AGENDA

ALISO VIEJO CITY COUNCIL
WEDNESDAY, NOVEMBER 20, 2024
7:00 PM REGULAR MEETING

CITY HALL
COUNCIL CHAMBERS
12 JOURNEY
ALISO VIEJO, CA

Mayor Mike Munzing
Mayor Pro Tem Tiffany Ackley
Councilmember Ross Chun
Councilmember Max Duncan
Councilmember Richard Hurt

WELCOME to the City of Aliso Viejo City Council meeting. Those persons wishing to address the City Council are requested to complete and submit to the City Clerk a “Request to Address City Council” form available at the entrance to the City Council Chambers. Speakers will be called at the appropriate time as their interested matter is heard. COMMENTS WILL BE LIMITED TO THREE MINUTES PER SPEAKER. Council proceedings are recorded.

It is the City's intention to comply with the Americans with Disabilities Act (ADA) . If you need special assistance to participate in the meeting, the City will make reasonable arrangements to ensure accessibility and/or accommodations. [28 CFR 35.102-35.104 ADA Title II] Please contact the City Clerk's Office at (949) 425-2505 at least 48 hours prior to the meeting.

Regular meetings of the City Council are held on the first and third Wednesday of the month at the City Hall Council Chambers, 12 Journey, Aliso Viejo. Copies of the agenda are available in the lobby at City Hall on the Thursday preceding a regularly scheduled City Council meeting. All communications received by the City regarding an agenda item have been included in the agenda materials. Supplemental documents relating to specific agenda items, including communications received after agenda delivery, are presented at the dais and in the Public Copy agenda binder at the time of the meeting. Supplemental documents are also available for review in the City Clerk's office, 12 Journey, Aliso Viejo. For more information, please contact City Hall at (949) 425-2505.

This meeting will be broadcast live on Cox Communications Channel 851, AT&T U-Verse Channel 99 and the City's website. By attending the City Council Meeting, you are giving your permission to be televised. The Council Meetings are rebroadcast on Wednesday at 7:00 p.m. on Cox Communications Channel 851, AT&T U-Verse Channel 99, and can be viewed on the internet at www.avcity.org.

MITZI ORTIZ	SCOTT C. SMITH	LAUREN TORRES
CITY MANAGER	CITY ATTORNEY	DEPUTY CITY CLERK

PLEASE SILENCE ALL CELL PHONES AND OTHER
ELECTRONIC EQUIPMENT WHILE CITY COUNCIL IS IN SESSION

CALL TO ORDER: Convene Regular Meeting

ROLL CALL

PLEDGE OF ALLEGIANCE:

1. SPECIAL PRESENTATIONS:

None.

2. ADDITIONS, DELETIONS, REORDERING TO THE AGENDA:

3. COMMUNITY INPUT:

Members of the public wishing to address the City Council are requested to complete and submit to the City Clerk a "Request to Address City Council" form available at the entrance to the City Council Chambers. In compliance with the Brown Act, no discussion or action may be taken on comments received at this time, except the City Council may briefly respond to statements made or questions posed. Comments are limited to three (3) minutes per speaker.

4. CONSENT CALENDAR:

All matters listed on the Consent Calendar will be acted upon by one vote unless members of the City Council, or staff request a matter to be discussed and/or removed from the Consent Calendar for separate action. Items removed from the Consent Calendar will be discussed and voted upon immediately following City Council action on the remainder of the Consent Calendar.

4.1 WAIVE THE READING OF ALL ORDINANCES AND RESOLUTIONS

Recommended Action: Approve the reading by title only of all ordinances and resolutions wherein the titles appear on the public agenda; said titles shall be determined to have been read by title, and further reading is waived.

4.2 APPROVAL OF MINUTES

Recommended Action: Approve the Minutes as submitted for the November 6 , 2024 Special Meeting and the November 6, 2024 Regular Meeting.
Draft Minutes - November 6, 2024 Special Meeting
Draft Minutes - November 6, 2024 Regular Meeting

4.3 ACCOUNTS PAYABLE

Recommended Action: Ratify accounts payable checks and electronic funds transfers issued between October 25, 2024, and November 7, 2024, in the amount of $1,114,142.87.

Staff Report
Attachment 1 - Accounts Payable Report

4.4 ANNUAL MEASURE M2 EXPENDITURE REPORT

Recommended Action: Adopt a Resolution approving the City's annual Measure M2 expenditure report for fiscal year ending June 30, 2024.

Staff Report
Attachment 1 - Resolution
Attachment 2 - Measure M2 Expenditure Report

4.5 AGREEMENT WITH CREATIVE AIR MECHANICAL SERVICES FOR CITY HALL HVAC IMPROVEMENTS

Recommended Action:

1. Approve Contract Documents for City Hall HVAC Improvements;
2. Award an agreement in the amount of $160,840 to Creative Air Mechanical Services as the lowest responsible bidder for the City Hall HVAC Improvements;
3. Authorize the City Manager to execute an agreement with Creative Air Mechanical Services;
4. Authorize City staff to make total compensation to Creative Air Mechanical Services up to $160,840 plus $14,000 (8.7% of the agreement amount) to allow for contingencies, totaling $174,840; and
5. Declare this project categorically exempt from the California Environmental Quality Act (CEQA) process Per Title 14 of the California Code of Regulations, Chapter 3, Article 19, Section 15301 (Class 1: Existing Facilities).

Staff Report
Attachment 1 - Agreement

4.6 FOURTH AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT FOR STC TRAFFIC, INC. FOR ON-CALL TRAFFIC ANALYSIS

Recommended Action: Approve and authorize the City Manager to execute a fourth amendment to the professional services agreement with STC Traffic, Inc. to extend the agreement to June 30, 2026.

Staff Report
Attachment 1 - Original Agreement
Attachment 2 - Fourth Agreement Amendment

5. PUBLIC HEARINGS:

None.

6. DISCUSSION:

6.1 STUDY SESSION FOR THE AVALON ALISO VIEJO MIXED-USE PROJECT

Recommended Action: Conduct a public hearing to review the concept plans for a mixed-used project, consider public testimony, and provide feedback to the Applicant.

Staff Report
Attachment 1 - Staff Report & Attachments from September 18, 2024 Study Session
Attachment 2 - Response Letter
Attachment 3 - Presentation

7. CITY MANAGER' S REPORT:

8. ANNOUNCEMENTS / COUNCIL COMMENTS / COMMITTEE UPDATES:

9. ADJOURNMENT:

The next regularly scheduled City Council meeting is December 4, 2024.

CITY OF ALISO VIEJO
CITY COUNCIL MINUTES
SPECIAL MEETING
NOVEMBER 6, 2024, 6:00 PM
Council Chambers, City Hall, 12 Journey
Aliso Viejo, California

CALL TO ORDER: Mayor Munzing called the Special Meeting of the City Council of the City of Aliso Viejo to order at 6:00 p.m.

ROLL CALL

PRESENT: MAYOR MIKE MUNZING
MAYOR PRO TEM TIFFANY ACKLEY
COUNCILMEMBER ROSS CHUN
COUNCILMEMBER MAX DUNCAN
COUNCILMEMBER RICHARD W. HURT

ABSENT: NONE

STAFF PRESENT: MITZI ORTIZ, CITY MANAGER
HONGDAO NGUYEN, ASSISTANT CITY ATTORNEY
SO KIM, COMMUNITY DEVELOPMENT DIRECTOR

PUBLIC COMMENTS:

None.

CLOSED SESSION:

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)
Number of potential cases: 2

REPORT FROM CLOSED SESSION:

Assistant City Attorney HongDao Nguyen stated no reportable action was taken.

ADJOURNMENT: Mayor Munzing adjourned the meeting at 7:02 p.m. to the November 6, 2024 Regular Council Meeting.

Respectfully submitted:

_____
LAUREN TORRES
DEPUTY CITY CLERK

Approved by:

_____
MIKE MUNZING
MAYOR

DRAFT

CITY OF ALISO VIEJO
CITY COUNCIL MINUTES
REGULAR MEETING
NOVEMBER 6, 2024, 7:00 pm
Council Chambers, City Hall, 12 Journey
Aliso Viejo, California

CALL TO ORDER: Mayor Munzing called the Regular Meeting of the City Council of the City of Aliso Viejo to order at 7:07 p.m.

ROLL CALL

PRESENT: MAYOR MIKE MUNZING
MAYOR PRO TEM TIFFANY ACKLEY
COUNCILMEMBER ROSS CHUN
COUNCILMEMBER MAX DUNCAN
COUNCILMEMBER RICHARD W. HURT

ABSENT: NONE

STAFF PRESENT: MITZI ORTIZ, CITY MANAGER
HONGDAO NGUYEN, ASSISTANT CITY ATTORNEY
LAUREN TORRES, DEPUTY CITY CLERK
ANN EIFERT, FINANCIAL SERVICES DIRECTOR
SHAUN PELLETIER, PUBLIC WORKS DIRECTOR
SO KIM, COMMUNITY DEVELOPMENT DIRECTOR
LIZZY MENDOZA, RECREATION & COMMUNITY SERVICES MANAGER
ISAAC AZIZ, INFORMATION TECHNOLOGY MANAGER
CAPT. ALAN VILLANUEVA, CHIEF OF POLICE SERVICES

PLEDGE OF ALLEGIANCE: John Campbell led the pledge of allegiance.

REPORT FROM CLOSED SESSION:

Assistant City Attorney HongDao Nguyen stated no reportable action was taken.

1. SPECIAL PRESENTATIONS:

1.1 RECOGNITION OF EMMA MODEER, PRESIDENT'S BRONZE VOLUNTEER SERVICE AWARD RECIPIENT

Mayor Munzing commented on the recognition.

2. ADDITIONS, DELETIONS, REORDERING TO THE AGENDA:

None.

3. COMMUNITY INPUT:

1. Douglas Brown commented on the Avalon Mixed-Use Project.
2. Randy Shrock expressed concerns regarding e-bike safety.

4. CONSENT CALENDAR:

Unless otherwise indicated below, the following pertains to all items on the Consent Calendar.

Motion: Councilmember Hurt moved and Councilmember Chun seconded to approve the recommended actions. Motion carried 5-0.

4.1 WAIVE THE READING OF ALL ORDINANCES AND RESOLUTIONS

Recommended Action: Approve the reading by title only of all ordinances and resolutions wherein the titles appear on the public agenda; said titles shall be determined to have been read by title, and further reading is waived.

4.2 APPROVAL OF MINUTES

Recommended Action: Approve the Minutes as submitted for the October 2, 2024 Regular Meeting.

4.3 ACCOUNTS PAYABLE

Recommended Action: Ratify accounts payable checks and electronic funds transfers issued between September 13, 2024, and October 24, 2024, in the amount of $2,426,522.40.

4.4 TREASURER'S STATEMENTS – AUGUST AND SEPTEMBER 2024

Recommended Action: Receive and file the August and September 2024 Treasurer's Statements.

4.5 COMMUNITY FACILITIES DISTRICT NO. 2005-01 (GLENWOOD AT ALISO VIEJO) LOCAL AGENCY SPECIAL TAX AND BOND ACCOUNTABILITY ACT COMPLIANCE (SB 165) REPORT FOR FISCAL YEAR ENDED JUNE 30, 2024

Recommended Action: For City Council to accept and file the Community Facilities District No. 2005- 01 (Glenwood at Aliso Viejo) Local Agency Special Tax and Bond Accountability Act Compliance ("SB 165") Report for Fiscal Year June 30, 2024.

4.6 APPROVAL OF THE SUBMITTAL OF THE LA PAZ ROAD REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROJECT TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY

Public Works Director Shaun Pelletier responded to questions regarding traffic synchronization, traffic light timing schedules, and data collection.

Recommended Action: Adopt Resolution No. 2024-28 approving the submittal of the La Paz Road Regional Traffic Signal Synchronization Project to OCTA for funding under the competitive Measure M2 Regional Traffic Signal Synchronization Program (Project P).

Motion: Mayor Munzing moved and Councilmember Hurt seconded to approve the recommended action. Motion carried 5- 0.

4.7 RELEASE OF BONDS FOR THE GRADING AND LANDSCAPING IMPROVEMENTS FOR THE CITY LIGHTS CLUBHOUSE RENOVATION PROJECT

Recommended Action: Adopt Resolution No. 2024-29 exonerating Grading Surety Bond No. SUR0076510 and Landscaping Surety Bond No. TIC030116 for the City Lights Clubhouse Renovation Project.

4.8 IRVINE-LAGUNA WILDLIFE CORRIDOR PARTNER CHARTER AGREEMENT

Community Development Director So Kim provided an overview. Ann Larson, Laguna Greenbelt, Inc., responded to questions regarding mountain lions, corridor infrastructure, and impact on biking and hiking trails.

Recommended Action: Authorize the City Manager to sign the Irvine-Laguna Wildlife Corridor Partner Charter, signifying the City of Aliso Viejo's support for implementing the Irvine-Laguna Wildlife Corridor.

Motion: Mayor Munzing moved and Councilmember Duncan seconded to approve the recommended action. Motion carried 5- 0

5. PUBLIC HEARINGS:

5.1 CONDITIONAL USE PERMIT FOR AN OUTPATIENT MEDICAL USE AT 27141 ALISO CREEK ROAD (USE-2024-00009)

City Manager Mitzi Ortiz introduced Community Development Director So Kim, who provided an overview. Staff and the applicant responded to questions regarding services offered, security protocols, time period between appointments, number of clients seen daily, geographical service area, noticing process, and facility waiting area. Mayor Munzing opened the public hearing and the following persons provided comment:

1. Tracey Ball expressed opposition to the proposed facility.
2. Kristin Simmons expressed opposition to the proposed facility.
3. Robert Schley expressed opposition to the proposed facility.
4. Roxana Johnson expressed opposition to the proposed facility.
5. Mitch Burkhart expressed opposition to the proposed facility.

There were no other comments. Mayor Munzing closed the public hearing.

Recommended Action: Adopt Resolution No. 2024-30 approving a Conditional Use Permit to operate an outpatient medical use at 27141 Aliso Creek Road (USE-2024-00009).

Motion: Councilmember Hurt moved and Councilmember Chun seconded to continue the public hearing to December 4, 2024. Motion carried 5-0.

5.2 CONCEPT PLAN REVIEW FOR A TOWNHOME COMMUNITY AT 95 ARGONAUT

City Manager Mitzi Ortiz introduced Community Development Director So Kim, who provided an overview. Staff and the applicant responded to questions regarding landscaping, common space areas, community layout, parking, homeowners association, collaboration with the Aliso Viejo Community Association, nearby developments, proposed price range, affordable housing component, unit sizes, street ownership, garages, third-party consultant, and ad hoc committee. Mayor Munzing opened the public hearing and there were no requests to speak. Munzing closed the public hearing.

Recommended Action:

1. Conduct a public hearing to review and provide initial feedback on concept plans for a development proposal involving the demolition of an existing office building to accommodate the construction of a townhome community at 95 Argonaut ("Project"); and
2. Appoint two members of the City Council and establish an Ad-Hoc Committee to negotiate the terms of the Development Agreement for the Project with regular public updates, or direct Staff to contract with a third-party consultant to advise the City Council.

   Motion: Mayor Pro Tem Ackley moved and Councilmember Duncan seconded to direct staff to contract with a third-party consultant to negotiate the terms of the Development Agreement and provide bimonthly updates to the City Council. Motion carried 5-0.

6. DISCUSSION:

None.

7. CITY MANAGER' S REPORT:

City Manager Mitzi Ortiz announced Crafts with the Clauses to be held from 9:00 a.m. to 11:00 a.m. on December 14, 2024 at Aliso Viejo Ranch; 7th Annual All is Bright Holiday Celebration and Tree Lighting Ceremony to be held from 5:00 p.m. to 8:00 p.m. on December 5, 2024 at Aliso Viejo Town Center; the upcoming winter edition of the *Aliso Viejo Community Connection*; and registration for winter recreation classes.

8. ANNOUNCEMENTS / COUNCIL COMMENTS / COMMITTEE UPDATES:

Councilmember Chun:

- Attended the League of California Cities Annual Conference
- Met with Senator Dave Min regarding closure of Laguna Hills DMV field office
- Attended AVCA Fall Harvest Festival
- Attended Boys & Girls Club Halloween event
- Attended the Covington Retirement Community's Ukulele Orchestra rehearsal
- Attended Kaiser Permanente medical building groundbreaking
- Attended Halloween events at Canyon Vista Elementary School and Oak Grove Elementary School
- Attended OCFA HeloPod Unveiling
- Attended OCFA wildland fire training
- Attended Wellness and Prevention Center anniversary event
- Attended Aliso Viejo Youth Council meeting

Councilmember Duncan:

- Attended Kaiser Permanente medical building groundbreaking
- Attended OCFA HeloPod Unveiling
- Commented on e-bike safety

Councilmember Hurt:

- Attended the League of California Cities Annual Conference
- Attended Orange County Public Libraries Executive Board Meeting

Mayor Pro Tem Ackley:

- Attended OCFA HeloPod Unveiling
- Attended AVCA Fall Harvest Festival
- Attended Wood Canyon Elementary School Trunk or Treat
- Attended Aliso Viejo Health and Safety Fair
- Attended Aliso Viejo Farmer's Market
- Commented on grant funding for city projects

Mayor Munzing:

- Attended OCFA HeloPod Unveiling
- Attended Kaiser Permanente medical building groundbreaking
- Commented on e-bike safety

DRAFT

9. **ADJOURNMENT:** Mayor Munzing adjourned the meeting at 9:04 p.m. to the regularly scheduled City Council meeting of November 20, 2024.

Respectfully submitted:

_____
LAUREN TORRES
DEPUTY CITY CLERK

Approved by:

_____
MIKE MUNZING
MAYOR

DRAFT

City of Aliso Viejo
AGENDA ITEM

DATE: November 20, 2024

TO: Mayor and City Council

FROM: Ann Eifert, Director of Financial Services

SUBJECT: ACCOUNTS PAYABLE

Recommended Action:

Ratify accounts payable checks and electronic funds transfers issued between October 25, 2024, and November 7, 2024, in the amount of $1,114,142.87.

Fiscal Impact:

Expenditures in the amount of $1,114,142.87.

Background:

The City issues accounts payable checks on a bi-weekly basis and presents it to City Council for ratification at its next regularly scheduled City Council meeting.

Discussion:

The attached registers containing checks and electronic funds transfers issued between October 25, 2024, and November 7, 2024, for $1,114,142.87, are being presented for ratification. All payments have been made in compliance with the City's purchasing policy and procedures. Payments have been reviewed and approved by the appropriate departmental staff. The issued accounts payable checks and electronic funds transfers have been reviewed and deemed in accordance with the fiscal year budget by the Director of Financial Services.

Attachment:

1. Accounts Payable Report

Accounts Payable

Vendor Name	Description (Item)	Amount
101 - GENERAL FUND		
RJM DESIGN GROUP INC	SEP'24 ENG2252/LANDSCAPE PLAN REVIEW - COMMONS	296.25
CIVIL SOURCE, AN NV5 COMPANY	SEP'24 KAISER GRADING PLAN CHECK	810.00
CHARLES ABBOTT ASSOC INC	SEP'24 CAA - KAISER GRADING - R.BEIMER	145.00
CHARLES ABBOTT ASSOC INC	SEP'24 ATT - R.BRUNELL	52.50
CHARLES ABBOTT ASSOC INC	SEP'24 SCE - R.BRUNELL	52.50
CHARLES ABBOTT ASSOC INC	SEP'24 FERREIRA - R.BRUNELL	52.50
CHARLES ABBOTT ASSOC INC	SEP'24 COX - R.BRUNELL	105.00
CHARLES ABBOTT ASSOC INC	SEP'24 CITY LIGHTS GRADING - R.BRUNELL	262.50
CHARLES ABBOTT ASSOC INC	SEP'24 ST. MARYS GRADING - R.BRUNELL	315.00
CHARLES ABBOTT ASSOC INC	SEP'24 COMMONS GRADING - R.BRUNELL	341.25
CHARLES ABBOTT ASSOC INC	SEP'24 KAISER GRADING - R.BRUNELL	525.00
CHARLES ABBOTT ASSOC INC	SEP'24 MNWD - R.BRUNELL	945.00
		3,902.50
CITY COUNCIL		
AT&T	9/17/24-10/16/24 CITY COUNCIL PHONE LINES	237.43
US BANK PURCHASING CARD PROGRAM	DL RC 9/03 LOCC - ANNUAL CONFERENCE	700.00
US BANK PURCHASING CARD PROGRAM	DL RH 9/03 LOCC - ANNUAL CONFERENCE	700.00
	CITY COUNCIL TOTAL:	**1,637.43**
CITY MANAGER		
AT&T	9/17/24-10/16/24 CITY MANAGER PHONE	45.47
AT&T	9/17/24-10/16/24 HR PHONE	50.51
	CITY MANAGER TOTAL:	**95.98**
HUMAN RESOURCES		
GVP VENTURES, INC	CITY MANAGER RECRUITMENT - REIMBURSEABLE COSTS	2,438.10
OC FAMILY MEDICINE	SEP'24 TB TESTS & EMPLOYEE EXAMS & FLU SHOTS	285.00
US BANK PURCHASING CARD PROGRAM	DL 8/23 BRUEGGERS BAGELS-ETHICS TRAINING SNACKS	47.40
US BANK PURCHASING CARD PROGRAM	DL 9/19 PAVILIONS-ERGO TRAINING SNACKS & DRINKS	147.09
US BANK PURCHASING CARD PROGRAM	DL 9/16 SOUTHWEST-NEOGOV CONFERENCE AIRFARE*	299.96
US BANK PURCHASING CARD PROGRAM	PC 10/08 CCAC - CITY CLERK JOB POSTING	300.00
US BANK PURCHASING CARD PROGRAM	PC 10/03 PAYPAL - LCW CONF* (CANCELLED)	645.00
US BANK PURCHASING CARD PROGRAM	PC 10/08 PAYPAL - LCW CONF* (REIMB - ADMIN FEE)	(605.00)
US BANK PURCHASING CARD PROGRAM	PC 10/08 SHRM - CONFERENCE HOTEL 6/29-7/01/25	415.88
US BANK PURCHASING CARD PROGRAM	PC 10/08 SHRM - ANNUAL CONFERENCE 6/29-7/01/25	1,995.00
US BANK PURCHASING CARD PROGRAM	PC 9/24 SHRM - MEMBERSHIP	264.00
	HUMAN RESOURCES TOTAL:	**6,232.43**
CITY CLERK		
ICC GENERAL CODE, INC	AVMC-WEB UPDATE/12PGS ORD 2024-243 UPD LEGACY	258.00
US BANK PURCHASING CARD PROGRAM	MO 10/18 HYATT RGNCY - LCC CONF&EXPO LB 10/15-18	833.16
US BANK PURCHASING CARD PROGRAM	MO 10/11 GRAND HYATT - CJPIA RISK MGMT I.W.10/9-11	818.22
US BANK PURCHASING CARD PROGRAM	MO 10/03 SDIA ARPT PKG-LCC CCLK SEM. NAPA 12/10-13	152.00
US BANK PURCHASING CARD PROGRAM	MO 9/24 SW - SAN-SMF LCC CCLK SEM.NAPA 12/10-13	233.97
US BANK PURCHASING CARD PROGRAM	MO 10/17 ISLANDS-LNCH W/R.HURT LCC CNF LB 10/15-18	51.74
US BANK PURCHASING CARD PROGRAM	MO 10/09 LCC - CONFERENCE & EXPO LB 10/15-18	775.00
	CITY CLERK TOTAL:	**3,122.09**
FINANCE		
US BANK PURCHASING CARD PROGRAM	MO 9/27 CA SEC OF STATE - NON-PROFIT SOI	20.00
HDL COREN & CONE	OCT-DEC'24 PROPERTY TAX CONTRACT SERVICES	3,979.95
HINDERLITER DE LLAMAS & ASSOCIATES	OCT-DEC'24 SALES TAX RECOVERY SERVICE	179.19
HINDERLITER DE LLAMAS & ASSOCIATES	OCT-DEC'24 SALES TAX CONTRACT SERVICE	1,758.54
	FINANCE TOTAL:	**5,937.68**
INFORMATION TECHNOLOGY		
AT&T	9/22/24-10/21/24 CH AT&T CALNET ALARM/POTS LINE	3,752.52
AT&T	9/17/24-10/16/24 FLEET COMPLETE GPS	202.92
AT&T	9/17/24-10/16/24 EOC MIFI	160.96

Vendor Name	Description (Item)	Amount
AT&T	9/17/24-10/16/24 CITY HALL MIFI	123.72
AT&T	9/17/24-10/16/24 EOC PHONES LINES	110.03
SHI INTERNATIONAL CORP	HP E27U G5 - E-SERIES - LED MONITOR - QHD - 27	388.95
SHI INTERNATIONAL CORP	SHI EVOLIS PRINTER UPGRADE KIT	501.39
SHI INTERNATIONAL CORP	HP E27U G5 - E-SERIES - LED MONITOR - QHD - 27	777.89
SHI INTERNATIONAL CORP	11/20/25-11/19/26 MANAGE ENGINE PATCH MANAGER PLUS	1,630.83
GOTO COMMUNICATIONS	NOV'24 CH GOTO VOIP SERVICE & SUPPORT	1,996.68
	INFORMATION TECHNOLOGY TOTAL:	**9,645.89**
NON-DEPARTMENTAL		
RICOH USA	NOV'24 RICOH C5300S COPY ROOM LEASE (2624)-PRINCIP	615.28
RICOH USA	NOV'24 RICOH C5300S COPY ROOM LEASE(2624)-INTEREST	78.92
RICOH USA	AUG-OCT'24 RICOH 2504EX SUITE 200 PRINTS (2936)	27.66
RICOH USA	OCT'24 RICOH 2504EX FRONT COUNTER PRINTS (4456)	99.20
RICOH USA	NOV'24 RICOH RSI CLOUD SUBSCRIPTION (SW1860708)	24.31
NIEVES LANDSCAPE INC	OCT'24 LANDSCAPE MAINTENANCE VISTA PARK	1,064.97
VOYAGER FLEET SYSTEMS INC	AUG'24 VEHICLE FUEL - CITY	742.83
VOYAGER FLEET SYSTEMS INC	SEP'24 VEHICLE FUEL - CITY	381.67
VOYAGER FLEET SYSTEMS INC	OCT'24 VEHICLE FUEL - CITY	389.20
MOULTON NIGUEL WATER DIST	9/09/24-10/14/24 METER #1675 89 PLAYA CIR WATER SV	54.07
US BANK PURCHASING CARD PROGRAM	EM 10/19 BLISS CW - F150 CAR WASH	35.00
US BANK PURCHASING CARD PROGRAM	JB 10/05 SHELL - GAS FOR HIGHLANDER	30.23
MOULTON NIGUEL WATER DIST	ACCT#64101 VISTA WATER SVC	834.86
HARBOR STATION MAINTENANCE	NOV'24-JUN'25 35 PLAYA CIR HOA FEE + LATE FEE	1,498.50
US BANK PURCHASING CARD PROGRAM	PC 10/14 CVS - STAFF ACTIVITY	10.75
QUADIENT LEASING USA INC	8/29/24-11/28/24 POSTAGE MACHINE LEASE	590.39
	NON-DEPARTMENTAL TOTAL:	**6,477.84**
C. S. ADMINISTRATION		
US BANK PURCHASING CARD PROGRAM	JB 9/26 4IMPRINT - SENIOR SUMMIT GIVEAWAY SMP	242.40
US BANK PURCHASING CARD PROGRAM	JB 10/07 4IMPRINT - SENIOR GIVEAWAY REFUND SMP	(184.67)
US BANK PURCHASING CARD PROGRAM	JB 10/01 HOBBY LOBBY - TREE LIGHTING GARLAND	142.18
	C. S. ADMINISTRATION TOTAL:	**199.91**
IGLESIA PARK		
NIEVES LANDSCAPE INC	OCT'24 LANDSCAPE MAINTENANCE IGLESIA PARK	7,085.61
NIEVES LANDSCAPE INC	OCT'24 LANDSCAPE MAINTENANCE-IGLESIA IRRIGATION	80.00
NIEVES LANDSCAPE INC	OCT'24 LANDSCAPE MAINTENANCE-IGLESIA IRRIGATION	475.00
NIEVES LANDSCAPE INC	OCT'24 LANDSCAPE MAINTENANCE-IGLESIA IRRIGATION	627.05
	IGLESIA PARK TOTAL:	**8,267.66**
IGLESIA BUILDING		
IRIS GROUP HOLDINGS LLC	11/17/24-2/16/25 IGLESIA ALARM MONITORING	163.50
	IGLESIA BUILDING TOTAL:	**163.50**
PLANNING		
REBECCA J CAHA	SEP'24 AFFORD. HOUSING CONSULTANT SERVICES	1,837.50
US BANK PURCHASING CARD PROGRAM	SK 10/01 HAMPTON INN -HOTEL CAL APA CONF - MD	450.54
US BANK PURCHASING CARD PROGRAM	SK 9/30 LEGISLATIVE UPDATE TRAINING	25.00
US BANK PURCHASING CARD PROGRAM	SK 10/05 INT'L CODE COUNCIL - ICC MEMBERSHIP	215.00
US BANK PURCHASING CARD PROGRAM	SK 10/17 APA - ANNUAL MEMBERSHIP	993.00
	PLANNING TOTAL:	**3,521.04**
BUILDING		
US BANK PURCHASING CARD PROGRAM	SK 10/10 IN MANHATTAN STITCHING - DEPT UNIFORMS	286.02
US BANK PURCHASING CARD PROGRAM	SK 10/10 IN MANHATTAN STITCHING - DEPT UNIFORMS	500.00
	BUILDING TOTAL:	**786.02**
CODE ENFORCEMENT		
US BANK PURCHASING CARD PROGRAM	SK 9/25 LIFE STORAGE FOR CONFISCATED TACO STAND	631.20
	CODE ENFORCEMENT TOTAL:	**631.20**
ENGINEERING (GENERAL)		
AT&T	9/17/24-10/16/24 PUBLIC WORKS TABLETS	120.72
CHARLES ABBOTT ASSOC INC	SEP'24 CAA - NPDES	13,972.50
CHARLES ABBOTT ASSOC INC	SEP'24 CAA - SOLID WASTE	3,545.00
	ENGINEERING (GENERAL) TOTAL:	**17,638.22**
STREET MAINTENANCE		
CHARLES ABBOTT ASSOC INC	SEP'24 STREET INVESTIGATION	5,827.50
	STREET MAINTENANCE TOTAL:	**5,827.50**

Vendor Name	Description (Item)	Amount
LAW ENFORCEMENT-CONTRACT		
COUNTY OF ORANGE	NOV'24 LAW ENFORCEMENT/BODY CAMERAS/IN CAR VIDEO	892,517.60
	LAW ENFORCEMENT-CONTRACT TOTAL:	**892,517.60**
LAW ENFORCEMENT-OTHER		
SEAVCO INC	OCT'24 BMW REPAIR - CLUTCH REPAIR	1,628.49
AT&T	9/17/24-10/16/24 PALS PHONE LINE	45.47
VOYAGER FLEET SYSTEMS INC	AUG'24 VEHICLE FUEL - AVPS	233.24
VOYAGER FLEET SYSTEMS INC	SEP'24 VEHICLE FUEL - AVPS	234.91
VOYAGER FLEET SYSTEMS INC	OCT'24 VEHICLE FUEL - AVPS	268.54
ALL CITY MANAGEMENT SERVICES	9/29-10/12/24 460 HRS - CROSSING GUARD SERVICES	15,419.20
US BANK PURCHASING CARD PROGRAM	RD 10/02 SHELL - VEHICLE WASH AND FUEL	24.60
US BANK PURCHASING CARD PROGRAM	RD 10/02 CHEVRON - VEHICLE WASH UNIT 2717	29.99
US BANK PURCHASING CARD PROGRAM	RD 10/15 DENAULT'S HARDWARE - KEY RINGS FOR BOX	46.55
	LAW ENFORCEMENT-OTHER TOTAL:	**17,930.99**
EOC		
US BANK PURCHASING CARD PROGRAM	DL 9/14 LIFE STORAGE - OFFSITE UNIT #A1554	290.00
US BANK PURCHASING CARD PROGRAM	SL 10/17 MWDOC - OCEMO 2024 MTG/AWARDS/LUNCHEON	62.00
US BANK PURCHASING CARD PROGRAM	SL 10/13 AMAZON - SAFETY SUPPLIES	82.30
US BANK PURCHASING CARD PROGRAM	SL 10/09 SOS SURVIVAL - SAFETY SUPPLIES	171.36
	EOC TOTAL:	**605.66**
	GENERAL FUND TOTAL:	**985,141.14**

102 - GEN. FD-CITY HALL

NON-DEPARTMENTAL		
CONSOLIDATED ELECTRICAL DISTRIBUTORS, INC	OCT'24 LIGHTING SUPPLIES CH - 2ND FLR LED	333.49
PACIFIC PARK II ASSOCIATION	NOV'24 CH ASO ASSOCIATION DUES	502.00
NIEVES LANDSCAPE INC	OCT'24 LANDSCAPE MAINTENANCE CH	701.73
THE GAS COMPANY	10/01/24-10/31/24 MTR#16122180 CH GAS SVC	361.14
US BANK PURCHASING CARD PROGRAM	KB 10/17 THE HOME DEPOT - MOVING EQUIPMENT CH	168.03
US BANK PURCHASING CARD PROGRAM	KB 10/07 THE HOME DEPOT - GARBAGE DISPOSAL CH	268.30
MOULTON NIGUEL WATER DIST	ACCT#65408/65407/65406 CH WATER SVC	666.34
SO CAL EDISON	OCT'24 ACCT#7189 CH ELECTRICITY	5,513.90
	NON-DEPARTMENTAL TOTAL:	**8,514.93**
	GEN. FD-CITY HALL TOTAL:	**8,514.93**

103 - GF-AV RECREATION SERVICES

RAQUEL SCARDINA	NOV'24 REC1 REFUND - RAQUEL SCARDINA - FAL040	21.00
		21.00
RECREATION SERVICES		
AT&T	9/22/24-10/21/24 AVR AT&T CALNET ALARM/POTS LINE	1,250.82
BREAKTHROUGH SPORTS LLC	FALL2024-FAL804/FAL801 BASKETBALL -13 PARTICIPANTS	560.40
DS SERVICES OF AMERICA, INC	10/23 AVR BOTTLED WATER SERVICE	44.56
AT&T	9/17/24-10/16/24 REC PHONE LINES	181.88
AT&T	9/17/24-10/16/24 REC TABLET	40.24
NIEVES LANDSCAPE INC	OCT'24 LANDSCAPE MAINTENANCE AVR	2,341.86
NIEVES LANDSCAPE INC	OCT'24 LANDSCAPE MAINTENANCE-IRRIGATION REPAIR AVR	166.50
NIEVES LANDSCAPE INC	OCT'24 LANDSCAPE MAINTENANCE-IRRIGATION REPAIR AVR	314.75
NIEVES LANDSCAPE INC	OCT'24 LANDSCAPE MAINTENANCE-TRAPS NEAR CACTUS AVR	360.00
ROXANNE BELL	FALL2024-FAL205/FAL133 BALLET - 2 PARTICIPANTS	203.00
TUMBLE-N-KIDS, INC	FALL2024-FAL027/FAL031 GYMNASTICS - 8 PARTICIPANTS	615.00
GOTO COMMUNICATIONS	NOV'24 AVR GOTO VOIP SERVICE & SUPPORT	667.06
US BANK PURCHASING CARD PROGRAM	JB 10/01 HOBBY LOBBY - RENTAL ARCH	64.65
US BANK PURCHASING CARD PROGRAM	JB 10/09 TARGET - STORAGE BINS	38.75
US BANK PURCHASING CARD PROGRAM	JB 10/21 COSTCO - BREAKROOM SUPPLIES	121.70
US BANK PURCHASING CARD PROGRAM	JNL 9/26 HERE COMES THE GUIDE - WEB POSTING	680.00
US BANK PURCHASING CARD PROGRAM	JNL 9/26 WEDDING CHICKS - WEB POSTING	750.00
US BANK PURCHASING CARD PROGRAM	KB 9/24 MCFADDEN-DALE - HARDWARE TABLE DOLLIES AVR	231.39
US BANK PURCHASING CARD PROGRAM	KB 9/24 JOHNSTONE SUPPLY - SAFETY BAG AVR	346.04
US BANK PURCHASING CARD PROGRAM	KB 10/16 THE HOME DEPOT - REPAIR AVR	25.15
US BANK PURCHASING CARD PROGRAM	KB 9/25 JOHNSTONE SUPPLY - CREDIT AVR	(89.86)
MOULTON NIGUEL WATER DIST	ACCT#105234/104936/104935/104986 RANCH WATER SVC	1,538.90
MOULTON NIGUEL WATER DIST	ACCT#104515/104519 FARM WATER SVC	1,164.04
SO CAL EDISON	OCT'24 ACCT#4551 FARM ELECTRICITY	383.07

Vendor Name	Description (Item)	Amount
SO CAL EDISON	OCT'24 ACCT#6247 AVR ELECTRICITY	3,186.02
	RECREATION SERVICES TOTAL:	**15,185.92**
	GF-AV RECREATION SERVICES TOTAL:	**15,206.92**
203 - GAS TAX		
STREET MAINTENANCE		
UNDERGROUND SERVICE ALERT OF SOUTHERN CA	OCT'24 DATABASE MAINT + 53 TICKETS	108.05
GREAT SCOTT TREE SERVICE, INC	SEP'24 ALISO CREEK MEDIAN TREE TRIMMING	3,399.00
GREAT SCOTT TREE SERVICE, INC	SEP'24 PACIFIC PARK MEDIAN TREE TRIMMING	2,472.00
BEAR ELECTRICAL SOLUTIONS INC	SEP'24 TRAFFIC SIGNAL MAINTENANCE RESPONSE	23,084.35
BEAR ELECTRICAL SOLUTIONS INC	SEP'24 TRAFFIC SIGNAL MAINTENANCE ROUTINE	3,225.90
SCA OF CA LLC	OCT'24 STREET SWEEPING SERVICES	8,972.06
NIEVES LANDSCAPE INC	OCT'24 LANDSCAPE MAINTENANCE MEDIANS	1,641.51
MOULTON NIGUEL WATER DIST	ACCT#64613/64615/65346 MEDIANS WATER SVC	820.69
SO CAL EDISON	OCT'24 ACCT#6377 LS2 ST LIGHTS ELECTRICITY	1,292.07
SO CAL EDISON	OCT'24 ACCT#7241 LS1 ST LIGHTS ELECTRICITY	17,744.76
SO CAL EDISON	OCT'24 ACCT#8254 TC1 ST LIGHTS ELECTRICITY	3,847.39
	STREET MAINTENANCE TOTAL:	**66,607.78**
	GAS TAX TOTAL:	**66,607.78**
204 - MEASURE M		
GEN-MEASURE M		
US BANK PURCHASING CARD PROGRAM	JB 10/07 4IMPRINT - SENIOR GIVEAWAY REFUND SMP	(738.67)
US BANK PURCHASING CARD PROGRAM	JB 9/26 4IMPRINT - SENIOR SUMMIT GIVEAWAYS SMP	969.58
	GEN-MEASURE M TOTAL:	**230.91**
	MEASURE M TOTAL:	**230.91**
215 - PUBLIC SAFETY GRANTS		
LAW ENFORCEMENT-OTHER		
COUNTY OF ORANGE	NOV'24 E CITATION/MDC EQUIPMENT	6,120.27
	LAW ENFORCEMENT-OTHER TOTAL:	**6,120.27**
	PUBLIC SAFETY GRANTS TOTAL:	**6,120.27**
225 - INTEGRATED WASTE MGMT FD		
GEN-TECHNOLOGY GRANTS		
CHARLES ABBOTT ASSOC INC	SEP'24 CAA CONTRACT SERVICES - SB1383	1,472.50
HF&H CONSULTANTS LLC	SEP'24 SB 1383 GAP ANALYSIS	5,444.75
HF&H CONSULTANTS LLC	OCT'24 SB 1383 GAP ANALYSIS	19,536.25
	GEN-TECHNOLOGY GRANTS TOTAL:	**26,453.50**
	INTEGRATED WASTE MGMT FD TOTAL:	**26,453.50**
261 - CITY FAC.-AQUATIC CENTER		
GEN-AQUATIC CENTER		
GREAT SCOTT TREE SERVICE, INC	SEP'24 AQC TREE TRIMMING	1,207.50
NIEVES LANDSCAPE INC	OCT'24 LANDSCAPE MAINTENANCE AQC	944.42
NIEVES LANDSCAPE INC	OCT'24 LANDSCAPE MAINTENANCE-IRRIGATION REPAIR AQC	529.94
NIEVES LANDSCAPE INC	OCT'24 LANDSCAPE MAINTENANCE-IRRIGATION REPAIR AQC	80.00
THE GAS COMPANY	10/02/24-11/01/24 MTR#15672349 AQC GAS SVC	2,202.22
US BANK PURCHASING CARD PROGRAM	KB 10/02 SCP - SPA POOL TIMER BASKET AND WEIR AQC	69.63
US BANK PURCHASING CARD PROGRAM	KB 10/02 HIRSCH PIPE & SUPPLY - SHOWER VALVES AQC	184.13
US BANK PURCHASING CARD PROGRAM	KB 10/15 THE HOME DEPOT - BW REPAIR AQC	28.56
MOULTON NIGUEL WATER DIST	ACCT#64095/64096 AQC WATER SVC	621.02
	GEN-AQUATIC CENTER TOTAL:	**5,867.42**
	CITY FAC.-AQUATIC CENTER TOTAL:	**5,867.42**
	GRAND TOTAL:	**1,114,142.87**

Fund Summary

Fund	Expense Amount	Payment Amount
101 - GENERAL FUND	985,141.14	985,141.14
102 - GEN. FD-CITY HALL	8,514.93	8,514.93
103 - GF-AV RECREATION SERVICES	15,206.92	15,206.92
203 - GAS TAX	66,607.78	66,607.78
204 - MEASURE M	230.91	230.91
215 - PUBLIC SAFETY GRANTS	6,120.27	6,120.27
225 - INTEGRATED WASTE MGMT FD	26,453.50	26,453.50
261 - CITY FAC.-AQUATIC CENTER	5,867.42	5,867.42
Grand Total:	**1,114,142.87**	**1,114,142.87**

Report Summary

Fund Summary

Fund	Payment Amount
101 - GENERAL FUND	985,141.14
102 - GEN. FD-CITY HALL	8,514.93
103 - GF-AV RECREATION SERVICES	15,206.92
203 - GAS TAX	66,607.78
204 - MEASURE M	230.91
215 - PUBLIC SAFETY GRANTS	6,120.27
225 - INTEGRATED WASTE MGMT FD	26,453.50
261 - CITY FAC.-AQUATIC CENTER	5,867.42
Grand Total:	**1,114,142.87**

Account Summary

Account Number	Account Name	Payment Amount
101-2603-000	ENGINEERING DEPOSIT	3,902.50
101-4-1101-4511-000	COMMUNICATION	237.43
101-4-1101-4520-000	MTGS/CONF./TRNG & D…	1,400.00
101-4-1501-4511-000	COMMUNICATION	95.98
101-4-1503-4309-000	OTHER CONTRACTUAL S…	3,023.10
101-4-1503-4520-000	MTGS/CONF./TRNG & D…	2,945.33
101-4-1503-4521-000	MEMBERSHIP & DUES	264.00
101-4-1601-4520-000	MTGS/CONF./TRNG & D…	2,864.09
101-4-1601-4734-000	CODIFICATION	258.00
101-4-2501-4301-000	PROFESSIONAL SERVICES	5,917.68
101-4-2501-4309-000	OTHER CONTRACTUAL S…	20.00
101-4-3101-4305-000	TECHNOLOGY SERVICES	6,346.83
101-4-3101-4481-000	COMPUTER EXPENSE	3,299.06
101-4-3501-4421-000	EQUIPMENT RENTAL	590.39
101-4-3501-4422-000	EQUIP RENTAL LEASE - P…	615.28
101-4-3501-4431-000	BUILDING & GROUND M…	3,452.40
101-4-3501-4513-000	PRINTING	151.17
101-4-3501-4516-000	FUEL	1,543.93
101-4-3501-4517-000	VEHICLE MAINTENANCE	35.00
101-4-3501-4542-000	INTEREST EXPENSE - LEA…	78.92
101-4-3501-4612-000	OPERATING SUPPLIES	10.75
101-4-4101-4524-000	RECREATION-SENIOR TR…	57.73
101-4-4101-4527-000	REC-CITY SPECIAL EVENTS	142.18
101-4-4102-4431-000	BUILDING & GROUND M…	8,267.66
101-4-4103-4309-000	OTHER CONTRACTUAL S…	163.50
101-4-4401-4309-000	OTHER CONTRACTUAL S…	1,837.50
101-4-4401-4520-000	MTGS/CONF./TRNG & D…	475.54
101-4-4401-4521-000	MEMBERSHIP & DUES	1,208.00
101-4-4402-4601-000	SUPPLIES	286.02
101-4-4402-4612-000	OPERATING SUPPLIES	500.00
101-4-4403-4761-000	C.S-CODE ENFORCEMENT	631.20
101-4-4501-4612-000	OPERATING SUPPLIES	120.72
101-4-4501-4701-000	NPDES	13,972.50
101-4-4501-4702-000	AB939-SOLID WASTE	3,545.00
101-4-4503-4771-000	C.S-STREET MAINTENAN…	5,827.50
101-4-5101-4308-000	LAW ENFORCEMENT	892,517.60
101-4-5102-4511-000	COMMUNICATION	45.47
101-4-5102-4516-000	FUEL	791.28
101-4-5102-4517-000	VEHICLE MAINTENANCE	1,628.49
101-4-5102-4612-000	OPERATING SUPPLIES	46.55
101-4-5102-4721-000	C.S-CROSSING GUARDS	15,419.20
101-4-5401-4471-000	RENT	290.00
101-4-5401-4520-000	MTGS/CONF/TRNG & D…	62.00
101-4-5401-4612-000	OPERATING SUPPLIES	253.66
102-4-3501-4411-000	UTILITIES	6,541.38

Account Summary

Account Number	Account Name	Payment Amount
102-4-3501-4431-000	BUILDING & GROUND M…	1,973.55
103-34161	CONTRACT CLASSES	21.00
103-4-4105-4305-000	TECHNOLOGY SERVICES	3,347.88
103-4-4105-4309-000	OTHER CONTRACTUAL S…	1,378.40
103-4-4105-4411-000	UTILITIES	4,724.92
103-4-4105-4431-000	BUILDING & GROUND M…	3,695.83
103-4-4105-4451-000	FARM OPERATING EXPE…	1,547.11
103-4-4105-4511-000	COMMUNICATION	222.12
103-4-4105-4601-000	SUPPLIES	44.56
103-4-4105-4620-000	MINOR EQUIPMENT	225.10
203-4-4503-4411-000	UTILITIES	23,704.91
203-4-4503-4771-000	C.S-STREET MAINTENAN…	33,930.81
203-4-4503-4772-000	C.S-STREET SWEEPING	8,972.06
204-4-6104-4309-000	OTHER CONTRACTUAL S…	230.91
215-4-5102-4803-000	PUBLIC SAFETY EQUIPM…	6,120.27
225-4-6141-4309-000	OTHER CONTRACTUAL S…	26,453.50
261-4-6161-7411-000	UTILITIES	2,823.24
261-4-6161-7421-000	BUILDING & GROUND M…	3,044.18
	Grand Total:	**1,114,142.87**

Project Account Summary

Project Account Key	Payment Amount
None	1,080,866.29
1002FALL	1,378.40
9264520	700.00
9294520	700.00
9934527	142.18
ENG 2250	262.50
ENG 2252	637.50
ENG 2254	315.00
ENG 2256	1,480.00
ENG 5002	52.50
ENG 5003	105.00
ENG 5004	945.00
ENG 5005	52.50
ENG 5057	52.50
SB13834309	26,453.50
Grand Total:	**1,114,142.87**

City of Aliso Viejo
AGENDA ITEM

DATE: November 20, 2024

TO: Mayor and City Council

FROM: Ann Eifert, Director of Financial Services

SUBJECT: ANNUAL MEASURE M2 EXPENDITURE REPORT

Recommended Action:

Adopt a Resolution approving the City's annual Measure M2 expenditure report for fiscal year ending June 30, 2024.

Fiscal Impact:

There is no financial impact in approving the annual expenditure report. The annual report is required to receive Measure M2 funds.

Background:

Measure M2 provides funding to local agencies through a half cent sales tax measure for street and traffic related maintenance and improvements and other transportation projects such as the Senior Mobility Program. Local jurisdictions are required to submit an annual report to the Orange County Transportation Authority to continue funding. The city has received approximately $9.5 million since 2011.

Discussion:

Requirements for the Measure M2 funding program include an annual report for all Measure M2 revenues and expenditures during the fiscal year, general fund monies expended to satisfy Maintenance of Effort requirements, and fund balances at the beginning and fiscal year end. Measure M2 resources totaled $1,220,146 and expenditures totaled $207,157 for fiscal year 2023-24. Projects funded by Measure M2 include the Aliso Creek signal synchronization and Senior Mobility Program.

Attachments:

1. Resolution

2. Measure M2 Expenditure Report for FY 2023-24

RESOLUTION NO. 2024-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, CONCERNING THE MEASURE M2 (M2) EXPENDITURE REPORT FOR THE CITY OF CITY OF ALISO VIEJO

WHEREAS, local jurisdictions are required to meet eligibility requirements and submit eligibility verification packages to the Orange County Transportation Authority (OCTA) in order to remain eligible to receive M2 funds; and

WHEREAS, local jurisdictions are required to adopt an annual M2 Expenditure Report as part of one of the eligibility requirements; and

WHEREAS, local jurisdictions are required to account for Net Revenues, developer/traffic impact fees, and funds expended by local jurisdiction in the M2 Expenditure Report that satisfy the Maintenance of Effort requirements; and

WHEREAS, the M2 Expenditure Report shall include all Net Revenue fund balances, interest earned, and expenditures identified by type and program or project; and

WHEREAS, the M2 Expenditure Report must be adopted and submitted to the OCTA each year within six months of the end of the local jurisdiction's fiscal year to be eligible to receive Net Revenues as part of M2.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL FOR THE CITY OF ALISO VIEJO DOES HEREBY INFORM OCTA THAT:

a) The M2 Expenditure Report is in conformance with the template provided in the Measure M2 Eligibility Guidelines and accounts for Net Revenues including interest earned, expenditures during the fiscal year, and balances at the end of fiscal year.

b) The M2 Expenditure Report is hereby adopted by the City of Aliso Viejo.

c) The City of Aliso Viejo Director of Financial Services is hereby authorized to sign and submit the M2 Expenditure Report to OCTA for the fiscal year ending June 30, 2024.

PASSED, APPROVED AND ADOPTED this 20th day of November, 2024.

_____
Mike Munzing
Mayor

APPROVED AS TO FORM:

_____
Scott C. Smith, City Attorney

ATTEST:

_____
Lauren Torres, Deputy City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF ALISO VIEJO)

I, LAUREN TORRES, Deputy City Clerk of the City of Aliso Viejo, California, DO HEREBY CERTIFY that the foregoing is the original of Resolution No. 2024-__ duly passed and adopted by the City Council of the City of Aliso Viejo at their regular meeting held on the 20th day of November, 2024, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

_____
LAUREN TORRES
DEPUTY CITY CLERK

(SEAL)

City/County of Aliso Viejo_____ Schedule 1

M2 Expenditure Report

Fiscal Year Ended June 30, 2024

Beginning and Ending Balances

Description		Line No.	Amount	Interest
Balances at Beginning of Fiscal Year				
A-M	Freeway Projects	1	0	0
O	Regional Capacity Program (RCP)	2	0	0
P	Regional Traffic Signal Synchronization Program (RTSSP)	3	0	0
Q	Local Fair Share	4	844,437	-38,353
R	High Frequency Metrolink Service	5	0	0
S	Transit Extensions to Metrolink	6	0	0
T	Convert Metrolink Station(s) to Regional Gateways that connect Orange County with High-Speed Rail Systems	7	0	0
U	Senior Mobility Program or Senior Non-Emergency Medical Program	8	85,319	-1,362
V	Community Based Transit/Circulators	9	0	0
W	Safe Transit Stops	10	0	0
X	Environmental Cleanup Program (Water Quality)	11	0	0
	Other*	12	0	0
Balances at Beginning of Fiscal Year		13	929,755	-39,715
	Monies Made Available During Fiscal Year	14	975,467	244,678
Total Monies Available (Sum Lines 13 & 14)		15	1,905,222	204,963
	Expenditures During Fiscal Year	16	14,285	192,872
Balances at End of Fiscal Year				
A-M	Freeway Projects	17	0	0
O	Regional Capacity Program (RCP)	18	0	0
P	Regional Traffic Signal Synchronization Program (RTSSP)	19	0	0
Q	Local Fair Share	20	1,783,680	12,091
R	High Frequency Metrolink Service	21	0	0
S	Transit Extensions to Metrolink	22	0	0
T	Convert Metrolink Station(s) to Regional Gateways that connect Orange County with High-Speed Rail Systems	23	0	0
U	Senior Mobility Program or Senior Non-Emergency Medical Program	24	107,257	0
V	Community Based Transit/Circulators	25	0	0
W	Safe Transit Stops	26	0	0
X	Environmental Cleanup Program (Water Quality)	27	0	0
	Other*	28	0	0

* Please provide a specific description

City/County of _Aliso Viejo_____

M2 Expenditure Report

Fiscal Year Ended June 30, 2024

Sources and Uses

Schedule 2

	Description	Line No.	Amount	Interest
Revenues:				
A-M	Freeway Projects	1	0	0
O	Regional Capacity Program (RCP)	2	0	0
P	Regional Traffic Signal Synchronization Program (RTSSP)	3	0	0
Q	Local Fair Share	4	939,243	224,460
R	High Frequency Metrolink Service	5	0	0
S	Transit Extensions to Metrolink	6	0	0
T	Convert Metrolink Station(s) to Regional Gateways that connect Orange County with High-Speed Rail Systems	7	0	0
U	Senior Mobility Program or Senior Non-Emergency Medical Program	8	36,224	20,218
V	Community Based Transit/Circulators	9	0	0
W	Safe Transit Stops	10	0	0
X	Environmental Cleanup Program (Water Quality)	11	0	0
	Other*	12	0	0
TOTAL REVENUES (Sum lines 1 to 12)		13	975,467	244,678
Expenditures:				
A-M	Freeway Projects	14	0	0
O	Regional Capacity Program (RCP)	15	0	0
P	Regional Traffic Signal Synchronization Program (RTSSP)	16	0	0
Q	Local Fair Share	17	0	174,016
R	High Frequency Metrolink Service	18	0	0
S	Transit Extensions to Metrolink	19	0	0
T	Convert Metrolink Station(s) to Regional Gateways that connect Orange County with High-Speed Rail Systems	20	0	0
U	Senior Mobility Program or Senior Non-Emergency Medical Program	21	14,285	18,856
V	Community Based Transit/Circulators	22	0	0
W	Safe Transit Stops	23	0	0
X	Environmental Cleanup Program (Water Quality)	24	0	0
	Other*	25	0	0
TOTAL EXPENDITURES (Sum lines 14 to 25)		26	14,285	192,872
	0	27	961,182	51,807

* Please provide a specific description

City/County of _Aliso Viejo_____

Schedule 3

M2 Expenditure Report

Fiscal Year Ended June 30, 2024

Streets and Roads Detailed Use of Funds

Type of Expenditure	Line No.	MOE	Developer / Impact Fees+	O	O Interest	P	P Interest	Q	Q Interest	X	X Interest	Other M2[2]	Other M2 Interest	Other*	TOTAL
Indirect and/or Overhead	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Construction & Right-of-Way															
New Street Construction	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Street Reconstruction	3	0	0	0	0	0	0	0	323	0	0	0	0	0	323
Signals, Safety Devices, & Street Lights	4	0	0	0	0	0	0	0	173,693	0	0	0	0	0	173,693
Pedestrian Ways & Bikepaths	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Storm Drains	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Storm Damage	7	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Construction[1]	8	0	0	0	0	0	0	0	174,016	0	0	0	0	0	174,016
Right of Way Acquisition	9	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Construction & Right-of-Way	10	0	0	0	0	0	0	0	174,016	0	0	0	0	0	174,016
Maintenance															
Patching	11	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Overlay & Sealing	12	0	0	0	0	0	0		0	0	0	0	0	0	0
Street Lights & Traffic Signals	13	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Storm Damage	14	19,352	0	0	0	0	0	0	0	0	0	0	0	0	19,352
Other Street Purpose Maintenance	15	563,521	0	0	0	0	0	0	0	0	0	0	0	0	563,521
Total Maintenance[1]	16	582,872	0	0	0	0	0	0	0	0	0	0	0	0	582,872
Other - Senior Mobility Porgram	17		0	0	0	0	0	0	0	0	0	14,285	18,856	0	33,141
GRAND TOTALS (Sum Lines 1, 10, 16, 17)	18	582,872	0	0	0	0	0	0	174,016	0	0	14,285	18,856	0	790,029
Finance Director Confirmation	19	Any California State Constitution Article XIX streets and road eligible expenditure may be "counted" in local jurisdictions' calculation of MOE if the activity is supported (funded) by a local jurisdictions' discretionary funds (e.g. general fund). The California State Controller also provides useful information on Article XIX and the Streets and Highways Code eligible expenditures in its "Guidelines Relating to Gas Tax Expenditures for Cities and Counties". I have reviewed and am aware of these guidelines and their applicability in calculating and reporting on Maintenance of Effort expenditures. Finance Director initial: JE														

[1] Includes direct charges for staff time

[2] Other M2 includes A-M, R,S,T,U,V, and W

\+ Transportation related only

* Please provide a specific description

Legend

Project	Description
A-M	Freeway Projects
O	Regional Capacity Program (RCP)
P	Regional Traffic Signal Synchronization Program (RTSSP)
Q	Local Fair Share
R	High Frequency Metrolink Service
S	Transit Extensions to Metrolink
T	Convert Metrolink Station(s) to Regional Gateways that connect Orange County with High-Speed Rail Systems
U	Senior Mobility Program or Senior Non-Emergency Medical Program
V	Community Based Transit/Circulators
W	Safe Transit Stops
X	Environmental Cleanup Program (Water Quality)

City/County of _____Aliso Viejo__ **Schedule 4**

M2 Expenditure Report

Fiscal Year Ended June 30, 2024

Local Fair Share Project List

PROJECT NAME	AMOUNT EXPENDED
#130 OCTA Aliso Creek Signal Synchronization	$ 173,693.32
#134 Aliso Creek Rehab - Enterprise to SR73	$ 323.00
	$ 174,016.32

City/County of _____ **Signature Page**

M2 Expenditure Report
Fiscal Year Ended June 30, 2024

I hereby certify that:

☒ All the information attached herein and included in schedules 1 through 4 is true and accurate to the best of my knowledge;

☒ The interest earned on Net Revenues allocated pursuant to the Ordinance shall be expended only for those purposes for which the Net Revenues were allocated;

☒ The City/County of Aliso Viejo is aware of the State Controller's "Guidelines Relating to Gas Tax Expenditures for Cities and Counties", which is a guide for determining MOE Expenditures for M2 Eligibility purposes;

☒ The City/County's Expenditure Report is in compliance with direction provided in the State Controller's "Guidelines Relating to Gas Tax Expenditures for Cities and Counties;" and

☒ The City/County of Aliso Viejo has expended in this fiscal year an amount of local discretionary funds for streets and roads purposes at least equal to or exceeding the FY 2023-24 MOE benchmark dollar amount[11].

ANN EIFERT
Director of Finance (Print Name)

11/5/24
Date

Ann Eifert
Signature

[11] Jurisdictions are encouraged to submit MOE eligible expenditures higher than their MOE benchmark, so that should certain expenses be ruled ineligible during an MOE audit, the local jurisdiction still has sufficient MOE expenditures to demonstrate continued achievement of the MOE benchmark.

City of Aliso Viejo
AGENDA ITEM

DATE: November 20, 2024

TO: Mayor and City Council

FROM: Shaun Pelletier, Public Works Director / City Engineer

SUBJECT: AGREEMENT WITH CREATIVE AIR MECHANICAL SERVICES FOR CITY HALL HVAC IMPROVEMENTS

Recommended Actions:

1. Approve Contract Documents for City Hall HVAC Improvements;
2. Award an agreement in the amount of $160,840 to Creative Air Mechanical Services as the lowest responsible bidder for the City Hall HVAC Improvements;
3. Authorize the City Manager to execute an agreement with Creative Air Mechanical Services;
4. Authorize City staff to make total compensation to Creative Air Mechanical Services up to $160,840 plus $14,000 (8.7% of the agreement amount) to allow for contingencies, totaling $174,840; and
5. Declare this project categorically exempt from the California Environmental Quality Act (CEQA) process Per Title 14 of the California Code of Regulations, Chapter 3, Article 19, Section 15301 (Class 1: Existing Facilities).

Fiscal Impact:

Total fiscal impact will be approximately $174,840 including construction ($160,840) and contingency ($14,000). The adopted fiscal year 2024-25 Capital Improvement Plan (CIP) budget includes $226,000 for this work, of which $113,000 is reimbursable through an awarded Energy Efficiency and Conservation Block Grant.

Background:

The City requested quotes from 4 contractors and obtained quotes from 2 contractors on 2 different units for the project.

	Contractor	Trane Bid	RUUD Bid
1.	Creative Air Mechanical Services	$168,450.00	$160,840.00
2.	Harbor Pointe	$204,079.24	$167,540.92
3.	Triton (Old Quote – Not Responsive)	$212.535.50	N/R
4.	Rohan & Sons (Not Responsive)	N/R	N/R

City staff has reviewed the quote from Creative Air Mechanical Services and the quote appears to be responsive and complete.

This project is exempt from the CEQA process since it is maintaining existing facilities.

Discussion:

Heating, Ventilation and Air Conditioning (HVAC) equipment typically has a useful life of 10-15 years. The City last upgraded the two 25 ton rooftop units in 2011. Although the units are working properly with regular preventive maintenance, they are at the point that failure is a possibility. The timing of the Energy Efficiency and Conservation Block Grant makes replacement at this time financially prudent. The upgrade should also result in energy savings due to newer, more efficient units. Given the affordability and reliability of the RUUD brand, as well as better compatibility with the existing building structure and rooftop screening, staff recommends this unit. The improvements will also include a new master thermostat system that will allow for the ability to run the system remotely.

Staff respectfully requests approval of the recommended actions.

Attachments:

1. Agreement

CITY OF ALISO VIEJO
PROFESSIONAL SERVICES AGREEMENT
FOR
THE ALISO VIEJO CITY HALL ROOFTOP PACKAGE UNIT REPLACEMENTS (TWO UNITS)

1. PARTIES AND DATE.

This Agreement is made and entered into this ___ day of _____, 20__, by and between the City of Aliso Viejo, a municipal corporation organized under the laws of the State of California with its principal place of business at 12 Journey, Suite 100, Aliso Viejo, California 92656 ("City") and **Creative Air Mechanical Services, LLC,** with its principal place of business at **6316 Seawalk Drive, Playa Vista, CA 90094** ("Consultant"). City and Consultant are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

2.1 Consultant.

Consultant desires to perform and assume responsibility for the provision of professional **H.V.A.C. installation & repair** consultant services required by the City on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing professional **heating, ventilation, and air conditioning installation & repair** consultant services to public clients, is licensed in the State of California, and is familiar with the plans of the city.

2.2 Project.

City desires to engage Consultant to render such services for the **Aliso Viejo City Hall Rooftop Package Unit Replacement Project (two units)** ("Project") as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional **H.V.A.C.** consultant services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from **November 1st, 2024** to **January 30th, 2025**, unless earlier terminated as provided herein. The City Manager shall have the unilateral option, at its sole discretion, to renew this Agreement annually for no more than two additional one-year terms. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines.

3.2 Responsibilities of Consultant.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Consultant on an independent contractor basis and not as an employee. Consultant shall complete, execute, and submit to City a Request for Taxpayer Identification Number and Certification (IRS FormW-9) prior to commencement of any Services under this Agreement. Neither City, nor any of its officials, officers, directors, employees or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services.

3.2.2.1 Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, City shall respond to Consultant's submittals in a timely manner. Upon request of City, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.2.2 Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing Party. For purposes of this Agreement, such circumstances include a Force Majeure Event. A Force Majeure Event shall mean an event that materially affects a Party's performance and is one or more of the following: (1) Acts of God or other natural disasters; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities (including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the Services); (4) strikes and other organized labor action occurring at the site and the effects thereof on the Services, only to the extent such strikes and other organized labor action are beyond the control of Consultant and its subcontractors, and to the extent the effects thereof cannot be avoided by use of replacement workers; and (5) pandemics, epidemics or quarantine restrictions. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders, rules to protect the public health, welfare and safety, and other actions of a public agency applicable to the Services and Agreement.

3.2.2.3 Should a Force Majeure Event occur, the non-performing Party shall, within a reasonable time of being prevented from performing, give written notice to the other Party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Force Majeure Events and/or delays, regardless of the Party responsible for the delay, shall not entitle Consultant to any additional compensation. Notwithstanding the foregoing in this section, the City may still terminate this Agreement in accordance with the termination provisions of this Agreement.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of City.

3.2.4 Substitution of Key Personnel. Consultant has represented to City that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Consultant cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the City, or who are determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the City. The key personnel for performance of this Agreement are as follows: **Christopher Rochon.**

3.2.5 City's Representative. The City hereby designates the City Manager, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Contract. The City Manager hereby designates **Kyle Bolender**, or his or her designee, as the City's contact for the implementation of the Services hereunder. Consultant shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.6 Consultant's Representative. Consultant hereby designates **Christopher Rochon** or his or her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional

calling necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10 Insurance.

3.2.10.1 Time for Compliance. Consultant shall not commence Work under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Consultant shall not allow any subconsultant to commence work on any subcontract until it has provided evidence satisfactory to the City that the subconsultant has secured all insurance required under this section.

3.2.10.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder and without limiting the indemnity provisions of the Agreement, the Consultant in partial performance of its obligations under such Agreement, shall procure and maintain in full force and effect during the term of the Agreement, the following policies of insurance. If the existing policies do not meet the Insurance Requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so.

(a) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 0001, with minimum limits of at least $1,000,000 per occurrence, and if written with an

aggregate, the aggregate shall be double the per occurrence limit. Defense costs shall be paid in addition to the limits.

The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

(b) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1) with minimum limits of $1,000,000 each accident.

(c) Contractors Pollution Liability: [Include only if there is a pollution liability exposure.]

Contractors Pollution Liability Insurance covering all of the contractor's operations to include onsite and offsite coverage for bodily injury (including death and mental anguish), property damage, defense costs and cleanup costs with minimum limits of $5 million per loss and $10 million total all losses. The policy shall contain no endorsements or provisions limiting contractual liability or coverage for cross liability of claims or suits by one insured against another.

If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least three (3) years from termination or expiration of this Agreement.

(d) Professional Liability: Professional Liability insurance with minimum limits of $1,000,000. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusions that may potentially affect the work to be performed (for example, any exclusions relating to lead, asbestos, pollution, testing, underground storage tanks, laboratory analysis, soil work, etc.).

If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least three (3) years from termination or expiration of this Agreement.

(e) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability

Insurance with a limit of not less than $1,000,000 per accident for bodily injury and disease.

3.2.10.3 Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for approval.

(a) The policy or policies of insurance required by Section 3.2.10.2 (a) Commercial General Liability and (c) Contractor's Pollution Liability shall be endorsed to provide the following:

(1) Additional Insured: The City of Aliso Viejo, its officials, officers, employees, agents, and volunteers shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement.

Additional Insured Endorsements shall not (1) be restricted to "ongoing operations"; (2) exclude "contractual liability"; (3) restrict coverage to "sole" liability of Consultant; or (4) contain any other exclusions contrary to the Agreement.

(2) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(b) The policy or policies of insurance required by Section 3.2.10.2 (b) Automobile Liability and (d) Professional Liability shall be endorsed to provide the following:

(1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(c) The policy or policies of insurance required by Section 3.2.10.2 (e) Workers' Compensation shall be endorsed to provide the following:

(1) Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

(2) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day

written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

3.2.10.4 Primary and Non-Contributing Insurance. All insurance coverages shall be primary and any other insurance, deductible, or self-insurance maintained by the indemnified parties shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

3.2.10.5 Waiver of Subrogation. Required insurance coverages shall not prohibit Consultant from waiving the right of subrogation prior to a loss. Consultant shall waive all subrogation rights against the indemnified parties. Policies shall contain or be endorsed to contain such provisions.

3.2.10.6 Deductible. Any deductible or self-insured retention must be approved in writing by the City and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

3.2.10.7 Evidence of Insurance. The Consultant, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates and endorsements on forms approved by the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

3.2.10.8 Failure to Maintain Coverage. Consultant agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the City. The City shall have the right to withhold any payment due Consultant until Consultant has fully complied with the insurance provisions of this Agreement.

In the event that the Consultant's operations are suspended for failure to maintain required insurance coverage, the Consultant shall not be entitled to an extension of time for completion of the Services because of production lost during suspension.

3.2.10.9 Acceptability of Insurers. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

3.2.10.10 Insurance for Subconsultants. All Subconsultants shall be included as additional insureds under the Consultant's policies, or the Consultant shall be

responsible for causing Subconsultants to purchase the appropriate insurance in compliance with the terms of these Insurance Requirements, including adding the City as an Additional Insured to the Subconsultant's policies.

3.2.11 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions where applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subconsultants, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed **ONE HUNDRED SIXTY THOUSAND EIGHT HUNDRED FORTY DOLLARS ($160,840.00)**. Consultant shall not perform, nor be compensated for extra work without authorization from the City, not to exceed **FOURTEEN THOUSAND DOLLARS ($14,000.00).**

3.3.2 Payment of Compensation.

Consultant shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within 45 days of receiving such statement, review the statement and pay all non-disputed and approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.4 Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from the City.

3.3.5 Prevailing Wages; DIR Registration.

3.3.5.1 Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. It is the intent of the parties to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code within this Agreement, and Consultant shall therefore comply with such Labor Code sections to the fullest extent required by law. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.3.5.2 If the Services are being performed as part of an applicable "public works" or "maintenance" project, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the project and require the same of any subconsultants. This project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR.

3.4 Accounting Records.

3.4.1 Maintenance and Inspection. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. City may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to City, and Consultant shall be entitled to no further compensation. Consultant may not terminate

this Agreement except for cause. The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under this Agreement.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant:

Christopher Rochon

Creative Air Mechanical Services, LLC.

6316 Seawalk Drive

Playa Vista, CA 90094

City:

City of Aliso Viejo
12 Journey, Suite 100
Aliso Viejo, CA 92656
Attn: **Kyle Bolender, Department of Public Works**

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Ownership of Materials and Confidentiality.

3.5.3.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be

prepared by Consultant under this Agreement ("Documents & Data"). Consultant shall require all subconsultants to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

3.5.3.2 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of City, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

3.5.3.3 Confidential Information. The City shall refrain from releasing Consultant's proprietary information ("Proprietary Information") unless the City's legal counsel determines that the release of the Proprietary Information is required by the California Public Records Act or other applicable state or federal law, or order of a court of competent jurisdiction, in which case the City shall notify Consultant of its intention to release Proprietary Information. Consultant shall have five (5) working days after receipt of the Release Notice to give City written notice of Consultant's objection to the City's release of Proprietary Information. Consultant shall indemnify, defend and hold harmless the City, and its officers, directors, employees, and agents from and against all liability, loss, cost or expense (including attorney's fees) arising out of a legal action brought to compel the release of Proprietary Information. City shall not release the Proprietary Information after receipt of the Objection Notice unless either: (1) Consultant fails to fully indemnify, defend (with City's choice of legal counsel), and hold City harmless from any legal action brought to compel such release; and/or (2) a final and non-appealable order by a court of competent jurisdiction requires that City release such information.

3.5.4 Fraud Policy. Consultant shall provide a copy of the City's Fraud Prevention Policy to each of its employees assigned to perform Services under this Agreement. Consultant shall submit to the City a statement signed by an authorized representative for Consultant certifying receipt of the City's Fraud Prevention Policy. A finding by the City that any of Consultant's employees have committed fraud against the City or have violated the City's Fraud Prevention Policy shall be grounds for appropriate discipline, up to and including such employee's removal from performance of this Agreement at City's request and/or termination of this Agreement. Consultant shall reimburse the City for any costs and expenses associated with fraud against the City.

3.5.5 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.6 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.5.7 Indemnification.

3.5.7.1 To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), 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 of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorneys fees and other related costs and expenses except such loss or damage caused by the sole negligence or willful misconduct of the City. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement and shall not be restricted to insurance proceeds, if any, received by the Consultant or the City, its officials, officers, employees, agents or volunteers.

3.5.7.2 If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

3.5.8 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

3.5.9 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Orange County.

3.5.10 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.6 City's Right to Employ Other Consultants. City reserves right to employ other consultants in connection with this Project.

3.7 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.8 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.9 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.10 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.11 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.12 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.13 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.14 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.15 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or

applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.16 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.17 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.18 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.19 Declaration of Political Contributions. Consultant shall, throughout the term of this Agreement, submit to City an annual statement in writing declaring any political contributions of money, in-kind services, or loan made to any member of the City Council within the previous twelve-month period by the Consultant and all of Consultant's employees, including any employee(s) that Consultant intends to assign to perform the Services described in this Agreement.

3.20 Subcontracting.

3.20.1 Prior Approval Required. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

[Signatures on following page.]

SIGNATURE PAGE TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF ALISO VIEJO AND CREATIVE AIR MECHANICAL SERVICES, LLC.

IN WITNESS WHEREOF, the parties have executed this Professional Services Agreement on this _____day of _____, 202__.

CITY OF ALISO VIEJO

Approved:

By:_____
Mitzi Ortiz
City Manager

ATTEST:

By:_____
Lauren Torres
Deputy City Clerk

APPROVED AS TO FORM:

_____
Best Best & Krieger LLP
City Attorney

APPROVED AS TO COMPLIANCE WITH BUDGET

By:_____
Ann Eifert
Director of Financial Services

Creative Air Mechanical Services, LLC.

[If Corporation, TWO SIGNATURES, President OR Vice President AND Secretary OR Treasurer REQUIRED]

By:_____

Its:_____

Printed Name:_____

By:_____

Its:_____

Printed Name:_____

CITY OF ALISO VIEJO

DECLARATION OF POLITICAL CONTRIBUTIONS

Using the space provided below, please list any political contributions of money, in-kind services, or loans made to any member of the City Council within the last twelve (12) months by Consultant and all of Consultant's employees, including any employee(s) that applicant intends to assign to perform the work or services described in this Agreement:

_____

_____

_____

_____

_____

_____

_____

To the best of my knowledge, I declare under penalty of perjury that the foregoing is true and was executed at:

_____ _____

City/County/State Date

_____ _____

Name of Business Print Name

_____

Signature

NOTE: THIS DECLARATION IS INCLUDED AS PART OF THE AGREEMENT AND MUST BE SIGNED AND ATTACHED HERETO.

CITY OF ALISO VIEJO

ACKNOWLEDGMENT OF RECEIPT OF FRAUD POLICY

I hereby acknowledge that I have received a copy of the City's "Fraud Prevention Policy" dated October 1, 2008. I understand that I am to promptly read its contents and distribute copies to employees assigned to perform Services for the City of Aliso Viejo.

To the extent that provisions of this policy conflict with previously issued policies or practices, whether or not such policies and practices were contained in written policies, this policy shall prevail.

Name of Business	Print Name
Signature	
Date	

EXHIBIT "A"

SCOPE OF SERVICES

Provide the following service for the following City Facilities:

Aliso Viejo City Hall – Rooftop package unit replacements (two units)

The City is seeking a contractor to provide HVAC Installation and repair services on an as-needed basis upon request by the City. The contractor shall furnish all necessary labor, equipment, and materials to complete the work. The specific services to be performed are described below:

1. Isolate units power using "lock out tag out" procedures.
2. Replace current disconnects with new and properly rated amperage and voltage disconnects.
3. Isolate gas lines per OSHA recommendations. Confirm no leaks.
4. Coordinate with city staff, crane, and rigging reps for safe removal of rooftop units.
5. Recover existing refrigerant per EPA guidelines.
6. Remove old adaptor curbs, install new curbs for Ruud units per manufacturer specifications.
7. Re - connect gas lines and electrical per manufacturer specifications. Test for leaks. Notify city staff of any leaks.
8. Test both units, first floor and second floor units, for proper cooling and heating.
9. Both units shall have coils dipped with protective coating.
10. Install pelican climate management system for offsite climate control management capabilities.
11. Clean up any trash or debris prior to leaving the site.
12. Service shall be performed during normal business hours which are Monday-Thursday 7:30 AM to 5:30 PM, and every other Friday 7:30 AM to 4:30 PM. During emergencies, work may be required outside of normal business hours.

If at any time there is determined to be additional plastering repair work outside of the above scope of services, the City shall be notified and a quotation issued before beginning work.

EXHIBIT "B"

SCHEDULE OF SERVICES

All services described in Exhibit A are to be conducted on an as-needed basis.

EXHIBIT "C"

COMPENSATION

Total Project Cost: $160,840.00

Contingency: $14,000.00

See attached on the next page for the vendor provided estimate.

CITY OF ALISO VIEJO

Creative Air Mechanical Services
License Class: C-20
CSLB # 990931
Subject: City Hall; Replacement of two 25-ton Carrier Rooftop Package Units

Attn: Kyle Bolender
Facilities Supervisor
City of Aliso Viejo
12 Journey, Suite 100
Aliso Viejo, CA 92656

Subject: Proposal for City Hall Rooftop Unit Replacement

Dear Kyle,
On behalf of Creative Air Mechanical Services, we are pleased to submit our proposal for the City Hall Rooftop Unit Replacement. We appreciate the opportunity to earn your business and are confident that our expertise, qualified personnel, and commitment to excellence make us an ideal partner for your HVAC Retrofit project.

Key Elements of Our Proposal

1. **Scope of Services**: We have reviewed the requested scope of work specifications per our job walk held on October 15th, 2024. Our proposal outlines the following retrofit services of the two existing units.
2. **Cost Proposal**: Our fixed price cost proposal includes labor, parts and materials in reference to California Multiplier Award Schedule (CMAS) requirements.
3. **Commitment to Quality**: We have a robust quality control process that includes regular performance evaluations, customer feedback mechanisms, and commitment to continuous improvement to ensure our services consistently meet your expectations.

We are excited about the opportunity of working with the City of Aliso Viejo and are prepared to meet your needs with the utmost professionalism. Should you have any questions or require additional information, please do not hesitate to contact me at 818-403-4956 or chris@creativeairmechanical.com.

Thank you for considering our proposal. We look forward to the opportunity to serve you.
Sincerely,

Chris Rochon
General Manager, Owner
Creative Air Mechanical Services

Proposal Name: City of Aliso Viejo, City Hall 25 Ton Rooftop Unit Replacement
Date: 10/29/2024

Provider:
Creative Air Mechanical Services
6316 Seawalk Drive
Playa Vista, CA 90094

Customer:
City of Aliso Viejo
12 Journey Suite 100
Aliso Viejo, CA 92656

Contact Name: Kyle Bolenger
Email: kbolender@avcity.org

Work Site Address: 12 Journey Drive Aliso Viejo, CA 92656

Scope of Work for Replacement of Two 25-Ton Carrier Rooftop Units

Project Overview: The project involves the removal, disposal, and replacement of two 25-ton Carrier rooftop units (RTUs) at The City of Aliso Viejo, City Hall. The existing RTUs will be replaced with new, energy-efficient RUUD units of the same capacity, ensuring continuous HVAC service to the facility.

1. **Site Preparation**
   - Coordinate with the facility manager to schedule the replacement at a time that minimizes disruption to building operations.
   - Safety: Ensure compliance with OSHA safety standards. Implement safety protocols, including securing the roof work area, use of personal protective equipment (PPE), and signage.
2. **Removal of Existing Units**
   - Crane and Rigging: Use appropriate crane and rigging services to lift and remove the two existing 25-ton Carrier RTUs from the rooftop.
   - Disconnection: Disconnect all electrical, gas, piping control wiring from existing units.
   - Unit Disposal: Safely transport and dispose of the old units.
3. **Installation of New Units & DDC Controllers**
   - Provide and install two new adaptor curbs to exiting roof curb.
   - Provide and install two new RUUD 25-ton Rooftop Units, Model RGEG2T300ACG40BBACA0.
   - Ensure the new units are positioned and secured according to manufacturer recommendations.
   - Provide and install (2) touchscreen internet-based Pelican programmable thermostat controllers.
   - Provide and install extended range gateway.
   - Provide and install repeater for wireless communication and control.
   - Internet communication protocol provided by customer.
4. **Electrical**
   - Electrical Connections: Provide and install (2) new electrical disconnects per manufacturer specifications.
5. **Condensate Drainage Systems**
   - Connect the new units to the existing condensate drainage system, ensuring proper slope and functionality to prevent water backup.
5. **Testing and Commissioning**
   - Startup and Testing: Start up the units following the manufacturer's guidelines and conduct operational tests to ensure proper functionality.
7. **Clean-Up and Closeout**
   - Remove all construction debris, packaging materials, and waste from the site.

- Conduct a final walk-through with the building manager to inspect the installation and ensure all requirements have been met.

Proposal Clarifications:

- RUUD units are manufactured in USA
- All work to be performed during normal business hours
- Proposal is valid for 30 days
- Rooftop equipment selected is based on R410A refrigerant
- Due to Government Regulations effective January 1st, 2025 – R410A units are no longer being manufactured and are on a first come first serve basis. If equipment is not available, this proposal is subject to revised equipment pricing and selection.
- Customer to provide IP internet address for remote DDC Control
- CMAS Compliance, refer to contract attached
- Warranty will be 12 months from the date of equipment startup

---

Proposal Exclusions:

- Mechanical Engineering, plans, permits (if applicable) and or Title 24 documents
- CAT 6 Wiring and conduit
- Fire life safety modifications
- Structural Modifications or vibration isolation
- Equipment site screen modifications
- Overtime related work (if not selected)
- General Contracting Work
- Roofing or Patching
- Asbestos Abatement or work in contaminated areas
- Bonds; bid, performance or payment
- Any work that is not stated above

Total Contract Price: City Hall (2) 25 Ton RTU Replacements – RUUD Units	**$ 160,840.00**
Option Add 1: Overtime Weekend Work (excluding holidays)	**$ 12,340.00**
Option Add 2: Structural Evaluation for weight difference on units	**$ 6,500.00**

☐ Sales Tax will be invoiced separately	☒ Use Tax is included in the price	☐ Tax exempt

Terms of Payment, unless modified above are: Once equipment submittal is approved, CAMS will request a 30% down payment for equipment mobilization. The balance will be due upon progression of work completed and the receipt of invoice.

This proposal is valid for 30 days, from the date of this agreement. If not executed by this date, the contractor shall have the right to submit revised pricing.

PROVIDER: Creative Air Mechanical	CUSTOMER: City of Aliso Viejo
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

A. APPLICABILITY

The Project or Program to which the construction work covered by this Contract pertains is being assisted by the United States of America, and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

1. Minimum wages and fringe benefits

i. All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in 29 CFR 5.5(d) and (e), the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(v) of these contract clauses; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under 29 CFR 5.5(a)(1)(iii)) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

ii. Frequently recurring classifications

A. In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to 29 CFR 5.5(a)(1)(iii), provided that:

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

2. The classification is used in the area by the construction industry; and

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

B. The Administrator will establish wage rates for such classifications in accordance with 29 CFR 5.5(a)(1)(iii)(A)(3). Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

iii. Conformance

A. The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be

classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
2. The classification is used in the area by the construction industry; and
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

B. The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

C. If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

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

E. The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under 29 CFR 5.5 (a)(1)(iii)(C) and (D). The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to 29 CFR 5.5 (a)(1)(iii)(C) or (D) must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

iv. Fringe benefits not expressed as an hourly rate

Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

v. Unfunded plans

If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in 29 CFR 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

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

2. Withholding

i. Withholding requirements

The U. S. Department of Housing and Urban Development may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in 29 CFR 5.5(a) for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work (or otherwise working in construction or development of the project under a development statute) all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in 29 CFR 5.5(a)(3)(iv), HUD may on its own initiative and after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

ii. Priority to withheld funds

The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:

- **A.** A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- **B.** A contracting agency for its reprocurement costs;
- **C.** A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- **D.** A contractor's assignee(s);
- **E.** A contractor's successor(s); or
- **F.** A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

3. Records and certified payrolls

i. Basic record requirements

- **A. Length of record retention.** All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.
- **B. Information required** Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.
- **C. Additional records relating to fringe benefits**. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(v) that the wages of any laborer or mechanic include the amount of any

costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

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

ii. Certified payroll requirements

A. Frequency and method of submission The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to HUD if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the certified payrolls to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system

B. Information required The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i)(B), except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.*, the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at *https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf* or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the sponsoring government agency (or the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records).

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

1. That the certified payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information and basic records are being maintained under 29 CFR 5.5 (a)(3)(i), and such information and records are correct and complete;

2. That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly

from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

D. Use of Optional Form WH-347 The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by 29 CFR 5.5(a)(3)(ii)(C).

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

F. Falsification The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

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

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

iv Required disclosures and access

A. Required record disclosures and access to workers The contractor or subcontractor must make the records required under 29 CFR 5.5(a)(3)(i)–(iii), and any other documents that HUD or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by 29 CFR 5.1, available for inspection, copying, or transcription by authorized representatives of HUD or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

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

C. Required information disclosures Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to HUD if the agency is a party to

the contract, or to the Wage and Hour Division of the Department of Labor. If the Federal agency is not such a party to the contract, the contractor, subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity

i. Apprentices

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

B. Fringe benefits Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

C. Apprenticeship ratio The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to 29 CFR 5.5(a)(4)(i)(D). Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in 29 CFR 5.5(a)(4)(i)(A), must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

ii Equal employment opportunity The use of apprentices and journeyworkers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

5 Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6 Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (11), along with the applicable wage determination(s) and such other clauses or contract modifications as the U.S. Department of Housing and
Urban Development may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate.

7 Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8 Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9 Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

i. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

iii. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

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

- **i.** Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;
- **ii.** Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;
- **iii.** Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5; or
- **iv.** Informing any other person about their rights under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5.

B. Contract Work Hours and Safety Standards Act (CWHSSA)

The Agency Head must cause or require the contracting officer to insert the following clauses set forth in 29 CFR 5.5(b)(1), (2), (3), (4), and (5) in full, or (for contracts covered by the Federal Acquisition Regulation) by reference, in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses must

be inserted in addition to the clauses required by 29 CFR 5.5(a) or 4.6. As used in this paragraph, the terms "laborers and mechanics" include watchpersons and guards.

1. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in 29 CFR 5.5(b)(1) the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in 29 CFR 5.5(b)(1), in the sum of $31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in 29 CFR 5.5(b)(1).
3. **Withholding for unpaid wages and liquidated damages**

i. **Withholding process** The U.S Department of Housing and Urban Development or the recipient of Federal assistance may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in 29 CFR 5.5(b) on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

ii **Priority to withheld funds** The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:

- **A.** A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- **B.** A contracting agency for its reprocurement costs;
- **C.** A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- **D.** A contractor's assignee(s);
- **E.** A contractor's successor(s); or
- **F.** A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

4. ***Subcontracts***. The contractor or subcontractor must insert in any subcontracts the clauses set forth in 29 CFR 5.5(b)(1) through (5) and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in 29 CFR 5.5(b)(1) through (5). In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss,

due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

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

- **i.** Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in 29 CFR part 5;
- **ii.** Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or 29 CFR part 5;
- **iii.** Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or 29 CFR part 5; or
- **iv.** Informing any other person about their rights under CWHSSA or 29 CFR part 5.

C. CWHSSA required records clause In addition to the clauses contained in 29 CFR 5.5(b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other laws referenced by 29 CFR 5.1, the Agency Head must cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor must maintain regular payrolls and other basic records during the course of the work and must preserve them for a period of 3 years after all the work on the prime contract is completed for all laborers and mechanics, including guards and watchpersons, working on the contract. Such records must contain the name; last known address, telephone number, and email address; and social security number of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid; daily and weekly number of hours actually worked; deductions made and actual wages paid. Further, the Agency Head must cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph must be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview workers during working hours on the job.

D. Incorporation of contract clauses and wage determinations by reference Although agencies are required to insert the contract clauses set forth in this section, along with appropriate wage determinations, in full into covered contracts, and contractors and subcontractors are required to insert them in any lower-tier subcontracts, the incorporation by reference of the required contract clauses and appropriate wage determinations will be given the same force and effect as if they were inserted in full text.

E. Incorporation by operation of law The contract clauses set forth in this section (or their equivalent under the Federal Acquisition Regulation), along with the correct wage determinations, will be considered to be a part of every prime contract required by the applicable statutes referenced by 29 CFR 5.1 to include such clauses, and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the Administrator grants a variance, tolerance, or exemption from the application of this paragraph. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

F. HEALTH AND SAFETY

The provisions of this paragraph (F) are applicable where the amount of the prime contract exceeds **$100,000**.

1. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health and safety, as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
2. The contractor shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96), 40 U.S.C. § 3701 et seq.
3. The contractor shall include the provisions of this paragraph in every subcontract, so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

U.S. Department of Housing
and Urban Development

Labor Relations Desk Guide
LR01.DG

DAVIS-BACON
LABOR STANDARDS

A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects



January 2012
Previous versions obsolete

INTRODUCTION

This Guide has been prepared for you as a contractor performing work on construction projects that are assisted by the Department of Housing and Urban Development and subject to Davis-Bacon prevailing wage requirements. This Guide does not address contractor requirements involved in direct Federal contracting where HUD or another Federal agency enters into a procurement contract. In this latter case, the Federal Acquisition Regulations (FAR) are applicable. While the guidance contained in this Guide is generally applicable to any Davis-Bacon covered project, specific questions pertaining to direct Federal contracts should be addressed to the Contracting Officer who signed the contract for the Federal agency.

Our objective here is to provide you with a guide which is simple and non-bureaucratic yet comprehensive and which will help you better understand and comply with Davis-Bacon labor standards. HUD's Office of Labor Relations worked closely with the Department of Labor's Wage and Hour Division to make sure that the labor standards provisions in your contract and the specifics of complying with them represent the latest information. It is the Department of Labor which has general administrative oversight of all Federal contracting agencies, such as HUD, which administer the day-to-day responsibilities of enforcing Davis-Bacon provisions in construction contracts they either fund or assist in funding.

There are three chapters in this Guide. The first chapter offers a brief description of the laws and regulations associated with Federal labor standards administration and enforcement and discusses both what's in your contract that requires Davis-Bacon compliance and your responsibilities. The second chapter deals with labor standards and payroll reporting requirements. The third chapter discusses what can happen in the event there is a dispute about the wage rates that should be (or have been) paid and any back wages that may be due.

Finally, not all HUD construction projects are covered by Davis-Bacon wage rates. For the purpose of this Guide, we are assuming that a determination has already been made that Davis-Bacon wage rates are applicable. Should you wish assistance in determining whether Davis-Bacon wage rates apply to a particular project or if you need other related technical assistance, please consult with the HUD Labor Relations Field staff for your area. If you don't know which staff to contact, a list of Labor Relations field offices and their geographic areas and telephone numbers can be found on HUD's Home Page at the address below.

Visit the Office of Labor Relations on-line:

http://www.hud.gov/offices/olr

Obtain additional copies of this Guide and other publications at our website or by telephone from HUD's Customer Service Center at (800)767-7468.

TABLE OF CONTENTS

INTRODUCTION i

CHAPTER 1 LAWS, REGULATIONS, CONTRACTS AND RESPONSIBILITIES 1-1

1-1 DAVIS-BACON AND OTHER LABOR LAWS 1-1
a. The Davis-Bacon Act (DBA) 1-1
b. The Contract Work Hours and Safety Standards Act (CWHSSA) 1-1
c. The Copeland Act (Anti-Kickback Act) 1-2
d. The Fair Labor Standards Act (FLSA) 1-2
1-2 DAVIS-BACON REGULATIONS 1-2
1-3 CONSTRUCTION CONTRACT PROVISIONS 1-2
1-4 RESPONSIBILITY OF THE PRINCIPAL CONTRACTOR 1-3
1-5 RESPONSIBILITY OF THE CONTRACT ADMINISTRATOR 1-4

CHAPTER 2 HOW TO COMPLY WITH LABOR STANDARDS AND PAYROLL REPORTING REQUIREMENTS 2-1

SECTION - I THE BASICS

2-1 THE WAGE DECISION 2-1
a. The work classifications and wage rates 2-1
b. Posting the wage decision 2-2
2-2 ADDITIONAL "TRADE" CLASSIFICATIONS AND WAGE RATES 2-2
a. Additional classification rules 2-2
b. Making the request 2-3
c. HUD review 2-3
d. DOL decision 2-3
2-3 CERTIFIED PAYROLL REPORTS 2-4
a. Payroll formats 2-4
b. Payroll certifications 2-4
c. "No work" payrolls 2-4
d. Payroll review and submission 2-5
e. Payroll retention 2-5
f. Payroll inspection 2-5
2-4 DAVIS-BACON DEFINITIONS 2-5
a. Laborer or mechanic 2-5
b. Employee 2-6
c. Apprentices and trainees 2-6
d. Prevailing wages or wage rates 2-7
e. Fringe benefits 2-7
f. Overtime 2-7
g. Deductions 2-8
h. Proper designation of trade 2-8
i. Site of work 2-8

SECTION - II REPORTING REQUIREMENT

2-5 COMPLETING A PAYROLL REPORT 2-9
a. Project and contractor/subcontractor information 2-9
b. Employee information 2-9
c. Work classification 2-9
d. Hours worked 2-10
e. Rate of pay 2-10
f. Gross wages earned 2-10
g. Deductions 2-11
h. Net pay 2-11
i. Statement of compliance 2-11
j. Signature 2-11

SECTION III - PAYROLL REVIEWS AND CORRECTIONS

2-6 COMPLIANCE REVIEWS 2-12
a. On-site interviews 2-12
b. Project payroll reviews 2-12
2-7 TYPICAL PAYROLL ERRORS AND REQUIRED CORRECTIONS 2-12
a. Inadequate payroll information 2-12
b. Missing identification numbers 2-12
c. Incomplete payrolls 2-13
d. Classifications 2-13
e. Wage Rates 2-13
f. Apprentices and trainees 2-13
g. Overtime 2-13
h. Computations 2-13
i. Deductions 2-13
j. Fringe benefits 2-14
k. Signature 2-14
l. On-site interview comparisons 2-14
m. Correction certified payroll 2-14
2-8 RESTITUTION FOR UNDERPAYMENT OF WAGES 2-14
a. Notification 2-14
b. Computing wage restitution 2-15
c. Correction certified payrolls 2-15
d. Review of correction CPR 2-15
e. Unfound workers 2-15

CHAPTER 3 LABOR STANDARDS DISPUTES, ADMINISTRATIVE REVIEWS, WITHHOLDING, DEPOSITS AND ESCROW ACCOUNTS, AND SANCTIONS 3-1

3-1 INTRODUCTION 3-1
3-2 ADMINISTRATIVE REVIEW ON LABOR STANDARDS DISPUTES 3-1
a. Additional classifications and wage rates 3-1
b. Findings of underpayment 3-2
3-3 WITHHOLDING 3-2
3-4 DEPOSITS AND ESCROWS 3-3
3-5 ADMINISTRATIVE SANCTIONS 3-4
a. DOL debarment 3-4
b. HUD sanctions 3-4
3-6 FALSIFICATION OF CERTIFIED PAYROLL REPORTS 3-5

APPENDICIES

ACRONYMS AND SYMBOLS A-1
DAVIS-BACON - RELATED WEB SITES* A-2
HUD-4720, Project Wage Rate Sheet A-3
WH-347, Payroll Form/Statement of Compliance A-4

CHAPTER 1 LAWS, REGULATIONS, CONTRACTS AND RESPONSIBILITIES

The following paragraphs describe what the labor standards laws and regulations actually say and what they mean to you on HUD projects:

1-1 DAVIS-BACON AND OTHER LABOR LAWS.

a. **The Davis-Bacon Act (DBA).** The Davis-Bacon Act requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor) to all laborers and mechanics on Federal government and District of Columbia construction projects in excess of $2,000. Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works.

Most HUD construction work is not covered by the DBA itself since HUD seldom contracts directly for construction services. Most often, if Davis-Bacon wage rates apply to a HUD project it is because of a labor provision contained in one of HUD's "Related Acts" such as the U. S. Housing Act of 1937, the National Housing Act, the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990, and the Native American Housing Assistance and Self-Determination Act of 1996. The Related Acts are often referred to as the Davis-Bacon and Related Acts or DBRA.

b. **The Contract Work Hours and Safety Standards Act (CWHSSA).** CWHSSA requires time and one-half pay for overtime (O/T) hours (over 40 in any workweek) worked on the covered project. The CWHSSA applies to both direct Federal contracts and to indirect Federally-assisted contracts ***except*** where the assistance is solely in the nature of a loan guarantee or insurance. CWHSSA violations carry a liquidated damages penalty ($10/day per violation). Intentional violations of CWHSSA standards can be considered for Federal criminal prosecution.

CWHSSA does not apply to prime contracts of $100,000 or less. In addition, some HUD projects are not covered by CWHSSA because some HUD programs only provide loan guarantees or insurance. CWHSSA also does not apply to construction or rehabilitation contracts that are not subject to Federal prevailing wage rates (e.g., Davis-Bacon wage rates, or HUD-determined rates for operation of public housing and Indian block grant-assisted housing). However, even though CWHSSA overtime pay is not required, Fair Labor Standards Act (FLSA) overtime pay is probably still applicable. (See also Labor Relations Letter SL-95-01, CWHSSA Coverage threshold for overtime and health and safety provision, available on-line at the HUD Labor Relations Library at: www.hud.gov/offices/olr/library.cfm)

c. **The Copeland Act (Anti-Kickback Act).** The Copeland Act makes it a Federal crime for anyone to require any laborer or mechanic (employed on a Federal or Federally-assisted project) to kickback (i.e., give up or pay back) any part of their wages. The Copeland Act requires every employer (contractors and subcontractors) to submit weekly certified payroll reports (CPRs) and regulates permissible payroll deductions.

d. **The Fair Labor Standards Act (FLSA).** The FLSA contains Federal minimum wage rates, overtime (O/T), and child labor requirements. These requirements generally apply to any labor performed. The DOL has the authority to administer and enforce FLSA. HUD will refer to the DOL any possible FLSA violations that are found on HUD projects.

1-2 DAVIS-BACON REGULATIONS.

The Department of Labor (DOL) has published rules and instructions concerning Davis-Bacon and other labor laws in the Code of Federal Regulations (CFR). These regulations can be found in ***Title 29 CFR Parts 1, 3, 5, 6 and 7***. Part 1 explains how the DOL establishes and publishes DBA wage determinations (aka wage decisions) and provides instructions on how to use the determinations. Part 3 describes Copeland Act requirements for payroll deductions and the submission of weekly certified payroll reports. Part 5 covers the labor standards provisions that are in your contract relating to Davis-Bacon Act wage rates and the responsibilities of contractors and contracting agencies to administer and enforce the provisions. Part 6 provides for administrative proceedings enforcing Federal labor standards on construction and service contracts. Last, Part 7 sets parameters for practice before the Administrative Review Board. These regulations are used as the basis for administering and enforcing the laws.

DOL Regulations are available on-line on the World Wide Web:
http://www.dol.gov/dol/allcfr/Title_29.htm

1-3 CONSTRUCTION CONTRACT PROVISIONS

Each contract subject to Davis-Bacon labor standards requirements must contain labor standards clauses and a Davis-Bacon wage decision. These documents are normally bound into the contract specifications.

a. The labor standards clauses. The labor standards clauses describe the responsibilities of the contractor concerning Davis-Bacon wages and obligate the contractor to comply with the labor requirements. The labor standards clauses also provide for remedies in the event of violations, including withholding from payments due to the contractor to ensure the payment of wages or liquidated damages which may be found due. These contract clauses enable the contract administrator to enforce the Federal labor standards applicable to the project. HUD has standard forms that contain contract clauses. For example, the HUD-2554, Supplementary Conditions to the Contract for Construction, which is issued primarily for FHA multifamily housing and other construction projects

administered by HUD; the HUD-4010, Federal Labor Standards Provisions, which is used for CDBG and HOME projects, and the HUD-5370, General Conditions of the Contract for Construction or the HUD-5370-EZ (construction contracts ≤$100,000) which are used for Public and Indian Housing projects.

HUD program labor standards forms are available on-line at:
www.hud.gov/offices/adm/hudclips/index.cfm

b. Davis-Bacon Wage Decisions. The Davis-Bacon wage decision (or wage determination) is a listing of various construction work classifications, such as Carpenter, Electrician, Plumber and Laborer, and the minimum wage rates (and fringe benefits, where prevailing) that people performing work in those classifications must be paid.

Davis-Bacon wage decisions are established by the DOL for various types of construction (e.g., residential, heavy, highway) and apply to specific geographic areas, usually a county or group of counties. Wage decisions are modified from time to time to keep them current. In most cases, when the contract is awarded or when construction begins, the wage decision is "locked-in" and no future modifications are applicable to the contract or project involved.

All current Davis-Bacon wage decisions can be accessed on-line at no cost at:
http://www.wdol.gov

1-4 RESPONSIBILITY OF THE PRINCIPAL CONTRACTOR

The principal contractor (also referred to as the ***prime*** or ***general contractor***) is responsible for the full compliance of all employers (the contractor, subcontractors and any lower-tier subcontractors) with the labor standards provisions applicable to the project. Because of the contractual relationship between a prime contractor and his/her subcontractors, subcontractors generally should communicate with the contract administrator only through the prime contractor. (See Contract Administrator, below.)

To make this Guide easier to understand, the term "prime contractor" will mean the principal contractor; "subcontractor" will mean all subcontractors including lower-tier subcontractors; and the term "employer" will mean all contractors as a group, including the prime contractor and any subcontractors and lower-tier subcontractors.

1-5 RESPONSIBILITY OF THE CONTRACT ADMINISTRATOR.

The ***contract administrator*** is responsible for the proper administration and enforcement of the Federal labor standards provisions on contracts covered by Davis-Bacon requirements. We use this term to represent the person (or persons) who will provide labor standards advice and support to you and other project principals (e.g., the owner, sponsor, architect), including providing the proper Davis-Bacon wage decision (see 2-1, ***The Wage Decision***) and ensuring that the wage decision and contract clauses are incorporated into the contract for construction. The contract administrator also monitors labor standards compliance (see 2-6, ***Compliance Reviews***) by conducting interviews with construction workers at the job site and reviewing payroll reports, and oversees any enforcement actions that may be required.

The contract administrator could be an employee or agent of HUD, or of a city or county or public housing agency. For HUD projects administered directly by HUD staff, usually FHA-insured multifamily projects, the contract administrator will be the HUD Labor Relations field staff. But many HUD-assisted projects are administered by local contracting agencies such as Public Housing Agencies (PHAs), Indian tribes and tribally-designated housing entities (TDHEs), and States, cities and counties under HUD's Community Development Block Grant (CDBG) and HOME programs. In these cases, the contract administrator will likely be local agency staff. In either case, the guidance for you remains essentially the same.

The DOL also has a role in monitoring Davis-Bacon administration and enforcement. In addition, DOL has independent authority to conduct investigations. A DOL investigator or other DOL representative may visit Davis-Bacon construction sites to interview construction workers or review payroll information.

CHAPTER 2 HOW TO COMPLY WITH LABOR STANDARDS AND PAYROLL REPORTING REQUIREMENTS

WHERE TO START? Now that you know you're on a Davis-Bacon project and you know some of the legal and practical implications, what's next?

SECTION I - THE BASICS

2-1 THE WAGE DECISION.

Davis-Bacon labor standards stipulate the wage payment requirements for Carpenters, Electricians, Plumbers, Roofers, Laborers, and other construction work classifications that may be needed for the project. The Davis-Bacon wage decision that applies to the project contains a schedule of work classifications and wage rates that must be followed. If you don't have it already (and by now you should), you'll want to get a copy of the applicable Davis-Bacon wage decision.

Remember, the wage decision is contained in the contract specifications along with the labor standards clauses. See 1-3, Construction Contract Provisions.

a. **The work classifications and wage rates.** A Davis-Bacon wage decision is simply a listing of different work classifications and the minimum wage rates that must be paid to anyone performing work in those classifications. You'll want to make sure that the work classification(s) you need are contained in the wage decision and make certain you know exactly what wage rate(s) you will need to pay. Some wage decisions cover several counties and/or types of construction work (for example, residential and commercial work) and can be lengthy and difficult to read. Contact the contract administrator (HUD Labor Relations field staff or local agency staff) if you have any trouble reading the wage decision or finding the work classification(s) you need.

To make reading lengthy wage decisions easier for you, the contract administrator may prepare a Project Wage Rate Sheet (HUD-4720). This Sheet is a one-page transcript that will show only the classifications and wage rates for a particular project. A blank copy of a Project Wage Rate Sheet is provided for you in the appendix. Also, a fillable version of this form is available on-line at HUDClips (see web address in the Appendix). Contact the contract administrator monitoring your project for assistance with a Project Wage Rate Sheet.

b. **Posting the wage decision.** If you are the prime contractor, you will be responsible for posting a copy of the wage decision (or the Project Wage Rate Sheet) and a copy of the DOL Davis-Bacon poster titled Employee Rights under the Davis-Bacon Act (Form WH-1321) at the job site in a place that is easily accessible to all of the construction workers employed at the project and where the wage decision and poster won't be destroyed by wind or rain, etc. The Employee Rights under the Davis-Bacon Act poster is available in English and Spanish on-line at HUDClips (see address in the Appendix).

The Employee Rights under the Davis-Bacon Act poster (WH-1321) replaces the Notice to all Employees. The new poster is available in English and Spanish on-line at HUDClips (see address in the Appendix).

2-2 ADDITIONAL "TRADE" CLASSIFICATIONS AND WAGE RATES.

What if the work classification you need isn't on the wage decision? If the work classification(s) that you need doesn't appear on the wage decision, you will need to request an additional classification and wage rate. This process is usually very simple and you'll want to start the request right away. Basically, you identify the classification you need and recommend a wage rate for DOL to approve for the project. There are a few rules about additional classifications; you'll find these rules in the DOL regulations, Part 5, and in the labor clauses in your contract. The rules are summarized for you here:

a. **Additional classification rules.** Additional classifications and wage rates can be approved if:

1. The requested classification is used by construction contractors in the area of the project. (The area is usually defined as the county where the project is located).

2. The work that will be performed by the requested classification is not already performed by another classification that is already on the wage decision. (In other words, if there already is an Electrician classification and wage rate on the wage decision you can't request another Electrician classification and rate.)

3. The proposed wage rate for the requested classification "fits" with the other wage rates already on the wage decision. (For example, the wage rate proposed for a trade classification such as Electrician must be at least as much as the lowest wage rate for other trade classifications already contained in the wage decision.) And,

4. The workers that will be employed in the added classification (if it is known who the workers are/will be), or the workers' representatives, must agree with the proposed wage rate.

b. **Making the request.** A request for additional classification and wage rate must be made in writing through the contract administrator. (If the contract administrator is a local agency, the agency will send the request to the HUD Labor Relations staff.) If you are a subcontractor, your request should also go through the prime contractor. All you need to do is identify the work classification that is missing and recommend a wage rate (usually the rate that employer is already paying to the employees performing the work) for that classification. You may also need to describe the work that the new classification will perform.

c. **HUD review.** The HUD Labor Relations field staff will review the requested classification and wage rate to determine whether the request meets the DOL rules outlined in paragraph 2-2(a), above. If additional information or clarification is needed, the staff will contact the prime contractor (or contract administrator for local agency projects) for more information, etc. If the Labor Relations review finds that the request meets the rules, the staff will give preliminary approval on the request and refer it to the DOL for final approval. The staff will send to you a copy of the preliminary approval/referral letter to the DOL.

   If the HUD Labor Relations staff doesn't think the request meets the rules and if agreement can't be reached on the proper classification or wage rate for the work described, the HUD Labor Relations staff will not approve the request. In this case, the staff will send your request to the DOL with an explanation why HUD believes that the request shouldn't be approved. The DOL still has final decision authority. You will receive a copy of the disapproval/referral letter to the DOL.

d. **DOL decision.** The DOL will respond to HUD Labor Relations in writing about the additional classification and wage rate request. HUD Labor Relations will notify you of the DOL decision in writing. If the DOL approves the request, the prime contractor must post the approval notice on the job site with the wage decision.

   If the DOL does not approve the request, you will be notified about what classification and wage rate should be used for the work in question. You will also receive instructions about how to ask for DOL reconsideration if you still want to try to get your recommendation approved.

It's always a good idea to talk to the contract administrator before submitting an additional classification and wage rate request. The contract administrator can offer suggestions and advice that may save you time and increase the likelihood that DOL will approve your request. Usually, the contract administrator can give you an idea about what the DOL will finally decide.

2-3 CERTIFIED PAYROLL REPORTS.

You'll need to submit a weekly certified payroll report (CPR) beginning with the first week that your company works on the project and for every week afterward until your firm has completed its work. It's always a good idea to number the payroll reports beginning with #1 and to clearly mark your last payroll for the project "Final."

a. **Payroll formats.** The easiest form to use is DOL's WH-347, Payroll. A sample copy of the WH-347 is included in the back of this Guide. You may access a fillable version of the WH-347 on-line at HUDClips (see web address in the Appendix). Also, the contract administrator can provide a few copies of the WH-347 that you can reproduce.

You are not required to use Payroll form WH-347. You are welcome to use any other type of payroll, such as computerized formats, as long as it contains all of the information that is required on the WH-347.

b. **Payroll certifications.** The weekly payrolls are called certified because each payroll is signed and contains language certifying that the information is true and correct. The payroll certification language is on the reverse side of the WH-347. If you are using another type of payroll format you may attach the certification from the back of the WH-347, or any other format which contains the same certification language on the WH-347 (reverse).

DOL's website has Payroll Instructions and the Payroll form WH-347 in a "fillable" PDF format at this address:
www.dol.gov/whd/forms/wh347.pdf

c. **"No work" payrolls.** "No work" payrolls may be submitted whenever there is a temporary break in your work on the project, for example, if your firm is not needed on the project right now but you will be returning to the job in a couple of weeks. (See tip box, for "no work" payroll exemption!) However, if you know that your firm will not be working on the project for an extended period of time, you may wish to send a short note to the contract administrator to let them know about the break in work and to give an approximate date when your firm will return to the project. If you number payrolls consecutively or if you send a note, you do not need to send "no work" payrolls.

If you number your payroll reports consecutively, you do not need to submit "no work" payrolls!

d. **Payroll review and submission.** The prime contractor should review each subcontractor's payroll reports for compliance prior to submitting the reports to the contract administrator. Remember, the prime contractor is responsible for the full compliance of all subcontractors on the contract and will be held accountable for any wage restitution that may be found due to any laborer or mechanic that is underpaid and for any liquidated damages that may be assessed for overtime violations. All of the payroll reports for any project must be submitted to the contract administrator through the prime contractor.

An alert prime contractor that reviews subcontractor payroll submissions can detect any misunderstandings early, prevent costly underpayments and protect itself from financial loss should underpayments occur.

e. **Payroll retention.** Every contractor (including every subcontractor) must keep a complete set of their own payrolls and other basic records such as employee addresses and full SSNs, time cards, tax records, evidence of fringe benefit payments, for a Davis-Bacon project for at least 3 years after the project is completed. The prime contractor must keep a complete set of all of the payrolls for every contractor (including subcontractors) for at least 3 years after completion of the project.

f. **Payroll inspection.** In addition to submitting payrolls to the contract administrator, every contractor (including subcontractors) must make their own copy of the payrolls and other basic records available for review or copying to any authorized representative from HUD or from DOL.

2-4 DAVIS-BACON DEFINITIONS.

Before we discuss how to complete the weekly payroll forms, we need to review a couple of definitions. These definitions can help you understand what will be required of you:

a. **Laborer or mechanic.** "Laborers" and "mechanics" mean anyone who is performing construction work on the project, including trade journeymen (carpenters, plumbers, sheet metal workers, etc.), apprentices, and trainees and, for CWHSSA purposes, watchmen and guards. "Laborers" and "mechanics" are the two groups of workers that must be paid not less than Davis-Bacon wage rates.

1. **Working foremen**. Foremen or supervisors that regularly spend more than 20% of their time performing construction work and do not meet the exclusions in paragraph 2 below are covered "laborers" and "mechanics" for labor standards purposes for the time spent performing construction work.

2. **Exclusions.** People whose duties are primarily administrative, executive or clerical are not laborers or mechanics. Examples include superintendents, office staff, timekeepers, messengers, etc. (Contact the contract administrator if you have any questions about whether a particular employee is excluded.)

b. **Employee.** Every person who performs the work of a laborer or mechanic is "employed" regardless of any contractual relationship which may be alleged to exist between a contractor or subcontractor and such person. This means that even if there is a contract between a contractor and a worker, the contractor must make sure that the worker is paid at least as much as the wage rate on the wage decision for the classification of work they perform. Note that there are no exceptions to the prevailing wage requirements for relatives or for self-employed laborers and mechanics.

For more information about working subcontractors, ask the contract administrator or your HUD Labor Relations Field Staff for a copy of Labor Relations Letter LR-96-01, Labor standards compliance requirements for self-employed laborers and mechanics. Labor Relations Letters and other helpful Labor Relations publications are available at HUD's Labor Relations web site (see the list of web site addresses in the Appendix).

c. **Apprentices and trainees.** The only workers who can be paid less than the wage rate on the wage decision for their work classification are "apprentices" and "trainees" registered in approved apprenticeship or training programs. Approved programs are those which have been registered with the DOL or a DOL-recognized State Apprenticeship Council (SAC). Apprentices and trainees are paid wage rates in accordance with the wage schedule in the approved program.

Most often, the apprentice/trainee wage rate is expressed as a series of percentages tied to the amount of time spent in the program. For example, 0-6 months: 65%; 6 months - 1 year: 70%; etc. The percentage is applied to the journeyman's wage rate. On Davis-Bacon projects, the percentage must be applied to the journeyman's wage rate on the applicable wage decision for that craft.

1. **Probationary apprentice.** A "probationary apprentice" can be paid as an apprentice (less than the rate on the wage decision) if the DOL or SAC has certified that the person is eligible for probationary employment as an apprentice.

2. **Pre-apprentice.** A "pre-apprentice", that is, someone who is not registered in a program and who hasn't been DOL- or SAC-certified for probationary apprenticeship is not considered to be an "apprentice" and must be paid the full journeyman's rate on the wage decision for the classification of work they perform.

3. **Ratio of apprentices and trainees to journeymen.** The maximum number of apprentices or trainees that you can use on the job site cannot exceed the ratio of apprentices or trainees to journeymen allowed in the approved program.

d. **Prevailing wages or wage rates.** Prevailing wage rates are the wage rates listed on the wage decision for the project. The wage decision will list a minimum basic hourly rate of pay for each work classification. Some wage decisions include fringe benefits which are usually listed as an hourly fringe rate. If the wage decision includes a fringe benefit rate for a classification, you will need to add the fringe benefit rate to the basic hourly rate unless you provide bona fide fringe benefits for your employees.

    1. **Piece-work.** Some employees are hired on a piece-work basis, that is, the employee's earnings are determined by a factor of work produced. For example, a Drywall Hanger's earnings may be calculated based upon the square feet of sheetrock actually hung, a Painter's earnings may be based upon the number of units painted. Employers may calculate weekly earnings based upon piece rates provided the weekly earnings are sufficient to satisfy the wage rate requirement based upon actual hours, including any overtime, worked. Accurate time records must be maintained for any piece-work employees. If the weekly piece rate earnings are not sufficient, the employer must recompute weekly earnings based upon the actual hours worked and the rate on the wage decision for the work classification(s) involved.

e. **Fringe benefits** Fringe benefits can include health insurance premiums, retirement contributions, life insurance, vacation and other paid leave as well as some contributions to training funds. Fringe benefits do not include employer payments or contributions required by other Federal, State or local laws, such as the employer's contribution to Social Security or some disability insurance payments.

Note that the total hourly wage rate paid to any laborer or mechanic (basic wage or basic wage plus fringe benefits) may be no less than the total wage rate (basic wage or basic wage plus fringe benefits) on the wage decision for their craft. If the value of the fringe benefit(s) you provide is less than the fringe benefit rate on the wage decision, you will need to add the balance of the wage decision fringe benefit rate to the basic rate paid to the employee. For example, if the wage decision requires $10/hour basic rate plus $5/hour fringe benefits, you must pay no less than that total ($15/hour) in the basic rate or basic rate plus whatever fringe benefit you may provide. You can meet this obligation in several ways: you could pay the base wage and fringe benefits as stated in the wage decision, or you could pay $15 in base wage with no fringe benefits, or you could pay $12 basic plus $3 fringe benefits. You can also off-set the amount of the base wage if you pay more in fringe benefits such as by paying or $9 basic plus $6 fringe benefits; as long as you meet the total amount. The amount of the base wage that you may off-set with fringe benefits is limited by certain IRS and FLSA requirements.

f. **Overtime.** Overtime hours are defined as all hours worked on the contract in excess of 40 hours in any work week. Overtime hours must be paid at no less than one and one-half times the regular rate of basic pay plus the straight-time rate of any required fringe benefits.

g. **Deductions.** You may make payroll deductions as permitted by DOL Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to "kick-back" (i.e., give up) any of their earnings. Allowable deductions which do not require prior DOL permission include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings accounts, and any other legally-permissible deduction authorized by the employee. Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee.

Referring, again, to our example above where the wage decision requiring a $15 total wage obligation ($10 basic wage plus $5 fringe benefits) was met by paying $9 base wage plus $6 fringe benefits: Note that overtime rates must be based on one and one-half times the basic rate as stated on the wage decision. In the above example, the employer must pay for overtime: $15/hr ($9 basic + $6 fringe) plus $5 (one-half of $10, the wage decision basic rate) for a total of $20 per hour.

h. **Proper designation of trade.** You must select a work classification on the wage decision for each worker based on the actual type of work he/she performed and you must pay each worker no less than the wage rate on the wage decision for that classification regardless of their level of skill. In other words, if someone is performing carpentry work on the project, they must be paid no less than the wage rate on the wage decision for Carpenters even if they aren't considered by you to be fully trained as a Carpenter. Remember, the only people who can be paid less than the rate for their craft are apprentices and trainees registered in approved programs.

    1. **Split-classification.** If you have employees that perform work in more than one trade during a work week, you can pay the wage rates specified for each classification in which work was performed only if you maintain accurate time records showing the amount of time spent in each classification of work. If you do not maintain accurate time records, you must pay these employees the highest wage rate of all of the classifications of work performed.

i. **Site of work.** The "site of work" is where the Davis-Bacon wage rates apply. Usually, this means the boundaries of the project. "Site of work" can also include other adjacent or virtually adjacent property used by a contractor or subcontractor in the construction of the project, like a fabrication site that is dedicated exclusively, or nearly so, to the project.

SECTION II - REPORTING REQUIREMENTS

2-5 COMPLETING A PAYROLL REPORT.

What information has to be reported on the payroll form? The weekly payroll form doesn't ask for any information that you don't already need to keep for wage payment and tax purposes. For example, you need to know each employee's name; his or her work classification (who is working for you and what do they do?), the hours worked during the week, his or her rate of pay, the gross amount earned (how much did they earn?), the amounts of any deductions for taxes, etc., and the net amount paid (how much should the paycheck be made out for?). No more information than you need to know in order to manage your work crew and make certain they are paid properly. And, certainly, no more information than you need to keep for IRS, Social Security and other tax and employment purposes.

For many contractors, the Weekly Certified Payroll is the only Davis-Bacon paperwork you need to submit!

You are required to submit certified payrolls to illustrate and document that you have complied with the prevailing wage requirements. The purpose of the contract administrator's review of your payrolls is to verify your compliance. Clearer and complete payroll reports will permit the contract administrator to complete reviews of your payroll reports quickly.

a. **Project and contractor/subcontractor information.** Each payroll must identify the contractor or subcontractor's name and address, the project name and number, and the week ending date. Indicate the week dates in the spaces provided. Numbering payrolls is optional but strongly recommended.

b. **Employee information.** Effective January 18, 2009, payrolls shall not report employee addresses or full Social Security Numbers (SSNs). Instead, the first payroll on which each employee appears shall include the employee's name and an individually identifying number, usually the last 4 digits of the employee's SSN. Afterward, the identifying number does not need to be reported unless it is necessary to distinguish between employees, e.g., if two employees have the same name.

   Employers (prime contractors and subcontractors) must maintain the current address and full SSN for each employee and must provide this information upon request to the contracting agency or other authorized representative responsible for federal labor standards compliance monitoring. Prime contractors may require a subcontractor(s) to provide this information for the prime contractor's records. DOL has modified form WH-347, Payroll, to accommodate these reporting requirements.

c. **Work classification.** Each employee must be classified in accordance with the wage decision based on the type of work they actually perform.

1. **Apprentices or trainees.** The first payroll on which any apprentice or trainee appears must be accompanied by a copy of that apprentice's or trainee's registration in a registered or approved program. A copy of the portions of the registered or approved program pertaining to the wage rates and ratios shall also accompany the first payroll on which the first apprentice or trainee appears.

2. **Split classifications.** For an employee that worked in a split classification, make a separate entry for each classification of work performed distributing the hours of work to each classification, accordingly, and reflecting the rate of pay and gross earnings for each classification. Deductions and net pay may be based upon the total gross amount earned for all classifications.

d. **Hours worked.** The payroll should show ONLY the regular and overtime hours worked on this project. Show both the daily and total weekly hours for each employee. If an employee performs work at job sites other than the project for which the payroll is prepared, those "other job" hours should not be reported on the payroll. In these cases, you should list the employee's name, classification, hours for this project only, the rate of pay and gross earnings for this project, and the gross earned for all projects. Deductions and net pay may be based upon the employee's total earnings (for all projects) for the week.

e. **Rate of pay.** Show the basic hourly rate of pay for each employee for this project. If the wage decision includes a fringe benefit and you do not participate in approved fringe benefit programs, add the fringe benefit rate to the basic hourly rate of pay. Also list the overtime rate if overtime hours were worked.

1. **Piece-work.** For any piece-work employees, the employer must compute an effective hourly rate for each employee each week based upon the employee's piece-work earnings for that week. To compute the effective hourly rate, divide the piece-work earnings by the total number of hours worked, including consideration for any overtime hours.

   The effective hourly rate must be reflected on the certified payroll and this hourly rate may be no less than the wage rate (including fringe benefits, if any) on the wage decision for the classification of work performed. It does not matter that the effective hourly rate changes from week-to-week, only that the rate is no less than the rate on the wage decision for the classification of work performed.

Remember, the overtime rate is computed at one and one-half times the basic rate of pay plus any fringe benefits. For example, if the wage decision requires $10/hour basic plus $5/hour fringe benefits, the overtime rate would be: ($10 x 1 ½) + $5 = $20/hour.

f. **Gross wages earned.** Show the gross amount of wages earned for work performed on this project. Note: For employees with work hours and earnings on other projects, you may show gross wages for this project over gross earnings all projects (for example, $425.40/$764.85) and base deductions and net pay on the "all projects" earnings.

g. **Deductions.** Show the amounts of any deductions from the gross earnings. "Other" deductions should be identified (for example, Savings Account or Loan Repayment). Any voluntary deduction (that is, not required by law or by an order of a proper authority) must be authorized in writing by the employee or provided for in a collective bargaining (union) agreement. A short note signed by the employee is all that is needed and should accompany the first payroll on which the other deduction appears.

Only one employee authorization is needed for recurring (e.g., weekly) other deductions. Written employee authorization is not required for income tax and Social Security deductions.

h. **Net pay.** Show the net amount of wages paid.

i. **Statement of compliance.** The Statement of Compliance is the certification. It is located on the reverse side of a standard payroll form (WH-347). Be sure to complete the identifying information at the top, particularly if you are attaching the Statement of Compliance to an alternate payroll form such as a computer payroll. Also, you must check either 4(a) or 4(b) if the wage decision contains a fringe benefit. Checking 4(a) indicates that you are paying required fringe benefits to approved plans or programs; and 4(b) indicates that you are paying any required fringe benefit amounts directly to the employee by adding the fringe benefit rate to the basic hourly rate of pay. If you are paying a portion of the required fringe benefit to programs and the balance directly to the employee, explain those differences in box 4(c).

Only one Statement of Compliance is required for each employer's weekly payroll no matter how many pages are needed to report the employee data.

j. **Signature.** Make sure the payroll is signed with an original signature in ink. The payroll must be signed by a principal of the firm (owner or officer such as the president, treasurer or payroll administrator) or by an authorized agent (a person authorized by a principal in writing to sign the payroll reports). Signature authorization (for persons other than a principal) should be submitted with the first payroll signed by such an agent. Signatures in pencil; signature stamps; xerox, pdf and other facsimiles are not acceptable.

SECTION III - PAYROLL REVIEWS AND CORRECTIONS

2-6 COMPLIANCE REVIEWS.

The contract administrator or other inspector may visit the project site and interview some of the workers concerning their employment on the project. The DOL may also independently conduct its own reviews (see 1-5). In addition, the contract administrator will periodically review payrolls and related submissions, comparing the interview information to the payrolls, to ensure that the labor standards requirements have been met. You will be notified by the contract administrator if these reviews find any discrepancies or errors. You will be given instructions about what steps must be taken to correct any problems.

a. **On-site interviews.** Every employer (contractor, subcontractor, etc.) must make their employees available for interview at the job site with the contract administrator or other agency representative, or HUD or DOL representative. The interviews are confidential and the employee will be asked about the kind of work they perform and their rate of pay. Every effort will be made to ensure that these interviews cause as little disruption as possible to the on-going work. The interviewer will record the interview information, usually on a form HUD-11, Record of Employee Interview, and forward the interviews to the contract administrator.

b. **Project payroll reviews.** The contract administrator will compare the information on the interview forms to the corresponding payrolls to ensure that the workers are properly listed on the payrolls for the days and hours worked on the job site, work classification and rate of pay. The contract administrator will also review the payroll submissions to make certain that the payrolls are complete and signed; that employees are paid no less than the wage rate for the work classification shown; apprentice and trainee certifications are submitted (where needed); employee or other authorizations for other deductions are submitted (where needed); etc.

2-7 TYPICAL PAYROLL ERRORS AND REQUIRED CORRECTIONS.

The following paragraphs describe common payroll errors and the corrective steps you must take.

a. **Inadequate payroll information.** If an alternate payroll format used by an employer (such as some computer payrolls) is inadequate, e.g., does not contain all of the necessary information that would be on the optional form WH-347, the employer will be asked to resubmit the payrolls on an acceptable form.

b. **Missing identification numbers.** If the first payroll on which an employee appears does not contain the employee's individually identifying number, the employer will be asked to supply the missing information. This information can be reported on the next payroll submitted by the employer if the employer is still working on the project. Otherwise, the employer will be asked to submit a correction certified payroll.

c. **Incomplete payrolls.** If the information on the payroll is not complete, for example, if work classifications or rates of pay are missing, the employer will be asked to send a correction certified payroll.

d. **Classifications.** If the payrolls show work classifications that do not appear on the wage decision, the employer will be asked to reclassify the employees in accordance with the wage decision or the employer may request an additional classification and wage rate (see 2-2). If reclassification results in underpayment (i.e., the wage rate reported on the payroll is less than the rate required for the new classification), the employer will be asked to pay wage restitution to all affected reclassified employees. (see 2-8 for instructions about wage restitution.)

e. **Wage rates.** If the wage rates on the payroll are less than the wage rates on the wage decision for the work classifications reported, the employer will be asked to pay wage restitution to all affected employees.

f. **Apprentices and trainees.** If a copy of the employee's registration or the approved program ratio and wage schedule are not submitted with the first payroll on which an apprentice or trainee appears, the employer will be asked to submit a copy of each apprentice's or trainee's registration and/or the approved program ratio and wage schedule. If the ratio of apprentices or trainees to journeymen on the payroll is greater than the ratio in the approved program, the employer will be asked to pay wage restitution to any excess apprentices or trainees. Also, any apprentice or trainee that is not registered in an approved program must receive the journeyman's wage rate for the classification of work they performed.

g. **Overtime.** If the employees did not receive at least time and one-half for any overtime hours worked on the project, the following will occur:

    1. If the project is subject to CWHSSA overtime requirements, the employer will be asked to pay wage restitution for all overtime hours worked on the project. The employer may also be liable to the United States for liquidated damages computed at $10 per day per violation. Or,

    2. If the project is not subject to CWHSSA, the employer will be notified of the possible FLSA overtime violations. Also, the contract administrator may refer the matter to the DOL for further review.

h. **Computations.** If the payroll computations (hours worked times rate of pay) or extensions (deductions, net pay) show frequent errors, the employer will be asked to take greater care. Wage restitution may be required if underpayments resulted from the errors.

i. **Deductions.** If there are any "Other" deductions that are not identified, or if employee authorization isn't provided, or if there is any unusual (very high, or large number) deduction activity, the employer will be asked to identify the deductions, provide employee authorization or explain unusual deductions, as necessary.

HUD does not enforce or attempt to provide advice on employer obligations to make deductions from employee earnings for taxes or Social Security. However, HUD may refer to the IRS or other responsible agency copies of certified payroll reports that show wages paid in gross amounts (i.e., without tax deduction) for its review and appropriate action.

j. **Fringe benefits.** If the wage decision contains fringe benefits but the payroll does not indicate how fringe benefits were paid [neither 4(a) nor 4(b) is marked on the Statement of Compliance], the employer may be asked to submit correction certified payrolls and will be required to pay wage restitution if underpayments occurred. However, if the basic hourly rates for the employees are at least as much as the total wage rate on the wage decision (basic hourly rate plus the fringe benefit rate), no correction is necessary.

k. **Signature.** If the payroll Statement of Compliance is not signed or is missing, the employer will be asked to submit a signed Statement of Compliance for each payroll affected. If the Statement of Compliance is signed by a person who is not a principle of the firm and that person has not been authorized by principle to sign, the employer will be asked to provide an authorization or to resubmit the Statement(s) of Compliance bearing the signature of a principle or other authorized signatory.

l. **On-site interview comparisons.** If the comparison of on-site interviews to the payrolls indicates any discrepancies (for example, the employee does not appear on the payroll for the date of the interview), the employer will be asked to submit a correction certified payroll report.

m. **Correction certified payroll.** Any and all changes to data on a submitted payroll report must be reported on a certified correction payroll. In no case will a payroll report be returned to the prime contractor or employer for revision.

2-8 RESTITUTION FOR UNDERPAYMENT OF WAGES.

Where underpayments of wages have occurred, the employer will be required to pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions. All wages paid to laborers and mechanics for work performed on the project, including wage restitution, must be reported on a certified payroll report.

a. **Notification** to the Employer/Prime contractor. The contract administrator will notify the employer and/or prime contractor in writing of any underpayments that are found during payroll or other reviews. The contract administrator will describe the underpayments and provide instructions for computing and documenting the restitution to be paid. The employer/prime contractor is allowed 30 days to correct the underpayments. Note that the prime contractor is responsible to the contract administrator for ensuring that restitution is paid. If the employer is a subcontractor, the subcontractor will usually make the computations and restitution payments and furnish the required documentation through the prime contractor.

The contract administrator may communicate directly with a subcontractor when the underpayments are plainly evident and the subcontractor is cooperative. It is best to work through the prime contractor when the issues are complex, when there are significant underpayments and/or the subcontractor is not cooperative. In all cases, the subcontractor must ensure that the prime contractor receives a copy of the required corrective documentation.

b. **Computing wage restitution.** Wage restitution is simply the difference between the wage rate paid to each affected employee and the wage rate required on the wage decision for all hours worked where underpayments occurred. The difference in the wage rates is called the adjustment rate. The adjustment rate times the number of hours involved equals the gross amount of restitution due. You may also compute wage restitution by calculating the total amount of Davis-Bacon wages earned and subtracting the total amount of wages paid. The difference is the amount of back wages due.

c. **Correction certified payrolls.** The employer will be required to report the restitution paid on a correction certified payroll. The correction payroll will reflect the period of time for which restitution is due (for example, Payrolls #1 through #6; or a beginning date and ending date). The correction payroll will list each employee to whom restitution is due and their work classification; the total number of work hours involved (daily hours are usually not applicable for wage restitution); the adjustment wage rate (the difference between the required wage rate and the wage rate paid); the gross amount of restitution due; deductions and the net amount actually paid. A properly signed Statement of Compliance must accompany the correction payroll.

HUD no longer requires the signature of the employee on the correction payroll to evidence employee receipt of restitution payment. In addition, except in the most extraordinary cases, HUD no longer requires employers to submit copies of restitution checks (certified, cashiers, canceled or other), or employee-signed receipts or waivers.

d. **Review of correction CPR.** The contract administrator will review the correction certified payroll to ensure that full restitution was paid. The prime contractor shall be notified in writing of any discrepancies and will be required to make additional payments, if needed, documented on a correction certified payroll within 30 days.

e. **Unfound workers.** Sometimes, wage restitution cannot be paid to an affected employee because, for example, the employee has moved and can't be located. After wage restitution has been paid to all of the workers who could be located, the employer must submit a list of any workers who could not be found and paid (i.e., unfound workers) providing their names, Social Security Numbers, last known addresses and the gross amount due. In such cases, at the end of the project the prime contractor will be required

to place in a deposit or escrow account an amount equal to the total gross amount of restitution that could not be paid because the employee(s) could not be located. The contract administrator will continue attempts to locate the unfound workers for 3 years after the completion of the project. After 3 years, any amount remaining in the account for unfound workers will be credited and/or forwarded by the contract administrator to HUD.

CHAPTER 3 LABOR STANDARDS DISPUTES, ADMINISTRATIVE REVIEWS, WITHHOLDING, DEPOSITS AND ESCROW ACCOUNTS, AND SANCTIONS

WHAT HAPPENS WHEN THINGS GO WRONG?

3-1 INTRODUCTION.

Even in the best of circumstances, things can go wrong. In a Davis-Bacon context, "things going wrong" usually means there's a difference of opinion or a dispute about whether and to what extent underpayments have occurred. These disputes are usually between the contract administrator and one or more employers (the prime contractor and/or a subcontractor). The dispute may involve something simple such as an additional classification request that is pending before the DOL; or something as significant as investigative findings following a complaint of underpayment. This chapter discusses some of what you may expect and what you can do to make your views known and to lessen any delays in resolving the problem or issue.

3-2 ADMINISTRATIVE REVIEW ON LABOR STANDARDS DISPUTES.

As mentioned in the Introduction above, a dispute about labor standards and compliance can arise for a number of reasons. The labor standards clauses in your contract and DOL regulations provide for administrative review of issues where there is a difference of views between the contract administrator and any employer. The most common circumstances include:

a. **Additional classifications and wage rates.** Additional classification and wage rate requests are sometimes denied by the DOL. An employer that is dissatisfied with the denial can request reconsideration by the DOL Wage and Hour Administrator. The employer may continue to pay the wage rate, as requested, until a final decision is rendered on the matter. When the final decision is known, the employer will be required to pay any additional wages that may be necessary to satisfy the wage rate that is established.

1. **Reconsideration.** The DOL normally identifies the reasons for denial in its response to the request. Any interested person (for example, the contract administrator, employer, representatives of the employees) may request reconsideration of the decision on the additional classification request. The request for reconsideration must be made in writing and must thoroughly address the denial reasons identified by the DOL. Employer requests for reconsideration should be made through the contract administrator but may be made directly to the DOL. (See 2-2(d), and also DOL Regulations 29 CFR 1.8.) All requests initiated by or made through the contract administrator or HUD must be submitted through the HUD Headquarters Office of Labor Relations.

2. **Administrative Review Board.** Any interested party may request a review of the Administrator's decision on reconsideration by the DOL's Administrative Review Board. DOL regulations 29 CFR Part 7 explain the procedures for such reviews. (See also 29 CFR 1.9.)

b. **Findings of underpayment.** Compliance reviews and other follow-up enforcement actions may result in findings of underpayment. The primary goal in every case and at every step in this process is to reach agreements about who may have been underpaid and how much wage restitution may be due and, of course, to promptly deliver restitution to any underpaid workers. The contract administrator will usually work informally with you to reach such agreements. You will have an opportunity to provide additional information to the contract administrator that may explain apparent inconsistencies and/or resolve the discrepancies.

If informal exchanges do not result in agreement, the final determination and schedule of back wages due will be presented to you in writing and you will be permitted 30 days in which to correct the underpayment(s) or to request a hearing on the matter before the DOL. The request for hearing must be made in writing through the contract administrator and must explain what findings are in dispute and the reasons. In such cases, HUD is required to submit a report to DOL for review and further consideration. All requests for DOL hearing must be submitted through the HUD Headquarters Office of Labor Relations.

1. **DOL review.** The DOL will review the contract administrator's report and the arguments against the findings presented in the hearing request. The DOL may affirm or modify the findings based upon the materials presented. You will be notified in writing by the DOL of the results of its review. If DOL concludes that violations have occurred, you will be given an opportunity to correct any underpayments or to request a hearing before a DOL Administrative Law Judge (ALJ). (See DOL Regulations 29 CFR 5.11 (b) and 29 CFR Part 6, Rules of Practice for Administrative Proceedings.)

2. **Administrative Review Board.** Contractors and/or subcontractors may request a review by the Administrative Review Board of the decision(s) rendered by the DOL ALJ in the administrative hearing process. See DOL regulations 29 CFR Part 7 for more information about this proceeding.

3-3 WITHHOLDING.

The contract administrator shall cause withholding from payments due to the prime contractor to ensure the payment of wages which are believed to be due and unpaid, for example, if wage underpayments or other violations are not corrected within 30 days after written notification to the prime contractor. DOL may also direct the withholding of contract payments for alleged wage underpayments. Withholding is considered to be serious and is not taken unless warranted. If withholding is deemed necessary, you will be notified in writing. Only the amounts needed to meet the contractor's (and/or subcontractors') liability shall be withheld.

3-4 DEPOSITS AND ESCROWS.

In every case, we attempt to complete compliance actions and resolve any disputes before the project is completed and final payments are made. Sometimes, corrective actions or disputes continue after completion and provisions must be made to ensure that funds are available to pay any wage restitution that is ultimately found due. In these cases, we allow projects to proceed to final closing and final payments provided the prime contractor deposits an amount equal to the potential liability for wage restitution and liquidated damages, if necessary, in a special account. The deposit or escrow account is controlled by the contract administrator. When a final decision is rendered, the contract administrator makes disbursements from the account in accordance with the decision. Deposit/escrow accounts are established for one or more of the following reasons:

Remember, the prime contractor is responsible and will be held liable for any wage restitution that is due to any worker employed in the construction of the project, including workers employed by subcontractors and any lower-tier subcontractors. See 1-4, Responsibility of the Principal Contractor, and 2-8, Restitution for Underpayment of Wages.

a. **Where the parties have agreed to amounts of wage restitution that are due** but the employer hasn't furnished evidence yet that all of the underpaid workers have received their back wages, e.g., some of the workers have moved and could not be located. The amount of the deposit is equal to the total gross amount of restitution due to workers lacking payment evidence. As these workers are paid and proper documentation is provided to the contract administrator, amounts corresponding to the documented payments are returned to the depositor. Amounts for any workers who cannot be located are held in the deposit/escrow account for three years and disposed as described in 2-8(f) of this Guide.

b. **Where underpayments are suspected or alleged and an investigation has not yet been completed.** The deposit is equal to the amount of wage restitution and any liquidated damages, if applicable, that are estimated to be due. If the final determination of wages due is less than the amount estimated and placed in the escrow account, the escrow will be reduced to the final amount and the difference will be returned to the depositor.

   If the parties agree to the investigative findings, the amounts due to the workers will be paid by the employer. As these workers are paid and proper documentation is provided to the contract administrator, the gross amounts corresponding to the documented payments are returned to the depositor.

   1. If the employer is unable to make the payments to the workers, e.g., lacks the funds necessary, the contract administrator may make disbursements directly to the workers in the net amounts calculated by the employer. The amounts withheld from the workers for tax deduction will be returned to the employer as payments to workers are made. The employer shall be responsible for reporting and transmitting withholdings to the appropriate agencies.

2. If the employer is not cooperating in the resolution, the contract administrator shall make disbursements to the workers in accordance with the schedule of wages due. Amounts for unfound workers will be retained as described above (See 2-8(f) and 3-4(a)).

If the parties do not agree and an administrative hearing is requested, the escrow will be maintained as explained in 3-4(c), below.

Remember, if you have any questions or need assistance concerning labor standards requirements help is always available. Contact the contract administrator for the project you're working on or the HUD Field Labor Relations staff in your area.

c. **Where the parties are waiting for the outcome of an administrative hearing** that has been or will be requested contesting a final determination of wages due. The deposit shall be equal to the amount of wage restitution and liquidated damages, if applicable, that have been determined due. Once a final decision is rendered, disbursements from the escrow account are made in accordance with the decision.

3-5 ADMINISTRATIVE SANCTIONS.

Contractors and/or subcontractors that violate the labor standards provisions may face administrative sanctions imposed by HUD and/or DOL.

a. **DOL debarment.** Contractors and/or subcontractors that are found by the Secretary of Labor to be in aggravated or willful violation of the labor standards provisions of the Davis-Bacon and Related Acts (DBRA) will be ineligible (debarred) to participate in any DBRA or Davis-Bacon Act contracts for up to 3 years. Debarment includes the contractor or subcontractor and any firm, corporation, partnership or association in which the contractor or subcontractor has a substantial interest. Debarment proceedings can be recommended by the contract administrator or can be initiated by the DOL. Debarment proceedings are described in DOL regulations 29 CFR 5.12.

b. **HUD sanctions.** HUD sanctions may include Limited Denials of Participation (LDPs), debarments and suspensions.

1. **Limited Denial of Participation.** HUD may issue to the employer a limited denial of participation (LDP) which prohibits the employer from further participation in HUD programs for a period up to one year. The LDP is usually effective for the HUD program in which the violation occurred and for the geographic jurisdiction of the issuing HUD Office. HUD regulations concerning LDP's are found at 24 CFR 24.700-24.714.

2. **Debarment and suspensions.** In certain circumstances, HUD may initiate its own debarment or suspension proceedings against a contractor and/or subcontractor in connection with improper actions regarding Davis-Bacon obligations. For example, HUD may initiate debarment where a contractor has been convicted for making false statements (such as false statements on certified payrolls or other prevailing wage certifications) or may initiate suspension where a contractor has been indicted for making false statements. HUD regulations concerning debarment and suspension are found at 24 CFR Part 24.

3-6 FALSIFICATION OF CERTIFIED PAYROLL REPORTS.

Contractors and/or subcontractors that are found to have willfully falsified payroll reports (Statements of Compliance), including correction certified payroll reports, may be subject to civil or criminal prosecution. Penalties may be imposed of $1,000 and/or one year in prison for each false statement (see Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code).

Remember, if you have any questions or need assistance concerning labor standards requirements help is always available. Contact the contract administrator for the project you're working on or the HUD Field Labor Relations staff in your area.

ACRONYMS AND SYMBOLS

CDBG -	Community Development Block Grant
CFR -	Code of Federal Regulations
CPR -	Certified Payroll Report
CWHSSA -	Contract Work Hours and Safety Standards Act
DBA -	Davis-Bacon Act
DBRA -	Davis-Bacon and Related Acts
DOL -	Department of Labor
FHA -	Federal Housing Administration
FLSA -	Fair Labor Standards Act
HUD -	Housing and Urban Development (Department of)
IHA -	Indian Housing Authority
LCA -	Local Contracting Agency
LDP -	Limited Denial of Participation
O/T -	Overtime
PHA -	Public Housing Agency
S/T -	Straight-time
SAC -	State Apprenticeship Council/Agency
TDHE -	Tribally-Designated Housing Entity
§ -	Section
¶ -	Paragraph

DAVIS-BACON - RELATED WEB SITES*

HUD Office of Labor Relations:
www.hud.gov/offices/olr

HUD Regulations:
http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR

HUDClips (HUD Forms and Publications):
www.hud.gov/offices/adm/hudclips/index.cfm

DOL Davis-Bacon and Related Acts Homepage:
http://www.dol.gov/whd/contracts/dbra.htm

DOL Regulations:
http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR

Davis-Bacon Wage Decisions:
www.wdol.gov

DOL Forms:
www.dol.gov/whd/programs/dbra/forms.htm

***Web addresses active as of January 2012**

Project Wage Rate Sheet	U.S. Department of Housing and Urban Development Office of Labor Relations	

Project Name:	Wage Decision Number/Modification Number:
Project Number:	Project County:

Work Classification	Basic Hourly Rate (BHR)	Fringe Benefits	Total Hourly Wage Rate	Laborers Fringe Benefits		$
Bricklayers			$	Group #	BHR	Total Wage
Carpenters			$			$
Cement Masons			$			$
Drywall Hangers			$			$
Electricians			$			$
Iron Workers			$			$
Painters			$	Operators Fringe Benefits:		$
Plumbers			$	Group #	BHR	Total Wage
Roofers			$			$
Sheet Metal Workers			$			$
Soft Floor Workers			$			$
Tapers			$			$
Tile Setters			$	Truck Drivers Fringe Benefits:		$
Other Classifications				Group #	BHR	Total Wage
			$			
			$			
			$			

Additional Classifications (HUD Form 4230-A)					
Work Classification	Basic Hourly Rate (BHR)	Fringe Benefits	Total Hourly Wage Rate	Date of HUD Submission to DOL	Date of DOL Approval
			$		
			$		
			$		

U.S. Department of Labor
Wage and Hour Division

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

U.S. Wage and Hour Division
Rev. Dec. 2008

OMB No.: 1215-0149
Expires: 12/31/2011

NAME OF CONTRACTOR ☐ OR SUBCONTRACTOR ☐	ADDRESS	
PAYROLL NO.	FOR WEEK ENDING	PROJECT AND LOCATION / PROJECT OR CONTRACT NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT. OR ST.	(4) DAY AND DATE / HOURS WORKED EACH DAY	(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS: FICA	WITH-HOLDING TAX			OTHER	TOTAL DEDUCTIONS	(9) NET WAGES PAID FOR WEEK
			O											
			S											
			O											
			S											
			O											
			S											
			O											
			S											
			O											
			S											
			O											
			S											
			O											
			S											

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that is will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

(over)

Date _____

I, _____ _____
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the
(Contractor or Subcontractor)

_____; that during the payroll period commencing on the
(Building or Work)

_____ day of _____, _____, and ending the _____ day of _____, _____,

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

_____ from the full
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Start. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

_____

_____

_____

_____

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

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

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

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

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

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

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

U.S. Department of Housing and Urban Development
Office of Departmental Operations and Coordination
Washington, DC 20410

Email: www.OfficeofLaborRelations@hud.gov

"General Decision Number: CA20240024 09/20/2024

Superseded General Decision Number: CA20230024

State: California

Construction Types: Building, Heavy (Heavy and Dredging) and Highway

County: Orange County in California.

BUILDING CONSTRUCTION PROJECTS; DREDGING PROJECTS (does not include hopper dredge work); HEAVY CONSTRUCTION PROJECTS (does not include water well drilling); HIGHWAY CONSTRUCTION PROJECTS

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least $17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least $12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

|_____|_____|

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at http://www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/05/2024
1	01/12/2024
2	01/26/2024
3	02/02/2024
4	02/09/2024
5	02/23/2024
6	03/08/2024
7	05/24/2024
8	06/28/2024
9	07/05/2024
10	07/12/2024
11	08/09/2024
12	08/16/2024
13	08/23/2024
14	09/06/2024
15	09/13/2024
16	09/20/2024

ASBE0005-002 09/01/2023

	Rates	Fringes
Asbestos Workers/Insulator (Includes the application of all insulating materials, protective coverings, coatings, and finishes to all types of mechanical systems)	$ 49.58	25.27
Fire Stop Technician (Application of Firestopping Materials for wall openings and penetrations in walls, floors, ceilings and curtain walls)	$ 36.97	20.36

ASBE0005-004 07/04/2022

	Rates	Fringes
Asbestos Removal worker/hazardous material handler (Includes preparation, wetting, stripping, removal, scrapping, vacuuming, bagging and disposing of all insulation materials from mechanical systems, whether they contain asbestos or not)	$ 23.52	13.37

---

* BRCA0004-010 05/01/2024

	Rates	Fringes
BRICKLAYER; MARBLE SETTER	$ 45.53	20.29

*The wage scale for prevailing wage projects performed in Blythe, China lake, Death Valley, Fort Irwin, Twenty-Nine Palms, Needles and 1-15 corridor (Barstow to the Nevada State Line) will be Three Dollars ($3.00) above the standard San Bernardino/Riverside County hourly wage rate

---

BRCA0018-004 06/01/2023

	Rates	Fringes
MARBLE FINISHER	$ 40.21	15.23
TILE FINISHER	$ 34.78	13.64
TILE LAYER	$ 48.29	19.18

BRCA0018-010 09/01/2023

	Rates	Fringes
TERRAZZO FINISHER	$ 39.95	14.65
TERRAZZO WORKER/SETTER	$ 47.85	15.14

CARP0213-001 07/01/2021

	Rates	Fringes
CARPENTER		
(1) Carpenter, Cabinet Installer, Insulation		

Installer, Hardwood Floor
Worker and acoustical
installer.....$ 51.60 16.28
(2) Millwright.....$ 52.10 16.48
(3) Piledrivermen/Derrick
Bargeman, Bridge or Dock
Carpenter, Heavy Framer,
Rock Bargeman or Scowman,
Rockslinger, Shingler
(Commercial).....$ 51.73 16.28
(4) Pneumatic Nailer,
Power Stapler.....$ 51.85 16.28
(5) Sawfiler.....$ 51.69 16.28
(6) Scaffold Builder.....$ 42.80 16.28
(7) Table Power Saw
Operator.....$ 51.70 16.28

FOOTNOTE: Work of forming in the construction of open cut sewers or storm drains, on operations in which horizontal lagging is used in conjunction with steel H-Beams driven or placed in pre- drilled holes, for that portion of a lagged trench against which concrete is poured, namely, as a substitute for back forms (which work is performed by piledrivers): $0.13 per hour additional.

CARP0213-004 07/01/2021

	Rates	Fringes
Drywall		
DRYWALL INSTALLER/LATHER	$ 51.60	16.28
STOCKER/SCRAPPER	$ 22.16	8.62

CARP0721-001 07/01/2021

	Rates	Fringes
Modular Furniture Installer	$ 21.85	7.15

ELEC0011-001 01/01/2024

COMMUNICATIONS AND SYSTEMS WORK

	Rates	Fringes
Communications System		
Installer	$ 46.47	3%+17.08

SCOPE OF WORK:

Installation, testing, service and maintenance of systems utilizing the transmission and/or transference of voice, sound, vision and digital for commercial, educational, security and entertainment purposes for the following: TV monitoring and surveillance, background-foreground music, intercom and telephone interconnect, inventory control systems, microwave transmission, multi-media, multiplex, nurse call systems, radio page, school intercom and sound, burglar alarms, fire alarm (see last paragraph below) and low voltage master clock systems in commercial buildings. Communication Systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems; inclusion or exclusion of terminations and testings of conductors determined by their function; excluding all other data systems or multiple systems which include control function or power supply; excluding installation of raceway systems, conduit systems, line voltage work, and energy management systems. Does not cover work performed at China Lake Naval Ordnance Test Station. Fire alarm work shall be performed at the current inside wireman total cost package.

ELEC0441-001 01/01/2024

	Rates	Fringes
CABLE SPLICER	$ 60.19	24.24
ELECTRICIAN	$ 57.54	24.16

---

* ELEC0441-003 06/26/2023

COMMUNICATIONS & SYSTEMS WORK (excludes any work on Intelligent Transportation Systems or CCTV highway systems)

	Rates	Fringes
Communications System		
Installer	$ 44.33	16.43
Technician	$ 31.23	15.39

SCOPE OF WORK The work covered shall include the installation, testing, service and maintenance, of the following systems that utilize the transmission and/or transference of voice, sound, vision and digital for commercial, education, security and entertainment purposes for TV monitoring and surveillance, background foreground music, intercom and telephone interconnect, inventory control systems, microwave transmission, multi-media,

multiplex, nurse call system, radio page, school intercom and sound, burglar alarms and low voltage master clock systems.

A. Communication systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems SCADA (Supervisory control/data acquisition PCM (Pulse code modulation) Inventory control systems Digital data systems Broadband & baseband and carriers Point of sale systems VSAT data systems Data communication systems RF and remote control systems Fiber optic data systems

B. Sound and Voice Transmission/Transference Systems Background-Foreground Music Intercom and Telephone Interconnect Systems Sound and Musical Entertainment Systems Nurse Call Systems Radio Page Systems School Intercom and Sound Systems Burglar Alarm Systems Low-Voltage Master Clock Systems Multi-Media/Multiplex Systems Telephone Systems RF Systems and Antennas and Wave Guide

C. *Fire Alarm Systems-installation, wire pulling and testing.

D. Television and Video Systems Television Monitoring and Surveillance Systems Video Security Systems Video Entertainment Systems Video Educational Systems CATV and CCTV

E. Security Systems, Perimeter Security Systems, Vibration Sensor Systems
Sonar/Infrared Monitoring Equipment, Access Control Systems, Card Access Systems

*Fire Alarm Systems
1. Fire Alarms-In Raceways: Wire and cable pulling in raceways performed at the current electrician wage rate and fringe benefits.
2. Fire Alarms-Open Wire Systems: installed by the Technician.

ELEC0441-004 01/01/2024

	Rates	Fringes
ELECTRICIAN (TRANSPORTATION SYSTEMS, TRAFFIC SIGNALS & STREET LIGHTING)		
Cable Splicer/Fiber Optic		

Splicer.....$ 58.14 24.17
Electrician.....$ 57.54 24.16
Technician.....$ 43.16 23.72

SCOPE OF WORK: Electrical work on public streets, freeways, toll-ways, etc, above or below ground. All work necessary for the installation, renovation, repair or removal of Intelligent Transportation Systems, Video Surveilance Systems (CCTV), Street Lighting and and Traffic Signal work or systems whether underground or on bridges. Includes dusk to dawn lighting installations and ramps for access to or egress from freeways, toll-ways, etc.
Intelligent Transportation Systems shall include all systems and components to control, monitor, and communicate with pedestrian or vehicular traffic, included but not limited to: installation, modification, removal of all Fiber optic Video System, Fiber Optic Data Systems, Direct interconnect and Communications Systems, Microwave Data and Video Systems, Infrared and Sonic Detection Systems, Solar Power Systems, Highway Advisory Radio Systems, highway Weight and Motion Systems, etc.
Any and all work required to install and maintain any specialized or newly developed systems. All cutting, fitting and bandaging of ducts, raceways, and conduits. The cleaning, rodding and installation of ""fish and pull wires"". The excavation, setting, leveling and grouting of precast manholes, vaults, and pull boxes including ground rods or grounding systems, rock necessary for leveling and drainagae as well as pouring of a concrete envelope if needed.

JOURNEYMAN TRANSPORTATION ELECTRICIAN shall perform all tasks necessary toinstall the complete transportation system. JOURNEYMAN TECHNICIAN duties shall consist of: Distribution of material at job site, manual excavation and backfill, installation of system conduits and raceways for electrical, telephone, cable television and comnmunication systems. Pulling, terminating and splicing of traffic signal and street lighting conductors and electrical systems including interconnect, dector loop, fiber optic cable and video/data.

ELEC1245-001 06/01/2024

	Rates	Fringes
LINE CONSTRUCTION		
(1) Lineman; Cable splicer..	$ 70.16	24.46
(2) Equipment specialist		

(operates crawler
tractors, commercial motor
vehicles, backhoes,
trenchers, cranes (50 tons
and below), overhead &
underground distribution
line equipment).....$ 53.30 22.01
(3) Groundman.....$ 40.76 21.51
(4) Powderman.....$ 51.87 18.79

HOLIDAYS: New Year's Day, M.L. King Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and day after Thanksgiving, Christmas Day

---

ELEV0018-001 01/01/2024

	Rates	Fringes
ELEVATOR MECHANIC	$ 66.63	37.885+a+b

FOOTNOTE:

a. PAID VACATION: Employer contributes 8% of regular hourly rate as vacation pay credit for employees with more than 5 years of service, and 6% for 6 months to 5 years of service.

b. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

ENGI0012-004 08/01/2024

	Rates	Fringes
OPERATOR: Power Equipment (DREDGING)		
(1) Leverman	$ 64.10	38.75
(2) Dredge dozer	$ 58.13	38.75
(3) Deckmate	$ 58.02	38.75
(4) Winch operator (stern winch on dredge)	$ 57.47	38.75
(5) Fireman-Oiler, Deckhand, Bargeman, Leveehand	$ 56.93	38.75
(6) Barge Mate	$ 57.54	38.75

ENGI0012-024 07/01/2023

	Rates	Fringes

OPERATOR: Power Equipment
(All Other Work)

GROUP 1	$ 53.90	32.80
GROUP 2	$ 54.68	32.80
GROUP 3	$ 54.97	32.80
GROUP 4	$ 56.46	32.80
GROUP 6	$ 56.68	32.80
GROUP 8	$ 56.79	32.80
GROUP 10	$ 56.91	32.80
GROUP 12	$ 57.08	32.80
GROUP 13	$ 57.18	32.80
GROUP 14	$ 57.21	32.80
GROUP 15	$ 57.29	32.80
GROUP 16	$ 57.41	32.80
GROUP 17	$ 57.58	32.80
GROUP 18	$ 57.68	32.80
GROUP 19	$ 57.79	32.80
GROUP 20	$ 57.91	32.80
GROUP 21	$ 58.08	32.80
GROUP 22	$ 58.18	32.80
GROUP 23	$ 58.29	32.80
GROUP 24	$ 58.41	32.80
GROUP 25	$ 58.58	32.80

OPERATOR: Power Equipment
(Cranes, Piledriving &
Hoisting)

GROUP 1	$ 55.25	32.80
GROUP 2	$ 56.03	32.80
GROUP 3	$ 56.32	32.80
GROUP 4	$ 56.46	32.80
GROUP 5	$ 56.68	32.80
GROUP 6	$ 56.79	32.80
GROUP 7	$ 56.91	32.80
GROUP 8	$ 57.08	32.80
GROUP 9	$ 57.25	32.80
GROUP 10	$ 58.25	32.80
GROUP 11	$ 59.25	32.80
GROUP 12	$ 60.25	32.80
GROUP 13	$ 61.25	32.80

OPERATOR: Power Equipment
(Tunnel Work)

GROUP 1	$ 55.75	32.80
GROUP 2	$ 56.53	32.80
GROUP 3	$ 56.82	32.80
GROUP 4	$ 56.96	32.80
GROUP 5	$ 57.18	32.80
GROUP 6	$ 57.29	32.80
GROUP 7	$ 57.41	32.80

PREMIUM PAY:
$10.00 per hour shall be paid on all Power Equipment Operator work on the followng Military Bases: China Lake Naval Reserve, Vandenberg AFB, Point Arguello, Seely Naval Base, Fort Irwin, Nebo Annex Marine Base, Marine Corp Logistics Base Yermo, Edwards AFB, 29 Palms Marine Base and Camp Pendleton

Workers required to suit up and work in a hazardous material environment: $2.00 per hour additional. Combination mixer and compressor operator on gunite work shall be classified as a concrete mobile mixer operator.

SEE ZONE DEFINITIONS AFTER CLASSIFICATIONS

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Bargeman; Brakeman; Compressor operator; Ditch Witch, with seat or similar type equipment; Elevator operator-inside; Engineer Oiler; Forklift operator (includes loed, lull or similar types under 5 tons; Generator operator; Generator, pump or compressor plant operator; Pump operator; Signalman; Switchman

GROUP 2: Asphalt-rubber plant operator (nurse tank operator);Coil Tubing Rig Operator, Concrete mixer operator-skip type; Conveyor operator; Fireman; Forklift operator (includes loed, lull or similar types over 5 tons; Hydrostatic pump operator; oiler crusher (asphalt or concrete plant); Petromat laydown machine; PJU side dum jack; Screening and conveyor machine operator (or similar types); Skiploader (wheel type up to 3/4 yd. without attachment); Tar pot fireman; Temporary heating plant operator; Trenching machine oiler

GROUP 3: Asphalt-rubber blend operator; Bobcat or similar type (Skid steer); Equipment greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter radioman (ground); Stationary pipe wrapping and cleaning machine operator

GROUP 4: Asphalt plant fireman; Backhoe operator (mini-max or similar type); Boring machine operator; Boxman or mixerman (asphalt or concrete); Chip spreading machine operator; Concrete cleaning decontamination machine operator; Concrete Pump Operator (small portable);Direct Push Operator (Geoprobe or similar types) Drilling machine operator, small auger types (Texoma super economatic or similar types - Hughes 100 or 200 or similar types - drilling depth of 30' maximum); Equipment greaser (grease truck); Guard rail post driver operator; Highline cableway

signalman; Hydra-hammer-aero stomper; Micro Tunneling (above ground tunnel); Power concrete curing machine operator; Power concrete saw operator; Power-driven jumbo form setter operator; Power sweeper operator; Rock Wheel Saw/Trencher; Roller operator (compacting); Screed operator (asphalt or concrete); Trenching machine operator (up to 6 ft.); Vacuum or much truck

GROUP 6: Articulating material hauler; Asphalt plant engineer; Batch plant operator; Bit sharpener; Concrete joint machine operator (canal and similar type); Concrete planer operator; Dandy digger; Deck engine operator; Derrickman (oilfield type); Drilling machine operator, bucket or auger types (Calweld 100 bucket or similar types - Watson 1000 auger or similar types - Texoma 330, 500 or 600 auger or similar types - drilling depth of 45' maximum); Drilling machine operator; Hydrographic seeder machine operator (straw, pulp or seed), Jackson track maintainer, or similar type; Kalamazoo Switch tamper, or similar type; Machine tool operator; Maginnis internal full slab vibrator, Mechanical berm, curb or gutter(concrete or asphalt); Mechanical finisher operator (concrete, Clary-Johnson-Bidwell or similar); Micro tunnel system (below ground); Pavement breaker operator (truck mounted); Road oil mixing machine operator; Roller operator (asphalt or finish), rubber-tired earth moving equipment (single engine, up to and including 25 yds. struck); Self-propelled tar pipelining machine operator; Skiploader operator (crawler and wheel type, over 3/4 yd. and up to and including 1-1/2 yds.); Slip form pump operator (power driven hydraulic lifting device for concrete forms); Tractor operator-bulldozer, tamper-scraper (single engine, up to 100 h.p. flywheel and similar types, up to and including D-5 and similar types); Tugger hoist operator (1 drum); Ultra high pressure waterjet cutting tool system operator; Vacuum blasting machine operator

GROUP 8: Asphalt or concrete spreading operator (tamping or finishing); Asphalt paving machine operator (Barber Greene or similar type); Asphalt-rubber distribution operator; Backhoe operator (up to and including 3/4 yd.), small ford, Case or similar types; Cable Bundling Machine Operator (excluding handheld); Cable Trenching Machine Operator (Spider Plow or similar types) Cast-in-place pipe laying machine operator; Combination mixer and compressor operator (gunite work); Compactor operator (self-propelled); Concrete mixer operator (paving); Crushing plant operator; Drill Doctor; Drilling machine operator, Bucket or auger types (Calweld 150 bucket or similar types - Watson 1500,

2000 2500 auger or similar types - Texoma 700, 800 auger or similar types - drilling depth of 60' maximum); Elevating grader operator; Grade checker; Gradall operator; Grouting machine operator; Heavy-duty repairman; Heavy equipment robotics operator; Kalamazoo balliste regulator or similar type; Kolman belt loader and similar type; Le Tourneau blob compactor or similar type; Loader operator (Athey, Euclid, Sierra and similar types); Mobark Chipper or similar; Ozzie padder or similar types; P.C. slot saw; Pneumatic concrete placing machine operator (Hackley-Presswell or similar type); Pumpcrete gun operator; RCM Cementing Unit Operator, Rail/Switch Grinder Operator (Harsco or similar types) Rock Drill or similar types; Rotary drill operator (excluding caisson type); Rubber-tired earth-moving equipment operator (single engine, caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. up to and including 50 cu. yds. struck); Rubber-tired earth-moving equipment operator (multiple engine up to and including 25 yds. struck); Rubber-tired scraper operator (self-loading paddle wheel type-John Deere, 1040 and similar single unit); Self- propelled curb and gutter machine operator; Shuttle buggy; Skiploader operator (crawler and wheel type over 1-1/2 yds. up to and including 6-1/2 yds.); Soil remediation plant operator; Surface heaters and planer operator; Tractor compressor drill combination operator; Tractor operator (any type larger than D-5 - 100 flywheel h.p. and over, or similar-bulldozer, tamper, scraper and push tractor single engine); Tractor operator (boom attachments), Traveling pipe wrapping, cleaning and bendng machine operator; Trenching machine operator (over 6 ft. depth capacity, manufacturer's rating); trenching Machine with Road Miner attachment (over 6 ft depth capacity): Ultra high pressure waterjet cutting tool system mechanic; Water pull (compaction) operator

GROUP 10: Drilling machine operator, Bucket or auger types (Calweld 200 B bucket or similar types-Watson 3000 or 5000 auger or similar types-Texoma 900 auger or similar types-drilling depth of 105' maximum); Dual drum mixer, dynamic compactor LDC350 (or similar types); Monorail locomotive operator (diesel, gas or electric); Motor patrol-blade operator (single engine); Multiple engine tractor operator (Euclid and similar type-except Quad 9 cat.); Rubber-tired earth-moving equipment operator (single engine, over 50 yds. struck); Pneumatic pipe ramming tool and similar types; Prestressed wrapping machine operator; Rubber-tired earth-moving equipment operator (single engine, over 50 yds. struck); Rubber tired earth moving equipment operator (multiple engine, Euclid, caterpillar

and similar over 25 yds. and up to 50 yds. struck), Tower crane repairman; Tractor loader operator (crawler and wheel type over 6-1/2 yds.); Woods mixer operator (and similar Pugmill equipment)

GROUP 12: Auto grader operator; Automatic slip form operator; Drilling machine operator, bucket or auger types (Calweld, auger 200 CA or similar types - Watson, auger 6000 or similar types - Hughes Super Duty, auger 200 or similar types - drilling depth of 175' maximum); Hoe ram or similar with compressor; Mass excavator operator less tha 750 cu. yards; Mechanical finishing machine operator; Mobile form traveler operator; Motor patrol operator (multi-engine); Pipe mobile machine operator; Rubber-tired earth- moving equipment operator (multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck); Rubber-tired self- loading scraper operator (paddle-wheel-auger type self-loading - two (2) or more units)

GROUP 13: Rubber-tired earth-moving equipment operator operating equipment with push-pull system (single engine, up to and including 25 yds. struck)

GROUP 14: Canal liner operator; Canal trimmer operator; Remote- control earth-moving equipment operator (operating a second piece of equipment: $1.00 per hour additional); Wheel excavator operator (over 750 cu. yds.)

GROUP 15: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine-up to and including 25 yds. struck)

GROUP 16: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 17: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine, Euclid, Caterpillar and similar, over 50 cu. yds. struck); Tandem tractor operator (operating crawler type tractors in tandem - Quad 9 and similar type)

GROUP 18: Rubber-tired earth-moving equipment operator,

operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, up to and including 25 yds. struck)

GROUP 19: Rotex concrete belt operator (or similar types); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds.and up to and including 50 cu. yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, up to and including 25 yds. struck)

GROUP 20: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps, and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 21: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck)

GROUP 22: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, up to and including 25 yds. struck)

GROUP 23: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck); Rubber-tired earth-moving equipment operator, operating with the tandem push-pull system (multiple engine, up to and including 25 yds. struck)

GROUP 24: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds.

struck)

GROUP 25: Concrete pump operator-truck mounted; Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck); Spyder Excavator Operator, with all attachments

CRANES, PILEDRIVING AND HOISTING EQUIPMENT CLASSIFICATIONS

GROUP 1: Engineer oiler; Fork lift operator (includes loed, lull or similar types)

GROUP 2: Truck crane oiler

GROUP 3: A-frame or winch truck operator; Ross carrier operator (jobsite)

GROUP 4: Bridge-type unloader and turntable operator; Helicopter hoist operator

GROUP 5: Hydraulic boom truck; Stinger crane (Austin-Western or similar type); Tugger hoist operator (1 drum)

GROUP 6: Bridge crane operator; Cretor crane operator; Hoist operator (Chicago boom and similar type); Lift mobile operator; Lift slab machine operator (Vagtborg and similar types); Material hoist and/or manlift operator; Polar gantry crane operator; Self Climbing scaffold (or similar type); Shovel, backhoe, dragline, clamshell operator (over 3/4 yd. and up to 5 cu. yds. mrc); Tugger hoist operator

GROUP 7: Pedestal crane operator; Shovel, backhoe, dragline, clamshell operator (over 5 cu. yds. mrc); Tower crane repair; Tugger hoist operator (3 drum)

GROUP 8: Crane operator (up to and including 25 ton capacity); Crawler transporter operator; Derrick barge operator (up to and including 25 ton capacity); Hoist operator, stiff legs, Guy derrick or similar type (up to and including 25 ton capacity); Shovel, backhoe, dragline, clamshell operator (over 7 cu. yds., M.R.C.)

GROUP 9: Crane operator (over 25 tons and up to and including 50 tons mrc); Derrick barge operator (over 25 tons up to and including 50 tons mrc); Highline cableway operator; Hoist operator, stiff legs, Guy derrick or similar type (over 25 tons up to and including 50 tons mrc); K-crane operator; Polar crane operator; Self erecting tower crane operator maximum lifting capacity ten tons

GROUP 10: Crane operator (over 50 tons and up to and including 100 tons mrc); Derrick barge operator (over 50 tons up to and including 100 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 50 tons up to and including 100 tons mrc), Mobile tower crane operator (over 50 tons, up to and including 100 tons M.R.C.);

GROUP 11: Crane operator (over 100 tons and up to and including 200 tons mrc); Derrick barge operator (over 100 tons up to and including 200 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 100 tons up to and including 200 tons mrc); Mobile tower crane operator (over 100 tons up to and including 200 tons mrc) ; Tower crane operator and tower gantry

GROUP 12: Crane operator (over 200 tons up to and including 300 tons mrc); Derrick barge operator (over 200 tons up to and including 300 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 200 tons, up to and including 300 tons mrc); Mobile tower crane operator (over 200 tons, up to and including 300 tons mrc)

GROUP 13: Crane operator (over 300 tons); Derrick barge operator (over 300 tons); Helicopter pilot; Hoist operator, stiff legs, Guy derrick or similar type (over 300 tons); Mobile tower crane operator (over 300 tons)

TUNNEL CLASSIFICATIONS

GROUP 1: Skiploader (wheel type up to 3/4 yd. without attachment)

GROUP 2: Power-driven jumbo form setter operator

GROUP 3: Dinkey locomotive or motorperson (up to and including 10 tons)

GROUP 4: Bit sharpener; Equipment greaser (grease truck); Slip form pump operator (power-driven hydraulic lifting device for concrete forms); Tugger hoist operator (1 drum); Tunnel locomotive operator (over 10 and up to and including 30 tons)

GROUP 5: Backhoe operator (up to and including 3/4 yd.); Small Ford, Case or similar; Drill doctor; Grouting machine operator; Heading shield operator; Heavy-duty repairperson; Loader operator (Athey, Euclid, Sierra and similar types); Mucking machine operator (1/4 yd., rubber-tired, rail or track type); Pneumatic concrete placing machine operator

(Hackley-Presswell or similar type); Pneumatic heading shield (tunnel); Pumpcrete gun operator; Tractor compressor drill combination operator; Tugger hoist operator (2 drum); Tunnel locomotive operator (over 30 tons)

GROUP 6: Heavy Duty Repairman

GROUP 7: Tunnel mole boring machine operator

ENGINEERS ZONES

$1.00 additional per hour for all of IMPERIAL County and the portions of KERN, RIVERSIDE & SAN BERNARDINO Counties as defined below:

That area within the following Boundary: Begin in San Bernardino County, approximately 3 miles NE of the intersection of I-15 and the California State line at that point which is the NW corner of Section 1, T17N,m R14E, San Bernardino Meridian. Continue W in a straight line to that point which is the SW corner of the northwest quarter of Section 6, T27S, R42E, Mt. Diablo Meridian. Continue North to the intersection with the Inyo County Boundary at that point which is the NE corner of the western half of the northern quarter of Section 6, T25S, R42E, MDM. Continue W along the Inyo and San Bernardino County boundary until the intersection with Kern County, as that point which is the SE corner of Section 34, T24S, R40E, MDM. Continue W along the Inyo and Kern County boundary until the intersection with Tulare County, at that point which is the SW corner of the SE quarter of Section 32, T24S, R37E, MDM. Continue W along the Kern and Tulare County boundary, until that point which is the NW corner of T25S, R32E, MDM. Continue S following R32E lines to the NW corner of T31S, R32E, MDM. Continue W to the NW corner of T31S, R31E, MDM. Continue S to the SW corner of T32S, R31E, MDM. Continue W to SW corner of SE quarter of Section 34, T32S, R30E, MDM. Continue S to SW corner of T11N, R17W, SBM. Continue E along south boundary of T11N, SBM to SW corner of T11N, R7W, SBM. Continue S to SW corner of T9N, R7W, SBM. Continue E along south boundary of T9N, SBM to SW corner of T9N, R1E, SBM. Continue S along west boundary of R1E, SMB to Riverside County line at the SW corner of T1S, R1E, SBM. Continue E along south boundary of T1s, SBM (Riverside County Line) to SW corner of T1S, R10E, SBM. Continue S along west boundary of R10E, SBM to Imperial County line at the SW corner of T8S, R10E, SBM. Continue W along Imperial and Riverside county line to NW corner of T9S, R9E, SBM. Continue S along the boundary between Imperial and San Diego Counties, along the west edge of R9E, SBM to the south boundary of Imperial County/California state line. Follow the California state line west to Arizona state

line, then north to Nevada state line, then continuing NW back to start at the point which is the NW corner of Section 1, T17N, R14E, SBM

$1.00 additional per hour for portions of SAN LUIS OBISPO, KERN, SANTA BARBARA & VENTURA as defined below:

That area within the following Boundary: Begin approximately 5 miles north of the community of Cholame, on the Monterey County and San Luis Obispo County boundary at the NW corner of T25S, R16E, Mt. Diablo Meridian. Continue south along the west side of R16E to the SW corner of T30S, R16E, MDM. Continue E to SW corner of T30S, R17E, MDM. Continue S to SW corner of T31S, R17E, MDM. Continue E to SW corner of T31S, R18E, MDM. Continue S along West side of R18E, MDM as it crosses into San Bernardino Meridian numbering area and becomes R30W. Follow the west side of R30W, SBM to the SW corner of T9N, R30W, SBM. Continue E along the south edge of T9N, SBM to the Santa Barbara County and Ventura County boundary at that point whch is the SW corner of Section 34.T9N, R24W, SBM, continue S along the Ventura County line to that point which is the SW corner of the SE quarter of Section 32, T7N, R24W, SBM. Continue E along the south edge of T7N, SBM to the SE corner to T7N, R21W, SBM. Continue N along East side of R21W, SBM to Ventura County and Kern County boundary at the NE corner of T8N, R21W. Continue W along the Ventura County and Kern County boundary to the SE corner of T9N, R21W. Continue North along the East edge of R21W, SBM to the NE corner of T12N, R21W, SBM. Continue West along the north edge of T12N, SBM to the SE corner of T32S, R21E, MDM. [T12N SBM is a think strip between T11N SBM and T32S MDM]. Continue North along the East side of R21E, MDM to the Kings County and Kern County border at the NE corner of T25S, R21E, MDM, continue West along the Kings County and Kern County Boundary until the intersection of San Luis Obispo County. Continue west along the Kings County and San Luis Obispo County boundary until the intersection with Monterey County. Continue West along the Monterey County and San Luis Obispo County boundary to the beginning point at the NW corner of T25S, R16E, MDM.

$2.00 additional per hour for INYO and MONO Counties and the Northern portion of SAN BERNARDINO County as defined below:

That area within the following Boundary: Begin at the intersection of the northern boundary of Mono County and the California state line at the point which is the center of Section 17, T10N, R22E, Mt. Diablo Meridian. Continue S then SE along the entire western boundary of Mono County, until it reaches Inyo County at the point which is the NE corner of the

Western half of the NW quarter of Section 2, T8S, R29E, MDM. Continue SSE along the entire western boundary of Inyo County, until the intersection with Kern County at the point which is the SW corner of the SE 1/4 of Section 32, T24S, R37E, MDM. Continue E along the Inyo and Kern County boundary until the intersection with San Bernardino County at that point which is the SE corner of section 34, T24S, R40E, MDM. Continue E along the Inyo and San Bernardino County boundary until the point which is the NE corner of the Western half of the NW quarter of Section 6, T25S, R42E, MDM. Continue S to that point which is the SW corner of the NW quarter of Section 6, T27S, R42E, MDM. Continue E in a straight line to the California and Nevada state border at the point which is the NW corner of Section 1, T17N, R14E, San Bernardino Meridian. Then continue NW along the state line to the starting point, which is the center of Section 18, T10N, R22E, MDM.

REMAINING AREA NOT DEFINED ABOVE RECIEVES BASE RATE

IRON0433-006 01/01/2024

	Rates	Fringes
IRONWORKER		
Fence Erector	$ 42.53	26.26
Ornamental, Reinforcing and Structural	$ 47.45	34.90

PREMIUM PAY:

$9.00 additional per hour at the following locations:

China Lake Naval Test Station, Chocolate Mountains Naval Reserve-Niland,
Edwards AFB, Fort Irwin Military Station, Fort Irwin Training Center-Goldstone, San Clemente Island, San Nicholas Island, Susanville Federal Prison, 29 Palms - Marine Corps, U.S. Marine Base - Barstow, U.S. Naval Air Facility - Sealey, Vandenberg AFB Army Defense Language Institute - Monterey, Fallon Air Base, Naval Post Graduate School - Monterey, Yermo Marine Corps Logistics Center
Port Hueneme, Port Mugu, U.S. Coast Guard Station - Two Rock

LABO0300-005 07/01/2024

	Rates	Fringes

Asbestos Removal Laborer.....$ 43.88 25.13

SCOPE OF WORK: Includes site mobilization, initial site cleanup, site preparation, removal of asbestos-containing material and toxic waste, encapsulation, enclosure and disposal of asbestos- containing materials and toxic waste by hand or with equipment or machinery; scaffolding, fabrication of temporary wooden barriers and assembly of decontamination stations.

LABO0345-001 07/01/2022

	Rates	Fringes
LABORER (GUNITE)		
GROUP 1	$ 48.50	21.37
GROUP 2	$ 47.55	21.37
GROUP 3	$ 44.01	21.37

FOOTNOTE: GUNITE PREMIUM PAY: Workers working from a Bosn'n's Chair or suspended from a rope or cable shall receive 40 cents per hour above the foregoing applicable classification rates. Workers doing gunite and/or shotcrete work in a tunnel shall receive 35 cents per hour above the foregoing applicable classification rates, paid on a portal-to-portal basis. Any work performed on, in or above any smoke stack, silo, storage elevator or similar type of structure, when such structure is in excess of 75'-0"" above base level and which work must be performed in whole or in part more than 75'-0"" above base level, that work performed above the 75'-0"" level shall be compensated for at 35 cents per hour above the applicable classification wage rate.

GUNITE LABORER CLASSIFICATIONS

GROUP 1: Rodmen, Nozzlemen

GROUP 2: Gunmen

GROUP 3: Reboundmen

LABO0652-001 07/01/2022

	Rates	Fringes
LABORER (TUNNEL)		

GROUP 1	$ 45.68	23.30
GROUP 2	$ 46.00	23.30
GROUP 3	$ 46.46	23.30
GROUP 4	$ 47.15	23.30
LABORER		
GROUP 1	$ 36.39	21.04
GROUP 2	$ 36.94	21.04
GROUP 3	$ 37.49	21.04
GROUP 4	$ 39.04	21.04
GROUP 5	$ 39.39	21.04

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete; Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curbs, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer(lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellower

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials (""applying"" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Asphalt raker, lute person, ironer, asphalt dump person, and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt- rubber distributor boot person; Laser beam in connection with laborers' work; Oversize concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all other types of mechanical drills without regard to the form of motive power; Toxic waste removal

TUNNEL LABORER CLASSIFICATIONS

GROUP 1: Batch plant laborer; Changehouse person; Dump person; Dump person (outside); Swamper (brake person and switch person on tunnel work); Tunnel materials handling person; Nipper; Pot tender, using mastic or other materials (for example, but not by way of limitation, shotcrete, etc.)

GROUP 2: Chucktender, cabletender; Loading and unloading agitator cars; Vibrator person, jack hammer, pneumatic tools (except driller); Bull gang mucker, track person; Concrete crew, including rodder and spreader

GROUP 3: Blaster, driller, powder person; Chemical grout jet person; Cherry picker person; Grout gun person; Grout mixer person; Grout pump person; Jackleg miner; Jumbo person; Kemper and other pneumatic concrete placer operator; Miner, tunnel (hand or machine); Nozzle person; Operating of troweling and/or grouting machines; Powder person (primer house); Primer person; Sandblaster; Shotcrete person; Steel form raiser and setter; Timber person, retimber person, wood or steel; Tunnel Concrete finisher

GROUP 4: Diamond driller; Sandblaster; Shaft and raise work

LABO0652-003 07/01/2022

	Rates	Fringes
Brick Tender	$ 37.32	21.45

LABO1184-001 07/01/2022

	Rates	Fringes
Laborers: (HORIZONTAL DIRECTIONAL DRILLING)		
(1) Drilling Crew Laborer	$ 40.69	18.25
(2) Vehicle Operator/Hauler	$ 40.86	18.25
(3) Horizontal Directional Drill Operator	$ 42.71	18.25
(4) Electronic Tracking Locator	$ 44.71	18.25
Laborers: (STRIPING/SLURRY SEAL)		
GROUP 1	$ 41.90	21.32
GROUP 2	$ 43.20	21.32
GROUP 3	$ 45.21	21.32
GROUP 4	$ 46.95	21.32

LABORERS - STRIPING CLASSIFICATIONS

GROUP 1: Protective coating, pavement sealing, including repair and filling of cracks by any method on any surface in parking lots, game courts and playgrounds; carstops; operation of all related machinery and equipment; equipment repair technician

GROUP 2: Traffic surface abrasive blaster; pot tender - removal of all traffic lines and markings by any method (sandblasting, waterblasting, grinding, etc.) and preparation of surface for coatings. Traffic control person: controlling and directing traffic through both conventional and moving lane closures; operation of all related machinery and equipment

GROUP 3: Traffic delineating device applicator: Layout and application of pavement markers, delineating signs, rumble and traffic bars, adhesives, guide markers, other traffic delineating devices including traffic control. This category includes all traffic related surface preparation (sandblasting, waterblasting, grinding) as part of the application process. Traffic protective delineating system installer: removes, relocates, installs, permanently affixed roadside and parking delineation barricades, fencing, cable anchor, guard rail, reference signs, monument markers; operation of all related machinery and equipment; power broom sweeper

GROUP 4: Striper: layout and application of traffic stripes and markings; hot thermo plastic; tape traffic stripes and markings, including traffic control; operation of all related machinery and equipment

---

LABO1414-001 08/03/2022

	Rates	Fringes
LABORER		
PLASTER CLEAN-UP LABORER	$ 38.92	23.32
PLASTER TENDER	$ 41.47	23.32

Work on a swing stage scaffold: $1.00 per hour additional.

PAIN0036-001 07/01/2023

	Rates	Fringes

Painters: (Including Lead Abatement)
(1) Repaint (excludes San Diego County).....$ 29.59 17.12
(2) All Other Work.....$ 38.52 18.64

REPAINT of any previously painted structure. Exceptions: work involving the aerospace industry, breweries, commercial recreational facilities, hotels which operate commercial establishments as part of hotel service, and sports facilities.

PAIN0036-008 09/01/2022

	Rates	Fringes
DRYWALL FINISHER/TAPER	$ 46.28	23.52

PAIN0036-015 01/01/2020

	Rates	Fringes
GLAZIER	$ 43.45	23.39

FOOTNOTE: Additional $1.25 per hour for work in a condor, from the third (3rd) floor and up Additional $1.25 per hour for work on the outside of the building from a swing stage or any suspended contrivance, from the ground up

---

PAIN1247-002 01/01/2024

	Rates	Fringes
SOFT FLOOR LAYER	$ 43.20	18.03

PLAS0200-009 08/03/2022

	Rates	Fringes
PLASTERER	$ 47.37	19.64

PLAS0500-002 07/01/2023

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER	$ 44.00	27.11

PLUM0016-001 09/01/2024

	Rates	Fringes
PLUMBER/PIPEFITTER		
Work ONLY on new additions and remodeling of bars, restaurant, stores and commercial buildings not to exceed 5,000 sq. ft. of floor space	$ 57.67	25.63
Work ONLY on strip malls, light commercial, tenant improvement and remodel work	$ 42.49	23.86
All other work except work on new additions and remodeling of bars, restaurant, stores and commercial buildings not to exceed 5,000 sq. ft. of floor space and work on strip malls, light commercial, tenant improvement and remodel work	$ 59.48	26.61

PLUM0345-001 09/01/2023

	Rates	Fringes
PLUMBER		
Landscape/Irrigation Fitter	$ 40.20	25.90
Sewer & Storm Drain Work	$ 44.29	23.28

ROOF0036-002 08/01/2024

	Rates	Fringes
ROOFER	$ 49.43	20.58

FOOTNOTE: Pitch premium: Work on which employees are exposed to pitch fumes or required to handle pitch, pitch base or pitch impregnated products, or any material containing coal tar pitch, the entire roofing crew shall receive $1.75 per hour ""pitch premium"" pay.

SFCA0669-008 01/01/2024

DOES NOT INCLUDE SAN CLEMENTE ISLAND, THE CITY OF SANTA ANA,

AND THAT PART OF ORANGE COUNTY WITHIN 25 MILES OF THE CITY LIMITS OF LOS ANGELES:

	Rates	Fringes
SPRINKLER FITTER	$ 45.31	27.91

SFCA0709-003 09/01/2023

SAN CLEMENTE ISLAND, THE CITY OF SANTA ANA, AND THAT PART OF ORANGE COUNTY WITHIN 25 MILES BEYOND THE CITY LIMITS OF LOS ANGELES:

	Rates	Fringes
SPRINKLER FITTER (Fire)	$ 54.29	32.00

SHEE0105-003 07/01/2024

LOS ANGELES (South of a straight line drawn between Gorman and Big Pines)and Catalina Island, INYO, KERN (Northeast part, East of Hwy 395), MONO ORANGE, RIVERSIDE, AND SAN BERNARDINO COUNTIES

	Rates	Fringes
SHEET METAL WORKER		
(1) Commercial - New Construction and Remodel work	$ 59.40	30.34
(2) Industrial work including air pollution control systems, noise abatement, hand rails, guard rails, excluding aritechtural sheet metal work, excluding A-C, heating, ventilating systems for human comfort	$ 56.95	30.04

* TEAM0011-002 07/01/2024

	Rates	Fringes
TRUCK DRIVER		
GROUP 1	$ 39.59	34.34
GROUP 2	$ 39.74	34.34
GROUP 3	$ 39.87	34.34

GROUP 4	$ 40.06	34.34
GROUP 5	$ 40.09	34.34
GROUP 6	$ 40.12	34.34
GROUP 7	$ 40.37	34.34
GROUP 8	$ 40.62	34.34
GROUP 9	$ 40.82	34.34
GROUP 10	$ 41.12	34.34
GROUP 11	$ 41.62	34.34
GROUP 12	$ 42.05	34.34

WORK ON ALL MILITARY BASES:
PREMIUM PAY: $3.00 per hour additional.
[29 palms Marine Base, Camp Roberts, China Lake, Edwards AFB, El Centro Naval Facility, Fort Irwin, Marine Corps Logistics Base at Nebo & Yermo, Mountain Warfare Training Center, Bridgeport, Point Arguello, Point Conception, Vandenberg AFB]

TRUCK DRIVERS CLASSIFICATIONS

GROUP 1: Truck driver

GROUP 2: Driver of vehicle or combination of vehicles - 2 axles; Traffic control pilot car excluding moving heavy equipment permit load; Truck mounted broom

GROUP 3: Driver of vehicle or combination of vehicles - 3 axles; Boot person; Cement mason distribution truck; Fuel truck driver; Water truck - 2 axle; Dump truck, less than 16 yds. water level; Erosion control driver

GROUP 4: Driver of transit mix truck, under 3 yds.; Dumpcrete truck, less than 6-1/2 yds. water level

GROUP 5: Water truck, 3 or more axles; Truck greaser and tire person ($0.50 additional for tire person); Pipeline and utility working truck driver, including winch truck and plastic fusion, limited to pipeline and utility work; Slurry truck driver

GROUP 6: Transit mix truck, 3 yds. or more; Dumpcrete truck, 6-1/2 yds. water level and over; Vehicle or combination of vehicles - 4 or more axles; Oil spreader truck; Dump truck, 16 yds. to 25 yds. water level

GROUP 7: A Frame, Swedish crane or similar; Forklift driver; Ross carrier driver

GROUP 8: Dump truck, 25 yds. to 49 yds. water level; Truck repair person; Water pull - single engine; Welder

GROUP 9: Truck repair person/welder; Low bed driver, 9 axles or over

GROUP 10: Dump truck - 50 yds. or more water level; Water pull - single engine with attachment

GROUP 11: Water pull - twin engine; Water pull - twin engine with attachments; Winch truck driver - $1.25 additional when operating winch or similar special attachments

GROUP 12: Boom Truck 17K and above

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

==========

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at https://www.dol.gov/agencies/whd/government-contracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

State Adopted Rate Identifiers

Classifications listed under the ""SA"" identifier indicate that the prevailing wage rate set by a state (or local) government was adopted under 29 C.F.R §1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 01/03/2024 reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

==========

END OF GENERAL DECISION"

City of Aliso Viejo
AGENDA ITEM

DATE: November 20, 2024

TO: Mayor and City Council

FROM: So Kim, Community Development Director

SUBJECT: FOURTH AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT FOR STC TRAFFIC, INC. FOR ON-CALL TRAFFIC ANALYSIS

Recommended Action:

Approve and authorize the City Manager to execute a fourth amendment to the professional services agreement with STC Traffic, Inc. to extend the agreement to June 30, 2026.

Fiscal Impact:

There will be no fiscal impact as project applicants will be required to submit deposits up front to cover the cost of STC Traffic, Inc. services.

Discussion:

In September 2022, the City Manager authorized a professional services agreement with STC Traffic, Inc. (STC) to peer review traffic analyses submitted by applicants for development projects, with a budget of $50,000, an initial term ending in December 2022, and with options to renew the agreement for two additional one-year terms through 2024.

In December 2022, the City Manager approved the first amendment, extending the agreement term by one year to December 31, 2023. In August 2023, the City Council approved a second amendment, increasing the total compensation from $50,000 to $100,000. In December 2023, the City Manager approved a third amendment, extending the agreement for an additional year, now ending on December 30, 2024.

Staff is requesting Council approval to extend the agreement beyond the original renewal term to June 2026 to allow STC to complete review of projects already in progress. There will be no fiscal impact as the current agreement amount is sufficient for the remaining projects and will be paid by project applicants through deposit accounts. Staff will conduct a Request for Proposal per the Purchasing Policy for on-call traffic analysis for new development projects.

Attachments:

1. Original Agreement
2. Fourth Agreement Amendment

CITY OF ALISO VIEJO
PROFESSIONAL SERVICES AGREEMENT
FOR
TRAFFIC ENGINEERING AND
TRANSPORTATION PLANNING SERVICES

1. PARTIES AND DATE.

This Agreement is made and entered into this 7th day of September, 2022, by and between the City of Aliso Viejo, a municipal corporation organized under the laws of the State of California with its principal place of business at 12 Journey, Suite 100, Aliso Viejo, California 92656 ("City") and **STC TRAFFIC, INC.**, a **CORPORATION**, with its principal place of business at **5973 AVENIDA ENCINAS, SUITE 218, CARLSBAD, CA 92008** ("Consultant"). City and Consultant are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

2.1 Consultant.

Consultant desires to perform and assume responsibility for the provision of professional **TRAFFIC ENGINEERING AND TRANSPORTATION PLANNING SERVICES** consultant services required by the City on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing professional **TRAFFIC ENGINEERING AND TRANSPORTATION PLANNING SERVICES** consultant services to public clients, is licensed in the State of California, and is familiar with the plans of City.

2.2 Project.

City desires to engage Consultant to render such services for the **TRAFFIC ENGINEERING AND TRANSPORTATION PLANNING SERVICES** project ("Project") as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional **TRAFFIC ENGINEERING AND TRANSPORTATION PLANNING SERVICES** consultant services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from **SEPTEMBER 6, 2022** to **DECEMBER 31, 2022** unless earlier terminated as provided herein. The City Manager shall have the unilateral option, at its sole discretion, to renew this Agreement annually for no more than

two additional one-year terms. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines.

3.2 Responsibilities of Consultant.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Consultant on an independent contractor basis and not as an employee. Consultant shall complete, execute, and submit to City a Request for Taxpayer Identification Number and Certification (IRS FormW-9) prior to commencement of any Services under this Agreement. Neither City, nor any of its officials, officers, directors, employees or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services.

3.2.2.1 Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, City shall respond to Consultant's submittals in a timely manner. Upon request of City, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.2.2 Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing Party. For purposes of this Agreement, such circumstances include a Force Majeure Event. A Force Majeure Event shall mean an event that materially affects a Party's performance and is one or more of the following: (1) Acts of God or other natural disasters; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities (including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the Services); (4) strikes and other organized labor action occurring at the site and the effects thereof on the Services, only to the extent such strikes and other organized labor action are beyond the control of Consultant and its subcontractors, and to the extent the effects thereof cannot be avoided by use of replacement workers; and (5) pandemics, epidemics or quarantine restrictions. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders,

rules to protect the public health, welfare and safety, and other actions of a public agency applicable to the Services and Agreement.

3.2.2.3 Should a Force Majeure Event occur, the non-performing Party shall, within a reasonable time of being prevented from performing, give written notice to the other Party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Force Majeure Events and/or delays, regardless of the Party responsible for the delay, shall not entitle Consultant to any additional compensation. Notwithstanding the foregoing in this section, the City may still terminate this Agreement in accordance with the termination provisions of this Agreement.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of City.

3.2.4 Substitution of Key Personnel. Consultant has represented to City that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Consultant cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the City, or who are determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the City. The key personnel for performance of this Agreement are as follows: **DAVID DIPIERRO**.

3.2.5 City's Representative. The City hereby designates the City Manager, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Contract. The City Manager hereby designates **COMMUNITY DEVELOPMENT DIRECTOR**, or his or her designee, as the City's contact for the implementation of the Services hereunder. Consultant shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.6 Consultant's Representative. Consultant hereby designates **DAVID DIPIERRO**, or his or her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards

generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10 Insurance.

3.2.10.1 Time for Compliance. Consultant shall not commence Work under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Consultant shall not allow any subconsultant to commence work on any subcontract until it has provided evidence satisfactory to the City that the subconsultant has secured all insurance required under this section.

3.2.10.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder and without limiting the indemnity provisions of the Agreement, the Consultant in partial performance of its obligations under such Agreement, shall procure and maintain in full force and effect during the term of the Agreement, the following policies of insurance. If the existing policies do not meet the Insurance Requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so.

(a) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 0001, with minimum limits

of at least $1,000,000 per occurrence, and if written with an aggregate, the aggregate shall be double the per occurrence limit. Defense costs shall be paid in addition to the limits.

The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

(b) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1) with minimum limits of $1,000,000 each accident.

(c) Professional Liability: Professional Liability insurance with minimum limits of $1,000,000. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusions that may potentially affect the work to be performed (for example, any exclusions relating to lead, asbestos, pollution, testing, underground storage tanks, laboratory analysis, soil work, etc.).

If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least three (3) years from termination or expiration of this Agreement.

(d) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than $1,000,000 per accident for bodily injury and disease.

3.2.10.3 Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for approval.

(a) The policy or policies of insurance required by Section 3.2.10.2 (a) Commercial General Liability and (c) Contractor's Pollution Liability shall be endorsed to provide the following:

(1) Additional Insured: The City of Aliso Viejo, its officials, officers, employees, agents, and volunteers shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement.

Additional Insured Endorsements shall not (1) be restricted to "ongoing operations"; (2) exclude "contractual liability"; (3) restrict coverage to "sole" liability of Consultant; or (4) contain any other exclusions contrary to the Agreement.

(2) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(b) The policy or policies of insurance required by Section 3.2.10.2 (b) Automobile Liability and (d) Professional Liability shall be endorsed to provide the following:

(1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(c) The policy or policies of insurance required by Section 3.2.10.2 (e) Workers' Compensation shall be endorsed to provide the following:

(1) Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

(2) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

3.2.10.4 Primary and Non-Contributing Insurance. All insurance coverages shall be primary and any other insurance, deductible, or self-insurance maintained by the indemnified parties shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

3.2.10.5 Waiver of Subrogation. Required insurance coverages shall not prohibit Consultant from waiving the right of subrogation prior to a loss. Consultant shall waive all subrogation rights against the indemnified parties. Policies shall contain or be endorsed to contain such provisions.

3.2.10.6 Deductible. Any deductible or self-insured retention must be approved in writing by the City and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

3.2.10.7 Evidence of Insurance. The Consultant, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates and endorsements on forms approved by the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

3.2.10.8 Failure to Maintain Coverage. Consultant agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the City. The City shall have the right to withhold any payment due Consultant until Consultant has fully complied with the insurance provisions of this Agreement.

In the event that the Consultant's operations are suspended for failure to maintain required insurance coverage, the Consultant shall not be entitled to an extension of time for completion of the Services because of production lost during suspension.

3.2.10.9 Acceptability of Insurers. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

3.2.10.10 Insurance for Subconsultants. All Subconsultants shall be included as additional insureds under the Consultant's policies, or the Consultant shall be responsible for causing Subconsultants to purchase the appropriate insurance in compliance with the terms of these Insurance Requirements, including adding the City as an Additional Insured to the Subconsultant's policies.

3.2.11 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions where applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subconsultants, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed **FIFTY THOUSAND** DOLLARS **($50,000.00)** ("Total Compensation") without written approval of City's **CITY MANAGER.** Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation.

Consultant shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within 45 days of receiving such statement, review the statement and pay all non-disputed and approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.4 Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from the City.

3.3.5 Prevailing Wages; DIR Registration.

3.3.5.1 Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. It is the intent of the parties to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code within this Agreement, and Consultant shall therefore comply with such Labor Code sections to the fullest extent required by law. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.3.5.2 If the Services are being performed as part of an applicable "public works" or "maintenance" project, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the project and require the same of any subconsultants. This project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR.

3.4 Accounting Records.

3.4.1 Maintenance and Inspection. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. City may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to City, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause. The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under this Agreement.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant:

STC Traffic, Inc.
5973 Avenida Encinas, Suite 218
Carlsbad, CA 92008

City:

City of Aliso Viejo
12 Journey, Suite 100
Aliso Viejo, CA 92656
Attn: **COMMUNITY DEVELOPMENT DIRECTOR**

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Ownership of Materials and Confidentiality.

3.5.3.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). Consultant shall require all subconsultants to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

3.5.3.2 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of City, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any

magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

3.5.3.3 Confidential Information. The City shall refrain from releasing Consultant's proprietary information ("Proprietary Information") unless the City's legal counsel determines that the release of the Proprietary Information is required by the California Public Records Act or other applicable state or federal law, or order of a court of competent jurisdiction, in which case the City shall notify Consultant of its intention to release Proprietary Information. Consultant shall have five (5) working days after receipt of the Release Notice to give City written notice of Consultant's objection to the City's release of Proprietary Information. Consultant shall indemnify, defend and hold harmless the City, and its officers, directors, employees, and agents from and against all liability, loss, cost or expense (including attorney's fees) arising out of a legal action brought to compel the release of Proprietary Information. City shall not release the Proprietary Information after receipt of the Objection Notice unless either: (1) Consultant fails to fully indemnify, defend (with City's choice of legal counsel), and hold City harmless from any legal action brought to compel such release; and/or (2) a final and non-appealable order by a court of competent jurisdiction requires that City release such information.

3.5.4 Fraud Policy. Consultant shall provide a copy of the City's Fraud Prevention Policy to each of its employees assigned to perform Services under this Agreement. Consultant shall submit to the City a statement signed by an authorized representative for Consultant certifying receipt of the City's Fraud Prevention Policy. A finding by the City that any of Consultant's employees have committed fraud against the City or have violated the City's Fraud Prevention Policy shall be grounds for appropriate discipline, up to and including such employee's removal from performance of this Agreement at City's request and/or termination of this Agreement. Consultant shall reimburse the City for any costs and expenses associated with fraud against the City.

3.5.5 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.6 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.5.7 Indemnification.

3.5.7.1 To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), 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 of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all damages,

expert witness fees and attorneys fees and other related costs and expenses except such loss or damage caused by the sole negligence or willful misconduct of the City. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement and shall not be restricted to insurance proceeds, if any, received by the Consultant or the City, its officials, officers, employees, agents or volunteers.

3.5.7.2 If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

3.5.8 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

3.5.9 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Orange County.

3.5.10 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.6 City's Right to Employ Other Consultants. City reserves right to employ other consultants in connection with this Project.

3.7 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.8 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.9 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.10 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.11 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.12 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.13 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.14 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.15 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.16 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.17 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.18 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.19 Declaration of Political Contributions. Consultant shall, throughout the term of this Agreement, submit to City an annual statement in writing declaring any political contributions of money, in-kind services, or loan made to any member of the City Council within the previous twelve-month period by the Consultant and all of Consultant's employees, including any employee(s) that Consultant intends to assign to perform the Services described in this Agreement.

3.20 Subcontracting.

3.20.1 Prior Approval Required. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

[Signatures on following page.]

SIGNATURE PAGE TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF ALISO VIEJO AND STC TRAFFIC, INC.

IN WITNESS WHEREOF, the parties have executed this Professional Services Agreement on this 7th day of September, 2022.

CITY OF ALISO VIEJO

Approved:

By: David Doyle (Sep 27, 2022 20:37 PDT)
David Doyle
City Manager

ATTEST:

By: Mitzi Ortiz (Sep 28, 2022 08:17 PDT)
Mitzi Ortiz, MMC
City Clerk

APPROVED AS TO FORM:

Best Best & Krieger LLP
City Attorney

APPROVED AS TO COMPLIANCE WITH BUDGET

By: Ann Eifert (Sep 27, 2022 13:32 PDT)
Ann Eifert
Director of Financial Services

STC TRAFFIC, INC.

[If Corporation, TWO SIGNATURES, President OR Vice President AND Secretary OR Treasurer REQUIRED]

By: Sandra Sass

Its: Chief Financial Officer

Printed Name: Sandra Sass

By:

Its: Vice President

Printed Name: Stephen Manganiello, Jr.

CITY OF ALISO VIEJO

DECLARATION OF POLITICAL CONTRIBUTIONS

Using the space provided below, please list any political contributions of money, in-kind services, or loans made to any member of the City Council within the last twelve (12) months by Consultant and all of Consultant's employees, including any employee(s) that applicant intends to assign to perform the work or services described in this Agreement:

None

To the best of my knowledge, I declare under penalty of perjury that the foregoing is true and was executed at:

Carlsbad, San Diego, California
City/County/State

09/07/2022
Date

STC Traffic, Inc.
Name of Business

Sandra Sass, CFO
Print Name

Sandra Sass
Signature

NOTE: THIS DECLARATION IS INCLUDED AS PART OF THE AGREEMENT AND MUST BE SIGNED AND ATTACHED HERETO.

CITY OF ALISO VIEJO

ACKNOWLEDGMENT OF RECEIPT OF FRAUD POLICY

I hereby acknowledge that I have received a copy of the City's "Fraud Prevention Policy" dated October 1, 2008. I understand that I am to promptly read its contents and distribute copies to employees assigned to perform Services for the City of Aliso Viejo.

To the extent that provisions of this policy conflict with previously issued policies or practices, whether or not such policies and practices were contained in written policies, this policy shall prevail.

STC Traffic, Inc.	Sandra Sass, CFO
Name of Business	Print Name
Sandra Sass	
Signature	
09/07/2022	
Date	

EXHIBIT "A"

SCOPE OF SERVICES

Proposed Services

STC offers a comprehensive suite of services to support all of the City's transportation needs, as highlighted below.

Traffic Engineering Design Services

- Traffic Signal Plans
- Signing and Striping Plans
- Traffic Control Plans
- Street Lighting/Electrical Design
- Roadway and Intersection Design
- Complete Streets Design
- Bicycle and Pedestrian Facilities Design (including Cycle Tracks and Multi-Use Paths)
- Roundabout Design
- Traffic Calming Measures
- ADA Compliance
- GIS Analysis and Exhibits
- Engineering Plan Checks
- Traffic Signal Assessments
- Field Reviews
- Signal Warrant Analysis
- Multi-Way Stop Warrant Analysis
- Sight Distance Evaluations
- Communication Systems Design (including Fiber Optic Traffic Signal Interconnect)
- Signal Timing and Coordination Plans
- Traffic Data Collection
- Agency Permits
- Utility Coordination

Transportation Planning Services

- Traffic Impact Analysis and Reviews
- VMT Analysis and Reviews
- Trip Generation Analysis
- Parking Studies
- Corridor Studies
- Feasibility Studies/Alternatives Analysis
- Complete Streets Studies
- Neighborhood Traffic Calming Assessments
- Local Mobility Assessments
- School Zone Safety Evaluations/Walk Audits
- Local Road Safety Plans
- Active Transportation Plans
- Safe Routes to Schools Plans
- Circulation and Mobility Elements
- CEQA/NEPA Support
- Transportation and Land Use Models
- Collision Analysis and Safety Countermeasures
- Grant Writing and Management
- Community and Stakeholder Engagement
- City Council and Planning Commission Support

Traffic Engineering Systems and Operations Services

- Constructability Reviews
- Construction Management
- Traffic Electrical Inspection Services
- Maintenance Reviews
- TMC Design, Operations and Management
- Agency Staff Training
- Performance Monitoring
- Traffic Signal Timing and Control Logic
- At-Grade Rail Crossing Operations
- Transit Priority Systems
- Traffic Signal and Comm. System Master Plans
- Bench Testing and Field Verifications
- Systems Integration
- Systems Diagnostics and Troubleshooting
- ITS Planning, Design and Implementation
- Communications and Network Engineering

EXHIBIT "B"

SCHEDULE OF SERVICES

The term of this Agreement shall be from September 7, 2022 to December 31, 2022, unless earlier terminated as provided herein. The City Manager shall have the unilateral option, at its sole discretion, to renew this Agreement annually for no more than two additional one-year terms. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines.

Consultant shall complete the tasks described in Exhibit "A" within the schedules and timelines acceptable to the City and otherwise complete the Services within the term of the Agreement. In the event that this Agreement is renewed pursuant to Section 3.1.2, the renewal period shall be from January 1, 2023 to December 31, 2023.

EXHIBIT "C"

COMPENSATION

In the event that this Agreement is renewed pursuant to Section 3.1.2, the rates set forth above may be adjusted each year at the time of renewal described in Exhibit "B" in accordance with the annual average Consumer Price Index of the prior calendar year, All Urban Consumers, Los Angeles-Long Beach-Anaheim up to a maximum percentage of five percent (5%).

See Attached Fee Schedule.

STC Fee Schedule

Executive/Management Classifications	**Hourly Rate**
Principal-In-Charge	$270
Senior Principal Manager	$250
Principal Manager	$230
Senior Project Manager	$210
Project Manager	$190
Professional Engineering Classifications	
Principal Engineer	$220
Senior Project Engineer	$200
Project Engineer	$180
Associate Engineer	$150
Assistant Engineer	$120
Professional Planning Classifications	
Principal Planner	$190
Senior Project Planner	$170
Project Planner	$150
Associate Planner	$130
Assistant Planner	$110
Technical/Specialized Classifications	
Senior Technical Specialist	$200
Construction Manager	$190
Project Technical Specialist	$180
Construction Engineer/Inspector	$170
Other Classifications	
Intern	$90
Expert Witness	$350

*The fee schedule includes an hourly range for classifications that are based on years of experience and expertise in the industry.

STC Traffic is a local business and there are no direct costs for mileage.

Outsourced reimbursable expenses such as printing and reproduction, deliveries and overnight shipping, computerized plotting, materials, etc., will be charged to the client at the consultant's cost without mark-up.

Agreement - STC Traffic

Final Audit Report 2022-09-28

Created:	2022-09-23
By:	Mitzi Ortiz (mortiz@avcity.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAsv8b6U2NdCif0cVA5kh4sD861EWzpb5O

"Agreement - STC Traffic" History

Document created by Mitzi Ortiz (mortiz@avcity.org)
2022-09-23 - 1:15:37 AM GMT- IP address: 12.159.99.2

Document emailed to Ann Eifert (aeifert@avcity.org) for signature
2022-09-23 - 1:16:43 AM GMT

Email viewed by Ann Eifert (aeifert@avcity.org)
2022-09-23 - 1:44:17 AM GMT- IP address: 104.47.56.254

Document e-signed by Ann Eifert (aeifert@avcity.org)
Signature Date: 2022-09-27 - 8:32:53 PM GMT - Time Source: server- IP address: 70.183.28.2

Document emailed to David Doyle (ddoyle@avcity.org) for signature
2022-09-27 - 8:32:56 PM GMT

Email viewed by David Doyle (ddoyle@avcity.org)
2022-09-28 - 3:36:49 AM GMT- IP address: 104.47.57.254

Document e-signed by David Doyle (ddoyle@avcity.org)
Signature Date: 2022-09-28 - 3:37:03 AM GMT - Time Source: server- IP address: 166.137.163.42

Document emailed to Mitzi Ortiz (mortiz@avcity.org) for signature
2022-09-28 - 3:37:05 AM GMT

Email viewed by Mitzi Ortiz (mortiz@avcity.org)
2022-09-28 - 3:13:42 PM GMT- IP address: 104.47.57.254

Document e-signed by Mitzi Ortiz (mortiz@avcity.org)
Signature Date: 2022-09-28 - 3:17:33 PM GMT - Time Source: server- IP address: 70.183.28.2- Signature captured from device with phone number XXXXXXX9811

Agreement completed.
2022-09-28 - 3:17:33 PM GMT

CITY OF ALISO VIEJO

FOURTH AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT
FOR TRAFFIC ENGINEERING AND TRANSPORTATION PLANNING SERVICES

1. PARTIES AND DATE.

This Fourth Amendment to the Professional Services Agreement for Traffic Engineering and Transportation Planning Services ("Fourth Amendment") is entered into on the ____ day of _____, 2024, by and between the City of Aliso Viejo (hereinafter referred to as the "City") and **STC Traffic, Inc**, a **corporation** (hereinafter referred to as the "Consultant"). City and Consultant are sometimes collectively referred to herein as the "Parties."

2. RECITALS.

2.1 Agreement. The Parties entered into an agreement entitled **Professional Services Agreement for Traffic Engineering and Transportation Planning Services** dated **September 7, 2022** ("Agreement").

2.2 First Amendment. The Parties entered into a First Amendment to extend the agreement for an additional one-year term, ending December 30, 2023.

2.3 Second Amendment. The Parties entered into a Second Amendment to increase the compensation amount by $50,000, to a total of $100,000.

2.4 Third Amendment. The Parties entered into a Third Amendment to extend the agreement for an additional one-year term, ending December 30, 2024.

2.5 Fourth Amendment. The Parties now desire to enter into a Fourth Amendment to extend the agreement to June 30, 2026.

3. TERMS.

3.1 Term.

Pursuant to Section 3.1.2 of the Agreement, the City hereby exercises the option to renew the Agreement and extend the term of the Agreement from December 31, 2024 to June 30, 2026, unless earlier terminated as provided in the Agreement.

3.2 Declaration of Political Contributions. Prior to the City's approval of this Amendment, Consultant shall submit to City a statement in writing declaring any political contributions of money, in-kind services, or loan made to any member of the City Council within the previous twelve-month period by the Consultant and all of their employees, including any employee(s) that Consultant intends to assign to perform the Services described in this Fourth Amendment.

3.3 Continuing Effect of Agreement. Except as otherwise specifically set forth in this Fourth Amendment, the remaining provisions of the Agreement shall remain in full force and effect. From and after the date of this Fourth Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this Fourth Amendment.

3.4 Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Fourth Amendment.

3.5 Counterparts. This Fourth Amendment may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument.

SIGNATURE PAGE FOR FOURTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT FOR TRAFFIC ENGINEERING AND TRANSPORTATION PLANNING SERVICES BETWEEN THE CITY OF ALISO VIEJO AND STC TRAFFIC, INC.

IN WITNESS WHEREOF, the parties have executed this Fourth Amendment to Agreement on this ____ day of _____, 2024.

CITY OF ALISO VIEJO

Approved:

By:_____
Mitzi Ortiz
City Manager

ATTEST:

By:_____
Lauren Torres
Deputy City Clerk

APPROVED AS TO FORM:

_____
Best Best & Krieger LLP
City Attorney

APPROVED AS TO COMPLIANCE WITH BUDGET

By:_____
Ann Eifert
Director of Financial Services

STC TRAFFIC, INC.

[TWO SIGNATURES, President OR Vice President AND Secretary OR Treasurer REQUIRED]

By:_____

Its:_____

Printed Name:_____

By:_____

Its:_____

Printed Name:_____

CITY OF ALISO VIEJO

DECLARATION OF POLITICAL CONTRIBUTIONS

Using the space provided below, please list any political contributions of money, in-kind services, or loans made to any member of the City Council within the last twelve (12) months by Consultant and all of Consultant's employees, including any employee(s) that applicant intends to assign to perform the work or services described in this Agreement:

_____

_____

_____

_____

_____

_____

_____

To the best of my knowledge, I declare under penalty of perjury that the foregoing is true and was executed at:

_____ _____

City/County/State Date

_____ _____

Name of Business Print Name

_____

Signature

NOTE: THIS DECLARATION IS INCLUDED AS PART OF THE AGREEMENT AND MUST BE SIGNED AND ATTACHED HERETO.

CITY OF ALISO VIEJO

ACKNOWLEDGMENT OF RECEIPT OF FRAUD POLICY

I hereby acknowledge that I have received a copy of the City's "Fraud Prevention Policy" dated October 1, 2008. I understand that I am to promptly read its contents and distribute copies to employees assigned to perform Services for the City of Aliso Viejo.

To the extent that provisions of this policy conflict with previously issued policies or practices, whether or not such policies and practices were contained in written policies, this policy shall prevail.

Name of Business	Print Name
Signature	
Date	

EXHIBIT "A"
SCOPE OF SERVICES

STC offers a comprehensive suite of services to support all of the City's transportation needs, as highlighted below.

Traffic Engineering Design Services

- Traffic Signal Plans
- Signing and Striping Plans
- Traffic Control Plans
- Street Lighting/Electrical Design
- Roadway and Intersection Design
- Complete Streets Design
- Bicycle and Pedestrian Facilities Design (including Cyde Tracks and Multi-Use Paths)
- Roundabout Design
- Traffic Calming Measures
- ADA Compliance
- GIS Analysis and Exhibits
- Engineering Plan Checks
- Traffic Signal Assessments
- Field Reviews
- Signal Warrant Analysis
- Multi-Way Stop Warrant Analysis
- Sight Distance Evaluations
- Communication Systems Design (including Fiber Optic Traffic Signal Interconnect)
- Signal nming and Coordination Plans
- Traffic Data Collection
- Agency Permits
- Utility Coordination

Transportation Planning Services

- Traffic Impact Analysis and Reviews
- VMT Analysis. and Reviews
- Trip Generation Analysis
- Parking Studies
- Corridor Studies
- Feasibility Studies/Alternatives Analysis
- Complete Streets Studies
- Neighborhood Traffic Calming Assessments
- Local **Mobility** Assessments
- School Zone Safety Evaluations/Walk Audits
- Local Road Safety Plans
- Active Transportation Plans
- Safe Routes to Schools Plans
- Circulation and Mobility Elements
- CEOA/NEPA Support
- Transportation and Land Use Models
- Collision Analysis and Safety Countermeasures
- Grant Writing and Management
- Community and Stakeholder Engagement
- City Council and Planning Commission Support

Traffic Engineering Systems and Operations Services

- Constructability Reviews
- Construction Management
- Traffic Electrical Inspection Services Plans
- Maintenance Reviews
- TMC Design, Operations and Mgmt
- Agency Staff Training
- Performance Monitoring
- Traffic Signal Tuning & Control Logic
- At-Grade Rail Crossing Operations
- Transit Priority Systems
- Traffic Signal and Comm. System Master
- Bench Testing and Field Verifications
- Systems Integration
- Systems Diagnostics and Troubleshooting
- ITS Planning. Design and Implementation
- Communications &Network Engineering

EXHIBIT "B"
COMPENSATION

Executive/Management Classifications	Hourly Rate
Principal-In-Charge	$290
Senior Principal Manager	$270
Principal Manager	$260
Senior Project Manager	$240
Project Manager III	$220
Project Manager II	$210
Project Manager I	$200
Professional Engineering Classifications	
Principal Engineer	$230
Senior Project Engineer	$210
Project Engineer III	$190
Project Engineer II	$160
Project Engineer I	$140
Professional Planning Classifications	
Principal Planner	$200
Senior Project Planner	$180
Project Planner III	$170
Project Planner II	$140
Project Planner I	$120
Technical/Specialized Classifications	
Senior Systems Engineer/Technical Specialist	$220
Systems Engineer / Technical Specialist III	$200
Systems Engineer / Technical Specialist II	$170
Systems Engineer / Technical Specialist I	$150
Construction Manager	$240
Senior Construction Engineer/Inspector	$220
Construction Engineer/Inspector III	$190
Construction Engineer/Inspector II	$160
Construction Engineer/Inspector I	$140
Senior Drafter	$160
Drafter III	$150
Drafter II	$130
Drafter I	$110
Other Classifications	
Intern	$100
Expert Witness	$400

STC Traffic is a local business and there are no direct costs for mileage.

Outsourced reimbursable expenses such as printing and reproduction, deliveries and overnight shipping, computerized plotting, materials, etc., will be charged to the client at the consultant's cost without mark-up.

City of Aliso Viejo
AGENDA ITEM

DATE: November 20, 2024

TO: Mayor and City Council

FROM: Rose Rivera, Senior Planner
So Kim, Community Development Director

SUBJECT: STUDY SESSION FOR THE AVALON ALISO VIEJO MIXED-USE PROJECT

Recommended Action:

Conduct a public hearing to review the proposed plans for a mixed-used project, consider public testimony, and provide feedback to the Applicant.

Summary:

This is a follow-up to the first study session held on September 18, 2024. The study session will provide the City Council and the public with another opportunity to review and provide feedback on the proposed Avalon Aliso Viejo mixed-use project at 26501 Aliso Creek Road. The project is not subject to approval and no permits will be granted as a result of this study session.

Fiscal Impact:

None.

Background:

On September 18, 2024, the City Council held a study session for the proposed Avalon Aliso Viejo mixed-use development located at 26501 Aliso Creek Road ("Project"). Project background is provided in Table 1 below.

Table 1

PROJECT BACKGROUND	
Site Address	26501 Aliso Creek Road
Assessor's Parcel Number	629-101-16
Applicant/Agent	Mark Janda (Avalon Bay Communities, Inc.)

PROJECT BACKGROUND (CONTINUED)		
Property Owner		Value Rock Realty
General Plan Designation		High Density Residential/Town Center Commercial & Open Space
Zoning District		Specific Plan 2 (SP-2)
Site Size (Assessor's)		4.4 acres
Proposed Project Site Size (Assessor's)		4.4 acres
Existing Conditions		Surface parking and landscaping
SURROUNDING AREA		
Direction	**Land Use(s)**	**Zoning District(s)**
North	Retail/Commercial	Specific Plan 2 (SP-2)
South	Retail/Commercial	Town Center Commercial (TC)
East	Retail Commercial	Specific Plan 2 (SP-2)
West	Residential and Open Space	Specific Plan 1 (SP-1) Open Space (OS)

At the September 18th study session, concerns were raised by the City Council and the public regarding parking and traffic, potential view impacts created by the height of the building, geological concerns related to slope stability, security, and impacts on the local schools. These topics will be discussed in further detail below.

Discussion:

The Project site is on an approximately 4.4-acre parcel at the northwest corner of Enterprise and Town Center (Figures 1 and 2). The Project proposes to remove the existing surface parking and landscaping to accommodate a mixed-use development that consists of the following:

- Five levels of residential units above the ground floor commercial space
    - 343 residential units
        - 309 market rate units
        - 34 affordable units (26 moderate-income, five low-income, and three very low-income)
    - 17,273 square foot commercial space, 1,000 square foot leasing office, and 995 square foot mail room
- Eight levels of parking structure at the center
    - Seven levels above grade and one basement level
    - Rooftop amenity space for residents (clubhouse, patio seating, fitness area, pool/spa).

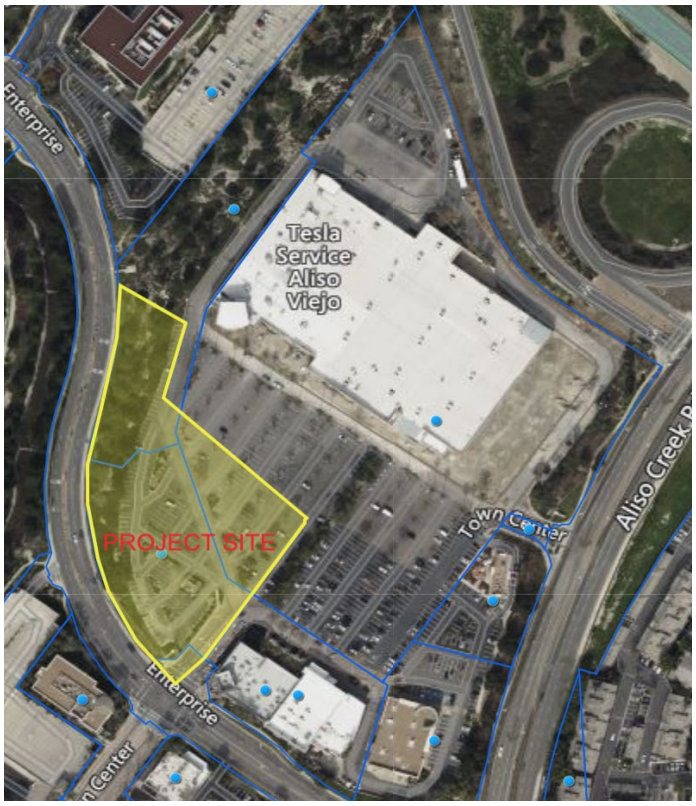
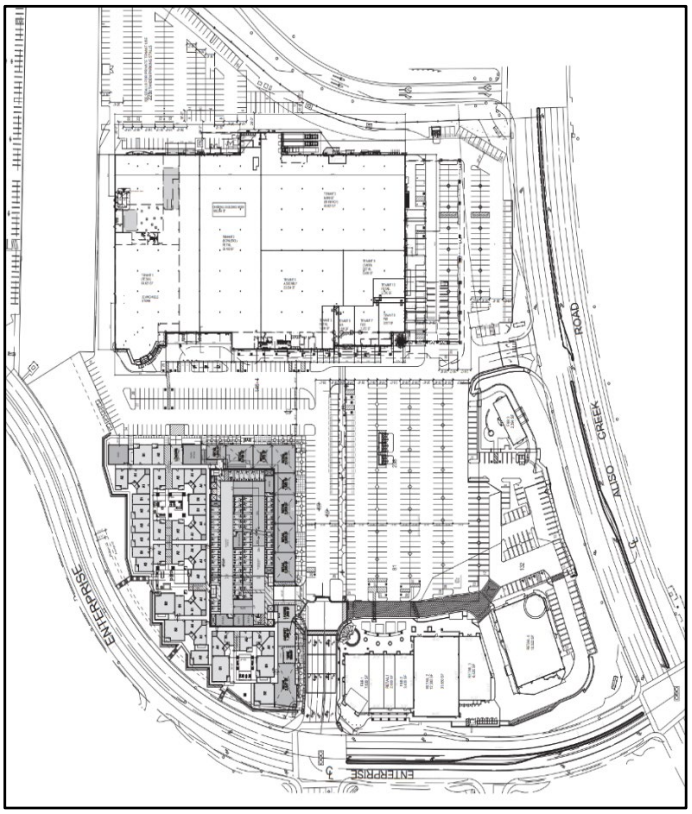


Figure 1. Project Location


Figure 2. Project Site Plan

As part of the Project, the Applicant requests the following entitlements:

1. Site Development Permit (SDP) - Pursuant to AVMC Section 15.74.020 to allow new building construction. The Project includes the development of a mixed-use project comprising of 343 dwelling units and 17,273 square feet of ground-floor retail/restaurant space over an existing parking area.

2. Specific Plan Amendment (SPA) - Pursuant to AVMC Section 15.78.030 to amend the Commons Specific Plan No. 2 as follows:

    - Reconfigure the existing "High Density Residential Development" zone (the "SP2-RH Zone") to approximately 4.4-acre subsection of the Specific Plan area as shown in Image 1;
    - Permit general retail and food service uses, including full-service restaurants, retail sale of take-out food, coffee houses, outdoor dining, medical spa, and medical office uses no greater than 2,500 sf, in the ground floor commercial space;
    - Increase the number of dwelling units from 140 to 343 throughout the Specific Plan;
    - Increase the permitted density in the SP2-RH Zone from 30 to 78 dwelling units per acre;
    - Apply residential parking requirements from the Aliso Viejo Municipal Code;
    - Decrease the drive aisles from 26 feet to 24 feet;
    - Permit up to 20 percent of the parking spaces to be compact (9'-0" x 16'-0");
    - Reduce the north setback from 20 feet to 15 feet; and
    - Increase the height limit on the "Enterprise Side" from 80 to 89 feet.

3. Vesting Tentative Map (VTM) - Pursuant to AVMC Section 14.08.030 to subdivide the Project site into two lots: one lot containing the commercial uses and the other for the residential uses.

4. Development Agreement - Pursuant to AVMC Section 15.82.010 to provide further site-specific regulations and community benefits in connection with the Project.

Project Design

The Project consists of a six-story mixed-use building which would wrap around an eight-level parking structure and rooftop residential amenity space. The building will range in height from 68 feet (top of residential parapet) to 89 feet (top of the rooftop amenity parapet). The building exterior will feature a stucco finish with composite siding.

Decorative elements will include awnings, balconies with a variety of railing styles, and perforated metal panels. The ground floor non-residential spaces will have a glass storefront. The project will maintain a minimum setback of 15 feet and an average setback of 20 feet from Enterprise. For specific massing and scale purposes, provided below are conceptual renderings of the proposed project. Additional renderings are included in Attachment 1.



Figure 3. Conceptual Rendering as viewed from Enterprise and Town Center



Figure 4. South Elevation (Enterprise side)

General Plan and Zoning Compliance

The General Plan Land Use Element identifies the Commons shopping center as one of five sites in the City with the Community Benefit Overlay (“CBO”) area. CBO areas were established to allow alternative future development plans. The Land Use Element further states that development consistent with the Land Plan or a less intensive alternative can be allowed with an amended development agreement (“DA”). Accordingly in 2005, the City Council adopted The Commons Specific Plan (“SP”) for the Commons shopping center and executed a DA that established an alternative future development, including

development standards ("SP/2005 DA"). It should be noted that the 2005 DA has since expired.

Table 1 below compares the development standards and the project specifics of the General Plan Land Plan, SP/2005 DA, and the Project. The Applicant is proposing to amend certain development standards of the Specific Plan as shown in Table 1.

Table 1: Project Specifics

General Plan Land Plan	Specific Plan/2005 DA	Project
300 dwelling units 400,000 SF non-residential	140 dwelling units 396,570 SF non-residential	343 dwelling units 253,904 SF non-residential
	Building Height Max (Residential) 80' (Enterprise Side) 140' (East Side)	Building Height Max (Residential) 68'-89' (Enterprise Side) 89' (East Side)
	Number of Stories 11	Number of Stories 8 (including rooftop amenity area)
	Parking (Residential) 2 spaces/unit 0.25 spaces/unit for guests	Parking (Residential)[1] 1 space/studio 1.2 space/1 bedroom 2 space/2 or more bedroom 0.25 space/unit for guests
	Parking (Non-Residential) 840	Parking (Non-Residential) 1,013 (includes Tesla)
	Setbacks 15' min./20' avg. (Enterprise) 20' (North) 10' (East/West)	Setbacks 15' min./20' avg. (Enterprise) 15' (North) 10' (East/West)

Housing Element

The City's 6th Cycle Housing Element was adopted by the City Council in 2023 and certified by the California Housing and Community Development ("HCD") on June 24, 2024. The Housing Element identifies sites within the City that have adequate capacity to accommodate the total number of housing units required by the Regional Housing Needs Assessment ("RHNA") allocation. The Commons Specific Plan Area is one of the identified sites within the Housing Element. The project would provide 19 units fewer units than what is identified in the Housing Element; however, the City's remaining inventory can accommodate the shortfall that would be created if the project was approved in its

current configuration as shown in Table 2 below. Strikethrough font reflects the Housing Element number of units and red underlined text reflects the Project.

Table 2. Housing Element Site Inventory

Housing Element Sites	Very Low Income Units	Low Income Units	Moderate Income Units	Above Moderate Income Units	
Commons	~~9~~ 3	~~9~~ 5	~~18~~ 26	~~326~~ 309	
Freedom Lane	170	170	169	0	
ADUs	2	4	2	0	
Columbia	18	18	6	18	
Town Center	176	174	168	0	
Aliso Viejo Parkway	63	63	21	63	
35 Journey	18	18	6	18	
2A Liberty	34	34	33	0	
27231 Aliso Viejo Pkwy	36	36	36	0	
		~~526~~	~~459~~	~~425~~	1,917
	~~526~~ 520	522	467	408	~~1936~~
RHNA REQUIRED	390	214	205	386	1195

Development Agreement

The Project includes a Development Agreement ("DA") that would provide assurance to the property owner that it can implement the Project and continue its operation and that the conditions imposed by the City will not change after the approval of the Project. The Development Agreement was negotiated based on the Project scope of 343 residential units and 17,243 square feet of non-residential. In exchange, the Applicant has agreed to support the City and community by directly funding City services with a cash payment of $2,806,559.60 over two installments; and establish a 30-Year Community Facilities District (the "CFD"), providing an initial amount of $236,878.45 that grows 3.0% annually.

City Council and Public Comments

At the September 18th Study Session, comments were received regarding view impacts of the building, parking and traffic, geological concerns, security of the building, and the impacts the project would create on the local schools. A more detailed discussion of the public comments (shown as underlined text) and Staff's response (shown as regular text) is provided below. The Applicant also submitted a letter to the City in response to the public comments which is included as Attachment 2.

Parking and Traffic. Comments were received regarding pedestrian and cyclist safety, adequacy of parking spaces proposed by the Project and within the larger Commons at

Aliso Viejo Town Center ("Commons"); and increased traffic and congestion within the Commons and adjacent streets.

Vehicular access to the Project site would be provided via two existing driveways. One driveway would provide access from Town Center via Enterprise to the southeast of the site; a second driveway would provide access via Aliso Creek Road to the east. The Project would provide a total of 590 automobile parking spaces for residents (504) and guests (86) in the parking structure. Vehicle parking for the proposed commercial uses and the leasing office would be accommodated in the existing surface parking lot adjacent to the Project site. A bicycle room would be provided within the subterranean level of the parking garage, providing long-term storage of 50 bicycles for the residents.

Pedestrian access to the Project site would be provided from a pedestrian walkway along Town Center and from three outdoor staircases from Enterprise. A pedestrian walkway would be provided along the southeastern and northeastern boundaries of the proposed mixed-use structure. The commercial uses would be accessible from ground floor entrances at the eastern and northern boundaries of the proposed mixed-use structure. Incorporation of pedestrian walkways will ensure that residents and patrons can move safely through the Project. Additionally, the Applicant will implement pavement marking and signage to increase pedestrian/cyclist safety.

The Project proposes a total of 590 parking spaces that includes 504 for residential units and 86 for guests (see Table 3 below).

Table 3: Proposed Parking

Residential Parking Ratio	Project
1 space / studio	1 space x 48 units = 48
1.2 space / 1 bedroom	1.2 space x 168 units = 202
2 spaces / 2 or more bedrooms	2 spaces x 127 units = 254
0.25 / unit for guests	0.25 x 343 = 86

While the number of guest parking complies with the Specific Plan, the number of residential parking does not comply. The Applicant is requesting to amend the Specific Plan to comply with the Aliso Viejo Municipal Code ("AVMC") parking requirements instead of the Specific Plan. Table 4 below compares the parking requirements of the AVMC, Specific Plan, and the Project.

Table 4. Parking Comparison

	AVMC Requirement	Specific Plan Requirement	Proposed Project
Residential	504	686	504
Guest	172	86	86
Non-Residential	1,110	1,275	1,013

A parking analysis was prepared by the Applicant's consultant, Linscott, Law and Greenspan Engineers ("LLG"), which was peer-reviewed by City staff and the City's consultant (STC Traffic Engineers) to determine whether the number of parking spaces would be sufficient for the Project. In LLG's estimation, the Parking Study shows that the Project's parking supply of 590 spaces will be adequate in serving the residential Project's parking demand, and that parking needs of customers and employees of the retail components of the Project will be sufficiently accommodated by sharing parking within The Commons' unreserved supply of 784 spaces (excluding 225 spaces reserved for Tesla and four Tesla test drive spaces).

LLG also prepared a Traffic Analysis (November 28, 2023), which included a driveway queuing analysis to determine if the spillover queue on Town Center at Enterprise can be accommodated within the transition area of the turn pocket or on-site without affecting public roadways. The Traffic Analysis was reviewed by the City's Public Works Department and STC to ensure that adequate vehicle queuing is provided at Enterprise and Town Center. Based on their review, with the implementation of the following mitigation measures, traffic impacts resulting from the Project would be reduced to a less than significant level.

1. Restripe the eastbound left turn pocket at Town Center and Enterprise to provide additional storage space to accommodate the queue. The length of the turn pocket would be determined in consultation with and require the approval of the City's Public Works Department.
2. Either upgrade the traffic signal to provide a westbound right turn overlap at Town Center and Enterprise or provide payment to the City to install the improvements.

Potential view impacts created by the height of the building. Concerns were raised regarding the potential view obstruction caused by the proposed building and the height of the building in relation to adjacent buildings. The Project site is located in an area surrounded by multi-story office, residential, and commercial buildings. The Project at 89' would be taller than the existing commercial buildings within the immediate area, including the Hoag Medical building located on the southwest corner of Enterprise and Town Center Drive, which has an approximate height of 54 feet. However, the Project would not substantially impact Viewscape Corridors or Landscape Corridors designated by the General Plan. The Project would not be visible from designated Viewscape Corridors, including El Toro Road and Wood Canyon Drive, due to distance and topography. Although the Project may be visible intermittently from designated Landscape Corridors, including SR-73 and Aliso Creek Road, long-range views afforded to motorists traveling along these roadways would not be substantially altered, as the proposed development would be setback at least 515 feet from these roadways. Further, the Project is designed to tuck into the adjacent slope to the southwest that visually reduces the number of stories and contains design features like varied setbacks and articulation to further reduce apparent mass and visual impact from surrounding areas.

Geological concerns related to slope stability. Comments were received related to the stability of the adjacent slope as a result of necessary grading for the Project. The Project

proposes to excavate portions of the slope and construct a retaining wall to stabilize the remainder of the slope and accommodate the new buildings. The proposed grading plan and associated construction would be required to comply with all applicable regulations in the California Building Code, as well as the recommendations of the soil engineering and engineering geology reports pursuant to AVMC Chapter 13.08, *Grading and Excavation Code*. Inspections would be required throughout the grading and construction process to ensure compliance. Compliance with the City's established regulatory framework and standard engineering practices and design criteria would reduce the likelihood of impacts from seismic-related hazards.

Security. Comments were received regarding safety and security measures for the proposed Project. According to the Applicant, various safety measures will be implemented including the following:

- Lighting: Use of higher lumen lights and strategic placement in areas for higher security, such as access entries, hallways, pathways and parking lots/garages.
- Landscaping: Use of landscape design that would not result in potential hiding areas.
- Surveillance: Use of surveillance including security guards and patrol. Security cameras will also be placed in common areas and entries.
- Access Control: Vehicle entry transponders will control access to the parking garage. Doors leading into the community will be locked and would only be accessed by tenants via a digital security app.

Further, the Project is required to comply with the AVMC's Crime Prevention Through Environmental Design ("CPTED") regulations, which is a strategy for designing the physical environment, including buildings or spaces, to minimize opportunities for crime to occur in specific places.

Impacts on the local schools. Comments were received that population growth resulting from Project implementation would overburden the local schools. Based on the 2022 Developer Fee Justification Study conducted by the Capistrano Unified School District ("CUSD"), the Project is anticipated to generate approximately 15 students. The 2022 Developer Fee Justification Study conducted by CUSD concluded that while there is capacity for students in grades transitional kindergarten through grade five, student capacity at the CUSD is currently exceeded for grades six through 12. However, the Project would be subject to payment of school impact fees in accordance with Senate Bill 50 (SB 50). Developer fees collected by CUSD pursuant to SB 50 are used for the provision of additional and reconstructed or modernized school facilities. If the Project were to be approved, the Applicant would be required to pay all statutory fees in place at the time and demonstrate proof of payment to the City for approval of a building permit. Further, during the public review period for the Project's Initial Study/Mitigated Negative Declaration, the document was distributed to CUSD and no comments were received.

Environmental Analysis

An Initial Study and Mitigated Negative Declaration ("IS/MND") was prepared pursuant to Section 15063 and 15070 of California Environmental Quality Act ("CEQA") Guidelines to address the potential environmental effects of the project. The purpose of an IS/MND is to identify effects on the environment of a Project and to indicate the manner in which those effects can be mitigated. The City as the lead agency consulted with the City's CEQA consultant, DeNovo Planning Group to prepare the IS/MND in accordance with CEQA, the State CEQA Guidelines, and the City of Aliso Viejo Local CEQA Guidelines. Based on information contained in the IS/MND, the City has concluded the Project will not have a significant effect on the environment with the incorporation of mitigation measures. The MND is based on the finding that, through compliance with Mitigations Measures and Conditions of Approval, the Project's potential for significant adverse impacts would be reduced to a less than significant level with respect to aesthetics, air quality, cultural resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, land use and planning, noise, population and housing, public services, recreation, transportation, tribal cultural resources, utilities and service systems as areas that may have potential impacts. Additionally, the Orange County Fire Authority (OCFA) reviewed the proposed project and concluded that based on initial assessment, there does not appear to be any significant concerns related to fire department requirements. The Draft IS/MND was circulated for a 30-day public comment review period from August 26, 2024 through September 25, 2024.

Next Steps:

Following receipt and evaluation of comments from agencies, organizations, and/or interested individuals, the City will determine whether any substantial new environmental issues have been raised and if further documentation may be required.

Public Notice:

On November 7, 2024, a public notice was published in the Laguna Niguel News, mailed to all owners of real properties within 300 feet of the subject real property, emailed to all parties on the project interest list, and posted at the project site.

City Attorney:

The City Attorney has reviewed this staff report.

Attachments:

1. Staff Report and Attachments from the September 18, 2024 Study Session
2. Letter from Avalon Bay dated October 31, 2024
3. Power Point Presentation

October 31, 2024

Aliso Viejo City Council
c/o Mitzi Ortiz
City Manager
City of Aliso Viejo
12 Journey
Aliso Viejo, CA 92656
Email: mortiz@avcity.org

Re: Avalon Aliso Viejo Study Session Follow Up

Dear City Council Members:

During the September 18, 2024 study session on the Avalon Aliso Viejo project (the "**Project**"), members of the City Council raised a number of questions related to the Project. This letter is intended to supplement the verbal responses to these questions offered by the AvalonBay Communities, Inc. ("**AvalonBay**") team during the study session, and provide additional detail and context on several key issues. We hope this information will help facilitate ongoing discussions regarding the Project and welcome any further comments or questions in advance of the second study-session scheduled for November 20, 2024.

1. Background

The Project will be located at 26501 Aliso Creek Road on a 4.4 acre irregularly shaped development area (the "**Property**") within the southwestern portion of the Commons at Aliso Viejo Town Center (the "**Commons**"). The existing surface parking, landscaping, and improvements at the development site will be removed and a mixed-use development consisting of 343 residential units and 17,273 square feet of ground floor commercial use within a six-story building, and associated parking and improvements will be constructed.

On April 12, 2023, AvalonBay submitted a City Planning Application for the Project. At the time of the initial application submission, the Project included 362 residential units. Over the course of several months, the City provided feedback on the Project application. In addition, AvalonBay conducted community outreach. In response to community comments and City staff feedback, the Project was reduced from 362 units to 343 units. On August 12, 2024, the City deemed the Application complete. Thereafter, the City engaged its own third party environmental consultant DeNovo Planning to complete

the environmental review for the Project. The City determined that a Mitigated Negative Declaration was the correct California Environmental Quality Act document to be prepared for the Project. From August 26, 2024 to September 25, 2024, the City circulated the Initial Study/Mitigated Negative Declaration for public review. The Mitigated Negative Declaration concluded that the Project will not have a significant effect on the environment with mitigation measures incorporated. Thereafter, the City hosted a study session on the Project.

Approvals required in connection with the Project include a Site Development Permit, required for any non-exempt building by the Aliso Viejo Municipal Code ("**AVMC**") § 15.74.020 and the Aliso Viejo Commons Specific Plan (the "**Specific Plan**") § 7.3.1.b, a Vesting Tentative Tract Map pursuant to AVMC § 14.08.030 to re-subdivide the Property into two lots, with one lot containing the commercial uses and the other containing the residential uses, and a Development Agreement, required by AVMC § 15.82.010(C). Concurrent with the Project entitlements, the City will process several minor alterations to the Specific Plan required to facilitate development of the site with the Project.

2. The Project Implements the City's State-Approved Housing Element.

On June 24, 2024, the California Department of Housing and Community Development ("**HCD**") approved the City's Housing Element (the "**Housing Element**"). The Housing Element identifies the City's housing conditions and needs, establishes goals, objectives, and policies to guide future housing decisions, and ensures the City has planned to develop enough housing within its boundaries to meet the portion of overall housing need allocated to it by the Southern California Association of Governments 6th Cycle Regional Housing Needs Assessment ("**RHNA**"). Under the 6th Cycle RHNA, Aliso Viejo's share of the region's new housing need for the 2021-2029 planning period is 1,195 units, of which 386 units are identified for above-moderate income households.[1]

As part of the Housing Element, State law requires the City identify adequate sites with appropriate zoning to accommodate the RHNA-identified housing need for 2021-2029 planning period. To satisfy this requirement, the City identified the Common's site as part of the residential site inventory, providing that the site will be developed at a density of 82 dwelling units per acre for a total of 362 units, of which 326 shall be above moderate and 10% shall be affordable.[2] The Project, which occupies the southwestern portion of the Commons, will be developed at a density of 78 dwelling units per acre for a total of 343 units, of which 10% (*i.e.*, 34 units), shall be affordable, including 26 units for moderate income residents, 5 for low-income residents, and 3 for very low income residents.

The Housing Element assumes that modifications to the City's General Plan and to the Specific Plan that allow for development of the Project site at 82 dwelling units per acre, rather than 30 dwelling units per acre identified by the General Plan, will be approved by the City and provides that "the City has been in discussion with the property owner to…expand the size of the residential area [identified by the Commons Specific Plan] to 4.4 acres and include 362 multi-family residential dwelling units at a density

[1] Source: City of Aliso Viejo Housing Element 2021-2029, p. H-9, Adequate Sites for New Housing.
[2] Source: City of Aliso Viejo Housing Element 2021-2029, Table CP-25 Existing Sites Inventory & ADUs.

of 82 dwelling units per acre."[3] Thus, development of the Project not only complies with, but will ensure the City's implementation of its HCD-approved Housing Element.

3. Demand for Apartment Units Remains Strong.

Multi-family market demand in Aliso Viejo remains strong. According to CoStar, Aliso Viejo has an overall vacancy rate of 6.1%.[4] The industry standard for healthy vacancy in multi-family projects is 5% to 6%. And while 11 market rate multi-family projects have been completed in the City since 1982, no new apartment projects have been approved in Aliso Viejo since the Vantis project in 2013. Based on directly calling each of the 11 properties on October 30, 2024, the reported market vacancy was 6.0%, as exhibited in Table 1 below.

Table 1. Aliso Viejo Apartment Projects and Vacancy Rates (10/30/2024).

Project	Address	Total Units	Vacancy	Vacant Units
Alicante	27682 Aliso Creek Rd	428	7.0%	30
Aliso Creek Apts	24152 Hollyoak	535	4.3%	23
Alize	2 Enterprise	484	7.0%	34
Aliso Town Ctr	23511 Aliso Creek Rd	192	4.7%	9
Aventine	22501 Chase	386	6.5%	25
Barcelona	23592 Windsong	590	6.1%	36
City Lights (Under Renovation)	5000 City Lights Dr	793	9.0%	71
St. Moritz	23411 Summerfield	675	4.9%	33
Vantis Apartments	90 Vantis	435	6.7%	29
Vista Bella	5000 Capobella	241	2.5%	6
Wood Canyon Villa	28520 Wood Canyon	230	1.7%	4
Totals		**4,989**	**6.0%**	**300**

In addition, market reports for the second quarter of 2024, the latest data available, continue to demonstrate strong renter demand in Orange County communities, including Aliso Viejo. Notably, CBRE's second quarter of 2024 multi-family report indicates a 5.0% vacancy rate for South Orange County, with continued demand resulting from a prolonged period of decreasing vacancy. And even as

[3] Source: City of Aliso Viejo Housing Element 2021-2029, CP-63.
[4] Source: CoStar, October 2024.

new units are brought online, this demand remains steady due to a multitude of factors, including the high cost of single-family housing, which reduces the number of families and individuals able to afford monthly mortgage and property expenses, the slowing of out-migration to the historically less expensive Inland Empire due to increased rental costs in those communities, and the continued ability of Orange County's diverse employment base to support a large range of rental properties.

This demonstrated market demand, coupled with the lack of new apartment units in the City since the 2013 approval of the Vantis project and reduction in total City-units due to the conversion of Canyon Point to condominiums, means the very low-income, low-income, moderate-income, and above-moderate income units proposed by the Project are needed by the community. The City's apartment market is not in an oversupply condition and the Project will ensure the City's resident's housing needs are met, providing housing choices for a wide range of prospective occupants in this healthy supply-demand sub-market.

4. The Project Will Not Result in Over Enrollment at Area Schools.

The Initial Study/Mitigated Negative Declaration for the Project analyzed the number of students that would be generated by the Project. Based upon best practice calculations, the City's IS/MND found that the Project would generate 14 students in grades 6-12. (IS/MND pg. 151-152.)

To be overly conservative, we have discussed the Project with the Capistrano Unified School District. The Avalon Aliso Viejo project will be served by three schools: (i) the Aliso Niguel High School, (ii) the Don Juan Avila Middle School, and (iii) the Wood Canyon Elementary School.[5] Table 2 below demonstrates that total enrollment in each of these schools has declined over the past four years, due primarily to south Orange County's aging population, and is expected to continue to decline. Here, according to the Capistrano Unified School District demographer, the Project would generate 118 students. As set forth in Table 2 below, the addition of these students to the three schools serving the Project will result in neither over enrollment nor any added strain on existing school facilities.

Table 2: Project Student Generation.

School	Total Enrollment		Students Generated by Project
	2019-2020	2022-2023	
Aliso Niguel High School	3,103	2,834	36
Don Juan Avila Middle School	1,127	943	25
Wood Canyon Elementary School	482	471	57
Total			**118**

[5] Source: Clark Hampton, Deputy Superintendent, Capistrano Unified School District

Furthermore, the Project is not expected to generate school age enrollments until the fall of 2027, by which point enrollment levels will have declined further. Given this, the projected number of students generated by the Project will not appreciably impact area schools.

5. The Project is Designed to Ensure the Safety of Residents, Visitors, and Retail Customers Throughout the Commons.

Tenant and public safety are a priority for the team redeveloping the Commons. The refreshed and renovated retail component of the Commons, to the Property's north, coupled with the Project, will activate what was before an expansive parking lot, bringing pedestrian traffic and activity, both of which contribute to the overall safety of the Commons. In conjunction with the City of Aliso Viejo Police Services, AvalonBay has fully embraced the City's Crime Prevention Through Environmental Design ("**CPTED**") program, which identifies a variety of project design elements and practices that increase overall safety and have been incorporated in the building, common areas, parking and landscaping. Major elements of this program that act as deterrents to crime may include the following.

- Lighting: Use of higher lumen lights and strategic placement in areas wanting higher security, such as access entries, hallways, pathways and parking lots/garages.

- Landscaping: Limiting of trees, shrubs and any landscape material that would result in potential hiding areas.

- Surveillance: Active surveillance including security guards and patrols, street-facing retail and residential apartments, and security lighting. Closed circuit security cameras will also be placed in common areas and entries. Security camera recordings will be reviewed by property management as needed. Passive surveillance will include incorporating crime prevention programs and activities to promote social interaction and recognition between neighbors.

- Access Control: Access control relies on physical elements to keep unauthorized persons out of certain areas. Adequate use of locks, doors, fences and window barriers will be incorporated in the design of the project to implement access control. Vehicle entry transponders will control access to parking within the building.

- Building Design: Incorporation of spaces that are open and visible to allow clear sightlines and adequate lighting that enhances views for neighbors and passersby.

Integration of these elements within the Project, and other features, will ensure the safety and security of residents, their guests, and visitors to the commercial uses in the Project's ground floor and in the other retail establishments to the Property's north.

6. The City-Reviewed Parking Study Confirms the Project Provides Adequate Spaces for the Residential and Retail Components of the Project.

The parking study for Avalon Aliso Viejo was prepared by Linscott Law & Greenspan Engineers ("**LLG**") in December 2023. LLG's report was independently peer reviewed by the City's traffic engineer, STC Traffic, Inc. and City Public Works staff. STC Traffic and City Public Works staff confirmed the Project not only integrates sufficient parking but that it is in full compliance with all applicable requirements. Please find outlined below additional details regarding the parking study and its conclusions regarding the total number of spaces required.

To determine the Project's parking need, the parking study applies the City parking code (AVMC § 15.38), and integrates parking information from the Specific Plan, the Conditional Use Permit for the Tesla retail store to be located at The Commons, and industry-accepted methods for calculating shared parking demands prepared by the Urban Land Institute (Shared Parking, 3rd Edition, 2020).

The LLG analysis concluded that the 590 spaces in the Project parking garage will be adequate for serving the needs of the Project's residents, their guests, and leasing staff. The study further concluded that The Commons' supply of 784 spaces will be adequate to serve the 17,734 square feet of new retail space located on the bottom floor of the Project. The study's conclusions regarding the parking needs of the Residential and Commercial components of the Project are set forth below.

Parking for Avalon Residents & Guests: LLG prepared the estimate of resident and guest parking needs according to City parking codes and the Specific Plan.[6] The City parking code requirement for the apartments is based on the unit type. The calculations regarding the number of spaces required are set forth below.

Table 3: Parking for Residents and Guests.

Unit Type	# Units	Code Ratio/Unit	Resident Parking Required
Studio	48	1.0 space/unit	48
1-bedroom	168	1.2 spaces/unit	202
2-bedroom	119	2.0 spaces/unit	238
3-bedroom	8	2.0 spaces/unit	16
			504

In addition to the parking for apartment residents, additional parking is required for guests and the leasing and management staff. City parking code requires 0.25 spaces guest spaces for each unit, which equates to 86 spaces (343 x 0.25). Since the 1,000 square foot leasing space is a business office, city

[6] City of Aliso Viejo Municipal Code Section 15.38.030 Spaces Required for Residential Uses and The Commons at Aliso Viejo Town Center Specific Plan

parking code requires 1 space for every 250 square feet, or 4 spaces. The total number of parking spaces for the apartments, according to City parking code, is 594. However, since the leasing office is only open during the daytime hours, from 9:00 a.m. to 5:00 p.m., at which time multiple residents are off the Property, its 4 spaces are exempted from the calculation, and a total of 590 parking spaces are provided.

Parking for Retail: LLG prepared the estimate of retail parking needs according to City parking codes and the Specific Plan.[7] Parking spaces for the retail uses on the ground floor will not be within the apartment garage, but in the common area fronting the shops and stores and within The Commons. Hence, retail customers for the 17,273 square feet of shops, stores and restaurants will be sharing a field of 784 parking spaces with The Commons. In such a case, City parking code utilizes a shared parking methodology wherein different land uses, with different peak period parking demands are analyzed to determine overall parking needed.

It is an accepted industry practice to apply the shared parking approach in estimating peak parking needs for a mixed-use development.[8] This is accomplished by looking at individual land uses and corresponding hourly demand forecasts on weekdays and weekend. Accordingly, the LLG analysis shows that during the weekday, peak demand for both the apartment retail and Commons retail was 697 spaces (1:00 p.m.). There are 784 spaces available in the common area lot, or 87 surplus spaces during the weekday peak period. During the weekend, peak parking demand occurs at 12:00 p.m., requiring 722 spaces or 62 less than that available. The parking analysis shows that surpluses are greater during all other hours on weekdays and weekends. It should also be noted that the Tesla retail store will have 225 reserved spaces at the back of their building, that are not part of the 784 common area spaces.

7. The Project is Designed to Ensure Pedestrian and Cyclist Safety.

Pedestrians and cyclist safety are of paramount importance to Avalon Bay. Working in cooperation with Value Rock Realty, developer of the adjacent Commons, the Project integrates a variety of improvements that enhance pedestrian and cyclist safety. For example, the Project includes pedestrian walkways along its southeastern and northeastern boundaries and allows for enhanced pedestrian access from an existing walkway along Town Center and from three outdoor staircases providing access to existing City sidewalks along Enterprise. Inclusion of these walkways ensure residents can safely move around the Project and its immediate environs, without having to walk through parking areas.

In addition, the Project, and the Commons, will implement specific traffic calming measures to enhance both pedestrian and cyclist safety and circulation on site. This includes the inclusion of stop signs, "Keep Clear" zones with pavement marking and signage, "Watch for Pedestrians" signs with flashing beacon, in-roadway warning lights at crosswalks for increased visibility and enhancing pedestrian walkways throughout the entire Commons.

Finally, the Project will also integrate features intended to facilitate access to the site by cyclists. The Project has been designed to avoid conflict with existing or proposed bicycle facilities, and will find multiple bike racks located at strategic areas along the sidewalk fronting the retail shops and stores. The

[7] City of Aliso Viejo Municipal Code Section 15.38.140 Alternative Parking Plans.
[8] Source: Urban Land Institute Shared Parking Methodology.

Project itself, will also have bike parking and storage racks within the parking garage in a well-lit, highly visible location covered by a security camera.

8. The AVMC Requires AvalonBay To Execute a Development Agreement with the City.

A Development Agreement is a common agreement between a public agency and a project proponent that allows the public agency to obtain public benefits in exchange for a project proponent's vested right to develop a project. Development Agreements are a tool frequently employed by municipalities across the state because they offer public agencies flexibility to impose requirements on proposed development (such as development conditions, exactions, and fees) to offset the impact of development. Legal constraints and uncertainties that typically limit a local agency's ability to unilaterally impose such requirements do not apply to mutually negotiated agreements, such as a Development Agreement. Thus, they are a powerful tool for public agencies to not only shape the development of their community but also maximize the public and economic benefits that accrue from such a project.

Here, AvalonBay was required by the AVMC to negotiate a Development Agreement with the City to govern the Property. (See AVMC, § 15.82.010(C) (requiring projects, like this one, necessitating a "zone change plus a site development permit or use permit" obtain approval City Council approval of a Development Agreement).) The terms of the Development Agreement were negotiated by the City Manager's Office with the assistance of the Kosmont Companies, the City's independent real estate advisory and consulting firm that has been on retainer with the City for more than a decade. The resulting Development Agreement reflects the City's financial priorities and offers the City significant community benefits to offset the impact of the project and aide the City's future short and long-term development. In terms of public benefits to the City, the agreement explicitly provides for an upfront $2.8 million payment, $11.25 million of payments over 30-years in the form of a CFD, and 34 income-restricted units. Furthermore, the Development Agreement was tailored to facilitate a Project that will be generated an estimated $130,000 of annual sales tax revenue and $2 million of annual property tax. This package of financial benefits, which would not be possible in the current economic climate, will make a meaningful difference to the City, facilitating its development for decades to come.

9. Conclusion.

AvalonBay hopes the information set forth above will help facilitate ongoing discussions regarding the Project and welcomes any further comments or questions in advance of the study-session scheduled for November 20, 2024.

Regards,



Mark Janda
Avalon Bay Communities

ALISO VIEJO

Avalon Aliso Viejo Mixed-Use Project Study Session

26501 Aliso Creek Road

City Council

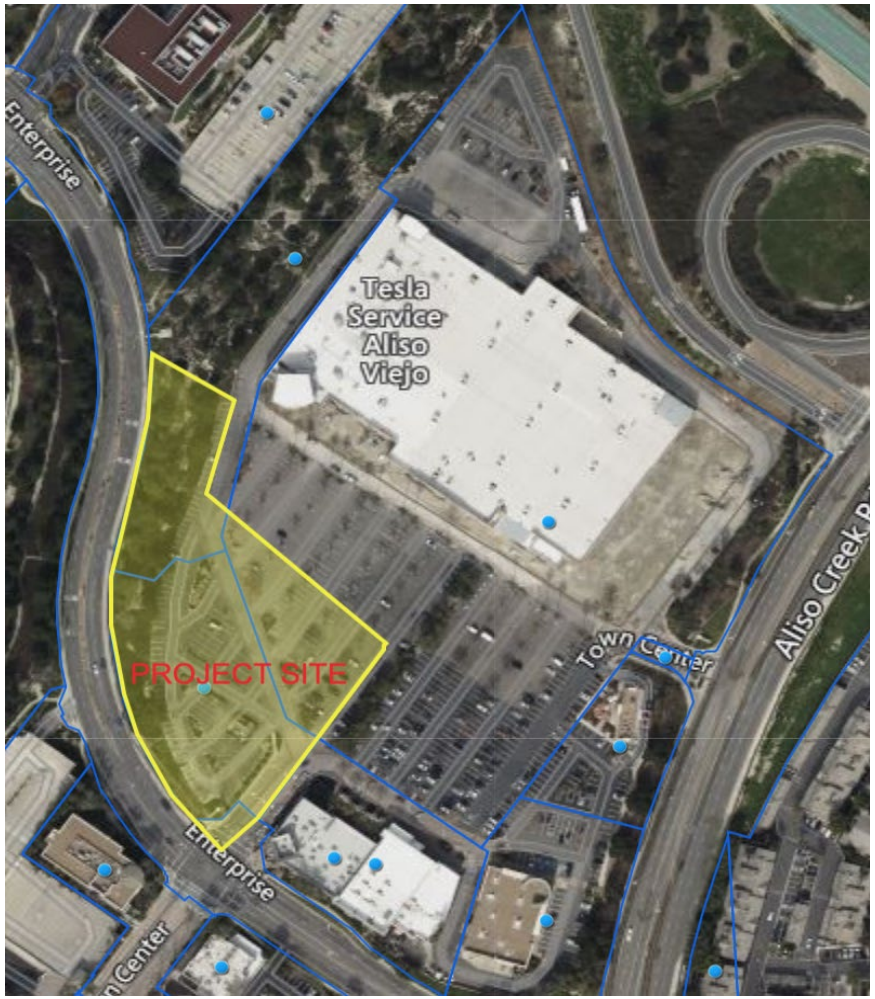
November 20, 2024

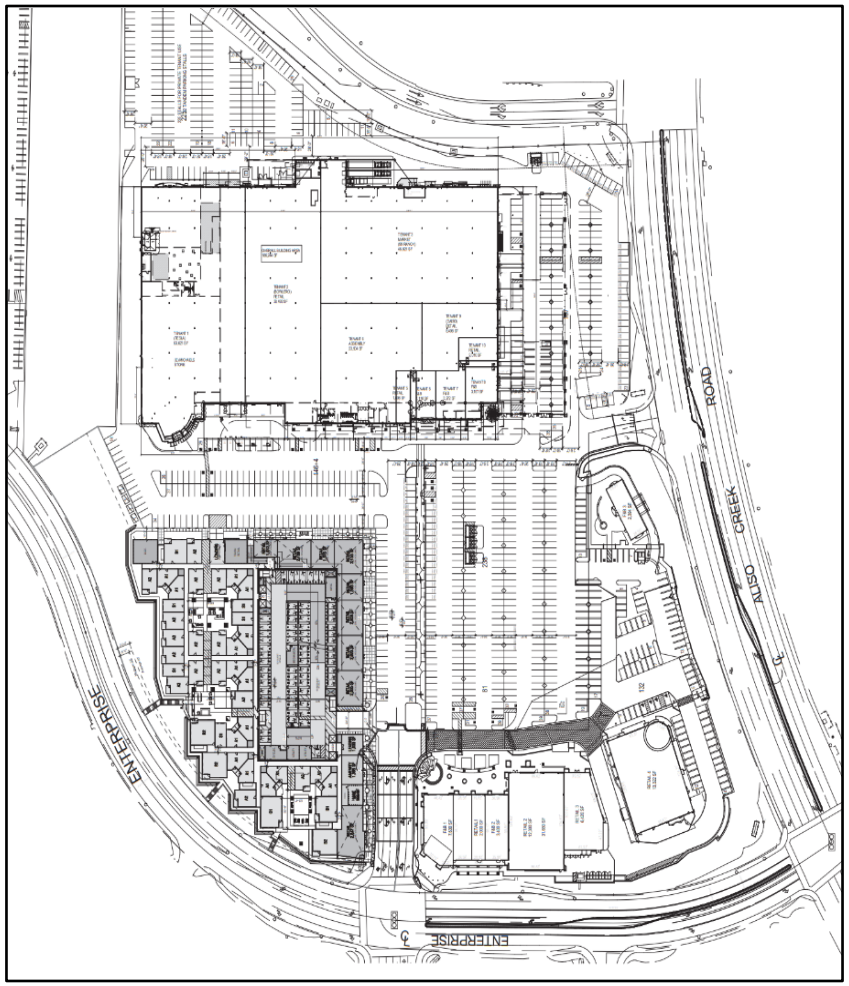
Background

- September 18, 2024 - first study session
- Project concerns raised at the study session included:
  - Parking and traffic
  - Potential view impacts
  - Geological concerns related to slope stability
  - Security
  - Impacts on local schools

Building and Site Summary

PROJECT BACKGROUND		
Site Address		26501 Aliso Creek Road
Assessor's Parcel Number		629-101-16
Applicant/Agent		Mark Janda (Avalon Bay Communities, Inc.)
Property Owner		Value Rock Realty
General Plan Designation		High Density Residential/Town Center Commercial & Open Space
Zoning District		Specific Plan 2 (SP-2)
Site Size (Assessor's)		4.4 acres
Proposed Project Site Size (Assessor's)		4.4 acres
Existing Conditions		Surface parking and landscaping
SURROUNDING AREA		
Direction	Land Use(s)	Zoning District(s)
North	Retail/Commercial	Specific Plan 2 (SP-2)
South	Retail/Commercial	Town Center Commercial (TC)
East	Retail Commercial	Specific Plan 2 (SP-2)
West	Residential and Open Space	Specific Plan 1 (SP-1) Open Space (OS)





ALISO VIEJO

Location Map and Site Plan

Requested Entitlements

1. Site Development Permit (SDP)
2. Specific Plan Amendment (SPA)
3. Vesting Tentative Map (VTM)
4. Development Agreement (DA)





Project Design

General Plan and Zoning Compliance

General Plan Land Plan	Specific Plan/2005 DA	Project
300 dwelling units	140 dwelling units	343 dwelling units
400,000 SF non-residential	396,570 SF non-residential	253,904 SF non-residential
	Building Height Max (Residential)	Building Height Max (Residential)
	80’ (Enterprise Side)	68’-89’ (Enterprise Side)
	140’ (East Side)	89’ (East Side)
	Number of Stories	Number of Stories
	11	8 (including rooftop amenity area)
	Parking (Residential)	Parking (Residential)[1]
	2 spaces/unit	1 space/studio 1.2 space/1 bedroom 2 space/2 or more bedroom
	0.25 spaces/unit for guests	0.25 space/unit for guests
	Parking (Non-Residential)	
	840	1,013 (includes Tesla)
	Setbacks	Setbacks
	15’ min./20’ avg.(Enterprise)	15’ min./20’ avg. (Enterprise)
	20’ (North)	15’ (North)
	10’ (East/West)	10’ (East/West)

Housing Element

- Housing Element (HE) certified by HCD in June 2024
- Commons Specific Plan Area an identified site in the HE

Housing Element Site	Very Low Income Units	Low Income Units	Moderate Income Units	Above Moderate Income Units	
Commons16	~~9~~ 3	~~9~~ 5	~~18~~ 26	~~326~~ 309	
Freedom Lane	170	170	169	0	
ADUs	2	4	2	0	
Columbia	18	18	6	18	
Town Center	176	174	168	0	
Aliso Viejo Parkway	63	63	21	63	
35 Journey	18	18	6	18	
2A Liberty	34	34	33	0	
27231 Aliso Viejo Pkwy	36	36	36	0	
		~~526~~	~~459~~	~~425~~	1,917
	~~526~~ 520	522	467	408	~~1936~~
RHNA REQUIRED	390	214	205	386	1195

ALISO VIEJO

Development Agreement

- Provide assurance to the property owner that the conditions imposed by the City will not change after the approval of the Project
- In exchange, the Applicant has agreed to:
  - Provide cash payment to the City of $2,806,559.60 over two installments; and
  - Establish a 30-Year Community Facilities District (the “CFD”), providing an initial amount of $236,878.45 that grows 3.0% annually

Parking and Traffic

- Comments received included:
  - Pedestrian and cyclist safety
  - Adequacy of parking spaces
  - Increased traffic and congestion

Parking Analysis

Parking Ratio	Project
1 space / studio	1 space x 48 units = 48
1.2 space / 1 bedroom	1.2 space x 168 units = 202
2 spaces / 2 or more bedrooms	2 spaces x 127 units = 254
0.25 / unit for guests	0.25 x 343 = 86
	Total = 590

	Municipal Code Requirement	Specific Plan Requirement	Proposed Project
Residential	676	772	590
Non-Residential	1,110	1,275	1,013

Potential View Impacts

- Concerns raised regarding potential view obstruction
- Project maximum height is 89’
  - Hoag Medical building approximate height is 54'
- Project would not impact Viewscape Corridors or Landscape Corridors designated by the General Plan
- Project designed to reduce apparent mass and visual impact

Geological Concerns

- Comments were received related to the stability of the adjacent slope
- Project proposes to excavate portions of the slope and construct a retaining wall
- The proposed grading plan and associated construction would be required to comply with all applicable regulations in the California Building Code and AVMC Grading and Excavation Code
- Inspections required throughout the grading and construction process to ensure compliance

Security

- Comments received regarding safety and security measures
- Various safety measures include:
  - Lighting: Use of higher lumen lights and strategic placement in certain areas for higher security
  - Landscaping: Use of landscape design that would not result in potential hiding areas
  - Surveillance: Use of surveillance including security guards, patrol, and cameras
  - Access Control: Vehicle entry transponders for the parking garage and secured doors accessible only to tenants via a digital security app

Impacts on Local Schools

- Project subject to payment of school impact fees
- Developer fees collected used for additional, reconstruction or modernization of school facilities
- Applicant would pay required school fees prior to issuance of a building permit
- Draft IS/MND distributed to CUSD and no comments were received

Environmental Analysis

- Initial Study and Mitigated Negative Declaration ("IS/MND") was prepared and circulated for public review

- Public comments are under review by City staff and the City's CEQA consultant