion based on revised cost estimates for roadway and transit facilities and other factors that demonstrate an increase is needed to offset traffic impacts caused by new development. The LTMF is calculated by dividing the total fee share of improvement costs by the total number of Dwelling Unit Equivalencies ("DUE") in the City, as described in PMC Chapter 15.90 and the Pittsburg Local Transportation Mitigation Fee Program Update, copies of which are available from the City.
19. The developer shall pay the Regional Transportation-Development Impact Mitigation Fee (PMC Chapter 15.103) (the "RTDIM") amount in effect when the applicant obtains a building permit. The RTDIM will be automatically increased or decreased on January 1 of each year based on the percent change in the Engineering News-Record Construction Costs Index – San Francisco Bay Area, between September 1 and September 1 of the preceding two calendar years.
20. Provide certificates on a form approved by the City for the following insurance coverage:
 - a. Workers' Compensation Insurance, and
 - b. Liability insurance in the amount of One Million Dollars and No Cents (\$1,000,000.00) Personal Injury, and Five Hundred Thousand Dollars and No Cents (\$500,000.00) Property Damage.

Said insurance coverage shall be maintained in full force and effect throughout the life of this Agreement and all policies shall provide for at least thirty (30) days prior notice to City before cancellation. Should said coverage(s) lapse at any time, City shall have the right to:

- a. Procure said insurance(s) on behalf of the Developer and Developer shall reimburse City for any and all costs incurred thereof; or
 - b. Order all subdivision construction stopped until new certificate(s) of coverage are provided and deemed satisfactory to the City.
21. Defend, indemnify and hold harmless the City, its officers and employees from any and all actions or causes of action filed by any person or persons claiming damage as a result of this approval or the public improvement work required hereunder and to pay any and all reasonable attorney's fees incurred by the City as a result of any legal action which may arise in connection therewith.
 22. Provide a surety in the amount of Four Hundred Seventy-Seven Thousand, Six Hundred Seventy-Seven Dollars (\$477,677). The surety shall be in accordance with the State Subdivision Map Act, and as approved by the City Engineer.
 23. Prior to acceptance of the subdivision as complete by the City Council, the Developer shall provide a Warranty Bond in the amount of Forty-Seven Thousand, Seven Hundred Sixty-Seven Dollars (\$47,767). This warranty bond shall be released only upon correction of any defects or failures, including cause of failure or defect, to the subdivision improvements to the satisfaction of the City Engineer.
 24. Warranty all improvements installed pursuant to this Agreement for twelve (12) months after the City Council's acceptance date for the public improvements as complete.

IT IS MUTUALLY STIPULATED AND AGREED THAT:

1. The public improvements installed in connection with this Agreement shall not be considered accepted as complete until the City Council adopts a resolution accepting said improvements as being in compliance with the approved plans and specifications and any approved modifications thereto.

Public improvements are those specifically defined as being located within public or proposed public roadways or easements and accepted by City Council resolution. Other improvements designated on the improvement plans for private ownership and / or private maintenance shall be constructed in accordance with the City's Standard Specifications and Standard Details

and shall be appropriately inspected by the City, but will not be maintained by the City.

Adoption of said resolution, periodic and/or progress inspections, acceptance of any portion of said work, or approvals of any other nature shall not bind the City to accept any modification made to the approved plans without the City Engineer's approval.

2. Time is of the essence in this Agreement and the obligations undertaken herein shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on this date first written above.

CITY OF PITTSBURG

Garrett Evans, City Manager

Developer

title: Joe Chretien
VP Land Development

Developer

Title: Kathy Floyd
VP Sales and Marketing

APPROVED AS TO FORM:

City Attorney

ATTEST:

Alice E. Evenson, City Clerk

Developer(s) must attach Notary Statement(s)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Contra Costa)

On February 13, 2020 before me, Terri Lynn Lane Llorente, notary public,
(insert name and title of the officer)

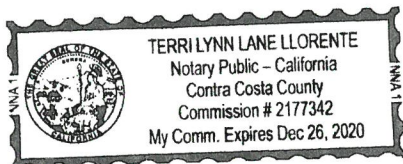
personally appeared Joe Chretien and Kathy Floyd,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

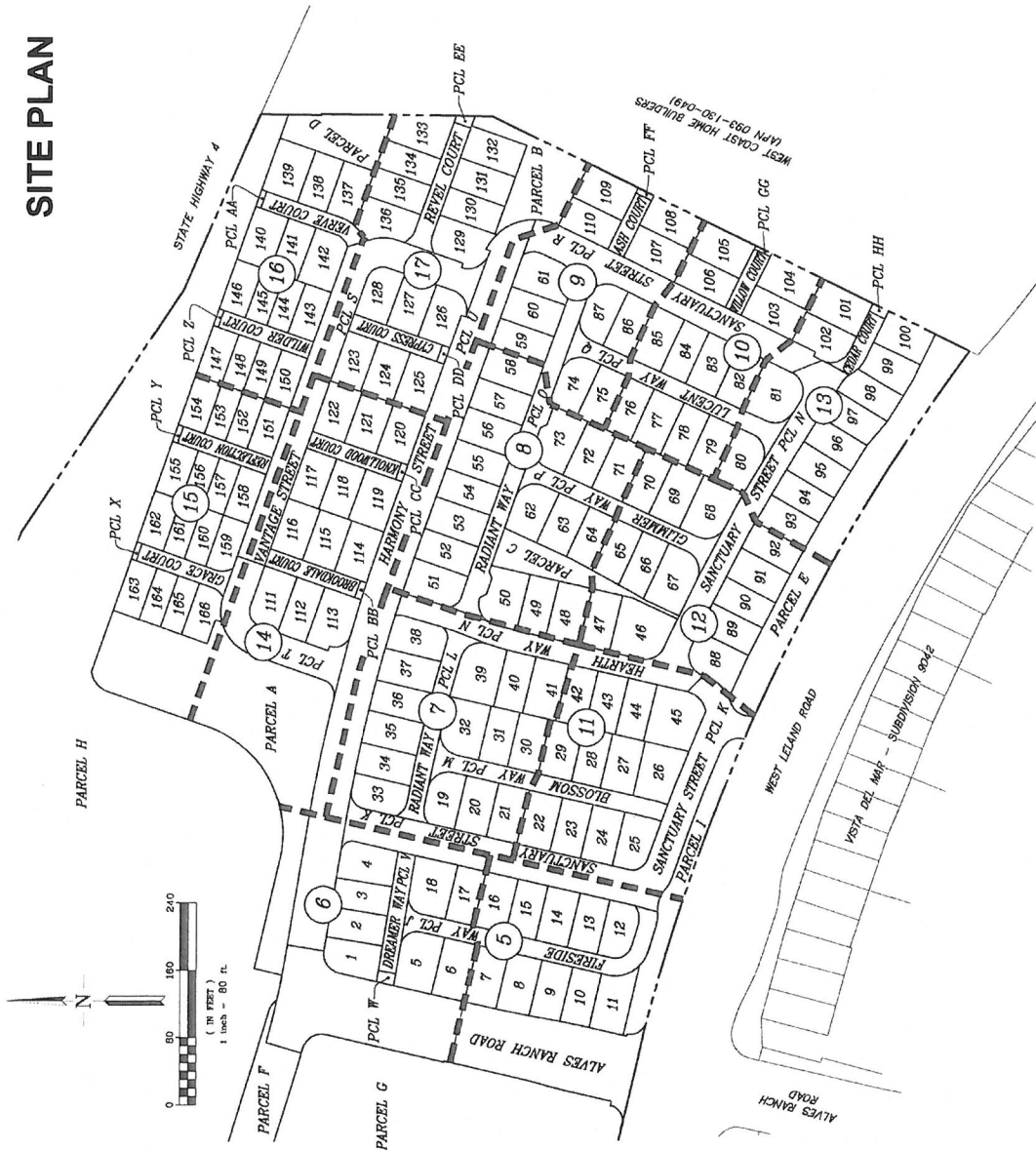
WITNESS my hand and official seal.

Signature

(Seal)



SITE PLAN



SUBDIVISION 9235 VISTA DEL MAR II

BEING A SUBDIVISION OF PARCELS 1, 2 AND 3
OF PARCEL MAP WAIVER PMW 18-03
RECORDED NOVEMBER 8, 2018
UNDER DOCUMENT NO. 2018-182438
CONTRA COSTA COUNTY RECORDS

CITY OF PITTSBURG
CONTRA COSTA COUNTY, CALIFORNIA
RUGGERI-JENSEN-AZAR
CIVIL ENGINEERS, PLANNERS, SURVEYORS
PLEASANTON, CALIFORNIA
FEBRUARY 2020



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution to Establish the 2020/2021 Annual Stormwater Utility Area Fee

MEETING DATE: March 2, 2020

EXECUTIVE SUMMARY

Each year, the City Council establishes the amount of the Stormwater Utility Area fee paid by property owners to support drainage maintenance and other activities required by the federal Clean Water Act and the City's Joint Municipal permit for the National Pollutant Discharge Elimination System (NPDES) program. Staff recommends no change be made to the current fee, which is \$30.00 per Equivalent Runoff Unit (ERU). No increase is proposed.

FISCAL IMPACT

Annual assessments are determined by issuing an "Equivalent Runoff Unit (ERU) multiplier" depending on what "ERU Group" a specific land use falls under. For example, a single family home on a parcel between 5,000 to 20,000 sq. ft. (ERU Group "A") = 1.0 ERU. That results in the homeowner paying \$30.00 annually on their property tax. For most commercial parcels, including supermarkets, restaurants, car dealerships, etc. (ERU Group "J") = 12 ERU/acre. Maintaining the SUA fee at \$30.00 per ERU will allow the City to collect the maximum amount of NPDES funds to run the NPDES program as required. This rate allows the City to meet ongoing permit costs for fiscal year 2020/2021. The annual revenue to be generated from this assessment is projected to be \$1.2 million. Supplemental funds from the City's solid waste fund will offset expected increases in program costs caused by the new provisions imposed by the Municipal Regional Permit (MRP).

RECOMMENDATION

City Council adopt the attached resolution establishing a Stormwater Utility Area fee rate of \$30.00 per ERU for fiscal year 2020/2021 and request the Contra Costa County Flood Control and Water Conservation District to adopt an annual parcel assessment based on that rate to cover the City's costs associated with its NPDES activities.

BACKGROUND

In 1987, the federal government began requiring NPDES permits for all non-point source discharges of stormwater runoff entering waters of the state. Permit compliance responsibilities are vested with the State Water Quality Control Board (SWQCB).

In 1993, the City joined with the Contra Costa County Flood Control and Water Conservation District, Contra Costa County, and 18 other cities to create the Contra Costa Clean Water Program (County Program) to effectively respond to federal and state requirements regulating local discharges of stormwater into the San Joaquin / Sacramento River Delta and other waters of the State.

As a member of the County Program, the City is required to fund its pro-rata share of County Program costs for regional activities as well as the City's work to comply locally. In 1993, the City Council adopted Resolution 93-7913, authorizing the County Board of Supervisors to hold a public hearing and adopt Ordinance No. 93-47 to establish the Stormwater Utility Assessment Drainage Fee to help finance administrative and program activities necessary to comply with the NPDES Permit.

At that time, \$30.00 was established as the maximum ERU rate for the City of Pittsburg. The City established the initial ERU rate at \$24.00. In 2005, the City Council approved Resolution 05-10273, to increase the rate to \$30.00 for fiscal year 2005/2006, to cover program costs and has re-established the fee each year.

The Contra Costa County Flood Control and Water Conservation District assesses the fee on developed parcels within the City.

SUBCOMMITTEE FINDINGS

This item was not presented at a subcommittee.

STAFF ANALYSIS

Maintaining the ERU at the maximum \$30.00 is necessary for the City to continue the activities required to comply with its NPDES permit. The current permit was adopted on November 19, 2015 and became effective January 1, 2016. This permit has a five-year term, which requires increased efforts to meet benchmark reductions for pollutants such as trash, PCBs, and mercury.

NPDES revenues pay for staff and materials for maintenance of the City's drainage infrastructure and creek channels, stream bank erosion control, and inspection and monitoring programs to eliminate illicit discharges and illegal connections to the storm drain system.

ATTACHMENTS: Resolution

Report Prepared By: Jolan Longway
Clean Water Program Coordinator

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Establishment of the FY 2020/2021)
Annual Stormwater Utility Area Fee)

RESOLUTION NO. 20-

The Pittsburg City Council FINDS AND DETERMINES as follows:

WHEREAS, under federal Water Pollution Control Act (Clean Water Act), prescribed discharges of stormwater require a permit from the appropriate California Regional Water Quality Control Board under the National Pollutant Discharge Elimination System (NPDES) program; and

WHEREAS, the City of Pittsburg has an NPDES permit that requires the implementation of selected Best Management Practices to minimize or eliminate pollutants from entering stormwaters; and

WHEREAS, it is the intent of the City to utilize funds received from its Stormwater Utility Area (SUA) fee for implementation of the NPDES program and drainage maintenance activities; and

WHEREAS, at the request of the City, the Contra Costa County Flood Control & Water Conservation District (District) has completed the process for formation of an SUA fee, including the adoption of the Stormwater Utility Assessment Drainage Ordinance No. 93-47; and

WHEREAS, the SUA fee and Program Group Costs Payment agreement between City and District requires that the City annually, by May 1, determine the rate to be assessed to a single Equivalent Runoff Unit (ERU) for the forthcoming fiscal year.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Pittsburg hereby assigns a single Equivalent Runoff Unit (ERU) rate for Fiscal Year 2020/2021 at \$30.00, and the City Council hereby requests the District to adopt the SUA fee levies based on said amount.

PASSED, AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 2nd day of March, 2020 by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

ATTEST:

Jelani Killings, Mayor

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: By Minute Order, Authorization for a Sign to Commemorate the Bay View Saloon to be Installed at the City Marina

MEETING DATE: March 2, 2020

EXECUTIVE SUMMARY

The City Council has been approached by members of Chapter 13 of E Clampus Vitus to approve a sign and authorize its placement at the City's Marina. The application was reviewed and recommended for approval by the City Council's ad hoc Pittsburg Recognition Committee.

FISCAL IMPACT

Minor. The applicant is responsible for the production costs for the plaque. Any incidental costs that are the City's responsibility related to the installation will be paid from the City's FY 2019-20 budget. No new funds are requested.

RECOMMENDATION

By Minute Order, authorize a sign marking the location of the Bay View Saloon to be installed at the City Marina in a location approved by the City.

BACKGROUND

On August 3, 2015, the City Council approved a minute order to create an ad hoc committee to advise the Council regarding procedures and policies for memorials and honors for people who have had a positive impact on the community.

The committee includes a representative of the Community Advisory Commission, Planning Commission, City Council, Pittsburg Historical Society and Pittsburg Unified School District.

On July 17, 2017, the City Council approved Resolution 17-13350 to adopt a new City policy for Commemorative Recognition in Public Areas and continued the ad hoc Pittsburg Recognition Committee to implement the policy when applications are received.

The committee met on February 4, 2020 and reviewed an application submitted by a Chapter 13 of E Clampus Vitus, a fraternal organization dedicated to the preservation of the heritage of the American West, especially the history of the gold mining regions of the area.

If approved, the sign will be installed at the City's marina near the Plaza Marina Green and the Harbormaster's Office.

SUBCOMMITTEE FINDINGS

The application was reviewed and recommended for approval by the City Council's ad hoc Pittsburg Recognition Committee.

STAFF ANALYSIS

The Pittsburg Recognition Committee (PRC) reviewed the proposed application and details regarding the size, location and design of a sign proposed near the previous site of the Bay View Saloon, a local business operated by Louis and David Gatto between 1897 and 1936.

The sign would show photos and text with information regarding the historical significance of the site. A draft design of the sign is attached to this report.

David Gatto was a city official for Black Diamond, now known as Pittsburg. Novelist Jack London was known to be a customer of the saloon. London was world famous during his lifetime and is perhaps best known for his works, "The Call of the Wild" and "White Fang."

The committee received input from City staff regarding the sign's size, design and proposed location within or near pedestrian walkways, parking areas and landscaping at the City's marina. Comments included recommendations for reduced size of the overall sign, and locations that avoid obstruction of river views and pedestrian paths of travel. After discussion, committee members unanimously supported the concept and recommended the application for consideration of approval by the City Council.

Under the City's policy, wording on signs and inscriptions must be reviewed and approved by the City prior to production. Costs of the sign are the responsibility of the requesting individual/organization.

Installation is done by the City's Public Works Department to ensure appropriate placement for security and maintenance, and to avoid impacts on the functioning of the public marina facility and walkways. If the sign is damaged, stolen or vandalized, its replacement is the responsibility of the requesting party.

ATTACHMENTS: Application
 Draft Sign Design
 Site Photos

Report Prepared By: Jill Hecht, Director of Community Development

MEMORIAL PLAQUE OR BENCH APPLICATION

NOMINATOR'S NAME: JACK BROWN E CLAMPUS VITUS
ADDRESS: 2725 STAMM DRIVE CHAPTER 13
CITY: ANTIOCH 94509 PHONE: 925-759-4989

A MEMORIAL PLAQUE or BENCH (circle one) IS REQUESTED FOR:

OTHER ~~STOREY OR SLANT BOARD~~
NOMINEE'S NAME: BAYVIEW SALOON / DAVE GATTO / JACK LONDON

LAST KNOWN PITTSBURG ADDRESS: FRONT STREET / BLACK DIAMOND

PRESENT ADDRESS: HISTORICAL BUILDING NO LONGER EXISTS OWNERS DECEASED

TELEPHONE NUMBER: (925) N/A

DETAIL: SEE ATTACHMENT

DESCRIPTION OF ACTIVITY, CONTRIBUTION OR ACCOMPLISHMENTS: (additional pages may be attached to this application form)

EARLY MEETING PLACE OF CITY POLITICIANS
BUSINESS LEADERS AND NOTED AMERICAN
WRITER JACK LONDON

• STORY/ISLAND BOARD UTILIZED BY EAST BAY
REGIONAL PARK DISTRICT.

• HISTORICAL INFORMATION & DETAIL PROVIDED
BY: VINCE FERRANTE, HISTORIAN
T. 1. 925-997-3780

LIST OTHER NOMINATORS: E. CAMPUS. VITIS ORGANIZATION

NAME:

ADDRESS:

PHONE:

Jason Arthur 122 W. 11th St. Antioch, CA 94509 (415) 497-0972

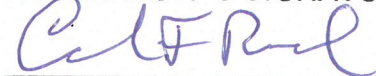
Carl F. Read 102 S. Lake Dr Antioch CA 94509 (925) 754-2711

JOHN A. BUFFO 841 W. Brannan Island Rd., #8 Isleton 95641
(925) 477-0009

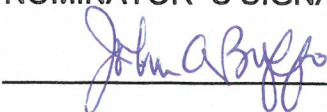
NOMINATOR'S SIGNATURE:



NOMINATOR'S SIGNATURE:



NOMINATOR'S SIGNATURE:



If the application is approved, City staff will notify you after the installation is complete and provide you with a photograph and information regarding the site location.

Please send or bring this completed form and any attachments to:

City Manager's Office

65 Civic Avenue

Pittsburg CA 94565

City Contact person: Jill Hecht

Email: jhechte.ci.pittsburg.ca.us.

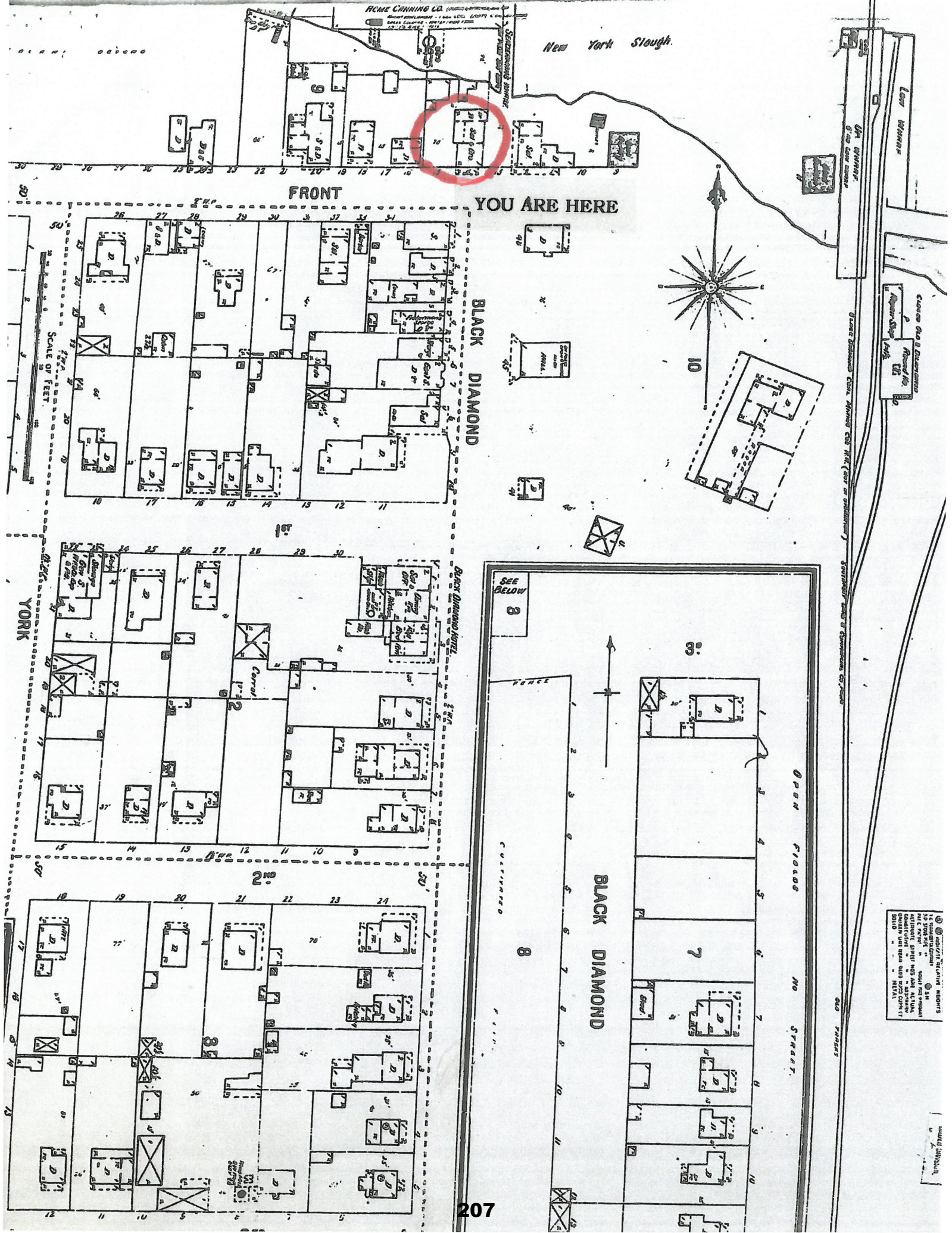
Phone: 925-262-4877

David A. Gatto & The Bay View Saloon 1897-1936

The **Bay View Saloon** was located at this location on the waterfront at the foot of Black Diamond St., owned and operated by brothers **Louis** and **Dave Gatto**. It became the center for a gathering of men of the city who would talk of politics and civic matters. In the midst of all arguments, the voice of Dave Gatto was raised in defense of clean government, honesty and the elimination of graft in political office. Dave was born in 1878, the son of Italian immigrants and attended schools in Black Diamond. He began a very successful barber business, was a leader among local Italian people and appointed deputy City Treasurer of Black Diamond and re-elected. He also served as deputy sheriff under Contra Costa county sheriff, R.R. Veale for many years.

The Bay View was as a favorite watering hole for famed American author **Jack London**. While partaking in spirits, London would observe the locals for use as material in some of his books. He would anchor out at Browns Island for months at a time and was known as "one of the boys" according to local old timers. He was also known to visit local schools and lecture on his more popular works.

**DEDICATED: Date 2020 by Pittsburg Historical Society and Joaquin Murrieta
Chapter 13 E. Clampus Vitus**



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PHOTOCOPYING, RECORDING,
OR BY ANY INFORMATION
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SYSTEM, WITHOUT PERMISSION
IN WRITING FROM ADRIAN P.
KATZ, INC.



DAVE ²⁰⁸GATTO



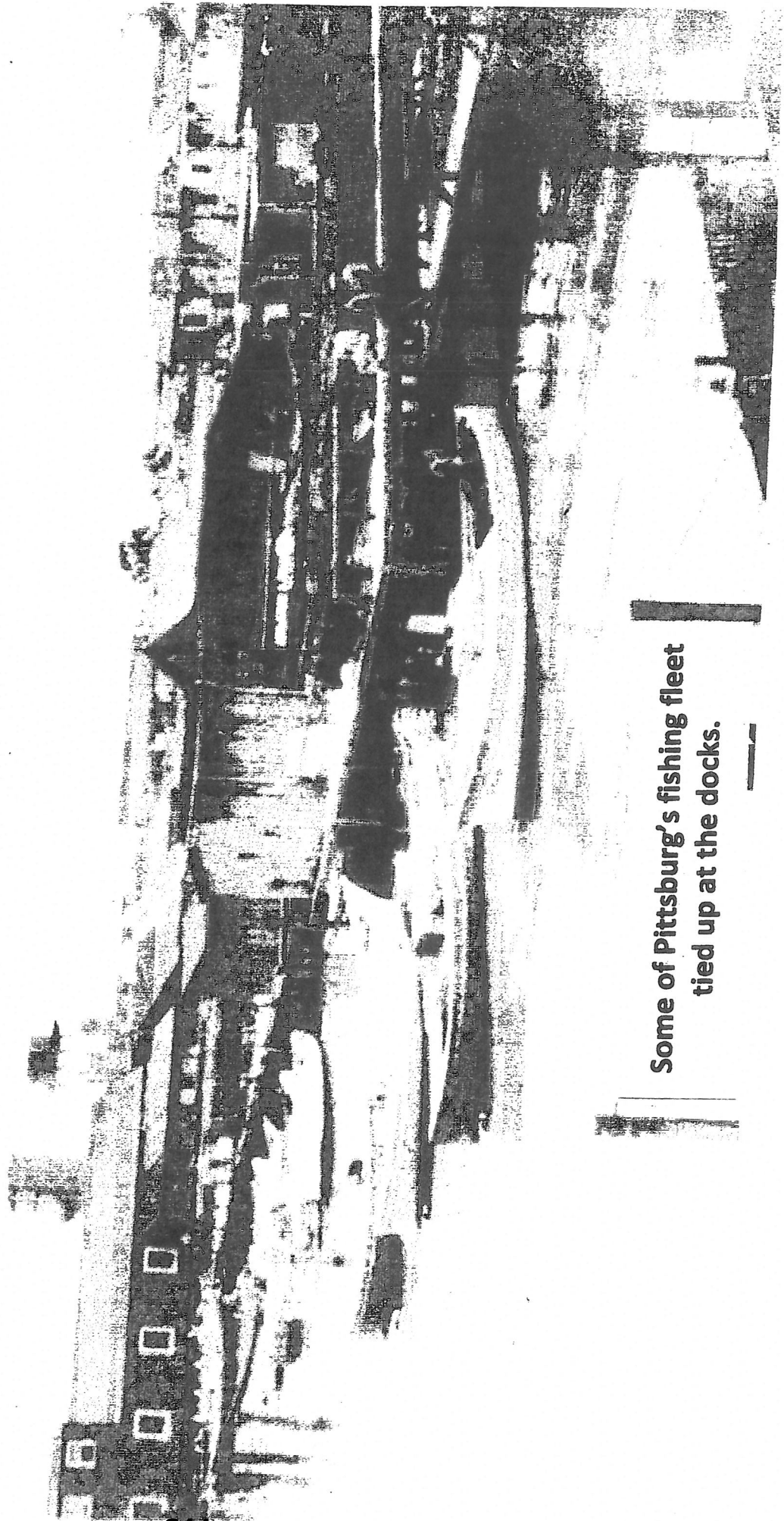
Louis Gatto

209





TACK / ONDON



Some of Pittsburg's fishing fleet
tied up at the docks.

GIS WebMap

PREFERRED SITE



10/21/2019, 1:43:36 PM

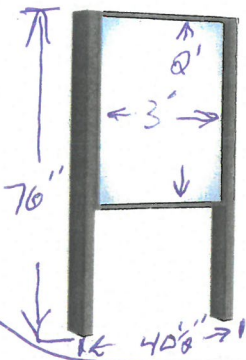
- ☐ Parcel
- ☐ City Limits
- ☐ OCC Housing Authority
- ☐ Caltrans ROW
- ☐ Railroads



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community
Sources: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Disclaimer: All reasonable effort has been made to assure the accuracy of the maps for its intended purpose. It is not to be relied upon for any purpose other than a general schematic diagram of the facilities depicted.

UPRIGHT BASES & KIOSKS: Designed to attract attention, upright bases offer the flexibility to combine permanent information panels with bulletin cases, for temporary postings.



Upright Bases & Kiosks: UPRIGHT

Perfect for maps, safety messages, or other information, Uprights are designed to communicate boldly. We can build to sit at any height you need, and these can also have a double-sided frame.

AL WS



Upright Bases & Kiosks: SINGLE POST UPRIGHT

To achieve the visibility you need, Single Post Upright exhibit bases are designed with posts available in a variety of lengths, and accommodate panels 24 inches wide, or less.

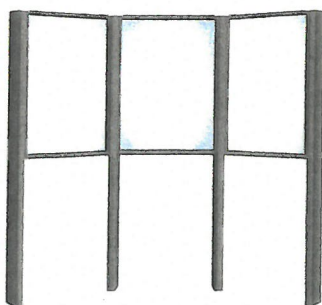
AL WS



Upright Bases & Kiosks: DOUBLE/TRIPLE INLINE

Double and Triple Inlines can accommodate multiple frames, and are arranged in a straight line. In addition to panels, Bulletin Cases can be integrated into these units.

AL



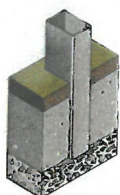
Upright Bases & Kiosks: DOUBLE/TRIPLE OFFSET

Offset bases allow you to connect multiple frames together at an angle, allowing you to surround a visitor with important information. Bulletin Cases can also be integrated into these units.

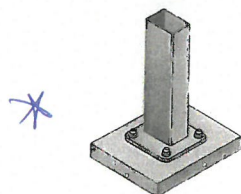
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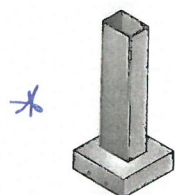
MOUNTING OPTIONS: Pannier's range of mounting options allow panels and signage to be installed virtually anywhere - in concrete or wood, on walls or railings, inside or outside.



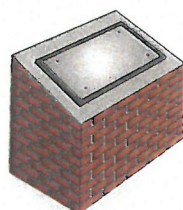
DIRECT EMBEDMENT Our most popular installation method, Direct Embedment buries the exhibit base directly into the ground with a concrete base, providing lasting durability.



BASEPLATE MOUNT With this method, exhibit bases are fitted with baseplates that allow mounting to any flat surface. Baseplate Mounting is commonly used for mounting on decks, as well as other wood and concrete surfaces.



BASEPLATE COVERS When you want to cover your baseplates, we can provide you with baseplate covers. These covers fit snugly over the baseplates, and are attached using tamper-proof pop rivets.



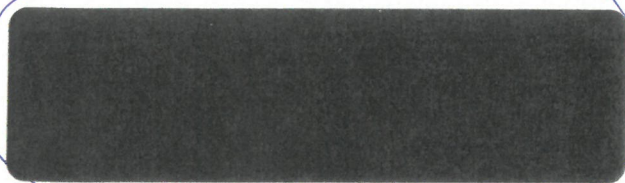
MASON MOUNT This Low Profile style can be mounted to existing architectural features, such as brick, stone, stucco or concrete, with minimal impact where the base is attached.

Contact us for more information on these and other mounting and installation options.

COLORS & FINISHES

Pannier offers a variety of colors and finishes to ensure the perfect fit for any application:

All Pannier frames are available in these standard colors:



BLACK



NPS DARK BROWN



NPS BROWN



NPS MEDIUM GRAY

:: Custom colors are available upon request.

214 :: Powder coating is also available.



Louis Gatto



Dave Gatto

David A. Gatto & The Bay View Saloon 1897-1936

The **Bay View Saloon** was located at this location on the waterfront at the foot of Black Diamond St., owned and operated by brothers **Louis** and **Dave Gatto**. It became the center for a gathering of men of the city who would talk of politics and civic matters. In the midst of all arguments, the voice of Dave Gatto was raised in defense of clean government, honesty and the elimination of graft in political office. Dave was born in 1878, the son of Italian immigrants and attended schools in Black Diamond. He began a very successful barber business, was a leader among local Italian people and appointed deputy City Treasurer of Black Diamond and re-elected. He also served as deputy sheriff under Contra Costa county sheriff, R.R. Veale for many years.

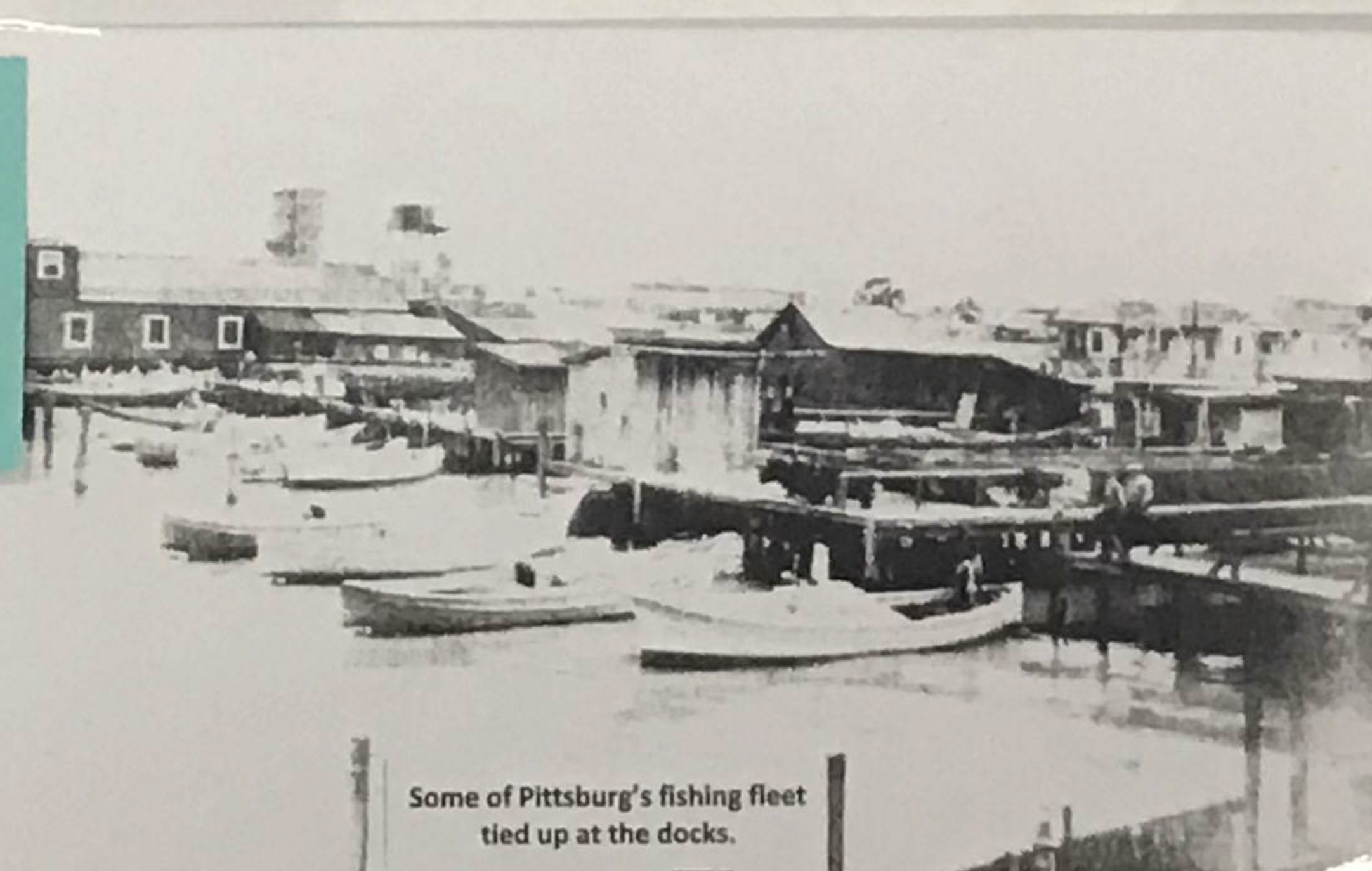
The Bay View was as a favorite watering hole for famed American author **Jack London**. While partaking in spirits, London would observe the locals for use as material in some of his books. He would anchor out at Browns Island for months at a time and was known as "one of the boys" according to local old timers. He was also known to visit local schools and lecture on his more popular works.

DEDICATED: Date 2020 by Pittsburg Historical Society and Joaquin Murrieta
Chapter 13 E. Clampus Vitus

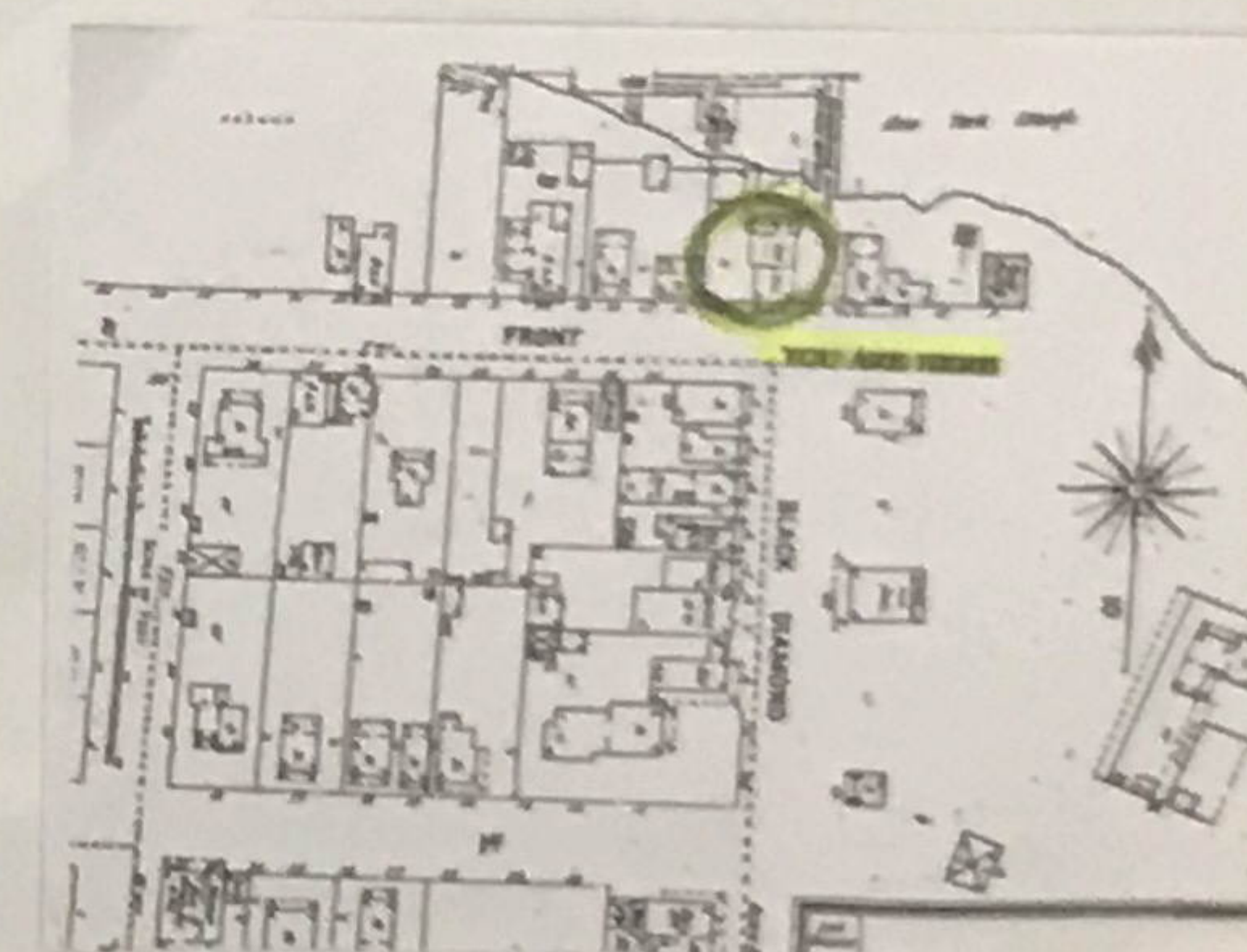


Jack London

Enlarged as
background.



Some of Pittsburg's fishing fleet
tied up at the docks.









**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a Resolution to Adopt Chapter 10 of the California Department of Transportation Local Assistance Procedures Manual for Consultant Selection for Grant Funded Projects

MEETING DATE: March 2, 2020

EXECUTIVE SUMMARY

The City has been awarded state and federal grants for infrastructure projects that improve roadways and facilities for bicycles and pedestrians. The California Department of Transportation (Caltrans) administers the grants and requires recipients to adopt procedures for selecting consultants for grant-funded projects. If approved, the resolution will adopt Chapter 10, Consultant Selection of Caltrans' Local Assistance Procedures Manual.

FISCAL IMPACT

There is no fiscal impact associated with this item.

RECOMMENDATION

City Council adopt the attached resolution to adopt Chapter 10, Consultant Selection, of the Department of Transportation Local Assistance Procedures Manual.

BACKGROUND

The City routinely seeks out grants from state and federal agencies that support capital improvement projects for traffic and pedestrian safety. The California Department of Transportation often functions as grant administrator and provides oversight authority for federal funding programs as well as state grants.

While the City has always followed Caltrans' process and procedures in managing grant-funded projects, Caltrans now requires agencies to adopt by resolution a written procedure consistent with Caltrans' Local Assistance Procedures Manual.

If the City does not adopt Caltrans' procedures, it may develop and propose its own written procedures and submit them to Caltrans for review and approval.

SUBCOMMITTEE FINDINGS

This item was not reviewed by a subcommittee.

STAFF ANALYSIS

City staff has been successful at obtaining grants from state and federal agencies to support capital projects that improve safety and the quality of life. The current Five-Year Capital Improvement Program for FY 2019/20 through FY 2023/24 includes projects supported by 10 grants totaling \$8.2 million.

Grants for infrastructure projects are often administered by Caltrans, which enforces guidelines and requirements for all phases of project management in its Local Assistance Procedures Manual. Beginning in 2019, Caltrans began requiring grant recipient agencies to adopt by resolution its procedures for selecting consultants to work on grant-funded projects.

Chapter 10 of the Caltrans manual sets forth requirements for what is included in City-initiated Requests for Proposals (RFPs) and subsequent consultant proposals, such as having a clearly defined scope of work, staff performing an independent cost analysis of the consultant cost prior to receiving proposals, procedures for evaluating and scoring proposals and certain financial documents required to be submitted at the time proposals are received.

Staff is familiar with the procedures from its experience with Caltrans-administered grants and recommends the City Council adopt the resolution adopting Chapter 10 of the Local Assistance Procedures Manual.

ATTACHMENTS: Resolution
 Caltrans Local Assistance Procedures Manual, Chapter 10

Report Prepared By: Gina Haynes, Senior Civil Engineer

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Adopting Chapter 10,)
Consultant Selection, of the California)
Department of Transportation, Local)
Assistance Procedures Manual)

RESOLUTION NO. 20-

The Pittsburg City Council FINDS AND DETERMINES as follows:

WHEREAS, the City of Pittsburg receives funds from the federal and state governments through the California Department of Transportation ("Caltrans") Office of Local Assistance; and

WHEREAS, Caltrans has updated Chapter 10, entitled "Consultant Selection," of the Local Assistance Procedures Manual ("LAPM"), and

WHEREAS, the Brooks Act (40 U.S.C. Section 1104) requires local agencies to award federally funded engineering and design related contracts based on fair and open competitive negotiations, demonstrated competence, and professional qualifications (23 C.F.R. Part 172), at a fair and reasonable price (48 C.F.R. 31.201-3); and

WHEREAS, as of January 1, 2019, Caltrans is requiring all Agencies utilizing federal and state reimbursement funds to have a written procedure for architectural and engineering consultant selection process adopted by resolution; and

WHEREAS, while the City has always followed the process and procedures set forth in the most current version of the LAPM, Caltrans now requires Council adoption to ensure City staff is fully aware of the current federal requirements; and

WHEREAS, 23 C.F.R. Section 172.5(b) states subrecipients shall develop and sustain organizational capacity and provide the resources necessary for the procurement, management, and administration of engineering and design related consultant services, reimbursed in whole or in part with Federal-Aid Highway Program funding as specified in 23 U.S.C. Section 302(a); and

WHEREAS, 23 C.F.R. Section 172.5(b)(1) requires subrecipients to adopt written policies and procedures prescribed by the awarding State Transportation Agency, Caltrans, for the procurement, management and administration of engineering and design related consultant services in accordance with applicable Federal and State laws and regulations; and

WHEREAS, Caltrans has developed the LAPM, Chapter 10, Consultant Selection, which sets forth policies and procedures for procurement and management of contractors for engineering and design related consultant services contracts on federal and state funded transportation projects to ensure compliance with applicable Federal and State laws and regulations.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Pittsburg hereby authorizes adoption of Chapter 10 of the Local Assistance Procedures Manual, entitled "Consultant Selection", and any updates thereto, as the process and procedures to be followed in the procurement of architectural and engineering services for federal and state funded Transportation Projects.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 2nd day of March 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk

Chapter 10 Consultant Selection

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Exhibits

Exhibits applicable to this chapter can be found at:

<https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms>

[Exhibit 10-A: A&E Consultant Financial Document Review Request](#)

[Exhibit 10-B: Suggested Consultant Evaluation Sheet](#)

[Exhibit 10-G: Individual A&E Task Order DBE Utilization \(needs linked\)](#)

[Exhibit 10-H: Sample Cost Proposal \(Example#1 thru #4\)](#)

[Exhibit 10-I: Notice to Proposers DBE Information](#)

[Exhibit 10-K: Consultant Annual Certification of Indirect Costs and Financial Management System](#)

[Exhibit 10-O1: Consultant Proposal DBE Commitment](#)

[Exhibit 10-O2: Consultant Contracts DBE Commitment](#)

[Exhibit 10-Q: Disclosure of Lobbying Activities](#)

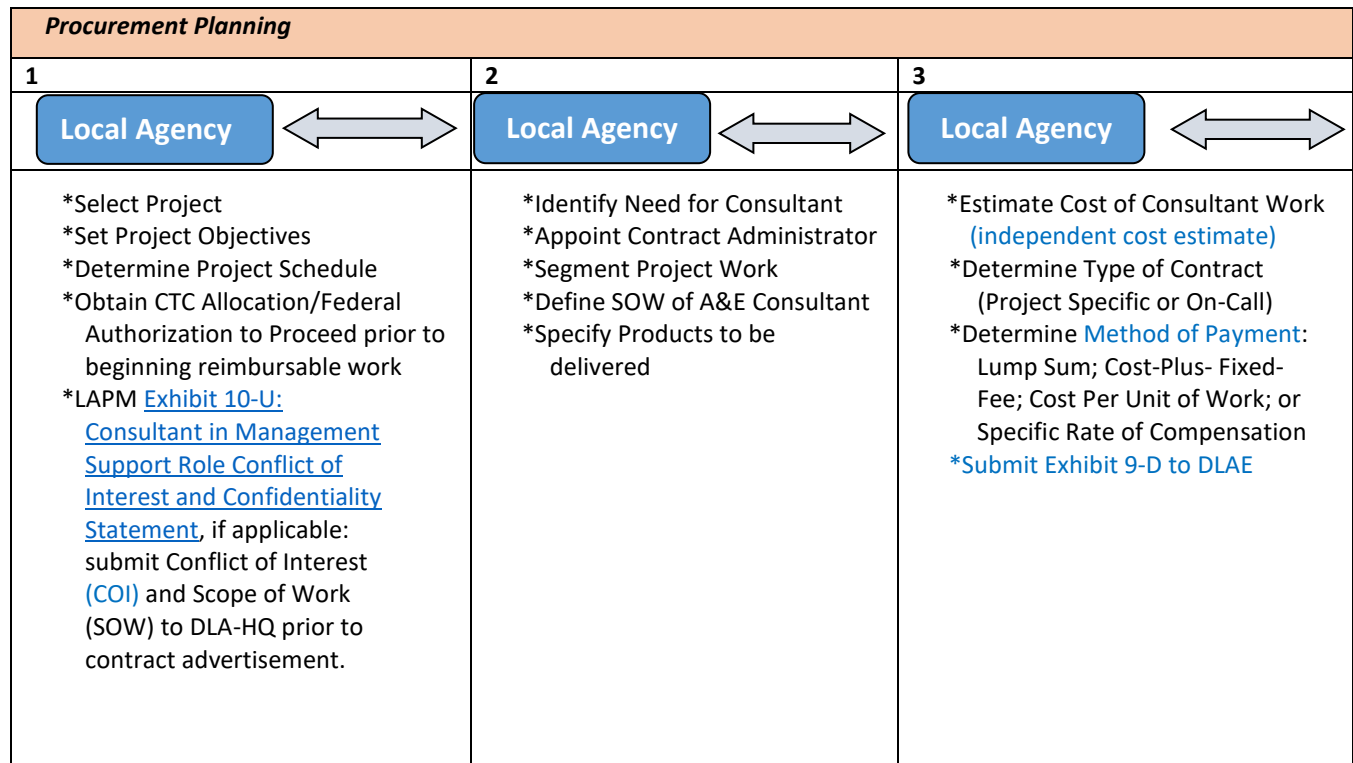
[Exhibit 10-R: A&E Sample Contract Language](#)

[Exhibit 10-S: Consultant Performance Evaluation](#)

[Exhibit 10-T: Conflict of Interest & Confidentiality Statement](#)

[Exhibit 10-U: Consultant in Management Support Role Conflict of interest and Confidentiality Statement](#)

SECTION 10.1: FEDERALLY FUNDED A&E CONTRACTS



A&E = Architectural and Engineering
IOAI = Caltrans Independent Office of Audits and Investigations
CT = Caltrans
DBE = Disadvantaged Business Enterprise
DLA = Division of Local Assistance
DLAE = District Local Assistance Engineer
DLA-HQ = Division of Local Assistance-Headquarters
LAPG = Local Assistance Program Guidelines
LAPM = Local Assistance Procedures Manual
MOP = Method of Payment
RFP = Request for Proposal
RFQ = Request for Qualifications
SOQ = Statement of Qualifications
SOW = Statement/Scope of Work

Figure 10-1: A&E Contract Procurement Process Workflow Diagram

Solicitation Documents and Advertisement		
4	5	6
 	 	 
*Determine Solicitation Document; RFP or RFQ *Appoint Consultant Selection Committee *Collect signed Conflict of Interest forms and Confidentiality Statements (see Exhibit 10-T: Conflict of Interest & Confidentiality Statement) from all members involved in process *Determine Procurement Schedule *Develop Technical Criteria with level of importance (weights) for Evaluation of Proposals or the SOQ	*Prepare RFP or RFQ documents *Include SOW, evaluation process/criteria, DBE goals, MOP and cost proposal format (see Exhibit 10-H: Sample Cost Proposal) minimum requirement of Proposal or SOQ, Notice to Proposers DBE Information (see Exhibit 10-I: Notice to Proposers DBE Information), submittal deadline *Advertise RFP or RFQ on public forum (newspaper, technical publications, Web Hosting Site, other local websites) *Issue RFP or RFQ (direct mailing, web posting)	*Prepare to respond to RFP/RFQ questions *Conduct Proposers Conference, if applicable *Receive Proposals or SOQs

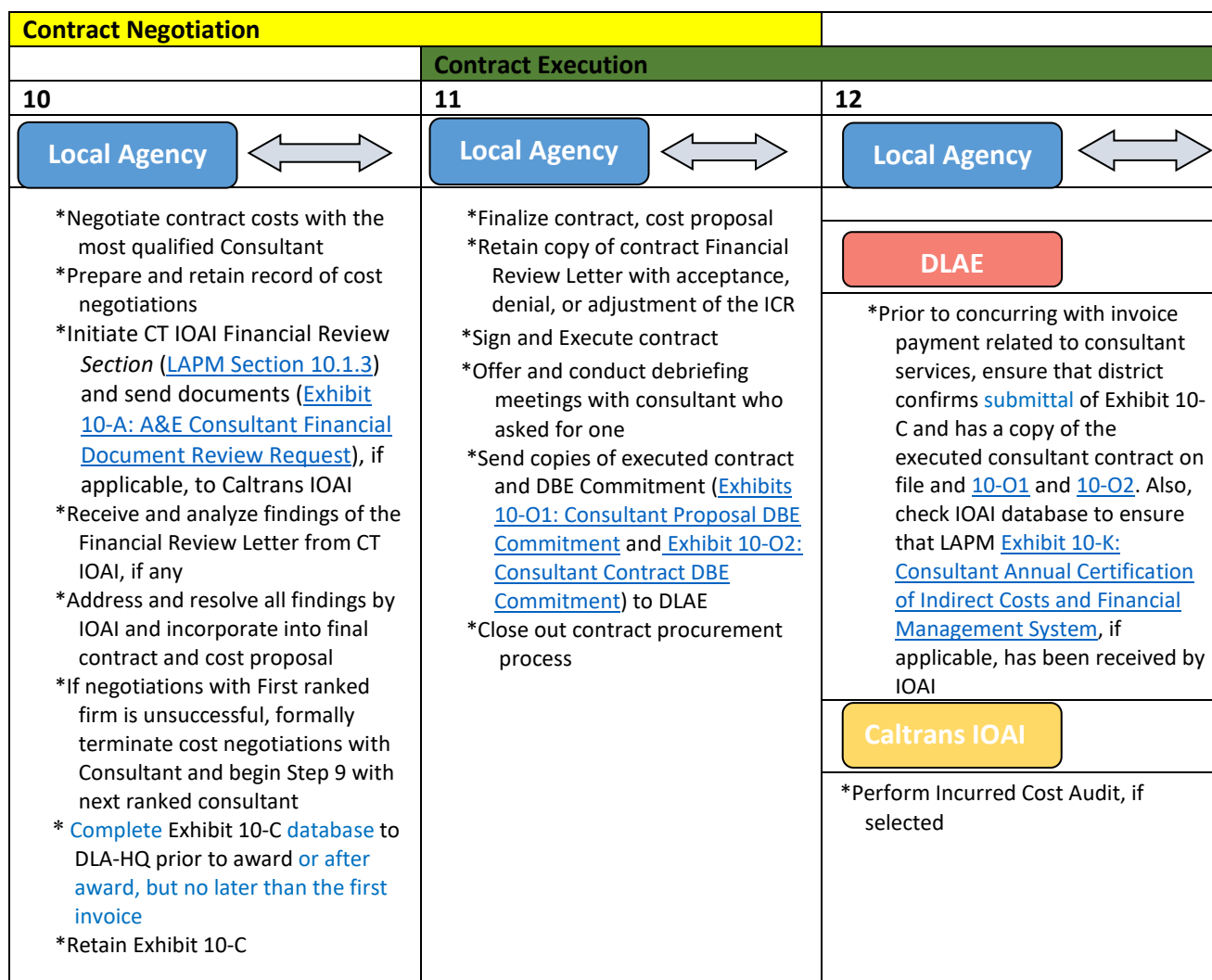
A&E = Architectural and Engineering
IOAI = Caltrans Independent Office of Audits and Investigations
CT = Caltrans
DBE = Disadvantaged Business Enterprise
DLA = Division of Local Assistance
DLAE = District Local Assistance Engineer
DLA-HQ = Division of Local Assistance-Headquarters
LAPG = Local Assistance Program Guidelines
LAPM = Local Assistance Procedures Manual
MOP = Method of Payment
RFP = Request for Proposal
RFQ = Request for Qualifications
SOQ = Statement of Qualifications
SOW = Statement/Scope of Work

Figure 10-1: A&E Contract Procurement Process Workflow Diagram- continued

Evaluation and Selection of Consultant		
		Contract Negotiation
7	8	9
Local Agency 	Local Agency 	Local Agency 
*Distribute Proposals or SOQs to Selection Committee members *Ensure Committee members receive the appropriate score sheet to use (see Exhibit 10-B: Suggested Consultant Evaluation Sheet) *Convene Selection Committee and evaluate submittals; Perform reference checks *Develop Final Ranking or Short List *Notify proposers of ranking/Short List *Retain all original score sheets and summaries	*Send out RFPs to Short List (two-step process) *Conduct Interview of Short List (if needed) *Develop Final Ranking of Consultants, and notify all interviewees *Retain all original score sheets and summaries *Provide a copy of Standard Contract language to top ranked consultant and invite for negotiations (see Exhibit 10-R: A&E Sample Contract Language for standard contract language and provisions)	*Open and analyze cost proposal from the Highest Ranked firm Caltrans IOAI *Review and evaluate 10-A package and supporting documents, if applicable *Issue Financial Review Letter, if applicable *Perform contract audits and reviews, if applicable, or review of CPA audited ICR workpapers to issue Cognizant Letter of Approval

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Figure 10-1: A&E Contract Procurement Process Workflow Diagram- continued



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Figure 10-1: A&E Contract Procurement Process Workflow Diagram- continued

10.1.1 GENERAL

Introduction

A local agency may engage consultants to perform architectural, engineering, and related services to develop a federal-aid funded project. Local agencies requesting federal funds to reimburse A&E Consultants must follow the selection and contracting procedures detailed in this chapter.

Definition of an Architectural and Engineering Consultant

23 Code of Federal Regulations §172 and CA State Law further defines A&E services and includes those private consulting firms providing architectural, landscape architectural, engineering, environmental, land surveying, construction engineering, or program management are termed Architectural and Engineering (A&E) Consultants.

Architectural and Engineering Consultants

The Brooks Act (40 USC, Section 1104) requires local agencies to award federally funded engineering and design related contracts based on fair and open competitive negotiations, demonstrated competence, and professional qualifications (23 Code of Federal Regulations (CFR), Part 172), at a fair and reasonable price (48 CFR 31.201-3).

Cost proposals submitted to the local agency must be sealed and shall not be included as a criterion for rating such consultants. After ranking, cost negotiations may begin with the most qualified consultant and only their cost proposal will be opened. Should negotiations fail or result in a price that the local agency does not consider fair and reasonable, negotiations must be formally terminated and the local agency must then undertake negotiations with the second most qualified consultant.

If the negotiations with the second most qualified firm are not successful, negotiations must be formally terminated and the local agency must then undertake negotiations with the third most qualified consultant, and so on, until the price is determined to be fair and reasonable by the local agency.

In selecting an A&E consultant, a detailed technical proposal or qualifications proposal, and a proposed contract will be required.

Depending upon the scope of work, the required contract provisions may need to include the California State Prevailing Wages (Federal Payment of Predetermined Minimum Wage applies only to federal-aid construction contracts). Prevailing wages will apply if the services to be performed will involve land surveying (such as flag persons, survey party chief, rodman or chainman), materials sampling and testing (such as drilling rig operators, pile driving, crane operators), inspection work, soils or foundation investigations, environmental hazardous materials and so forth. California State Prevailing Wage information is available through the California Department of Industrial Relations websites below:

Consultants will need to provide their Prevailing Wage Policy if their participation on the project includes prevailing wage work. The policy will include information on the accounting treatment of delta base and delta fringe, and verify the accounting treatment is consistent every year.

- [DIR FAQ website: http://www.dir.ca.gov/OPRL/FAQ_PrevailingWage.html](http://www.dir.ca.gov/OPRL/FAQ_PrevailingWage.html)
- [DIR Wage Determination website: http://www.dir.ca.gov/oprl/DPreWageDetermination.htm](http://www.dir.ca.gov/oprl/DPreWageDetermination.htm)
- [Caltrans Prevailing Wage Interpretive Guidance: https://ig.dot.ca.gov/resources/interpretive-guidance](https://ig.dot.ca.gov/resources/interpretive-guidance)

Non-A&E Consultants

Consultants other than A&E consultants may be selected using cost, cost and qualifications (best value) or other critical selection criteria. The procedures outlined in this chapter can be modified for selecting non-A&E consultants by adding a cost item to the contract proposal.

For more details on non-A&E consultants, see Section 10.3: Non-A&E Contracts of this chapter.

Selecting the Project

The local agency is responsible for selecting and initiating a federal-aid financed transportation project. The decision to begin project development is influenced by the project needs, its acceptability, the timing of studies, financing, and construction. The local agency must identify the project's objectives including the general level of improvement or service, operating standards, maximum cost and the target date for project completion before commencing any consultant selection process.

Subcontracted Services

The consultant is responsible for performing the work required under the contract in a manner acceptable to the local agency. The consultant's organization and all associated consultants and subconsultants must be identified in the proposal. If the consultant wishes to use a subconsultant not specified in the proposal, prior written approval must be obtained from the local agency. The subcontract must contain all required provisions of the prime contract. All subawards must include adequate oversight, management, and administration of engineering and design related consultant services and be administered in accordance with State laws and procedures specified in 23 U.S.C.106(g)(4) and 2 CFR 200.331.

Organizational and Consultant Conflicts of Interest

In the procurement of contracts for engineering services by private consulting firms using federal-aid highway funds, local agencies must take all the steps necessary to prevent fraud, waste, and abuse. The local agency must develop and maintain a written code of conduct governing the performance of its employees (including the contract administrator) engaged in the award and administration of federal-aid highway funded contracts, including the prevention of conflicts of interest in accordance with 23 CFR 172.7(b)(4).

A conflict of interest occurs when a public official's private interests and his or her public duties and responsibilities diverge or are not consistent. Conflicts of interest may be direct or indirect (e.g., as result of a personal or business relationship). The appearance of a conflict of interest should be avoided as an apparent conflict may undermine public trust if not sufficiently mitigated.

Federal Regulation Governing Conflict of Interest (23 CFR 172.7(b)(4)) requires that:

- Local agency shall maintain a written code of standards of conduct for employees engaged in the award and administration of engineering and design service contracts;
- No contracting agency employee who participates in the procurement, management, or administration of federal funded contracts or subcontracts shall have, directly or indirectly, any financial or other personal interest in connection with such contract or subcontract;
- No person or entity performing services for a contracting agency in connection with a federal funded project shall have, directly or indirectly, any financial or other personal interest, other than employment or retention by the contracting agency, in any contract or subcontract in connection with such project;
- No person or entity performing services for a contracting agency in connection with a federal-aid highway funded project shall have, directly or indirectly, any financial or other personal interest in any real property acquired for the project;
- No contracting agency employees or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from consultants, potential consultants, or parties to subagreements;
- Local agency shall disclose in writing any potential conflict of interest to FHWA.

Consultants Performing Work on Multiple Phases of Federal-aid Projects

Local agencies sometimes wish to hire the same consultant firm to perform construction engineering and/or inspection services on the same project on which the firm also performed design services. This can cause project delivery efficiencies, as the design firm is well-suited to verify that the project is being constructed in accordance with the design and can resolve issues related to the design on behalf of the contracting agency. However, this may also pose a potential conflict of interest if the firm has a vested financial interest in failing to disclose deficiencies in its design work product and seeks to insulate itself from pecuniary liability in subsequent phases of the project, such as minimizing or ignoring design errors and omissions, rather than serving the best interests of the contracting agency and the public. Procuring a different firm from the design firm to provide the construction engineering and/or inspection services provides another level of review and reduces the risk of, or potential for, a conflict of interest.

Although federal regulations do not expressly prohibit the same firm from providing services on subsequent phases, the local agencies are responsible for ensuring the public interest is maintained throughout the life of a project and that a conflict of interest, real or apparent, does not occur or is sufficiently mitigated by appropriate public agency controls. Prior to allowing a consulting firm to provide services on subsequent phases of the same project, the contracting agency must establish appropriate compensating controls in policies, procedures, practices, and other safeguards to ensure a conflict of interest does not occur in the procurement, management, and administration of consultant services.

When design and construction phase services are procured under a single solicitation, the selection of the consulting firm must be based on the overall qualifications to provide both design and construction phase services, which require different skill sets, experience, and resources. Procuring these services under different solicitations may result in selection of a more qualified firm to perform services in each phase, as the most qualified firm to perform

design phase services may not be the most qualified firm to provide construction phase services. Similarly, the qualifications and capacity of a firm may change over time. As such, it may not be appropriate to contract with a consulting firm to provide construction phase services at the outset of a design phase, knowing that these services may not be needed for an extended period until the preconstruction phase of the project is complete and construction funding authorized. The contract with a consulting firm providing design phase services on a project may not be amended to include construction phase services unless the desired construction phase services were included within the original advertised scope of services and evaluation criteria of the solicitation from which a qualifications based selection was conducted. All consultants acting in a management support role must complete [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#) (see [Section 10.1.9: Miscellaneous Considerations](#) in this chapter) and retain it in the local agency files.

Miscellaneous Considerations Authorization to Proceed

The Federal Highway Administration (FHWA) must give the local agency an Authorization to Proceed (E-76) with the work prior to performing of any work for which federal reimbursement is to be requested, (see the [LAPM Chapter 3: Project Authorization](#)). [Eligible consultant contracts may be procured using local funds prior to receiving the E-76, but reimbursement is for work performed after the E-76 authorization date. If contract is procured using state or local funds, federal procedures must have been followed if seeking federal reimbursement.](#) For state funded projects see [Section 10.2: State-Only Funded A&E Contracts and the Local Assistance Program Guidelines \(LAPG\), Chapter 23: Local Agency State Transportation Improvement Program Projects](#), for guidance on when work may proceed.

Copies of the Authorization to Proceed and the consultant contract must be retained in the local agency project files for future audit.

10.1.2 IDENTIFYING & DEFINING A NEED FOR CONSULTANTS

The need for a consultant is identified by comparing the project's schedule and objectives with the local agency's capabilities, its staff availability of the required expertise, and its funding resources. If the local agency does not have sufficient staff capabilities, it may solicit assistance from another agency, or use a qualified private consultant to perform the required work.

If the local agency determines that there is a need to solicit assistance from another local agency, or to use a consultant, the District Local Assistance Engineer (DLAE) should be notified if federal-aid funds are to be requested for the project segment to be contracted out.

Appointing the Contract Administrator

The Contract Administrator is responsible for ensuring the quality of consultant contract products or services. The Contract Administrator is appointed as soon as the need for consultant services is identified. The Contract Administrator is involved throughout the development of the selection process and the contract provisions, and in the administration of the consultant's work. The Contract Administrator must be a qualified local agency employee or have staff that is qualified to ensure the consultant's work is complete, accurate, and consistent with the terms and conditions of the consultant contract. On federal-aid contracts, the Contract Administrator or staff members must be a full-time employee and familiar with the work to be contracted out and the standards to be used. The Contract Administrator must also abide by the laws, regulations and policies required as part of accepting federal or state funding for their

project. Non-compliance with the laws, regulations, and policies may result in loss of project funding.

The Contract Administrator's duties are listed in 23 CFR 172.9(d)(1) and include:

- Contract negotiation, contract payment, and evaluation of compliance performance, and quality of services provided by the consultant;
- Being familiar with the contract requirements, scope of services to be performed, and products to be produced by the consultant;
- Being familiar with the qualifications and responsibilities of the consultant's staff and evaluating any requested changes in key personnel;
- Scheduling and attending progress and project review meetings, commensurate with the magnitude, complexity, and type of work, to ensure the work is progressing in accordance with established scope of work and schedule milestones;
- Documenting contract monitoring activities and maintaining supporting contract records as specified in 2 CFR 200.333;
- Provides direction to ensure the proposed work is advertised properly;
- Prepares and distributes the Request for Qualifications (RFQ), description of work, and Request for Proposals (RFP), if used;
- Prepares the draft contract;
- Arranges for preparation before an independent estimate of the value of the work to be contracted out;
- Ensures that the selection procedures are followed;
- Analyzes the selected/best-qualified consultant's cost proposal;
- Ensures contract audit and review procedure is followed;
- Ensures that fee/profit negotiation is conducted and keeps records;
- Serves as the local agency's primary contact person for the successful consultant;
- Monitors the consultant's progress and provides direction;
- Ensuring consultant costs billed are allowable in accordance with the Federal cost principles and consistent with the contract terms as well as the acceptability and progress of the consultant's work;
- Identifies other local agency staff for the consultant to contact, if needed;
- Closes out the contract at completion, by processing the final invoice; completing a mandatory consultant evaluation, and final DBE utilization reports ([Exhibit 17-F: Final Report Utilization of Disadvantaged Business Enterprises \(DBE\) and First-Tier Subcontractors](#)).

Segmenting Consultant Work

Consultant services are most effective when consultant work is segmented appropriately. The extent of segmenting depends upon the type and complexity of the work. Combining preliminary engineering tasks with the preparation of the required environmental analysis is normally desirable. Preparing an Environmental Assessment (EA) or Environmental Impact Statement (EIS) is more than simply writing a report. Assessment and impact reports include preliminary engineering needed to analyze project alternatives and produce an engineering and planning assessment. Initial project studies include only as much traffic and engineering analysis of alternatives, as is needed to produce a sound EA or EIS (see [LAPM Chapter 6 Environmental Procedures](#) and [Standard Environmental Reference \(SER\) Chapters 31: Environmental Assessment \(EA\)/Finding of No Significant Impact \(FONSI\)](#) and [Chapter 32: Environmental Impact Statement \(EIS\)](#)). Final design shall not begin until NEPA environmental approval has been received if federal reimbursement is desired.

Refer to Figure 10-2: Segmenting Consultant Work below, which illustrates several satisfactory ways to segment consultant activities.

	Well-structured Projects With Simple Right of Way Requirements	Well-structured Projects With Complex Right of Way Requirements	More Difficult Projects	Very Complex Projects
Preliminary Engineering				
Environmental Analysis				
Plans, Specifications & Estimates				
Right of Way Activities				
Utility Relocation				
Construction Engineering				

Figure 10-2: Segmenting Consultant Work

Specify Products to be Delivered

The Contract Administrator identifies the products and services to be delivered as a result of consultant contract work, and minimum qualification of consultant professionals and staff. These vary depending upon the type of projects and the phase of project development being addressed.

Scope of Consultant Work

The scope of work, which the contract must include, is a detailed description of the products or services the consultant is to provide. From a detailed scope of work, consultants respond to a project advertisement; determine personnel and time requirements; and develop a technical proposal. Therefore, the scope of work must be clear, concise, complete, and describe the

deliverables, standards for design and other work, quality control measures, acceptance criteria and deadlines.

Non-Discrimination Clause

The Non-Discrimination Clause ([Exhibit 10-R: A&E Boilerplate Agreement Language](#), Article XVI Statement of Compliance) must be included in each consultant contract. The consultant must include the non-discrimination and compliance provisions of the Non-Discrimination Clause in all subcontracts to perform work under the contract.

Disadvantaged Business Enterprise (DBE) Participation

When administering federal-aid projects, federal regulations (49 CFR, Part 26) require a local agency to comply with the DBE program, and take necessary steps to ensure that DBE firms have the opportunity to participate in the projects. Refer to Chapter 9: Civil Rights and Disadvantaged Business Enterprises for DBE requirements for A&E Consultant Contracts.

Estimated Cost of Consultant Work

An independent estimate for cost or price analysis is needed for all consultant contracts (23 CFR 172.7(a)(1)(v)(B)) to ensure that consultant services are obtained at a fair and reasonable price. The estimate is prepared in advance of requesting a cost proposal from the top-ranked consultant, so the local agency's negotiating team has a cost comparison of the project to evaluate the reasonableness of the consultant's cost proposal. The estimate, which is specifically for the use of the local agency's negotiating team, is to be kept confidential and maintained for records.

A good cost estimate can be prepared only if the scope of work is defined clearly. The scope of work must include a list of the products or services which the consultant is required to deliver, and a time schedule of when they must be delivered.

It should be stressed that all work to be derived from the consultant services, such as preliminary design, environmental or final design, must be clearly identified in the solicitation of consultant services (RFQ or RFP) and included in the cost estimate. The addition of work to the original scope by amendment should be avoided whenever possible. Contract modifications are required for any amendments to the terms of the existing contract that change the cost of the contract; significantly change the character, scope, complexity, or duration of the work; or significantly change the conditions under which the work is required to be performed.

Some of the costs estimating techniques are:

Analogous Estimating:

Analogous cost estimating is using the actual cost of a previous, similar contract as the basis for estimating the cost of the current contract. Analogous cost estimating is frequently used to estimate costs when there is a limited amount of detailed information about the project. Analogous cost estimating is generally less accurate and it is most reliable when previous projects are similar in fact, and not just in appearance, and it uses expert judgment.

Parametric Estimating:

Parametric estimating is a technique that uses statistical relationship between historical data and other variables to calculate a cost estimate for an activity resource. This technique can produce a higher level of accuracy depending upon the sophistication, as well as underlying

resource quantity and the cost data. A cost example would involve multiplying the planned quantity of work by the historical cost per unit to obtain the estimated cost of the contract.

Bottom-up Estimating:

This technique involves estimating the cost for individual work in the contract with the lowest level of detail. This detailed cost is then summarized or rolled up to determine a total cost of contract. Cost detail should include estimated hours per task, labor hourly cost for professional and non-professional classifications, subconsultant costs, other project direct costs, and profit. Labor costs should be broken down to direct labor and indirect cost rates, if possible.

If more than one project or phase of work is to be developed within the consultant contract, separate cost estimates are required for each project or phase of work. Separate cost estimates are required for each milestone and portion of the work expected to be subcontracted.

For on-call (as-needed) contracts, the cost estimate/analysis should include at minimum, a historical analysis of annual needs for consultant work, professional labor cost and market analysis, and reasonable profit analysis.

Determine Type of Contract

Types of contracts to be used are described as follows:

- Project-specific contract is between the local agency and consultant for the performance of services and a defined scope of work related to a specific project or projects.
- Multi-phase contract is a project-specific contract where the defined scope of work is divided into phases which may be negotiated and executed individually as the project progresses.
- On-call contract is a contract that may be utilized for a number of projects, under which task or work orders are issued on an as-needed basis, for an established contract period and **maximum total contract dollar amount**. On-call contracts are typically used when a specialized service of indefinite delivery or indefinite quantity is needed for a number of different projects, such as construction engineering, design, environmental analysis, traffic studies, geotechnical studies, and field surveying, etc. Many agencies use these contracts to address peaks in workload of in-house engineering staff and/or to perform a specialized service which the agency does not have. On-call contracts shall specify a reasonable maximum length of contract, not to exceed 5 years, and a maximum total contract dollar amount (23 CFR 172). The maximum dollar amount for all contracts awarded under the solicitation is stated in the solicitation. The maximum dollar amount is the aggregate of the on-call contracts anticipated to be awarded. If the solicitation lists that up to 5 contracts may be awarded, the aggregate amount of these 5 contracts is the maximum contract dollar amount. How many contracts are anticipated to be awarded must be stated in the solicitation. How task orders will be issued must be stated in the solicitation (two options exist: geographically designated areas or additional competitive solicitation to all consultants who provide the same type of service and awarded a contract under the same solicitation).
 - To maintain the intent of the Brooks Act (40 USC 1101-1104) in promoting open competition and selection based on demonstrated competence and qualifications, on-call consultant contracts established through the RFQ process must meet the following requirements:

- Must define a general scope of work, complexity, and professional nature of services.
- Specify a task order procedure the local agency uses to procure project specific work under the contract.
- No task order is valid unless the on-call contract is still enforced. For example, if the on-call contract is expired, all task orders issued after the contract expiration date will become invalid.
- If multiple consultants are to be selected and multiple on-call contracts awarded through a single solicitation for specific services, the number of consultants that may be selected or contracts that may be awarded must be identified.
- Specify procurement procedures in the contracts the local agency will use to award/execute task orders among the consultants:
 - Either through an additional qualification-based selection process (see the Two-Step RFQ/RFP process later in this chapter), OR
 - On regional basis whereby the region is divided into areas identified in the solicitation, and consultants are selected to provide on-call services for assigned areas only. The RFP may list multiple regions that allow consultants to crossover or be a “backup” to other consultants that for specifically documented reasons are not able to perform the work in their assigned region. Per 23 CFR 172.9 (a)(3)(B)(2), the “backup” option needs to be listed in the respective contracts.
- An example of acceptable contract wording in multiple on-call contracts for the same type of service:
 - “Agency has or will enter into three (3) task order contracts for performance of the Scope of Services identified in Exhibit “A”, including this Agreement (“CM Services Task Order Contracts”). The other CM Services Task Order Contracts are [identify other two contracts by agreement numbers and consultant firms]. The total amount payable by Agency for the CM Services Task Order Contracts shall not exceed a cumulative maximum total value of Seven Million, Five Hundred Thousand Dollars (\$7,500,000) (“NTE Sum”). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under the CM Services Task Order Contracts through Task Orders. Each time a Task Order is awarded under any of the CM Services Task Order Contracts, the Agency shall send written notification to Consultant and each of the other consultants entering into the CM Services Task Order Contracts. The notice shall identify the total funds allocated under issued Task Orders, and the remaining unencumbered amount of the NTE Sum. Consultant acknowledges and agrees that Agency shall not pay any amount under this Agreement that

would exceed the NTE Sum, and Consultant shall not enter into a Task Order that exceeds the NTE Sum.”

Determining the Project Schedule

The local agency develops a schedule for performance of work and completion of the project. The schedule must include sufficient time to allow for:

- Selecting the consultant;
- Developing the consultant contract;
- Completing the A&E consultant contract audit process;
- Conducting meetings and project reviews.

Determine Method of Payment

The method of payment of contract must be specified. Four methods are permitted depending on the scope of services to be performed reference 23 CFR 172.9(b):

- Cost-Plus-Fixed Fee (see [Exhibit 10-H: Sample Cost Proposal](#), Example #1);
- Cost Per Unit of Work (see [Exhibit 10-H](#), Example #3);
- Specific Rates of Compensation (see [Exhibit 10-H](#), Example #2);
- Lump Sum (see [Exhibit 10-H](#), Example #1).

The method of payment to the consultant shall be set forth in the original solicitation, contract, and in any contract modification thereto. A single contract may contain different payment methods as appropriate for compensation of different elements of work.

The cost plus a percentage of cost and percentage of construction cost methods of payment shall not be used. Both of these methods are explicitly prohibited by Federal Regulations.

Cost-Plus-Fixed Fee

The consultant is reimbursed for costs incurred and receives an additional predetermined amount as a fixed fee (profit). Federal regulations require that profit be separately negotiated from contract costs. The determination of the amount of the fixed fee shall take into account the size, complexity, duration, and degree of risk involved in the work. The fixed fee is not adjustable during the life of the contract. The fixed fee dollar amount must be clearly stated in the contract.

This method of payment is appropriate when the extent, scope, complexity, character, or duration of work cannot be precisely predicted. The fixed fee limit applies to the total direct and indirect costs. Fixed fees in excess of 15 percent of the total direct labor and indirect costs of the contract may be justified only when exceptional circumstances exist. The contract shall specify a reasonable maximum length of contract period and a maximum total contract dollar amount (see [Exhibit 10-H: Sample Cost Proposal Example #1](#) and [Exhibit 10-R: A&E Sample Contract Language](#), Article V, *Option 1* in this chapter). The contract cost proposal must identify all key employees and/or classifications to be billed. New key employees and/or classifications must be approved by the local agency before they incur work on the contract or the costs can

be questioned or disallowed. [Local agencies are not required to update the Exhibit 10-C database. For more details reference Section 10.1.8.](#)

Cost Per Unit of Work

The consultant is paid based on specific item of work performed. The item of work must be similar, repetitious and measurable, such as geotechnical investigation and material testing. This method of payment is appropriate when the cost per unit of work can be determined with reasonable accuracy in advance, but the extent or quantity of the work is indefinite. Contract payment provisions must specify what is included in the price to be paid for each item. Any item of work not identified in the contract cost proposal is not eligible for reimbursement. New items of work (those within the original scope of work only) must be amended into the contract before work is performed. The contract shall also specify a reasonable maximum length of contract period and a maximum total contract dollar amount (see [Exhibit 10-H](#), Example #3 and [Exhibit 10-R](#), Article V Option 2).

Specified Rates of Compensation

The consultant is paid at an agreed and supported specific fixed hourly, daily, weekly or monthly rate, for each class of employee engaged directly in the work. Such rates of pay include the consultant's estimated costs and net fee (profit). Federal regulations require that profit be separately negotiated from contract costs. The specific rates of compensation, except for an individual acting as a sole proprietor, are to include an hourly breakdown, direct salary costs, fringe benefits, indirect costs, and net fee. Other direct costs may be included, such as travel and equipment rentals, if not already captured in the indirect cost rate. [Other direct costs regardless of amount are to be listed on the cost proposal.](#)

This method of payment should only be used when it is not possible at the time of procurement to estimate the extent or the duration of the work, or to estimate costs with any reasonable degree of accuracy. This method should not be used for project specific contracts and is recommended for on-call contracts for specialized or support type services, such as construction engineering and inspection, where the consultant is not in direct control of the number of hours worked, and it also requires management and monitoring of the consultant's level of effort and the classification of employees used to perform the contracted work. The contract shall also specify a reasonable maximum length of contract period and a maximum total contract dollar amount (see [Exhibit 10-H](#), Example #2 and [Exhibit 10-R](#), Article V Option 3).

Lump Sum

The consultant performs the services stated in the contract for an agreed amount as compensation, including a net fee or profit. This method of payment is appropriate only if the extent, scope, complexity, character, duration, and risk of the work have been sufficiently defined to permit fair compensation to be determined and evaluated by all parties during negotiations (see [Exhibit 10-H: Sample Cost Proposal](#), Example #1 and [Exhibit 10-R: A&E Sample Contract Language](#), Article V: Option 4). Normally, a lump sum contract will be paid in full at end of the contract when completed. However, a lump sum contract can be negotiated with progress payment if feasible. The progress payment shall be based on percent of work complete or completion of clearly defined milestones. The contract cost proposal shall document the agreed upon progress payment and include the necessary milestones costs, or the percent work complete schedule.

Changes to Exhibit 10-H requiring resubmittal to Independent Office of Audits and Investigations for review:

- Consultant name change
- New participating subconsultant
- Change in ICR rate

Since these changes require an amendment, local agency is to update the Exhibit 10-C database.

A firm fixed price method of payment is not the same as lump sum. A firm fixed price contract shall not be amended.

10.1.3 A&E CONSULTANT AUDIT AND REVIEW PROCESS

This section outlines the audit and review process for A&E contracts that at any time use state or federal funds. All proposed A&E contracts and supporting documents are subject to audit or review by Caltrans' Independent Office of Audits and Investigations (IOAI), other state audit organizations, or the federal government. Not all proposed contracts will be audited or reviewed; rather, they will be selected on a risk-based approach.

Applicable Standards

State and federal requirements listed below, and specific contract requirements, serve as the standards for audits and reviews performed.

Local agencies, consultants, and subconsultants are responsible for complying with state, federal, and specific contract requirements. Local agencies are responsible for determining the eligibility of costs to be reimbursed to consultants.

Applicable standards include, but are not limited to:

- Caltrans Local Assistance Procedures Manual (LAPM);
- State and Federal agreements between local agencies and Caltrans, (i.e. Master Agreements);
- Project Program Supplemental Agreements;
- 23 United States Code (U.S.C.), Section 112 – Letting of Contracts;
- 40 U.S.C., Chapter 11: the Brooks Act;
- 23 CFR, Chapter 1, Part 172 - Procurement, Management, and Administration of Engineering and Design Related Services;
- 23 CFR, Chapter 1- Federal Highway Administration, Department of Transportation;
- 48 CFR, Federal Acquisition Regulation (FAR), Chapter 1, Part 31- Contract Cost Principles and Procedures;
- 48 CFR, Chapter 99 – Cost Accounting Standards (CAS), Subpart 9900;
- 2 CFR, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;

- United States Government Accountability Office, Government Auditing Standards - Generally Accepted Government Auditing Standards (GAGAS);
- California Government Code sections 4525-4529; and
- Proposed contract terms and conditions.

See Section [10.10: References](#) of this Chapter for links to above referenced standards.

Audit Guidance Available

The American Association of State Highway and Transportation Officials, Uniform Audit & Accounting Guide ([AASHTO Audit Guide](#)), which is referred to frequently in this section, is a valuable tool to guide local agencies, consultants and Certified Public Accountants (CPA) through the requirements for establishing, and audits of FAR compliant Indirect Cost Rates (ICR). The [AASHTO Audit Guide](#) is used extensively as an industry guide in the audit and review process.

Local agencies may seek accounting assistance from internal audit staff and an independent CPA for compliance. The consultant may seek professional guidance in selecting its independent CPA. See also the [AASHTO Audit Guide](#), Ch 2.5C. Selection of CPA Firm as Overhead Auditor for guidance in the selection process. Training is also offered by FHWA's National Highway Institute (see <http://www.nhi.fhwa.dot.gov/default.aspx>). Courses offered include:

- Using the AASHTO Audit Guide for the Procurement and Administration of A&E Contracts (FHWA-NHI-231028)
- Using the AASHTO Audit Guide for the Development of A&E Consultant Indirect Cost Rates (FHWA- NHI-231029)
- Using the AASHTO Audit Guide for the Auditing and Oversight of A&E Consultant Indirect Cost Rates (FHWA-NHI-231030)

For training and additional information provided by Caltrans Local Assistance, visit Caltrans Local Assistance Blog at <http://www.localassistanceblog.com/>. For FHWA's Q&A for ICRs and audits, and A&E related services, visit FHWA at <http://www.fhwa.dot.gov/programadmin/172qa.cfm>.

Allowable Costs

23 USC 112 (b)(2)(B) states that any A&E contract or subcontract awarded, whether funded in whole or in part with Federal-aid highway funds in furtherance of highway construction projects, shall be performed and audited in compliance with the Federal cost principles.

Local agencies are required to perform a cost analysis to ensure all costs are allowable and in compliance with federal and state requirements and retain documentation of negotiation activities and resources. Hourly rate(s) for each key personnel and/or classification of employee(s) proposed in cost proposals must be reasonable for the work performed and actual, allowable, and allocable in accordance with the Federal cost principles. Costs shall be allowable only if the cost is incurred and cost estimates included in negotiated prices are allowable in accordance with the federal and state regulations and procedures, and contract provisions. Examples of Cost Analysis Worksheets are provided at Exhibit 10-H1 through 4.

Local agencies are required to apply Caltrans accepted consultant or subconsultant's ICRs, to contracts. An ICR is valid for the one-year applicable accounting period accepted or

audited by Caltrans. Consultants shall update, on an annual basis, ICRs in accordance with the consultant's annual accounting period and in compliance with the Federal cost principles. For further guidance, refer to 23 CFR Part 172.11(b)(1). If the consultant is subject to Cost Accounting Standards (CAS), the consultant must use the applicable ICR for the contract.

A consultant's accepted ICR for its one-year applicable accounting period shall be applied to contracts; however, once an ICR is established for a contract, it may be extended beyond the one-year applicable period, through the duration of the specific contract, provided all concerned parties agree. Agreement to the extension of the one-year applicable period shall not be a condition or qualification to be considered for the work or contract award. The contract must clearly specify the ICR period if it is beyond the one-year applicable period.

Consultants shall account for costs appropriately and maintain records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, and are allowable, reasonable, and allocable to the contract, and comply with Federal cost principles.

IOAI and representatives of the Federal Government have the right to conduct an audit of all contract costs. If the costs are subsequently determined to be unallowable, these costs are subject to repayment. For further guidance, refer to 23 CFR Part 172 and 48 CFR Part 31.

Generally, whenever local agencies, consultants and/or contractors are unable to provide requested documentation, it shall be viewed that the services were either not performed or the costs not properly recorded. Retention of all documents is required as it reduces the possibility of audit findings and **disallowed costs**. For more references, refer to Applicable Standards in this chapter.

Approval or Acceptance of Indirect Cost Rates

Cognizant Letters of Approval

A cognizant approved ICR has been audited by a Cognizant agency (a State transportation agency of the State where the consultant's accounting and financial records are located or a State transportation agency to which cognizance for the particular indirect cost rate(s) of a consulting firm has been delegated or transferred to in writing by the State transportation agency where the consultant's accounting and financial records are located) in accordance with generally accepted government auditing standards to test compliance with the requirements of the Federal cost principles (per 48 CFR part 31) and the cognizant agency has either 1) issued an audit report of the consultant's indirect cost rate or 2) conducted a review of an audit report and related workpapers prepared by a certified public accountant and issued a letter of concurrence with the audited indirect cost rate(s). The cognizant agency approves the ICR and a cognizant approval letter is issued.

Caltrans Acceptance of Indirect Cost Rate

When the ICRs have not been established by a cognizant agency, Caltrans shall perform an audit or review of a consultant's and subconsultant's ICR(s) to provide reasonable assurance of compliance with Federal cost principles.

An audit or review of the ICR may consist of one or more of the following:

- Perform a review to determine if the ICR was prepared in accordance with 23 CFR 172, and 48 CFR, Chapter 1, Part 31;
- Perform an audit to determine if the ICR was prepared in accordance with 23 CFR 172,

and 48 CFR, Chapter 1, Part 31; and issue an audit report;

- Review and accept an ICR audit report and related workpapers prepared by a CPA or another State Transportation Agency;

The outcome of an audit or review is for Caltrans to approve or accept the ICR so that it can be relied upon for future contracts with the consultant for a given one-year accounting period and for reliance by other contracting agencies using the same consultant. Local agencies shall ensure that only approved or accepted ICRs of consultants for the applicable one-year accounting period be applied to contracts, if rates are not under dispute. Local agencies may check IOAI's website for consultant's approved or accepted ICRs. All approved or accepted ICRs are issued an Acceptance Identification (ID) number by IOAI that is posted to IOAI's website at <https://ig.dot.ca.gov/audits/>. This ID number should be referenced on all future contracts that use the same fiscal year ICR. ICR can be fixed for the life of the contract in prior written document or annually updated. Once it has been updated, it must be annually updated and the most current fiscal year of ICR must be used.

ICRs that have not been accepted by Caltrans will not be eligible for indirect cost payment. An ICR approved by a cognizant agency may be used across states for the one-year applicable accounting period, but an ICR accepted by Caltrans may **only** be applied to A&E contracts with Caltrans or local agency contracts using pass-through Caltrans funding. Local agencies include Cities, Counties, Metropolitan Planning Organization, Special Districts, and Regional Transportation Planning Agencies.

Financial Review Performed Prior to Contract Execution

All consultants, including prime and subconsultants, on a proposed contract with a dollar value greater than \$150K are subject to an ICR financial review by IOAI. The financial documents required are detailed in Exhibit 10-A, A&E Consultant Financial Document Review Request Letter and Exhibit 10-A Checklist. IOAI will review the ICR financial documents to either accept or adjust the indirect cost rate **prior to contract execution** using a risk-based approach as dictated by factors that include but are not limited to:

- History of satisfactory performance and professional reputation of consultant;
- Prior FAR compliant history and audit frequency;
- Experience of consultant with FAHP contracts;
- General responsiveness and responsibility;
- The approximate contract volume and dollar amount of all A&E contracts awarded to the consultant by Caltrans or a local agency in California within the last three calendar years;
- The number of states in which the consultant does business;
- The type and complexity of the consultant's accounting system;
- The relevant professional experience of any CPA performing audits of the consultants indirect cost rate;
- Assessment of consultant's internal control. Responses to internal control questionnaire, see AASHTO Audit Guide, Appendix B;

- For ICRs that have been adjusted by IOAI, the consultant must provide a revised cost proposal that reflects the adjusted ICR.

Local Agencies' Responsibilities

Local Agencies are responsible for obtaining all required ICR supporting documentation from A&E prime consultants and sub-consultants as outlined in Exhibit 10-A: A&E Consultant Financial Document Review Request and the Exhibit 10-A-Checklist. Local Agencies are responsible for forwarding these documents to IOAI for review. Local agencies are also required to ensure that IOAI has copies of the Exhibit 10-K: Consultant Certification of Contract Costs and Financial Management System and Exhibit 10-H: Cost Proposal for all consultants, both prime and sub-consultants. The ICR included in Exhibit 10-H must match the ICR included in the Exhibit 10-K and the consultant's ICR schedule. The proposed ICR, however, can be lower than ICR in Exhibit 10-K and the consultant's ICR schedule if the consultant elects to propose a lower ICR. For contracts spanning more than one year, local agencies are responsible for ensuring the Exhibit 10-K and cost proposals are updated annually unless all concerned parties agree to fix the ICR for the term of contract, and this is clearly specified in the contract. ICR updates are not required to IOAI if the ICR is fixed for the life of the contract. ICR's are only reviewed for consultants that are being awarded a contract, not consultants on a shortlist or prequalified list.

The Exhibit 10-H: Cost Proposal includes contract costs: direct salary or wage rates, fixed fees, other direct costs, indirect costs, total costs, and certification for the costs. Local agencies must perform and retain documentation of activities and resources used to support that a cost analysis has been performed to establish that costs and elements were determined to be fair and reasonable in accordance with Federal cost principles.

All contract supporting documentation must be retained by the local agency in project files for the required retention period. Unsupported costs may be disallowed and required to be returned to Caltrans. Having proper documentation policy and procedures, trained staff and organized project files are essential for demonstrating that costs claimed and reimbursed have been incurred, are eligible, reasonable, allowable, and allocable to the contract and comply with Federal cost principles.

Contracts below \$150,000 are not subject to the Caltrans Financial Document Review but local agencies are required to establish that all costs are in compliance with the Federal cost principles, 48 CFR, Chapter 1, Part 31, and other applicable requirements are met. All documents listed above and cost analysis documents are required to be retained in the project files to demonstrate compliance.

Instructions are provided in the Exhibit 10-A on the requirements for submitting a complete Financial Review packet. Financial packets can be e-mailed to:
conformance.review@dot.ca.gov.

Alternatively, if you do not have Internet access, you can mail Financial Review packets to:

Department of Transportation
Independent Office of Audits and Investigations
MS 2 Attention: External Audit Manager
P.O. Box 942874
Sacramento, CA 94274-0001

Consultants' Responsibilities (Both prime consultants and subconsultants)

A&E prime consultants and subconsultants in contract with local agencies using state or federal-aid highway funds should refer to Exhibit 10-A and the 10-A Checklist for the ICR financial documents required to be submitted to their local agency. Consultants must complete the "Annual Certification of Indirect Costs and Financial Management System" (Exhibit 10-K) that attests that the ICR rate proposed is in compliance with FAR (48 CFR, Chapter 1, Part 31) and that the consultant's financial management system is adequate to accumulate and segregate, reasonable, allowable, and allocable direct and indirect project costs. The Exhibit 10-A and 10-K should be submitted to the local agency who will forward a copy to IOAI along with all other related and required financial documents. For all future contracts within a same fiscal year, the consultant needs to only provide a copy of the Exhibit 10-K to the Local Agency.

Consultants must follow all the federal, state, and contract requirements outlined above in the Section above, "Applicable Standards". Each contracting consultant must ensure its ICR is not combined with any parent company's or subsidiary's ICR.

ICR schedules for both prime consultants and sub-consultants should be prepared using the accrual basis of accounting and be presented in compliance with the Federal cost principles. Figure 10-3 at the end of this chapter provides an example of a Standard Indirect Cost Rate Schedule that consultants can use when preparing their own.

For public works Prevailing Wage contracts, all workers must be paid the prevailing wage rate determined by the Director of the Department of Industrial Relations according to the type of work and location of the project. <http://www.dir.ca.gov/Public-Works/Prevailing-Wage.html>.

For guidance see Caltrans' Prevailing Wage Interpretive Guidance and webinar on IOAI's website <https://iq.dot.ca.gov/audits>.

When determined necessary, IOAI may request additional information, such as a labor distribution summary and Executive Compensation Analysis (ECA). A consultant's labor distribution summary report is a labor expense report that detail all hours worked (paid and unpaid) for a fiscal year, wages earned, and benefits accrued by all the consultant's employees. The labor summary report should include employee names, salaries, hourly rates, total hours worked segregated by direct hours, indirect hours, paid time off hours, and uncompensated hours and amounts.

An ECA is an evaluation by the consultant to determine the allowability and reasonableness of executive compensation in compliance with Federal cost principles and the AASHTO Audit Guide that can be based on either the National Compensation Matrix or independent compensation surveys.

Independent Office of Audits and Investigations' Responsibilities

After IOAI receives a consultant's complete financial document packet (per Exhibit 10-A and Exhibit 10-A Checklist) from the local agency, IOAI will review the proposed ICR and supporting documents and notify local agencies in writing whether the proposed ICRs are accepted or adjusted.

Contracts will be executed after IOAI either accepts or adjusts the ICR and a revised final cost proposal (if applicable) is received. Correction of the final cost proposal, however, does NOT

need to be cleared through Caltrans IOAI before executing the contract. An email notification from IOAI serves as documentation to support an accepted ICR.

Audits and Reviews to be Performed

After contract execution, a consultant's ICR may be subject to further detailed review or audit by IOAI based on certain risk factors. Costs that are determined to be unallowable as a result of the review or audit will be subject to repayment.

Indirect Cost Rate Audits

During an ICR audit, IOAI or an independent CPA will examine the consultant's proposed ICR for a one-year accounting period to ensure that unallowable costs have been removed from the indirect costs, that allowable costs have been correctly measured and properly charged and allocated, and that the ICR has been developed in accordance with the Federal cost principles (as specified in 23 U.S.C. Section 112(b)(2)(B), 23 CFR Part 172.11, 48 CFR Part 31 and other FAR and State requirements). As a result of the audit, the local agency will work with the consultant to adjust the ICR based on audit recommendations.

For guidance regarding the existing policies and procedures set forth in the federal regulations, and acceptable ICR schedules, refer to the AASHTO Audit Guide, Chapter 5, and Figure 10-3 Standard Indirect Cost Rate Schedule in this Chapter. There is also a review program at Appendix A which serves as a guide for CPAs and IOAI when performing ICR audits and can also be used as a resource for consultants when preparing for an ICR audit.

CPA Workpaper Reviews

During a workpaper review of a CPA audit of an ICR, IOAI will review the CPA's audit workpapers to determine whether to issue a Cognizant Letter of Approval for the ICR. The CPA Workpaper Review determines whether: (a) the CPA's audit of the ICR was conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS), (b) the CPA adequately considered the auditee's compliance with the Federal cost principles and related federal and state laws and regulations.

Chapter 11 of the AASHTO Audit Guide provides information to the CPA on the required audit disclosures.

IMPORTANT NOTE FOR CPAs: Contracts receiving state or federal funds are highly scrutinized. Materiality levels tend to be lower and more testing is required. GAGAS provides that auditors may find it appropriate to use lower materiality levels as compared with the materiality levels used in non-GAGAS audits because of the public accountability of government entities and entities receiving government funding, various legal and regulatory requirements, and the visibility and sensitivity of government programs. The AASHTO Audit Guide should be used as a tool for performing audits and attestations of A&E firms.

Contract Audits

During a Contract Audit, auditors will review a consultant's financial management system and contract cost proposal to determine if:

- The consultants' accounting system is adequate to accumulate and segregate costs;
- Costs are reasonable, allowable, allocable and supported adequately;

- The contract contains all required fiscal provisions;
- Proper state and federal procurement requirements were followed.

Incurred Cost Audits

During an Incurred Cost Audit, auditors will review incurred contract costs to determine if:

- Cost data are maintained in an accounting system that adequately gathers, records, classifies, summarizes, and reports accurate and timely financial data for direct and indirect project costs by account;
- Costs are adequately supported, reasonable, allowable, and allocable;
- Costs incurred are in compliance with state and federal laws and regulations;
- Costs incurred are in compliance with the Master Agreement and Supplemental Agreement;
- Costs incurred are in compliance with the fiscal provisions stipulated in the contract; and
- The terms required by the Master Agreement and federal laws and regulations are in the contract.

Audit Findings and Review Deficiencies

If a consultant's ICR is audited or reviewed, local agencies are responsible for ensuring all executed and future contracts reflect the audited and adjusted fiscal year ICR(s). Local agencies should request reimbursement from the consultant for overpayment on rates that were adjusted down.

The local agencies may be subject to sanctions outlined in [LAPM Chapter 20: Deficiencies and Sanctions](#) if the state or federal government determines that any reimbursements to the consultant are the result of lack of proper contract provisions, unallowable charges, unsupported activities, or an inadequate financial management system.

Example of a FAR Compliant Indirect Cost Rate Schedule - Sample Consulting Company**Statement of Direct Labor, Fringe Benefits, and General Overhead for the Year Ended December 31, 20xx**

Description	General Ledger Balance	Unallowable	FAR Reference	Total Proposed	Home Office	Field Office
Direct Labor	\$123,456,789	(\$934,568)	(1)(15)	\$122,522,221	\$85,765,555	\$36,756,666
Fringe Benefits						
Vacation/Paid Leaves	\$17,283,950			\$17,283,950	\$12,098,765	\$5,185,185
Payroll Taxes	\$1,530,864	(\$30,617)	(15)	\$1,500,247	\$1,050,173	\$450,074
Medical Insurance	\$10,864,197			\$10,864,197	\$7,604,938	\$3,259,259
401K Match	\$4,938,272			\$4,938,272	\$3,456,790	\$1,481,481
Incentives and Bonus	\$15,308,642	(\$3,123,456)	(2)	\$12,185,186	\$8,529,630	\$3,655,556
Other Employee Benefits	\$2,515,280	(\$553,433)	(3)	\$1,961,847	\$1,373,293	\$588,554
Total Fringe Benefits	\$52,441,206	(\$3,707,506)		\$48,733,700	\$34,113,590	\$14,620,110
General & Administrative Overhead						
Indirect Overhead Labor	\$72,696,030	(\$4,452,541)	(1)(2)(4)(15)	\$68,243,489	\$65,790,948	\$2,452,541
Purchased Labor/Subconsultants	\$22,433,019	(\$22,433,019)	(5)	\$ -	\$ -	\$ -
Office Rent	\$12,345,679	(\$987,654)	(6)	\$11,358,025	\$11,038,025	\$320,000
Supplies & Utilities	\$5,753,086			\$5,753,086	\$4,027,160	\$1,725,926
Postage and Shipping	\$1,770,000	\$321,456	(5)	\$2,091,456	\$1,464,019	\$627,437
Equipment and Maintenance	\$3,812,346			\$3,812,346	\$2,512,789	\$1,299,557
Depreciation Expense	\$6,202,469	(\$1,345,678)	(7)	\$4,856,791	\$3,205,482	\$1,651,309
Interest	\$123,456	(\$123,456)	(8)	\$ -	\$ -	\$ -
Dues and Subscription	\$123,456	(\$12,345)	(9)	\$111,111	\$77,778	\$33,333
Advertising & Marketing	\$427,406	(\$45,678)	(10)	\$381,728	\$267,210	\$114,518
Vehicles	\$5,896,123	(\$147,403)	(5)(11)(14)	\$5,748,720	\$4,024,104	\$1,724,616
Bad debts	\$12,345	(\$12,345)	(12)	\$ -	\$ -	\$ -
Legal and Accounting Services	\$3,713,580	(\$222,815)	(13)	\$3,490,765	\$3,490,765	\$ -
Fines and Penalties	\$80,000	(\$80,000)	(16)	\$ -	\$ -	\$ -
Total General & Admin. Overhead	\$135,388,995	(\$29,541,478)		\$105,847,517	\$95,898,280	\$9,949,237
Total Indirect Costs				\$154,581,216	\$130,011,870	\$24,569,347
Indirect Cost Rates				126.17%	151.59%	66.84%

Figure 10.3: Standard Indirect Cost Rate Schedule

FAR References:

- (1) FAR 31.202: Uncompensated overtime.
- (2) FAR 31.205-6: Profit distribution and excess of the reasonable compensation.
- (3) FAR 31.205-46, 31.205-14 & 31.205-51: Meals not for valid business purposes and associated with lobbying and lacking adequate support
- (4) FAR 31.201-2: Administrative staff costs billed to projects/clients.
- (5) FAR 31.201-2: Subconsultant labor and other direct costs billed to and paid by contracts/clients.
- (6) FAR 31.205-36 and 31.205-17: Capital lease costs, rent paid in excess of reasonable costs, and idle facilities and capacity costs.
- (7) FAR 31.201-2 & 31.205-6: Costs relates to personal use by employees and luxury vehicles.
- (8) FAR 31.205-20: Interest and other financial costs not allowable.
- (9) FAR 31.201-2: Non-business related dues and subscriptions.
- (10) FAR 31.205-1: Costs for advertisement and public relations costs and trade show expense including labor.
- (11) FAR 31.205-46(d) and 31.205-6(m)(2): Personal use of vehicle and lack of mileage logs and business purpose.
- (12) FAR 31-205-3: Bad debts and collection costs.
- (13) FAR 31.205-27 and 31.205-47: Reorganization and capital raising related costs and costs incurred in connection with violation of a law or regulation by the consultant.
- (14) FAR 31.205-46: Unreasonable costs and costs not supported by documents and lack of business purpose.
- (15) FAR 31.201-6(a) & CAS 405-40: Labor costs associated with unallowable costs.
- (16) FAR 31.205-15: Fines and penalties resulting from violations of laws and regulations.

This section outlines the audit and review process for A&E contracts that at any time use federal and/or state funds. All proposed A&E contracts and supporting documents are subject to audit or review by Caltrans' Independent Office of Audits and Investigations (IOAI), other state audit organizations, or the federal government. Not all proposed contracts will be audited or reviewed; rather, they will be selected on a risk-based approach.

10.1.4 CONSULTANT SELECTION METHODS

Figure 10-4: Consultant Selection Flowchart shows the three methods normally used in selecting a consultant. They are:

- One-Step RFP;
- One-Step RFQ;
- Two-Step RFQ/RFP.

The method used depends upon the scope of work, the services required, the project's complexity, and the time available for selection of the consultant.

Beginning with [Section 10.1.5: Consultant Selection Using the One-Step RFP Method](#), each of the selection methods is explained in detail. Regardless of the method used, the local agency shall retain all consultant selection documentation in their project files as required by 23 CFR Part 172.

One-Step RFP

The One-Step RFP method may be used for Project-specific contracts when the scope of work is well defined or for Multi-phased contracts where the defined scope of work is divided into phases. Other considerations include when the consultant's services are highly specialized and there are few qualified consultants.

One-Step RFQ

The One-Step RFQ method is used when the requested services are specialized, or the scope of work is defined broadly and may include multiple projects. Typical services are preliminary engineering, surveying, environmental studies, preparation of Plans Specifications and Estimate (PS&E) and environmental documents, or construction management. This method or the two-step selection process is used for procurement of on-call contract(s). Note that specifications and requirements in the RFQ must cover all aspects of the final need. A RFP specific to the project, task, or service must be included in the solicitation for evaluation of a consultant's specific technical approach and qualifications.

Two-Step (RFQ Followed by RFP)

The Two-Step RFQ/RFP method may be used when the scope of work is complex or unusual. This method also may be preferred by local agencies that are inexperienced about negotiations and procedures for establishing compensation. However, the Two-Step RFQ/RFP method is recommended for procurement of multiple on-call contracts, or on-call list, through a single solicitation. Regardless of any process utilized for prequalification of consultants or for an initial assessment of a consultant's qualifications under a RFQ, a RFP specific to the project, task, or service is required for evaluation of a consultant's specific technical approach and qualifications. For more information, refer to description of on-call contract in [Section 10.1.2: Identifying & Defining a Need for Consultants](#). This method requires substantially more work and time than the other two methods described above.

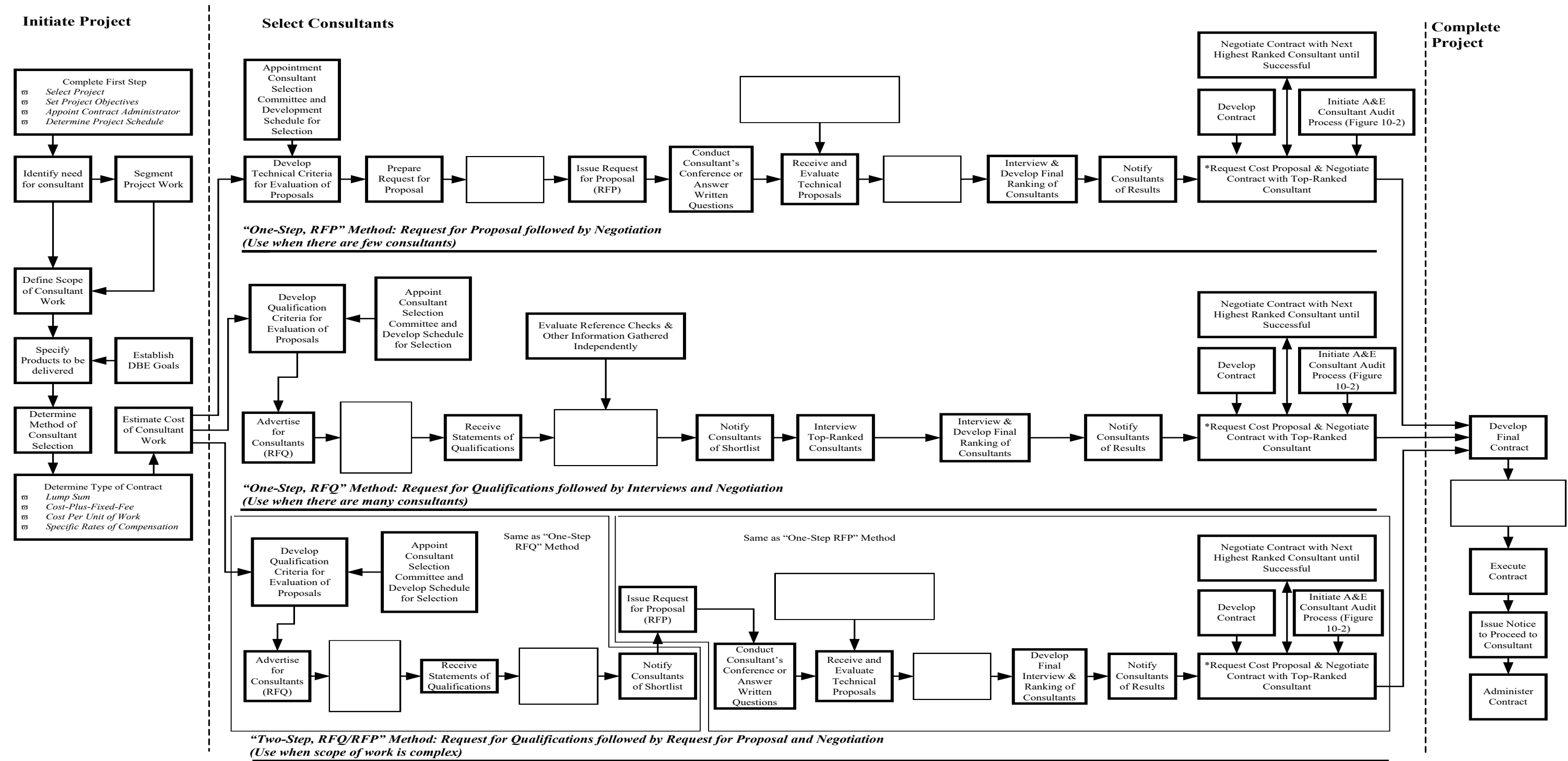


Figure 10-4: Consultant Selection Flowchart

10.1.5 CONSULTANT SELECTION USING THE ONE-STEP RFP METHOD

Of the three methods discussed, this one is most easily modified for non-A&E consulting contracts. This procurement procedure usually involves a single step process with issuance of a request for proposal (RFP) to all interested consultants. For non-A&E consulting contracts, a cost proposal shall be part of the RFP and the selection criteria. For A&E contracts, the cost proposal is not requested until the consultants have been final ranked based upon their submitted technical proposal.

Appoint Consultant Selection Committee

A consultant selection committee with a minimum of three members is appointed at the beginning of the consultant selection process. The committee reviews materials submitted by consultants, develops a shortlist of qualified consultants, and develops a final ranking of the most qualified proposals. Representation on the committee includes the Contract Administrator and subject matter experts from the project's functional area. The members should be familiar with the project/segment to be contracted out and with the local agency standards that will be used in the contract. Participation by a Caltrans district representative is at the option of the agency and subject to availability of the DLAE staff. Caltrans participation on the interview panel does not relieve the local agency of its responsibility to ensure that proper procurement procedures are followed and all requirements are met.

Local agency Contract Administrator ensures that all committee members meet the conflict of interest requirements (23 CFR 172) by completing and signing a conflict of interest statement prior to selection process initiation. A sample conflict of interest form is provided in [Exhibit 10-T: Panel Member Conflict of Interest & Confidentiality Statement](#).

Develop Technical Criteria for Evaluation of Proposals

The Contract Administrator is responsible for developing the technical criteria, and their relative importance which are used to evaluate and rank the consultant proposals. In-State or local preference shall not be used as factor in the evaluation, ranking, and selection phase. All non-technical evaluation criteria, including DBE participation, shall not exceed 10 percent (23 CFR 172.7(a)(1)(iii)(D)). All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.

The criteria and relative weights must be included in the RFP, and the same criteria and relative weights must be used in the evaluation sheets. Failure to include criteria and relative weights and to use the same criteria and weights during the evaluation will result in the contract costs being ineligible for federal or state reimbursement. [Exhibit 10-B: Suggested Consultant Evaluation Sheet](#) is a recommended evaluation sheet with criteria and rating points for A&E consultants, where cost is not used as a rating factor. This format is not mandatory, but it is recommended in the interest of developing consistency among the hundreds of agencies and consultants operating in the state. The local agency should consult with the DLAE before making major changes to the suggested approach.

Develop Schedule for Consultant Selection

Before the contract is advertised, the Contract Administrator completes a contract procurement schedule including key dates for consultant selection activities. The Contract Administrator should confirm key dates with all selection committee members before completing the schedule.

Prepare RFP

The information required in an RFP solicitation includes the following:

- Description of project;
- Clear, accurate, detailed Scope of work, technical requirements, and qualifications;
- Services to be performed;
- Deliverables to be provided;
- Procurement schedule;
- Applicable standards, specifications, and policies;
- Schedule of work (including estimated start and end dates of the contract);
- Method of payment, and cost proposal requirements. The cost proposal is submitted in a separate concealed format. Cost proposals are requested from the highest ranked firm. If these negotiations are formally terminated, the cost proposal is then requested from the next highest ranked firm. See [Exhibit 10-H: Sample Cost Proposal \(Example 3\)](#) for sample cost proposal formats;
- Contract audit and review process requirements (see [Section 10.3: A&E Consultant Audit and Review Process](#));
- Proposal format and required contents;
- Method, criteria and weighting for selection;
- Requirements for any discussions that may be conducted with three or more of the most highly qualified consultants following submission and evaluation of proposals;
- Specify contract type;
- Special provisions or contracts requirements;
- A DBE contract goal is specified in the solicitation (see [Exhibit 10-I: Notice to Proposers DBE Information](#)), if a federal-aid contract;
- Consultants acting in a management support role requirements [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#);
- Protest procedures and dispute resolution process per 2 CFR Part 200.318(k), 2 CFR 172.5(c)(18).

The RFP specifies the content of a proposal, the number of copies required, due date, mailing address, and a physical address where the submittals may be hand delivered if different from the mailing address. A minimum of fourteen (14) calendar days is required between the time the RFP is published and time that proposals must be submitted. More time may be required for complex contracts or projects.

Items typically required in a technical proposal include:

- Work plan (specify what is to be covered);
- Organizational chart;
- Schedule and deadlines;
- Staffing plan;
- Proposed Team—complete for prime consultant and all key subconsultants;
- Key personnel names and classifications—key team members identified in the original proposal/cost proposal shall not change (be different than) in the executed contract;
- Staff resumes;
- Names of consultant's project manager and the individual authorized to negotiate the contract on behalf of the consulting firm;
- Consultant DBE Commitment document, see [Exhibit 10-O1: Consultant Proposal DBE Commitment](#);
- References.

Financial Management and Accounting System Requirements

The local agency must ensure that consultant contract solicitation and advertising documents (RFPs) clearly specify that contracts shall not be awarded to a consultant without an adequate financial management and accounting system as required by 48 CFR Part 16.301-3, 2 CFR Part 200, and 48 CFR Part 31. The local agency must ensure the selected consultants have adequate financial management systems as required by the applicable federal regulations.

Advertise for Consultants

The solicitation process for consultant services shall be by public advertisement, or by any other public forum or method that assures qualified in-State and out-of-State consultants are given a fair opportunity to be considered for award of contract. The minimum length of advertisement is 14 calendar days.

Advertisement of the RFP in a major newspaper of general circulation, technical publications of widespread circulation, professional associations and societies, recognized DBE organizations, web hosting or clearing houses known for posting government contract solicitations such as BidSync, Planetbids, or posting the RFP on the local agency's or other widely used websites are all acceptable methods of solicitation.

To document website postings, the local agency should retain copies of screen shots displaying the posted begin/end dates.

Issue/Publish RFP

The local agency shall publish the RFP on line and also issue the RFP to all consultants responding to newspaper advertisement. The local agency shall keep a record of all consultants that have downloaded RFP on line as well as those receiving an RFP through other means, to ensure that any inquiry responses, addendums, or amendments to the RFP are given to all consultants that received the RFP.

Conduct Proposer's Conference or Answer Written Questions

The local agency may allow for clarification of the RFP by inviting submittal of written questions or by conducting a proposer's conference, or by doing both. The local agency must publish or mail their responses to any written questions to all consultants receiving the RFP. No response should be given to verbal questions. It is important that all competing consultants receive the same information. If a proposer's conference is to be held, the exact time and place must be specified in the RFP. Attendance at a proposer's conference normally is not mandatory. However, consultants not attending the conference do not receive notes from the meeting unless they request the notes.

Receive and Evaluate Technical Proposals

The Contract Administrator must verify that each proposal contains all of the forms and other information required by the RFP. If all required information is not provided, a proposal may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed.

Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended. The members of the consultant selection committee must evaluate each proposal according to the technical criteria listed in the RFP. Minimum of three proposals must be received and evaluated. If only two proposals are received, a justification must be documented to proceed with the procurement. The justification should state that the solicitation did not contain conditions or requirements that arbitrarily limited competition per 23 CFR 172(a)(1)(iv) (D) and competition is determined to be inadequate and it is not feasible or practical to re-compete under a new solicitation per 23 CFR 172(a)(3)(iii)(C). If only one proposal is received, a Non-Competitive process must be justified and a Public Interest Finding (PIF) must be documented and signed by the DLAE. In either case, the re-advertisement of the RFP should be considered as an option.

The committee must also evaluate reference checks and other information gathered independently. Reference checks shall be completed and other information gathered before the interviews are conducted. If necessary, the results of the reference checks or other information may be discussed with the highest ranked qualified consultants at the interviews.

Develop Final Ranking and Notify Consultants of Results

The selection committee [evaluates](#) each proposal; interviews the three or more highest ranked consultants (short listed) [if noted in solicitation](#); and develops a final ranking of the highest ranked consultants. All consultants that submitted proposals must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not the highest ranked. [The local agency may have an established procedure adopted for conducting debriefings but may also consider the following](#): The selection committee should keep notes as to why a particular consultant was not selected. When a consultant requests debriefing, the reasons for not being selected must be objective reasons. The consultant should not be compared to others and should not be provided with information about other consultants during this debriefing. Normally,

the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

Negotiate Contract with Top-Ranked Consultant

Cost proposal (for both Prime and all Subconsultant), and contract audit and review documents such as [Exhibit 10-K: Consultant Certification of Contract Costs and financial Management System](#) of Costs and Financial Management System and [Exhibit 10-A: A&E Consultant Financial Document Review Request and Checklist](#), whichever is applicable (see [Section 10.1.3: A&E Consultant Audit and Review Process](#)) should be submitted in a separate sealed envelope. Typically, the cost proposals are submitted by the short listed consultants only, at time of interview. However, if time is of the essence and it can be justified, or if no interviews are planned, the cost proposal can be requested from all consultants with their technical proposal.

The cost proposal for the most qualified consultant will be opened and used to begin negotiations. If agreement cannot be reached, then negotiations proceeds to the next most qualified consultant. Each consultant's cost proposal must remain sealed until negotiations commence with that particular consultant. The goal of negotiations is to agree on a final contract that delivers the services, or products required at a fair and reasonable cost to the local agency. At the completion of successful cost negotiations, all remaining sealed envelopes containing cost proposals shall be returned to consultants.

Cost proposals in electronic form shall be submitted separately from the RFP and contained in a secure database that is inaccessible to the members involved in the A&E consultant contract procurement process. Only the cost proposal of the most qualified consultant will be requested to be sent to the members. Cost proposals of unsuccessful consultants are confidential and shall not be opened by the local agency or any private entity that the local agency uses to store the cost proposals. Any concealed cost proposals of the unsuccessful consultants must be returned unopened or properly disposed of in accordance with the local agency's written policies and procedures.

The independent cost estimate, developed by the local agency in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations or terminating unsuccessful negotiations with the most qualified consultant. Items necessary for the independent cost estimate include, hours/detailed work, direct labor costs, indirect labor costs, other direct costs, and profit/fee. Agencies must retain documentation of how the cost estimate was developed. It can be revised, if needed, for use in negotiations with the next most qualified consultant. A contract audit and review may be required (see [Section 10.1.3: A&E Consultant Audit and Review Process](#) in this chapter). Local agency Contract Administrator ensures that all required documentations are provided to Caltrans IOAI within 10 days of written request, including all documents for a Financial Review, if applicable. Caltrans IOAI will not proceed with a Financial Document Review until all required documentation is completed correctly and submitted. Negotiations should be finalized after addressing all deficiencies noted in the Caltrans IOAI Financial Review Letter if applicable. An indirect cost audit may be performed within the record retention period of the contract.

Items typically negotiated include:

- Work plan;
- Schedule and deadlines (for deliverables and final duration of contract);

- Products to be delivered;
- Classification, wage rates, and experience level of personnel to be assigned;
- Cost items, payments, and fees. Fee is required to be negotiated as a separate element;
- Hours, level of effort by task and/or classification.

The consultant's ICR is not a negotiable item. A lower rate cannot be negotiated by the local agency. The local agency and the consultant will agree on the final cost proposal and incorporate into final contract. Retain all documentation related to negotiations.

Before executing the consultant contract, the local agency must review contract to ensure that all federal and state requirements have been met (see [A&E Consultant Procurement Checklist: https://dot.ca.gov/programs/local-assistance/environmental-and-other-policy-issues/consultant-selection-procurement](https://dot.ca.gov/programs/local-assistance/environmental-and-other-policy-issues/consultant-selection-procurement)) and adjustment or denial of ICR as identified in the Financial Review Letter has been included in the final cost proposal, if applicable.

Prior to contract award, [or after contract award but no later than the first invoice](https://dot.ca.gov/programs/local-assistance/environmental-and-other-policy-issues/consultant-selection-procurement), the local agency must submit a completed Exhibit 10-C for all new or amended federal funded A&E consultant contracts [using the database at http://dlaaeoversight.dot.ca.gov/fmi/webd/Exhibit%2010-C](https://dot.ca.gov/programs/local-assistance/environmental-and-other-policy-issues/consultant-selection-procurement) (please use Firefox or Chrome if not supported by your browser).

If there are any changes [requiring an amendment](https://dot.ca.gov/programs/local-assistance/environmental-and-other-policy-issues/consultant-selection-procurement) to the contract after [submittal](https://dot.ca.gov/programs/local-assistance/environmental-and-other-policy-issues/consultant-selection-procurement) of Exhibit 10-C, the local agency must submit an updated Exhibit 10-C and all contract amendments to [http://dlaaeoversight.dot.ca.gov/fmi/webd/Exhibit%2010-C](https://dot.ca.gov/programs/local-assistance/environmental-and-other-policy-issues/consultant-selection-procurement). Submission of Exhibit 10-C to Caltrans HQ is not required for non-A&E consultant contracts.

10.1.6 CONSULTANT SELECTION USING THE ONE-STEP RFQ METHOD

The RFQ method is used when the services being procured are specialized, or the scope of work is defined broadly and may include multiple projects.

Appoint Consultant Selection Committee

A consultant selection committee with a minimum of three members is appointed at the beginning of the consultant selection process. The committee reviews and scores the materials submitted by consultants in response to the RFQ, develops a shortlist of qualified consultants, interviews those consultants, and develops a final ranking of the most qualified consultants. Representation on the committee includes the Contract Administrator and subject matter experts from the project's functional area. The members should be familiar with the scope of work to be contracted out and with the local agency standards that will be used in the contract.

Participation by a Caltrans district representative is at the option of the local agency and subject to the availability of the DLAE staff. Caltrans participation on the interview panel does not relieve the local agency of its responsibility to ensure that proper procurement procedures are followed and all requirements are met.

Local agency Contract Administrator ensures that all committee members meet the conflict of interest requirements (23 CFR 172) by completing and signing a conflict of interest statement

prior to selection process initiation. A sample conflict of interest form is provided in [Exhibit 10-T: Panel Member Conflict of Interest & Confidentiality Statement](#).

Develop Technical Criteria for Evaluation of Qualifications

The Contract Administrator is responsible for developing the technical criteria, and their relative importance which are used to evaluate and rank the consultant qualifications. The criteria and relative weights must be included in the RFQ, and the same criteria and relative weights must be used in the evaluation sheets. Failure to include criteria and relative weights and to use the same criteria and weights during the evaluation will result in the contract costs being ineligible for federal or state reimbursement. [Exhibit 10-B: Suggested Consultant Evaluation Sheet](#) is a recommended evaluation sheet with criteria and rating points for A&E consultants, where cost is not used as a rating factor. This format is not mandatory, but it is recommended in the interest of developing consistency among the hundreds of agencies and consultants operating in the state. The local agency should consult with the DLAE before making major changes to the suggested approach.

Develop Schedule for Consultant Selection

Before a contract is advertised, the Contract Administrator completes a contract procurement schedule including key dates for consultant selection activities. The Contract Administrator should confirm target dates with all selection committee members before completing the schedule.

Prepare RFQ

As a minimum, the RFQ generally includes the following:

- General description of the services or project(s);
- Scope of work;
- Schedule of work (including contract begin and end dates);
- Method of payment, and cost proposal requirements. The cost proposal is submitted in a separate sealed envelope. See [Exhibit 10-H: Sample Cost Proposal](#) for sample cost proposal formats;
- Contract audit and review process requirements (see [Section 10.1.3: A&E Consultant Audit and Review Process](#));
- Statement of Qualification (SOQ) format and required content to be submitted;
- Method and criteria and weights for selection;
- A DBE contract goal is specified in the solicitation (see [Exhibit 10-I: Notice to Proposers DBE Information](#)), if a federal-aid contract;
- Consultants acting in a management support role requirements [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#); Protest procedures and dispute resolution process per 2 CFR Part 200.318(k).

The RFQ specifies the content of the SOQ, the number of copies required, due date, mailing address, and a physical address where the submittals may be hand delivered if different from

the mailing address. Two to four weeks is usually allowed between the time the RFQ is published and time that SOQs must be submitted. More time may be required for complex contracts or scope of work.

Items typically required in a statement of qualification include:

- Qualifications of key personnel (including consultant project manager) proposed for the contract. Key team members identified in the original proposal/cost proposal shall not change (be different than) in the executed contract;
- Staff resumes;
- Related projects that key personnel have worked on;
- Qualifications/experience of the firm;
- Organizational chart;
- Forecast or Schedule of work;
- Consultant DBE Commitment document, see [Exhibit 10-O1: Consultant Proposal DBE Commitment](#);
- References.

Financial Management and Accounting System Requirements

The local agency must ensure that Consultant contract solicitation and advertising documents (RFQs) clearly specify that contracts shall not be awarded to a consultant without an adequate financial management and accounting system as required by *48 CFR Part 16.301-3*, *2 CFR Part 200*, and *48 CFR Part 31*. The local agency must ensure the selected consultants have adequate financial management systems as required by the applicable federal regulations.

Advertise for Consultants

The solicitation process for consultant services shall be by public advertisement or any other public forum or method that assures qualified in-State and out-of-State consultant are given a fair opportunity to be considered for award of contract. The RFQ must contain sufficient project work information, so that interested consultants can submit an appropriate SOQ.

Advertisements for RFQ may take one of two approaches. The most common is an advertisement or publication of the RFQ in a major newspaper of general circulation, technical publication of widespread circulation, professional associations and societies, recognized DBE organizations, web hosting or clearing houses known for posting contract solicitations such as Bid Sync, PlanetBids, or posting the RFQ on other widely used websites. To document website postings, the local agency should retain copies of screen shots displaying the posted begin/end dates.

In the second approach, the local agency advertises the availability of the RFQ in a major newspaper of general circulation, technical publications of widespread circulation, professional associations and societies, recognized DBE organizations, or through a web hosting or clearing houses known for posting contract solicitations such as BidSync or PlanetBids, and requests that interested consultants send a letter of interest to the local agency for the RFQ. The RFQs shall then be sent to those firms who indicated interest in the RFQ. In some cases, it may be desirable to advertise nationwide for a particular project or service. This approach provides a

registry for firms who received the RFQ and therefore facilitates the broadcast of any revisions or addenda to the RFQ, if necessary.

Issue/Publish RFQ

The local agency shall publish the RFQ online and also issue the RFQ to all consultants responding to newspaper advertisement. The local agency shall keep a record of all consultants that have downloaded the RFQ on line as well as those receiving an RFQ through other means, to ensure that any inquiry responses, addendums, or amendments to the RFQ are given to all consultants that received the RFQ.

Receive/Evaluate Statements of Qualifications and Develop Shortlist

The first step in the evaluation process is to determine that each SOQ contains all forms and other information required by the RFQ. Otherwise, the submittals may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, and submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed. Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

Minimum of three proposals must be received and evaluated. If only two proposals are received, a justification must be documented to proceed with the procurement. If only one proposal is received, a Non-Competitive process must be justified and a Public Interest Finding (PIF) must be documented and signed by the DLAE. In either case, the re-advertisement of the RFP should be considered as an option.

The consultant selection committee reviews the submitted SOQ according to the published evaluation criteria and weighting factors. The committee makes an independent random check of one or more of the consultant's references. This check applies to major subconsultants also. The committee establishes a shortlist of consultants who are considered to be best qualified to perform the contract work. The shortlist includes enough qualified consultants to ensure that at least three consultants are interviewed.

Notify Consultants of Shortlist

All consultants that submitted an SOQ must be notified of the results of the review. The notification also identifies those consultants (short list) that will be requested to attend interviews [if interviews were an option in the solicitation](#). Most consultants will request information as to why they were not placed on the shortlist. Therefore, the selection committee should keep notes why a particular consultant was not selected for the shortlist. When a consultant requests a debriefing, the reasons given for not being selected must be objective reasons. Consultants should not be compared with each other during the debriefing. Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

Interview Top-Ranked Consultants

Each consultant to be interviewed is given a copy of the draft of the proposed contract, defining the detailed scope of work, and/or description of required services, and other information. This should be sent with the initial notification of the interview.

Between the time of the notification of the shortlist and interviews, the local agency may answer any questions concerning the scope of work to be contracted out, if not done earlier during the solicitation. In addition, the local agency may conduct additional reference checks for each consultant to be interviewed. Consultants should submit their questions about the RFQ and receive their answers from the local agency in writing. It is required that all consultants on the shortlist receive the questions and answers and are given the same information.

The committee should evaluate reference checks and other information that is gathered independently. Reference checks shall be completed and other information gathered before the interviews are conducted. If necessary, the results of the reference checks and other information may be discussed with the consultant at the interview.

Interviews are to be structured and conducted in a formal manner. Each consultant shall be allowed the opportunity to make a presentation if desired; however, a time limit should be specified. Interview questions are prepared in advance.

Two types of questions may be asked:

- Questions that are to be asked of all competing consultants, and
- Questions relating to each specific consultant, based upon the reference checks, and the strengths and weaknesses identified during evaluation of the SOQ

The agency can request competing consultants to bring additional information or examples of their work to the interviews; if the additional information facilitates the interview or evaluation process. Additional information requested should be kept at a minimum, that is, only information required to select the most qualified consultant for the contract. The selection committee or local agency shall not gather additional information concerning the consultants after the interviews are completed.

Develop Final Ranking and Notify Consultants of Results

All consultants interviewed must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not selected as the most qualified. Therefore, the selection committee should keep notes as to why a particular consultant was not selected. When a consultant requests debriefing, the reasons for not being selected must be objective. Consultants should not be compared with each other or provided with information about other consultants during the debriefing.

Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing. The next two sections provide guidance when the RFQ is solicited for specialized services and additional information is required prior to cost negotiations with consultant. For on-call contracts, skip the next two sections and begin Negotiation phase.

Conduct Scoping Meeting

The Contract Administrator meets with the first-ranked consultant's project manager to review the project, and to ensure that the consultant has a complete understanding of the work that is

required. The consultant is shown as much material as is available regarding the project. Any technical questions regarding the project are answered for the consultant.

Request Cost Proposal

The first-ranked consultant is asked to provide a cost proposal to perform the work described in the draft contract and discussed at the scoping meeting. The work is to be performed according to the conditions described in the draft contract using the payment method described therein. Alternatively, if time is of the essence and it can be justified, sealed cost proposals may be requested from all of the consultants on the shortlist.

If the contract involves more than one project, the consultant must provide a separate cost proposal for each project in addition to a summary cost proposal for the total contract. If the contract involves milestones, the consultant must furnish a separate cost proposal for each milestone with a summary cost proposal for the total costs. If the contract involves subconsultants, the prime consultant must include a separate cost proposal for each subconsultant. Each subconsultant's cost proposal must follow the same format as the prime consultant's cost proposal.

Negotiate Contract with Top-Ranked Consultant

Cost proposal (for both Prime and all Subconsultant), and contract audit and review documents such as [Exhibit 10-K: Consultant Certification of Contract Costs and Financial Management System](#) and [Exhibit 10-A: A&E Consultant Financial Document Review Request and Checklist](#), whichever applicable (see [Section 10.1.3: A&E Consultant Audit and Review Process](#)) will be submitted in a separate sealed envelope. Typically, the cost proposals are submitted by the short-listed consultants only, at time of interview. However, if time is of the essence and it can be justified, or if no interviews are planned, the cost proposal can be requested from all consultant with their statements of qualification.

After the top-ranked consultant submits a sealed cost proposal, the local agency reviews the cost proposal and compares it with the local agency's confidential detailed independent cost estimate and enters into negotiations. The goal of negotiation is to agree on a final contract that delivers to the local agency the services or products required at a fair and reasonable cost. The independent cost estimate, developed by the local agency in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations.

Negotiations should commence with the most qualified consultant. If agreement on a fair and reasonable price cannot be reached, negotiations should then be formally terminated. Negotiations then proceed to the next most qualified consultant, and so on. Each consultant's cost proposal must remain sealed until negotiations commence with that particular consultant.

At the completion of successful cost negotiations, all remaining sealed envelopes containing cost proposals shall be returned to consultants.

Cost proposals in electronic form shall be submitted separately from the RFQ and contained in a secure database that is inaccessible to the members involved in the A&E consultant contract procurement process. Only the cost proposal of the most qualified consultant will be requested to be sent to the members. Cost proposals of unsuccessful consultants are confidential and shall not be opened by the local agency or any private entity that the local agency uses to store the cost proposals. Any concealed cost proposals of the unsuccessful consultants must be

returned unopened or properly disposed of by permanently deleting the cost proposals in accordance with local agency's written policies and procedures.

A contract audit and review may be required (see [Section 10.1.3: A&E Consultant Audit and Review Process](#) earlier in this chapter). Local agency Contract Administrator is responsible for the submittal of all required documentations to Caltrans IOAI in a timely fashion, including all documents for a Financial Review, if applicable. Caltrans IOAI will not proceed with a Financial Review until all required documentation is completed correctly and submitted. Negotiations may be completed after receipt of the Caltrans IOAI Financial Review Letter. An indirect cost audit may be performed within the record retention period of the contract.

The items typically negotiated include:

- Work plan;
- Staffing plan;
- Schedule (including contract begin and end dates);
- Products to be delivered;
- Classification, wage rates, and experience level of personnel to be assigned;
- Cost items, payments and fee. Fee is required to be negotiated as a separate element.

The consultant's ICR is not a negotiable item. A lower rate cannot be negotiated by the local agency. For on-call contracts, typically a price agreement is reached based on specific rate of compensation for the term of the contract. The subsequent task orders (or mini agreements for individual project work) is negotiated based on cost plus fee, or lump sum, which is derived from the wage rates agreed upon earlier for the on-call contract.

Before executing the consultant contract, the local agency must review contract to ensure that all federal and state requirements have been met (see [A&E Consultant Procurement Checklist at <https://dot.ca.gov/programs/local-assistance/environmental-and-other-policy-issues/consultant-selection-procurement>](#)), and receive Caltrans IOAI's Financial Review acceptance letter, if applicable.

Prior to contract award, [or after contract award but no later than the first invoice](#), the local agency must submit a completed Exhibit 10-C for all new or amended federal funded A&E consultant contracts [using the database at <http://dlaaeoversight.dot.ca.gov/fmi/webd/Exhibit%2010-C>](#) (please use Firefox or Chrome if not supported by your browser).

If there are any changes to the contract after [submittal](#) of Exhibit 10-C, the local agency must submit an updated Exhibit 10-C and all contract amendments to [http://dlaaeoversight.dot.ca.gov/fmi/webd/Exhibit%2010-C](#). Submission of Exhibit 10-C to Caltrans HQ is not required for non-A&E consultant contracts.

10.1.7 CONSULTANT SELECTION USING THE TWO-STEP RFQ/RFP METHOD

Combined RFQ and RFP

Selecting consultants using the Two-Step RFQ/RFP method requires combining certain steps from each of the other two methods previously described. The consultants are rated based upon both their qualifications and their technical proposals. This procurement procedure involves a [two-step](#) process with issuance of a request for qualifications (RFQ) whereby responding consultants are evaluated and ranked based on qualifications and an RFP is then provided to three or more of the most highly qualified consultants. [The two-step method leads to an executed project specific contract.](#)

A different process may also be used that includes assessing minimum qualifications of consultants to perform services under general work categories or areas of expertise through a prequalification process whereby annual statements of qualifications and performance data are encouraged. These consultants are not ranked, and an RFP must be submitted to the entire list for evaluation and consideration. Regardless of any process utilized for prequalification of consultants or for an initial assessment of a consultant's qualifications under a RFQ, a RFP specific to the project, task, or service is required for evaluation of a consultant's specific technical approach and qualifications.

The initial steps in this method (up to the development and notification of the shortlist) are similar to the steps followed when using the One-Step RFQ method. At this point, the consultants from the shortlist are issued an additional RFP. The remaining steps are the same as the later steps followed in the One-Step RFP method. The combination of these steps is indicated in Figure 10-4: Consultant Selection Flowchart. Because it is a combination of the One-Step RFQ and One-Step RFP methods, this method of consultant selection requires more work and time than the other two methods. Consequently, the combined RFQ/RFP method is recommended for use only when the scope of work is not clearly known, very complex or unusual.

The Two-Step RFQ/RFP is also well suited for procuring multiple on-call contracts through a single solicitation. The outcome of the first step RFQ will be multiple contracts, or on-call list of consultants. For multiple on-call contracts, project work will be procured thru subsequent competition or mini-RFPs amongst the on-call consultants. The mini-RFP or the task order will be negotiated with first ranked firm from each competition. Task order (mini-RFP) cost will be based on wage rates established in the master on-call contract, and the time and deliverable requirements in the task order.

Local agencies may also use this method to:

1. [Develop and maintain a pre-qualified file/list of consultant firms by specific work categories or areas of expertise. This list includes all consultants that meet the minimum published pass/fail requirements. The pre-qualified list can be updated annually or at least every two years and must be maintained by the agency. This list has not gone through the evaluation process.](#)
2. [Create a short list of evaluated and ranked consultants that leads to executed contracts](#)

The mini-RFP contains evaluation criteria that matches the strengths of the qualified firms to the specifics of the known tasks, thereby selecting the most qualified firm for each task. The evaluation can include: availability of personnel, staff capabilities, DBE (10% or less of overall

score), completion time, experience of consultant, specialized expertise, and past performance. The overall DBE goal was established at the master on-call contract.

Because it is a combination of the One-Step RFQ and One-Step RFP methods, this method of consultant selection requires more work and time than the other two methods. Consequently, the combined RFQ/RFP method is recommended for use when the scope of work is very complex or unusual.

Categorize work

Descriptions of the categories of work, deliverables and the minimum qualification standards for each category must be clearly identified.

The local agency may prequalify consulting firms in the following (or more) categories:

- Roadway Design
- Bridge Design
- Bridge Inspection
- Traffic Engineering
- Environmental Services
- Roadway Construction Inspection and Administration
- Landscape Architecture
- Land Surveying
- Intelligent Transportation System (ITS)
- Federal-aid Highway Project Development Support Services

Establish Minimum Qualifications

In an effort to ensure quality performance and results, a consultant should be required to meet certain minimum qualifications to be eligible for consideration in the pre-qualification process.

General criteria guidelines should be established for consultant selection for a pre-qualified list. The criteria may be established by an individual or a panel of subject matter experts for the specific task of developing the criteria. Some agencies also establish appropriate weights for each criterion. It may be necessary to modify the criteria to fit specific cases. When a RFQ is published, it should state the criteria that will be used in the selection process.

Criteria for evaluating statements of qualifications, may include but are not limited to:

- Special expertise and experience of the firm's key employees
- Proposed staffing (include number of licensed and specialized staff) for the project and previous experience of those identified
- Experience of the firm and their personnel on previous projects similar to the one under consideration
- Consultant DBE Commitment document (see Exhibit 10-O1)
- Professional references by the firm with the local agency

- Understanding of the project by the firm as demonstrated by their approach to organizing and management of the work
- Current workload of the firm and their ability to meet the proposed project schedule
- Quality of previous performance by the firm with the local agency
- Use of sub-consultants to accomplish work on the project
- Equipment the firm has available and proposes to use as compatibility with Computer-Aided Drafting and Design (CADD) and other equipment proposed to be used in accomplishing the work
- Familiarity with federal, state, and local codes, requirements, standards, and procedure
- Examples of minimum qualifications for work categories above are provided here based on Caltrans best practices

Issue RFQ

The need for services of a consulting firm may be advertised in appropriate national, state, and local publications and web sites. Notices can also be sent to firms known to be qualified to do specific work, to professional societies, and to recognized Disadvantaged Business Enterprises (DBE) organizations. The advertisements and notices seek statements of interest and qualifications from consultants who are interested in the project. The DBE goal is established at the master on-call contract and included in the solicitation document.

The SOQ should list consulting firm details, names of principals, office locations, personnel by discipline, project experience and examples, current workload, types of service the firms are qualified to perform, and previous performance. Also, resumes of key persons, specialists, and other associates that may be assigned to the project or projects should be included. This information should be the basis for evaluating and placing a consulting firm on a general pre-qualification list.

Federal regulations require that any procedures related to pre-qualifying consultant cannot restrict competition.

Pre-qualification of consultants may be allowed as a condition for submitting a technical proposal for a contract only if the period between the date of the issuance of the RFP and the deadline for submitting a technical proposal affords sufficient time to enable a consultant to obtain pre-qualification status.

Another practice is to qualify consultants on a project-by-project basis. This is accomplished for some agencies by advertising or publishing notices in national, state, and local publications for needed services for specific, individual projects. These notices include a precise project location, a defined preliminary scope of services to be performed, a specific schedule within which the work is to be completed, and a list of products and deliverables to be provided by the consultant. Specific project advertisements usually are published when the proposed project is large and complex, in-house resources are not available, special expertise is required, or the objectivity of an outside authority is desired.

Appropriate Federal-aid requirements should be complied with on Federal-aid projects.

Set-Up Evaluation Process

The first step in the evaluation process is to determine that each SOQ contains all forms, qualifications and other information required by the RFQ. Otherwise, the submittals may be considered nonresponsive and rejected without evaluation. Documentation of when each SOQ was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

If all required information is not provided, a SOQ may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed.

Local agency must establish a process by which SOQs are evaluated and consultants who are deemed meeting the minimum qualifications are accepted and placed on a pre-qualified list. Whether the Local agency has a “committee” of experts evaluating the SOQs or individuals responsible for the evaluation, the process must be well defined, open and transparent. The pre-qualification process must also allow for consultants to be re-evaluated in cases of denials. The local agency must specify how long the pre-qualified list last, not to exceed two years. Federal regulation recommends refreshing the SOQs on an annual basis.

Local agency Contract Administrator ensures that all committee members meet the conflict of interest requirements (23 CFR 172) by completing and signing a conflict of interest statement prior to selection process initiation. A sample conflict of interest form is provided in Exhibit 10-T.

Evaluate Qualifications and Add Firm to List

All SOQs received should first be reviewed for completeness. Each response must contain all required forms and any other information requested in the advertisement. The response may be considered incomplete and rejected without further evaluation if all required information is not provided or if the submittal is late.

The qualifications of all responding firms are then reviewed according to established evaluation criteria or factors. The agency then establishes a short list of at least three consultants that are determined to be the most highly qualified to perform the required work. Firms not selected should be notified in writing.

Maintain List

Pre-qualification of a consultant expires in two years. Pre-qualified consultants must renew their pre-qualification status every two years. Firms can apply to be on the list at any time. After a period of two years, firms should re-apply (repeat the process of submitting SOQs) to be on the list. In addition to the required two-year renewal process, the consultant should also be required to update the firm’s organizational structure within one year when there is a corporate/affiliate change, ownership control, type of work expertise, capacity, or any other major change.

If the consultant does not meet the minimum requirements and their SOQ is rejected, the committee must respond to the consultant explaining the reason for their rejection. The consultant is allowed to reapply to be on the list again provided the reasons for rejection are corrected.

The list of qualified firms can be maintained online through the agency’s website. Firms can also apply to be on the list through the agency website for ease of operation.

Issue RFP to Pre-Qualified Consultants on List

An RFP is sent to the short-listed firms. The RFP should indicate the content of the technical proposal, technical review procedures, anticipated schedule of activities, scope of work, project description, where the technical proposals are to be delivered, the number of copies required, and the due date.

Some agencies receive the technical proposal orally as part of an interview conducted for this purpose. In these cases, written documentation may not be required.

Items typically required in a technical proposal include:

- Work plan
- Organization plan
- Schedule for meeting time frame
- Available computer equipment and programs
- Staffing plan and resumes including sub-consultants
- Pre-award audit/financial package information (if deemed appropriate)
- Examples of similar work previously completed
- Sub-consultants, DBE, their proposed participation, and other related information

Conduct Proposer's Conference or Answer Written Questions

The local agency may allow for clarification of the RFP by inviting submittal of written questions or by conducting a proposer's conference, or by doing both. The local agency must publish or mail their responses to any written questions to all consultants receiving the RFP. No response should be given to verbal questions. It is important that all competing consultants receive the same information. If a proposer's conference is to be held, the exact time and place must be specified in the RFP. Attendance at a proposer's conference normally is not mandatory. However, consultants not attending the conference do not receive notes from the meeting unless they request the notes.

Receive and Evaluate Technical Proposals

The Contract Administrator must verify that each technical proposal contains all forms and other information required by the RFP. If all required information is not provided, a technical proposal may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed. Documentation of when each technical proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

A consultant selection committee with a minimum of three members is appointed at the beginning of the consultant selection process. The members of the consultant selection committee must evaluate each technical proposal according to the technical criteria listed in the RFP. A minimum of three technical proposals must be received and evaluated.

If only two technical proposals are received, a justification must be documented to proceed with the procurement. If only one technical proposal is received, a Non-Competitive process must be

justified and a Public Interest Finding (LAPM Exhibit 12-F) must be documented. In either case, the re-advertisement of the RFP should be considered as an option.

The committee must also evaluate reference checks and other information gathered independently. Reference checks shall be completed and other information gathered before the interviews are conducted. If necessary, the results of the reference checks or other information may be discussed with the highest ranked qualified consultants at the interviews.

Develop Final Ranking and Notify Consultants of Results

The selection committee discusses and documents the strengths and weaknesses of each technical proposal, interviews the three or more highest ranked consultants (shortlisted), and develops a final ranking of the highest ranked consultants. All consultants that submitted technical proposals must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not the highest ranked. Therefore, the selection committee should keep notes as to why a particular consultant was not selected. When a consultant requests debriefing, the reasons for not being selected must be objective reasons. The consultant should not be compared to others and should not be provided with information about other consultants during this debriefing. Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

Request Cost Proposal and Negotiate Contract with Top-Ranked Consultant

The first-ranked consultant is asked to provide a cost proposal to perform the work described in the draft contract and discussed at the scoping meeting. The work is to be performed according to the conditions described in the draft contract using the payment method described therein. Alternatively, if time is of the essence and it can be justified, sealed cost proposals may be requested from all of the consultants on the shortlist.

If the contract involves more than one project, the consultant must provide a separate cost proposal for each project in addition to a summary cost proposal for the total contract. If the contract involves milestones, the consultant must furnish a separate cost proposal for each milestone with a summary cost proposal for the total costs. If the contract involves subconsultants, the prime consultant must include a separate cost proposal for each subconsultant. Each subconsultant's cost proposal must follow the same format as the prime consultant's cost proposal.

Cost proposal (for both prime and all subconsultants) and contract audit and review documents, such as Exhibit 10-K and Exhibit 10-A, whichever applicable (see Section 10.1.3: A&E Consultant Audit and Review Process), will be submitted in a separate sealed envelope.

After the top-ranked consultant submits a sealed cost proposal, the local agency reviews the cost proposal and enters into negotiations. The goal of negotiation is to agree on a final contract that delivers to the local agency the services or products required at a fair and reasonable cost. The independent cost estimate, developed by the local agency in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations.

Negotiations should commence with the most qualified consultant. If agreement on a fair and reasonable price cannot be reached, negotiations should then be formally terminated.

Negotiations then proceed to the next most qualified consultant, and so on. Each consultant's cost proposal must remain sealed until negotiations commence with that particular consultant. At the completion of successful cost negotiations, all remaining sealed envelopes containing cost proposals shall be returned to consultants.

A contract audit and review may be required (see Section 10.1.3: A&E Consultant Audit and Review Process). The local agency Contract Administrator is responsible for the submittal of all required documentations to Caltrans IOAI in a timely fashion, including all documents for a Conformance Review, if applicable. Negotiations may be completed after receipt of the Caltrans IOAI Conformance Letter. An indirect cost audit may be performed within the record retention period of the contract.

Items typically negotiated include:

- Work plan
- Schedule and deadlines (for deliverables and final duration of contract)
- Products to be delivered
- Classification, wage rates, and experience level of personnel to be assigned
- Other Direct Cost items, and profit or fee

The consultant's ICR is not a negotiable item. A lower rate cannot be negotiated by the local agency.

The local agency and the consultant will agree on the final cost proposal and incorporate into final contract.

Before executing the consultant contract, the local agency must review contract to ensure that all federal and state requirements have been met (see [A&E Consultant Procurement Checklist at https://dot.ca.gov/programs/local-assistance/environmental-and-other-policy-issues/consultant-selection-procurement](https://dot.ca.gov/programs/local-assistance/environmental-and-other-policy-issues/consultant-selection-procurement)).

10.1.8 COMPLETING THE PROJECT

Develop the Final Contract

The Contract Administrator requests a revised cost proposal from the consultant after: (1) negotiations have been completed, (2) the local agency and consultant have agreed to a fair and reasonable price, and (3) a letter, if applicable, is released by Caltrans IOAI that accepts, denies or makes an adjustment to the proposed ICR. The Contract Administrator should review the revised cost proposal to ensure that all the items and changes discussed during negotiation were included. This revised cost proposal then becomes the final cost proposal, is attached to and made a part of the consultant contract. Sample contract language and format have been included as [Exhibit 10-R: A&E Boilerplate Agreement Language](#).

The Contract Administrator has responsibility to ensure that the final negotiated contract is complete and has verified that all required backup documents have been provided. Copies of the contract are sent to the consultant for signature first.

Review and Approval of Contracts

Proposed contracts for consultant services (including subcontracted work) must be reviewed by the local agency to verify that:

- Compensation is fair and reasonable and includes prevailing wage rates, if applicable;
- Work activities and schedules are consistent with the nature and scope of the project;
- DBE goal Exhibit 10-O2: Consultant Contract DBE Commitment is included for all contracts regardless of goal.;
- [Exhibit 10-K: Consultant Certification of Contract Costs and Financial Management System](#) (for Prime and Subs), and [Exhibit 10-A: A&E Consultant Financial Document Review Request](#) and Checklist and all supporting documents, if applicable (contracts above \$150,000), have been submitted to Caltrans IOAI;
- If applicable, adjustment or denial of the ICR identified in the Financial Review Letter have been included in the final cost proposal;
- [Exhibit 10-C: A&E Consultant Contract Database](#) must be used to ensure that required documentation has been provided;
- A cost proposal (see [Exhibit 10-H: Sample Cost Proposal](#)), must include the costs of materials, direct salaries, payroll additions, other direct costs, indirect costs, fees, and backup calculations.

Before approving a contract for consulting services, the Contract Administrator must be satisfied that the consultant's organization:

- Is qualified to perform the services required;
- Is in a position, considering other work commitments, to provide competent and experienced personnel to perform the services in the time allowed;
- Is fully aware of all applicable federal and state laws including implementing regulations, design standards, specifications, previous commitments that must be incorporated into the design of the project, and administrative controls including those of Caltrans and FHWA.
- Has an adequate financial management system as required by the applicable federal regulations.
- Is not disbarred or suspended from state or federally funded contracts. Per 23 CFR 172.7(b)(3) "A contracting agency shall verify suspension and debarment actions and eligibility status of consultants and subconsultants prior to entering into an agreement or contract in accordance with 2 CFR part 1200 and 2 CFR part 180.

The contract must provide for a defined level of acceptability and a statement to the effect that the consultant may be required to modify its work as necessary; to meet that level of acceptability as defined in the contract. The contract shall provide for local agency reviews at appropriate stages during performance of the work, to determine if any changes or other actions are warranted.

The contract shall provide that the consultant and subconsultants shall maintain all books, documents, papers, accounting records, and other information pertaining to costs incurred. Such materials must be available for inspection and audit by federal, State, and local agency authorized representatives; and copies thereof shall be furnished, if requested.

Following final settlement of the contract accounts with the State or FHWA, such records and documents may be archived at the option of the local agency and shall be retained for a three-year period after processing of the final voucher by FHWA.

Execute Contract and Issue Notice to Proceed to Consultant

The Contract Administrator sends the consultant a fully executed copy of the contract with an original signature and issues a notice to proceed. Funds may not be used to reimburse the agency for any work or costs incurred before the Authorization to Proceed is issued, or for consultant costs incurred prior to the execution of the consultant contract. All executed contracts shall have a begin and end date. Local agency consultant selection and contract execution costs may be reimbursable.

For on-call contracts, a fully executed copy of the contract with original signatures will be send to the consultant. Each subsequent task order (for individual project) will be accompanied with a copy of the signed task order and a Notice to Proceed, once it is negotiated and approved. Task order expiration dates may not exceed the Master On-call agreement end date.

Administer the Contract

Project work begins as specified in the contract after the notice to proceed is issued to the consultant. Thereafter, the local agency manages and administers the contract to ensure that a complete and acceptable product is received on time, within standards, and within budget and terms of the contract.

Contract administration activities help to ensure that contractual obligations are completed satisfactorily. Generally, these activities include:

- Monitoring project progress and compliance with contract requirements;
- Receiving, reviewing and assessing reports, plans, and other required products/deliverables;
- Receiving and reviewing state prevailing wages. (See Department of Industrial Relations websites below.
 - [DIR FAQ](http://www.dir.ca.gov/OPRL/FAQ_PrevailingWage.html) website: http://www.dir.ca.gov/OPRL/FAQ_PrevailingWage.html
 - [DIR Wage Determination](http://www.dir.ca.gov/oprl/DPreWageDetermination.htm) website: <http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>
- Reviewing invoices to ensure costs claimed are in accordance to the method of payment and contract cost proposal, approving payments;
- If new consultant personnel are added or substituted, labor rates must be verified prior to approving invoices.
- Record keeping and reporting;
- Controlling costs;

- Identifying changes to the scope of work and preparation of amendments (must ensure that any changes to the scope is within the constraints of the original RFP/RFQ;
- Completing the consultant performance evaluations (see [Exhibit 10-S: Consultant Performance Evaluation](#)).

Substitution of Consultant Personnel and Subconsultants

After contract execution the consultant should not substitute key personnel (project manager and others listed by name in the cost proposal) or subconsultants without prior written approval from the local agency. Refer to LAPM Chapter 9: Civil Rights & Disadvantaged Business Enterprise and Title 49 CFR 26 for DBE substitution requirements. To do so can result in the costs being ineligible for federal or state reimbursement. The consultant must request and justify the need for the substitution and obtain approval from the local agency prior to use of a different subconsultant on the contract.

The proposed substituted person must be as qualified as the original, and at the same or lower cost. For engineering types of consultant contracts, the consultant's project manager must be a registered engineer in the State of California.

Invoicing (or Progress Payments)

The frequency and format of the invoices/progress payments are to be determined by the contract. Program Supplement Agreements (see [LAPM Chapter 3: Project Authorization](#)) need to have been prepared prior to any payments being requested. Payments to the consultant are to be in arrears. In other words, the consultant must have actually incurred and paid the costs before invoicing the local agency.

For federal reimbursement of consultant costs on a project, the local agency must submit the following to the DLAE, for each consultant or consulting firm used on the project (failure to do so will result in the consultant's invoices for reimbursement being returned to the agency unprocessed):

- Copy of Executed Consultant contract;
- [Exhibit 10-O1: Consultant Proposal DBE Commitment](#)
- [Exhibit 10-O2: Consultant Contract DBE Information](#)

DLAE must confirm that the local agency has submitted copies of [Exhibit 10-K: Consultant Certification of Contract Costs and Financial Management System](#) (for Prime and Subconsultants) to Caltrans IOAI and agency has submitted [Exhibit 10-C: Consultant Contract Database](#) to Caltrans.

The local agency is to follow the procedures given in [LAPM Chapter 5: Invoicing](#), to obtain reimbursement of federal or state funds.

Contract Amendments

Contract amendments are required to modify the terms of the original contract for changes such as extra time, added work, or increased costs. Only work within the original advertised scope of services shall be added by amendment to the contract. The addition of work outside the original advertised scope will make that work ineligible for federal or state reimbursement (see [Q&As](#) at: http://www.fhwa.dot.gov/programadmin/172qa_01.cfm).

There is no prescribed format for contract amendments. They may take the form of letter-type agreements meeting the legal requirements of the local agency, clearly outlining the changes and containing a mutually agreed upon method of compensation. Such agreements must conform to the requirements of this manual with regard to payment.

A consultant contract may be amended at any time prior to the expiration date of the original contract. The most common amendment is to extend the ending date of the contract. All contract amendments must be fully executed before the ending date of the contract [by formal amendment](#). Failure to amend a contract prior to the ending date will make the subsequent costs ineligible for federal and state reimbursement. Task orders are not considered an amendment and therefore not appropriate to extend the terms of the contract.

All contract amendments shall be negotiated following the same procedures as the negotiation of the original contract and must be in writing and fully executed by the consultant and local agency before reimbursable work begins on the amendment. For any additional engineering and design related services outside of the scope of work established in the original solicitation, a contracting agency shall either procure the series under a new solicitation, perform the work itself using agency staff, or use a different, existing contract under which the services would be within the scope of work. Overruns in the costs of the work shall not automatically warrant an increase in the fixed fee portion of a cost plus fixed fee reimbursed contract. Permitted changes to the scope of work or duration may warrant consideration for adjustment of the fixed fee portion of cost plus fixed fee or lump sum reimbursed contracts. If an emergency exists of such magnitude that a delay cannot be tolerated, the local agency and the consultant may agree on an amendment initiating the work, so that reimbursable work may begin. The initiating amendment is then followed by a final amendment once the full scope of the emergency work is known and agreed to by both parties. In both cases, sufficient funding should be included in the amendments to pay for all work to be performed by the consultant. The final amendment must be executed as quickly as possible. Failure to fully comply with this section may result in the loss of local agency funding. [Section 10.1.3: A&E Consultant Audit and Review Process](#) of this chapter shall apply to the entire contract and must be completed prior to execution of the contract amendment. All amendments shall incorporate any current requirements of the federal regulations including the federal fiscal provisions and submit [Exhibit 10-C: Consultant Contract Reviewers Checklist Database](#) to <http://dlaaeoversight.dot.ca.gov/fmi/webd/Exhibit%2010-C> (please use Firefox or Chrome if not supported by your browser).

Performance Evaluation

Pursuant to 23 CFR §172.9(d)(2) agencies are required to prepare an evaluation of the consultant when the project has been completed. The Contract Administrator evaluates the consultant's performance after the consultant's final report has been submitted, and the Contract Administrator has conducted a detailed evaluation with the consultant's project manager. See [Exhibit 10-S: Consultant Performance Evaluation](#) for a suggested format for use by the local agency.

Project Records

Federal-Aid Highway Program funding recipients and sub-recipients must maintain adequate and readily accessible project performance and financial records, supporting documents, and other records considered pertinent to the grant agreement and in compliance with Federal laws and regulations (e.g., 23 USC 112; 40 USC 1101-1104, 23 CFR 172, 48 CFR 31, and 2 CFR

Part 200). These records shall be maintained for a minimum of three (3) years following issuance of the final voucher from FHWA (forwarded by Caltrans) and the closure of all other pending matters (*2 CFR Part 200.333*).

For audit purposes, project records and documentation shall be kept for three (3) years after payment of the final federal or state voucher. Among the records to be retained are as follows (not an all-inclusive list):

- Copies of RFPs and RFQs, changes, addendums, etc. and bidder's list;
- Documentation of DBE participation (including [Exhibit 10-O1: Consultant Proposal DBE Commitment](#), [Exhibit 10-O2: Consultant Contract DBE Commitment](#)), [Exhibit 10-G: Individual A&E Task Order DBE Tracking Sheet](#), [Exhibit 17-F: Final Report – Utilization of DBE and First-Tier Subcontractors](#), and [Exhibit 17-O: DBE Certification Status Change](#)).
- Solicitation and advertisement records;
- Identification of selection committee members;
- Record of receiving proposals, statement of qualifications;
- Evaluation and ranking records such as original score sheets from all panel members, short list questions and other documentation (see [Exhibit 10-B: Suggested Consultant Evaluation Sheet](#));
- Independent cost estimate (prepared in advance of requesting a cost proposal from the top-ranked consultant);
- Record of negotiations (to include a separate negotiation of profit in accordance with federal guidelines);
- Financial Review Letter and Cognizant Agency Letter, when applicable;
- CPA-audited ICR Audit Report or Approved State DOT Cognizant Indirect Rate Letter, if any;
- Consultant Certification of Costs and Financial Management ([Exhibit 10-K: Consultant Certification of Contract Costs and Financial Management System](#)) for contracts over \$150,000 or more;
- A&E Consultant Audit Request Letter and Checklist ([Exhibit 10-A: A&E Consultant Audit Request Letter and Checklist](#)) for contracts over \$150,000 and all supporting documentation.
- Executed consultant contracts, cost proposals and amendments (see [Exhibit 10-R: A&E Boilerplate Agreement Language](#) and [Exhibit 10-H: Sample Cost Proposal](#));
- Contract oversight and progress meeting documents;
- Progress and final payments, and supporting documentation;
- Performance evaluation (see [Exhibit 10-S: Consultant Performance Evaluation](#));
- Consultant contract checklists (see [Exhibit 10-C: A&E Consultant Contract Database](#));

- Accounting records documenting compliance with State and federal administrative requirements;
- Certifications and Conflict of Interest forms ([Exhibit 10-T: Conflict of Interest & Confidentiality Statement](#), all personnel involved in the procurement of the agreement should complete Exhibit 10-T [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#) and [Exhibit 10-Q: Disclosure of Lobbying Activities](#), as appropriate). Exhibit 10-Q is included in the solicitation and shall be completed if the consultant needs to disclose any lobbying activities.

Retention Clauses

At the option of the local agency, a retention clause may be included in the consultant contract. A retention clause in the consultant contract is recommended (see [Exhibit 10-R: A&E Boilerplate Agreement Language](#), Article XXXI).

Review of Local Agency Actions

Federal-aid or state reimbursement is contingent on meeting the federal or state requirements and can be withdrawn, if these procedures are not followed and documented. The local agency files are to be maintained in a manner to facilitate future FHWA or Caltrans process reviews and audits. As specified in the Review and Approval of Contracts above, the Contract Administrator must review the proposed consultant contract before execution.

[Exhibit 10-C: A&E Consultant Contract Database](#) is to be completed prior to award, [or after contract award but no later than the first invoice](#). A copy of Exhibit 10-C must be retained in the local agency project files.

10.1.9 MISCELLANEOUS CONSIDERATIONS

Agreements with Other Governmental Agencies

Intergovernmental or inter-entity agreements are encouraged if appropriate. If another governmental agency is requested to do work or provide services to an agency, an interagency agreement is needed. See 2 CFR 200 and CA Government Codes 10340 and 11256.

Small Purchase Contracts

Contracts that are less than \$250,000 are considered small contracts in accordance with federal regulations. However, within the State of California, there is not a recognized small purchase [procedure and all A&E contracts are procured using qualifications based selection and not cost](#). For federal contracts that are less than \$250,000 and are not anticipated to exceed this amount, the agency shall use Section 10.2: State-Only Funded A&E Contracts [or the federal guidance for contracts greater than \\$250,000](#). If the contract is anticipated to exceed \$250,000, use one of the accepted procurement procedures listed in the previous sections. Small contracts using the simplified acquisition procedure ([State-Only funded section](#)) shall not exceed \$250,000 or the additional costs are considered not reimbursable. The entire contract could also be considered ineligible by FHWA depending on circumstances. The scope of work, project phases, and contract requirements shall not be broken down into smaller components to permit the use of small purchase procedure. DBE requirements apply for all federally funded projects.

Noncompetitive Negotiated Contracts (Sole-Source)

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under sealed bids or competitive proposals (23 CFR 172.7(a)(3)).

FHWA considers these types of contracts as Sole Source contracts and should be used only in very limited circumstances. A Public Interest Finding prepared by the local agency and approved by Caltrans is required before establishing these services (23 CFR 172.7(a)(3); also see [Exhibit 12-F: Cost-Effectiveness/Public Interest Finding](#)).

Conditions under which noncompetitive negotiated contracts may be acceptable include:

- Only one organization is qualified to do the work;
- An emergency exists of such magnitude that cannot permit delay;
- Competition is determined to be inadequate after solicitation of a number of sources.

The local agency shall:

- Follow its defined process for noncompetitive negotiation;
- Develop an adequate scope of work, evaluation factors, and cost estimate before solicitation;
- Conduct negotiations to ensure a fair and reasonable cost.

The local agency must carefully document details of the special conditions, obtain Caltrans approval on a Public Interest Finding and retain all documents in the project files for future Caltrans' or FHWA's review.

Retaining a Consultant as an Agency Engineer or in Management Support Role

A local agency may retain qualified consultants in a management support role on its staff in professional capacities for federal-aid projects such as:

- A City Engineer (or equivalent) who manages the engineering unit for the city, providing oversight of a project, series of projects, managing or directing work of other consultants or contractors on behalf of the City.
- A County Engineer (or equivalent) who manages the engineering unit for the county such as duties described above.
- A Project Manager (or equivalent) who manages and oversees a project, series of projects or the work of other consultants and contractors on behalf of the public agency.
- A Program Manager (or equivalent) who manages and oversees an element of a highway program, function, or service on behalf of the public agency.

However, typically a consultant in a management support role is not:

- A consultant engineer performing project-specific design, and/or construction contract administration and construction engineering for the public agency.
- A consultant providing support to administrative duties such as federal authorization process, labor compliance activities, and other management and administrative tasks.

The use of a consultant in a management support role should be limited to unique or very unusual situations. These situations require a thorough justification as to why the local agency cannot perform the management. Consultants used in management support roles must be selected using the same procedures as those for other consultants specified in this chapter. Consultants in a Management Support Role funded by local or state funds must have approval from FHWA to be considered qualified to manage federal projects or consultants providing services on federal projects.

Eligibility for federal or state reimbursement for a consultant in a management support role requires the following:

- Compliance with the selection procedures specified in this chapter;
- Existence of a contract between the local agency and the consultant specifying the local agency engineering services to be performed;
- Written designation by the local agency of the responsibilities and authority of the consultant as an agency engineer;
- For a federal-aid project, completion of [Exhibit 10-T: Conflict of Interest & Confidentiality Statement](#) by all members (both consultants and employees) prior to participating in the Architect & Engineering (A&E) Selection Panel pertaining to the specific selection process and the firms being considered;
- Selection of consultants for A&E management positions shall be by the use of qualification based selection procedures on an open and competitive basis resulting in a contract with defined beginning and ending dates not to exceed five (5) years;
- For a federal-aid project, a local agency consultant in a management support role shall not:
 - Participate in, or exercise authority over the A&E selection process, if that consultant's firm is one of the proposing firms, or subconsultant to a proposing firm;
 - Participate in, or exercise authority over management of work performed by the consultant's firm, or to a consultant's firm of which the local agency consultant firm is a subconsultant. This would include, but not be limited to, managing or directing the work, approving changes in the schedule, scope, or deliverables; and approving invoices.
 - Apply for or receive reimbursement of federal-aid funds for the local agency's federal-aid project if either of the foregoing has occurred. However, reimbursement for the construction contract portion of the project will still be allowed provided all other federal-aid requirements have been met.
 - Where benefiting more than a single federal-aid project, allocability of consultant contract costs for services related to a management support role shall be distributed consistent with the cost principles applicable to the contracting agency in 23 CFR 172.7(b)(5).

If engineering services for a project are within the scope of the services described in the retained consultant's contract, these services may be performed by the person or firm designated as an agency engineer. If the services are not within the scope, eligibility for federal

reimbursement for these services require a new consultant contract to be developed using the selection procedures in this chapter. Retained consultants involved in the preparation of the RFP or RFQ shall not be considered in the selection of consultants for the resulting project specific work.

When engineering or architectural consultants in a management support role are procured with federal-aid funds, the local agency (subgrantee) shall fully comply with the following:

- Subparagraphs of 2 CFR 200.318 maintain a contract administration system and maintain a written code of standards. No employee, officer or agent of the subgrantee shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.
- Subparagraph of 23 CFR §172.7(b) requires that the local agency shall receive approval from FHWA. In addition, any federal-aid projects designated as Projects of Division Interest may also need approval from FHWA.
- Liability insurance should normally be required from the consultant (errors and omissions, etc.).

For federally funded projects, local agencies that solicit to hire A&E consultant(s) in a management support role must obtain FHWA approval prior to contract execution.

In order for a contract for a consultant in a management support role to be federally eligible, the following are required prior to contract execution:

- The local agency shall submit a request for approval via email, the Scope of Work (SOW) and Conflict of Interest (COI) Policy to the Division of Local Assistance-Headquarters (DLA-HQ) at aeoversight@dot.ca.gov, prior to solicitation.
- Once the local agency receives FHWA's written response, the local agency may need to revise the documents reflecting FHWA's opinions and can proceed with the RFQ.
- After consultant selection, the local agency shall submit the completed [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#) to the DLA-HQ at aeoversight@dot.ca.gov. Local agency will receive FHWA's approved [Exhibit 10-U](#) via email.

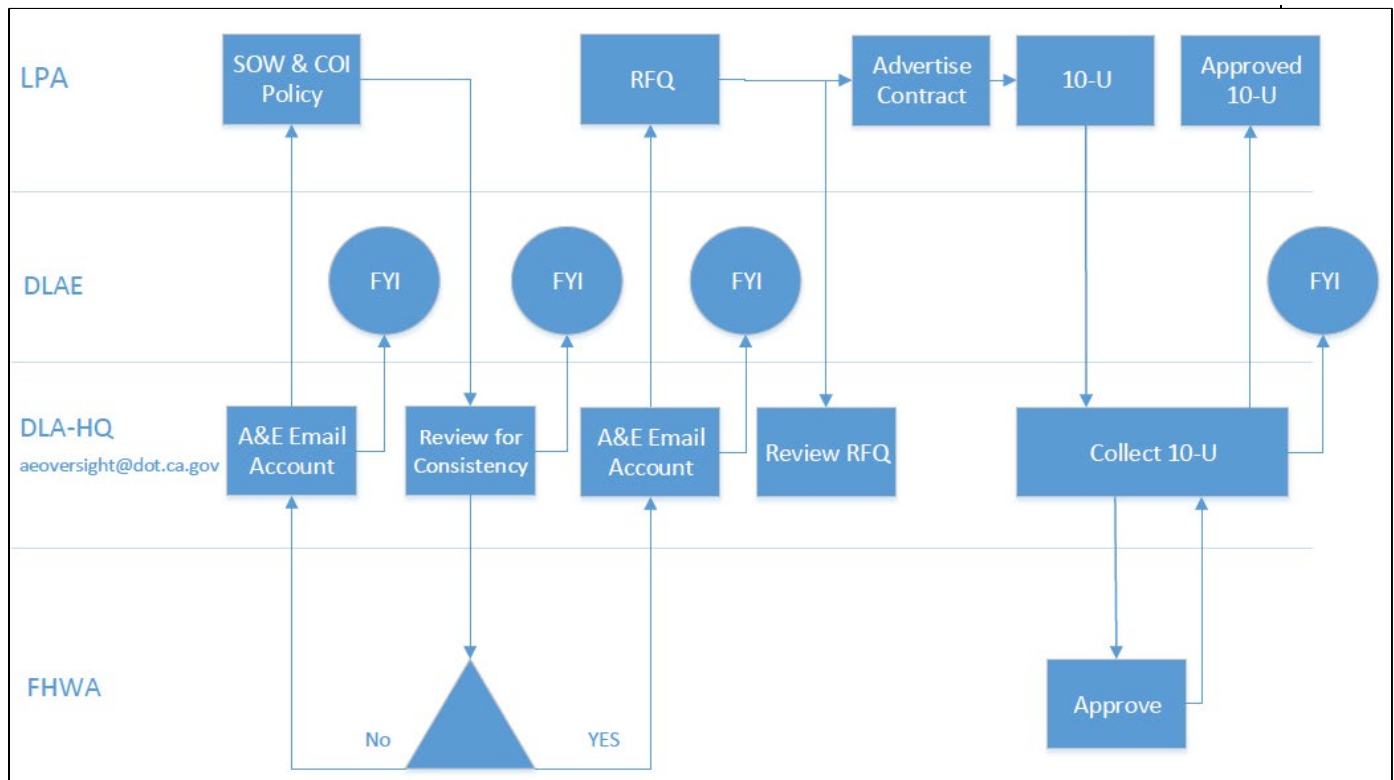


Figure 10-5: Consultant in a Management Support Role Flowchart

Construction Engineering Services

Under federal-aid regulations and state policy, the primary responsibility for general supervision of construction must remain with the local agency. The local agency must also ensure that the work is performed in accordance with the approved plans and specifications, by employing or retaining as a consultant a registered engineer for construction engineering services on the project.

All construction engineering activities performed by a consultant must be under the overall supervision of a full-time employee of the agency who is in responsible charge. These activities may include preparation of contract change orders, construction surveys, foundation investigations, measurement, and computation of quantities, testing of construction materials, checking of shop drawings, preparation of estimates, reports, and other inspection activities necessary to ensure that the construction is being performed in accordance with the plans and specifications. The construction engineering consultant's contract defines the relative authorities and responsibilities of the full-time employee of the local agency in charge of the project and the consultant's construction engineering staff.

If a technical inspection consultant is to provide professional assistance to the local agency, a formal consultant contract must be executed which follows this chapter's requirements. The contract shall provide for reviews at appropriate stages during performance of the work to determine if any changes or other actions are warranted. These reviews are to be made by the local agency.

10.1.10 PROGRAM MANAGEMENT

According to 23 CFR §172.5, local agencies are required to adopt written policies and procedures prescribed by Caltrans. The local agency shall adopt Caltrans Local Assistance Chapter 10: Consultant Selection. Local agencies are responsible for providing all resources necessary for the procurement, management, and administration of A&E consultant contracts including subcontracts. Ensuring consultant costs billed are allowable in accordance with the Federal cost principles and consistent with the contract terms as well as the acceptability and progress of the consultant's work;

- Monitoring the consultant's work and compliance with the terms, conditions, and specifications of the contract;
- Preparing a consultant's performance evaluation when services are completed and using such performance data in future evaluation and ranking of consultant to provide similar services;
- Closing-out a contract;
- Retaining supporting programmatic and contract records, as specified in 2 CFR 200.333 and the requirements of this part;
- Determining the extent to which the consultant, which is responsible for the professional quality, technical accuracy, and coordination of services, may be reasonably liable for costs resulting from errors and omissions in the work furnished under its contract;
- Assessing administrative, contractual, or legal remedies in instances where consultants violate or breach contract terms and conditions, and providing for such sanctions and penalties as may be appropriate; and
- Resolving disputes in the procurement, management, and administration of engineering and design related consultant services.

An example resolution is located at: <https://dot.ca.gov/programs/local-assistance/environmental-and-other-policy-issues/consultant-selection-procurement>.

10.1.11 REFERENCES

23 CFR, Part 172 Administration of Engineering and Design Related Service Contracts

<http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=23:1.0.1.2.3>

40 USC, Section 1104 Brooks Act

<http://www.fhwa.dot.gov/programadmin/121205.cfm>

41 CFR Public Contracts and Property Management

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title41/41tab_02.tpl

41 USC Public Contracts

<http://law.onecle.com/uscode/41/index.html>

23 USC Letting of Contracts

<http://www.fhwa.dot.gov/map21/docs/title23usc.pdf>

48 CFR, Chapter 1, Part 15.404

<https://www.acquisition.gov/far/html/FARTOCP15.html>

48 CFR, Chapter 1, Part 31

<https://www.acquisition.gov/far/html/FARTOCP15.html>

Title 48, Part 16 – Types of Contracts

<http://www.elaws.us/subscriber/signin?returnurl=http://federal.elaws.us/cfr/title/4/10/2013/title48/chapter1/part16&IsHistory=1&AspxAutoDetectCookieSupport=1>

48 CFR 27, Subpart 27.3 – Patent Rights under Government Contracts

<https://www.law.cornell.edu/cfr/text/48/part-27/subpart-27.3>

48 CFR 31.201-3

<https://www.gpo.gov/fdsys/pkg/CFR-2011-title48-vol1/pdf/CFR-2011-title48-vol1-sec31-201-6.pdf>

48 CFR, Chapter 99 – Cost Accounting Standards, Subpart 9900

<https://www.gpo.gov/fdsys/granule/CFR-2002-title48-vol7/CFR-2002-title48-vol7-chap99>

2 CFR Part 200

http://www.ecfr.gov/cgi-bin/text-idx?SID=eb0db4a32ce93fdc5815e6fe58791d9d&mc=true&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

49 CFR, Part 26 Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

American Association of State Highway and Transportation Officials (AASHTO) Uniform Audit and Accounting Guide

<http://audit.transportation.org/Pages/default.aspx>

Caltrans Division of Procurement and Contracts Website

<http://www.dot.ca.gov/dpac/index.html>

California Labor Code, Section 1775

<http://law.onecle.com/california/labor/1775.html>

Government Auditing Standards (GAS) issued by the United States Government Accountability Office

<http://www.gao.gov/yellowbook/overview>

Government Code Sections 4525 through 4529.5

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=04001-05000&file=4525-4529.5>

OMB Circular A-110 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

https://www.whitehouse.gov/omb/circulars_a110

Standard Environmental Reference (SER)

<http://www.dot.ca.gov/ser/>

10.2: STATE-ONLY FUNDED A&E CONTRACTS

A&E State-Only	<i>Division of Local Assistance Minimum Requirements for State-only funded A&E Contracts</i>
	A. Written Procedures
	B. Conflict of Interest
	C. Records
	D. Full & Open Competition
	E. Selection Basis
	F. Publication
	G. Solicitation
	H. Cost Analysis
	I. Negotiations
	J. Audit and Review Process
	K. Exhibit 10-C: A&E Consultant Contracts Database

10.2.1 GENERAL

Local Agencies are required to follow all applicable local and state regulations including those listed in LAPM Chapter 10 in accordance with their State Master Agreement. Although the requirements listed in this section are minimum requirements, the local agency shall use good engineering judgment and best practices to document their processes and procedures when procuring A&E contracts utilizing qualifications based selections.

All consultants must comply with 48 Code of Federal Regulations (CFR) Part 31: Contract Cost Principles and Procedures. Also, consultants and Local Agencies must comply with 2 CFR Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, excluding sections §200.318-200.326 Procurement Standards (reference Federal Highway Administration December 4, 2014 Memorandum Action: 2 CFR 200 Implementation Guidance).

Agency state-only funded (SOF) agreements must contain the required federal fiscal provisions from 2 CFR 200 in all Division of Local Assistance funded agreements. Exhibit 10-R: A&E Boilerplate Agreement Language contains 2 *CFR 200* requirements and may also be used in SOF agreements. Depending upon the scope of work, the required contract provisions may need to include the California State Prevailing Wages.

All proposed A&E contracts and supporting documents (including state-only funded) are subject to audit or review by Caltrans' Independent Office of Independent Office of Audits and Investigations (IOAI), other state audit organizations, or the federal government and required to follow LAPM Section 10.1.3 A&E Consultant Audit and Review Process.

For consultant contracts, procured with local or state funds, to provide services for federal-aid projects, or to oversee or manage other consultants providing these services, the Consultant in Management Support Role process must be completed to be eligible for reimbursement. Refer to Chapter 10.1.9 Miscellaneous Considerations: Retaining a Consultant as an Agency Engineer or in a Management Support Role.

DBE contract goals are not required for state-only funded contracts.

This guidance is for contracts utilizing state funds only. If any federal funds are added or reimbursed, the federal process must be followed.

Non-A&E consultant contracts reference LAPM Section 10.3: Non-A&E Contracts.

Reference: California Government Code Title 1, Division 5, Chapter 10, Contracts with Private Architects, Engineering, Land Surveying, and Construction Project Management Firms §4525-4529.5.

10.2.2 DEFINITION OF A&E

Architectural, landscape architectural, engineering, environmental, and land surveying services includes those professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

Construction project management means those services provided by a licensed architect, registered engineer, or licensed general contractor. Any individual or firm proposing to provide construction project management services shall provide evidence that the individual or firm and its personnel carrying out onsite responsibilities have expertise and experience in construction project design review and evaluation, construction mobilization and supervision, bid evaluation, project scheduling, cost-benefit analysis, claims review and negotiation, and general management and administration of a construction project.

Environmental services mean those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws.

Reference: California Government Code §4527

10.2.3 MINIMUM AUDIT REQUIREMENTS

A. Written Procedures

Local agencies shall follow the minimum requirements listed below in addition to any local laws and regulations.

Reference: California Government Code §4526

B. Conflict of Interest

The local agency must develop and maintain a written code of conduct governing the performance of its employees engaged in the award and administration of state funded contracts, including the prevention of conflicts of interest.

References:

California Government Code §4526

California Government Code §1090

California Government Code §4529.12

C. Records

Local agencies shall keep adequate records of all contracts including the procurement, project management, accounting and financial administration.

References:

California Government Code §4529.14

California Government Code §4006

D. Full & Open competition

All A&E contracts shall be procured through a qualifications based selection utilizing open and fair competition. Evaluate at least three consultants using published evaluation criteria and rank these firms in order of preference. *If less than three consultants are evaluated, provide justification for agency file.*

References:

California Government Code §4526

California Government Code §4527

E. Selection Basis

Selection of a firm shall be based on qualifications and the order of ranked preference.

References:

California Government Code §4526

California Government Code §4527

F. Publication

Solicitations for A&E contracts shall be in a manner that is open and competitive.

Reference: California Government Code §4527

G. Solicitation

The solicitations shall include published evaluation criteria to rank in order of preference. Clearly define expectations in the solicitation in order to evaluate firms.

Reference: California Government Code §4527

H. Cost Analysis

An independent cost comparison to the consultant's cost proposal shall be done in order to ensure the contract is negotiated at a fair and reasonable price.

Reference: California Government Code §4528

I. Negotiations

Negotiations must be documented to verify a fair and reasonable contract has been executed using public funds.

Reference: California Government Code §4528

J. Audit and Review Process

A&E contracts procured by public agencies shall be subject to standard accounting practices and may require financial and performance audits. All agencies shall follow the Audit and Review Process as stated in LAPM Section 10.3: A&E Consultant Audit and Review Process.

<http://www.dot.ca.gov/hq/LocalPrograms/lam/LAPM/ch10.pdf>

<http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/chapter10/10a.pdf>

Reference: California Government Code §4529.14

K. Exhibit 10-C: A&E [Consultant Contract Database](#)

Exhibit 10-C: A&E Consultant Contract [Database](#) must be completed at <http://dlaaeoversight.dot.ca.gov/fmi/webd/Exhibit%2010-C> (please use Firefox or Chrome if not supported by your browser) prior to contract award, or after contract award but no later than the first invoice.

CA Government Code References

California GOV §1090

(a) Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.

(b) An individual shall not aid or abet a Member of the Legislature or a state, county, district, judicial district, or city officer or employee in violating subdivision (a).

(c) As used in this article, "district" means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

California GOV §4006

Plans, specifications, work authorizations describing work to be performed, and all other information referred to in this chapter are open to inspection and examination as a public record.

California GOV §4525

For purposes of this chapter, the following terms have the following meaning:

(a) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, landscape architecture, engineering, environmental services, land surveying, or construction project management.

(b) "State agency head" means the secretary, administrator, or head of a department, agency, or bureau of the State of California authorized to contract for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services.

(c) "Local agency head" means the secretary, administrator, or head of a department, agency, or bureau of any city, county, city and county, whether general law or chartered, or any district which is authorized to contract for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services.

(d) "Architectural, landscape architectural, engineering, environmental, and land surveying services" includes those professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

(e) "Construction project management" means those services provided by a licensed architect, registered engineer, or licensed general contractor which meet the requirements of Section 4529.5 for management and supervision of work performed on state construction projects.

(f) "Environmental services" means those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws. "Environmental services" also includes the processing and awarding of claims pursuant to Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

California GOV §4526

Notwithstanding any other provision of law, selection by a state or local agency head for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. In order to implement this method of selection, state agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services shall adopt by regulation, and local agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services may adopt by ordinance, procedures that assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public agencies. Furthermore, these procedures shall assure maximum participation of small business firms, as defined by the Director of General Services pursuant to Section 14837.

In addition, these procedures shall specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit government agency employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract under this section which would subject those employees to the prohibition of Section 87100.

California GOV §4527

In the procurement of architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services, the state agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data.

(a) When the selection is by a state agency head, statewide announcement of all projects requiring architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services shall be made by the agency head through publications of the respective professional societies. The agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him or her, no less than three of the firms deemed to be the most highly qualified to provide the services required.

(b) When the selection is by a local agency head, the agency head may undertake the procedures described in subdivision (a). In addition, these procedures shall specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit government agency employees from participating in the selection process when these employees have a relationship with a person or business entity seeking a contract under this section.

California GOV §4528

(a) When the selection is by a state agency head the following procedures shall apply:

(1) The state agency head shall negotiate a contract with the best qualified firm for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services at compensation which the state agency head determines is fair and reasonable to the State of California or the political subdivision involved.

(2) Should the state agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the agency head determines to be fair and reasonable to the State of California or the political subdivision involved, negotiations with that firm shall be formally terminated. The state agency head shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the state agency head shall terminate negotiations. The state agency head shall then undertake negotiations with the third most qualified firm.

(3) Should the state agency head be unable to negotiate a satisfactory contract with any of the selected firms, the state agency head shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this chapter until an agreement is reached.

(b) When the selection is by a local agency head, the local agency head may undertake the procedures described in subdivision (a).

California GOV §4529

This chapter shall not apply where the state or local agency head determines that the services needed are more of a technical nature and involve little professional judgment and that requiring bids would be in the public interest.

California GOV §4529.12

All architectural and engineering services shall be procured pursuant to a fair, competitive selection process which prohibits governmental agency employees from participating in the selection process when they have a

financial or business relationship with any private entity seeking the contract, and the procedure shall require compliance with all laws regarding political contributions, conflicts of interest or unlawful activities.

California GOV §4529.14

Architectural and engineering services contracts procured by public agencies shall be subject to standard accounting practices and may require financial and performance audits as necessary to ensure contract services are delivered within the agreed schedule and budget.

California GOV §4529.20

This act seeks to comprehensively regulate the matters which are contained within its provisions. These are matters of statewide concern and when enacted are intended to apply to charter cities as well as all other governmental entities.

Federal Highway Administration Memorandum 2 CFR 200 Implementation Guidance 12/4/2014

Attachment A: FHWA 2 CFR 200 Uniform Guidance – Questions and Answers

Question 21: "Will the FHWA/USDOT provide a waiver of the requirements in 2 CFR 200.317 for subrecipients to comply with State procurement requirements or other policies and procedures approved by the State (200.317)?"

Answer: Yes. The USDOT requested and received an OMB waiver of the requirements in 2 CFR 200.317 concerning procurement by subrecipients. This waiver provides an exception to the requirement for all subrecipients of a state to follow the procurement requirements in Sections 200.318 through 200.326. The waiver will allow States and subrecipients to continue to use state-approved procurement procedures as they did under part 18 prior to the adoption of the Uniform Guidance.

Figure 10.2 State-Only Funded Procurement Criteria

To comply with CA Government Code (GC) 4525-4529.5, 48 Code of Federal Regulations (CFR) Part 31: Contract Cost Principles and Procedures, 2 CFR Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (excluding sections 200.318-200.326), Caltrans Local Assistance Procedures Manual (LAPM) and other applicable STATE and FEDERAL regulations.

A&E Consultants		
Requirements for LGAs that use State funding		Use State requirements below
A.	Written Procedures	GC 4526
B.	Conflict of Interest	GC 1090, GC 4527(b), GC 4529.12
C.	Records	GC 4529.14, 4006
D.	Full & Open Competition	GC 4526, GC 4527, GC 4529.12
E.	Selection Basis	GC 4526*, 4527
F.	Publication	GC 4527
G.	Solicitation	GC 4527
H.	Cost Analysis	GC 4528
I.	Negotiations	GC 4528
J.	A&I Audit & Review Process	GC 4529.14, LAPM Ch. 10, 2 CFR 200
K.	Exhibit 10-C: A&E Consultant Contract Database	LAPM Ch. 10.2

*Mini Brooks Act - State regulation requiring the initial selection of engineering and architecture firms be based upon qualifications and experience rather than by price. Price is then later negotiated.

10.3: NON-A&E CONTRACTS

Scope

This section covers the procurement requirements for the services that are not included in Section 10.1 Federal and Section 10.2 State-Only. This guidance is for contracts utilizing federal-aid funds and state funds. Federal regulations refer to state and local regulations for non-A&E type contracts. Although local agencies are required to follow 2 CFR 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards for all contracts, the Procurement Standards section §200.318-200.326 is exempt. The guidance in this section follows the established regulations in the California Public Contract Code. Depending upon the scope of work, the required contract provisions may need to include the California State Prevailing Wages.

Local agency shall designate one person within the local agency as a contract manager.

(PCC 10348.5)

Determining Non-A&E

After identifying that there is a need for consulting services, the local agency shall determine that the services needed are more of a technical nature and involve minimal professional judgement and that requiring a cost proposal would be in the public's best interest. These type of consultant services that are not directly related to a highway construction project or that are not included in the definition of engineering and design related services are considered non-A&E. The services must not be included in Section 10.2.2 Definition of A&E.

The determining factor is whether the services being procured are related to a specific construction project and whether the services require work to be performed, provided by, or under the direction of a registered engineer or architect.

Example of Determining Non-A&E

Material testing has been requested to ensure quality assurance on a construction project. The service includes only performing the material test and providing material test data. Although the service is related to a construction project, the overall service did not provide an evaluation or a discipline report. In this example, the local agency can determine that the service provided is more of a technical nature and is therefore a non-A&E service.

The following is a list of the more common non-A&E services:

- Right-of-Way Appraisal
- Right-of Way acquisition activities
- Conducting public outreach during environmental clearance or construction
- Active Transportation Program educational and outreach activities
- Intelligent Transportation System (ITS)
- Non-Infrastructure

Intelligent Transportation System (ITS) Projects

Intelligent Transportation System (ITS) means electronic, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system. ITS projects are those that in whole or in part, funds the acquisition of technologies or systems of technologies that provide significant contributions to the provision of one or more ITS user services as defined in the National ITS Architecture.

The federal-aid procurement regulations identify three possible contract procurement procedures for ITS projects including engineering and design related services (A&E), construction, and non-engineering/non-architectural (non-A&E).

If ITS projects include physical installation of field devices and/or communications infrastructure, such as new traffic signals, new controller cabinets, changeable message signs, radio and computers, vehicle detectors, and conduits for cabling in the roadway, then that work and required equipment usually meets the definition of construction. The construction contract must be procured based on competitive bidding. If the ITS project involves software development, system integration, hiring engineers and specialists for ITS design and installation support, inspection, design documentation, training and deployment, it may be considered an engineering and design services contract and the contract must be procured as an A&E consultant contract. If the scope of work is unclear as to whether it is an A&E type of work, contact aeoversight@dot.ca.gov for assistance.

However, if an ITS project does not meet either the definition of construction or engineering and design services, then the contract may be considered to be a non-A&E consultant contract.

Examples of non-A&E consultant contracts are:

- The procurement of hardware and software associated with incident management system;
- Software systems for arterial and freeway management systems;
- Operating the 511 traveler information service;
- Nonprofessional services for system support such as independent validation and verification, testing and specification development;

For more information regarding Intelligent Transportation Systems (ITS) Program procurement requirements, refer to LAPG, Chapter 13 LAPG Chapter 13: Intelligent Transportation Systems.

Non-Infrastructure Projects

Non-infrastructure (NI) projects are those transportation-related projects that do not involve either engineering design, Right-of-Way acquisition (for additional guidance refer to LAPM Chapter 13), or the eventual physical construction of transportation facilities.

Procurement of non-A&E consultant contracts associated with non-infrastructure projects must follow Non-A&E procurement procedures described in this chapter. For more information on NI projects, refer to LAPM Chapter 3: Project Authorization.

Governing Regulations and Codes for Non-A&E

When procuring non-A&E services with federal-aid funds, Local agencies must comply with 2 CFR Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, excluding sections §200.318-200.326 Procurement Standards (reference Federal Highway Administration December 4, 2014 Memorandum Action: 2 CFR 200 Implementation Guidance, Attachment A). Local agencies must follow the same policies and procedures that the State uses for procurement with its non-Federal funds. When procuring non-A&E services with federal-aid and state-only funds, the governing procurement code is Public Contract Code 10335-10381.

Procurement of Non-A&E Consultant Contracts

All non-A&E procurements contracts must be conducted in a manner providing full and open competition consistent with federal and state standards. Local agency must meet the code of conduct governing the performance of its employees engaged in the award and administration of federal-aid and state-funded contracts, including the preventions of conflict of interest in PCC 10410.

The following are the fundamental rules when procuring a non-A&E consultant contract.

1. The request for proposal (RFP) shall not limit the competition directly or indirectly to any one consultant. The RFP must be publicized and all evaluation factors and their relative importance identified. (PCC 10339)
2. Splitting a single transaction into a series of transactions for the purpose of evading the procurement requirements is not allowed. (PCC 10329)
3. Local agency shall secure at least three competitive proposals for each contract. (PCC 10340) When receiving less than three proposals, refer to the Cost-Effective/Public Interest Finding in this section as an alternative to re-advertisement.
4. No proposals shall be considered which have not been received at the place, and prior to the closing time as stated in the RFP. (PCC 10344(a))
5. Local agency must have a written procedure for evaluating proposals. (PCC 10344)

RFP Basic Requirements

- A. There are two general types of consulting service contract solicitations:
- B. Request for Proposal using Cost only
- C. Request for Proposal using Cost and Qualifications

The local agency must include the following in the request for proposal:

- A. A clear, precise description of the work to be performed or services to be provided.
- B. Description of the format that proposals shall follow and the elements they shall contain.
- C. The standards the agency will use in evaluating proposals. This includes qualifications and certifications if applicable.
- D. The date the proposals are due.

- E. The procurement schedule that the local agency will follow in reviewing and evaluating the proposals.

(PCC 10344)

Additional Requirements and Evaluation Criteria

Additional Requirements for Request for Proposal using Cost only

- A. Local agency must require consultants to submit their proposals and cost in a separate, sealed envelope.
- B. Local agency shall determine those that meet the format requirements and the standards specified in the request for proposal.
- C. The sealed envelopes containing the price and cost information for those proposals that meet the format requirements and standards shall then be publicly opened and read.
- D. Contract must be awarded to the lowest responsible consultant meeting the standards.

(PCC 10344(b))

Additional Requirements for Request for Proposal using Cost and Qualifications

- A. Local agency must include in the proposal the description of the evaluation and scoring method. Substantial weight in relationship to all other criteria utilized shall be given to the cost amount proposed by the consultant.
- B. Local agency shall determine those that meet the format requirements specified in the RFP.
- C. Local agency evaluation committee must evaluate and score the proposals using the methods specified in the RFP. All evaluation and scoring sheets shall be available for public inspection after the committee scoring process. Evaluation committee should comply to the prevention of conflict of interest in PCC 10410.
- D. The non-A&E contract shall be awarded to the consultant whose proposal is given the highest score by the evaluation committee.

(PCC 10344(c))

When using RFP (Cost and Qualifications), the criteria used to evaluate the consultant's proposals must have a logical foundation within the scope of work or within other technical requirements contained in the RFP. Each criterion must have a weight or level of importance, and it is recommended that total possible score for the evaluation criteria be one hundred (100) points. The proposed cost should be at least thirty percent (30%) of total points in evaluation criteria.

An example RFP for non-A&E is provided on the Local Assistance website at <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/ae/files/rfp-example-non-ae.docx> and may be modified.

Submission of Exhibit 10-C: Consultant Contract [Database](#) to Caltrans HQ is not required for non-A&E consultant contracts.

Consultant's Proposal

The consultant's proposal should include the following information:

- Consultant Project Manager – qualifications, roles and responsibilities.
- Methodology - description of work and overall approach, specific techniques that will be used and specific administrative and operations expertise to be used.
- Workplan and Work Schedule - the technical proposal should include activities and tasks, and their delivery schedule.
- Personnel - List of personnel who will be working on the project, and their resumes.
- Facilities and resources (If applicable) - Explanation of where the services will be provided and what type of equipment is needed to perform services.
- Sub-contracts - Identify all sub-contracts that are to be used, description of each and the work by each sub-consultant/sub-contractor. No work shall be subcontracted unless listed in the technical proposal. Sub-consultant resumes should be provided.
- References - The technical proposal should provide at least three (3) clients for whom the proposer has performed work of similar nature to the request.

Cost Proposal Worksheet

The RFP should provide a standard format for cost proposal that all proposers must include in their proposal. The cost proposal format can be broken down by specific tasks, showing hourly labor rates, level of effort and material, and/or by milestones and deliverables.

Local agency is not required to award a contract if it is determined that the contract price is not reasonable. (PCC 10340(c))

DBE Consideration

DBE consideration is required on all federal-aid funded contracts including non-A&E.

Administrative Requirements

Advertisement for RFPs may be through the local agency website, local publications, and national publications. Minimum solicitation time is 14 calendar days. The solicitation should inform potential qualified consultants that questions must be submitted in writing to the Agency Contract Manager/Administrator by a specified date and time. All pertinent technical information and answers to consultant's questions shall be provided to all potential consultants. Written responses to all questions will be collectively compiled and provided as an addendum.

A proposal may be considered nonresponsive and rejected without evaluation if all required information is not provided. Proposals without information regarding, or not meeting, the required DBE utilization goal or without a Good Faith Effort documentation, late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed. Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

No consultant who has been awarded a consulting service contract may be awarded a subsequent contract for the services or goods which are required as an end product of the consulting service contract, unless the subcontract is no more than 10 percent of the total monetary value of the consulting services contract. Excludes A&E contracts.

(PCC 10365.5)

Contracts may be modified or amended only if the contracts so provide. Amendments must be requested and executed prior to the termination date of the most recently approved original or amended contract. All records of contract activities shall be kept for three years after federal final voucher E-76 or state final voucher for State-Only funds. Costs are reimbursable after state allocation by the California Transportation Commission (CTC) and/or the issuance of the federal E-76. The per diem rate shall not exceed the state rate. Contract Managers are responsible for monitoring expenditures on all contracts and verifying categories of work that require prevailing wage. A person in Responsible Charge of contract management is required for all federally funded projects.

Oral Presentations Optional

When oral presentations are required by the local agency, the evaluation criteria must include factors/sub-factors and weights used to score the proposers performance at the oral presentation. The evaluation committee will only be able to score each proposer based upon these criteria. The Contract Manager/Administrator should develop a set of questions related to the scope of work or the project to be asked during the evaluation committee question and answer (Q & A) section of the oral presentations. All proposers are asked the same questions for consistency.

The committee must also evaluate reference checks and other information gathered independently. Reference checks shall be completed and other information gathered before the interviews are conducted. If necessary, the results of the reference checks or other information may be discussed with the highest ranked qualified consultants at the interviews.

Cost-Effective / Public Interest Finding

A minimum of three proposal must be evaluated to establish effective competition. Any agency that has received less than three proposals on a contract shall document the names and addresses of the firms or individuals it solicited for proposals. Prepare an explanation as to why less than three proposals were received. When only two proposals are received, a justification must be documented to proceed with the procurement. When only one proposal is received, a Non-Competitive process must be justified and a Public Interest Finding (PIF) (LAPM Exhibit 12-F: Cost-Effective/Public Interest Finding) must be documented. In either case, the re-advertisement of the RFP should be considered as an option. Retain document as supporting documentation in the contract file.

(PCC 10340(c))

Protest / Appeals / Reinstatement Procedures

Both state and federal regulations require well-defined protest/reinstatement procedures. It is essential that the procedures include a reasonable opportunity for the prospective consultant to present his/her case. The appeals procedures strengthen the process by which the contracting agency reaches its ultimate goal and helps defends its action against a claim of lack of due process. A termination clause and a provision for settlement of contract disputes are required. Protest procedures and dispute resolution processes should be in accordance with PCC 10345.