

**Revised Request for Proposals  
Design-Build Construction Services  
City of Rocklin**

**REISSUED JUNE 13, 2017**

**Exhibits**

Exhibit A – Concept Drawings for the Project  
Exhibit B – City’s Improvement Standards  
Exhibit C – City’s Standard Drawings  
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Exhibit F – Non-collusion affidavit form  
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**I. INTRODUCTION**

By this Revised Request for Proposals (“RFP”), the City Council of the City of Rocklin (“City”) is inviting the prequalified Design-Builders (“Design-Builders” or “Respondents”) to submit a revised Proposal for the design and construction of the Adventure elements and Kids Play Zone portion of the new Adventure Park in the City’s Quarry Park (the “Project”), located adjacent to 3970 Rocklin Road, Rocklin, California.. The Project has an anticipated construction start date in Spring/Summer 2017 and anticipated completion date in 2017.

All prequalified Respondents are invited to submit revised Proposals, which the City will evaluate to identify the successful Design-Builder. Any contract awarded will be based on which Proposal provides the best value to the City, as defined in Public Contract Code section 22161(a). This RFP does not create any obligation whatsoever, either express or implied, for the City to award any contract. The selection of a Design-Builder is subject to review and approval by the City Council. A more detailed description of the selection process is set forth below.

The City reserves the right to find any Proposal that is incomplete or otherwise fails to respond to all requirements of this RFP to be non-responsive, and to give it no further consideration. The City also reserves the right to request clarification and/or additional information from any Respondent.

Except as provided, communication with the City, including without limitation its Selection Committee or any City Council member, with regard to the substance of this RFP is prohibited.

**II. PROJECT DESCRIPTION**

The Project consists of design and construction of a family-oriented “adventure park,” to include only the adventure elements (walls for climbing and rappelling; swings; zip lines; a hanging garden and waterfall; a kids’ zone with water play area; a pond; a maze; and an overlook). The Project does not include design or construction of the planned fire station, access road, or parking lots as indicated in attached Exhibit A, which is being handled under a separate contract with a separate firm. The Project does not include any support services facility, café or restaurant, birthday pavilion nature trail or other facilities. The Project exclusively includes the adventure elements to be located in the Big Gun Quarry Pit or in proximity to the rim, and the Kids Play Zone. The Project does not involve the former quarry structures, namely the Big Gun shed, and will have no effect on those structures or any of the equipment which remain within those structures. The Adventure Park utilizes the Big Gun Quarry Pit and the immediately adjacent property without disturbing, in any manner, the historically designated remains of the quarry structures. Concept Drawings for the Project are attached hereto as **Exhibit A**. The City has prepared a 30% Design (referred to as “Concept Drawings”). The Concept Drawings generally depict the layout, elements, and location of activities.

The design and construction of the Project shall adhere to the City's Standard Drawings and Improvement Standards where applicable, attached hereto as **Exhibits B and C**.

The estimated cost of the Project is **\$2,300,000**. The Project is a public works project within the requirements of Division 2, Part 7, Chapter 1 of the California Labor Code requiring payment of prevailing wages.

The Project has an anticipated construction start date of Summer 2017 and a desired completion date of late 2017, including close-out. Liquidated damages will apply to every calendar day of delay to the Project Substantial Completion Date; additional funds will be held for delays to the Project Final Completion Date. The Project Final Completion Date will be determined during the RFP process, and prior to contract execution.

Respondents are required to hold a California Contractor's License, which is current, valid and in good standing with the California Contractor's State License Board, and are required to be registered with the Department of Industrial Relations ("DIR") pursuant to Labor Code section 1725.5. The Architect and Principal Engineers are required to be licensed in the State of California and in good standing.

The City has engaged Legacy Family Adventures, Rocklin, LLC ("LFA") as its architectural firm to assist in the development of design criteria specific to the Project, preliminary plans, adventure park layouts, and/or other development criteria. Accordingly, LFA is not eligible to participate with any Respondent. Any Respondent proposing LFA, or any individual affiliated with LFA or sub-consultant of LFA to the City, as part of its design team shall not be selected as the City's Design-Builder.

### **III. SCOPE OF DESIGN-BUILDER'S WORK**

The Design-Builder will be responsible for all design, permitting, agency review and approval, construction and agency close-out of the Project, in accordance with the design criteria to be provided by the City. Such services shall include, without limitation:

- Provide project management of Design-Builder's work activities from design to permitting and agency approvals through completion of construction and close-out. The City will pay all agency permitting fees.
- Provide full design and engineering services (including, without limitation, geotechnical and survey services) necessary to complete the design and secure approval of all agencies for the Project and in accordance with the City's Standard Drawings and Improvement Standards and the Concept Drawings. Design services generally required are evaluation of the site and of the design criteria documents and other Project-related information; preparation of a preliminary schedule and preliminary estimate; coordinating and obtaining all planning permits; preparing design development documents, including supporting the City's design review process, attending design review meetings and resolving review comments to the satisfaction of the City; preparing construction documents; assisting the City with approval through the City's approval bodies; and performing work necessary to prepare and submit an acceptable Guaranteed Maximum Price ("GMP") proposal.
- Provide accurate and timely estimates of Project costs, as described in the Design-Build Agreement.
- Develop the GMP for the Project, in conjunction with the City, as will be set forth in the Design-Build Agreement, and provide a commitment to the GMP. Such work will include some or all of the following, without limitation, design completion, value engineering, detailed cost estimating (including variables and options in order to meet the City's budget), development of the different trades' scopes of work, bidding, and preparation of a GMP proposal. For work to be performed by the Design-Builder or any subcontractor listed in the Proposal, the Design-Builder shall submit sufficient information to establish that its price is competitive and reasonable for the area.
- Provide all construction work necessary to complete the improvements. Construction services generally required are execution of subcontracts; providing on-site support and logistics, including but not limited to temporary construction office trailers and equipment; supervising and directing the work; providing and installing all elements of the Adventure Park including, but not limited to, ropes, climbing walls, zip lines, ladders, and buildings; ensuring a safe project/site; participating in project meetings; managing the construction costs (ensure costs allocated to construction contingency have entitlement and meet the contract requirements prior to submission to the City Representative); coordinating the work with the

different subcontractors in an efficient manner; updating the monthly (or more frequent) construction schedule; coordinating equipment start-up and acceptance testing; training; preparing record construction documents; managing the storm water pollution prevention plan (SWPPP), the storm water multiple application and report tracking system (SMART), and low impact development (LID) requirements; and closing out the Project.

- Provide construction planning, phasing, and scheduling during design and through construction completion.
- Develop and maintain a Project schedule that incorporates all tasks and approvals of all involved parties necessary to complete the Project within the contract durations.
- Provide preconstruction and construction quality assurance.

The City utilizes Virtual Project Management Software (VPM), which the selected Design-Build Entity will be expected to use during Project performance.

#### **IV. CRITICAL DATES**

##### **A. Submittal Due Dates:**

Prequalified Respondents may submit revised Proposals in the format specified in Section VIII below. Each shall be submitted in a sealed envelope or box identifying the Respondent's name, contact information, and the RFP number.

Completed Revised Proposals are due no later than **Wednesday, June 28, 2017 at 10:00 a.m.** Revised Proposals submitted after this time will not be accepted and will be returned unopened.

Completed Revised Proposals shall be delivered to:

City of Rocklin  
Office of the City Clerk  
3970 Rocklin Road,  
Rocklin, CA 95677

##### **B. Mandatory Pre-proposal Conference**

A mandatory pre-proposal conference was previously held.

##### **C. Tentative Selection Process Schedule:**

The procurement is expected to progress according to the following timeline, but the City reserves the right to change key dates and actions as the need arises:

- June 13 – RFP Issued and uploaded to City's web site [www.rocklin.ca.us/bids-and-rfps](http://www.rocklin.ca.us/bids-and-rfps)
- **June 28 , 10:00 a.m. – Revised Proposals due**
- July 3 – Anticipated City Notice of Intent to Award
- July 25 – Anticipated date of City Council action on award
- August 1 – Anticipated construction start date

#### **V. ADDITIONAL INFORMATION AND REQUIREMENTS**

##### **A. Communication and Site Access Regarding the RFP:**

Except as provided, communication with the City regarding the substance of the RFP or any Proposal, including without limitation communication with its Selection Committee or any City Council member, is prohibited. Notwithstanding the foregoing, potential Respondents may email questions related to this RFP, with the subject line of **RFP** to:

City of Rocklin  
Economic and Community Development Department  
3970 Rocklin Road,  
Rocklin, CA 95677  
Attn: Marc Mondell, Director of Economic & Community Development  
marc.mondell@rocklin.ca.us

Respondents are encouraged to submit questions regarding any ambiguity, uncertainty, or other perceived flaw in this RFP as soon as the issue is identified. Any such issue which is not raised prior to the deadline to submit Proposals shall be waived, and the City will not consider any challenge based on the contents, structure, or terms of this RFP after the Proposal deadline.

The City shall not be obligated to respond to any question unless it is submitted in writing. The City shall be bound only by written responses to questions contained in an addendum to the RFP. Oral responses, or email responses, shall not be binding on the City.

The City shall provide an appointed time to allow all potential Respondents to access the site for purposes of measurements, examination, and photographing. Any request for additional site access prior to the RFQ/P response deadline shall be requested in writing and, if granted, the City will provide access to all interested parties at the same time.

#### **B. Investigation of Respondent's Qualifications:**

The City may investigate the qualifications of, and/or information provided by, all firms under consideration to confirm any part of the information furnished by the Respondents or any Respondent's responsibility. Qualification of Respondents will be reviewed based on the previously submitted SOQ and the revised Proposal and any other information available to the City. The City reserves the right to request additional information at any time, which, in its sole opinion, is necessary to assure that the Respondent's competence, number of qualified employees, business organization and financial resources are adequate to perform the required services for the City.

#### **C. Reservation of the City's Rights:**

The City reserves the right to find any Proposal that is incomplete, not in the required format, or otherwise fails to respond to all requirements of this RFP to be non-responsive, and to give it no further consideration. The City reserves the right to waive any immaterial deviation from the requirements of this RFP. The City may request clarification and/or additional information from any Respondent.

The City also reserves the right to cancel this RFP, modify any requirements contained within this RFP, request a revised Proposal from all Respondents and/or to reject all Proposals. Nothing in this RFP creates any obligation whatsoever, either express or implied, for the City to award any contract or for the City Council to approve any proposed contract award.

#### **D. Addenda:**

In its discretion, the City may, at any time, issue one or more addenda to this RFP revising or clarifying requirements of this RFP or the Project, which may include extending the date that Proposals are due and/or responding to questions about this RFP. The City will post any addenda to its website [www.rocklin.ca.us/bids-and-rfps](http://www.rocklin.ca.us/bids-and-rfps). Respondents are responsible for verifying that they have obtained all addenda. Each Respondent must, in its Proposal, acknowledge each addendum that has been issued. **Failure to acknowledge any addendum in the Proposal may render the Respondent ineligible for award;** unless the addendum does nothing other than extend the Proposal deadline. In no event shall the City be responsible for any failure of a Respondent to verify that it has received all addenda.

#### **E. Cost of Responding to the RFP:**

Each Respondent is responsible for all costs that it incurs in connection with responding to this RFP, including, without limitation, costs associated with preparing and submitting a Proposal and costs associated with responding to further inquiries from the City. The City will not reimburse any Respondent for any such costs or expenses, including any costs of attending or participating in any interview or confidential discussion.

## F. Public Records:

Information in the previously completed SOQ and/or previous or revised Proposal that is not a public record pursuant to the California Public Records Act (Chapter 3.5 or Division 7 of Title 1 of the Government Code, commencing with Section 6250) ("Act") shall not be open to public inspection. Any trade secrets, proprietary financial information, or other information that a Respondent believes should be exempted from disclosure under the Act shall be specifically identified and marked as such. Blanket-type identification by designating whole pages or sections shall not be permitted and shall be invalid.

The City will open and review responses privately to assure confidentiality and to avoid disclosure of the contents to competing Respondents prior to and during the review and evaluation process. However, upon notification of intent to award the design-build agreement, portions of the contents of the Proposals shall become subject to release to the extent required by the Act. After selection of the successful Proposal, the City reserves the right to use in the final design-build agreement concepts proposed by any Respondent, provided that such concepts do not alter the determination of the City about which Respondent provides the best value to the City.

## G. Non-Collusion Affidavit

Each Proposal shall be accompanied by the Non-Collusion Affidavit in the form attached hereto as **Exhibit F**.

## VI. CONTRACT PARAMETERS

### A. Design-Build Agreement

A copy of the Design-Build Agreement, with the General Conditions, is included as **Exhibit G** to this RFP.

If a Respondent believes that significant potential cost savings or other benefits to the City are possible and wants to propose changes to the attached Contract Documents, including all exhibits and attachments, then the Respondent shall submit the suggested exception and additions **no later than** five (5) days before **the deadline for revised Proposals**. The City will not consider any requested changes to these Contract Documents after that date.

Proposed changes, if any, shall be numbered and include the following information:

1. Contract Article(s) and Section(s)
2. Page number
3. Suggested alternate concept and language
4. Rationale and benefits to the City

Respondent **shall not** include any price information with the above submittal. The City will share any approved changes to the Contract Documents with all Respondents.

### B. Public Works Registration and Prevailing Wages:

**Notice is hereby given that this project is a public works project within the requirements of Division 2, Part 7, Chapter 1 of the California Labor Code.** The successful Design-Builder shall be required to pay its workers on this Project a sum not less than the general prevailing rate (applicable at the time of the RFQ/P posting date) of per diem wages and not less than the general prevailing rate for holiday and overtime work for work of a similar character in the locality in which the Project is performed, as provided under California Labor Code Sections 1726-1861. Copies of the prevailing rate of per diem wages are on file at the City of Rocklin, 3970 Rocklin Road, Rocklin, California 95677, and shall be made available to any interested party upon request. The prevailing wage rates may also be obtained on the Internet at [http://www.dir.ca.gov/DIR/S&R/statistics\\_research.html](http://www.dir.ca.gov/DIR/S&R/statistics_research.html). Refer to General Conditions Section 00700, Article 7.

Respondents must be registered with DIR pursuant to Labor Code section 1725.5 by the due date for Proposals. Failure of a Respondent to be registered by that date will render its Proposal non-responsive and preclude award. The selected Design-Builder's subcontractors, truckers and any suppliers and/or vendors subject to California's prevailing wage laws are required to be registered with DIR pursuant to Labor Code section 1725.5 at the time of Proposal submittal for members of the design-build team, or by the bidding deadline for trade work awarded after award of the design-build agreement.

### **C. Skilled and Trained Workforce Requirements**

Compliance with Public Contract Code sections 22164(c) and 2600 *et seq.* is required for this Project. In accordance with those statutes, the City will not short list any Respondent or enter into any contract for the Project unless the Respondent provides the City, in a form acceptable to the City, an enforceable commitment that a) the Respondent and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the Project that falls within an apprenticeable occupation in the building and construction trades, and b) the Respondent will provide the City with a monthly report of its compliance with the skilled and trained workforce requirements.

### **D. Subcontractors**

Subcontractors listed in the Proposal shall be entitled to the protections of Public Contract Code sections 4100-4114, inclusive.

As part of developing the Guaranteed Maximum Price, the Design-Builder shall establish pricing for trade and specialty work through a public competitive sub-bid selection process. The Design-Builder shall provide public notice of the availability of work to be subcontracted and provide a fixed date and time on which the subcontracted work will be awarded. The City encourages the participation of Rocklin-based subcontractors and Disabled Veteran Business Enterprises, and the Design-Builder will be expected to conduct outreach to encourage such businesses to submit bids on the trade work. The Design-Builder will provide the City with a copy of its bid advertisement and subsequent addenda if it changes the bid date. Subcontractors bidding on work shall be afforded the protections of Public Contract Code sections 4100-4114, inclusive.

### **E. Budgets / Costs:**

The City will require an open book policy with the Design-Builder. The City, through itself or its authorized agents and consultants, expects to have access to design information, subcontractor/supplier information (bids, actual contracts, associated change orders and correspondence), value engineering back-up, contingency breakdown and tracking, general conditions breakdown and tracking, actual costs for bonds and insurance, and all of Design-Builder's financial and cost records for the Project.

### **F. Performance Security/Insurance**

The Respondent to whom the Design-Build Agreement is awarded shall deliver to the City a Performance Bond or other security satisfactory to the City in its sole discretion, and a Payment Bond in the forms attached hereto as **Exhibits H and I**, respectively. The successful Respondent will be required to obtain the insurance, including errors and omissions insurance, as set forth in Exhibit A to the Design-Build Agreement. At completion of the construction, the Design-Builder will be required to provide a Guaranty in the form attached hereto as **Exhibit J**.

### **G. Non-Discrimination**

The City is an equal opportunity employer. The successful Respondent agrees that there shall be no discrimination against, or segregation of, any person, on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of any person, in connection with or related to the performance of City contracts.

### **H. Securities in lieu of Retention**

At the request and expense of the successful Respondent, eligible securities shall be accepted in lieu of retention payments to insure performance under the Contract, pursuant to California Public Contract Code Section 22300. Refer to General Conditions Article 12, Section 12.05. Said securities shall be deposited prior to the submission of the Design-Builder's first progress payment application.

### **I. Project Timing**

The City anticipates a Notice to Proceed with construction in August 2017, and Project completion in 2017.

## **VII. PREQUALIFICATION PROCESS**

Previously completed.

## VIII. SELECTION PROCESS

The purpose of the revised Proposal is to enable the City to select the most qualified firm that provides the best value to the City and with whom the City will contract for completion of the design and construction of the adventure elements of the Project. A review and selection committee composed of key City officials and consultants will review and evaluate all revised Proposals based on the scoring criteria identified below.

The City reserves the right, in its sole discretion, to cancel this RFP, issue a new RFP, reject any or all Proposals, seek or obtain data from any source that has the potential to improve the understanding and evaluation of Proposals, seek and receive clarifications to a Proposal, and waive any deficiencies, irregularities or technicalities in considering and evaluating the Proposals.

The City encourages inclusion of Rocklin-based subcontractors where feasible and cost effective for the Project. In selecting the Design-Builder, the City reserves the right in its sole discretion to interview Respondents. The City shall not be bound by any comments or statements made in such confidential discussions, unless the City's position is documented in a formal RFP Addendum.

Factors the City will consider in determining which Proposal provides the best value to the City include:

- Proposed design approach
- Proposed construction approach
- Life cycle costs over 15 years
- Technical expertise
- Construction expertise with similar projects
- Skilled labor force availability
- Acceptable safety record
- Proposed construction timeframe
- Price

See Section VIII.A and B for a more detailed discussion of the criteria and scoring.

### A. Proposal Format and Content

Submission of a Proposal signifies the Design-Builder's careful examination of RFP documents and complete understanding of the nature, extent and location of the Work to be performed and commitment to a GMP within the City's budget for the Project.

The Proposal should be clear, concise, complete, well-organized and demonstrate the Proposer's ability to follow instructions.

Provide one (1) signed original Proposal (marked "original") and four (4) copies, each in a three-ring binder, and two (2) pdf files in electronic form, each on a separate flash drive. In the event of any discrepancy between the hard copy and the pdf copies of the Proposal, the hard copy will control.

The Proposal submission must include the following, fully completed documents:

- Proposal
- Price Proposal
- Life Cycle Cost Analysis Data
- Non-Collusion Affidavit
- Subcontractor List (**Exhibit K**)

All Proposals shall follow the order and format specified below. Please tab each section of the Proposal to correspond to the numbers shown below under "Body of Submittal."

#### 1. Submittal Cover

Include the RFP's title and submittal due date, the name, address, e-mail address, fax number, and telephone number of Respondent, including each member of the Design-Builder.

## 2. Table of Contents

Include complete and clear listings of heading and pages to allow easy reference to key information.

## 3. Body of Submittal and Points

The following sections should be included in the order listed	Points
1. A cover letter signed by an officer of Respondent, or signed by another person with authority to act on behalf of and bind Respondent. Indicate contact person(s) for the Project. <b>Acknowledge all addenda in the cover letter.</b> The letter shall clearly indicate that the individual signing for the Respondent has carefully read and understands the requirements of this RFQ/P, and that the Respondent commits to comply with all provisions in the RFQ/P.	<b>10 points</b>
2. All issued addenda, signed and accepted.	<b>10 points</b>
3. A narrative report by each design discipline describing its proposed design philosophy with a descriptive narrative of, and the rationale for, the proposed architectural, structural, mechanical, plumbing, electrical, and geotechnical systems, types of equipment, materials, finishes, site development, landscaping, etc. Diagrams and illustrations may be included. The rationale shall include initial costs, lifecycle costs, and life expectancy and maintenance considerations. Clearly indicate when a proposed design solution, product or system has been in service fewer than 10 years, and if the design solution, product or system has never been approved by the permitting authority(ies).	<b>10 Points</b>
4. Initial design/construction schedule including key milestones such as, but not limited to (a) completion of each phase of design services, (b) approvals of the City, (c) approvals of applicable agencies, (d) start of construction, (e) substantial completion of construction, and (f) final completion.  A schedule showing substantial completion later than 2017 will receive reduced points. The City also will consider the realism of the schedule in scoring.	<b>20 Points</b>
5. Information to facilitate the City's analysis of the Project's life-cycle costs over 15 years.	<b>10 Points</b>
6. Describe the DBE's ability to mobilize to the Project and construct the Project within the timeframe described herein.	<b>20 Points</b>
7. An enforceable commitment that, if selected as the Design-Builder, the DBE and its subcontractors at every tier will use a "skilled and trained workforce," as defined in Public Contract Code section 2601(d), to perform all work on the project that falls within an apprenticeable occupation in the building and construction trades.	<b>Mandatory</b>
8. Certification by the DBE and its members under penalty of perjury under the laws of the State of California that the information provided in the Proposal is true and correct.	<b>Mandatory</b>

4. **Completed Fee Proposal**, submitted in **separate sealed envelope**, clearly labeled as the Fee Proposal.

## B. Evaluation

If the Design-Build Agreement is to be awarded, the City will award the Agreement to the Respondent whose Proposal is determined to provide the best value to the City. Best value will be assigned to the Proposal that scores the greatest number of points in accordance with the methodology described herein.



The City will evaluate each Proposal based upon the following factors, with the maximum number of points allocated to each factor as indicated in the Points Matrix below.

<b>FACTORS</b>	<b>Maximum Points</b>
1. Technical design and construction expertise	50 Points
2. Proposed approach	20 Points
3. Proposal "Body of Submittal" score (above)	80 Points
4. Price	50 Points

**TOTAL (Maximum) 200 points**

Points for "Technical design and construction expertise" shall be based on the previously submitted SOQ items 6 (key personnel), 7 (Contractor's experience), 8 (Design firm's experience), and 9 (Design-Build team experience). The sum of the SOQ scores assigned in those four categories shall be multiplied by .25 (25%) to obtain a score for purposes of evaluating the Proposal.

Points for "Proposed approach" shall be based on SOQ item 10. The SOQ score assigned in that category shall be multiplied by .3 (30%) to obtain a score for purposes of evaluating the Proposal.

Points for "Price" will be awarded as follows. The lowest total price in the fee proposal will receive 50 points. Any price within 10% of the lowest price will receive 40 points. Any price more than 10% and up to 20% higher than the lowest price will receive 30 points. A price more than 20% and up to 30% higher than the lowest price will receive 20 points. A price more than 30% and up to 40% higher than the lowest price will receive 10 points. Any price more than 40% higher than the lowest price will receive 0 points.

In the event of a tie in the total number of points awarded to the Design-Builders, the Proposal that, in the City's sole discretion, is determined to provide a superior design and construction solution with regard to sustainability, efficiency, and environmentally-friendly materials, systems and processes as compared to the other Proposal(s) receiving a tied score, shall be considered to provide the best value to the City.

**C. Selection of Design-Builder**

Upon completion of the City's evaluation of all Proposals, the City shall rank responsive Proposals in accordance with the evaluation criteria set forth above, from the most advantageous (best value) to the least advantageous to the City. The award of the Design-Build Agreement, if any, shall be to the Respondent whose Proposal is determined to be the best value to the City.

If the City elects to proceed with contract award, then the City shall issue a Notice of Intent to Award the Design-Build Agreement, identifying the scores and ranking of the Respondents submitting Proposals, including the Respondent determined to offer the best value to the City. The Notice of Intent to Award also shall specify the date and time of the public meeting at which the City Council is expected to consider the recommended award to the Respondent offering the best value. The Notice of Intent to Award shall be posted to the City website and provided to all Respondents that submitted Proposals. The Respondent identified as offering the best value shall return the executed Design-Build Agreement to the City within five (5) days of receipt of the Notice of Intent to Award. The Design-Build Agreement shall not be valid unless and until approved by the City Council.

Within ten (10) days of approval of the award of the Design-Build Agreement by the City Council, the successful Design-Builder shall provide to the City certificates of all required insurance.

If the selected Respondent fails to execute the Design-Build Agreement and/or provide the required insurance within the time required, then the City may, in its sole discretion, revoke any award and award the Agreement to **the second-highest ranked Respondent**. If the **second-highest ranked Respondent** thereafter fails to execute the Design-Build Agreement and/or provide the required insurance within the time required, then the City may, in its sole discretion, revoke any award and award the Design-Build Agreement to the third ranked Respondent.

**D. Protest Procedures (New Provision)**

Any protest of the proposed award of Design-Build Agreement to the Respondent offering the best value must be submitted in writing to the City Clerk of the City of Rocklin no later than 5:00 p.m. on the fifth (5th) business day following the issuance of the Notice of Intent to Award Design-Build Agreement. **Any protest submitted after this deadline shall be untimely.** The written protest shall be accompanied by a Protest Fee of \$500.00 via certified cashier's check made payable to "City of Rocklin" to reimburse the City's costs in reviewing and investigating the protest in the event that the protest is ultimately determined to be without merit. For protests in which the protester prevails, the Protest Fee shall be returned in full. Any untimely protest or protest submitted without the requisite Protest Fee will be grounds for denial or rejection of the protest.

The protest must contain a complete statement of the basis for the protest and must state the facts and refer to the specific portion of the document or the specific statute that forms the basis for the protest. The protest must include the name, address, and telephone number of the person representing the protesting party. The party filing the protest must concurrently transmit a copy of the protest to the Respondent who is the subject of the protest.

Any party filing a protest must have actually submitted a Proposal to the City of Rocklin on this project. Protests received from parties that have not submitted a Proposal on this project shall not be considered on the grounds that the party lacks standing to protest the proposed award. A subcontractor of a party filing a Proposal on this project may not submit a protest. A Respondent may not rely on the protest submitted by another Respondent, but must timely pursue its own protest.

The procedure and time limits set forth in this Section are mandatory and are the Respondent's sole and exclusive remedy to challenge the sufficiency of the award. The Respondent's failure to fully comply with these procedures shall constitute a waiver of any right to further challenge or object to the sufficiency of an award of Agreement, including filing of a challenge of the award pursuant to the California Public Contracts Code, filing of a claim pursuant to the California Government Code, or filing of any other legal proceedings.

The City Council shall consider all timely protests prior to formal award of the Design-Build Agreement, and either accept the protest and award the Agreement to the next highest-ranked Respondent, or reject the protest and award to the highest-ranked Respondent. Nothing in this section shall be construed as a waiver of the City Council's right to reject all Proposals. The City Council reserves the right to waive any Proposal irregularities not materially affecting the amount of the Proposal, except where such waiver would give a Respondent an advantage or benefit not allowed other Respondents.

END OF RFP

**EXHIBIT A**

**Concept Drawings for Project**

# Rocklin Quarry Adventures

## Addendum's

- A- Description of Elements and utility and specialized equipment needs
- B- Land use area's by zone's
- C- Description of Attractions and Elements by sections and zones

# Addendum A

## Rocklin Quarry Adventures 'Attractions and Elements' Description & Utility needs (for attractions and elements only)

**Utility Needs:** This does not include utilities for the general park or guest services building. Only for attractions and elements.

*Electrical power needs;*

1. Outlets on main platforms of Aerial Park
2. On quarry floor power for (2) **Water Aerators**
3. Power for pump, for water fall feature (depends on design)
4. Outlets in boat kiosk and lighting for dock (lighting for dock could be solar lights)
5. Outlets for portable misting stations near potable water hook-ups for both, Quarry Pit attractions and Belay Free Zone
6. General lighting for Quarry Pit attractions and Belay Free Zone for night time play.
7. General pathway lighting for evening play
8. Safety and Security Lighting for nighttime
9. Outlets for PA system based on design by contractor

**Potable water hookups for misters (cooling stations when needed) in Quarry pit and Belay Free Zone. Also a hose hookup at Boat Kiosk to clean dock and boats.**

**Quantity and some preferred equipment to operate elements.**

*All Equipment should meet ACCT and CALOSHA standards.*

1. **400** Full body harnesses of various sizes with anterior and **dorsal** belay loop
2. **400** Helmets that can be easily adjusted and sanitized.
3. **400** Lanyards. (limit fall to one foot or less)
4. **Smart Belay systems 350 Vertical Trekker™** Continuous belay brand.  
*Depending on the design of the Grand Zip*
5. **300** Petzel zip rollers.
6. **(4)** 50 meter ever-dry dynamic ropes for Rappel elements
7. **(4)** ATC's for Rappels
8. **(16)** Auto locking Carabineers.
9. **(100 feet)** 7mm accessory cord to make auto blocks for Rappelling

*Equipment the could be preordered if needed:*

(14)- Auto-belays: **The Perfect Escent™** auto-belay

(2) – Free fall jumps: **Powerfans™**

(350)- Smart Belay **systems Vertical Trekker™**

## **Attractions/Elements**

### **Background**

Key to the success of the venture is selection of the right attractions, the throughput of the attractions and facilities, and the thematic approach to the project.

The attractions must appeal to the following age/demographic segments in this order:

- |              |         |                                   |               |
|--------------|---------|-----------------------------------|---------------|
| 1. Primary   | Market: | Children                          | 4-14 years    |
| 2. Secondary | Market: | Parents of children               | 4-14 years    |
| 3. Third     | Market: | Company picnics and group outings |               |
| 4. Fourth    | Market: | Teen,                             | 15-20 years   |
| 5. Fifth     | Market: | College and                       | 20-somethings |

Note that the outdoor aerial/rock climbing enthusiasts are not a target market for this project.

Additionally, the economics of the venture dictate that the park accommodates 200-300 guests per hour on the attractions in a creative and safe manner.

The environment and overall feel of Rocklin Quarry Adventures is that of a resort-type experience taking place in and around a beautiful granite canyon on highly landscaped grounds rich with history. The park-like setting is highlighted by a 2.5-acre lake and heavily wooded picnic grove.

With the strategic placement and use of machinery, props and artifacts that were actually used at the Quarry over its 150-year history, Rocklin Quarry Adventures is unlike any other park in America.

### **Rocklin Quarry Adventures consists of four primary sections:**

- ***Inside the Quarry Walls*** Zone's 8/10
- ***Perimeter and on Quarry Walls*** Zone's 1,2,3,4,5,6,7,
- ***Outside Quarry*** Zone's 9, 12,13,14,
- ***Quinn Lake*** Zone 11

All elements and course design must meet the State of California's Department of Industrial Regulations' Division of Occupational Safety and Health's requirements for zip line owners and operators as well as comply with CALOSHA and ASTM 295. It is the

responsibility of the design/builder to meet all certification and licensing requirements of the respective jurisdictions.

This narrative serves as a suggested guideline for both the attraction elements and preferred equipment for the park based on our research. The primary criteria in determining attractions elements and equipment are:

- ease of use
- total upfront cost
- simplicity of maintenance and maintenance expense
- duration of equipment and replacement cost

Please note that the Grand, duel racing Zip Lines and the High Traversing Trail start in one section of the park and continue to another section of the park. Although these elements will begin and end in two separate sections, they will only be mentioned in one section of the narrative.

### **Section 1: Inside the Quarry Walls.**

The following are the suggested attractions for the Quarry floor.

#### **1. Aerial Adventure / Ropes course ZONES 8 &10**

50 to 100 element multi-level aerial challenge course

3 different level of difficulties:

- i. 75% super easy
- ii. 20% Intermediate
- iii. 5% difficult

It is suggested the aerial course weave through the quarry floor with some elements connecting to the quarry walls and a swinging bridge. The aerial course should have a minimum of 12 activity areas (pods).

The entrance to the aerial adventure course must be on the north side of the Quarry (City Hall wall), meaning they will walk from the entry trail at the south entrance to the Quarry.

Guests will start the course from a main deck that has two elevation levels. The main deck entry area can be likened to the top of ski mountain that has multiple ski runs from which to choose, then continues with more trail options branching from the main trail. This is classically called a **Hub-and-Spoke design**. Guests will clip-in as soon as they reach this platform and may climb a ladder or stairs to begin their adventure course.

A minimum of four adventure elements for each level (high and low) of the main deck will be used by guests to immediately disperse them to the main course. Throughput from the main platform to the first pods is highly important.



All pods must provide users with a choice of at least two elements to traverse to another next pod. These elements can include mini-zip lines or ropes course elements.

The pods meander through the quarry floor and some or all will attach to the quarry wall to allow park guests access the **Traversing Trail** or other elements that utilize the quarry walls.

These pods can be different heights and lengths dictated by the natural movement of the quarry floor and design of the ropes course elements.

Various platforms can also utilize spiral staircases or ladders so guests can move up and down levels. Staircases are preferred in high traffic areas.

## **2. Grand Duel or triple racing Zip Lines ZONE'S 14 & 8**

- 600-800-foot zip line
- Grand Zip tower will be located to the east side of the main building. The tower will be located outside the quarry walls.
- Zip Line Tower with wide stairs that are covered with a non-slip surface.
- Double or triple zip lines from tower platform.
- This platform is large enough to accommodate at least 11 people. The stairs of the tower should be large enough to accommodate a queue.
- Zip line ends on one of the auxiliary platforms of the adventure course or on a separate platform in the northeast end of the quarry where guests can unclip, then begin the aerial course. The Grand Zip Line SHOULD NOT end on the main entry platform.

## **3. Swinging Bridges ZONE 8**

These bridges can connect challenge elements, quarry walls and walkways. Swinging bridges should be placed strategically throughout the course to facilitate throughput.

## **4. King Swing ZONE 10**

- A double or triple swing for a larger capacity.
- Placed on the north floor of the quarry, next to the pond at the bottom, facing north to the right of the waterfall.

## **Section 2: Perimeter and on Quarry Walls**

### **1. Traversing Trail (High) ZONE'S 1,2,3,4,5,6,7**

Starting on the west wall of the quarry, the Traversing Trail is on the perimeter of the quarry wall and continues to the zip line landing zone platform or may continue to another platform to the vertical garden. This high traversing "trail" can use metal rungs and stylized boards, barrels and planks. The Traversing Trail also might also

connect to pods of the aerial adventure ropes course which will then open the main wall and other areas of the perimeter as needed for free fall jump stations, rock climbing and rappelling.

**2. Traversing Trail (Low) ZONE'S lower 5&6**

Shorter version of Traversing Trail (high) will be closer to ground on South wall and will not require a platform. The length will be approximately 100-200 feet long.

**3. Wall Cargo Net Climbing Area ZONE 4**

- Connected to the aerial course along the north section in front of City Hall wall, near the west corner. These wall nets are stable and designed for ease of use. The net climbing wall can be a separate feature or can be combined with other climbing features or included as an element of the adventure course.
  
- Equipment: **The Perfect Escent** or similar auto-belay system.

**4. Free Fall Jump Stations (2) ZONE'S 1 or 8, off Aerial Park**

Placed on the top of the west wall on the natural overhang or strategically placed on an aerial park/ropes course platform.

- Two, **PowerFan™** systems.

**5. Rappelling Stations (2) ZONE 3**

Placed on the west wall using the **Perfect Escent** auto-belay systems or something similar as stated above.

- Anchor for Rope to feed through for rappelling.
- Also, a series of traditional steel anchors across the top of the wall for vertical training purposes.

**6. Rock Climbing Routes ZONE 3**

*20 routes with 10 auto belays. Each auto-belay serves 2 routes.*

Auto belays, placed on the west wall using the **Perfect Escent** auto-belay systems or something similar as stated above.

Strategically placed rock climbing routes across the main wall and gully area. The climbing routes should appeal and be suitable for the primary park demographic, kids 4-14 years. **Climbing holds should be of varying sizes, made of natural granite and glued to the face of the climbing wall.**

**Section 3: Outside Quarry**

## Legacy Family Adventures - Rocklin

The primary feature of this area of the park is the adventure course which primarily appeals to three demographic groups:

Children:	4-8 yrs
Tweens:	9-14 yrs
Parents:	25+ yrs

### 1. **Belay Free Aerial Adventure course ZONE'S 12 & 13**

26 or more **harness and helmet free** elements. For example, this area might include a mini-version of the adventure course in the quarry; and/or attractions like a balance beam 20 feet high with cargo net walls on either side of the beam.

### 2. **Stream Play ZONE 13**

A 15' by 100' creek with dams and water diverters to control the flow of water. Participants might move a series of dams and gates to change the flow of water that is about 2 to 4 inches deep. (see slide show)

### 3. **Boulder Climb Area ZONE 13**

Boulders arranged into a maze. These boulders, which are currently on the premises, should be selected for their shape and height for safe climbing. Depending on local and state regulations, woodchips or similar material to provide a safe landing area around boulders.

### 4. **Kids Zips**

Four or more kid's zips, harness and helmet free. These zips traverse 20 to 50 feet and are suspended just a few feet off the ground. Zip lines will have a variety of seats or hand holds.

## Section 4: Quinn Lake Zone

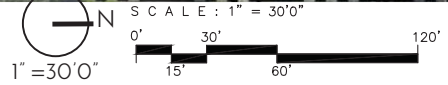
### 1. **Paddle Boats/ Boat House ZONE 11**

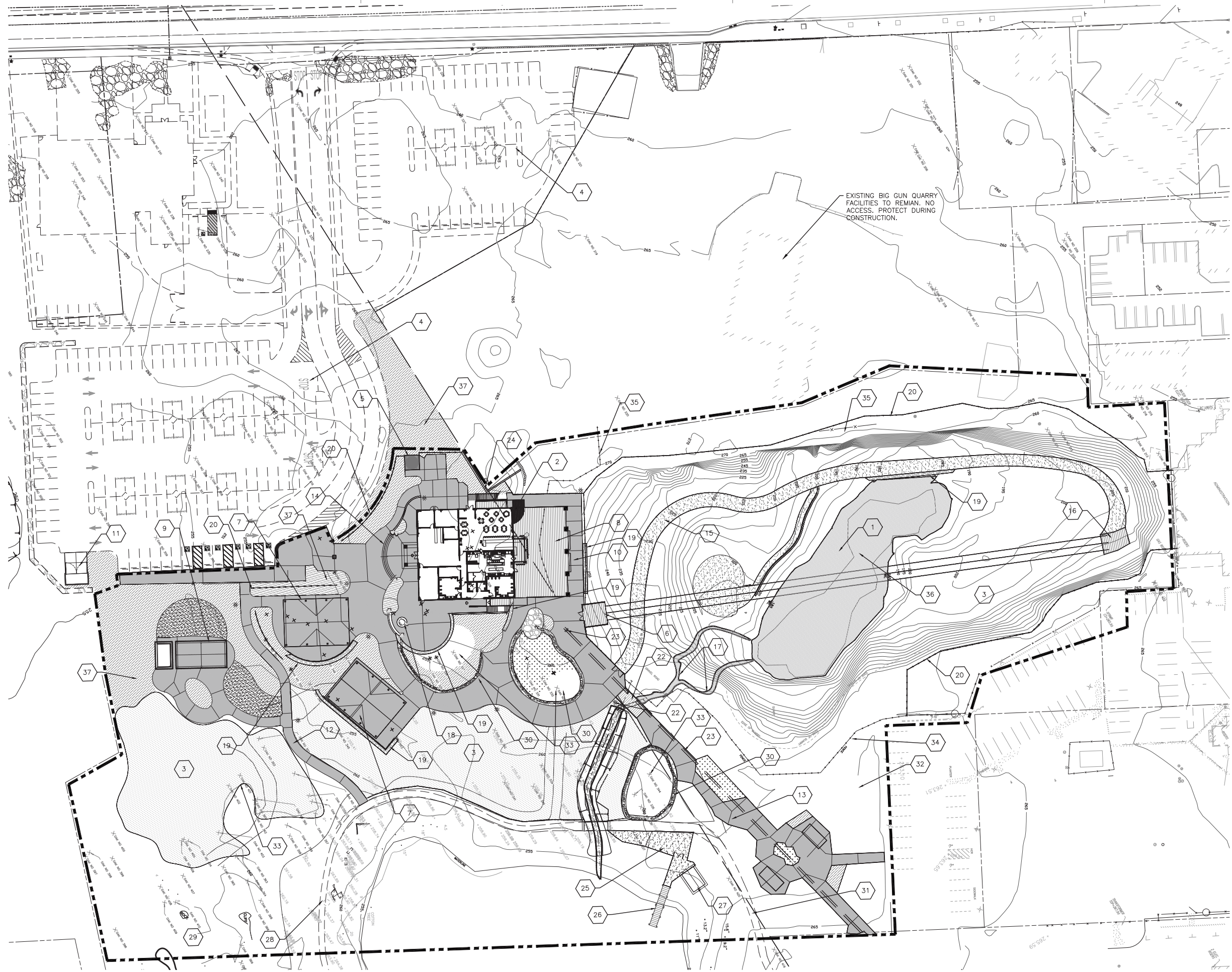
- 20 or more Swan paddle boats with appropriate theming.
- Small "boat kiosk" with window for ticketing and area to store life jackets and supplies.
- Large dock with the capacity to load at least two boats at a time.
  - Electrical outlet power needed for boat kiosk



**LEGEND**

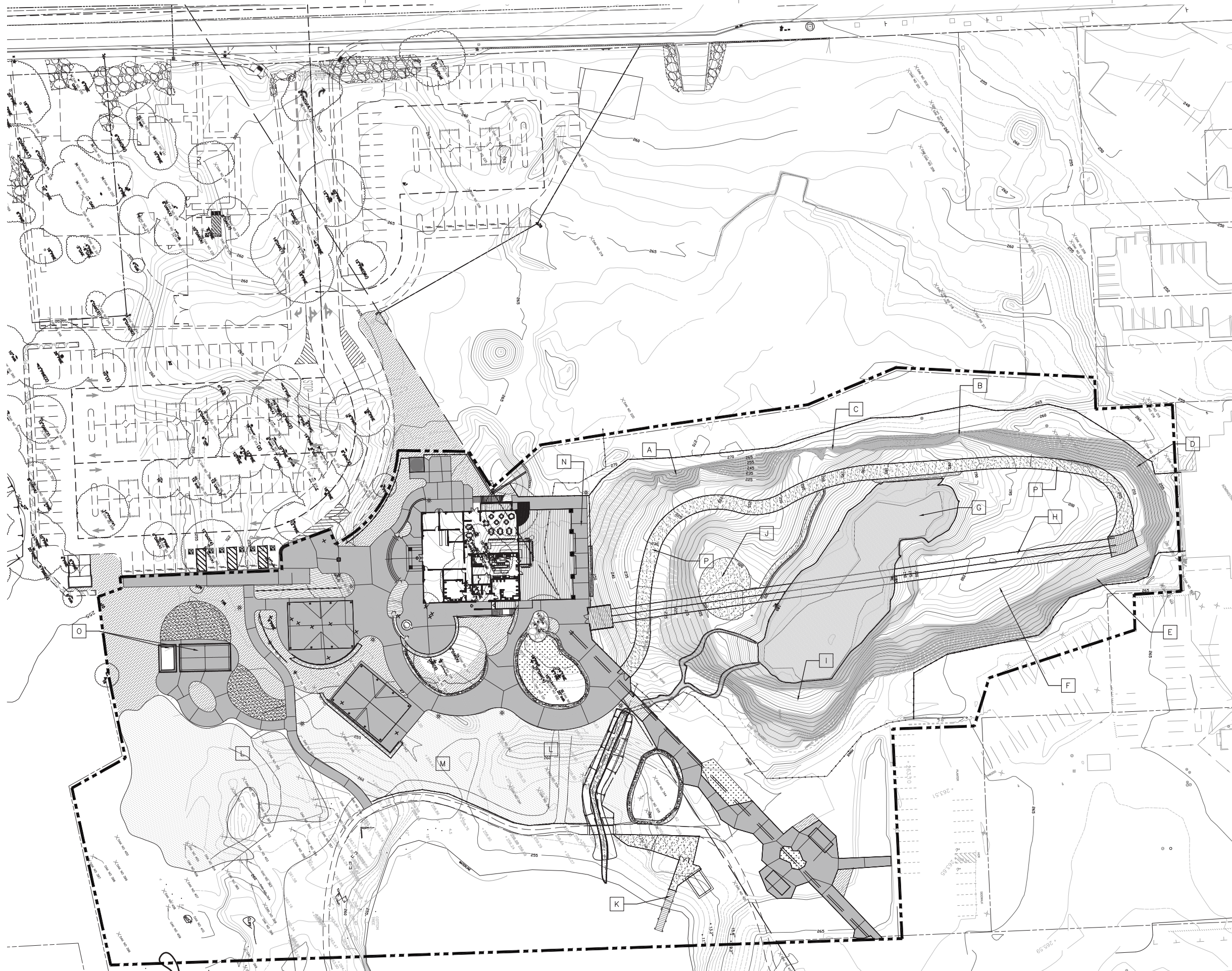
- A BIG GUN QUARRY PIT LAKE
- B ROCKLIN QUARRY ADVENTURES - GUEST SERVICES BUILDING SEE SHEET PL 2 (TICKETING, CAFE, SUPPORT SERVICES FACILITY)
- C ROCKLIN ADVENTURES - (ACTUAL ADVENTURES TO BE DETERMINED)
  - c1 Jump Wall
    - Free Fall Jump Stations
    - Traversing High Trail Start
  - c2 Gully
    - Climbing Routes
  - c3 Main Wall
    - Repelling Stations
    - Climbing Routes
  - c4 City Hall Wall
    - Wall Cargo Net Combo Climb Area
  - c5 Sunny Side Wall
    - Possible Landing Zone for Duel or Triples Racing Zip Lines
  - c6 Sunny Side Bottom of Wall
    - Traversing Low Trail
  - c7 Water Pump Maintain Water level at Elevation 185'
  - c8 Quarry Floor, Lake and Foreground
    - Aerial Adventure Park
    - Possible Landing Zone for Duel or Triple racing Zip Lines
  - c9 Hanging Garden
  - c10 King Swing
  - c11 Paddle Boats/Boat House
  - c12 Kid Zips
  - c13 Aerial Adventure Course Harness and Helmet Free
    - Stream Play
    - Boulder Climb Area
  - c14 Ground School Patio
  - c15 Reserved Birthday Pavilion, Restrooms, & Picnic Area
  - c16 Access Trail to Bottom
- D PARKING - 64 CARS LOWER LOT, 119 UPPER LOT, 6 HANDICAP STALLS
- E DROP OFF
- F DUEL OR TRIPLE RACING ZIP LINE TOWER
- G (2) 40'X60' SHADE STRUCTURES FOR PICNICKING
- H DECK (4,000 S.F.), WITH SUPPORT AND STORAGE BUILDING UNDERNEATH
- I PAVILION AND RESTROOM
- J GROUND SCHOOL PATIO
- K TRASH ENCLOSURE
- L QUARRY PARK PICNIC AREA
- M CONCRETE PATHWAY THROUGH TO PARKING LOT
- N PEDESTRIAN CONNECTION TO MEMORIAL PARK
- O OPEN SPACE TRAIL (FUTURE)
- P STAIRS
- Q WATER FALLS
- R OUTDOOR FIRE PIT
- S PROPOSED ROCKERY RETAINING WALL
- T EXISTING ROCKERY WALL TO REMAIN
- U EXISTING DG PATH TO REMAIN





PRELIMINARY LANDSCAPE DESIGN NOTES

1. BIG GUN QUARRY PIT LAKE, MAINTAIN WATER LEVEL @ +/-185.00
2. ROCKLIN QUARRY ADVENTURES - GUEST SERVICES BUILDING (TICKETING, CAFE, SUPPORT SERVICES FACILITY). SEWER AND WATER STUB CONNECTIONS PROVIDED BY OTHERS. SEE PLANS BY OTHERS.
3. ROCKLIN ADVENTURES GROUND AREA-SEE SHEET DD2.
4. PROPOSED PARKING LOT BY OTHERS.
5. BUS DROP OFF LOCATION. MAINTAIN ADA ACCESS, PROVIDE DECORATIVE WATER TOWER. SEE DD2.
6. DUAL OR TRIPLE RACING ZIP LINE TOWER. WOOD AND METAL MATERIALS. SUBMIT SHOP DRAWING.
7. (2) 40'X60' SHADE STRUCTURES FOR PICNICKING. STEEL WITH METAL ROOFING, SEE ARCHITECTURAL PLANS.
8. DECK (4,000 S.F.), WITH SUPPORT AND STORAGE AND TRAINING UNDERNEATH
9. PAVILION AND RESTROOM, SEE ARCHITECTURAL PLANS.
10. GROUND SCHOOL CONCRETE PATIO. INTEGRAL COLOR LANDMARK GREY WITH ROUGH STONE SKIN FINISH.
11. CMU TRASH ENCLOSURE PER CITY STDS. AND RECOLOGY REQUIREMENTS.
12. CONCRETE PATHWAY THROUGH TO PARKING LOT. INTEGRAL COLOR LANDMARK GREY WITH ROUGH STONE SKIN FINISH.
13. CONCRETE PEDESTRIAN CONNECTION TO MEMORIAL PARK, INTEGRAL COLOR LANDMARK GREY WITH ROUGH STONE SKIN FINISH.
14. (4) 6" CONCRETE RISERS PER ACCESS CODE WITH HANDRAILS.
15. PROPOSED STABILIZED 12' WIDE, D.G. ACCESS PATH/MAINTENANCE ACCESS ROAD INTO QUARRY PIT.
16. WOOD RECEIVING DECK FRO ZIP LINE.
17. (2) WATER FALLS-APPROXIMATELY . 120 GPM EA. PUMP IS EXISTING IN BOTTOM OF BIG GUN QUARRY. CONFIRM EXISTING CONFIGURATION OF PLUMBING TO QUINN QUARRY.
18. OUTDOOR FIRE PIT- RAISED MASONRY 6' DIAMETER. PROVIDE 18" HGT. CONCRETE SEAT WALL.
19. PROPOSED ROCKERY RETAINING WALLS, SEE GRADING PLAN DD3 FOR HGTS.
20. PROPOSED WOOD AND STEEL FABRIC FENCE TO MATCH EXISTING.
21. PROPOSED AREA LIGHT POLES TO MATCH EXISTING POLES IN QUARRY PARK WITHOUT STONE BASE.
22. PROPOSED SIMULATED BRIDGE OVER EXISTING PIPE DISCHARGE TO QUARRY. WOOD GRAINED STAMPED CONCRETE WITH WOOD RAILING TO MATCH EXISTING FENCING.
23. EXTEND EXISTING MINING CAR RAILS FROM QUARRY PARK. END WITH HEAVY TIMBER BARRICADE.
24. PROPOSED P.I.P CONCRETE WALL. VARIED HGT.
25. PROPOSED D.G. SURFACE AREA FOR BOAT HOUSE.
26. PROPOSED FLOATING BOAT DOCK.
27. PROPOSED BOAT HOUSE SHED.
28. EXISTING OPEN SPACE TRAIL TO REMAIN.
29. QUARRY PARK PICNIC AREA.
30. EXISTING ROCKERY WALL TO REMAIN.
31. EXISTING DG PATH TO REMAIN.
32. EXISTING TURF TO REMAIN.
33. EXISTING OAK TREES TO REMAIN. SEE GRADING PLAN SHEET DD3.
34. EXISTING WOOD AND METAL FENCE TO REMAIN.
35. EXISTING TEMPORARY METAL FENCE TO BE REMOVED.
36. EXISTING PUMP IN BIG GUN QUARRY TO REMAIN.
37. PROPOSED LANDSCAPED PLANTING AREA. SEE SHEET DD4. PROVIDE LANDSCAPE DRAINAGE AS NECESSARY, INTO WATER TREATMENT AREAS.



ROCKLIN ADVENTURES - (ACTUAL ADVENTURES TO BE DETERMINED)

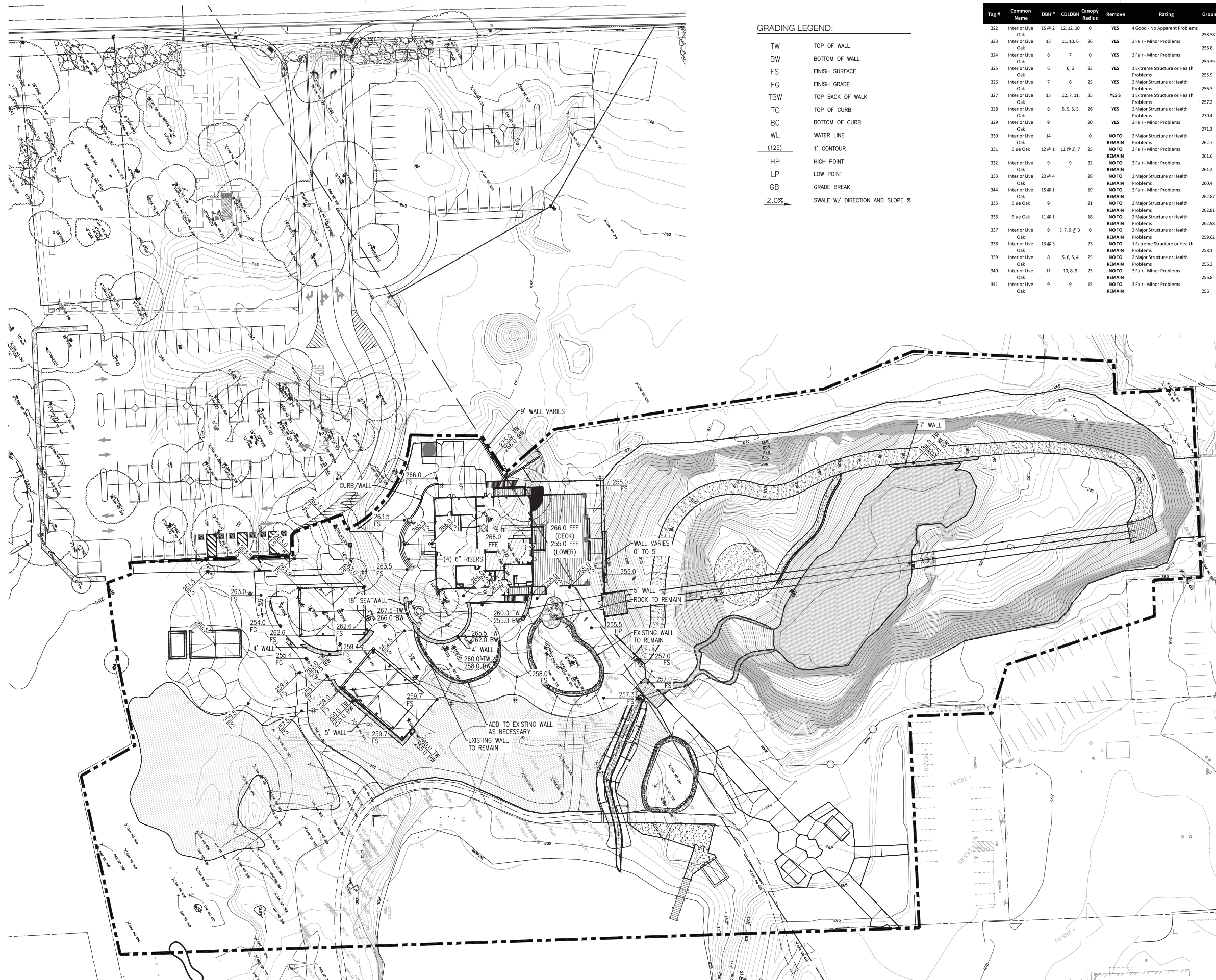
- A. Jump Wall
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  - Climbing Routes
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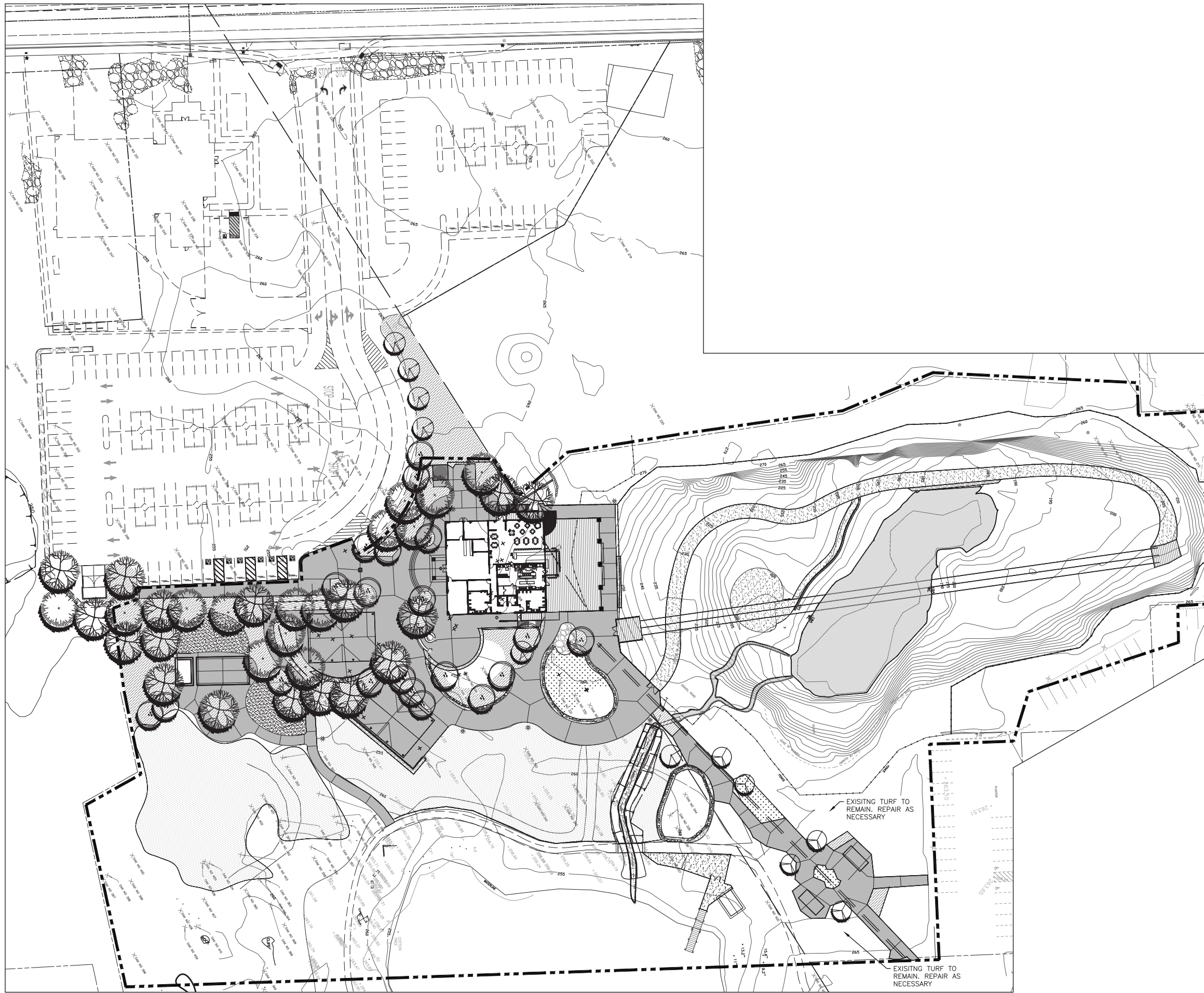
GRADING LEGEND:

TW	TOP OF WALL
BW	BOTTOM OF WALL
FS	FINISH SURFACE
FG	FINISH GRADE
TBW	TOP BACK OF WALK
TC	TOP OF CURB
BC	BOTTOM OF CURB
WL	WATER LINE
(125)	1" CONTOUR
HP	HIGH POINT
LP	LOW POINT
GB	GRADE BREAK
2.0%	SWALE W/ DIRECTION AND SLOPE %

Tag #	Common Name	DBH"	CLDDBH	Canopy Radius	Remove	Rating	Ground
322	Interior Live Oak	15 @ 2	12, 12, 10	0	YES	4 Good - No Apparent Problems	258.58
323	Interior Live Oak	13	11, 10, 6	26	YES	3 Fair - Minor Problems	256.8
324	Interior Live Oak	8	7	0	YES	3 Fair - Minor Problems	259.39
325	Interior Live Oak	6	6, 6	23	YES	1 Extreme Structure or Health Problems	255.9
326	Interior Live Oak	7	6	25	YES	2 Major Structure or Health Problems	256.3
327	Interior Live Oak	15	12, 7, 11	35	YES S	1 Extreme Structure or Health Problems	257.2
328	Interior Live Oak	8	5, 5, 5, 5	26	YES	2 Major Structure or Health Problems	270.4
329	Interior Live Oak	9	20	0	YES	3 Fair - Minor Problems	271.3
330	Interior Live Oak	14	0	0	NO TO REMAIN	2 Major Structure or Health Problems	262.7
331	Blue Oak	12 @ 1'	11 @ 1', 7	25	NO TO REMAIN	3 Fair - Minor Problems	261.6
332	Interior Live Oak	9	9	32	NO TO REMAIN	3 Fair - Minor Problems	261.2
333	Interior Live Oak	20 @ 4'		28	NO TO REMAIN	2 Major Structure or Health Problems	260.4
344	Interior Live Oak	15 @ 1'		21	NO TO REMAIN	3 Fair - Minor Problems	262.87
335	Blue Oak	9		19	NO TO REMAIN	2 Major Structure or Health Problems	262.81
336	Blue Oak	11 @ 1'		18	NO TO REMAIN	2 Major Structure or Health Problems	262.98
337	Interior Live Oak	9	3, 7, 9 @ 3	0	NO TO REMAIN	2 Major Structure or Health Problems	259.62
338	Interior Live Oak	13 @ 3'		23	NO TO REMAIN	1 Extreme Structure or Health Problems	258.1
339	Interior Live Oak	8	5, 6, 5, 4	25	NO TO REMAIN	2 Major Structure or Health Problems	256.3
340	Interior Live Oak	11	10, 8, 9	25	NO TO REMAIN	3 Fair - Minor Problems	256.8
341	Interior Live Oak	9	9	15	NO TO REMAIN	3 Fair - Minor Problems	256

Tag #	Common Name	DBH"	CLDDBH	Canopy Radius	Remove	Rating	Ground
342	Interior Live Oak	18	6, 9	25	YES S	1 Extreme Structure or Health Problems	256.5
343	Valley Oak	9		15	YES	4 Good - No Apparent Problems	256.6
344	Interior Live Oak	15 @ 3'		19	NO TO REMAIN	3 Fair - Minor Problems	262.8
345	Interior Live Oak	20 @ 3'	9, 9	0	NO TO REMAIN	2 Major Structure or Health Problems	256.2
346	Oak ?	NA	NA	NA	YES	NA	256.2
347	Oak ?	NA	NA	NA	YES	NA	254.3
348	Oak ?	NA	NA	NA	YES	NA	254
349	Oak ?	NA	NA	NA	NO TO REMAIN	NA	255.1
350	Oak ?	NA	NA	NA	YES	NA	255.34
351	Oak ?	NA	NA	NA	YES	NA	254.2
357	Interior Live Oak	12"		21	YES H	2 Major Structure or Health Problems	260.8
358	Interior Live Oak	17 @ 1'		25	YES S	2 Major Structure or Health Problems	261.85
359	Interior Live Oak	11"		29	YES S	2 Major Structure or Health Problems	260.19
360	Interior Live Oak	6"		12	YES S	2 Major Structure or Health Problems	260.6
361	Interior Live Oak	9"		23	NO TO REMAIN	3 Fair - Minor Problems	261.5
362	Interior Live Oak	9"		17	NO TO REMAIN	3 Fair - Minor Problems	261.5
363	Interior Live Oak	9		13	NO TO REMAIN	3 Fair - Minor Problems	259.5
364	Interior Live Oak	6		13	NO TO REMAIN	3 Fair - Minor Problems	259.64
365	Interior Live Oak	7 @ 2'	7 @ 1'	0	NO TO REMAIN	2 Major Structure or Health Problems	258.6
366	Interior Live Oak	13	7	21	NO TO REMAIN	3 Fair - Minor Problems	259.8
367	Interior Live Oak	9	9	20	NO TO REMAIN	3 Fair - Minor Problems	NA
368	Interior Live Oak	10 @ 2'		15	NO TO REMAIN	3 Fair - Minor Problems	261.25
369	Interior Live Oak	8		17	NO TO REMAIN	4 Good - No Apparent Problems	261.05
370	Interior Live Oak	7 @ 2'		17	YES H	1 Extreme Structure or Health Problems	262.54
370	Interior Live Oak	10 @ 2'		17	NO TO REMAIN	3 Fair - Minor Problems	262.54
372	Interior Live Oak	10		20	NO TO REMAIN	2 Major Structure or Health Problems	266.06
373	Interior Live Oak	9		15	NO TO REMAIN	2 Major Structure or Health Problems	266.05
374	Interior Live Oak	10		21	NO TO REMAIN	3 Fair - Minor Problems	266.32
375	Interior Live Oak	10	8	18	NO TO REMAIN	3 Fair - Minor Problems	266.63
376	Interior Live Oak	9 @ 2'	5, 3	15	NO TO REMAIN	3 Fair - Minor Problems	267.83
377	Interior Live Oak	7		12	NO TO REMAIN	3 Fair - Minor Problems	NA
378	Interior Live Oak	12 @ 1'		20	NO TO REMAIN	2 Major Structure or Health Problems	266.79
379	Interior Live Oak	8	7, 6	25	NO TO REMAIN	3 Fair - Minor Problems	263.8
380	Interior Live Oak	7	5, 4	19	NO TO REMAIN	3 Fair - Minor Problems	266.79
381	Interior Live Oak	11	10, 9	29	NO TO REMAIN	4 Good - No Apparent Problems	266.05
382	Interior Live Oak	9		14	NO TO REMAIN	5 Excellent	264.69
383	Interior Live Oak	10 @ 1'		19	NO TO REMAIN	3 Fair - Minor Problems	264.92
385	Interior Live Oak	8	7, 7	14	YES S	1 Extreme Structure or Health Problems	267.19
386	Interior Live Oak	7	6, 6, 4	14	NO TO REMAIN	4 Good - No Apparent Problems	267.57
387	Interior Live Oak	9	8, 6, 4, 7	16	YES S	1 Extreme Structure or Health Problems	270.02
388	Interior Live Oak	10	5-6 failed, 0	0	NO TO REMAIN	2 Major Structure or Health Problems	266.28
389	Interior Live Oak	15	14, 10	28	NO TO REMAIN	3 Fair - Minor Problems	265.85
390	Interior Live Oak	15 @ 3'	3, 12, 10, 1	25	YES S	1 Extreme Structure or Health Problems	265.38
391	Interior Live Oak	17 @ 2'	10	23	NO TO REMAIN	2 Major Structure or Health Problems	262.59
392	Interior Live Oak	11 @ 2'		18	NO TO REMAIN	4 Good - No Apparent Problems	262.59
393	Interior Live Oak	10 @ 2'	7, 7	19	YES H	2 Major Structure or Health Problems	261.59
394	Blue Oak	6		9	YES H	1 Extreme Structure or Health Problems	261.56
395	Interior Live Oak	12	11	0	NO TO REMAIN	0 Dead	265.3
396	Interior Live Oak	18 @ 2'	10 @ 17 @ 2'	34	NO TO REMAIN	1 Extreme Structure or Health Problems	258.97
397	Interior Live Oak	14	10, 8	35	NO TO REMAIN	3 Fair - Minor Problems	256.73
398	Interior Live Oak	16		25	NO TO REMAIN	3 Fair - Minor Problems	256.74
399	Interior Live Oak	7		27	NO TO REMAIN	1 Extreme Structure or Health Problems	256.7
400	Interior Live Oak	23 @ 3'	14, 11	26	YES S	1 Extreme Structure or Health Problems	258.3
401	Blue Oak	20		22	NO TO REMAIN	4 Good - No Apparent Problems	260.4
402	Interior Live Oak	7"		17	NO TO REMAIN	3 Fair - Minor Problems	259.2
403	Interior Live Oak	22	7, 8 @ 2'	30	NO TO REMAIN	2 Major Structure or Health Problems	258.8
404	Interior Live Oak	6		10	NO TO REMAIN	2 Major Structure or Health Problems	258.8
405	Interior Live Oak	7	5, 4	15	NO TO REMAIN	2 Major Structure or Health Problems	258.8
406	Interior Live Oak	9 @ 4'	6	15	NO TO REMAIN	2 Major Structure or Health Problems	258.8
407	Interior Live Oak	10 @ 3'	9	18	NO TO REMAIN	3 Fair - Minor Problems	258.17
408	Interior Live Oak	9 @ 2'	8, 6, 4	20	NO TO REMAIN	3 Fair - Minor Problems	259.78
409	Interior Live Oak	9 @ 2'	5	17	NO TO REMAIN	3 Fair - Minor Problems	260.25





**PLANT MATERIAL LIST AND LEGEND**

**TREES**

SYMBOL	BOTANICAL NAME COMMON NAME	SIZE	REMARKS	WATER USE	QUANTITY
	BETULA PENDULA EUROPEAN WHITE BIRCH	#15	MULTI TRUNK	MED	5
	COTINUS COGOGYRIA ROYAL PURPLE SMOKE TREE	#15	MULTI TRUNK	MED	20
	LAGERSTROEMIA INDICA X FAURIEI "ARAPAHO" RED CRAPE MYRTLE	#15	MULTI TRUNK	MED	6
	PINUS MALEPENSIS ALLEPPO PINE	#15		LOW	14
	QUERCUS WISLIZENII INTERIOR LIVE OAK	#15	STANDARD	MED	16

**SHRUBS**

SYMBOL	BOTANICAL NAME COMMON NAME	SIZE	REMARKS	WATER USE	SPACING
	MAHONIA AQUIFOLIUM 'COMPACTA' COMPACT OREGON GRAPE	1 G		LOW	10% OF AREA 4' O.C.
	SPIREA JAPONICA 'GOLD FLAME' GOLD FLAME SPIREA	5 G		MED	5% OF AREA 3' O.C.
	ROSA X 'NOMIE' RED GROUNDCOVER ROSE	5 G		MED	15% OF AREA 3' O.C.
	PINUS MUGO PUMILO DWARF MUGHO PINE	5 G		MED	10% OF AREA 4' O.C.

**GROUNDCOVERS**

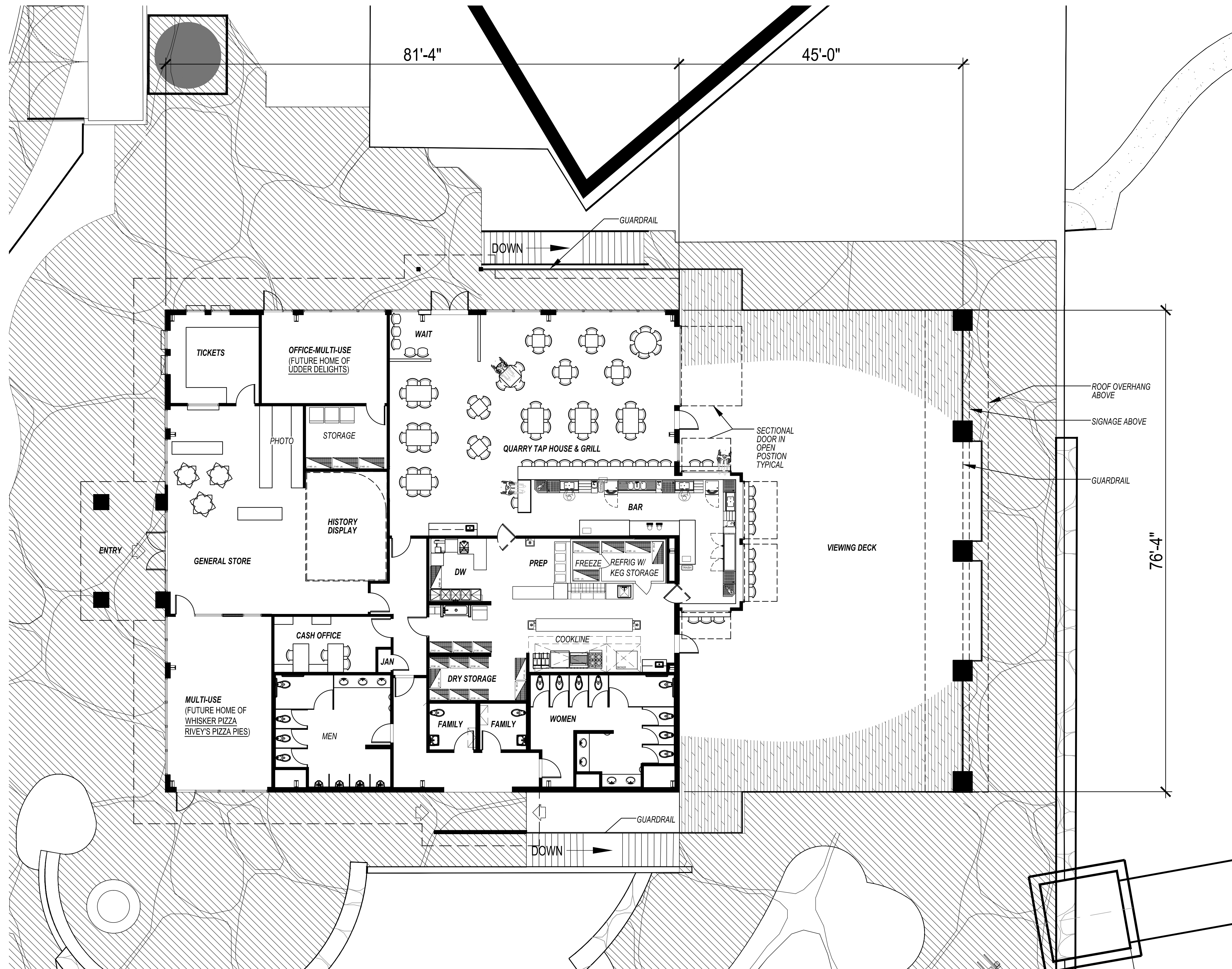
SYMBOL	BOTANICAL NAME COMMON NAME	SIZE	SPACING	WATER USE
	ARCTOSTAPHYLOS UVI URSI NON	1 G	30% OF AREA 3' O.C.	LOW
	COTONEASTER HORIZONTALIS ROCK COTONEASTER	1 G	30% OF AREA 3' O.C.	LOW
	"NO MOW" FINE FESCUE AS AVAILABLE THROUGH PACIFIC SOD (800) 692-8690	SOD	2,200 SF	MED
	BLUE RYE SOD AS AVAILABLE THROUGH DELTA BLUEGRASS (800) 637-8873	SOD	3,000 SF	HIGH

TOTAL LANDSCAPED AREA OF SHRUB AND GROUND COVER IS 22,400 SF

**GENERAL PLANTING NOTES**

1. ALL PLANTING AREAS SHALL BE IRRIGATED WITH AN AUTOMATIC IRRIGATION SYSTEM THAT WILL BE COMPLIANT WITH THE STATE'S WATER EFFICIENT LANDSCAPE ORDINANCE.
2. ALL SHRUB AND GROUNDCOVER AREAS SHALL RECEIVE A 3" LAYER OF BARK CHIP MULCH TOP DRESSING.
3. ALL GROUND MOUNTED HVAC UNITS, GAS & ELECTRICAL METERS, AND EQUIPMENT ETC. SHALL RECEIVE SHRUB SCREENING IN SHRUB AND GROUNDCOVER AREAS AROUND BUILDINGS.
4. TRASH ENCLOSURES SHALL BE SCREENED WITH EVERGREEN TREES AND SHRUB PLANTING.
5. IRRIGATION SHALL BE PROVIDED FROM EXISTING CITY SERVICE CURRENTLY WATERING EXISTING TURF AREA. CONTACT PUBLIC WORKS DEPT. FOR LOCATION OF EXISTING MAIN LINE AND CONTROLLER TO TIE INTO.





**GUEST SERVICES BUILDING (UPPER LEVEL)**

**AREA**  
 GUEST SERVICES BUILDING - UPPER LEVEL = 6,440 S.F.  
 GUEST SERVICES BUILDING - DECK = 3,200 S.F.

**ANTICIPATED UTILITY REQUIREMENTS:**  
 ELECTRICAL : 800 AMP SERVICE AT 120/208 3 PHASE 4 WIRE  
 HVAC : 25 TONS (15 TONS UPPER LEVEL, 10 TONS LOWER LEVEL)

**CONSTRUCTION NOTES**

- DIV 03 00 00 CAST-IN-PLACE CONCRETE**  
03 35 43 Polished and sealed concrete floor
- DIV 03 50 00 CAST DECKS AND UNDERLAYMENT**  
03 52 00 Lightweight concrete over poly coat and sub-floor decking
- DIV 04 70 00 MANUFACTURED MASONRY**  
04 73 00 Manufactured stone masonry
- DIV 05 70 00 DECORATIVE METAL**  
05 75 00 Stainless steel wall cladding  
05 73 13 Wire rope decorative metal railings
- DIV 06 20 00 FINISH CARPENTRY**  
06 20 13 Exterior finish carpentry  
06 46 19 Wood Base
- DIV 06 40 00 ARCHITECTURAL WOODWORK**  
06 41 16 Plastic laminate countertop
- DIV 07 42 00 ROOFING AND SIDING PANELS**  
07 42 13.13 Corrugated metal wall panels  
07 41 13 Standing seam metal roof panels
- DIV 12 30 00 CASEWORK**  
12 32 13 Maple face casework
- DIV 08 10 00 DOORS AND FRAMES**  
08 11 13 Hollow metal doors and frames  
08 14 00 Wood Doors
- DIV 08 30 00 SPECIALTY DOORS AND FINISHES**  
08 33 13 Colling counter doors  
08 36 13 Sectional doors
- DIV 08 40 00 ENTRANCES, STOREFRONTS AND CURTAIN WALLS**  
08 42 13 Aluminum-framed entrances  
08 43 13 Aluminum-framed storefronts
- DIV 08 70 00 HARDWARE**  
08 71 00 Door hardware
- DIV 08 90 00 LOUVERS AND VENTS**  
08 91 26 Fixed louvers
- DIV 09 20 00 PLASTER AND GYPSUM BOARD**  
09 09 21 00 Gypsum Board
- DIV 09 30 00 TILING**  
09 30 13 Thin lip ceramic tile covered base  
09 30 13.1 Ceramic tile flooring
- DIV 09 50 00 CEILINGS**  
09 51 13 Suspended acoustical panel ceiling
- DIV 09 70 00 WALL FINISHES**  
09 77 00 Fiberglass reinforced plastic panels
- DIV 09 90 00 PAINTING AND COATING**  
09 91 00 Paint
- DIV 10 14 00 INFORMATION SPECIALTIES**  
10 14 00 Signage
- DIV 10 20 00 INTERIOR SPECIALTIES**  
10 21 13.13 Metal toilet compartments

PLANS AND SHALL CONFORM TO THE FOLLOWING:

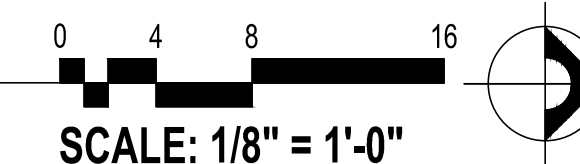
- \* 2016 CALIFORNIA BUILDING CODE
- \* 2016 CALIFORNIA ELECTRICAL CODE
- \* 2016 CALIFORNIA MECHANICAL CODE
- \* 2016 CALIFORNIA FIRE CODE
- \* 2016 CALIFORNIA PLUMBING CODE
- \* 2016 CALIFORNIA ENERGY CODE
- \* 2016 CALIFORNIA CODE OF REGULATIONS TITLE 24
- \* 2016 CALIFORNIA GREEN BUILDING STANDARDS CODE (CAL GREEN)
- \* TITLE 24 - CALIFORNIA STATE ENERGY AND ACCESSIBILITY STANDARDS
- \* CURRENT CITY ENGINEERING STANDARDS AND SPECIFICATIONS
- \* CURRENT RECOMMENDATIONS FROM THE SOILS ENGINEER

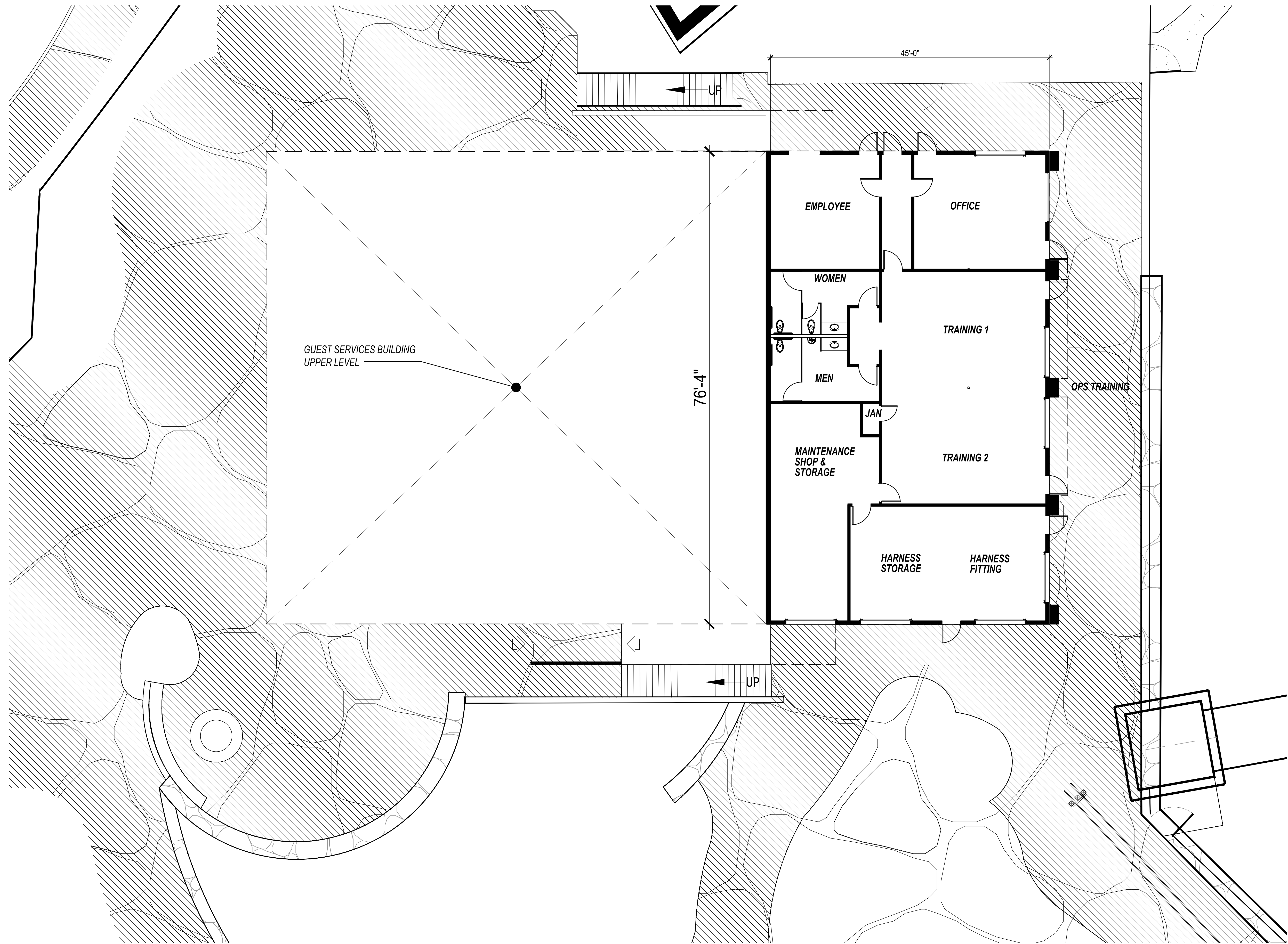


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3/22/2017





**GUEST SERVICES BUILDING (LOWER LEVEL)**

AREA  
 GUEST SERVICES BUILDING - LOWER LEVEL = 3,497 S.F.



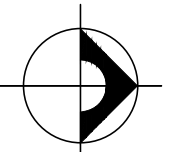
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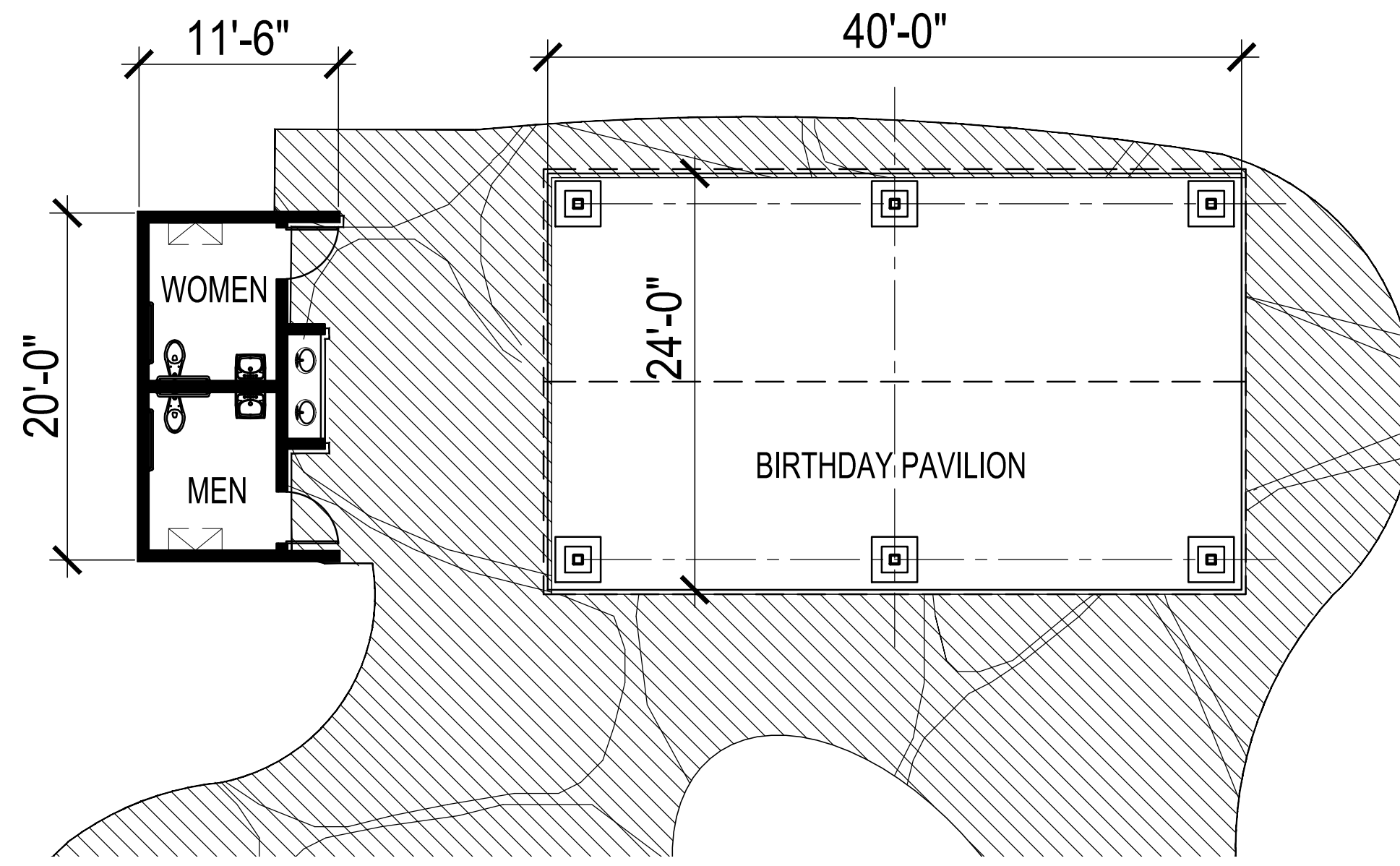
**Rocklin Quarry Adventures**  
 Legacy Family Entertainment

3/22/2017



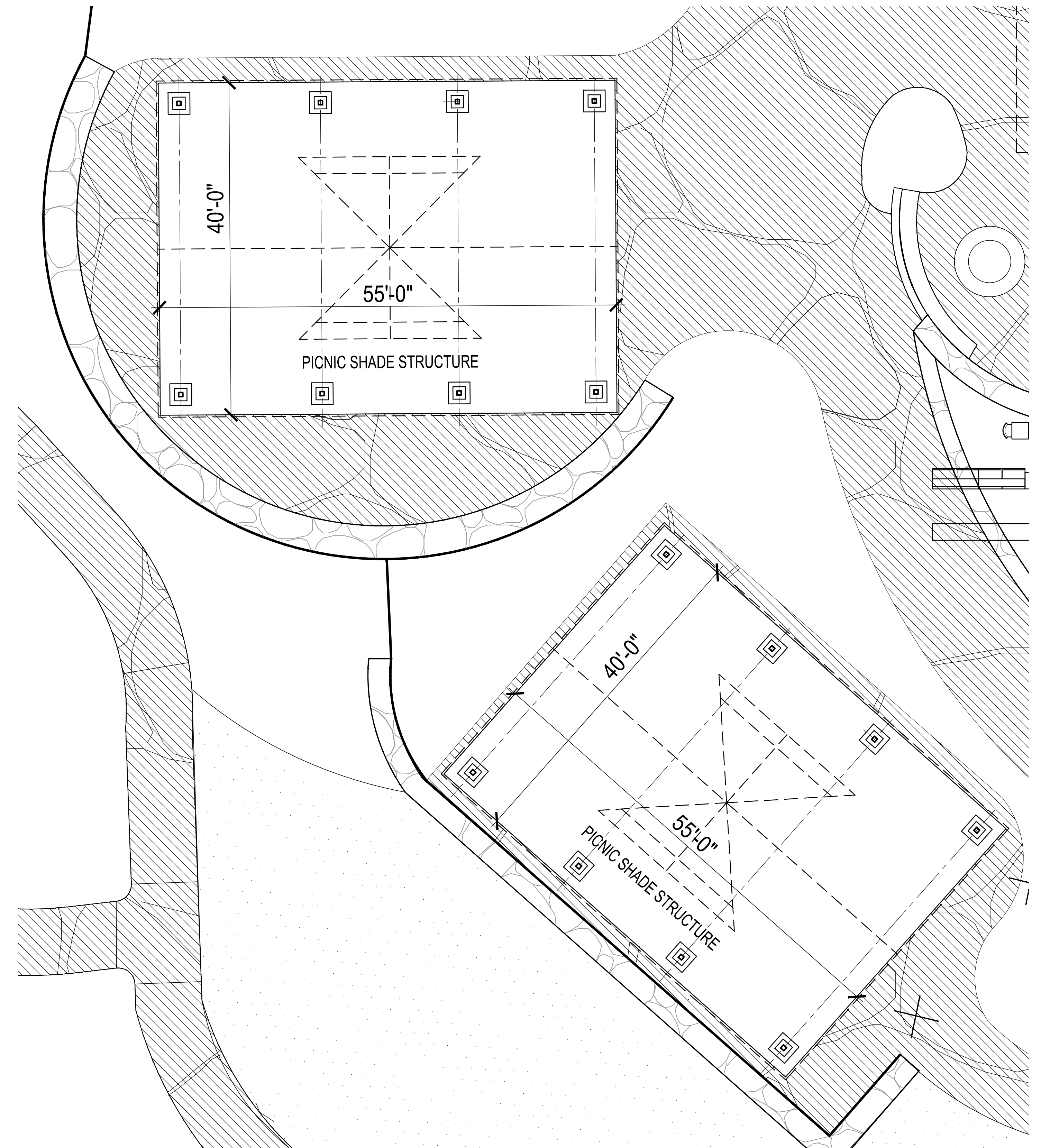
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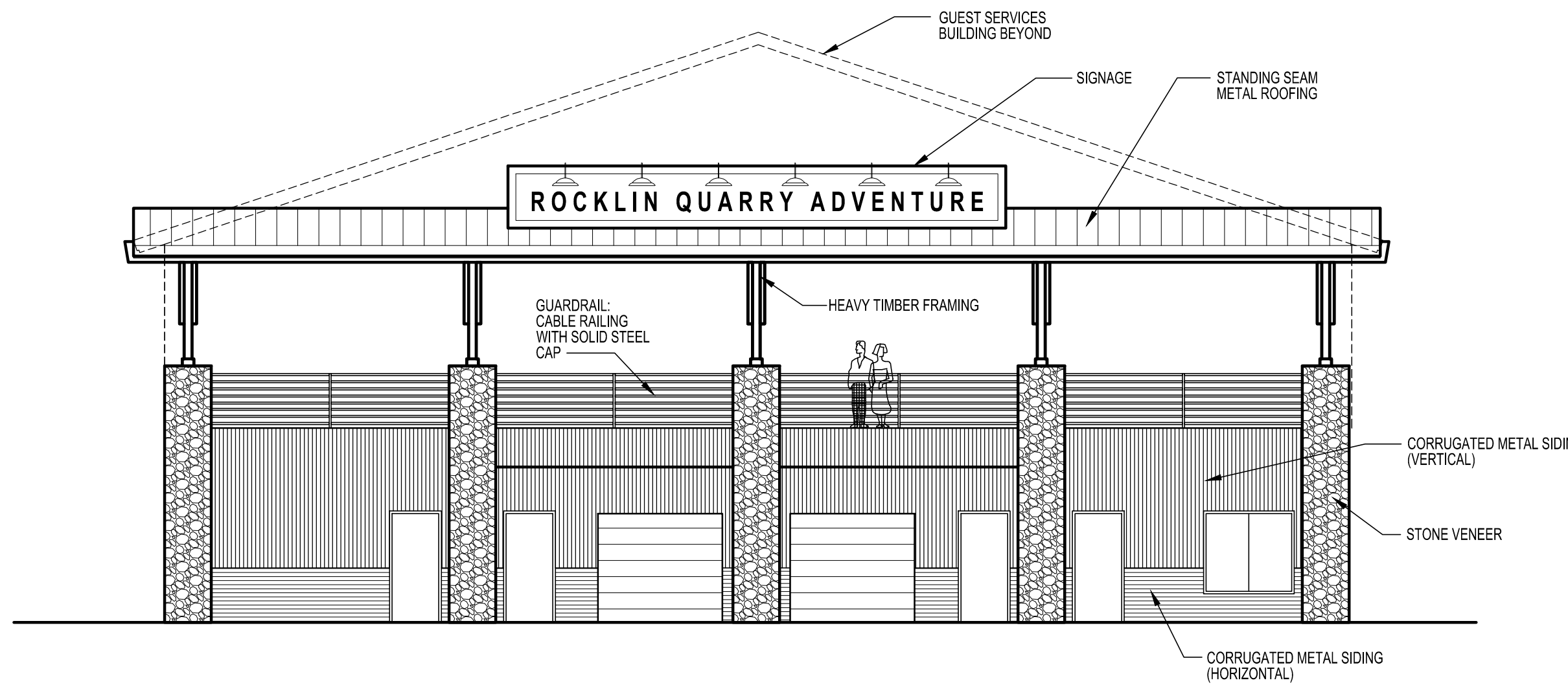
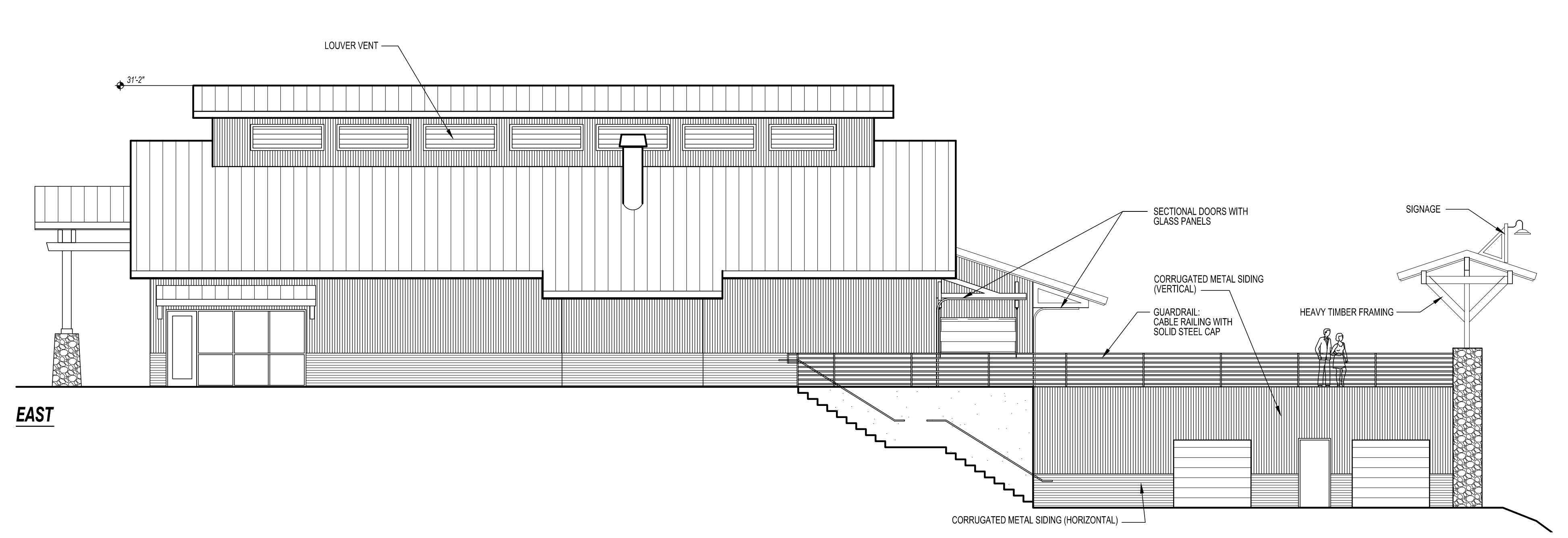
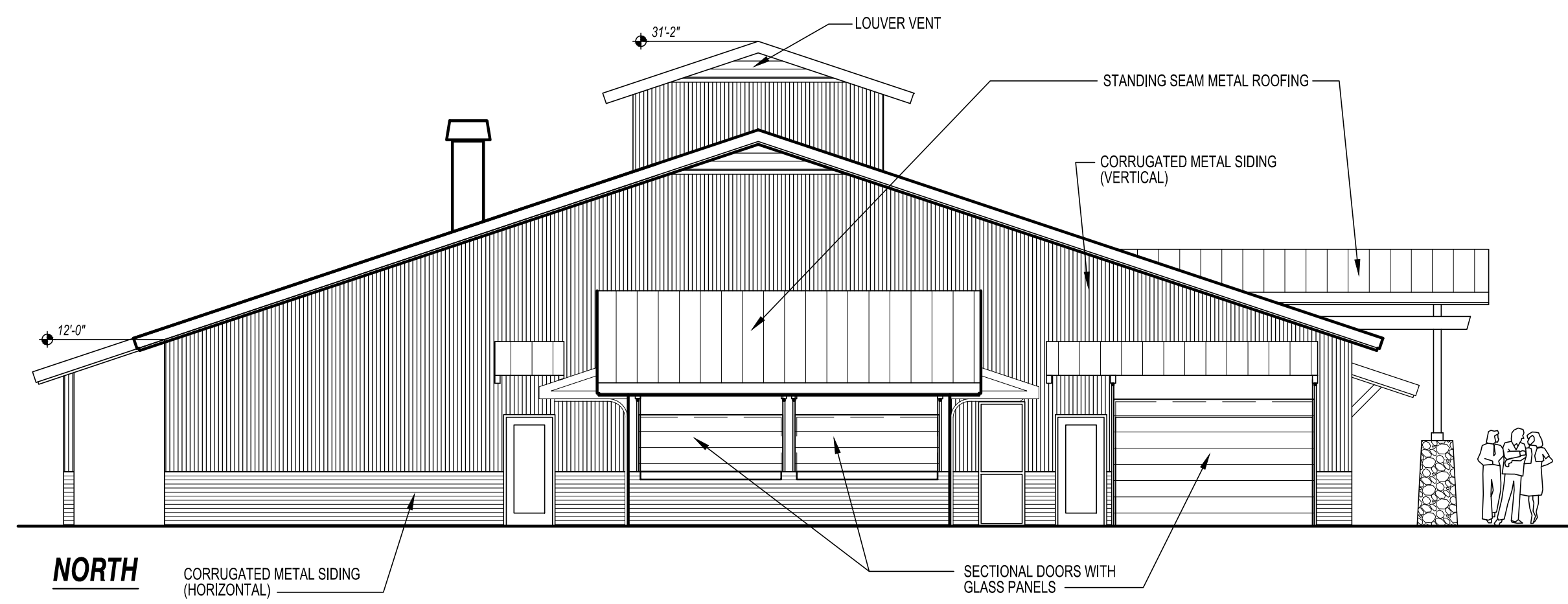
**BIRTHDAY PAVILION & RESTROOMS**

AREA  
 BIRTHDAY PAVILLION = 170 S.F.  
 RESTROOM BUILDING = 960 S.F.



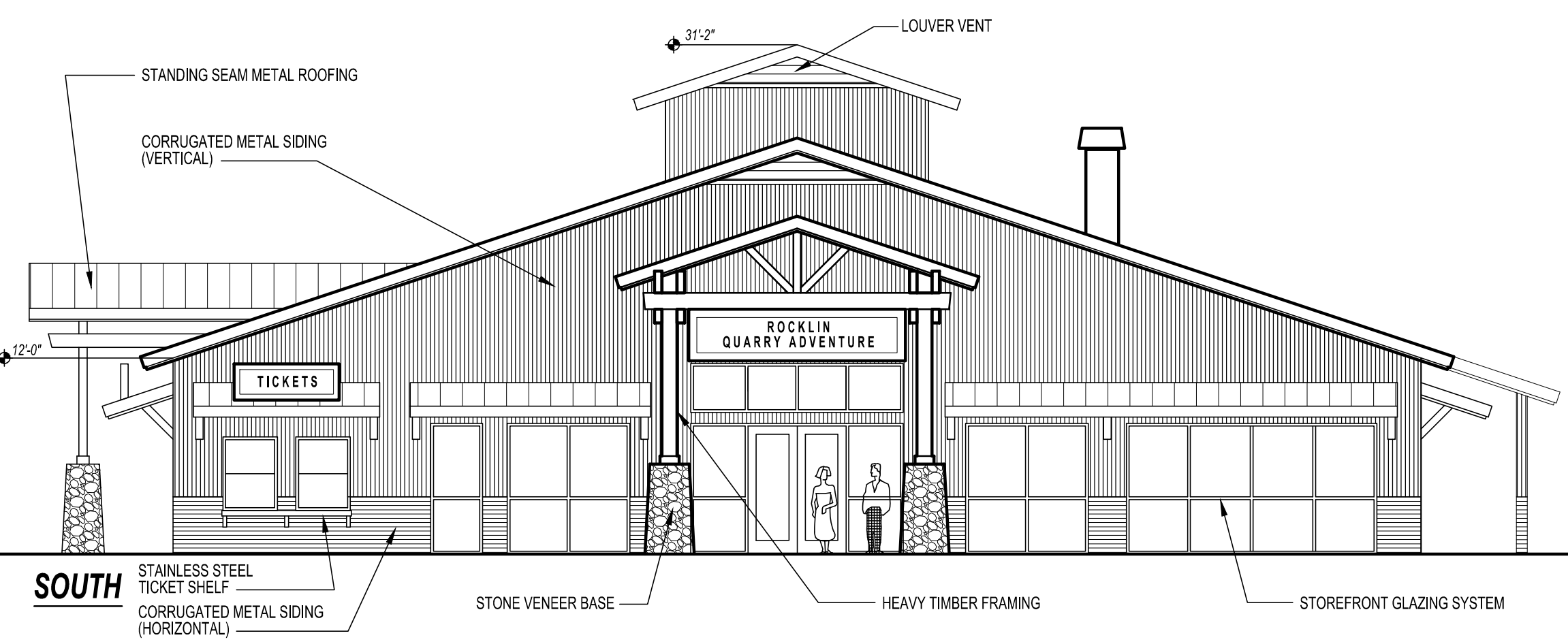
**PICNIC SHADE STRUCTURE**

AREA  
 PICNIC SHADE STRUCTURE = 2,200 S.F.

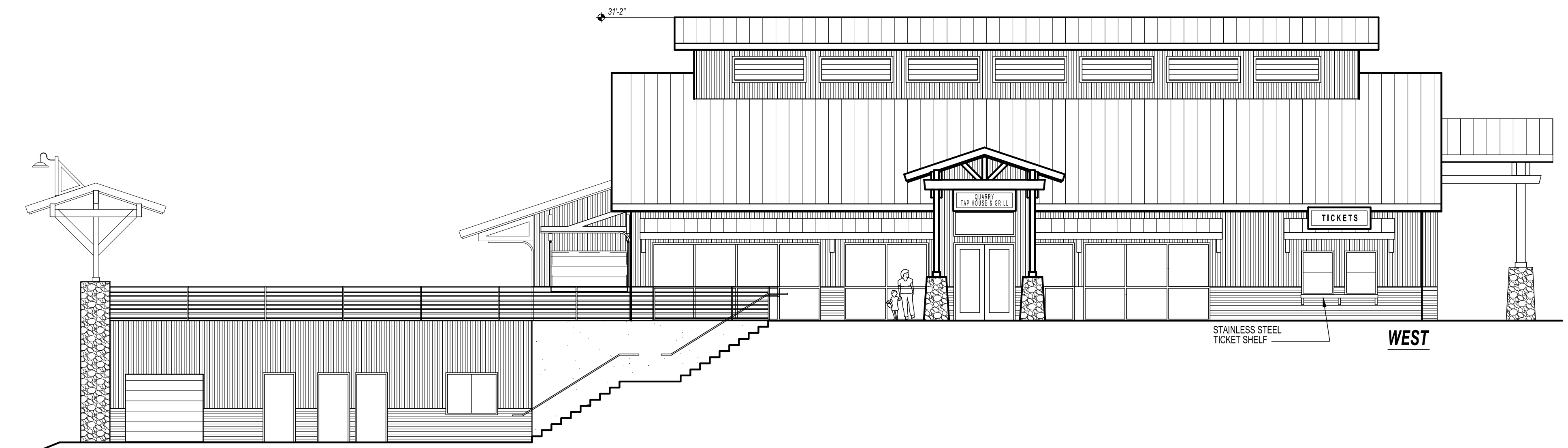


**NORTH - VIEW OF ARBOR & GUEST SERVICES BUILDING LOWER LEVEL**

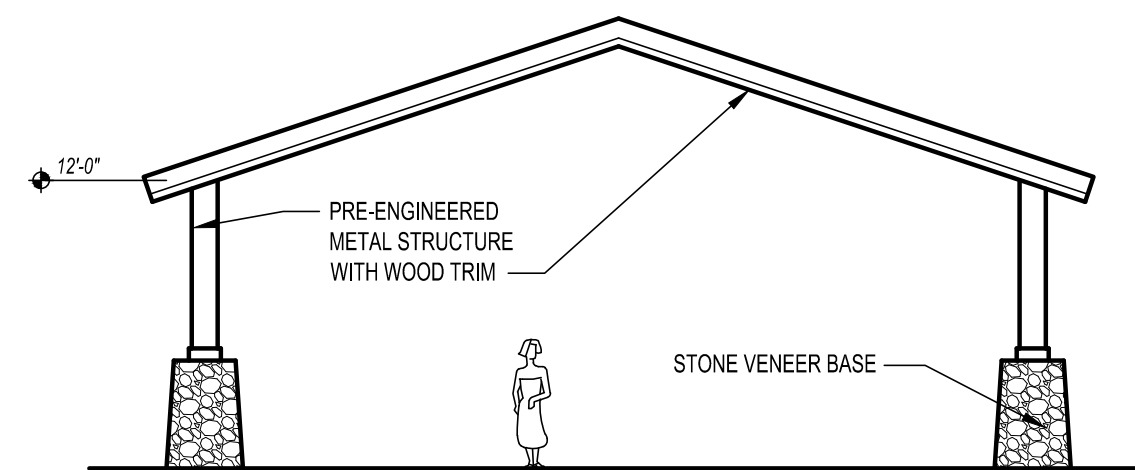
**EAST**



**SOUTH**

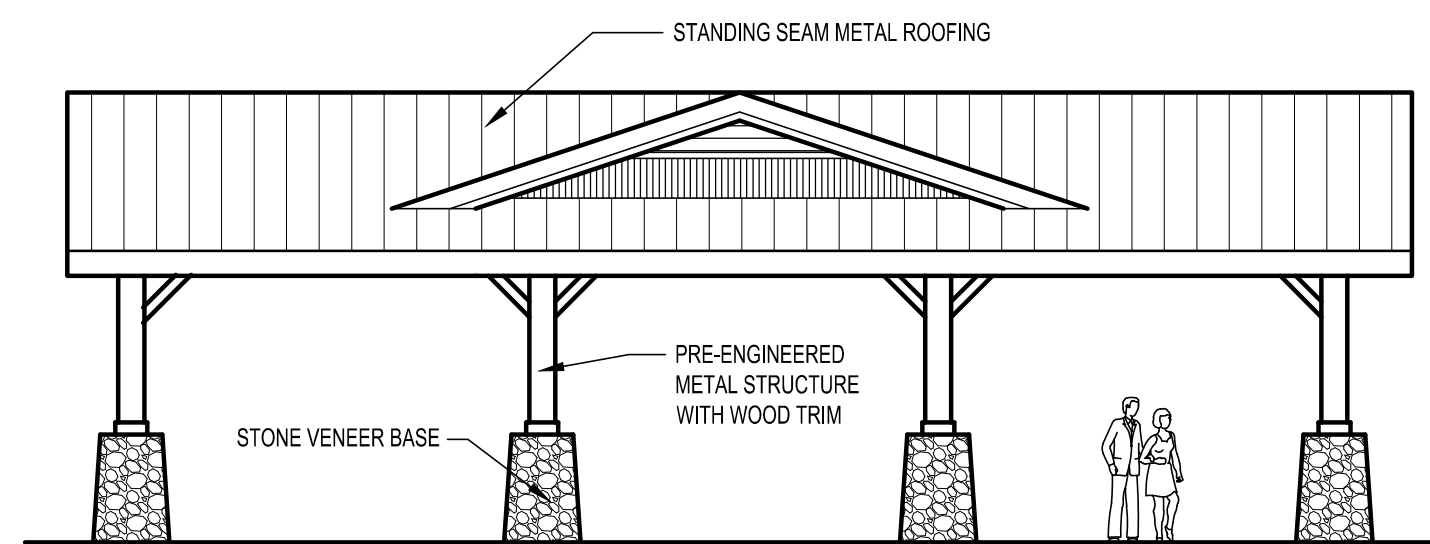


**WEST**

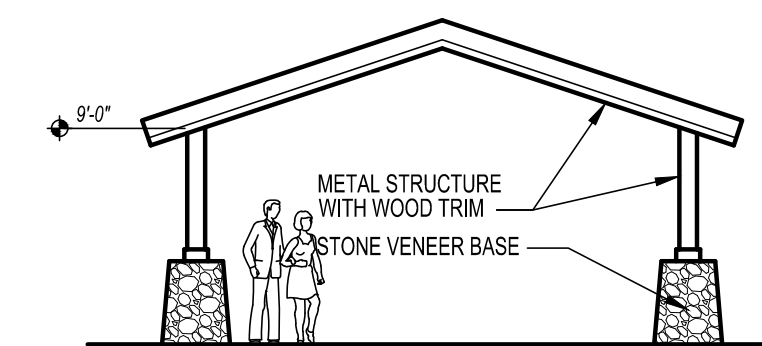


**END**

**PICNIC SHADE STRUCTURE**

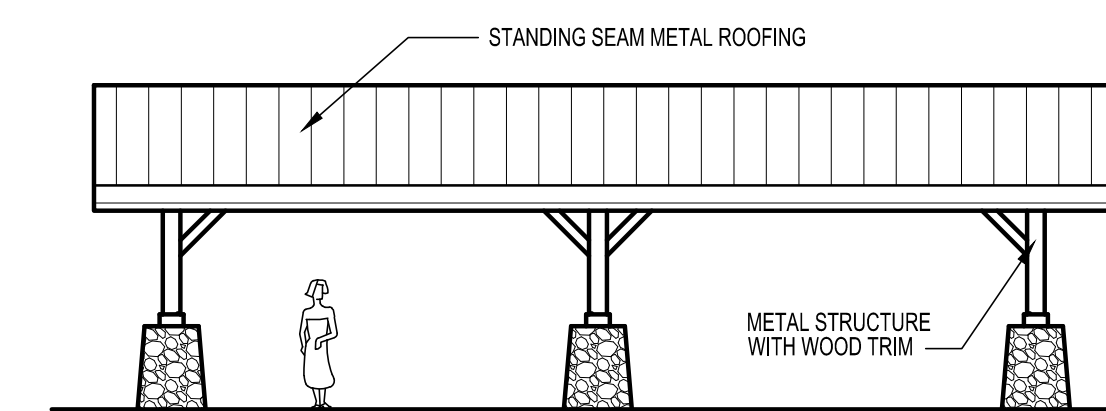


**SIDE**

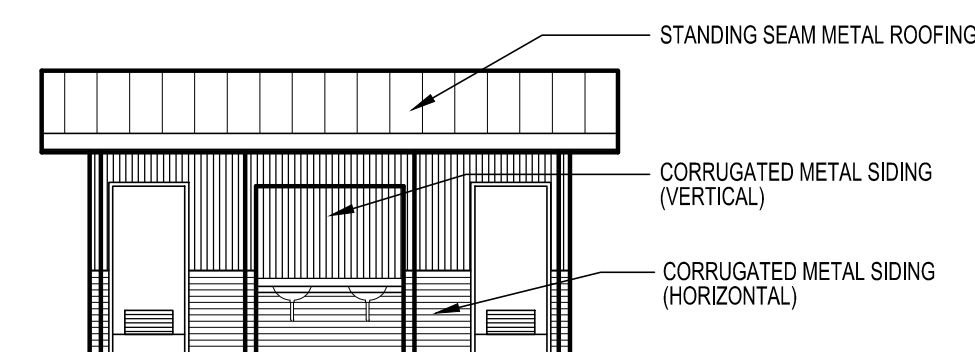


**END**

**BIRTHDAY PAVILION**

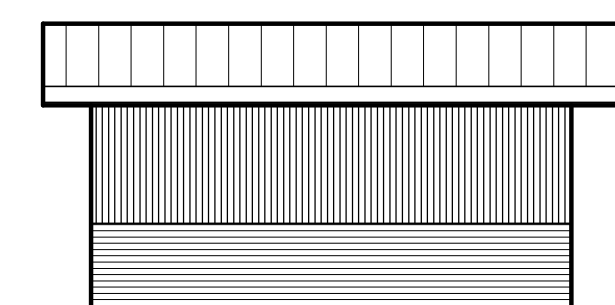


**SIDE**

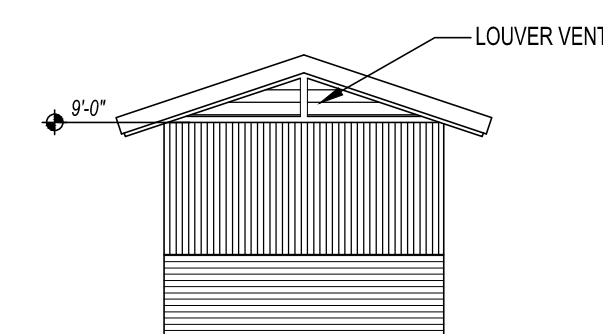


**FRONT**

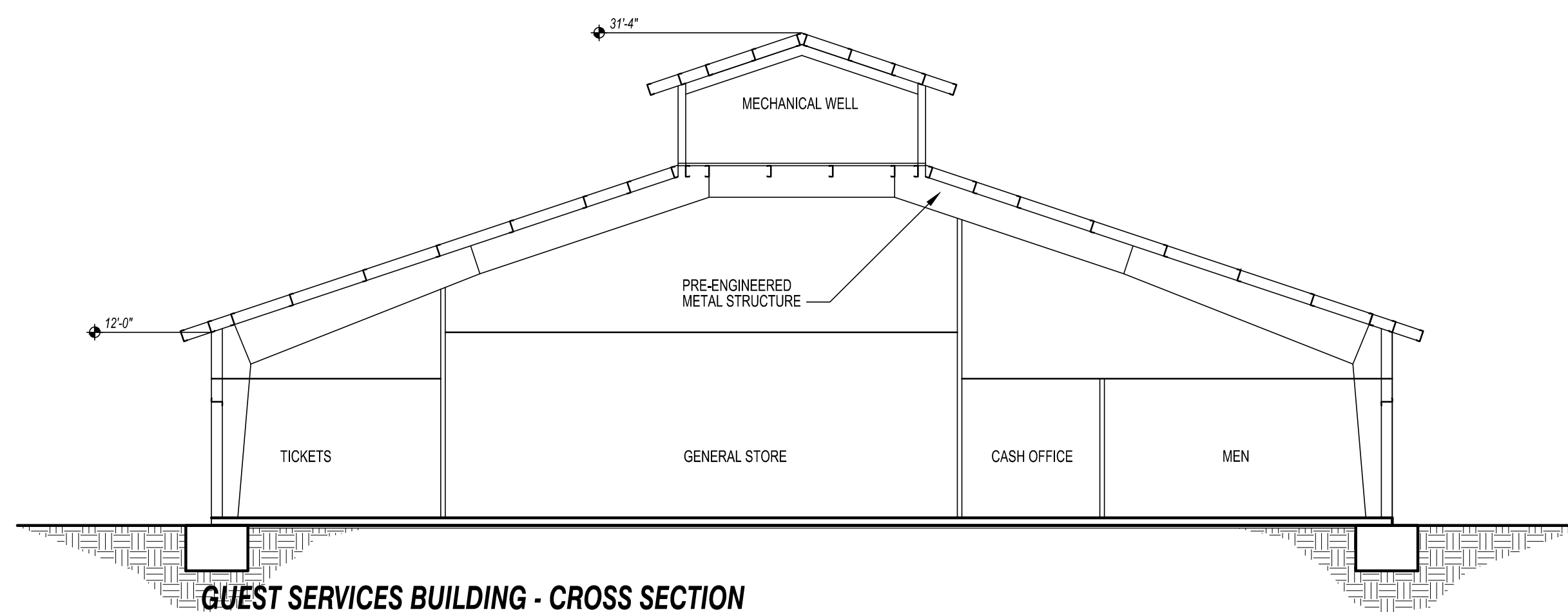
**BIRTHDAY PAVILION RESTROOM**



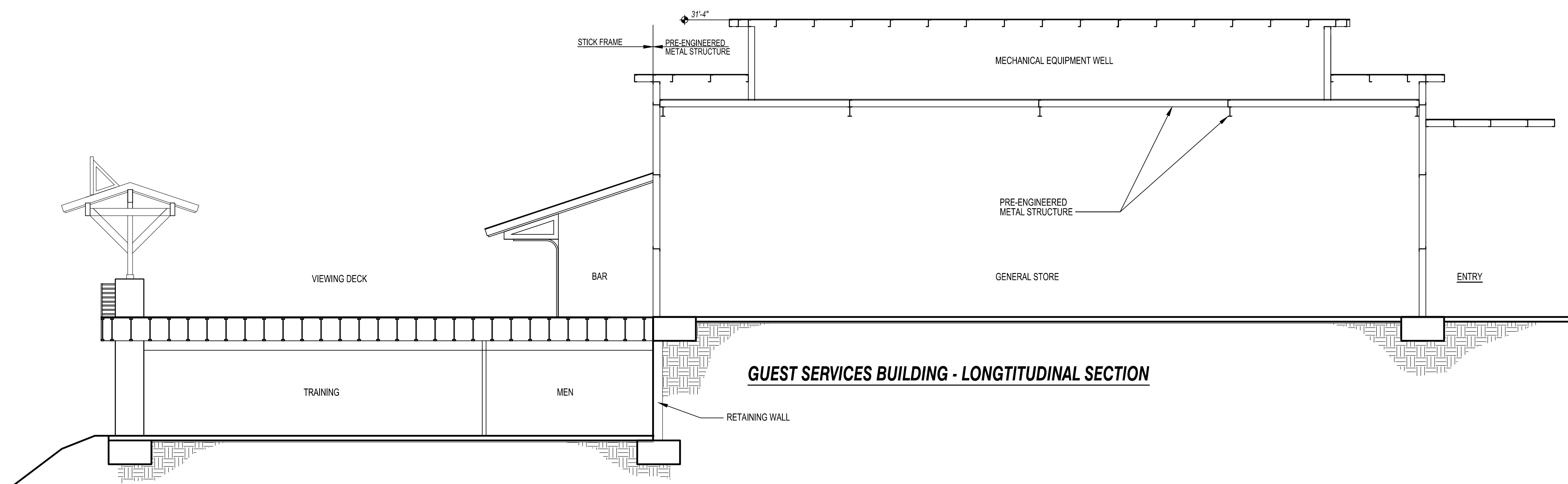
**REAR**



**SIDES**



**GUEST SERVICES BUILDING - CROSS SECTION**



**GUEST SERVICES BUILDING - LONGITUDINAL SECTION**

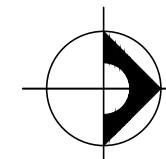


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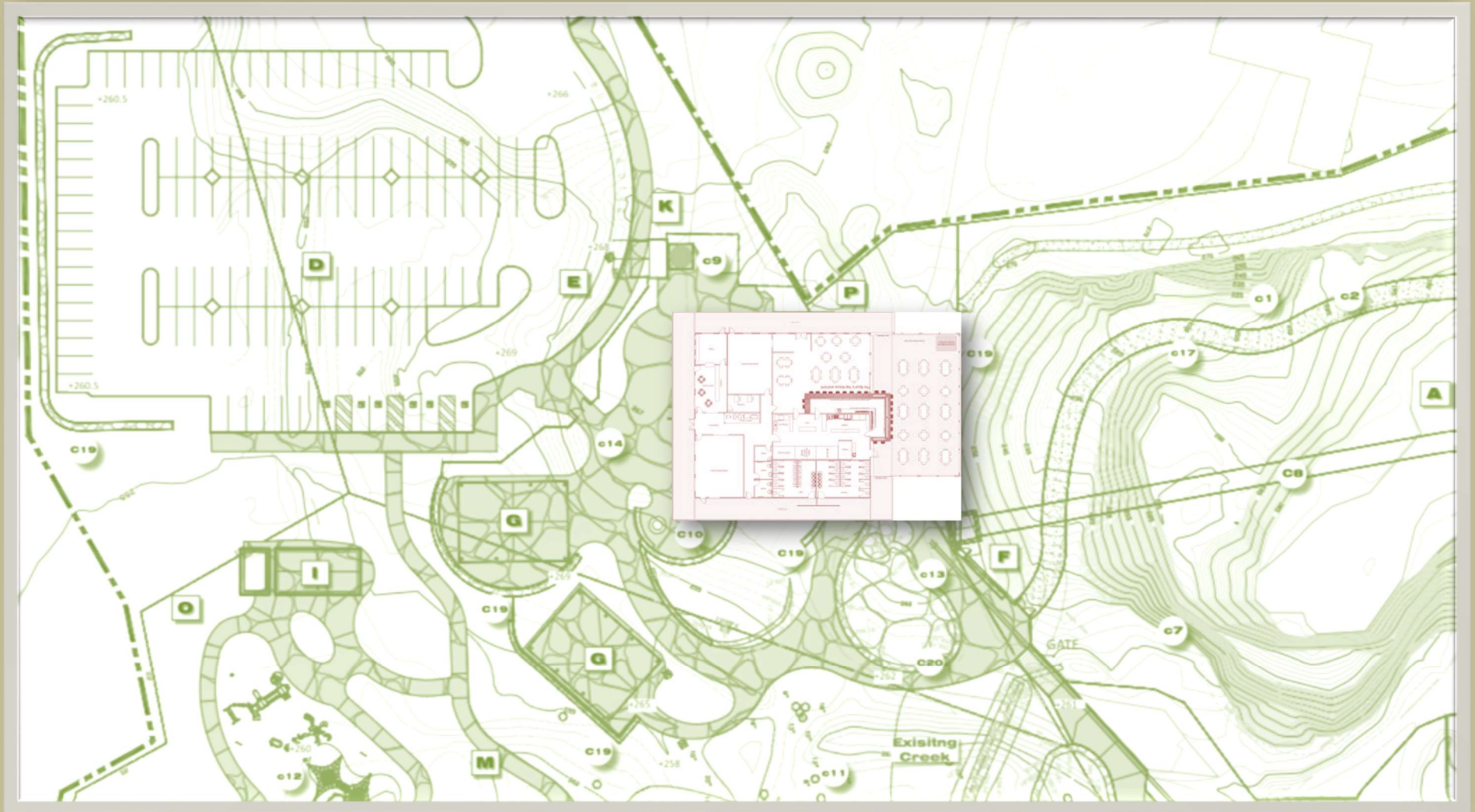
0 4 8 16  
SCALE: 1/8" = 1'-0"



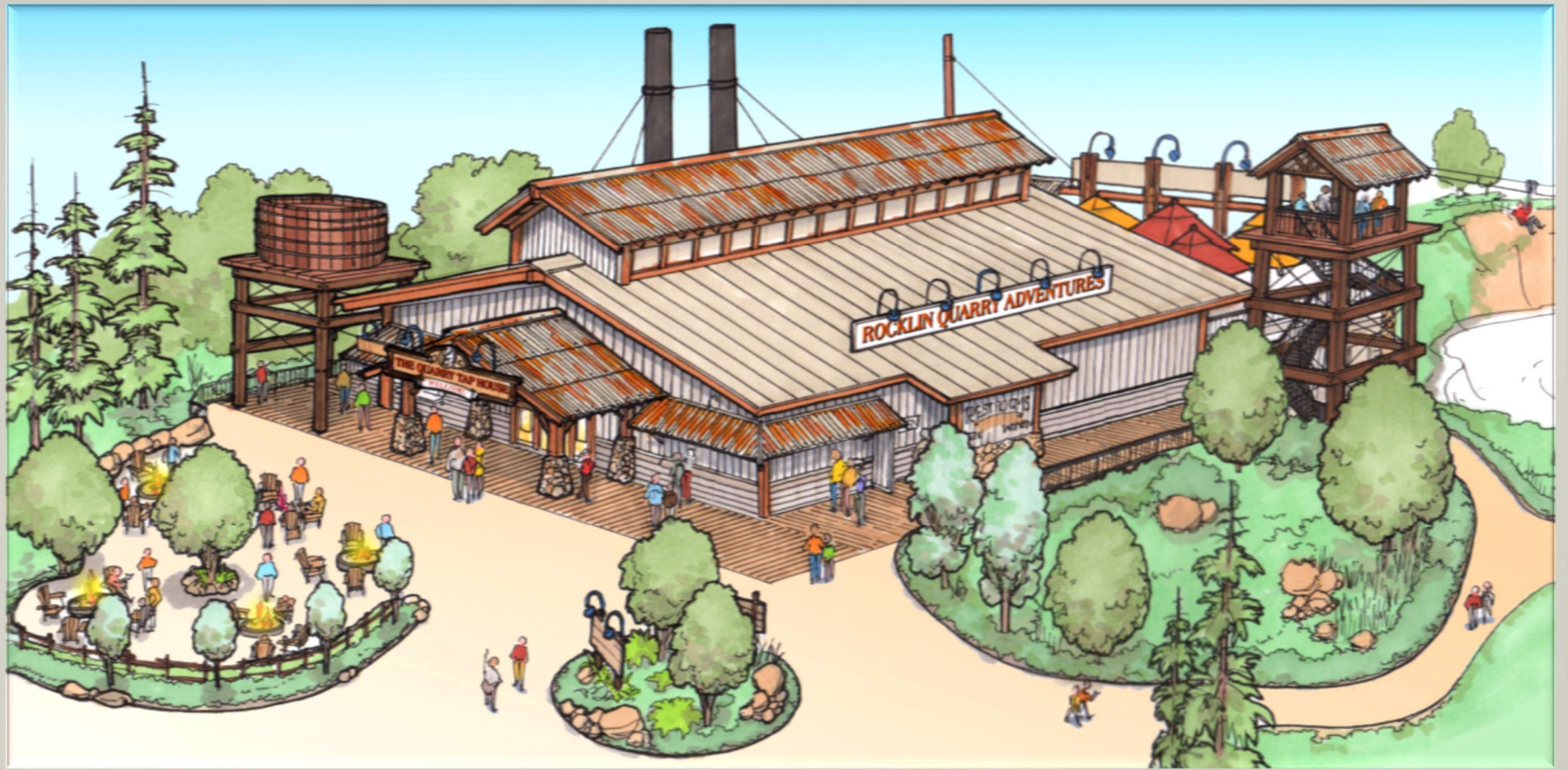
# Rocklin Quarry Adventures at Quarry Park



# Building Location

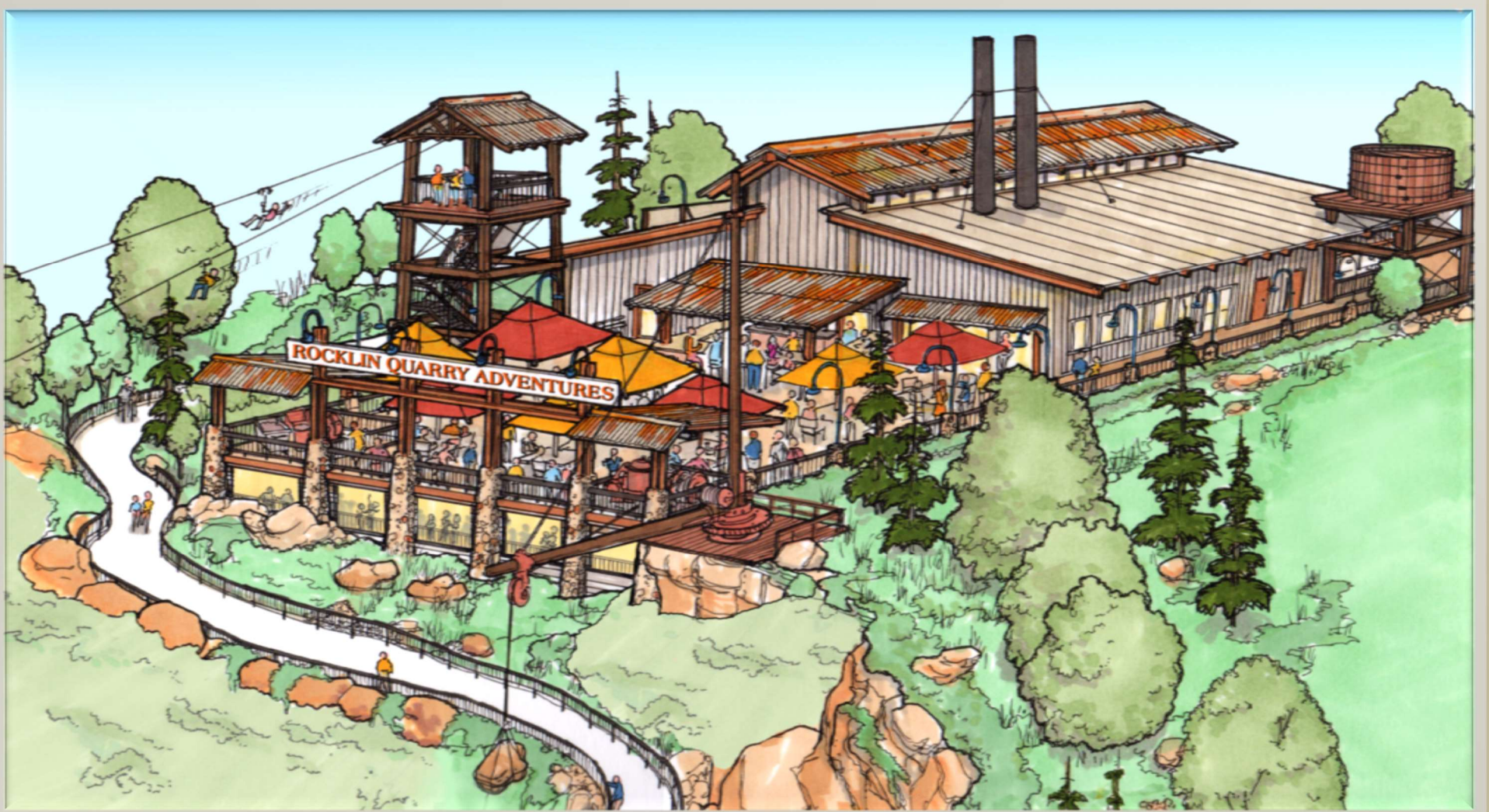


# Front of the building





# Back of the building



# Tap House Details



Historical artifacts placed  
inside tap house

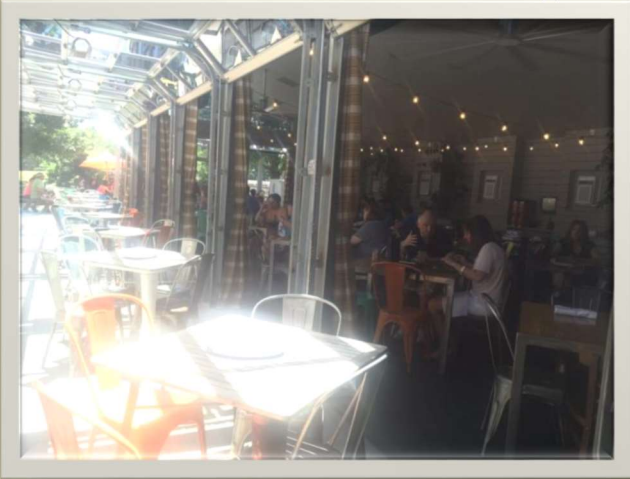


Salvaged gantry crane to be installed  
inside tap house



Railroad track foot rail

# Tap House Details



Doors to the outside



Polished concrete floor



Concrete bar top with embedded artifacts

# Tap House Details



Steel and rivets bar front



Historical interest bar back



Example of outdoor bar



Large pipe tap line

# Sample Menu

## SMOKEHOUSE MEAT CHOICES

TURKEY BREAST • PULLED PORK • HAM  
BURNT ENDS • HOT POLISH SAUSAGE  
BRISKET • CHOPPED MEAT

## SMOKEHOUSE SANDWICHES

BBQ SANDWICHES Reg \$4.99 • Large \$6.59  
CHOPPED MEAT Regular \$4.59 • Large \$5.99  
Add \$.50 for beef.

## SMOKEHOUSE DINNERS

ONE MEAT AND ONE SIDE \$5.99  
THREE RIBS AND ONE SIDE \$7.99  
TWO MEATS AND TWO SIDES \$10.59  
THREE MEATS AND TWO SIDES \$12.59  
HALF-SLAB RIBS AND TWO SIDES \$12.59  
THREE RIBS, ONE MEAT AND TWO SIDES \$13.59  
HALF-CHICKEN AND TWO SIDES \$10.99



## SMOKED CHICKEN WINGS

6 for \$5.99 • 12 for \$10.99 • 24 for \$20.99  
Sauces: BBQ, Spicy BBQ, Ranch, Buffalo



## SIDES

HOMEMADE FRIES Regular \$1.79 • Large \$2.39  
CHILI CHEESE FRIES Regular \$3.99 • Large \$6.59  
POTATO SALAD, BAKED BEANS, MACARONI SALAD  
small \$1.99 • pint \$3.00 • quart \$6.00  
COLESLAW, MAC & CHEESE, CHEESY POTATOES  
small \$1.99 • pint \$5.00 • quart \$10.00  
CHIPS \$1.49  
HERMAN'S HOT PICKLES \$1.50

## DRINKS & DESSERTS

SODA OR TEA 20 oz \$1.99 • 32 oz \$2.49  
BOTTLED/CANNED BEER AVAILABLE  
COBBLER OF THE DAY \$2.39  
COBBLER A LA MODE \$3.39  
Choices vary by day of week: Peach Butterscotch,  
Cherry Cranberry, Apple Caramel



## HOURS

Monday – Friday 8am -10pm  
Saturday 9am -11pm  
Sunday 11am -8pm



## FAMILY MEALS

FEEDS 6 TO 8 PEOPLE \$42.50  
Two pounds of meat, two quarts of sides  
FEEDS 10 TO 12 PEOPLE \$64.50  
Three pounds of meat, three quarts of sides  
FEEDS 14 TO 16 PEOPLE \$89.50  
Three pounds of meat, one slab smoked ribs,  
four quarts of sides  
Substitute whole smoked chicken for one pound  
of meat. All family meals include buns and BBQ  
sauce. We can feed any size party. Ask for pricing!  
COBBLER Full \$20.00 • Half \$12.00

## BULK SMOKED MEATS

FULL-SLAB RIBS \$19.99 • HALF-SLAB RIBS \$10.99  
BRISKET \$13.99/lb • PULLED PORK \$11.99/lb  
HAM \$11.99/lb • TURKEY BREAST \$11.99/lb  
WHOLE SMOKED CHICKEN \$9.99/each  
HALF-SMOKED CHICKEN \$5.99/each  
HOT POLISH SAUSAGE \$2.25/each  
BURNT ENDS \$14.99/lb



## SOUPS & CHILI

HOMEMADE CHILI served daily  
SOUP CHOICES VARY BY DAY OF WEEK  
Regular \$3.29 • Pint \$5.59 • Quart \$8.59  
Chicken Noodle, Chicken Tortilla, Potato,  
Ham and Bean, Gumbo, Chicken and Rice



## SALADS

SIDE SALAD \$2.99  
SMOKEHOUSE SALAD with choice of meat \$5.99  
Add \$.50 for beef. Dressings include:  
Italian, French, Blue Cheese, 1000 Island, Ranch

## BAKED POTATOES

POTATO WITH BUTTER AND SOUR CREAM \$3.99  
Add \$1.00 for bacon and cheese.  
POTATO WITH CHILI AND CHEESE \$5.99  
POTATO WITH SMOKED MEAT \$5.99  
Add \$.50 for beef.



## DELI SANDWICHES

DELI SANDWICH Regular \$4.49 • Large \$7.99  
Extra Meat: regular add \$2.00, large add \$4.00  
Extra Cheese: regular add \$.50, large add \$1.00  
Meats: Ham, Turkey Breast, Roast Beef, Pastrami,  
Bologna, Salami, Ham Salad, Chicken Salad,  
Tuna Salad.  
Cheeses: American, Swiss, Cheddar, Pepper Jack

## KIDS MEALS

KIDS MEAL \$4.49 each  
Small fries and small drink included.  
Choice of: Hot Dog, Macaroni and Cheese,  
Small Smoked Meat Sandwich, Peanut Butter and  
Jelly Sandwich



# Rocklin Quarry Adventures Land use Area's by Zone's

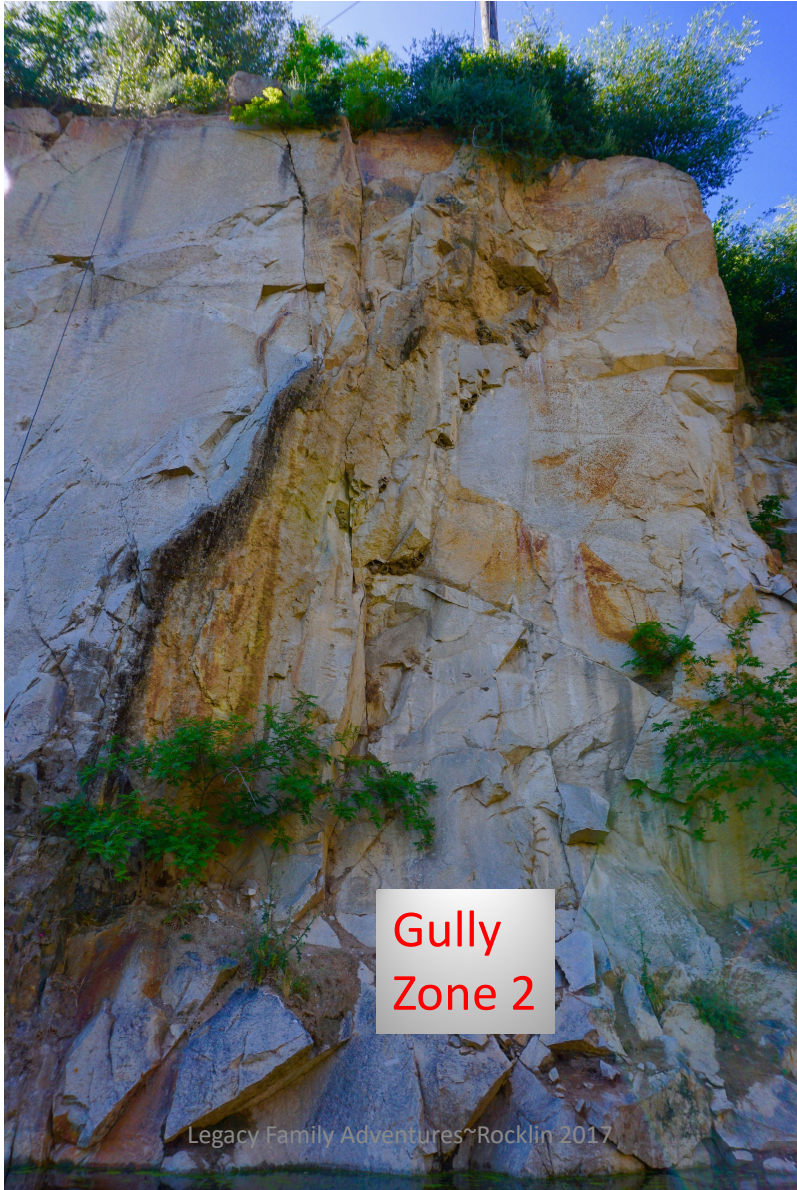


ZONE CHART (S)

Addendum B



**Zone 1**  
**Jump wall**



Gully  
Zone 2

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**Main Wall**  
**Zone 3**

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overhang

Zone 4 Left  
overhang

Floor, Lake & Foreground  
Zone 8



left

right

Zone 4  
City hall wall

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Zone 5 Upper  
Lower



Zone 6 Upper  
Lower





Zone  
14 zip  
tower

Hanging  
Garden  
Zone 9

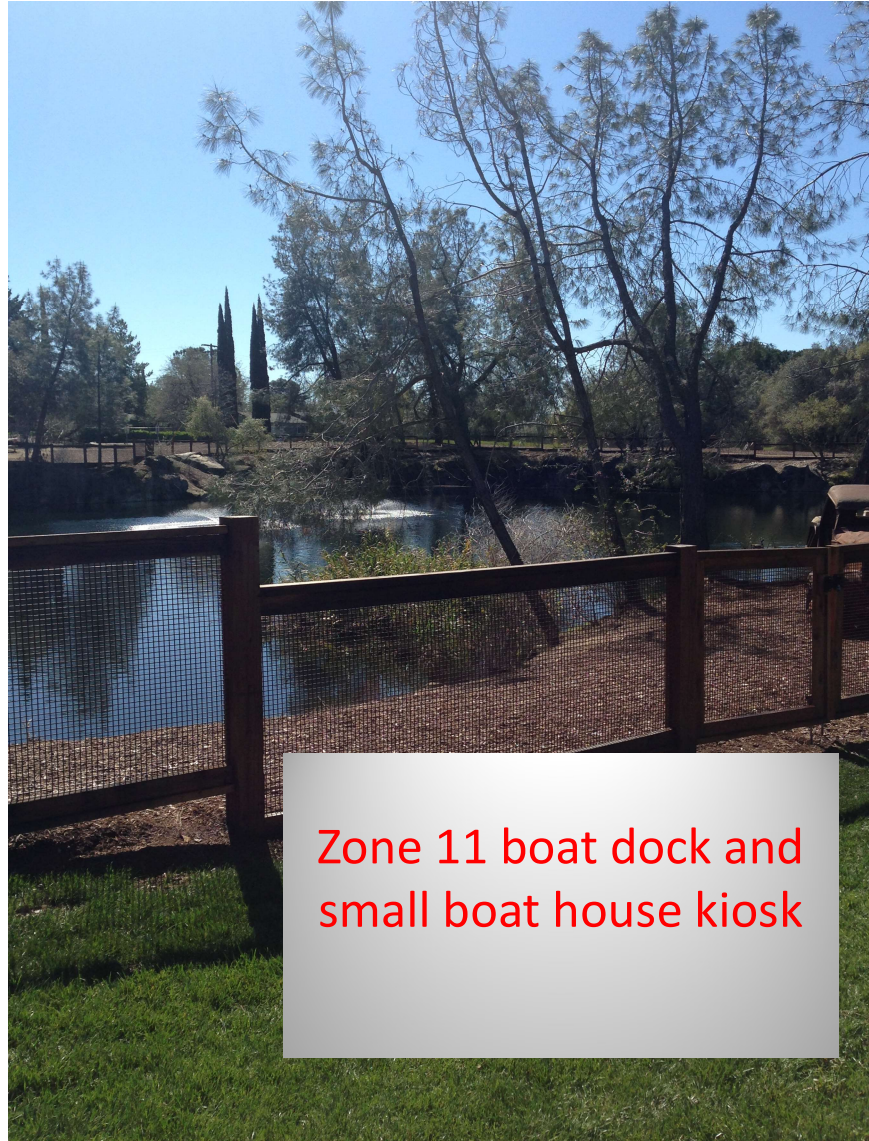
waterfall

Zone 7

Zone 10  
Below on  
floor



Zone 8 Quarry floor and lake



Zone 11 boat dock and  
small boat house kiosk



Zone 13  
Kids Area







**Zone 13**  
**Belay free aerial adventure park**  
**that meanders through the trees**  
**& water/stream play**



Zone 12 Kids Zips



Zone 14  
Operations and  
Quarry Tap house  
Zip tower

# Rocklin Quarry Adventures at Quarry Park

## Description of Attractions/Elements by Sections and Zones



## Addendum C

# Section 1: Inside the Quarry Walls.

# *Aerial Adventure Park*

## Placement: Zone 8 Quarry floor

- 70 to 100 element multi level aerial challenge course.
- 3 different level of difficulties, 75% super easy, 20% Intermediate and 5% difficult
- Minimum of 8-10 small zips, counted as part of the 100 elements, that connect elements with each other and quarry floor
- Aerial multi-level pole course weaves through the quarry floor, connecting to the quarry walls and swinging bridges



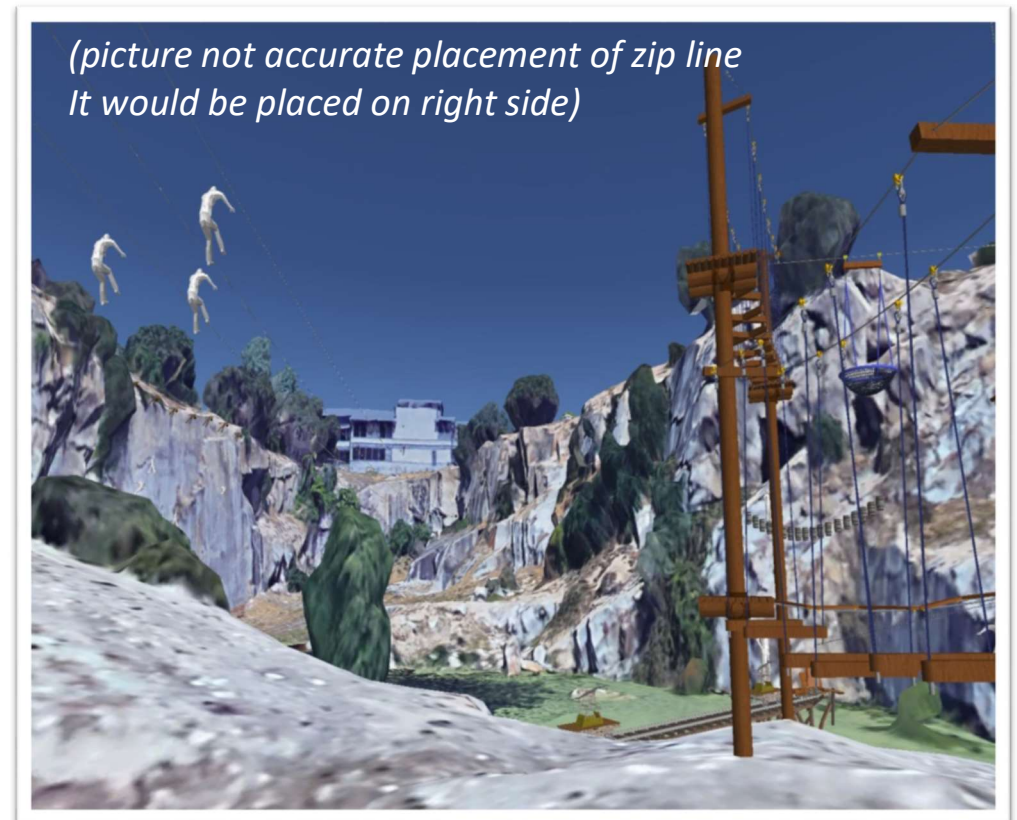
# *Duel or Triple Racing Zip Lines*

Placement: Zone 16

Landing in zone's 5, 6 or 8

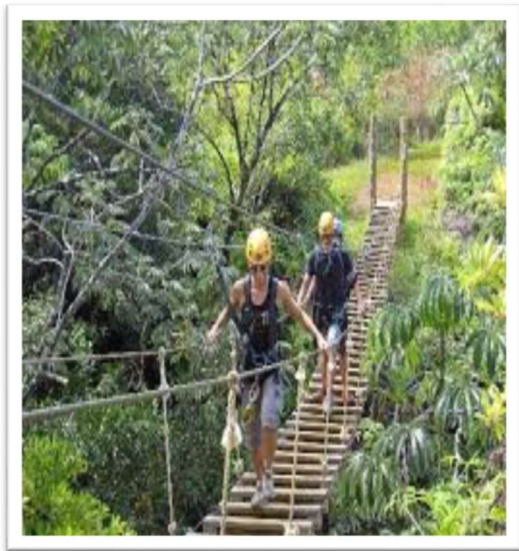
Landing platform may sit on top of Zone 5 or floor of 8

- Double or triple zip lines from tower located off of the deck tower of Quarry Tap House
- Zip line ends somewhere in the middle of the Quarry or on a platform built on the rock ledge, facing south, on the right side.



# *Swinging Bridge (s)*

- These bridges connect challenge elements, quarry walls and walkways. Swinging bridges should be place strategically throughout the course to facilitate throughput.





# *King Swing*

## Placement: Zone 10

- Placed on the North floor of the quarry, next to the pond at the bottom, facing North to the right of the waterfall. Zone 10
- A double or triple swing for a larger capacity.



## Quarry pit lake

### Placement: Zone 8

**Electrical** needed for list below;

- (2) aerators 'Fountains'
- Existing pumps
- Portable misting - cooling stations strategically placed based on Aerial park design.

**Potable water** hook-ups for misters



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# Section 2: Perimeter and on Quarry Walls

# Traversing High Trail

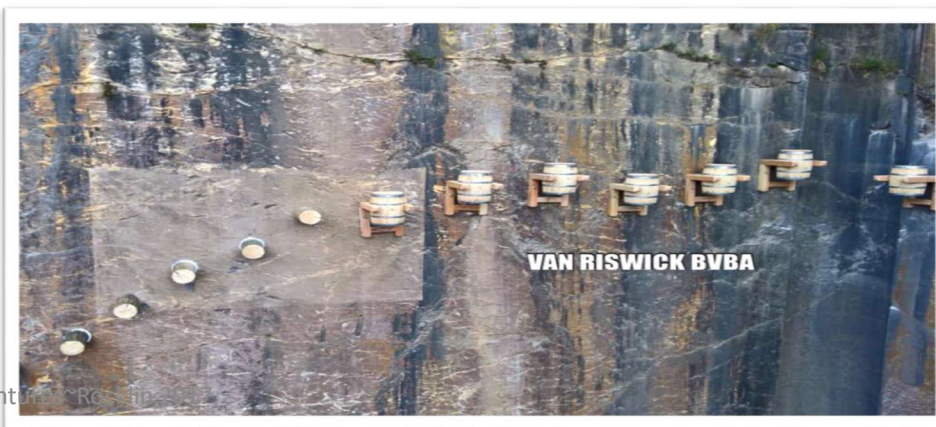
Placement: Zone's 1-7

- Starting on the west wall of the quarry, traversing the perimeter of the quarry to the zip line landing zone platform or passed to just before the vertical garden. This traversing high trail can be made up with a series of metal rungs and stylized boards, barrels and planks. The Traversing High Trail also connects to different parts of the aerial adventure ropes course so we can use the main wall and other sections as needed for free fall jump stations, rock climbing and rappelling.



# Traversing Low Trail

- Short version of traversing high trail closer to ground on South wall, Zone 6. Approximately 100-200 feet long,



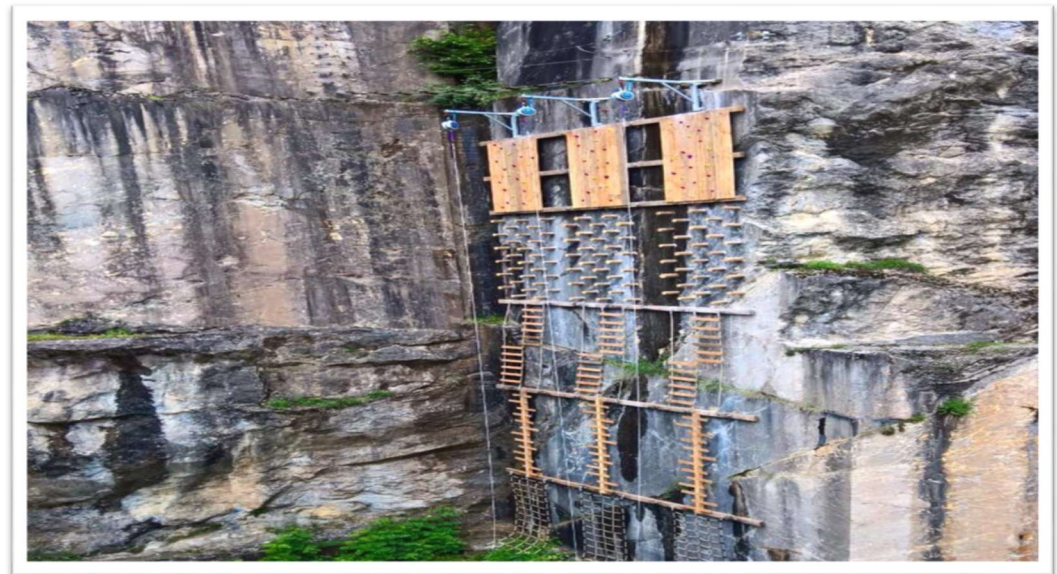
# *Wall Cargo Net Combo Climb Area*

Placement: Zone 4, City hall wall

## **\*Specialized equipment**

We are recommending **Perfect Escent** auto-belay system.

- Connected to the aerial course along the north section in front of City Hall wall, near the west corner. These wall nets need to be stable and designed for ease of use. They can be combined with other climbing features.



## 2 Free fall Jumps Stations

Placement: Zone 1, jump wall/or off of aerial park

**\*Specialized equipment**

Two, *PowerFan™* systems



## *2 Rappelling Stations*

Placement: Zone 3 main wall across the top

\*Specialized equipment

**Ascent auto belay system** or something similar as stated above Anchor for Rope to feed through for rappel.

- Also, a series of traditional steel anchors across the top of the wall for vertical training purposes for the Fire Department and other Rescue teams in our area.



## *20 Climbing Routes*

Placement: Zones 2 and 3  
gully & main wall across  
the top

### \*Specialized equipment

10 auto belays auto-belay systems,  
or **Ascent auto belay system** or something similar

- *20 routes with 10 auto belays. Each auto-belay serves 2 routes.*
- Strategically placed rock climbing routes across the main wall and gully area. Difficulty of climbing routes should reflect the difficulty parameters stated above. **Climbing holds should be different sizes and made out of natural granite. These holds will be glued to the face of the climbing wall.**





# Section 3: Outside Quarry

# *Aerial Adventure Course* *Harness and Helmet free* Placement: Zone 13

- 26 or more **harness and helmet free** elements. A netted maze with adventure elements throughout. Imagine walking on a balanced beam 20 feet high with cargo net walls on either side of the beam, so if you fall the nets catch you.



# Stream Play

## Placement: Zone 13

- 15' by 100' (or something smaller) stream play area with dams and water diverters to move the flow of water. Kids move a series of dams and gates change the flow of water that is about 2 to 4 inches deep.



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# *Boulder Climb Area*

## Placement: Zone 13

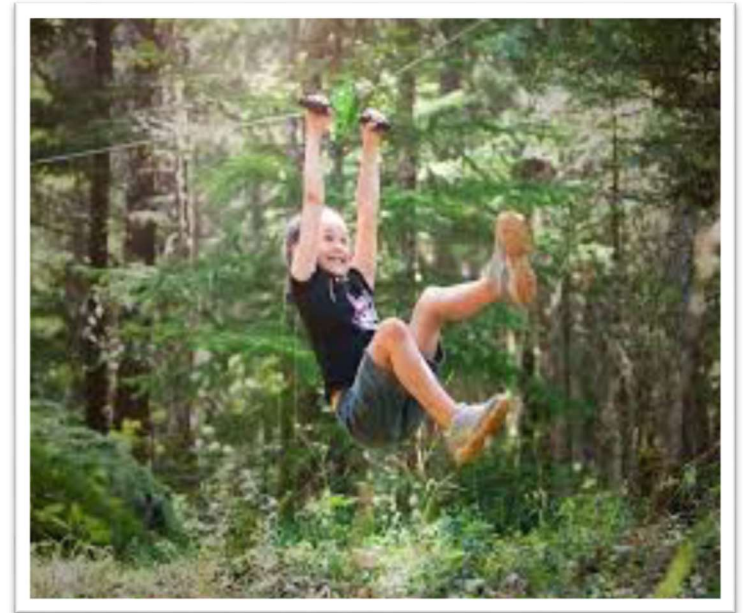
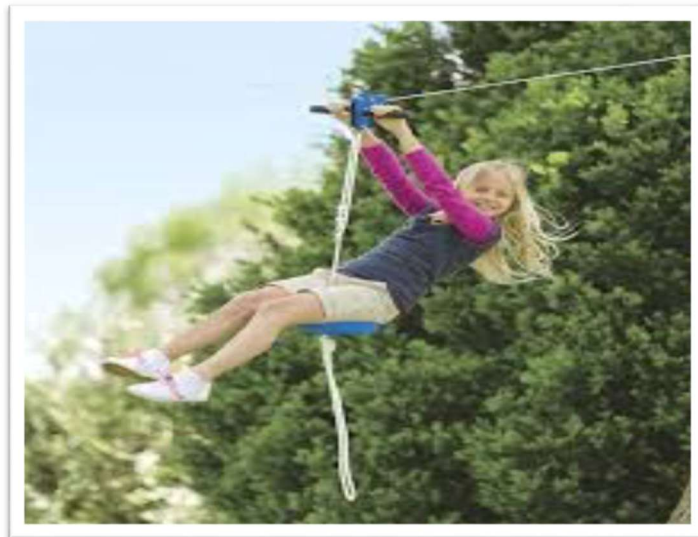
- Boulders arranged into a maze. These boulders should be selected for their shape and height for safe climbing. This way we are repurposing the existing granite boulders in the area. Considering California playground laws, woodchips or similar material to provide a safe landing area around boulders.



# *Kids Zips*

## Placement: Zone 12

- Four or more kid's zips, harness and helmet free. These zips traverse 20 to 50 feet and are suspended just a few feet off the ground. Zip lines will have a variety of seats or hand holds.



# Section 4: Quinn Lake Zone

# *Paddle Boats/ Boat House*

## Placement: Zone 11

- 20 or more paddle boats with appropriate theming.
- Boat house kiosk with window for ticketing and large enough to store equipment. Prefab/themed
- Large dock with the capacity to load at least two boats at a time.
- Electrical for Kiosk
- Night time lighting for dock



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## GRANITE GULCH ADVENTURE ZONE

- FENCED AREA WITH ONE ENTRY/EXIT
- REQUIRES WRISTBAND TO ENTER FOR CHILD AND PARENT
- BELAY, HARNESS AND HELMET FREE

### GUESTS WILL EXPERIENCE A DRAMATIC ENTRANCE INTO GRANITE GULCH

#### ZONE 1

##### GENERAL PARK AREA

1. Whisker Rivey / PROSPECTING PETE/ DIGGER DOUG/ GRANITE GREG/ ROCKLIN ROCKY, Water Talker—(Rocklin Shoot Out) talking/spraying character with video camera
2. Gold Rush Creek/ SPRING VALLEY CREEK PLAY/SECRET RAVINE CREEK PLAY/---running stream/gully with weirs, dams, coves (concrete lined)
3. Trekker Treehouse---climb or stairway to elevated tree house. Exit by walking, zip lining or sliding
4. Baja Boulder/ Raceway—DG track through high boulders; use pedal racers;
5. Rocky Point Bouldering —same area as #4 with hand holds for bouldering; or stacked rocks for easy climbing



## **ZONE II**

### **ADVENTURE ZONE 7 Years**

1. Three Netplay swings—ages 2-y years
2. Burma Bridge
3. Pirate Climber
4. Netform V Bridge

## **ZONE III**

### **ADVENTURE ZONE 7 YEARS AND OVER**

1. Netplay swings (3)
2. Netplay Bounce Swings (3)
3. Big Rope Swing
4. Chimney Climber
5. Clatter Bridge
6. Netform Climber
7. Riverbend Tower Bridges
8. Circular Bridges
9. Netform Tunnel
10. Netform V Bridge
11. Burma Bridge
12. Suspended Blocks
13. Log Walk
14. Spider Web
15. Spider Pyramid
16. Sky High Bouncers (4)
17. Zip Lines (4)

# Belay-free Zone I



Stream Play



Gold Rush Creek

# Belay-free Zone I cont.

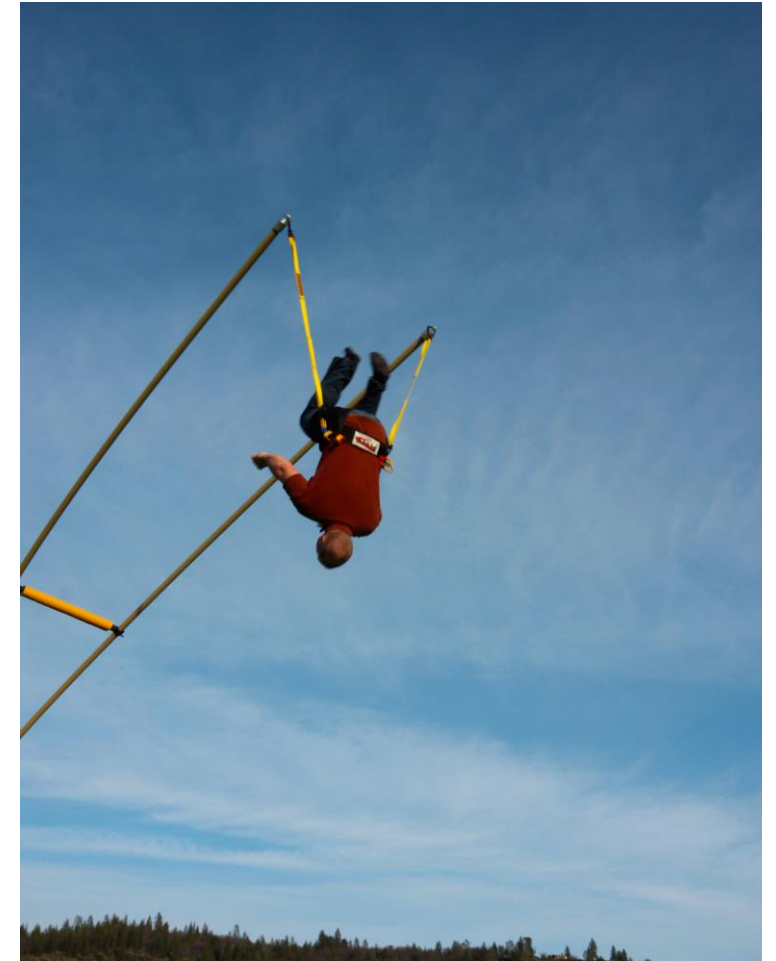


Baja Boulder Pedal Car



Prime Karts Racer

# Belay-free Zone I cont.



Stationary Extreme Air Jumper

# Belay-free Zone I cont.



Suspension Bridge



Tree House Slide

# Belay-free Zone I cont.

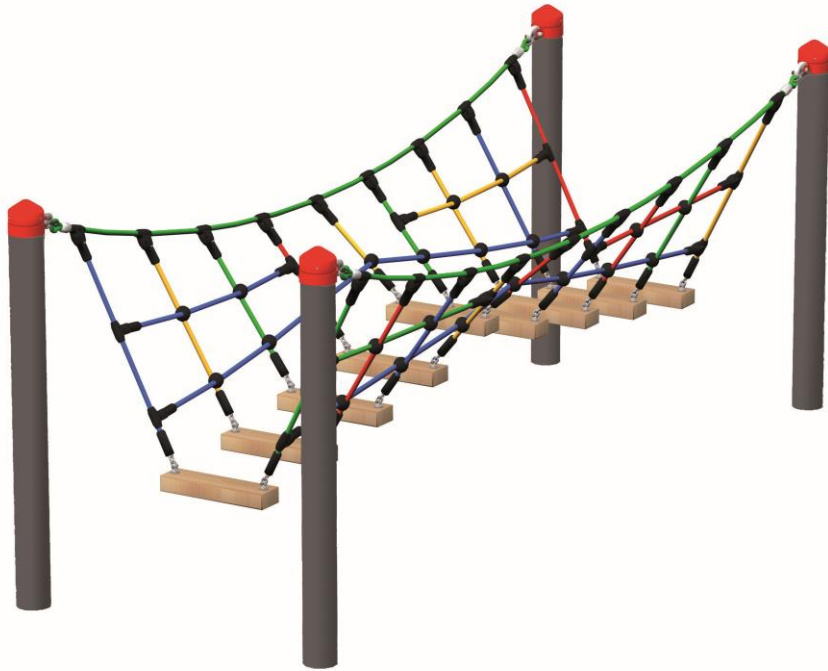


Bouldering Rock



Water Talker

# Belay-free Zone II 2-7 years and under



Adventure Bridge



Birds Nest Mini Treehouse

# Belay-free Zone II 2-7 years and under cont.



Custom Swing



Kid Swing



# Belay-free Zone II 2-7 years and under cont.



Kids Bridge



MoBot St Louis, MO  
Netform Climber

Netform Climber

# Belay-free Zone III - 8 years and older



Big Rope Swing



Rope Outdoor Swing

# Belay-free Zone III - 8 years and older cont.



Simple Zip Line



Simple Zip Line 2

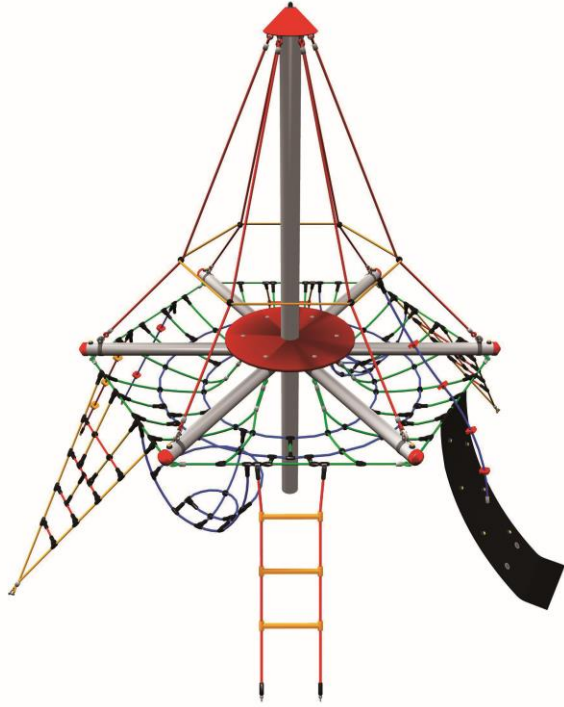


Zip Example

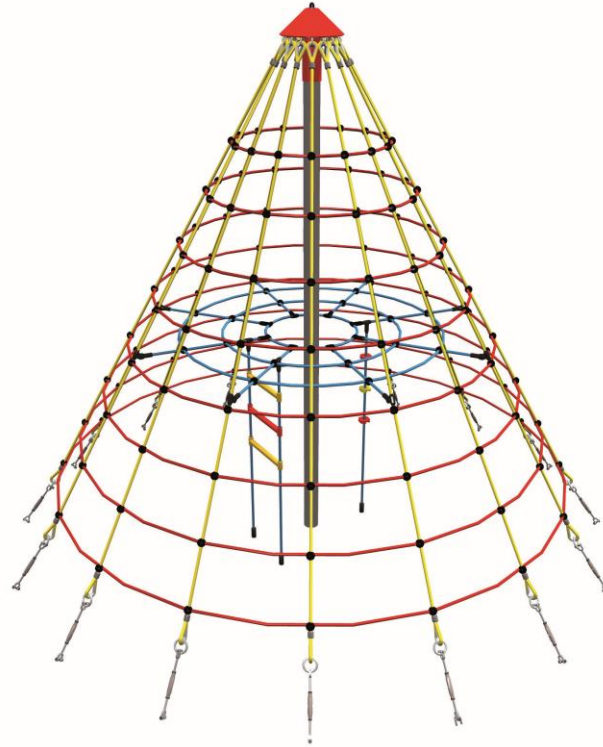


Disney Zip

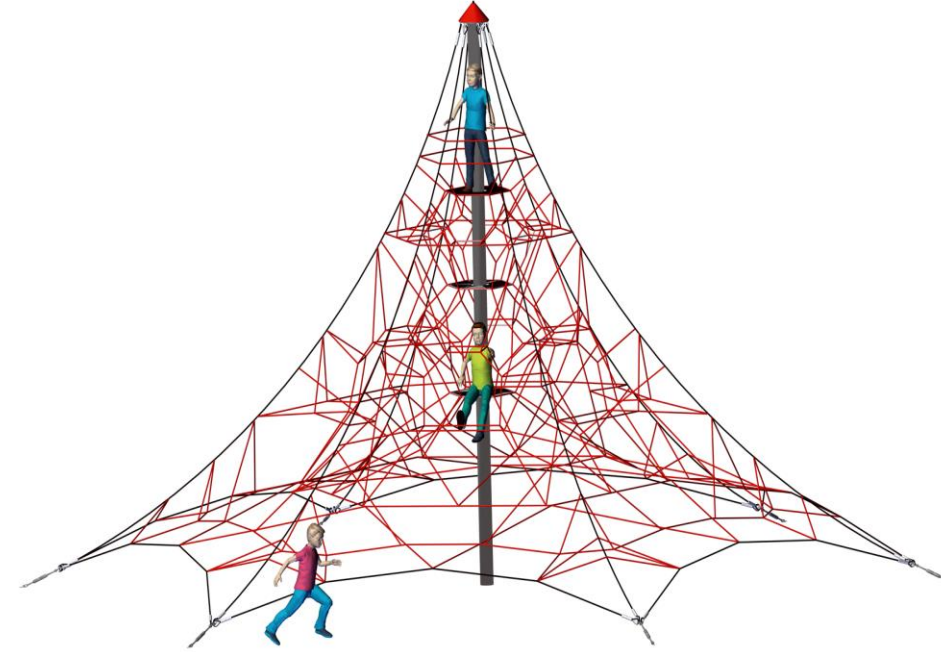
# Belay-free Zone III - 8 years and older cont.



Pirate Tower



Super Climber

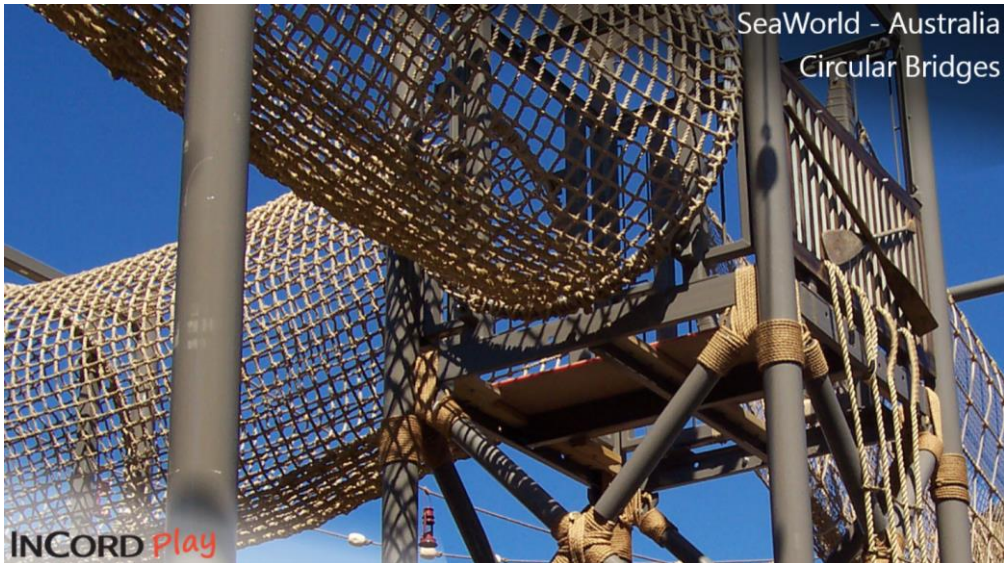


Spider Pyramid

# Belay-free Zone III - 8 years and older cont.



Circular Bridges



Circular Bridges 2



Netform Tunnel



Riverbend Tower Bridges

# Belay-free Zone III - 8 years and older cont.



Adventure Trail



INCORD *Play*

Spider Web Net

# Belay-free Zone III - 8 years and older cont.



Rope Block Traverse



Log Walk



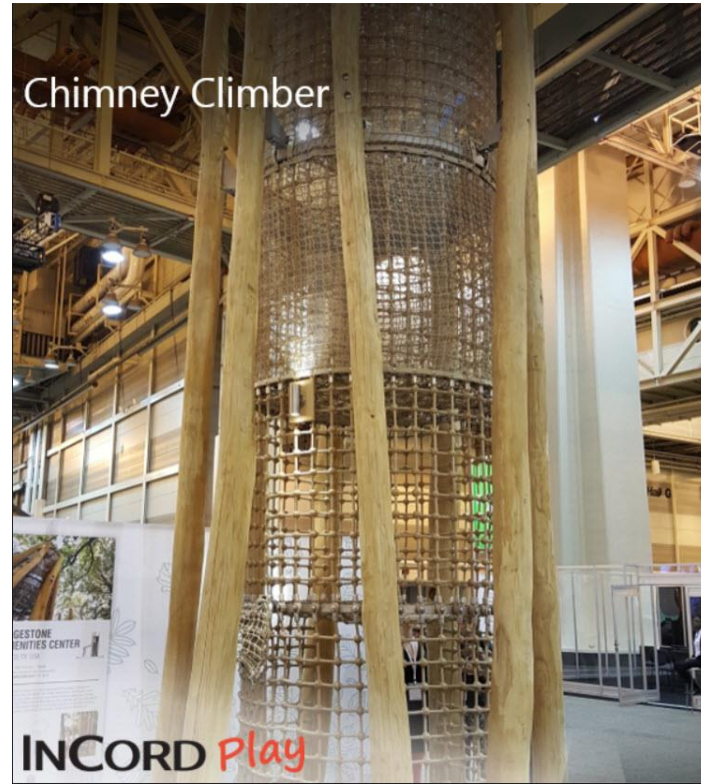
Rope-Slats Bridge

# Belay-free Zone III - 8 years and older cont.



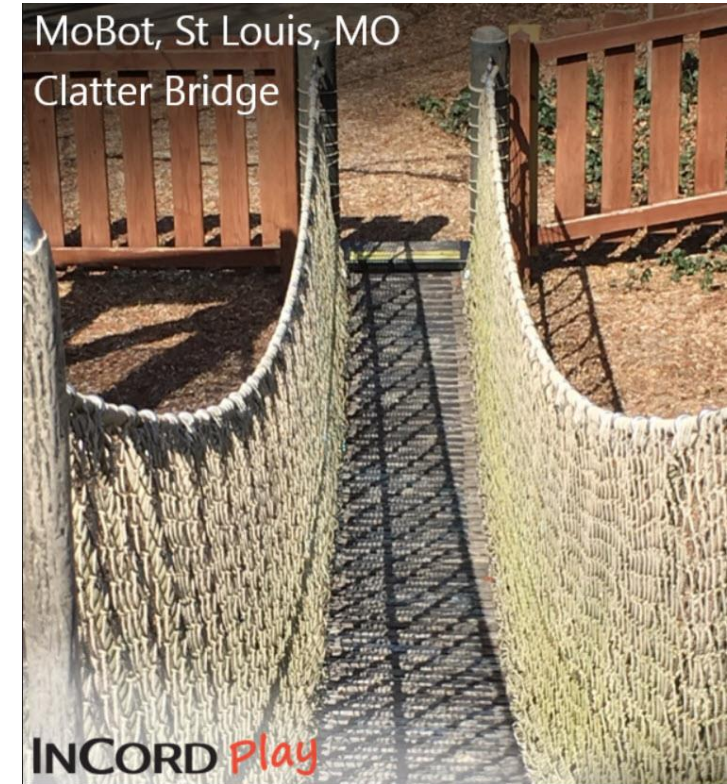
Netform V-Bridge

INCORD *play*  
Netform V Bridge



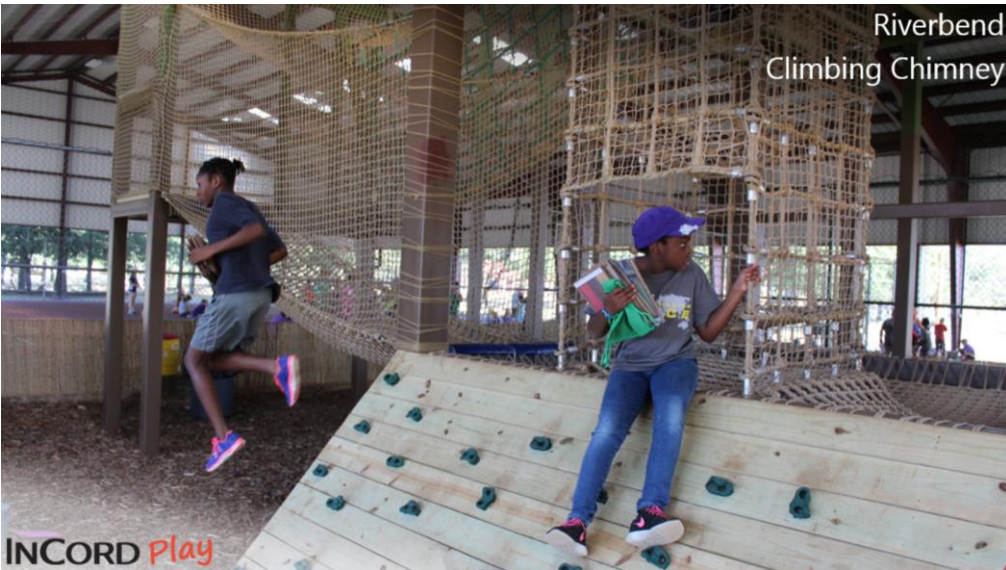
Chimney Climber

INCORD *play*  
Chimney Climber



MoBot, St Louis, MO  
Clatter Bridge

INCORD *play*  
Clatter Bridge



Riverbend  
Climbing Chimney

INCORD *play*  
Riverbend Climbing Chimney



# Rocklin Quarry Adventures

## Construction Detail

March 23, 2017

Rocklin Quarry Adventures						
Construction Detail						
March 23, 2017						
<i>Internal Use Only for Planning Purposes;</i>	Responsibility	BUDGET				ACTUAL
<b>Architectural &amp; Engineering</b>						
Design & Engineering	GC	160,000				0
SWPPP / Fence	GC	2,500				0
Survey / Staking	GC	7,500				0
<b>Architectural &amp; Engineering Total</b>		<b>170,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Hardscaping</b>						
Flat Work/Paving (10k sq. ft # \$5 per)	GC	50,000				0
Rockwork	GC					0
Pathways (DG)	GC	10,000				0
<b>Hardscaping Total</b>		<b>60,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Fence ( wrought iron or chain-link) 1300 lin ft @ 25.00 lin ft	GC	32,500				0
Interior Barriers (rope/posts/netting)	GC	10,000				0
<b>Fence/Barriers Total</b>		<b>42,500</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Shade	Potential Direct Buy					0
Theming/Signage	Potential Direct Buy					0
<b>Shade and Theming</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Site Improvements</b>						
Grading--Rough and Fine	GC	125,000				0
<b>Site Improvements Total</b>		<b>125,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Underground &amp; Site Utilities</b>						
Domestic Water	GC	10,000				0
Electrical	GC	25,000				0
Waterfall	GC	25,000				0
Lighting Infrastructure & Light Fixtures/Bulbs (in-park)	GC	35,000				0
Sanitary Sewer	GC	15,000				0
Site Electrical Conduits	GC	5,000				0
Storm Drain	GC	5,000				0
Trenching	GC	10,000				0
Landscaping/Vertical garden	GC	25,000				0
<b>Underground &amp; Site Utilities</b>		<b>155,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Guest Amenities</b>						0
Picnic Tables (100)	Potential Direct Buy					0
Volleyball/Lawn Games	Potential Direct Buy					0
Food Carts	Potential Direct Buy					0
Misc. Tents (4)	Potential Direct Buy					0
Lockers	Potential Direct Buy					0
Benches (60)	Potential Direct Buy					0
Sound / PA	Potential Direct Buy					0
<b>Guest Amenities Total</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

# Rocklin Quarry Adventures

## Construction Detail

March 23, 2017

<i>Internal Use Only for Planning Purposes;</i>	Responsibility	BUDGET				ACTUAL
<b>Buildings</b>						0
Guest Service Building and Quarry Tap House	GC	250,000				0
Deck TBD	GC	75,000				0
Finishes/floors/fixtures	GC	18,000				0
Furniture/Food Prep/Kitchen Equipment - FFE	Potential Direct Buy					0
<b>Buildings</b>		<b>343,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Attractions</b>						
High and Low Traversing Trail	SUB-CONTRACT	70,000				0
Climbing Routes (20)	SUB-CONTRACT	100,000				0
Wall Cargo Net Climb	SUB-CONTRACT	40,000				0
Rapelling (2)	SUB-CONTRACT	45,000				0
Grand Zip Line, double and triple	SUB-CONTRACT	150,000				0
Free Fall (2)	SUB-CONTRACT	70,000				0
King Swing single or double	SUB-CONTRACT	50,000				0
Aerial Adventure Park & Swinging Bridges	SUB-CONTRACT	595,000				0
Kids Adventure Course (belay free)	SUB-CONTRACT	200,000				0
Nature/History Tour	GC	2,000				0
Stream Play	GC	10,000				0
Boulder Climb Area	SUB-CONTRACT	20,000				0
Kid Zips (4 to 6)	SUB-CONTRACT	30,000				0
Lake Paddle Boats/w dock (20)	GC	30,000				0
<b>Attractions Total</b>		<b>1,412,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Soft / Other Costs</b>						
Adventure Equipment Harness, lanyard, belay Etc.	Potential Direct Buy					0
FFE	Potential Direct Buy					0
Inspections and Testing	GC	40,000				
Permits / Fees	GC	15,000				
<b>Soft / Other Costs Total</b>		<b>55,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Contingency/Contractor Profit &amp; Overhead</b>		<b>272,500</b>				
<b>Potential Direct Buy Total</b>		<b>615,000</b>				
<b>TOTAL W/OUT CONTINGENCY OR CONTRACTOR PROFIT</b>		<b>2,362,500</b>				
<b>TOTAL W/ CONTINGENCY &amp; CONTRACTOR PROFIT</b>		<b>3,250,000</b>				<b>0</b>

## Rocklin Quarry Adventures

### Potential Direct Buy Items

March 23, 2017

<i>Internal Use Only for Planning Purposes;</i>	Responsibility	BUDGET	ACTUAL			
<b>Shade</b>	GC/VENDOR	75,000				
<b>Theming/Signage</b>	GC/VENDOR	75,000				
<b>Shade and Theming Total</b>		<b>150,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Picnic Tables (100)</b>	GC/VENDOR	9,000				
<b>Volleyball/Lawn Games</b>	GC/VENDOR	15,000				
<b>Food Carts</b>	GC/VENDOR	10,000				
<b>Misc. Tents (4)</b>	GC/VENDOR	10,000				
<b>Lockers</b>	GC/VENDOR	7,500				
<b>Benches (60)</b>	GC/VENDOR	3,500				
<b>Sound / PA</b>	GC/VENDOR	15,000				
<b>Guest Amenities Total</b>		<b>70,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Furniture/Food Prep/Kitchen Equipment - FFE</b>	GC/VENDOR	125,000				
<b>Building Total</b>		<b>125,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Adventure Equipment Harness, lanyard, belay Etc.</b>	GC/VENDOR	170,000				
<b>FFE</b>	GC/VENDOR	100,000				
<b>Soft / Other Costs Total</b>		<b>270,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Potential Direct Buy Total</b>		<b>615,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## **EXHIBIT B**

### **City's Improvement Standards**

SEE CURRENT IMPROVEMENT STANDARDS AT THE FOLLOWING LINK

[http://www.rocklin.ca.us/sites/main/files/file-attachments/improvement\\_standards.pdf](http://www.rocklin.ca.us/sites/main/files/file-attachments/improvement_standards.pdf)

**EXHIBIT C**  
**City's Standard Drawings**

SEE STANDARD DRAWINGS AT THE FOLLOWING LINK

[http://www.rocklin.ca.us/sites/main/files/file-attachments/1.24.17\\_update -  
\\_final\\_standard\\_drawings.pdf](http://www.rocklin.ca.us/sites/main/files/file-attachments/1.24.17_update_-_final_standard_drawings.pdf)

**EXHIBIT D**

**Not Used**

**EXHIBIT E**

**Addendums 1 and 2**

**ADDENDUM NO. 1**  
TO THE PLANS AND SPECIFICATIONS FOR THE  
**Rocklin Adventures at Quarry Park Request for Qualifications**  
**Design-Build Firms**

This addendum covers changes to the Plans and Specifications and shall become part of the contract documents. Sign and include this addendum as part of your bid package.

Question

1. The Request for Qualifications (RFQ) indicates a “desired” completion date of September 2017, that a “schedule showing substantial completion no later than September 30, 2017 will receive reduced points”, and the estimated project budget is \$3,250,000. Is there any flexibility to the project schedule and budget?

Response

Yes, however each design-build firm should submit a proposal identifying its best approach for achieving or approximating the City’s stated schedule and budget. If necessary, design-build firms should clearly state what work can be completed within the City’s stated schedule and budget and what additional cost and time will be necessary to fully complete the City’s project.

Question

2. Given that the access road and parking lots will be under construction by others how will the selected design-build firm access the project site?

Response

Project access, staging, and material and equipment storage will occur on the adjacent Big Gun site for project duration.

Question

3. The City has indicated its desire for materials and equipment salvaged from the Big Gun shed demolition to be repurposed as part of the this project. What materials and equipment are available, where are they located, are they free from contaminants (ie. lead paint), and is the project site soil free from contaminants?

Response

The City has catalogued and retains the salvaged materials and equipment at its corporate yard (4081 Alvis Court, Rocklin CA 95677) and provides the attached photographs as a sample of what’s available. The City has not tested any of the materials for contaminants and so that would be the responsibility of the design-build firm. However, the City anticipates that

**Warning:** If an addendum or addenda have been issued by the administering agency and not noted as being received by the bidder, this proposal may be rejected.



most salvaged materials and equipment would be utilized outside of closed quarters and has no reason to believe or evidence that contaminants exist.

Question

4. Does the City have documentation related to the closure of the quarry mining activity and stabilization of the quarry walls?

Response

The City provides the attached Phase 1 environmental analysis prepared for the project site which did not identify any concerns and the additional following documents related to the quarry; 1) Big Gun Inspection Report, 2) Big Gun Reclamation Plan 1, 3) Big Gun Reclamation Plan 2, 4) Big Gun Phase 1 Analysis, 5) Big Gun Closure Letter. The design-build firm will be responsible for ensuring the structural stability of the quarry walls to support adventure elements. These documents are provided for informational purposes only, the City does not warrant the accuracy of the information.

Question

5. Are all adventures elements required to be accessible under the American Disability Act (ADA)?

Response

No, it's the City's understanding that the design-build firm is required to ensure accessibility to the point of participation of an adventure area and provide equivalent facilitation when necessary. It is assumed that Quarry ingress and egress (when necessary) will be achieved through assisted transport via the proposed access road. The design-build firm should consult with a certified CASp Specialist to determine ADA compliance.

Question

6. How is the City approaching life and safety aspects of Quarry occupation?

Response

Quarry occupancy will be limited by the number of adventure elements which is not anticipated to typically exceed 200 occupants at any given time. Standard emergency vehicle access into the Quarry is unlikely therefore the City will separately purchase an all-terrain vehicle including first-aid equipment and gurney. The City strongly encourages the design-build firm to incorporate an adventure element at the far-end of the Quarry that can also be used as a second means of egress in emergencies.

The City will also require the design-build firm to provide life-safety plans as part of the building permit review and approval process. The park operator will work directly with emergency personnel to establish emergency protocols and procedures.

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Question

7. How will permanent utilities (ie. water, sewer, gas, electric) be provided to the project site?

Response

The City will extend the utilities along the new access road and stub to the project site in accord with the attached drawings.

Question

8. Does the City have a standard bid-form that it wants all prospective design-build firms to use in submitted their proposals?

Response

No, design-build firms should submit proposals in accord with the RFQ requirements. The City is not as concerned about particular unit costs as it is with the overall project cost.

Question

9. Will the design-build firm be required to train the park operator and its staff on use and maintenance of the adventure elements and facility?

Response

Yes, the design-build firm will coordinate with the park operator.

Question

10. Are Computer Aided Design (CAD) files available for design-build firm use in preparing proposals?

Response

Yes, see attached

Question

11. The RFQ indicates that neither Legacy Family Adventures (LFA) nor any individual or sub-consultant to LFA is eligible to participate on a design-build team. Is the City willing to modify this requirement given the aggressive project schedule?

Response

The City will accept proposals from design-build firms that include a former LFA sub-consultant however it will not give preferential treatment to firms that include a former LFA sub-consultant. LFA remains strictly prohibited from participating in a design-build proposal.

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Additional Comments:

The design-build firm will need to design and install the project irrigation systems in accord with the City's irrigation standard (contact Public Services 916-625-5500 for more information).

- The City reserves the right to request changes to a proposal, to team members, and to incorporate design concepts or products discussed during the proposal review period after design-build firm selection.

Attachments:

Big Gun Inspection Report 1  
Draft Access Road and Parking Lot Plans  
Big Gun Interim Reclamation Plan1  
Big Gun Interim Reclamation Plan 2  
Big Gun Quarry Phase IESA  
Big Gun Quarry Site Closure Letter  
Kesti Property Rocklin Phase 1 ESA  
Sample of Historical Items

2016 Quarry Park Topo  
2227EX003 FLLG  
2227GB  
2227OB001  
2227PN  
16077\_DD\_CVBASE  
16077\_DD\_LABASE  
10677\_DDGRADE\_  
16077\_DD\_GRADE  
16077\_GRADING LEGEND  
DWGTO PDF  
FLLG

**End of Addendum No. 1**

Signature of Bidder: \_\_\_\_\_

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

**Warning:** If an addendum or addenda have been issued by the administering agency and not noted as being received by the bidder, this proposal may be rejected.

## **ADDENDUM 1**

### **Attached Documents**

Big Gun Inspection Report 1  
Draft Access Road and Parking Lot Plans  
Big Gun Interim Reclamation Plan1  
Big Gun Interim Reclamation Plan 2  
Big Gun Quarry Phase IESA  
Big Gun Quarry Site Closure Letter  
Kesti Property Rocklin Phase 1 ESA  
Sample of Historical Items

2016 Quarry Park Topo  
2227EX003 FLLG  
2227GB  
2227OB001  
2227PN  
16077\_DD\_CVBASE  
16077\_DD\_LABASE  
10677\_DDGRADE\_  
16077\_DD\_GRADE  
16077\_GRADING LEGEND  
DWGTO PDF  
FLLG

<http://www.rocklin.ca.us/bidrfp/rocklin-adventures-quarry-park-request-qualifications-design-build-firms>

**SUBMIT THIS SHEET AS PART OF YOUR BID PACKAGE**

**Warning:** If an addendum or addenda have been issued by the administering agency and not noted as being received by the bidder, this proposal may be rejected.

**ADDENDUM NO. 2**  
TO THE PLANS AND SPECIFICATIONS FOR THE  
**Rocklin Adventures at Quarry Park Request for Qualifications**  
**Design-Build Firms**

This addendum covers changes to the Plans and Specifications and shall become part of the contract documents. Sign and include this addendum as part of your bid package.

Question

1. Does the City have any geotechnical report(s) for the project site or quarry pit that it can share?

Response

No, however the City has provided the geotechnical report (see attached) prepared for the fire station site adjacent to the adventure park.

Question

2. What are the project site lighting standards?

Response

Project site lighting (path and pedestrian) should match the existing Quarry Park standards (see attached).

Attachments:

- Rocklin Fire Station Geotechnical Report
- Rocklin Fire Station Geohazards Report
- Quarry Park Lighting Standards

**End of Addendum No. 2**

Signature of Bidder: \_\_\_\_\_

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

**SUBMIT THIS SHEET AS PART OF YOUR BID PACKAGE**

**Warning:** If an addendum or addenda have been issued by the administering agency and not noted as being received by the bidder, this proposal may be rejected.

## **ADDENDUM 2**

### **Attached Documents**

Rocklin Fire Station Geotechnical Report  
Rocklin Fire Station Geohazards Report  
Quarry Park Lighting Standards

<http://www.rocklin.ca.us/bidrfp/rocklin-adventures-quarry-park-request-qualifications-design-build-firms>

**EXHIBIT F**

**NONCOLLUSION AFFIDAVIT**

To be Executed by Design-Builder and Submitted with Proposal

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

I am the  [Position]  of   (“Design-Builder”), the party making the foregoing bid.

The Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Proposal is genuine and not collusive or sham. Design-Builder has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal. Design-Builder has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or to refrain from submitting a proposal. Design-Builder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the Design-Builder or any other proposer, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other proposer. All statements contained in the proposal are true. Design-Builder has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham proposal, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Design-Builder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Design-Builder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on  [date] , at  [city] ,  [state] .

Signed: \_\_\_\_\_

Title: \_\_\_\_\_



## **EXHIBIT G**

### **Design-Build Agreement with General Conditions and Insurance Requirements**

## **DESIGN-BUILD AGREEMENT**

THIS DESIGN-BUILD AGREEMENT ("Agreement") is made effective this \_\_\_ day of \_\_\_\_\_ 2017, by and between the CITY OF ROCKLIN ("City"), and

\_\_\_\_\_ [Name, form and state of business, organization address, and State Contractor's License No.] ("Design-Builder"), for design, management and construction of an Adventure Park in the City's Quarry Park ("Project").

The parties hereto mutually agree to the terms and condition set forth herein.

### **ARTICLE 1 – GENERAL PROVISIONS AND SCOPE OF WORK.**

1.1 The City and Design-Builder agree to proceed on the basis of trust and good faith to permit each party to realize the benefits afforded under this Agreement.

1.2 Design-Builder shall perform all design and construction services, and provide all material, equipment, tools and labor, necessary to complete the Work described in the Contract Documents.

### **ARTICLE 2 – CONTRACT DOCUMENTS; INTERPRETATION AND INTENT**

2.1 The Contract Documents shall include permits as may be required by law; the Request for Design-Build Proposals; Design-Builder's Proposal; this Agreement (including all exhibits and attachments); the Proposal Bond; the Performance Bond; the Payment Bond; the City's Performance Criteria; the General Conditions; Construction Documents prepared by Design-Builder and approved by the City in accordance with this Agreement, including, without limitation, the Drawings and Specifications; any project-specific specifications or documents; all duly issued Addenda; Interpretations; Field Instructions; Written Directives; Supplemental Drawings; Design-Builder's Guarantee and Bond; the Project Schedule; the Construction Schedule; Storm Water Pollution Prevention Plan; and any and all supplemental agreements amending or extending the Work contemplated and which may be required to complete the Work in an acceptable manner. Supplemental agreements are written agreements covering alterations, amendments or extensions to the Contract Documents and include Change Orders.

2.2 The Contract Documents contain the entire and integrated agreement between the City and Design-Builder and supersede all prior negotiations, representations or agreements, either written or oral. The Contract Documents may be amended or modified only in writing by Change Order or Construction Change Directive.

2.3 Design-Builder and the City, prior to execution of the Agreement, shall carefully review all the existing Contract Documents, including the various documents comprising the City's Performance Criteria, for any conflicts or ambiguities. Design-

Builder and the City will discuss and resolve any identified conflicts or ambiguities prior to execution of the Agreement.

2.4 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Sum. It is the overriding intent of the Contract Documents that the work performed shall result in a complete and operable project in satisfactory condition for occupancy, with all mechanical equipment in functional operating condition and fit for the use for which it is intended. No extra compensation will be allowed by anything omitted but fairly implied in the Contract Documents. The Contract Documents are complementary and explanatory of each other, and what is called for by any one shall be as binding as if called for by all. The table of contents, titles and headings contained in the Contract Documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect or limit the interpretations of the provisions to which they refer.

2.5 Any material specified by reference to the number, symbol, or title of a specified standard such as a Commercial Standard, a Federal Specification, a trade association standard, or other similar standards, shall comply with the requirements in the latest approved revision thereof and any amendments or supplements thereto in effect on the date of Request for Design-Build Proposals, except as limited to type, class, or grade, or modified in such reference. The standards referred to, except as modified in the Contract Documents, shall have full force and effect as though printed in the Contract Documents.

2.6 In the event of conflict between any of the Contract Documents, the provision placing a more stringent requirement on Design-Builder shall prevail. Design-Builder shall provide the better quality or greater quantity of Work and/or materials unless directed otherwise by the City in writing. If none of the Contract Documents places a more stringent requirement or greater burden on Design-Builder, the following order of precedence will govern:

- 2.6.1 Permits from the City or other agencies as may be required by law.
- 2.6.2 Written modifications, amendments, minor changes and Change Orders to the Contract
- 2.6.3 This Agreement
- 2.6.4 The City's Design or Performance Criteria (defined to include the Concept Drawings for the Project, City Improvement Standards, and City Standard Drawings)
- 2.6.5 The General Conditions
- 2.6.6 Construction Documents prepared by Design-Builder and approved by the City in accordance with this Agreement.

## **ARTICLE 3 – DESIGN-BUILDER’S REPRESENTATIONS, SERVICES AND RESPONSIBILITIES**

### 3.1 General

3.1.1 Design-Builder accepts the relationship of trust and confidence established between the City and Design-Builder by this Agreement.

3.1.2 By executing the Agreement, Design-Builder represents and warrants that: (i) it has been provided with sufficiently detailed information to enable Design-Builder to determine the cost of the Work if the Request for Design-Build Proposals seeks a lump sum cost proposal and to perform within the Contract Time; (ii) it has visited the Project Site, familiarized itself with the local conditions under which the Work is to be performed including, without limitation, the conditions contained in any test results and/or reports provided to or obtained by Design-Builder, and the conditions reflected on any Site surveys provided to or obtained by Design-Builder; (iii) it is fully experienced, qualified and competent to perform the services set forth in the Contract Documents; (iv) it is properly equipped, organized and financed to perform the Work; (v) it is properly permitted and licensed by the State of California and all other applicable governmental entities to perform the Work required by the Contract and that it will retain only properly licensed Design Consultants and Subcontractors to perform the Work of the Contract; (vi) it has familiarized itself with all conditions bearing upon transportation, disposal, handling, and storage of materials; (vii) it has familiarized itself with the availability of labor, water, electric power, and roads; (viii) it has familiarized itself with uncertainties of weather or similar observable physical conditions at the Project Site; and (ix) it is satisfied as to the character, quality, quantity and scope of work to be performed and materials and equipment to be furnished. In addition, and without limiting the foregoing warranties, Design-Builder represents and warrants to City that prior to executing the Agreement:

3.1.2.1 As of the Effective Date of the Agreement, Design-Builder has no knowledge of any conflicts, errors, or discrepancies in the Contract Documents other than those which Design-Builder has notified City of in writing prior to executing the Agreement;

3.1.2.2 Design-Builder is experienced and competent in the interpretation and use of Specifications and Drawings, and in the use of materials, equipment and construction techniques as are required to successfully complete the Project. Design-Builder shall, at its own expense, employ any and all experts necessary to successfully complete the construction Work required by the Contract Documents; and

3.1.2.3 Except as expressly set forth herein, the City assumes no responsibility for any conclusions or interpretations made by Design-Builder based on the information made available by the City.

### 3.1.3 Subcontractors and Subconsultants

3.1.3.1 Design-Builder shall be responsible to the City for the acts and omissions of its employees, Design Consultants, subconsultants, Subcontractors and their agents and employees, and other persons performing any of the work under this Agreement. The City does not assume any liability, duty or obligation to Design-Builder's Design Consultants, subconsultants, Subcontractors, or their agents and employees by execution of this Agreement or performance of the Agreement, and nothing in the Contract Documents shall create any contractual relation between the City and any Design Consultants, subconsultants, Subcontractors, their agents and employees, or any other person or entity employed or retained by or under Design-Builder.

3.1.3.2 The Request for Design-Build Proposals sets forth the requirements for listing of subconsultants and Subcontractors in the Proposal and for selection of Subcontractors not listed in the Proposal. Design-Builder shall furnish to City documentation verifying that all Subcontractors not listed at the time of award were subsequently awarded Subcontracts in accordance with the process stated below.

3.1.3.3 Design-Builder shall submit to the City, after selecting Subcontractors, an updated expanded list of Subcontractors, along with their respective addresses, telephone numbers, e-mail addresses, portion of work they will perform, and contractor's license numbers. The expanded list of Subcontractors shall be provided and updated no later than ten (10) days after the date which Design-Builder awards a contract for any portion of the work to a Subcontractor not originally listed in Design-Builder's Proposal.

3.1.3.4 All Subcontractors that are listed in the Proposal or subsequently awarded subcontracts in excess of one-half of one percent of the Contract Price shall only be substituted in strict accordance with the "Subletting and Subcontracting Fair Practices Act" and upon the written consent of the City. The City shall have the right of final approval as to the qualifications of a Subcontractor to perform its designated scope of work.

3.1.3.5 Within the City's sole discretion, any Subcontractor may be deemed not qualified to perform work on the Project if the City determines the Subcontractor fails to meet the requirements of the Contract Documents, or for any other reason. Any increase in the

cost of the work on the Project resulting from the replacement or substitution of a Subcontractor for any reason shall be borne solely by Design-Builder.

3.1.4 Design-Builder shall comply with all laws, codes, and regulations applicable to Design-Builder's services, including, without limitation those relating to safety of its employees and subconsultants, hazardous materials, and equal employment opportunities; pay all local, state, and federal taxes associated with its work; and pay all benefits, insurance, taxes, deductions, overtime and contributions for Social Security and Unemployment which are required by law. Upon the City's request, Design-Builder shall furnish evidence satisfactory to the City that any or all of the foregoing obligations have been fulfilled.

3.1.5 Labor Code Compliance

3.1.5.1 This Project as a "public work" as that term is defined by California Labor Code section 1720, and the Project is, therefore, subject to prevailing wages under California Labor Code section 1771.

3.1.5.2 Design-Builder and its Design Consultants and Subcontractors shall fully comply with all provisions of the California Labor Code concerning the performance of public works contracts including, but not limited to, payment of prevailing wages, limitations on time worked, compliance with apprenticeship requirements, maintenance of payroll records, posting of wages at job site, and prohibitions against discrimination.

3.1.5.3 Design-Builder shall be registered pursuant to Labor Code section 1725.5 prior to executing this Agreement and shall maintain current registration throughout the term of this Agreement. Similarly, all subcontractors of all tiers shall be registered pursuant to Labor Code section 1725.5 prior to executing any contract or engaging in any work, whichever is earlier, and shall maintain current registration throughout the term of this Agreement.

3.1.6 Not used.

3.1.7 Not used.

3.1.8 Design-Builder's Representative shall be reasonably available to the City and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with the City and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Representative may be replaced only with the mutual agreement of the City and Design-Builder.

3.1.9 Design-Builder shall provide the City with a monthly status report (or more frequently in the discretion of the City) detailing the progress of the Work, including (i) the current schedule of performance, (ii) any discrepancies, conflicts, or ambiguities in the Contract Documents that require resolution, (iii) whether health and safety issues exist in connection with the Work; and (iv) other items that require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Sum and within the Contract Time.

3.1.10 Unless a schedule for the execution of the Work has been attached to the Agreement as an exhibit at the time the Agreement is executed, Design-Builder shall prepare and submit, at least three (3) days prior to the meeting contemplated by Section 3.1.11 hereof, a proposed schedule for the commencement and completion of the Work for the City's review and response. The proposed schedule shall include: (i) the dates for completion of all design phases required herein, including agency approvals, submittals, and procurement; (ii) the start and completion of the various stages of Work, including critical path items, and Project close-out; and (iii) a stated number of days for a weather allowance; and (iv) the dates when City information and approvals are required to enable Design-Builder to complete the Work within the Contract Time. The dates indicated for City review and response shall not be less than the time allowed for City review of submissions under the General Conditions. When approved by the City, the proposed schedule shall become the Project Schedule. The Construction Schedule shall be developed as set forth in Article 13 of the General Conditions, and the accepted Construction Schedule shall be incorporated into and made a part of the Project Schedule. Design-Builder shall update and revise the Project Schedule in accordance with the General Conditions. The City's review of, and response to, the proposed and Project Schedule shall not relieve Design-Builder of its complete and exclusive control over means, methods, sequences and techniques for executing the Work.

3.1.11 The parties will meet within seven (7) days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

## 3.2 Design Professional Services.

### 3.2.1 Standard of Care

3.2.1.1 Design-Builder represents that it is familiar with the statutes, regulations, and design requirements applicable to public works projects of the type of the Project in the locality of the Project; that all of its work will conform to current professional practices and standards regarding such requirements; and that Design-Builder will exercise due professional care and will cooperate with the City and

any consultant also employed by the City in connection with the Project. Design-Builder agrees to perform its work with the skill and judgment of a prudent public works designer practicing in the State of California in the locale of the Project and in an expeditious and economical manner consistent with the interests of the City.

3.2.1.2 Review, approval or acceptance of any of Design-Builder's work under this Agreement shall not relieve Design-Builder from responsibility for failure to meet the standard of care as defined herein in its work or the work of its any of its Design Consultants or subconsultants.

3.2.2 Design-Builder shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed Design Consultants, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required Drawings, Specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents.

### 3.3 Suitability of the City's Performance Criteria

3.3.1 Except as provided in Section 3.3.2, Design-Builder acknowledges that the City's Performance Criteria are conceptual in nature and that Design-Builder is responsible for correcting any errors, omissions or defects in the City's Performance Criteria, which can reasonably be corrected through the design and/or construction process, subject to Change Orders only for scope changes, and that it has satisfied itself regarding the adequacy and accuracy of design information contained in the City's Performance Criteria and agrees to assume all risk and sole responsibility for all conditions in or among the various parts of the City's Performance Criteria that (i) constitute errors, omissions, conflicts, ambiguities, or violation of applicable laws, or (ii) are unsuitable for construction.

3.3.2 If the City's Performance Criteria contain specific design specifications, then Design-Builder shall be entitled to reasonably rely on the accuracy of the information represented in such design specifications and their compatibility with other information set forth in the Performance Criteria, including any performance specifications.

### 3.4 Royalties, Patents and Copyrights

3.4.1 Design-Builder shall secure in writing from all patentees, copyright holders, and assignees of all Project-related documents, all copyrights, assignments, and licenses related to such expression (e.g., designs, drawings, Contract Documents, Specifications, documents in computer form, etc.) as necessary to allow the City the full, unlimited, and unencumbered use of that expression for the execution, operation, maintenance, modernization or



expansion of the Project. Design-Builder shall immediately convey all such copyrights, assignments, and licenses to the City without reservation except that which is expressly allowed in Article 5. In the case of products, materials, systems, etc., protected by patent, Design-Builder and its Design Consultants shall not specify or cause to be specified any infringing use of a patent. Design-Builder shall pay all royalties and license fees. Design-Builder shall defend, indemnify and hold the City harmless from all suits or claims arising out of such selection.

3.4.2 Design-Builder shall indemnify, defend, and hold the City harmless against any claim, suit, or action, or any alleged violation or infringement of patent rights, copyrights, or other intellectual property rights which may be made against the City by reason of the use in connection with or as a part of the Project anything which is now or may hereafter be covered by patent, copyright, trademark, or other intellectual property rights, and also against all expenses, including attorneys' fees and expert witness' fees, which the City may incur in defending or adjusting any such claim, suit, or action.

3.4.3 Should Design-Builder become aware of or receive notice of potential infringement of any intellectual property right related to the Project, regardless of the source of that awareness or notice, in addition to its indemnity obligation, Design-Builder shall (a) immediately cease the copying and any other activity which is the potential source of infringement; (b) immediately submit to the City copies of all documents relating to that awareness, the notice, or the object thereof; (c) investigate the potential infringement within seven (7) Calendar Days of becoming aware of the potential infringement; and (d) issue to the City a complete written response and analysis of the potential infringement and the course of action recommended the Design-Builder and supplemental information or reports as requested by the City.

### 3.5 Design Development Services

#### 3.5.1 Budgets

3.5.1.1 The Project cost is not to exceed \$3,250,000.

3.5.1.2 As part of developing the Guaranteed Maximum Price in under Article 7, Design-Builder shall prepare estimates of Project Construction Costs at the following phases:

- (a) Design-Builder shall perform a conceptual estimate of the Project Construction Phase based upon the Conceptual Drawings prepared by City and submit it to the City for review.

- (b) Design-Builder shall perform a design development estimate of the Project Construction Cost and submit it to the City for review.
- (c) Design-Builder shall perform a 50% Construction Document estimate of the Project Construction Cost and submit it to the City for review.
- (d) Design-Builder shall perform a 100% Construction Document estimate of the Project Construction Cost and submit it to the City for review.

### 3.5.2 General

3.5.2.1 Design-Builder shall provide full design and engineering services (including, without limitation, geotechnical and survey services) necessary to complete the design and assisting the City to secure approval of all agencies for the Project.

3.5.2.2 Design services generally required under this Agreement are evaluation of the Site and of the design criteria documents and other Project-related information; preparation of a preliminary schedule and preliminary estimate; coordinating and obtaining all planning permits; preparing design development documents, including supporting the City's design review process, attending design review meetings and resolving review comments to the satisfaction of the City; preparing construction documents; securing design approval of agencies with jurisdiction; and performing work necessary to prepare and submit an acceptable Guaranteed Maximum Price ("GMP") proposal.

3.5.3 Conceptual Design Phase: The City has prepared a conceptual design to the approximately 30% design level. This conceptual design generally depicts the Adventure Park attractions, locations, buildings/structural placement and building elevations.

### 3.5.4 Design Development Document Phase

3.5.4.1 Design-Builder shall prepare design development documents based on the approved conceptual design documents. The design development documents shall illustrate and describe the refinement of the design of the Project, establishing the scope, relationships, form, size and appearance of the Project by means of plans, sections, elevations, typical construction details, and equipment layouts. The design development documents shall include specifications that identify major materials and systems and establish in general their quality levels.

3.5.4.2 Design-Builder shall perform all necessary geotechnical investigations and engineering, perform all necessary surveys, investigate and take measurements of observable existing conditions and facilities. Where existing conditions are concealed, Design-Builder shall make reasonable recommendations to the City as to whether such conditions should be exposed and, if so, the specific extent of such exposure. The City may, but need not, follow Design-Builder's recommendations. If the City exposes concealed conditions, Design-Builder shall proceed with investigating and taking measurements.

3.5.4.3 Design-Builder shall advise and assist the City in applying for and obtaining required approvals from all applicable governmental agencies having jurisdiction in a timely manner so as not to delay the Project.

3.5.4.4 The City shall approve the design development documents in writing prior to Design-Builder beginning the Construction Documents phase. Design-Builder may be required to present design development documents to City's representatives prior to approval.

### 3.5.5 Construction Document Phase

3.5.5.1 Design-Builder shall prepare, based on the approved design development documents, the Contract documents, any other information provided by the City or made available to Design-Builder, site surveys and observations, Drawings and Specifications setting forth in detail and prescribing the work to be done for the Project, including, without limitation, the materials, workmanship, finishes, and equipment required for the architectural, structural, mechanical, and electrical service connected equipment for the Project. At the end of the project the Design-Builder shall provide the City CD or thumb drive of the electronic files and 3 hard copies of the Record Drawings.

3.5.5.2 Design-Builder shall advise and assist the City in applying for and obtaining required approvals from all applicable governmental agencies having jurisdiction in a timely manner so as not to delay the Project.

3.5.5.3 Three sets of the Construction Documents will be provided to the City prior to commencement of construction.

### 3.5.6 Constructability and Coordination Reviews

3.5.6.1 During all phases of the development of the design and Construction Documents, on at least a monthly basis or such other

intervals identified in the Contract Documents, Design-Builder shall meet with the City and its separate contractors and/or consultants to coordinate the Construction Documents for the purpose of continuing construction feasibility, identifying conflicts, missing information or gaps in the planned scope of construction, ensuring compliance with City standards for construction, and to take appropriate action to ensure the full scope of intended construction is performed efficiently and economically.

3.5.7 The City's review and approval of design development documents and the Construction Documents is to mutually establish a conformed set of Contract Documents compatible with the requirements of the Work. Neither the City's review nor approval of any design submissions and Construction Documents, nor any constructability and/or coordination input from the City or its separate contractors or consultants, shall be deemed to transfer any design liability from Design-Builder to the City.

### 3.6 Government Approvals and Permits.

3.6.1 Except as otherwise set forth in the General Conditions, Design-Builder shall assist the City in obtaining, and the City shall pay for, all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work.

3.6.2 Design-Builder and City shall coordinate in obtaining those permits and approvals.

### 3.7 Construction Phase Services

3.7.1 Construction will commence only upon issuance by the City of a written authorization from the City to proceed with construction.

3.7.2 The typical construction hours are Monday – Friday, from 7:00 a.m. to 7:00 p.m., subject to modification in the City's discretion. Consent of the City to operate outside these hours is required, and the City reserves the right to deny such requests when it interferes with City activities or for the public health and safety of the surrounding neighborhood.

3.7.3 Design-Builder shall provide through itself or Subcontractors all necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities, other temporary facilities, and all other services necessary to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

3.7.4 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete

and exclusive control over the means, methods, sequences and techniques of construction.

3.7.5 Design-Builder shall have a safety, dust and traffic management plan in place in compliance with OSHA regulations and applicable law.

3.7.6 Fencing of Site.

3.7.7 Not used.

3.7.8 If the City permits construction to commence prior to completion of all of the Construction Documents, the parties shall continue with the development and completion of further Construction documents as provided herein.

3.7.9 Compliance with the City's Improvement Standards, Standard Drawings and General Conditions for a Design Build project.

#### **ARTICLE 4 – THE CITY'S RESPONSIBILITIES**

##### 4.1 Duty to Cooperate

4.1.1 The City shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

4.1.2 The City shall provide timely reviews and approvals of design submissions and Construction Documents consistent with the turnaround times set forth in Design-Builder's schedule.

4.1.3 The City shall give Design-Builder timely notice of any Work that the City finds to be defective or not in compliance with the Contract Documents.

##### 4.2 Furnishing of Services and Information

4.2.1 Unless expressly stated to the contrary in the Contract Documents, the City shall provide, at its own cost and expense, for Design-Builder's information and use the following:

4.2.2 All inspection and testing services in conjunction with the Project;

4.2.3 Temporary access, easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Builder to perform the Work;

4.2.4 A legal description of the Site;

4.2.5 To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including hazardous conditions, in existence at the Site; and

4.2.6 The City shall coordinate water removal for the site.

#### 4.3 The City's Separate Contractors

4.3.1 The City is responsible for all work performed on the Project or at the Site by separate contractors under the City's control. The City shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with, Design-Builder in order to enable Design-Builder to timely complete the Work consistent with the Contract Documents.

### **ARTICLE 5 – OWNERSHIP OF WORK PRODUCT**

5.1 The City acknowledges that the documents prepared by Design-Builder, including design development documents, Construction Documents, Drawings, Specifications, sketches, structural and other engineering calculations, estimates, data, charges, models and other documents prepared by Design-Builder, in both hard copy and in electronic files, are instruments of professional service ("Instruments of Service"). Although the official copyright of all Instruments of Service shall remain with Design-Builder and applicable Design Consultants, the Instruments of Service shall be and remain the property of the City, for use on this Project only and whether this Project is completed or not. The Instruments of Service shall be delivered to the City whenever requested, but in no event later than the earlier of (a) sixty (60) days after the City's Notice of Completion of the Project, or (b) the date of termination of the Agreement for any reason prior to final completion of the Project. Design-Builder may keep duplicate copies of the Instruments of Service, at its own expense, for its own files.

5.2 Design-Builder grants the City a license and right to use all or part of the Instruments of Service, at the City's sole discretion and with no additional compensation to Design-Builder, for all purposes the City may deem advisable in connection with completion and maintenance of, and additions, modifications to, or modernizations of the Project; provided, however, that if the Instruments of Service are altered without the involvement of Design-Builder or the Agreement is terminated for any reason prior to completion of the Project and if under such circumstances the City uses, or engages the services of and directs another design professional or Design-Builder to use, the Instruments of Services to complete the Project, the City agrees to release Design-Builder from any responsibility for the alterations or conformance of the incomplete portions of the Project to the Instruments of Service and to hold Design-Builder harmless from any and all liability, costs, and expenses (including reasonable legal fees and disbursements) relative to claims arising out of matters and/or events which occur subsequent to the alteration or termination of the Contract as a result of causes other than the fault or negligence of Design-Builder, or

anyone for whose acts it is responsible. In no event is the City's right to recover for latent defects or for errors or omissions of Design-Builder waived or limited.

5.3 This Agreement creates a non-exclusive and perpetual license for the City to copy, use or modify any and all Instruments of Service and any intellectual property rights therein for this Project only. Design-Builder shall require any and all of its Design Consultants, subconsultants and Subcontractors who perform design services to agree in writing that the City is granted a non-exclusive and perpetual license for Instruments of Service they prepare pursuant to the Contract.

5.4 Design-Builder represents and warrants that it has the legal right to license any and all copyrights, designs and other intellectual property embodied in the Instruments of Service that Design-Builder prepares or causes to be prepared pursuant to the Contract.

5.5 In the event the City ever desires to construct all or part of another wholly unrelated project which would be essentially identical in design to any portion of the Project that is the subject of this Agreement, Design-Builder agrees to permit re-use of its Instruments of Service, subject to payment to Design-Builder of a fair and reasonable re-use fee.

5.6 Any unauthorized re-use of the Instruments of Service shall be at the City's sole risk and without liability to Design-Builder. The City agrees to indemnify and hold harmless Design-Builder and its Design Consultants against any damages, liabilities or costs, including reasonable legal fees and disbursements, arising from the unauthorized re-use or modification of the Instruments of Service. Submission or distribution of the Instruments of Service to meet official regulatory requirements or for similar purposes does not constitute an unauthorized re-use of the Instruments of Service.

5.7 Design-Builder shall not re-use the Instruments of Service without the prior written consent of the City. Any unauthorized re-use of the Instruments of Service by Design-Builder shall be at Design-Builder's sole risk and without liability to the City. Design-Builder agrees to indemnify and hold the City harmless against any damages, liabilities or costs, including reasonable legal fees and disbursements arising from the unauthorized re-use of the Instruments of Service.

## **ARTICLE 6 – TIME OF PERFORMANCE**

### 6.1 Contract Time

6.1.1 Time is of the essence in the Contract Documents.

6.1.2 The Work shall commence on the date stated in the Notice to Proceed. Notwithstanding any provision to the contrary in the Contract Documents, Design-Builder shall not commence work prior to the date stated in the Notice to Proceed.

6.1.3 Design-Builder may mobilize equipment to the site in advance of the Notice to Proceed with written permission of the City, subject to the City obtaining adequate evidence of insurance prior to mobilization and any other conditions the City reasonably may require.

6.1.4 Design-Builder shall bring the entire Work to completion in the manner provided in the Contract Documents within \_\_\_\_\_ Calendar Days after the Date of Commencement stated in the Notice to Proceed.

6.1.5 Any adjustments to the Contract Time shall be in accordance with the General Conditions.

## 6.2 Liquidated Damages

6.2.1 Failure of Design-Builder to complete the Work within the Contract Time and in the manner provided for by the Contract Documents shall subject the Design-Builder to liquidated damages.

6.2.2 Design-Builder acknowledges that the fact of the occurrence of damages and the actual amount of the damages which City would suffer if the Work were not completed within the specified times set forth are dependent upon many circumstances and conditions which could prevail in various combinations, and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages.

6.2.3 Design-Builder acknowledges the damages which City would suffer in the event of delay include loss of the use of the Project, and, in addition, expenses of prolonged employment of the City's separate consultants and contractors; prolonged employment of City staff on the Project; costs of administration, inspection, and supervision; and the loss suffered by the public by reasons of the delay in the completion of the Project to serve the public at the earliest possible time.

6.2.4 Accordingly, the parties hereto agree, and by execution of this Agreement, Design-Builder acknowledges that it understands, has ascertained and agrees, that the amounts set forth herein as liquidated damages shall be presumed to be that amount of damages sustained by the failure of Design-Builder to complete the entire Work within the times specified.

6.2.5 Design-Builder shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum of \$ 2,500.00 ~~(Two Thousand Five Hundred Dollars and No Cents)~~ for each calendar day of delay until the date of Substantial Completion, and that both Design-Builder and its surety shall be liable for the total amount thereof. After the date of Substantial Completion, the City may withhold one hundred fifty percent (150%) of the reasonable value of any incomplete work as determined by the City's Representative, including, without limitation, any remaining contract work,



punch list items, final completion and/or close-out documents. The City shall have the right to deduct the amount of liquidated damages and/or withholdings from any money due or to become due to Design-Builder.

## **ARTICLE 7 – COMPENSATION**

### 7.1 Guaranteed Maximum Price (GMP)

7.1.1 At such time as the City and Design-Builder jointly agree, the Design-Builder shall submit a GMP Proposal in a format acceptable to the City. The GMP, including compensation for all design and construction services, is not expected to exceed the Project cost of \$\_\_\_\_\_.

7.1.2 As part of developing the GMP, the Design-Builder shall establish pricing for trade and specialty work through a public competitive sub-bid selection process. The Design-Builder shall establish reasonable qualification criteria and standards and award either on a best value basis or to the lowest responsible bidder, to be established in the solicitation documentation, and subject to City approval as part of approving the Guaranteed Maximum Price. The Design-Builder shall provide public notice of the availability of work to be subcontracted and provide a fixed date and time on which the subcontracted work will be awarded. The City encourages solicitation and use of Rocklin-based subcontractors for the project. The Design-Builder will provide the City with a copy of its bid advertisement and subsequent addenda if it changes the bid date. Subcontractors bidding on work shall be afforded the protections of Public Contract Code sections 4100-4114, inclusive. If the Design-Builder plans to self-perform any work, it must submit a sealed bid directly to the City a minimum of 48 hours in advance of the bid due date for the Subcontractors.

7.1.3 Design-Builder shall include with the GMP Proposal a written statement of its basis, which shall include:

7.1.3.1 a list of the drawings and specifications, including all addenda, which were used in preparation of the GMP Proposal;

7.1.3.2 a list of allowances and a statement of their basis;

7.1.3.3 a list of the assumptions and clarifications made by Design-Builder in the preparation of the GMP Proposal to supplement the information contained in the drawings and specifications;

7.1.3.4 the dates of Substantial Completion and Final Completion upon which the proposed GMP is based;

7.1.3.5 a schedule of applicable alternate prices;

7.1.3.6 a schedule of applicable unit prices;

7.1.3.7 Design-Builder's Contingency as provided in section 7.1.4;

7.1.3.8 An Owner's Contingency, to be provided by the City; and

7.1.3.9 a statement identifying all patented or copyrighted materials, methods or systems selected by Design-Builder and incorporated in the Work that are likely to require the payment of royalties or license fees.

7.1.4 Design-Builder's contingency shall be a sum mutually agreeable to and monitored by Design-Builder and the City for use by Design-Builder discretion to cover costs which are properly reimbursable as a cost of the Work but are not the basis for a Change Order. By way of example, and not as a limitation, such costs include trade buy-out differentials, overtime, acceleration, costs in correcting defective, damaged or nonconforming Work, design errors or omissions and Subcontractor defaults. The contingency is not available to the City for any reason, including changes in scope or any other time which would enable Design-Builder to increase the GMP under the Contract Documents. The Design-Builder shall give the City reasonable notice of any intent to draw upon the contingency funds, specifying the purpose for the use and the estimated amount. The Owner's contingency shall be for the sole and exclusive use of the City, including, without limitation, for additional or extra costs to the Project that entitle Design-Builder to a Change Order in accordance with Article 15 of the General Conditions. Design-Builder shall have no right to draw against this contingency without written approval of the City prior to its use.

7.1.5 Design-Builder shall meet with the City to review the GMP Proposal. If the City has any comments relative to the GMP Proposal, or finds any inconsistencies or inaccuracies in the information presented, it shall give prompt written notice of such comments or findings to Design-Builder, who shall make appropriate adjustments to the GMP, its basis or both.

7.1.6 The final GMP Proposal is subject to review and approval by the City Council. Upon acceptance by the City Council of the final GMP Proposal, as may be amended by the Design-Builder in accordance with section 7.1.5, the GMP and its basis shall be set forth in Amendment No. 1 and the GMP shall be the Contract Sum.

7.1.7 If the City Council rejects the GMP Proposal, the City shall have the right to:

7.1.7.1 Suggest modifications to the GMP Proposal, subject to City Council approval. If such modifications are accepted in writing by Design-Builder, the GMP Proposal shall be deemed accepted in accordance with section 7.1.5; or

7.1.7.2 Terminate the Agreement for convenience in accordance with Article 10.

7.1.8 In consideration of Design-Builder's performance of the Work, the City agrees to pay Design-Builder the amount of \_\_\_\_\_ (\$ \_\_\_\_\_) for design services to final design approval. This compensation is to be included in the GMP, and payment for these design services shall be in accordance with the General Conditions, including Article 12 of the General Conditions.

7.1.9 Payment of the Contract Sum, subject to additions and deductions as allowed in the General Conditions, shall be made in accordance with the General Conditions. Except as otherwise provided in the Contract Documents, the Contract Sum will fully compensate Design-Builder for all labor, services, material, equipment, transportation, supervision, taxes, permits, licenses, insurance, bonds, overhead and profit for the duration of the Work.

7.1.10 City's Right to Purchase Equipment/Material. The City reserves the right to purchase equipment and materials for use in the Project. If City purchases equipment or materials that were included in the GMP, then the GMP shall be reduced by the value of the materials plus any mark-up (profit or overhead) added when determining the GMP.

## 7.2 Allowances

7.2.1 Any and all Allowances will be included in Amendment 1.

7.2.2 Design-Builder and the City have worked together to review the Allowances based on design information then available to determine that the Allowance values constitute reasonable estimates for the Allowance items. Design-Builder and the City will continue working closely together during the preparation of the design to develop Construction Documents consistent with the Allowance values. Nothing herein is intended in any way to constitute a guarantee by Design-Builder that the Allowance item in question can be performed for its assigned value.

7.2.3 No work shall be performed on any Allowance without the City first providing Design-Builder written, advanced authorization to proceed.

7.2.4 The Allowance value for an Allowance item includes the direct cost of labor, materials, equipment, transportation, taxes and insurance associated with the applicable item. All other costs, including, without limitation design fees, Design-Builder's overall project management and general conditions costs, overhead and profit, are deemed to be included in the original Contract Sum, and are not subject to adjustment, regardless of the actual amount of the Allowance item.

7.2.5 Whenever the actual costs for an Allowance item are more than or less than the stated Allowance value, the Contract Price shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect the difference between actual costs incurred by Design-Builder for the particular Allowance item and the Allowance value.

## **ARTICLE 8 – PAYMENT**

8.1 Progress and final Payments shall be made in accordance with the General Conditions.

8.2 The City shall reserve from each progress payment a sum equal to five percent (5%) of the amount earned.

8.3 Design-Builder may request substitution of securities in lieu of retention, in accordance with the General Conditions. A fee set by the City will be charged for such substitution.

## **ARTICLE 9 – CHANGES**

9.1 All changes to the Work, the Contract Sum and/or the Contract Time shall be governed by the General Conditions.

## **ARTICLE 10 – TERMINATION**

10.1 The Contract, Design-Builder's Work and/or Design-Builder's right to proceed may be terminated pursuant to Article 18 of the General Conditions.

10.2 Design-Builder shall, within ten (10) days of notice of termination, turn over to the City all Instruments of Service, whether or not completed.

10.3 In addition to any other rights it may have, the City may terminate for default the Agreement or Design-Builder's control over the Work at any time after the allotted number of Calendar Days for completion, as adjusted by any extensions of time for excusable delays that may have been granted. Upon such termination and until the Work is complete, Design-Builder shall not be entitled to receive any compensation for services rendered by it before or after such termination, and Design-Builder shall be liable to the City for liquidated damages for all time beyond such termination date.

## **ARTICLE 11 – BONDS AND INSURANCE**

11.1 Insurance

11.1.1 Design-Builder and City shall procure the insurance coverages set forth in the Insurance Exhibit attached hereto and in accordance with the General Conditions.

11.2 Performance and Payment Bonds

11.2.1 Design-Builder shall, before beginning any construction work, provide a performance bond (or other security acceptable to the City in its sole discretion) and a payment bond as set forth in the General Conditions, each for one hundred percent (100%) of the amount of the construction services.

11.2.2 All costs for the Performance and Payment Bonds and any other bonds or security required by the Contract Documents shall be included in the Contract Sum.

11.2.3 The surety companies shall be familiar with all of the provisions and conditions of the Contract Documents. It is expressly understood and agreed that the surety companies waive any notice of change, extension of time, alteration or addition to the terms of the Contract Documents or to the work to be performed thereunder or to the Contract Documents accompanying the same, or any other act or acts by the City or the City's authorized agents under the Contract Documents. Any failure to so notify the surety companies of changes shall in no way relieve the surety or sureties of their obligations under the Contract. Any alteration or alterations made in any provision of the Contract Documents shall not operate to release any surety from liability on any bond required hereunder and the consent to make such alterations is hereby given, and any surety on said bonds hereby waives the provisions of Section 2819 of the Civil Code.

11.2.4 Bonds shall only be accepted from an "Admitted surety insurer", which means an insurer to which the Insurance Commissioner has issued a certificate of authority to transact surety insurance in this state. Design-Builder must submit with the bonds the original, or a certified copy, of the unrevoked appointment, power of attorney, bylaws or other instrument entitling or authorizing the person who executed the bond to do so.

## **ARTICLE 12 – INDEMNITY**

### 12.1 Defense and Indemnity for Design Services

12.1.1 To the fullest extent permitted by law, Design-Builder shall, with respect to all design services covered by or incidental to this Agreement, immediately indemnify, defend, and hold harmless the City, its officers, officials, employees, agents, and volunteers from and against any and all claims, losses, liability, demands, damages, costs, expenses, attorney's fees, or liability of every nature that arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of Design-Builder, its Design Consultants, Subcontractors, and their consultants, subcontractors, agents, and employees ("Design Services Claim"). Design-Builder assumes no responsibility to indemnify City for the negligent acts or omissions or willful misconduct of the City, its officers, officials, employees, agents, and volunteers. Design-Builder's obligation to indemnify applies unless it is finally adjudicated that the liability was caused by the negligence or willful misconduct of the indemnified party. If it is finally adjudicated that liability is

caused by the comparative negligence or willful misconduct of the indemnified party, then Design-Builder's indemnification obligation shall be reduced in proportion to the established comparative fault.

12.1.2 The duty to defend is a separate and distinct obligation from Design-Builder's duty to indemnify. To the fullest extent permitted by law, Design-Builder's duty to defend shall extend, without limitation, to any suit or action founded upon a Design Services Claim. Design-Builder shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the City, immediately upon tender to Design-Builder of the Design Services Claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination that persons other than Design-Builder are responsible for the Design Services Claim does not relieve Design-Builder from its separate and distinct obligation to defend under this section. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if Design-Builder asserts that liability is caused in whole or in part by the negligence or willful misconduct of the indemnified party. If it is finally adjudicated that liability was caused by the comparative active negligence or willful misconduct of the indemnified party, Design-Builder may submit a claim to the City for reimbursement of reasonable attorneys' fees and defense costs in proportion to the established comparative liability of the indemnified party.

## 12.2 Defense and Indemnity for Construction Services

12.2.1 To the fullest extent permitted by law, Design-Builder shall, with respect to all construction services covered by or incidental to this Agreement, immediately indemnify, defend, and hold harmless the City, its officers, officials, employees, agents, and volunteers from and against any and all claims, losses, liability, demands, damages, costs, expenses, attorney's fees, or liability of every nature arising out of or in any way connected with the performance or attempted performance of the provisions hereof, or in any way arising out of or connected with this Agreement, including but not limited to, equitable relief, stop payment notice actions, or any acts or omissions, any wrongful act, or any negligent act or omission to act, whether active or passive, on the part of the Design-Builder or any of its agents, employees, independent contractors, Subcontractors or suppliers ("Construction Services Claim"); provided, further, without limiting the foregoing, that the defense and indemnity is intended to apply to any wrongful acts, or any actively or passively negligent acts or omissions to act, committed jointly or concurrently by Design-Builder and its agents, employees, independent contractors, or subcontractors or suppliers, and the City, its agents, employees, or independent contractors. Nothing contained in the foregoing indemnity provisions shall be construed to require Design-Builder to indemnify the City in contravention of Section 2782 of the Civil Code for the active or sole negligence or willful misconduct of the City.

12.2.2 The duty to defend is a separate and distinct obligation from Design-Builder's duty to indemnify. To the fullest extent permitted by law, Design-Builder's duty to defend shall extend, without limitation, to any suit or action founded upon any Construction Services Claim. Design-Builder shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the City immediately upon tender to Design-Builder of the Construction Services Claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination that persons other than Design-Builder are responsible for the Construction Services Claim does not relieve Design-Builder from its separate and distinct obligation to defend under this section. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if Design-Builder asserts that liability is caused in whole or in part by the negligence or willful misconduct of the indemnified party. If it is finally adjudicated that liability was caused by the comparative active negligence or willful misconduct of the indemnified party, Design-Builder may submit a claim to the City for reimbursement of reasonable attorneys' fees and defense costs in proportion to the established comparative liability of the indemnified party.

### 12.3 Defense and Indemnification Provisions Applicable to Both Design and Construction Services

12.3.1 The defense and indemnity obligations expressly extend to and include Design Claims or Construction Claims occasioned as a result of damages to adjacent property caused by the conduct of the Work.

12.3.2 The defense and indemnity obligations expressly extend to and include any and all Design Claims or Construction Claims occasioned as a result of the violation by Design-Builder, its agents, employees, or independent contractors, subcontractors or suppliers of any provisions of federal, state or local law, including applicable administrative regulations.

12.3.3 The defense and indemnity obligations expressly extend to and include any Design Claims or Construction Claims occasioned by injury to or death of any person, or any property damage to property owned by any person while on or about the Site or as a result of the Work, whether such persons are on or about the Site by right or not, whenever the Work is alleged to have been a contributing cause in any degree whatsoever.

12.3.4 The defense and/or indemnification obligations herein shall not be limited by any limitation on amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability acts, or other employee benefit acts.

12.3.5 The defense and indemnification obligations herein shall not be limited by any assertion or finding that the person or entity indemnified is liable by reason of a non-delegable duty.

12.3.6 The defense and indemnities set forth herein shall not be limited by the insurance requirements set forth in the Contract Documents.

12.3.7 The defense and indemnification requirements herein set forth shall extend to claims occurring after this Agreement is terminated as well as while it is in force.

### **ARTICLE 13 – OTHER PROVISIONS**

#### 13.1 Access to Records; Audit

In addition to the access to records set forth in the General Conditions, the City or its authorized representative shall have access upon reasonable notice, during normal business hours, to any plans, specifications, books, documents, accounting records, papers, project correspondence, project files and other records of Design-Builder, its Design Consultants and/or its Subcontractors directly or indirectly related to the Project. Such access shall include the right to examine and audit such records and make excerpts, transcriptions and photocopies at the City's expense.

#### 13.2 No Waiver of Remedies

13.2.1 Neither the inspection by the City or its agents, nor any order or certificate for the payment of money of money, nor any payment for, nor acceptance of the whole or any part of the work by the City, nor any extensions of time, nor any position taken by the City or its agents shall operate as a waiver of any provision of the Contract Documents or of any power reserved to City or any right to damages herein provided, nor shall any waiver of any breach of the Contract Documents be held to be a waiver of any other or subsequent breach.

13.2.2 All remedies provided in the Contract Documents shall be taken and construed as cumulative; that is, in addition to each and every other remedy herein provided, and the City shall have any and all equitable and legal remedies which it would in any case have.

#### 13.3 Unfair Competition

Pursuant to California Public Contract Code section 7103.5, Design-Builder offers and agrees to assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the California Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the performance of the Work. This assignment will be made and before effective at the time the City tenders the final payment to Design-Builder, without further acknowledgment by the parties.



#### 13.4 Employment Practices

Design-Builder, by execution of this Agreement, certifies that it does not discriminate against any person upon the basis of race, color, creed, national origin, age, sex, disability or marital status in its employment practices.

#### 13.5 Independent Contractor

Design-Builder shall be an independent contractor, and neither Design-Builder nor any employee of Design-Builder or its Design Consultants, subconsultants or Subcontractors shall be deemed to be an employee of the City.

#### 13.6 Authority of Design-Builder

Design-Builder shall possess no authority with respect to any City decision and no right to act on behalf of the City in any capacity whatsoever as agent, or to bind the City to any obligations whatsoever.

#### 13.7 Conflict of Interest

Design-Builder certifies that it has disclosed to the City any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this Agreement. Design-Builder agrees to advise the City of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this Agreement. Design-Builder further agrees to complete any statements of economic interest required by either City ordinance or State law.

#### 13.8 Confidentiality

Design-Builder shall not, either during or after the term of this Agreement, make public any reports or articles, or disclose to any third party any information specifically designated as confidential by the City, without the prior written consent of the City. Design-Builder shall require of its Design Consultants, subconsultants and Subcontractors, similar agreements not to disclose such confidential information.

#### 13.9 No Third Party Beneficiaries

No right of action shall accrue upon or by reason of this Agreement to or for the use or benefit of anyone other than the parties to this Agreement. The parties to this Agreement are the City and Design-Builder.

#### 13.10 Assignment

Except as expressly authorized herein, Design-Builder shall neither assign its rights nor delegate its duties under the Contract Documents without prior written consent of the City. This prohibition of assignment and delegation

extends to all assignments and delegations that lawfully may be prohibited by agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed.

City of Rocklin  
A city organized and existing under the laws  
of the State of California

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Design-Builder

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Business Address: \_\_\_\_\_

License Number: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Entity (DIR) Registration #: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Federal Tax Identification Number – \_\_\_\_\_

**NOTICE: SIGNATURE(S) ON BEHALF OF DESIGN-BUILDER MUST BE NOTARIZED.** A certificate of acknowledgment in accordance with the provisions of California Civil Code section 1189 must be attached for each person executing this agreement on behalf of Design-Builder. This section provides, at part (b): "Any certificate of acknowledgment taken in another place shall be sufficient in this state if it is taken in accordance with the laws of the place where the acknowledgment is made."

Exhibits hereto and made a part hereof:

Exhibit A: Insurance Requirements

Exhibit B: General Conditions

## **EXHIBIT A – Insurance Requirements**

### **Section I. Insurance.**

Design-Builder shall obtain, and maintain during the entire period for performance under the Contract Documents, all insurance required by Sections III and IV; prior to beginning any construction of the Project, Design-Builder shall obtain, and maintain during the entire construction phase of the Agreement, all insurance required by Section VI. Certificates of Insurance and required endorsements, including but limited to Additional Insured Endorsements and Waivers of Subrogation in favor of the City, the Construction Manager (if any), and any other City Consultants, and each of their officers, officials, directors, trustees, agents, employees and volunteers (herein after collectively referred to as “Additional Insureds”), shall be delivered to the City a) within five (5) days of execution of the Agreement by the City for insurance required by Sections III and IV and b) within five (5) days of City approval of the final design for insurance required by Section VI. Design-Builder shall not commence work until all required insurance documentation has been submitted to and accepted by the City. If the City requests copies of the Insurance Policy or Policies, Design Builder agrees to provide certified copies within 30 days of the City’s request.

Every policy shall be endorsed or shall provide in the policy form to state that the policy shall not be canceled, materially reduced, or non-renewed without thirty (30) days prior written notice to City (ten [10] days for non-payment of premium).

Failure of Design-Builder to maintain all required insurance during the period specified above shall constitute a default entitling the City to all rights and remedies that exist under this Agreement and/or by law.

### **Section II. Effective Date of Policies.**

Unless otherwise specified, insurance required by this Exhibit shall be maintained by Design-Builder in full force and effect at all required times including, with the exception of Builder’s Risk, until four (4) years after the final completion and acceptance thereof by City.

### **Section III. Workers’ Compensation and Employers’ Liability Insurance.**

In accordance with the provisions of Section 3700 of the Labor Code, Design-Builder, and each Subcontractor, shall secure the payment of compensation to its employees. Design-Builder and each Subcontractor shall provide Workers’ Compensation insurance and occupational disease insurance, as required by law, and Employer’s Liability insurance with minimum limits of \$1,000,000 covering all workplaces involved in the Construction Documents. Design-Builder shall sign and file with the City the following certificate on the form provided by the City:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract.

Design-Builder shall require each Subcontractor to file such statement prior to allowing that Subcontractor to commence Work.

Design-Builder shall furnish a certificate of insurance or a certificate of permission to self-insure under the Workers' Compensation and Employers' Liability Insurance statutes of the State of California. The certificate shall provide that at least thirty (30) days' prior written notice (ten [10] days for non-payment of premium) shall be served on City prior to the cancellation or change of such insurance or self-insurance. Said certificate shall also include an endorsement evidencing that the insurer shall waive all rights of subrogation against the City, the Construction Manager (if any), and any other City Consultants, and each of their officers, officials, directors, trustees, agents, employees and volunteers for losses arising from work performed by or on behalf of Design-Builder for the City. Such insurance shall be delivered to the City Representative within five (5) days of being notified of the intent to award the Contract, and before the City will execute the Design-Build Agreement.

With the exception of insurance provided by The State Compensation Insurance Fund of California, insurance is to be placed with insurers approved by the State of California Department of Insurance or otherwise authorized to transact insurance business in California and with a Bests' rating of no less than A- VII.

Any deductibles or self-insured retentions must be declared to and approved by the City.

#### Section IV. Liability Insurance.

Insurance is to be placed with insurers approved by the State of California Department of Insurance to transact insurance business in California and with a Bests' rating of no less than A- VII.

A. Design-Builder shall procure and maintain insurance on all of its operations during the progress of the work, with insurance companies and on forms acceptable to City, for the following minimum insurance coverages:

1. **Commercial General Liability** Occurrence form insurance policy (ISO CG 00 01 or equivalent) covering all operations by or on behalf of Design-Builder, including coverage for:
  - a. Premises and Operations
  - b. Products and Completed Operations
  - c. Contractual Liability insuring the obligations assumed by the Design-Builder in this agreement or Blanket Contractual Liability Coverage
  - d. Broad Form Property Damage (including Completed Operations)
  - e. Explosion, Collapse, and Underground Hazards
  - f. Personal Injury Liability

**Commercial General Liability** Limits shall not be less than:

\$2,000,000 Each Occurrence (Combined Single Limit for Bodily Injury & Property Damage)

\$2,000,000 Personal Injury Liability

\$4,000,000 Aggregate for Products and Completed Operations

\$4,000,000 General Aggregate

2. **Commercial Automobile Liability** insurance policy (ISO CA 00 01 or equivalent) covering Bodily Injury, Property Damage and Contractual Liability coverage for “Any Auto” (Symbol 1) which includes coverage for any owned, hired, borrowed and non-owned automobile, trailer, and equipment coverage, with combined single limit of not less than \$1,000,000.
  3. **Excess Liability** Design-Builder shall have in place an Umbrella or Excess Liability Policy in the amount of \$10,000,000 “Following Form” in excess of the above captioned policies and Workers’ Compensation Employer’s Liability. Evidence of this coverage shall be provided on the certificate of insurance.
  4. **Professional Liability** As a condition precedent to Design-Builder performing any design services under the Contract Documents, Design-Builder shall obtain at its own expense Professional Liability (Errors & Omissions) coverage to protect, defend, and hold harmless the City and its officers, officials, directors, trustees, agents, employees and volunteers from all claims arising out of the Design-Builder’s professional services under the Contract Documents. This policy shall include, without limitation, coverage for the acts and omissions of the Design-Builder’s design team for this project. Design-Builder’s policy shall have limits of not less than \$2,000,000 per occurrence / \$5,000,000 aggregate, and shall, by separate endorsement, agree to waive all rights of subrogation against the “Additional Insureds” as defined in Section I. Design-Builder shall maintain coverage for this policy and retroactive dates that will continue coverage for a period of at least five (5) years from the completion of the project. The City may require higher limits by written request.
- B. Additional coverages and/or limits may be required in the Contract Documents. If the Contract Documents require limits of General Liability and Automobile Liability insurance exceeding those stated above, Design-Builder shall carry Excess or Umbrella Liability insurance providing excess coverage at least as broad as the underlying coverage with a limit equal to the amount stated in the Contract Documents.
- C. The following terms shall be included in the General Liability and Auto Liability insurance, either within the policy or by endorsement:

1. All policies shall be endorsed to include by name “Additional Insureds,” as defined by Section I, as additional insureds (the General Liability endorsement shall be at least as broad as ISO form CG 20 10 11 85) and shall state that these policies are primary and that any Insurance, Self-Insurance or Memorandum of Liability Coverage (MDLC) maintained by City shall be in excess of Design-Builder’s insurance and shall not be called upon to contribute to any loss.
2. Except with respect to bodily injury and property damage included within the Products and Completed Operations hazards, the aggregate limit, where applicable, shall apply separately to the Project.
3. All liability insurance shall be written on an “occurrence” basis and defense costs shall be outside the policy limits of liability.
4. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the “Additional Insureds.”
5. General Liability Coverage shall state that Design-Builder’s insurance shall apply separately to each Insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability, and shall contain a severability of interest/cross liability clause to the effect that each Insured and Additional Insured is covered as if separate policies had been issued to each.
6. The insurer(s) issuing the required policies shall, by separate endorsement, agree to waive all rights of subrogation against the “Additional Insureds” for losses arising in any manner from the products or work provided or performed by or on behalf of Design-Builder for the City.
7. The policy must provide, by policy provisions or endorsement, that it shall not be canceled, suspended, voided, materially changed or any renewal or replacement policy be changed without thirty (30) days’ prior written notice to the City (ten [10] for non-payment of premium).
8. The Contractual Liability coverage may be either on a blanket basis or a policy which specifically identifies this Agreement with a contractual liability endorsement.
9. Any deductibles or self-insured retentions must be declared to and approved by the City which amounts shall be no greater than \$50,000. Any and all deductibles or self-insurance retentions in the above described liability insurance policies shall be assumed by and be for the account of, and at the sole risk of Design-Builder.

## Section V. Subcontractor's Insurance.

With the exception of policy limits as outlined in this Section and with the exception of professional liability insurance (unless the Subcontractor is providing design services), Design-Builder shall require each and every Subcontractor to maintain insurance coverages commensurate to that which is required of the Design-Builder per Sections I, II, III, and IV of this Exhibit. This includes, but is not limited to, the Additional Insured and Waiver of Subrogation provisions.

Subcontractors must carry Liability Limits as outlined below:

General Liability:

\$1,000,000 Each Occurrence (Combined Single Limit for Bodily Injury & Property Damage)

\$1,000,000 Personal Injury Liability

\$2,000,000 Aggregate for Products and Completed Operations

\$2,000,000 General Aggregate

Commercial Automobile Liability: \$1,000,000 Combined Single Limit

Employer's Liability: \$1,000,000

Excess Liability: \$1,000,000

Design-Builder shall not allow any Subcontractor to commence work on its Subcontract until the Subcontractor has provided Design-Builder with Certificates of Insurance and applicable endorsements as well as the signed statement acknowledging compliance with Section 3700 of the Labor Code, as required in Section III. Design-Builder is responsible to ensure that all Subcontractors comply with this provision, and to verify their compliance when requested by the City.

If requested by the City, Design-Builder shall deliver certificates of insurance or copies of the insurance policies and endorsements of all Subcontractors; provided, however, that this authority shall not relieve Design-Builder of its obligation to ascertain the existence of such insurance.

## Section VI. Builder's Risk/Installation Floater Insurance.

Design-Builder shall, at its sole expense, purchase, maintain and keep in force at all times during the construction phase of the Agreement, until the date of acceptance by the City, a Builder's Risk/Installation Floater policy (Property Insurance). Such insurance shall protect the City, the Contractor, Subcontractors, Sub-Subcontractors and Material Suppliers at every tier, as their interests may appear, from loss or damage to work in the course of construction. Property insurance shall be on a "Special Form" or equivalent policy and shall include, without limitation, insurance against the perils of fire



(with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake (including full coverage for all losses caused by "Acts of God," as defined by California Public Contract Code section 7105), flood, windstorm, falsework, mechanical breakdown or electrical damage including testing and startup, magnetic disturbance, changes in temperature or humidity, temporary buildings, loss that ensues from defective material or workmanship, explosion, and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the City's Representative's, Construction Manager's (if any), other City Consultants' and Contractor's services and expenses required as a result of such insured loss in the amount of one hundred percent (100%) of the replacement cost of the Project. In addition, there shall be coverage in the amount of twenty percent (20%) of the replacement cost for Extra Expense and Loss of Use and thirty percent (30%) of the replacement cost for Soft Costs coverage.

A. The following terms shall apply to such coverage:

1. Coverage shall be written on a replacement cost, completed value, non-reporting form and shall cover the property against all risks of physical loss or damage required above.
2. The property covered shall include the work and improvements of the Project, including any materials, equipment or other items to be incorporated therein while the same are located at the construction Site, with reasonable sub-limits for materials stored offsite, or while in transit. The policy shall contain a provision that Design-Builder and the City are Named Insureds under this policy and that the Subcontractors, Sub-Subcontractors, and Material Suppliers at every tier are Named Insureds or Additional Insureds as their interest may appear. A loss insured under the Builder's Risk/Installation Floater policy shall be adjusted by Design-Builder as fiduciary and made payable to Design-Builder as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. Design-Builder shall pay Subcontractors their just shares of insurance proceeds received by Design-Builder, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their sub-subcontractors in similar manner.
3. When stated in the Contract Documents, Builder's Risk/Installation Floater insurance shall include Delay in Opening coverage with limits of liability, and for the period of time, as set forth in the Contract Documents. Coverage shall include interest and/or principal payments that become due and payable by the City upon completion of construction or other date as set forth in the Contract Documents, debt service, expense, loss of earnings or rental income or other loss incurred by the City, without deduction, due to the failure of the Project being completed on schedule.

4. The maximum deductible for earth movement, Acts of God, and flood allowable under this policy shall not be more than five percent (5%) of the values in place at the time loss per occurrence. The maximum deductible for all other perils allowable under this policy shall be one hundred thousand dollars (\$100,000). All deductibles shall be borne solely by Design-Builder, and the City shall not be responsible to pay any deductible in whole or in part.
- 
- B. The insurer shall by separate endorsement or policy provisions agree to waive all rights of subrogation against the City, the other "Additional Insureds," the Design-Builder, Subcontractors, Sub-Subcontractors, and Material Suppliers at every tier for losses covered by the policy. If the policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed to obtain such consent.
  - C. The Design-Builder shall provide a copy of the Builder's Risk/Installation Floater policy to the City for approval.
  - D. If not covered by Builder's Risk/Installation Floater policy or any other property or equipment insurance required by the Agreement, the Design-Builder shall, at its sole expense, purchase, maintain and keep in force at all times during the term of the Agreement property insurance for portions of the Design-Builder's work and/or equipment to be incorporated therein stored offsite or in transit.
  - E. The City shall maintain in effect during the time for performance under the Contract Documents property insurance, including the perils of fire and flood on all pre-existing utilities, buildings, structures, paving, and equipment on the Site. The City shall cause this policy to have a waiver of subrogation for the benefit of Design-Builder and its Subcontractors and sub-subcontractors at all tiers.

## **EXHIBIT B – General Conditions**

1 GENERAL CONDITIONS FOR DESIGN-BUILD AGREEMENT

2  
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1 **ARTICLE 1. DEFINITIONS AND PRINCIPLES OF INTERPRETATION**

2  
3 Section 1.01. Definitions and Principles of Interpretation.

4 Whenever the following terms, titles, or phrases are used in the Contract Documents, the intent and  
5 meaning thereof shall be as defined in this Article.

6  
7 Section 1.02. Agreement or Design-Build Agreement

8 “Agreement” or “Design-Build Agreement” shall mean the executed Design Build Agreement  
9 between the City and Design-Builder.

10  
11 Section 1.03. Change Order.

12 “Change Order” shall mean a written order to the Design-Builder signed by the City and the Design-  
13 Builder or signed unilaterally by the City, issued after execution of the Design-Build Agreement,  
14 authorizing a change in the Work and/or an adjustment in the Contract Sum and/or the Contract  
15 Time.

16  
17 Section 1.04. City Council

18 “City Council” shall mean the duly elected officials constituting the City Council of the City of Rocklin.

19  
20 Section 1.05. Closeout Documents.

21 Documents as required to meet the requirements of Final Completion.

22  
23 Section 1.06. Construction.

24 “Construction” means all labor and services necessary for the construction and delivery of the  
25 Project, and all materials, equipment, tools, supplies and incidentals incorporated or to be  
26 incorporated in such construction as described in the Design-Build Agreement and the Construction  
27 Documents. Unless otherwise expressly stipulated, the Design-Builder shall perform all Work and  
28 provide and pay for all materials, labor, tools equipment and utilities, including, but not limited to,  
29 light, water and power, necessary for the proper execution and completion of the Project pursuant to  
30 the Design-Build Agreement and the Construction Documents.

31  
32 Section 1.07. Construction Change Directive (“Directive”).

33 “Construction Change Directive”, or “Directive” shall mean a written order to the Design-Builder,  
34 issued after execution of the Design-Build Agreement, signed by the Owner or the City  
35 Representative directing a change in the Work and stating a proposed basis for adjustment, if any,  
36 in the Contract Sum or Contract Time, or both, and which shall be used in the absence of total  
37 agreement with the Design-Builder on the terms of a Change Order or when time does not permit  
38 processing of a Change Order prior to implementation of the change.

39  
40 Section 1.08. Construction Documents

41 “Construction Documents” shall mean all technical drawings, Shop Drawings, working drawings,  
42 Drawings, Specifications, schedules, diagrams and samples to be prepared or assembled by the  
43 Design-Builder and setting forth in detail the requirements necessary for construction of the Project  
44 in accordance with the Contract Documents, approved by the City and incorporated into the  
45 Contract after such approval. All amendments to the Construction Documents must be approved by  
46 the City prior to incorporation into the Contract and prior to commencement of the Work affected by  
47 the change.

1 Section 1.09. Construction Schedule.

2 The "Construction Schedule" is the schedule produced by the Design-Builder for the construction of  
3 the Project. See Article 13 for specific requirements.  
4

5 Section 1.10. Contract Documents.

6 "Contract Documents" shall have the meaning set forth in Article 2 of the Design-Build Agreement.  
7

8 Section 1.11. Contract Sum

9 "Contract Sum" shall mean the total amount payable by the City to Design-Builder for performance  
10 of all Work under the Contract Documents, including, without limitation, all design and construction  
11 services. The Contract Sum is the amount stated in the Design-Build Agreement, including  
12 authorized adjustments thereto.  
13

14 Section 1.12. Contract Time.

15 "Contract Time" shall mean the period specified for Final Completion of all of the Work, as set forth  
16 in the Design-Build Agreement and adjusted by any Change Order issued pursuant to the Contract  
17 Documents. The Contract Time may be a single allotment of time, a group of times specific to  
18 portions of the Work, or a combination of the two.  
19

20 Section 1.13. Date of Commencement.

21 "Date of Commencement" is the date for commencement of the Work or a portion of the Work fixed  
22 by the City in a Notice to Proceed to Design-Builder.  
23

24 Section 1.14. Date of Completion.

25 The "Date of Completion" is the date certified by the City's Representative when construction of the  
26 Work is 100% complete including acceptance by the City of all punch list corrections.  
27

28 Section 1.15. Day.

29 Unless otherwise expressly defined, a "day" shall mean a calendar day of 24 hours, including each  
30 and every day of the year.  
31

32 Section 1.16. Design-Builder.

33 "Design-Builder" shall mean the entity (whether natural person, partnership, joint venture,  
34 corporation, business association, or other legal entity) that enters into a contract with the City to  
35 design and construct the Work. Design-Builder shall be solely responsible for all design,  
36 construction means and methods, cost overruns, defects, errors, omissions and delays arising from  
37 its performance of the Contract. "Design-Builder" means the Design-Builder or its authorized  
38 representative. Design-Builder and all Design Consultants and Subcontractors shall be properly  
39 licensed to perform all Work they are contracted to perform.  
40

41 Section 1.17. Design-Builder's Representative.

42 "Design-Builder's Representative" shall mean the individual identified by Design-Builder in its  
43 Design-Build Proposal as having overall responsibility for supervision of the Work and shall have  
44 authority to bind Design-Builder to all agreements, written or oral, made regarding the Work.  
45

46 Section 1.18. Design Consultant.

47 "Design Consultant" shall mean a qualified, licensed design professional who is not an employee of  
48 Design-Builder, but is retained by Design-Builder to furnish design services required under the  
49 Contract Documents.

1 Section 1.19. City Architect.

2 The "City Architect" is the architectural firm engaged as an agent by the City to prepare the  
3 Performance Criteria.

4  
5 Section 1.20. City's Consultants.

6 Those consultants retained by City identified in the Project Roster (or later added) who will assist  
7 City in carrying out the Project.

8  
9 Section 1.21. City Representative.

10 "City Representative" shall mean the City's designated agent engaged to perform all functions  
11 delegated to the City Representative by the Contract Documents. The City Representative will be  
12 the Design-Builder's primary contact during Construction of the Project.

13  
14 Section 1.22. Not used.

15  
16 Section 1.23. Drawings.

17 The "Drawings" are sometimes referred to as "Plans" and mean the graphic and pictorial portions of  
18 the Contract Documents, including profiles, typical cross sections, and general cross sections,  
19 showing the design, location, character, details and dimensions of the Work, generally including  
20 plans, elevations, sections, details, schedules and diagrams.

21  
22 Section 1.24. Final Completion.

23 "Final Completion" means completion of all contract work, including punch list items and final  
24 cleaning completed and all close-out documents, including as-builts and other documents required  
25 in the Contract Documents.

26  
27 Section 1.25. Guaranteed Maximum Price Amendment.

28 "Guaranteed Maximum Price Amendment" shall mean the amendment to the Design-Build  
29 Agreement that establishes the Contract Sum, stated as a guaranteed maximum price, for the  
30 Project. A Guaranteed Maximum Price Amendment shall be used when the Proposal was not a  
31 lump sum price proposal.

32  
33 Section 1.26. General Conditions.

34 "General Conditions" means these General Conditions for the Design-Build Agreement.

35  
36 Section 1.27. Materials and Equipment.

37 "Materials" is a generic term, which shall include all building materials, articles, supplies, and  
38 equipment delivered to the Project for incorporation into the Work. "Materials" includes everything  
39 incorporated into the Work except labor, unless otherwise noted.

40  
41 "Equipment" shall mean all pre-manufactured or partially pre-assembled products or components,  
42 assembled or partially assembled before delivery to the Site.

43  
44 Section 1.28. Notice to Proceed.

45 "Notice to Proceed" is the notice given to the Design-Builder following execution of the Design-Build  
46 Agreement which establishes the start of the Work and authorizes the Design-Builder to begin  
47 construction.

48  
49 Section 1.29. Not used.



1 Section 1.30. Performance Criteria.

2 "Performance Criteria" shall mean the requirements developed by or for the City to describe the  
3 City's program requirements and objectives for the Project, including as appropriate, use, space,  
4 price, durability, production standards, ingress and egress requirements, or other criteria for the  
5 intended use of the Project, expressed in conceptual documents, performance-oriented preliminary  
6 drawings, outline specifications and/or other documents provided to Design-Builder by the City  
7 establishing the Project's basic elements and scale and their relationship to the Site.  
8

9 Section 1.31. Product Data.

10 "Product Data" shall mean illustrations, standard schedules, performance charts, instructions,  
11 brochures, diagrams and other information furnished by the Design-Builder to illustrate a material,  
12 product or system for some portion of the Work.  
13

14 Section 1.32. Project.

15 The total design and construction of the work of improvement addressed in the Contract  
16 Documents.  
17

18 Section 1.33. Project Inspector.

19 The "Project Inspector" or "Inspector" shall mean the person or persons employed or engaged as  
20 (an) independent contractor(s) by the City to inspect the performance of the Work by the Design-  
21 Builder for compliance with the Construction Documents. The Project Inspector is hereby  
22 designated as an agent of the City for such purpose and no other. The Project Inspector is  
23 supervised by, and reports to, the Architect. The authority of the Project Inspector to monitor the  
24 work shall be strictly limited to that authority specified herein and in Title 24, California Code of  
25 Regulations, and no additional authority has been granted nor shall be inferred.  
26

27 Section 1.34. Project Schedule.

28 The "Project Schedule" is the schedule prepared by the Design-Builder and approved by the City for  
29 completion of all work required under the Contract Documents, including all design work. The  
30 Construction Schedule shall be included in and become a part of the Project Schedule.  
31

32 Section 1.35. Proposal.

33 "Proposal" shall mean a complete and properly executed offer by Design-Builder to enter into a  
34 Design-Build contract.  
35

36 Section 1.36. Proposed Change Order/Work Order (PCO).

37 A "Proposed Change Order/Work Order" is the name given to a document issued by the Design-  
38 Builder proposing a change to the Work and stating a proposed basis for adjustment, if any, in the  
39 Contract Sum or Contract Time, or both. A PCO shall be used by the Design-Builder to respond to a  
40 Request for Proposal. A PCO is not effective to authorize the proposed change to the Work, to the  
41 Contract Sum or to the Contract Time unless it is accepted in writing by the City.  
42

43 Section 1.37. Reference to Codes.

44 Unless otherwise noted, all references to statutes are to the laws of the State of California as  
45 codified in the various specified codes.  
46

47 Section 1.38. Not used.  
48  
49

1 Section 1.39. Request for Proposal (RFP).

2 A "Request for Proposal", or "RFP" is the name given to a document issued by the City  
3 Representative requesting pricing information and/or an adjustment in Contract Time for a described  
4 scope of Work. An RFP is not a Change Order, a Directive or a direction to proceed with the scope  
5 of work described in the RFP. The Design-Builder's response to the RFP shall be in the form of a  
6 Proposed Change Order.

7  
8 Section 1.40. Samples.

9 "Samples" shall mean physical examples, which illustrate materials, equipment or workmanship and  
10 establish standards by which the Work will be judged.

11  
12 Section 1.41. Shop Drawings.

13 "Shop Drawings" shall mean drawings, diagrams, schedules and other data specifically prepared for  
14 the Work by the Design-Builder or any Subcontractor, manufacturer, supplier or distributor to  
15 illustrate some portion of the Work.

16  
17 Section 1.43. Site.

18 "Site" shall mean the worksite on which the Project is being constructed.

19  
20 Section 1.44. Special Inspector.

21 The "Special Inspector" shall mean the person or persons employed or engaged as (an)  
22 independent contractor(s) by the City to inspect the performance of specific aspects of the work as  
23 required by Title 24, California Code of Regulations.

24  
25 Section 1.45. Specifications.

26 "Specifications" shall mean the outline Specifications included in the Performance Criteria as well as  
27 the Specifications included in the Construction Documents prepared by Design-Builder and  
28 approved by City, consisting of the written requirements for materials, equipment, systems,  
29 standards and workmanship for the Work and warranties.

30  
31 Section 1.46. Subcontractor.

32 "Subcontractor" shall mean each person or firm who is required by law to be and who is licensed to  
33 and will perform work, labor, or render services to the Design-Builder in or about the construction of  
34 the Work, or who, under subcontract to the Design-Builder, fabricates and installs a portion of the  
35 Work. To the extent the term Subcontractor is referred to as if singular in number it shall include the  
36 plural and shall mean a Subcontractor or an authorized representative the Subcontractor.

37  
38 Section 1.47. Submittal.

39 "Submittal" shall include all product data, shop drawings, manufacturers' installation instructions,  
40 samples, equal or substitution requests and all other submissions that the Design-Builder is required  
41 to make to the City and/or the City's Architect.

42  
43 Section 1.48. Substantial Completion

44 The stage in the progress of the Work when the Work or designated portion thereof is sufficiently  
45 complete in accordance with the Contract Documents so the City can occupy or utilize the Work for  
46 its intended use, and only minor corrective Work remains to be performed, all required approvals,  
47 certificates of occupancy and other sign-off from any public agencies with jurisdiction have been  
48 obtained, (provided such approvals are not delayed as a result of causes unrelated to Design-  
49 Builder's or its Subcontractors', Sub-subcontractors', or Suppliers' performance or failure to perform

1 the Work or to satisfy its obligations under the Contract Documents) and Design-Builder has  
2 cleaned up and removed all equipment, tools and other materials from the Work area. Substantial  
3 Completion shall not relieve the Design-Builder from achieving Final Completion within the Contract  
4 Time. Notwithstanding Substantial Completion, the period of warranties and guarantees shall  
5 commence when the Notice of Completion is Recorded.

6

7 Section 1.49. Work.

8 "Work" shall mean all of Design-Builder's design, construction and all other services required by the  
9 Contract Documents, including procuring and furnishing all materials, equipment, services and labor  
10 reasonably inferable from the Contract Documents.

11

12

1 **ARTICLE 2. CONTRACT DOCUMENTS**

2  
3 Section 2.01. General Intent of Contract Documents.

4 The overriding intent of the Contract Documents is that the work performed shall result in a  
5 complete and operable project in satisfactory condition for occupancy, with all mechanical  
6 equipment in functional operating condition and fit for the use for which it is intended, and which  
7 complies in all respects with the Contract Documents. No extra compensation will be allowed for  
8 anything omitted but fairly implied to be included in the Contract Documents.  
9

10 Section 2.02. Labor and Materials.

11 Unless otherwise provided in the Contract Documents, the Design-Builder shall provide and pay for  
12 all labor, materials, equipment, tools, construction equipment and machinery, water, light, heat,  
13 utilities, transportation and other facilities and services necessary for the execution and completion  
14 of the Work in accordance with the Contract Documents, whether or not specifically described  
15 herein, as long as same is reasonably inferable there from as being necessary to produce the  
16 intended results, whether temporary or permanent, and whether or not incorporated or to be  
17 incorporated in the Work.  
18

19 Section 2.05. Written Notice.

20 Written notice may be accomplished by personal delivery, United States mail, facsimile, e-mail (with  
21 confirmation of receipt), or any other form of commercially accepted communication. The written  
22 notice shall become effective upon delivery. Delivery is complete when the notice is hand delivered  
23 to Design-Builder's home office, job-site office, or to Design-Builder's superintendent; or when the  
24 facsimile transmission is complete, if during normal business hours on a working day; or when an  
25 e-mail return receipt is sent; or two days after mailing by U.S. mail; or upon actual delivery as  
26 evidenced by a delivery receipt.  
27

28 Section 2.07. Rights and Remedies.

29 The duties and obligations of the Design-Builder imposed by the Contract Documents and the rights  
30 and remedies of the parties available hereunder shall be in addition to and not a limitation of any  
31 duties, obligations, rights and remedies otherwise imposed or available by law.  
32

33 The failure of the City, the City's Representative, the Project Inspector or the City Architect to insist  
34 in any one or more instances upon the strict performance of any one or more of the provisions of the  
35 Contract Documents or to exercise any right herein contained or provided by law, shall not be  
36 construed as a waiver or relinquishment of the performance of such provision or right(s) or of the  
37 right to subsequently demand such strict performance or exercise such right(s) and the rights shall  
38 continue unchanged and remain in full force and effect.  
39  
40  
41

1 **ARTICLE 3. BONDS**

2  
3 Section 3.01. Bonds: Time to Submit.

4 The Design-Builder shall furnish and deliver to the City bonds as set forth below in Sections 3.03  
5 and 3.04 within ten (10) days after award of the Design-Build Agreement or prior to the start of any  
6 construction services if the Contract Sum will not be established until execution of a Guaranteed  
7 Maximum Price Amendment. Failure to provide the bonds as required will result in cancellation of  
8 the Contract and Design-Builder shall be entitled to no additional compensation of any kind.  
9

10 Section 3.02. Qualifications of Surety.

11 All bonds shall be duly executed by a responsible corporate surety listed in the current version of the  
12 United States Department of the Treasury circular entitled "Companies Holding Certificates of  
13 Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies,"  
14 admitted by the State of California Department of Insurance to do business in the State of California  
15 and acceptable to City.  
16

17 Section 3.03. Performance Bond.

18 The Design-Builder shall submit a faithful Performance Bond on the form provided by the City  
19 conditioned upon the faithful performance by the Design-Builder of all requirements of the Design-  
20 Build Agreement and the Construction Documents, and, unless a substitute Guaranty Bond  
21 acceptable to the City is submitted, the Performance Bond shall include all guarantees set forth in  
22 Article 22 of these General Conditions. The amount of the bond shall be in a sum no less than one  
23 hundred percent (100%) of the nondesign contract services, however, the Design-Builder may  
24 propose alternate forms of security, which the City may accept in its sole discretion..  
25

26 Section 3.04. Labor and Materials Payment Bond.

27 The Design-Builder shall also submit a bond on the form provided by the City, which in all respects  
28 complies with Civil Code sections 3247-3252, inclusive. This bond, hereinafter referred to as a  
29 "Payment Bond," shall be in a sum no less than one hundred percent (100%) of the nondesign  
30 contract services.  
31

32 Section 3.05. Additional Bonding Requirements.

33 All bonds submitted shall include the following:  
34

- 35 1. Full name and address of the Design-Builder, Surety, and City
- 36 2. Effective Date of the Design-Build Agreement
- 37 3. Contract Sum
- 38 4. Project name and address
- 39 5. Signature of the Design-Builder
- 40 6. Corporate Seal if Applicable
- 41 7. Signature of authorized Surety representative
- 42 8. Notarization of the Design-Builder and Surety
- 43 9. Power of Attorney
- 44 10. Local contact for Surety, with name, phone number, and address to which legal notices may  
45 be sent  
46

1                   **ARTICLE 4. PERMITS, LICENSES, ORDINANCES, AND REGULATIONS**

2  
3   Section 4.01. Basic Standard.

4   The Design-Builder shall conduct the Work so that all laws and ordinances for the protection of the  
5   public and the workers shall be obeyed fully both by the Design-Builder and by all Subcontractors  
6   on the Site.

7  
8   The Design-Builder shall comply with the requirements of the California State Licensing Board and  
9   have a valid contractor's license, which is to be active and maintained in "Good Standing"  
10   throughout full completion of the Project.

11  
12   The Design-Builder, and any used subcontractor shall be registered pursuant to Labor Code section  
13   1725.5 prior to executing any contract or engaging in any work, whichever is earlier, that involves  
14   the performance of any public work contract that is subject to the requirements of Division 2, Part 7,  
15   Chapter 1 of the California Labor Code, and shall maintain current registration throughout the term  
16   of this Contract.

17  
18   Section 4.02. Permits.

19   The City shall reimburse the Design-Builder or pay for specific construction permits related  
20   exclusively to the Project and/or project location that could include but are not limited to  
21   encroachment permits, water usage permits, meter permits, fire alarm permits, confined space and  
22   special work permits, storm water permits, erosion control permits and any applicable State, County  
23   or City permits related to agency inspections, utility connection fees, encroachment permits, utility  
24   service charges other than temporary utility charges unless otherwise indicated, necessary for the  
25   completion of the Work. All other fees and permits shall be at the expense of the Design-Builder.  
26   Proper documentation of fee, permit, and utility service charges shall be submitted to the City  
27   through the City's Representative. No mark-up shall be allowed the Design-Builder on these  
28   reimbursable charges.

29  
30   The Design-Builder shall give all notices and comply with all laws, ordinances, rules, regulations or  
31   orders of any public authority bearing on the performance of the Work.

32  
33   Except as provided above, the City shall secure and pay for necessary approvals, easements,  
34   assessments and charges required for the Construction, use or occupancy of permanent structures  
35   or for permanent changes in existing facilities.

36  
37   Section 4.03. Compliance with Laws and Regulations.

38   The Design-Builder shall keep itself fully informed of and shall observe and shall conduct its  
39   operations so as to comply with, and shall cause any and all persons, firms, or corporations  
40   employed by it or under it to observe and comply with all federal and state laws, and county or  
41   municipal ordinances, regulations, orders, and decrees which in any manner affect those engaged  
42   or employed on the Work, or the materials used in the Work, or in any way affect the conduct of the  
43   Work.

44  
45   All work shall be performed in accordance with the rules and regulations, latest Edition of Title 24,  
46   Parts 1-5 & 9 of the California Code of Regulations, and a copy shall be kept on the job at all times  
47   during construction.

1                   **ARTICLE 5. PLANS AND SPECIFICATIONS; RECORD DOCUMENTS**

2  
3    Section 5.01. See Design-Build Agreement, Article 2.  
4

5    Section 5.02. As-Built Drawings and Specifications.

6 The Design-Builder shall maintain a hard copy or PDF master set of red line Drawings and  
7 Specifications at the Site which shall be updated weekly to reflect current as-built conditions of the  
8 Work as the Work progresses. The Design-Builder will be responsible for preparing the final,  
9 reproducible as-built drawings. The Design-Builder's as-built information shall be clear and legible,  
10 and at a minimum, the following information shall be inserted and dimensioned on those Drawings  
11 and Specifications, in RED, by the Design-Builder: the exact horizontal and vertical location of all  
12 installations in their finished condition, including all electrical, plumbing and mechanical  
13 installations; all changes in construction, materials and installed equipment; posting of all issued  
14 addenda, along with adequate dimensional data, both horizontal and vertical, with GPS  
15 coordinates, to allow location of covered installations; the identification of each change authorized  
16 by Directive, and the number of that Directive. The updated drawings and specifications shall be  
17 available for review by the City Representative and the Inspector. If as-builts are marked up in .pdf  
18 format, the file shall be made available remotely in a manner acceptable to the City  
19 Representative and Inspector.

20  
21 Written confirmation from the City Representative that the as-builts have been properly updated  
22 weekly shall be submitted with each pay application request, and the existence of such properly  
23 updated as-builts shall be a condition precedent to payment. Failure to comply with the  
24 preparation and submission of as-builts may result in the City withholding the current progress  
25 payment.

26  
27 As a condition to certification of Final Completion, the Design-Builder shall provide signed and  
28 dated original as-built drawings and specifications ("Record Documents") in a .pdf color format,  
29 with a resolution of 600 DPI and each plan sheet and specification section bookmarked by name,  
30 number or title, together with all additional information requested by the City to enable the Design-  
31 Builder to prepare a set of final, reproducible as-built drawings and specifications and as follows:

- 32
- 33    A. Design-Builder shall prepare Record Documents and furnish to the Owner one (1)  
34    Electronic Copy set of record drawings, one (1) set of electronically marked-up  
35    specifications and media showing materials and methods of construction as actually  
36    accomplished. The Record Documents shall be prepared by revision of the original  
37    drawings using the Design-Builder's and Project Inspector's marked-up record set and any  
38    project documents (including but not limited to, Addenda, Field Clarifications, Requests for  
39    Information, Construction Change Directives, and other similar documents) necessary to  
40    reflect all changes in the Record Documents and specifications as incorporated into the  
41    Project. The Design-Builder shall return to the City the Project Inspector's original marked-  
42    up record set (if hard copy used, provide the hard copy along with a scanned copy of same  
43    documents), and Prior to scanning, the drawings shall be approved, signed and dated by  
44    the Project Inspector. Drawings shall be scanned in color.
  - 45  
46    B. The Protection Set shall have proper revision clouds indicating areas that were revised and  
47    the source of each revision, e.g., RFI #, etc.
- 48

1 C. One electronic copy of the final Record Documents to the following standards, shall be  
2 delivered on CD-R or thumb drive:

- 3 (1) Include text "Record Drawing" on all sheets;
- 4 (2) Remove all revision deltas and clouds on all sheets;
- 5 (3) Identify appropriate design team company name on corresponding sheets;
- 6 (4) AutoCAD files shall adhere to the following standards:
  - 7 (a) Full drawing package in AutoCAD v2015 executable dwg format;
  - 8 (b) Include all fonts and plotting lineweights;
  - 9 (c) Organize dwgs into folders by discipline; and
  - 10 (d) Include all cross-references; and
- 11 (5) Complete Specification book(s) with all revised pages inserted.

12  
13 D. In coordination with the City and the City Representative, verify that all approved project  
14 documents (e.g., RFIs, CCDs, etc.) are scanned and that each of these documents is  
15 consolidated into the appropriate, clearly-marked sub-folder and forwarded to the City  
16 Representative, if any, and to the City's archives department.

17  
18 Timely submission of complete as-built documents shall be a condition precedent to certification of  
19 Final Completion and to final payment. Delays in the submission of complete as-built documents  
20 may subject the Design-Builder to liquidated damages.  
21



1 **ARTICLE 6. SUBCONTRACTORS**

2  
3 Section 6.01. Subcontracting.

4 The Design-Builder shall give personal attention to the fulfillment of the Contract Documents and all  
5 Work of the Project and shall control the Work.

6  
7 The Design-Builder shall be as fully responsible to the City for the acts and/or omissions of its  
8 Subcontractors and material suppliers and of the persons either directly or indirectly employed by or  
9 engaged as subcontractors by such Subcontractors and material suppliers as it is for its own acts  
10 and omissions.

11  
12 The Design-Builder shall bind every Subcontractor and material supplier, and every subcontractor of  
13 a Subcontractor, by the terms of the Contract Documents.

14  
15 The Design-Builder shall cause each of its Subcontractors by contract, to have an active  
16 contractor's license pertaining to its classification of work maintained in "good standing" from  
17 commencement of the Subcontractor's work through final completion of the Project.

18  
19 All Subcontractors listed in accordance with Public Contract Code section 4104 shall be registered  
20 pursuant to Labor Code section 1725.5 prior to engaging in the performance of any public work  
21 contract that is subject to the requirements of Division 2, Part 7, Chapter 1 of the California Labor  
22 Code, and shall maintain current registration through final completion of the Project.

23  
24 The Design-Builder shall not perform work on the Project with a Subcontractor who is ineligible to  
25 perform work on public works project pursuant to Labor Code sections 1725.5 or 1777.1.

26  
27 Section 6.02. Disputes Between Subcontractors and/or the Design-Builder.

28 If, through acts or neglect on the part of the Design-Builder, including failure to supervise and control  
29 its Subcontractors or suppliers, any other contractor, subcontractor or supplier, or worker suffers  
30 loss or damage, the Design-Builder agrees to resolve any resulting dispute with such other  
31 contractor, subcontractor, supplier, or worker by agreement, arbitration or litigation, if such other  
32 contractor, subcontractor, or worker shall assert any claim against the City or any of its officers,  
33 agents, or employees, on account of any damage alleged to have been so sustained.

34  
35 In the event of the receipt of any such claim, the City shall notify the Design-Builder, who shall  
36 defend, indemnify, and save harmless the City and all of its officers, agents, and employees against  
37 any such claim.

38  
39 Section 6.03. Listing of Subcontractors.

40 The Design-Builder shall comply with the requirements in the Design-Build Agreement regarding  
41 listing Subcontractors, including without limitation the requirements of the Subletting and  
42 Subcontracting Fair Practices Act, Chapter 4 of Part 1 of Division 2 of the Public Contract Code,  
43 commencing with Section 4100, forbidding bid shopping and bid peddling, requiring accurate listing  
44 of all Subcontractors, and requiring Subcontractors to be licensed.

45  
46 Should the Design-Builder violate any of the provisions of this Section, the violation shall be deemed  
47 a breach of the Contract Documents, and the City shall have all remedies provided by California  
48 law, including but not limited to those provided in Public Contract Code Section 4110, allowing  
49 termination of the contract or a penalty assessment of ten percent (10%) of the subcontract amount.

1 Section 6.04. Dealings with Subcontractors.

2 Nothing contained in the Contract Documents shall create any contractual relationship between any  
3 Subcontractor or material supplier and the City or any of its representatives, nor shall the Contract  
4 Documents be construed to be for the benefit of any Subcontractor or supplier.

5  
6 Section 6.05. Termination of Unsatisfactory Subcontractors.

7 When any portion of the Work that has been subcontracted by the Design-Builder is not being  
8 prosecuted in a satisfactory manner, or when materials supplied do not conform to the Contract  
9 Documents, the City may direct the Design-Builder to discharge the subcontractor or supplier.  
10 Any Subcontractor or supplier that is discharged shall not again be employed on this Project.

11  
12 Section 6.06. Payment of Subcontractors and Suppliers.

13 The Design-Builder shall make all payments to Subcontractors and suppliers as expeditiously and  
14 timely as possible, consistent with any applicable law so as to prevent any stop payment notices,  
15 liens or claims from being filed against the City or the Site. Provided that the City has not withheld  
16 payments contrary to the provisions of the Design-Build Agreement, these General Construction  
17 Terms and Conditions or law, the Design-Builder shall indemnify, defend and hold the City harmless  
18 from any claims or actions which allege that any Subcontractor or supplier was not paid with respect  
19 to the Project, except for claims resulting from dispute between City and Design-Builder. Election to  
20 bond subcontractors and include the cost of subcontractor bond in the Contract Sum is Design-  
21 Builder's with prior approval of the City.

22  
23 Section 6.07. Subguard.

24 To the extent the Design-Builder obtains subguard insurance and includes the premiums in the  
25 Guaranteed Maximum Price, the Design-Builder shall refund to the City at the completion of the  
26 Project any savings in the premiums.

27

1 **ARTICLE 7. STATE REQUIREMENTS REGARDING WAGES, HOURS, AND EQUAL**  
2 **OPPORTUNITY**  
3

4 Section 7.01. Prevailing Wage Rate; Notice.

5 As provided under Labor Code Sections 1726-1861, this project is subject to payment of the  
6 prevailing rate of wages in the locality in which the work on the project is to be performed for each  
7 craft, classification, or type of worker needed to execute this Contract. The prevailing rates so  
8 determined are on file with the City, and they are available for public inspection. They may also be  
9 obtained on the internet at [http://www.dir.ca.gov/DIR/S&R/statistics\\_research.html](http://www.dir.ca.gov/DIR/S&R/statistics_research.html). Those prevailing  
10 wage rates hereby are incorporated in this agreement and made a part hereof.

11  
12 The Design-Builder shall obtain and post copies of these prevailing wage rates in a prominent place  
13 at the job site, in accordance with the regulations of the Department of Industrial Relations.

14  
15 The Project is subject to compliance monitoring and enforcement by the Department of Industrial  
16 Relations.

17  
18 Section 7.02. Payment of Prevailing Wage Rates.

19 Pursuant to Labor Code Section 1772, workers employed by contractors or subcontractors in the  
20 execution of any contract for public work are deemed to be employed upon public work as defined in  
21 Labor Code Sections 1720-1725. Therefore, the Design-Builder shall pay, and shall cause all  
22 subcontractors, whether under contract with the Design-Builder or under contract with any  
23 Subcontractor, to pay not less than the specified prevailing wage rates to all workers employed in  
24 the execution of this Contract.

25  
26 In accordance with Labor Code Section 1775, the Design-Builder shall monitor the payment of the  
27 specified general prevailing rate of per diem wages by subcontractors to employees by periodic  
28 review of the certified payrolls of the subcontractors.

29  
30 Section 7.03. Wage Rate for Crafts Not Listed.

31 The responsibility to check prevailing wage rates is the Design-Builder’s. Pursuant to Labor Code  
32 Section 1773, the Design-Builder may file with the Director of the Department of Industrial Relations  
33 (“DIR”) or the Chief of the Division of Labor Standards Enforcement (“DLSE”) a petition to review a  
34 determination of any rate or rates made by the Director of DIR. The Design-Builder may also  
35 petition the Director of DIR to make a determination for a particular craft, classification or type of  
36 work not covered by a general determination. Pending the review or determination, the wages may  
37 be assumed to be those in the applicable collective bargaining agreement, but no adjustment in the  
38 Contract Sum shall be made if such assumption is incorrect.

39  
40 Section 7.04. Records of Hours Worked and Wages.

41 The Design-Builder shall keep, and shall cause all subcontractors on the Project to keep, certified  
42 payroll records of the hours and wages of all employees employed on the Project, and those  
43 records shall be open at all times for inspection by the City and/or the DLSE, in accordance with  
44 Sections 1776 and 1812 of the Labor Code. The certified payroll records shall contain at least the  
45 information required by law for each journeyman, apprentice, worker, or other employee employed  
46 by the Design-Builder and/or each subcontractor in connection with the Work.

47  
48 In the event that the Design-Builder and/or any subcontractor fails to submit certified payroll records  
49 to the City within ten (10) calendar days of a request from the City for the records, the Design-

1 Builder and/or the subcontractor shall, as a penalty, forfeit one hundred dollars (\$100) per calendar  
2 day, per worker, until strict compliance is effectuated. These penalties shall be withheld from  
3 progress payments then due and/or to become due. The Design-Builder is not subject to this  
4 penalty assessment due to the failure of a subcontractor to comply with these requirements if the  
5 Design-Builder can demonstrate that it has fully complied with the provisions of Labor Code Section  
6 1776.

7  
8 The Design-Builder shall not carry on its payrolls any person not actually employed by the Design-  
9 Builder, nor shall it carry on its payrolls employees of any subcontractor. The Design-Builder shall  
10 show on its payrolls all persons actually employed by the Design-Builder on the Project, in any  
11 capacity. The Design-Builder shall cause all subcontractors on the Project, whether under contract  
12 with the Design-Builder or under contract with any Subcontractor, to comply with this Section.

13  
14 In accordance with Government Code Section 8546.7, all books, records, and files of the  
15 performance of this Contract, shall be subject to examination and audit by the Auditor General for a  
16 period of three (3) years after final payment. The Design-Builder shall preserve and cause all  
17 subcontractors to preserve such books, records and files for the audit period. Design-Builder and its  
18 subcontractors shall fully cooperate with any request of the DIR relative to prevailing wages and  
19 provide all records as required by law upon request.

20  
21 Section 7.05. Additional Requirements for Labor Compliance.

22 The Design-Builder shall comply with the following additional requirements and shall cause all  
23 subcontractors on the Project, whether under contract with the Design-Builder or under contract with  
24 any Subcontractor, to comply. The records kept by the Contractor and all subcontractors of the  
25 hours and wages of all employees employed on Project also shall be open at all times for inspection  
26 by the DIR and DLSE, in accordance with Sections 1776 and 1812 of the Labor Code. Such  
27 records shall be furnished electronically to the Labor Commissioner of the DIR monthly, unless  
28 more frequent submission is required herein, and shall be furnished within 10 days of any separate  
29 request by the DIR or DLSE. Payroll records shall be furnished in a format prescribed by the DIR  
30 and uploaded into the electronic certified payroll reporting (eCPR) system.

31  
32 DIR also may confirm the accuracy of payroll reports, including by corroboration of information in  
33 payroll reports through independent sources, including without limitation worker interviews,  
34 examination of any time and pay records found within the definition of "Payroll Records" in section  
35 16000 of Title 8 of the California Code of Regulations, direct verification of "Employer Payments" (as  
36 defined at section 16000 of Title 8 of the California Code of Regulations) through third-party  
37 recipients of those payments, or any other legal and reasonable method of corroboration. As part of  
38 its confirmation process, the DIR may require the Design-Builder and any of its subcontractors to  
39 furnish for inspection itemized statements prepared in accordance with Labor Code Section 226.  
40 The DIR may conduct random confirmation based on a recognized statistical sampling of the  
41 records submitted.

42  
43 The DIR may conduct in-person inspection(s) at the site or sites at which the Work of the Project is  
44 being performed ("On-Site Visits"). On-Site Visits may include visual inspection of required job site  
45 notices, including but not limited to (1) the determination(s) of the Director of DIR of the prevailing  
46 wage rate of per diem wages required to be posted at each job site in compliance with Labor Code  
47 Section 1773.2; (2) the Notice of pay days and time and place of payment required by Labor Code  
48 Section 207; and (3) any other notices prescribed by law. On-Site Visits may also include  
49 inspections of records, inspections of the work site and observation of work activities, interviews of

1 workers and others involved with the Project, and any other activities deemed necessary by the DIR  
2 to ensure compliance with prevailing wage requirements. In accordance with Labor Code Section  
3 90, the Labor Commissioner and his deputies and agents shall have free access to any construction  
4 site or other place of labor and may obtain any information or statistics pertaining to the lawful duties  
5 of the Labor Commissioner, including but not limited to evidence of compliance with Labor Code  
6 Section 226 (itemized wage statements for employees) and any other laws enforced by the Labor  
7 Commissioner.

8  
9 In accordance with Section 16463 of Title 8 of the California Code of Regulations (“Section 16463”),  
10 the City may, on its own or if required by the Labor Commissioner, withhold funds due to the  
11 Design-Builder when payroll records are delinquent or inadequate. The amount withheld shall be  
12 those payments due or estimated to be due to the Design-Builder or subcontractor whose payroll  
13 records are delinquent or inadequate, plus any additional amount that the Labor Commissioner has  
14 reasonable cause to believe may be needed to cover a back wage and penalty assessment against  
15 the Design-Builder or subcontractor whose payroll records are delinquent or inadequate. The  
16 Design-Builder shall cease all payments to a subcontractor whose payroll records are delinquent or  
17 inadequate until the Labor Commissioner provides notice that the subcontractor has cured the  
18 delinquency or deficiency. When payments are withheld under Section 16463, the Labor  
19 Commissioner will provide the Design-Builder and subcontractor, if applicable, with immediate  
20 written notice that includes the information stated in Section 16463. Where the violation is by a  
21 subcontractor, the Design-Builder shall be notified of the nature of the violation and reference shall  
22 be made to Design-Builder’s rights to withhold or recover payments from the subcontractor under  
23 Labor Code Section 1729. The withholdings under Section 16463 do not preclude assessment of  
24 penalties under Labor Code Section 1776(g) for failure to timely comply with a written request for  
25 certified payroll records, as set forth below.

26  
27 Section 7.06. Underpayment of Wages.

28 The Design-Builder agrees that in the event of underpayment of wages to any employee on the  
29 Project, whether by the Design-Builder or any subcontractor on the Project, the City may retain from  
30 payments due to the Design-Builder, an amount sufficient to pay such worker the difference  
31 between the wages required to be paid by the DIR, and the wages actually paid such worker for the  
32 total number of hours worked, plus any penalties and forfeitures. The City may disburse such  
33 retention to such employees.

34  
35 Section 7.07. Apprentices.

36 Attention is directed to the provisions of Sections 1777.5, 1777.6 and 1777.7 of the Labor Code  
37 concerning the employment of apprentices by the Design-Builder or any subcontractor. Design-  
38 Builder shall comply with all applicable laws relating to apprentices.

39  
40 The Design-Builder and all subcontractors on the Project shall comply with the requirements of  
41 Sections 1777.5 and Section 1777.6 of the Labor Code in the employment of apprentices. Violation  
42 of these requirements shall subject the Design-Builder and/or subcontractor to the penalties set  
43 forth in Section 1777.7 of the Labor Code and/or otherwise provided by law or Contract.

44  
45 Attention is directed to the provisions of Public Contract Code sections 2600-2602 and 22164(c)  
46 with respect to the requirement that the Design-Builder and its subcontractors at any level employ  
47 on the Project apprentices registered in an apprenticeship program approved by the Chief of the  
48 Division of Apprenticeship Standards of the DIR.

1 Information relative to apprentice standards, wage schedules, and other requirements may be  
2 obtained from the DIR, ex-officio the Administrator of Apprenticeship, San Francisco, California,  
3 from the Division of Apprenticeship Standards or its branch offices, and/or on the DLSR website at  
4 www.dir.ca.gov/DLSR/PWD. Apprentices employed on the Project must at all times work with or be  
5 under the direct supervision of a journeyman or journeymen.

6  
7 Section 7.08. Penalties.

8 In accordance with Articles 2 and 3, Chapter 1, Part 7, Division 2 of the Labor Code, particularly  
9 Sections 1775, 1776, 1777.7 and 1813, the Design-Builder shall forfeit to City as a penalty the sum  
10 specified below, over and above any retention or withholds otherwise authorized by the agreement,  
11 as follows:

- 12  
13 A. Up to two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker  
14 paid less than the applicable prevailing wages for any work done by him/her under this  
15 Contract or under any subcontract on the Project, with the amount to be determined by the  
16 Labor Commissioner in accordance with the considerations set forth in Labor Code section  
17 1775. If a worker employed by a subcontractor on the Project is paid less than the prevailing  
18 wages by the subcontractor, the Design-Builder is not subject to this penalty assessment if  
19 the Design-Builder can demonstrate that it did not have knowledge of that failure of the  
20 subcontractor to pay the prevailing wages and that it strictly complied with the requirements  
21 of Labor Code Section 1775(b).  
22
- 23 B. Twenty-five dollars (\$25) for each worker employed in the execution of this agreement by the  
24 Design-Builder or by any subcontractor on the Project for each calendar day during which  
25 such worker is required or permitted to work more than eight (8) hours in any one calendar  
26 day and forty (40) hours in any one calendar week in violation of the provisions of Article 3.  
27
- 28 C. Failure to provide certified payroll records to the City or to the Labor Commissioner within ten  
29 (10) calendar days of a request, shall, in addition to resulting in a withholding of payments  
30 due, result in a penalty in the amount of one hundred dollars (\$100) for each calendar day, or  
31 portion thereof, for each worker until strict compliance is effectuated. The Design-Builder is  
32 not subject to this penalty assessment due to the failure of a subcontractor to comply with  
33 these requirements if the Design-Builder can demonstrate that it has fully complied with the  
34 provisions of Labor Code Section 1776.  
35
- 36 D. Knowing violation of Labor Code Section 1777.5 shall yield a penalty in an amount not  
37 exceeding one hundred dollars (\$100) for each full calendar day of non-compliance. A  
38 contractor or subcontractor who knowingly commits a second or subsequent violation of  
39 Section 1777.5 within a three-year period, where noncompliance results in apprenticeship  
40 training not being provided as required, shall forfeit as a civil penalty the sum of no more than  
41 three hundred dollars (\$300) for each full calendar day of noncompliance.  
42

43 Section 7.09. Hours of Work; Approval of Schedules.

44 Eight (8) hours of labor constitutes a legal day's work, and forty (40) hours constitutes a legal work  
45 week. No worker employed at any time by the Design-Builder, or by any subcontractor upon the  
46 Project, shall be required or permitted to work more than eight (8) hours in any one calendar day or  
47 forty (40) hours in any one week, except as provided in Labor Code Sections 1810 through 1815.  
48

1 Overtime shall be paid at the rate of not less than one and one-half (1-1/2) times the basic rate of  
2 pay, or at such other rate as stated on the applicable Determination issued by the DIR, or as may be  
3 required by applicable statutes or collective bargaining agreements.  
4

5 The City reserves the right to approve or disapprove the days scheduled for work, and the hours  
6 during which work is in progress.  
7

8 Section 7.10. Compliance with State Anti-Discrimination Laws.

9 The Design-Builder shall comply with Section 1735 of the Labor Code, which provides as follows:  
10

11 A contractor shall not discriminate in the employment of persons upon public  
12 works on any basis listed in subdivision (a) of Section 12940 of the Government  
13 Code, as those bases are defined in Sections 12926 and 12926.1 of the  
14 Government Code, except as otherwise provided in Section 12940 of the  
15 Government Code. Every contractor for public works who violates this section is  
16 subject to all the penalties imposed for a violation of this chapter.  
17

18 Section 7.11. Workers' Compensation Insurance.

19 The Design-Builder shall provide, at all times in which it is providing or performing any work on the  
20 Project, at its sole cost and expense, workers' compensation insurance for all of the employees  
21 engaged in work for the Project. In case any of the Design-Builder's work is sublet, the Design-  
22 Builder shall require the Subcontractor similarly to provide workers' compensation insurance for all  
23 the latter's employees. Any class of employee or employees not covered by a Subcontractor's  
24 insurance shall be covered by the Design-Builder's insurance. In case any class of employees  
25 engaged in work on or at the site of the Project is not protected under Workers' Compensation  
26 laws, the Design-Builder shall provide or shall cause a Subcontractor to provide, adequate  
27 insurance coverage for the protection of such employee, not otherwise protected. The Design-  
28 Builder shall file with the City certificates of its insurance protecting workmen. The Design-Builder  
29 is required to secure payment of compensation to its employees in accordance with the provisions  
30 of Section 3700 of the Labor Code.  
31

1 **ARTICLE 8. SUPERVISION AND LABOR**

2  
3 Section 8.01. Supervision Procedures.

4 The Design-Builder shall supervise and direct the Work using its best skill and attention. The  
5 Design-Builder shall be solely responsible for all design, construction means, methods, techniques,  
6 and procedures and for coordinating all portions of the Work under the Design-Build Agreement and  
7 the Construction Documents.

8  
9 The Design-Builder shall be responsible to the City for the acts and omissions of its employees, all  
10 subcontractors and their agents and employees and other persons performing any of the Work.

11  
12 The Design-Builder shall not be relieved from its obligations to perform the Work in accordance with  
13 the Contract Documents either by the activities or duties of the City Architect or the City's  
14 Representative in their administration of the Project or by inspections, tests or approvals (or the lack  
15 thereof) required or performed under Article 9 by persons other than the Design-Builder.

16  
17 Section 8.02. Skilled Labor.

18 All non-apprentice labor shall have the skills of a journeyman in the applicable trade. All  
19 workmanship shall be of the highest quality and finish in all respects.

20  
21 Section 8.03. No Tenancy.

22 All workers, subcontractors, or subcontractors' representatives are admitted to the site only for the  
23 proper execution of the Work, and have no tenancy.

24  
25 Section 8.04. Dismissal of Unsatisfactory Employees.

26 The Design-Builder shall at all times enforce strict discipline and good order among all employees  
27 and shall not employ on the Work any unfit person or anyone not skilled in the assigned task as  
28 defined in Section 8.02. The Design-Builder shall remove, or cause a subcontractor to remove from  
29 the Project, any incompetent employee, or any employee not skilled for the type of work required as  
30 defined in Section 8.02. The City may require that the Design-Builder immediately remove from the  
31 Work any employee for cause.

32  
33 Section 8.05. Personal Attention and Superintendence; Design-Builder's Agent.

34 The Design-Builder shall supervise the Work to the end that it shall be faithfully prosecuted. The  
35 Design-Builder shall at all times while the Design-Builder's scope of work is in progress keep a  
36 full-time superintendent who is fully empowered to act as agent for the Design-Builder on the site.  
37 The Design-Builder shall advise the City in writing of its agent prior to the start of any work. The  
38 Design-Builder shall be responsible for the faithful observation of all instructions delivered to its  
39 authorized agent(s).

40  
41 Section 8.06. Not Used.

42  
43 Section 8.07. Design-Builder's Coordination of Work.

44 The City reserves the right to do other work in connection with the Project by separate contract or  
45 otherwise. The City shall give the Design-Builder written notice at least thirty (30) days in advance  
46 of any work to be done by the City's contractors, agents or employees. The Design-Builder and the  
47 City shall at all times conduct their work so as to impose no hardship on the other and shall  
48 coordinate with each other so that no delays or discrepancies shall result in the whole Project.



## ARTICLE 9. INSPECTION AND TESTING

### Section 9.01. Inspection.

Inspection shall be provided as required under CCR Title 24, latest Edition. All inspection costs will be paid for by the City, including special inspection required by Title 24, except as noted otherwise below. A list of required inspections for the Project will be established by the Design-Builder and the Project Inspector, as well as the California Building Code.

The Project Inspector shall be approved by the City. The Project Inspector will be employed by the City and will perform all inspections in accordance with Title 24, parts 1-5.

### Section 9.02. Authority of Project Inspector; Stop Work Notices.

The designated Project Inspector shall be considered to be a representative of the City. It is the Project Inspector's duty to inspect the Work.

The Project Inspector shall have the authority to order the work designated for inspection stopped if a determination is made that work is proceeding in violation of the Construction Documents or any orders issued by the City, City's Representative, or City Architect. The failure of the Project Inspector to order the work stopped does not excuse the Design-Builder from complying with the Construction Documents for that work.

Upon issuing a stop work notice, the Project Inspector shall notify the City Architect and the Design-Builder's architect, who both shall review the work in question and determine whether it does or does not comply with the Construction Documents. The decision of the City Architect shall be final, subject to the dispute resolution provisions in Article 23. The Design-Builder shall thereafter comply with the instructions of the City Architect regarding corrections needed to cure the defect. The suspended work shall be resumed only when the instructions are fulfilled. The Design-Builder shall not be entitled to an extension of time in the event of such suspension of work if the stop work notice is determined to be validly supported by facts.

### Section 9.03. Effect of Inspections.

Neither the final inspection and payment, nor any interim inspection or payment shall relieve the Design-Builder of its obligation to fulfill the Work of the Project as required by the Design-Build Agreement and/or the Construction Documents.

Any work, materials or equipment not meeting the requirements and intent of the Construction Documents may be rejected, and unsuitable work or materials shall be made good, notwithstanding the fact that such work or materials may previously have been inspected and/or payment therefore may have been made.

### Section 9.04. Inspection of Completed Work.

Should the City's Representative or the City Architect determine that it is necessary or advisable to inspect work already completed at any time before final inspection and acceptance of the Work, by removing or exposing any work, the Design-Builder shall, upon instruction of the City's Representative, promptly furnish all necessary facilities, labor, and materials to do so. If the work is found to be defective in any respect due to the fault of the Design-Builder or any subcontractor, the Design-Builder shall bear all expenses of such examination and satisfactory reconstruction. If, however, the work is found to meet the requirements of the Construction Documents, the additional cost of labor and material necessarily involved in the examination and replacement shall be allowed

1 the Design-Builder and a Change Order shall be issued for such cost and any time extension  
2 justified by delays to the critical path.

3  
4 Section 9.05. Notice to City of Inspection.

5 Where the Construction Documents, instructions by the Project Inspector, City's Representative or  
6 the City Architect, laws, ordinances, or any public authority having jurisdiction require work to be  
7 inspected, tested or approved before the Work proceeds, such work shall not proceed, nor shall it  
8 be covered up without inspection. If any part of the Work is covered prior to inspection, the City may  
9 order the Work to be uncovered so that inspection may be accomplished. The Design-Builder shall  
10 bear all expenses of such examination and satisfactory reconstruction.

11  
12 The Design-Builder shall provide notice to the Project Inspector at least six (6) hours in advance of  
13 the readiness for inspection.

14  
15 All work shall be available for inspection, and the Project Inspector shall have full access to review  
16 all work during all working times. The Design-Builder shall provide all necessary means of access  
17 (e.g. ladders) for the Project Inspector to perform its duties. The Design-Builder shall furnish the  
18 Project Inspector with any information necessary to fully inform him/her of conditions.

19  
20 Section 9.06. Not used.

21  
22 Section 9.07. Overtime Work.

23 Whenever the Design-Builder arranges to work at night or any time when work is conducted other  
24 than the normal forty (40) hour week, or to vary the period during which work is carried on each day,  
25 it shall give the City's Representative and the Project Inspector a minimum of forty-eight (48) hours'  
26 notice for weekend work and twenty-four (24) hours' notice for daily work so that inspection may be  
27 provided. Additional inspection costs incurred because of overtime or shift work shall be paid by the  
28 City. If this overtime work is necessitated by the Design-Builder's error or failure to perform, the cost  
29 of inspection will be borne by the Design-Builder.

30  
31 Section 9.08. Materials Which May be Tested.

32 The City reserves the right to require the Design-Builder to provide samples, and to perform tests on  
33 any materials, articles, equipment, installations, or construction performed by the Design-Builder in  
34 addition to those specified in the Contract Documents. The City shall assume the cost of sampling  
35 and testing materials only when the Contract Documents do not require the Design-Builder to do so.

36  
37 Section 9.09. Testing.

38 All tests shall be performed under the supervision of the testing laboratory or consultant employed  
39 by the City at such times as are convenient to the Project. The Design-Builder shall provide written  
40 notice to the City's Representative at least twenty-four (24) hours prior to the need for off-site tests  
41 or inspections, and the City's Representative will arrange such tests or inspections. The Design-  
42 Builder shall bear all expenses of tests performed where the Design-Builder failed to provide this  
43 minimum notice.

44  
45 Section 9.10. Selection of Samples.

46 All samples and specimens for testing shall be selected by the Project Inspector or by the testing  
47 laboratory, but not by the Design-Builder.

1 Section 9.11. Delivery of Samples.

2 The Design-Builder shall, at its sole cost and expense, furnish, package, mark, and deliver all  
3 samples to be tested at locations other than the Site. Samples shall be delivered either to the  
4 Project Inspector or to the testing laboratory or such other address specified by the City's  
5 Representative. Delivery of all samples to the testing laboratory shall be made in ample time to  
6 allow the test to be made without delaying construction. No extra time will be allowed for the  
7 completion of the Work by reason of delay in testing samples required by the Contract Documents  
8 or due to the Design-Builder's request for substitution.

9  
10 The Design-Builder shall allow free access at all times to the representatives of the testing  
11 laboratory to the Work, and shall point out the sources from which samples are taken.

12  
13 All test reports shall be sent to all parties specified by the City's Representative.

14  
15 Section 9.12. Approval of Samples.

16 No materials or work of which samples and/or tests are required shall be used or covered until the  
17 City's Representative informs the Design-Builder that such samples and/or tests have been  
18 approved. If the Design-Builder installs, uses, or covers any such material, article, or work prior to  
19 testing and approval, such shall be at the Design-Builder's sole risk and expense, and it shall bear  
20 all costs of uncovering, repair, and replacement thereof.

21  
22 The approval of any samples shall be for the characteristics thereof, or for the uses named in such  
23 approval, and no other. No approval of any samples shall be deemed to change or modify the  
24 Contract Documents. Upon testing of any sample of material or work, no additional sample shall be  
25 considered. All material or work installed after the sampling and testing is performed and approved  
26 shall be equal to or better than the approved sample in all respects and shall be accompanied by  
27 documentary proof that the materials and work sampled is representative of that installed.

28  
29 Section 9.13. Damage Due to Testing.

30 The Design-Builder shall, at its sole cost and expense, repair all damage resulting from testing  
31 specified in the Contract Documents. The City shall issue a Change Order for repair of damage due  
32 to sampling or testing other than specified in the Contract Documents. The Design-Builder shall not  
33 make any tests upon portions of the Project already completed, except with the prior written consent  
34 and under the direction and supervision of the City's Representative.

35  
36 Section 9.14. Retesting.

37 If as a result of any test, whether originally specified or not, any material or work is found to be  
38 unacceptable, it shall be rejected, and all further sampling and testing required by the City or City's  
39 Representative shall be at the Design-Builder's expense. The City shall pay initial costs; however  
40 the City may deduct that cost from a subsequent payment.

41  
42 Section 9.15. Effect of Sampling and Testing.

43 The City assumes no obligation, and the Design-Builder shall be relieved of no obligation  
44 undertaken pursuant to the Contract Documents by virtue of sampling and testing specified in this  
45 Article.

46  
47 The responsibility to incorporate satisfactory materials and workmanship which meet the Contract  
48 Documents into the Work rests entirely with the Design-Builder, notwithstanding any prior samples  
49 or tests.

1                   **ARTICLE 10. PROTECTION OF WORKERS, PUBLIC AND PROPERTY**

2  
3   Section 10.01. Safety Precautions and Programs.

4   The Design-Builder shall be responsible for initiating, maintaining and supervising all safety  
5   precautions and programs in connection with the Work, for maintaining all safety and health  
6   conditions on the Site, and for ensuring against and/or correcting any hazardous conditions on the  
7   Site. Also, in no case shall the City, the City's Representative, the City Architect, the Inspector, or  
8   their agents, employees or representatives, have either direct or indirect responsibility for the  
9   means, methods, techniques, sequences or procedures utilized by the Design-Builder, or for safety  
10  precautions and programs in connection with the Work, or for maintaining any safety or health  
11  conditions on the Site, or for ensuring or correcting any hazardous conditions on the Site.

12  
13  The Design-Builder shall designate a responsible member of its organization at the Site whose duty  
14  shall be the prevention of accidents and overall jobsite safety for contractors'/subcontractors'  
15  employees, City's Representative, City Architect, Project Inspector and visitors. This person shall  
16  be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing  
17  to the City's Representative.

18  
19  Section 10.02. Protection of Persons and Property.

20  The Design-Builder shall at all times, until final acceptance and the Final Payment, maintain  
21  adequate protection against injury to persons, including employees, the public, or damage to  
22  property, on or near the Project, or adjacent to the Site. The Design-Builder shall be responsible  
23  for maintaining all safety and health conditions on the Site and for ensuring against and/or  
24  correcting any hazardous conditions on the Site. With respect to the Design-Builder's operations  
25  and/or duties under this Design-Build Agreement, in no case shall the City, the City  
26  Representative, the City Architect, the Inspector, or their agents, employees or representatives,  
27  have either direct or indirect responsibility for maintaining any safety or health conditions, or for  
28  ensuring against or correcting any hazardous conditions, on or near the Site, or adjacent to the  
29  Site.

30  
31  The Design-Builder shall provide a safe environment for all functions to be performed by the City,  
32  the City's Representative, City Architect and Project Inspector, and a safe place for all employees to  
33  work. The use of alcohol, drugs, or tobacco will not be permitted on the Site and/or on City property.

34  
35  The Design-Builder shall comply with all Occupational Safety laws, rules and regulations applicable  
36  to the Work.

37  
38  Section 10.03. Protection and Repair of Work.

39  The Design-Builder shall take all reasonable measures to protect the City's structures, facilities,  
40  equipment, tools, materials, and any other property on or adjacent to the Site against damage, loss,  
41  or theft by providing adequate security measures for its work. The Design-Builder shall, until Final  
42  Completion of the Project and acceptance by the City, maintain protection of all of its work and work  
43  performed by others for the Work of the Project from damage, loss, defacement, or vandalism,  
44  except that if the City takes occupancy, in whole or in part, of any portion of the Project prior to the  
45  date of Final Completion, the Design-Builder shall no longer have any obligation to protect the  
46  occupied portion(s) of the Project except (1) to the extent they may be affected by the Design-  
47  Builder's ongoing work, and/or (2) as provided in this Article. The Design-Builder shall provide  
48  protection of completed work (even if the City has taken beneficial occupancy), which may be  
49  subject to damage as a result of the Design-Builder's failure to perform as scheduled.

1 Section 10.04. Protection of Workers.

2 The Design-Builder shall take every precaution for the safety of all employees and others on the  
3 Work, and to comply with all applicable provisions of federal, state and local safety laws and building  
4 codes to prevent accidents or injury to persons on, about, or adjacent to the premises where the  
5 Work is being performed. The Design-Builder shall post danger signs warning against hazards  
6 created by construction. The Design-Builder shall immediately replace or repair any unsafe,  
7 dangerous or hazardous situation that may exist. If such situation is due to a pre-existing condition  
8 of the facility, the Design-Builder may be entitled to additional compensation under provisions of  
9 Article 15 to repair or replace such condition in order to maintain a safe worksite.

10  
11 The City and City's Representative undertake no obligation to suspend the work or notify the  
12 Design-Builder of any hazardous conditions or noncompliance with safety laws. In no case shall the  
13 City, the City's Representative, the City Architect, the Inspector, or their agents, employees or  
14 representatives, have either direct or indirect responsibility for maintaining any safety or health  
15 conditions, or for ensuring against or correcting any hazardous conditions on the Site.

16  
17 Section 10.05. Working Limits and Regulations.

18 The Design-Builder shall confine its apparatus, storage and materials, and construction operations  
19 within the limits established by the City's Representative, and shall not unreasonably encumber  
20 adjacent areas with its materials and/or equipment.

21  
22 The Design-Builder shall enforce any reasonable instructions from the City's Representative or City  
23 regarding placement of signs, fires, danger signals, barricades, radios, noise and smoking, provided  
24 such instructions are in compliance with health and safety laws governing construction activities.

25  
26 Section 10.06. Protection of Existing Improvements.

27 The Design-Builder shall clean the portions of existing improvements and facilities which are used  
28 by, traversed or dirtied by the workers on the Work, normal maintenance due to use by City  
29 employees or the public excepted.

30  
31 All existing improvements and facilities shall be protected from any damage resulting from the  
32 operations, equipment or workers of the Design-Builder during the course of the construction. The  
33 Design-Builder shall take all necessary precautions to protect existing facilities against the effects of  
34 the elements and Design-Builder shall be strictly liable for failure to adequately protect any facility.

35  
36 All damaged improvements and facilities shall be replaced, repaired, and restored to their original  
37 condition without additional cost to the City and without an extension of the Contract Time.

38  
39 Section 10.07. Traffic Signals and Traffic Control.

40 Existing signs, lights, traffic signals, control boxes, hydrants, meters, and other similar items  
41 occurring within the street or sidewalk areas shall be kept free of obstructions and accessible at all  
42 times. All such items shall be protected from the Design-Builder's operations and shall not be  
43 obliterated or obscured by its equipment or materials. Should it be necessary to cover up, move, or  
44 alter such items, this shall be done only with permission of the authorities having jurisdiction over  
45 the items involved.

46  
47 Should it be necessary to block a street or sidewalk, the Design-Builder shall first notify the City's  
48 Representative and the police and fire departments and other agencies with jurisdiction, and shall  
49 comply with their instructions, including scheduling limitations.

1 Section 10.08. Not used.

2

3 Section 10.09. Not used.

4

5 Section 10.10. Protection of Adjacent Property; Notices.

6 In addition to any requirements imposed by law, the Design-Builder shall shore up, brace, underpin,  
7 and protect as may be necessary all foundations and other parts of all existing structures on the Site  
8 or adjacent to the Site which are in any way affected by the excavations or other operations  
9 connected with the completion of the Work.

10

11 Prior to excavation, the Design-Builder shall notify all public utilities and governmental agencies of  
12 the work proposed, and shall ascertain from them the exact location of their utilities.

13

14 At least seven (7) days prior to commencing any work which in any way affects public utilities or  
15 adjoining or adjacent land or buildings, or any longer period required by law or regulation, the  
16 Design-Builder shall notify the City's Representative, who will send the City and occupants thereof a  
17 notice, which specifies the type of work to be done, the schedule of the work, the impacts expected  
18 from the work and the protective measures being taken by the Design-Builder. The notice shall also  
19 specify that any person receiving notice who has questions regarding it may contact the City's  
20 Representative.

21

22 The Design-Builder shall, at the written instruction of the City's Representative, meet with any  
23 recipient of such notice to explain and discuss the proposed work.

24

25 Section 10.11. Indemnification of Adjacent Property Owners.

26 If the Design-Builder enters any agreement with the owners of any adjacent property to enter upon  
27 or adjacent to such property to perform the Work, the Design-Builder shall fully indemnify, defend  
28 and save harmless such person, firm, state or other governmental agency which owns or has any  
29 interest in the adjacent property. The form and content of the indemnification agreement shall be  
30 approved by the City prior to commencement of any work on or about such property.

31

32 Section 10.12. Fire Protection.

33 The Design-Builder shall take all steps necessary to protect all structures from fires and sparks  
34 originating from the Work, shall comply with all laws and regulations regarding fire protection, and  
35 shall comply with all instructions of the fire department with jurisdiction.

36

37 The Design-Builder shall notify the City's Representative and the fire department in writing at least  
38 seventy-two (72) hours prior to disconnection of either water or electrical service to the Site, and  
39 shall comply with the fire department's instructions regarding fire safety.

40

41 The Design-Builder must keep the fire intrusion detection systems operational throughout the  
42 duration and scope of its Work.

43

44 Section 10.13. Repairs or Replacement.

45 Any damage to existing conditions, or to any other improvement or property above or below the  
46 surface of the ground, whether private or public, arising from performance of this contract shall be  
47 repaired within forty-eight (48) hours by the Design-Builder without expense to the City, unless  
48 creation of a safety hazard has occurred, in which case damage will be corrected immediately. If the

1 work cannot be completed within forty-eight (48) hours, then the Design-Builder must be able to  
2 show substantial progress toward completion within that time frame.

3  
4 If, in the opinion of the Architect, the best interest of the City requires that repairs be made prior to  
5 the execution of any further work, the City's Representative will so notify the Design-Builder who  
6 shall delay or discontinue that part of the Work until the necessary repair has been made. Such  
7 delay shall be considered non-compensable.

8  
9 Upon the failure of the Design-Builder to comply with any such order, or upon the Design-Builder's  
10 failure to make immediate emergency repairs which are necessary to protect the Work, the City  
11 shall do that work itself as is necessary to protect life and property, in its sole discretion, and deduct  
12 the total cost of such work from the next payment otherwise due. No prior notice to the Design-  
13 Builder shall be necessary for the City to take this action.

14  
15 Section 10.14. Emergency Safety Actions.

16 In an emergency affecting the safety of life or property, including adjoining property, the Design-  
17 Builder, without previous instructions or authorizations from the City, is authorized and shall act at its  
18 discretion and risk to prevent such threatened loss or injury, and the Design-Builder shall bear all  
19 costs of that action, unless such emergency is cause by the City's negligence or willful misconduct.  
20 The Design-Builder shall immediately notify the City's Representative of such actions, and thereafter  
21 shall comply with any instructions issued by the City's Representative.

22

1                   **ARTICLE 11. SUBMITTALS, SUBSTITUTIONS AND MATERIALS**

2  
3   Section 11.01. Submittals.

4   The Design-Builder, at its sole cost and expense, shall furnish to the City’s Representative all  
5   submittals and other descriptive material as are required by the Specifications or requested by the  
6   City Representative working with the City Architect.

7  
8   Shop drawings shall be done with sufficient detail to adequately describe items proposed to be  
9   furnished or methods of installation to enable the City and City Architect to determine compliance  
10   with the Specifications, design/Performance Criteria, and with the design and arrangement shown  
11   on the working drawings.

12  
13   The Design-Builder shall check and coordinate all submittals with the work of all trades involved  
14   before they are submitted. The Design-Builder shall review each submittal for conformance with the  
15   requirements of the Construction Documents.

16  
17   All submittals for the Project shall be made in accordance with a submittal schedule to be agreed  
18   upon between the City and the Design-Builder; however, the Design-Builder also shall coordinate  
19   the schedule of its submittals with the requirements of the Construction Schedule so as not to delay  
20   the Project. The Design-Builder’s Submittal schedule shall provide sufficient time for delivering the  
21   Submittal to the City Architect, the City Architect’s review of each Submittal, delivering the Submittal  
22   to the Design-Builder and re-submittal as necessary. No delay claims related to submittals will be  
23   entertained for any submittal originally received after the date indicated in the Construction  
24   Schedule. The City shall not accept limitations in materials, colors, quality, or any other aspect of  
25   products or materials due to the Design-Builder’s failure to provide submittals as required. At the  
26   City’s discretion, the Design-Builder may be directed to furnish and install temporary materials until  
27   City selected material, if any, is available.

28  
29   Section 11.02. Submission of Submittals.

30   The Design-Builder shall submit electronically or by hard copy. Submittals shall be submitted to the  
31   City Representative who will not review the Submittals for technical compliance, but may reject any  
32   Submittal found, in the City Representative’s judgment, to be incomplete. The City Representative  
33   will maintain a Submittal log, and weekly meeting minutes shall note if Submittals have been  
34   accepted.

35  
36   By approving and submitting shop drawings, product data, manufacturer’s installation instructions  
37   and samples, the Design-Builder represents that it has determined and verified all materials, field  
38   measurements and field construction criteria related thereto and that it has checked and  
39   coordinated the information contained within those submittals with the requirements of the Work and  
40   to the Construction Documents. The Design-Builder shall adhere to any supplementary processing  
41   and scheduling instructions pertaining to shop drawings as may be issued by the City’s  
42   Representative.

43  
44   The City’s Representative will not accept shop drawings, product data or manufacturers’ installation  
45   instructions, which are not sufficiently dimensioned and detailed to demonstrate compliance with the  
46   Construction Documents.

47  
48   The Submittals shall be submitted promptly, so as to cause no delay in the Work.



1 Section 11.03. Review of Submittals.

2 Following submission, the Submittals will be reviewed and returned with one or more of five possible  
3 responses by the City's Representative or City Architect. These possible responses are as follows:  
4

- 5 A. Unreviewed: If the Submittal is not required, or if it is not complete, or if it does not meet the  
6 form, format, and number requirements specified, it may be returned unreviewed. If the  
7 Submittal is not required, work may commence; if the Submittal was returned due to form  
8 requirements, it shall be resubmitted and approval obtained prior to commencement of the  
9 work.
- 10
- 11 B. Approved, Reviewed, or No exceptions taken: In the event the Submittal is acceptable as  
12 submitted, it will be returned with this status. Work may proceed upon receipt of approved  
13 Submittal.
- 14
- 15 C. Make Corrections Noted: If the Submittal is acceptable except for certain items, which have  
16 been noted by the Architect, it will be so designated. Work may proceed with the corrections  
17 made, and no resubmittal is necessary.
- 18
- 19 D. Revise and Resubmit: This status indicates that revisions are noted on the Submittal, and an  
20 additional Submittal is required to reflect those revisions and/or additional information. Work  
21 may not commence until the resubmittal is approved.
- 22
- 23 E. Rejected: A Submittal may be rejected if it is not in compliance with the Construction  
24 Documents, or if it proposes a substitution which is not acceptable to the Architect. A  
25 superseding Submittal shall be submitted and approved prior to commencement of the work.

26

27 Should the Design-Builder proceed with the work shown on a Submittal before approval is received,  
28 it shall do so at its own risk and it shall remove and replace or adjust any work which is not in  
29 accordance with the shop drawings or manufacturers' instructions as ultimately approved, and it  
30 shall be responsible for any resultant damage, defect, or added cost. The Design-Builder shall  
31 resubmit Submittals in categories "D" and "E" above after making any changes required so that  
32 Submittals will comply with the Construction Documents. Resubmittals shall be made in sufficient  
33 time so as to avoid delay to the Work.

34

35 The City Architect shall determine the adequacy and completeness of all Submittals. Where the  
36 Architect deems a Submittal to be inadequate, incomplete, or otherwise unsuitable for proper  
37 review, the Design-Builder shall submit all additional information requested by the City Architect.  
38 There shall be no change to the Contract Time or the Contract Sum when such additional  
39 information is required.

40

41 Section 11.04 Submittals Showing Variation from Contract.

42 It shall be the responsibility of the Design-Builder to specifically point out any variation or  
43 discrepancy between the shop drawings, product data or manufacturers' installation instructions  
44 submitted and the Construction Documents.

45

46 The Design-Builder shall make specific mention of all variations, along with an explanation of why  
47 they are requested, in its letter of transmittal.

1 Failure by the Design-Builder to identify in its letter of transmittal any variation, discrepancy, or  
2 conflict with the Construction Documents shall render the approval null and void, and the Design-  
3 Builder shall bear all risk of loss and reconstruction costs or delays.  
4

5 If any architectural, plumbing, mechanical, electrical, or structural modifications are required as a  
6 result of the approval of shop drawings or manufacturers' instructions, which deviate from or do not  
7 comply with the Construction Documents, those modifications shall be made without extra cost to  
8 the City, and without extension of the Contract Time. Any other resultant costs, including but not  
9 limited to design fees, and cost incurred by other contractors, or inspection fees, shall be at the  
10 expense of the Design-Builder.  
11

12 Section 11.05. Effect of Review and/or Approval of Submittals.

13 The review, approval or other action taken on Submittals or other descriptive material shall not  
14 relieve the Design-Builder of the obligation for accuracy of dimensions and details or for conforming  
15 the Work to the requirements of the Construction Documents at no extra cost to the City, within the  
16 Contract Time and shall not, in any way, shift the risk of the design to the City or the City Architect.  
17 The Design-Builder remains responsible for all design and construction of the Project, in accordance  
18 with the Contract Documents.  
19

20 Section 11.06. Substitutions.

21 Unless otherwise provided in the technical specifications, the Design-Builder may make proposals  
22 for substitutions to materials and/or processes shown or specified. A proposal for substitution shall  
23 include all information required by the City Architect to evaluate the substitute material or process.  
24 All substitutions shall be submitted with an approved "Substitution Request Form." Such proposal  
25 constitutes a certification that the Design-Builder:  
26

- 27 A. Has investigated the proposed product and determined that it meets or exceeds the  
28 performance requirements of the specified product.
- 29
- 30 B. Will provide the same or better warranty for substitution as for specified product.
- 31
- 32 C. Will coordinate installation and make other changes, including relating to work of others,  
33 which may be required for the Work to be complete in all respects at no additional cost to the  
34 City.
- 35
- 36 D. Waives claims for additional costs and/or Contract time, which may subsequently become  
37 apparent.  
38

39 The City Architect then will evaluate whether or not the proposed material is equal in quality and  
40 utility to the material specified, make its recommendation to the Owner. Based on the City  
41 Architect's recommendation, and following discussion amongst the project team, the Owner will  
42 render a decision. If the request is not accepted, the Design-Builder shall provide the specified  
43 product.  
44

45 Section 11.07. Not Used

46

47 Section 11.08. Samples and Testing of Proposed Substitutions; Costs of Adapting to Work.

48 When the City's Representative or City Architect determines that samples and testing are required  
49 to evaluate a request for a substitution, the City's Representative shall so advise the Design-Builder,

1 and specify the materials or work to be sampled. The Design-Builder shall, at no cost to the City,  
2 provide samples as required by Article 9, dealing with samples and testing, or the technical  
3 specifications.

4  
5 The Design-Builder shall bear all costs of sampling and testing required to decide a request for  
6 substitution.

7  
8 Section 11.09. Effect of Approval of Substitution Request.

9 If the substitution request is approved, the Design-Builder shall be solely and directly responsible for  
10 setting substituted materials and/or equipment into the available space, and for the proper operation  
11 of the substituted equipment with all other equipment with which it may be associated, all in a  
12 manner acceptable to the City.

13  
14 Neither time extensions nor any increases in the Contract Sum shall be granted on account of a  
15 substitution. In the event of a savings, the Contract Sum shall be adjusted by the price difference  
16 between the substitution and the originally specified item.

17  
18 Section 11.10. Quality of Materials and Products.

19 The Design-Builder shall, if required by the City Architect, Project Inspector, or City's  
20 Representative, furnish satisfactory evidence as to the kind and quality of materials provided.

21  
22 The City's Representative may require, and the Design-Builder shall submit if required, a list  
23 designating the source of supply of each item of materials incorporated into the Work, and in such  
24 event, those materials or products shall not be delivered to the Site or incorporated therein until after  
25 the City's Representative has approved the list.

26 The Design-Builder shall certify that the materials and equipment installed comply with the  
27 Construction Documents and to the best of the Design-Builder's knowledge, no installed materials  
28 or equipment contain asbestos.

29  
30 Section 11.11. Better Material or Process.

31 In the event that the Design-Builder furnishes a material, product, process, or article better than that  
32 specified in the Construction Documents, the difference in cost of that material, product, process, or  
33 article shall be borne by the Design-Builder.

34  
35 Section 11.12. Industry Standards.

36 Any material specified by reference to the number, symbol, or title of a specified standard such as a  
37 Commercial Standard, a Federal Specification, a Trade Association Standard, or other similar  
38 standard, shall comply with the requirements in the latest revision thereof, including any  
39 amendments or supplements thereto, in effect on the effective date of the Design-Build Agreement,  
40 except as limited to type, class, or grade, or modified in that reference

41  
42 Section 11.13. Original Packages or Containers; Labels.

43 All materials delivered to the Site shall be new, unless otherwise specified, of the type, capacity, and  
44 quality specified, and free from defects. All materials shall remain in their original packages or  
45 containers until ready for use. The labels of all packages or containers shall remain affixed, and  
46 kept legible. No product shall be stored in any container, the label of which does not accurately  
47 describe the contents of the container.

1 Section 11.14. Providing and Paying for Materials.

2 Except as otherwise specifically stated in the Contract Documents, the Design-Builder shall provide  
3 and pay for all materials, products, articles, processes, labor, tools, equipment, and installation, and  
4 all associated superintendence of every nature whatsoever necessary to execute and complete the  
5 Work within the Contract Time.

6

7 Section 11.15. Warranty of Title.

8 No material, article, product, supplies, or equipment for the Work shall be subject to any chattel  
9 mortgage, or a conditional sale or other agreement by which an interest therein or in any part  
10 thereof is retained by the seller or supplier.

11

12 The Design-Builder warrants good and sufficient title to all material, supplies, and equipment  
13 installed or incorporated in the Work, and agrees upon completion of the Work to deliver the  
14 premises, together with all improvements and appurtenances, constructed or placed thereon by the  
15 Design-Builder, to City, free from any claims, liens, or charges.

16

17 The Design-Builder agrees that neither it nor any person, firm, or Design-Builder furnishing any  
18 materials or labor for any work covered by this contract shall have any right to a lien upon the  
19 premises or any improvement or appurtenances thereon; provided, however, that nothing contained  
20 in this Section shall defeat or impair the rights of persons furnishing materials or labor under the  
21 payment bond given by the Design-Builder, nor any rights under any law permitting such persons to  
22 look to funds due to the Design-Builder but retained by City.

23

24 The Design-Builder shall cause the substance of these provisions to be included in all subcontracts  
25 and material contracts executed by the Design-Builder and notice of this provision shall be given to  
26 all persons furnishing materials for the Work.

27

28 This Section shall not disallow the Design-Builder's installing any devices or equipment of utility  
29 companies or of governmental agencies, the title to which is commonly retained by the utility  
30 company or the agency.

31

32 Section 11.16. Patents and Royalties.

33 The Design-Builder and its sureties shall protect, indemnify and hold harmless the City, the City's  
34 Representative, the Project Inspector, the City Architect, and its consultants and each of their  
35 respective officers, agents, and employees against any and all demands made for such fees or  
36 claims and against any and all suits, demands, claims or causes of action brought or made by the  
37 holder of any invention, patent, copyright, or trademark, or arising from any alleged infringement of  
38 any invention, patent, copyright, or trademark by the Design-Builder in the course of its performance  
39 under this Design-Build Agreement.

40

41 Section 11.17. Payment of Federal or State Taxes.

42 Any federal, state or local tax, specifically including sales and use taxes, payable on materials  
43 furnished by the Design-Builder pursuant to the Contract Documents shall be paid by the Design-  
44 Builder.

45

1 **ARTICLE 12. PROGRESS PAYMENTS**

2  
3 Section 12.01. Schedule of Values.

4 Within ten (10) days of the Effective Date of the Design-Build Agreement, the Design-Builder shall  
5 submit to the City's Representative a schedule of values for the Project. The schedule of values  
6 must be prepared in sufficient detail and supported by data to substantiate its accuracy as the City  
7 Representative and the City may require. This schedule, when approved, shall be used as a basis  
8 for the Design-Builder's applications for payment, and the approved schedule of values is an  
9 express condition precedent to processing the Design-Builder's payment application(s).

10  
11 In no event shall an individual line item for construction phase services on the schedule of values  
12 exceed five percent of the Contract Sum unless so approved by the City's Representative in  
13 advance. Labor, material and subcontract costs shall be shown separately. Cost of Contract  
14 closeout shall be shown as individual line items, including, but not limited to, closeout documents,  
15 punchlist, and as-built documentation. Each of these line items shall be no less than three (3)  
16 percent of the total Contract Sum.

17  
18 Section 12.02. Application for Payment.

19 A. Prior to the date for each progress payment review established in the Preconstruction  
20 Meeting, the Design-Builder shall submit to the City Representative a copy of the schedule of  
21 values, marked in pencil to show the percentage of completion proposed by the Design-  
22 Builder for each line item. No extension of dollar amounts is required.

23  
24 B. At a meeting held on or before the assigned billing date of each month, the City  
25 Representative, City Architect, Project Inspector, and the Design-Builder will review the  
26 Design-Builder's proposed percentages of completion and agree on a final percentage to be  
27 paid for that month. The progress payment will be based on the estimated percentage  
28 complete. No progress payment will be made unless all general conditions items  
29 demonstrate satisfactory progress. Upon agreement of the amount due, the Design-Builder  
30 will prepare a hard copy of the Application of Payment Summary and transmit it to the City  
31 Representative for processing by the assigned day of each month.

32  
33 C. Release of Liens: For each monthly application for payment, following agreement on  
34 percentages of completion, the Design-Builder shall submit a conditional lien release in the  
35 form set forth in California Civil Code section 8132 warranting that title to all work, labor,  
36 materials and equipment covered by the application is free and clear of all liens, claims,  
37 security interests or encumbrances. Additionally, the Contractor shall submit unconditional  
38 lien releases in the form set forth in California Civil Code section 8134 for all work through the  
39 prior progress payment. For final payment, the Design-Builder and all of its Subcontractors  
40 and material suppliers shall submit final conditional and final unconditional lien releases in  
41 the forms set forth in California Civil Code sections 8136 and 8138.

42  
43 D. The signing of a certificate of payment will constitute a representation by the City  
44 Representative, Project Inspector and the City Architect to the City that, based on their  
45 observations and the data comprising the application for payment, the Work has progressed  
46 to the point indicated and that, to the best of their knowledge, information and belief, the  
47 quality of the Work is in accordance with the Contract Documents (subject to any specific  
48 qualifications stated in the certificate for payment); and that the Design-Builder is entitled to  
49 payment in the amount certified. However, by signing a certificate for payment, the City

1 Representative, Project Inspector and the City Architect shall not thereby be deemed to  
2 represent that any of them has made exhaustive or continuous on site inspections to check  
3 the quality or quantity of the work, that any of them has reviewed the construction means,  
4 methods, techniques, sequences or procedures, or that either has made an examination to  
5 ascertain how or for what purpose the Design-Builder has used the monies previously paid  
6 on account of the Contract Sum.  
7

- 8 E. No progress payment will be released until City Representative has received all of the  
9 following items in acceptable form: as-built updates, schedule updates, certified payroll and  
10 other pay records if requested by the City, and lien releases.  
11

12 Section 12.03. Payment for Stored Materials.

13 Payments may be made by the City, at its discretion, for materials or equipment not incorporated in  
14 the Work but delivered to the Site and suitably stored by the Design-Builder. Payments for  
15 materials or equipment stored shall only be considered upon submission by the Design-Builder of  
16 satisfactory evidence demonstrating that it has acquired title to such material, that the material will  
17 be used in the Work, that it is satisfactorily stored, protected and insured, and that the Design-  
18 Builder has undertaken such other procedures satisfactory to the City Representative, Project  
19 Inspector, and City Architect, to protect the City's interests. Materials stored off-site, to be  
20 considered for payment, shall, in addition to the above requirements, be stored in a bonded  
21 warehouse, fully insured, and available to the City Architect and City Representative for inspection.  
22 The City Representative shall have complete discretion as to the amount of material and equipment  
23 that may be stored on the Site at any given time.  
24

25 Section 12.04. Payment; Retention.

26 There shall be reserved from the monies earned by the Design-Builder on estimates a sum equal to  
27 five percent of such estimates. It is understood that, if payment requests are made in accordance  
28 with established time schedule, payment requests received and approved by City will be processed  
29 within thirty (30) days following approval. Payment for Change Orders, if any, under this Contract  
30 shall be made in like manner.  
31

32 Section 12.05. Posting Securities in Lieu of Withholds.

33 Pursuant to Public Contract Code Section 22300, at the request and expense of the Design-Builder,  
34 securities equivalent to the amount withheld pursuant to Section 12.04 shall be deposited with the  
35 City, State Treasurer or with a state or federally chartered bank in California as the escrow agent,  
36 who shall then pay the retainage to the Design-Builder. Upon satisfactory completion of the  
37 Contract, the securities shall be returned to the Design-Builder.  
38

39 Alternatively the Design-Builder may request, pursuant to Public Contract Code Section 22300, and  
40 the City shall make payment of retentions under Section 12.04 directly to the escrow agent. The  
41 Design-Builder shall receive the interest earned on the investments upon the same terms provided  
42 for in Section 22300 for securities deposited by the Design-Builder. Upon satisfactory completion of  
43 the Contract, the Design-Builder shall receive from the escrow agent all securities, interest and  
44 payments received by the escrow agent from the City.  
45

46 Either alternative under this Section may be exercised only if requested in writing by the Design-  
47 Builder within five (5) days after the City's execution of the Design-Build agreement. The Design-  
48 Builder shall notify its Subcontractors in writing within fifteen (15) days of exercising this option.

49 Securities eligible for investment under this Section shall include those listed in Government Code

1 Section 16430 or bank or savings and loan certificates of deposit, interest-bearing demand deposit  
2 accounts, stand by letters of credit, or any other security mutually agreed to by the Design-Builder  
3 and the City.  
4

5 The Design-Builder shall be the beneficial owner of any securities substituted for monies withheld  
6 and shall receive any interest thereon.  
7

8 Section 12.06. Withholding Additional Amounts; Grounds.

9 In addition to the amounts which the City may retain as provided in Section 12.04, the City may  
10 withhold a sufficient amount from any payment or payments otherwise due to the Design-Builder as  
11 in the City's sole discretion may be necessary to protect the City in the event of the following:  
12

- 13 A. Third party claims filed or reasonable evidence indicating probable filing of such claims;
- 14 B. Defective work not remedied;
- 15 C. Failure of the Design-Builder to make proper payments to any of its Subcontractors or for  
16 labor, materials or equipment;
- 17 D. The occurrence of reasonable doubt that the Contract can be completed for the balance of  
18 payments then unpaid to the Design-Builder, or in the time remaining until expiration of the  
19 Contract Time;
- 20 E. Failure of the Design-Builder to comply with any lawful or proper direction concerning the  
21 Work given by any City representative authorized to have given such instruction;
- 22 F. Claims and/or penalties which state law assesses against the Design-Builder for violation of  
23 such law;
- 24 G. Any claim or penalty asserted against the City by virtue of the Design-Builder's failure to  
25 comply with the provisions of all governing laws, ordinances, regulations, rules, and orders;
- 26 H. Any liquidated damages which may accrue as a result of the Design-Builder's progress failing  
27 to meet the schedule milestones or failing to achieve completion within the Contract Time.
- 28 I. Any reason specified elsewhere in the Contract Documents as grounds for a retention or that  
29 would legally entitle the City to a set off.  
30

31 To adequately protect the City, the Design-Builder agrees that the basic standard to determine the  
32 amount to be withheld pursuant to this Section shall be one hundred fifty percent (150%) of the  
33 amounts claimed or the value of the work not done or defectively done; provided, however, that City  
34 reserves the authority to retain greater sums should such sums be necessary in the City's discretion  
35 to adequately protect it.  
36

37 Section 12.07. Disbursement of Withheld Amounts.

38 The City, in its sole discretion, may apply any withheld amount or amounts to the payment of any  
39 claim resulting in a withhold. The Design-Builder agrees and hereby designates the City as its  
40 agent for such purposes, and any payment so made by the City shall be considered as a payment  
41 made under this Contract by the City to the Design-Builder. The City shall not be liable to the  
42 Design-Builder for any payments made in good faith. Such payments may be made without a prior  
43 judicial determination of the claim or claims. The City shall render to the Design-Builder a proper  
44 accounting of any funds disbursed on behalf of the Design-Builder.  
45  
46

1 Prior to disbursing any amounts, City shall afford the Design-Builder an opportunity to present good  
2 cause, if any it has, why the claim or claims in issue are not valid or just claims against the Design-  
3 Builder. The City reserves the right then to take such further steps as are appropriate, in its sole  
4 discretion, including, but not limited to, seeking a judicial resolution of the controversy.  
5

6 Section 12.08. Correction of Statement and Withholding of Payment.

7 No inaccuracy or error in any statement provided by the Design-Builder shall operate to release the  
8 Design-Builder or any surety from the error, or from damages arising from such work, or from any  
9 obligation imposed by the Contract Documents. The City shall retain the right subsequently to  
10 correct any error made in any previously issued claim for the progress or other payment, or payment  
11 of any kind issued, by adjustments to subsequent payments.  
12

13 Section 12.09. Effect of Progress Payments.

14 Neither the payment, the withholding, nor the retention of all or any portion of any progress payment  
15 claimed to be due and owing to the Design-Builder shall operate in any way to relieve the Design-  
16 Builder from its obligations under this Contract Documents. Except to the extent provided otherwise  
17 in the Design-Build Agreement or applicable law, in the event of a City default, the Design-Builder  
18 shall continue diligently to prosecute the Work without reference to the payment, withhold, or  
19 retention of any progress payment. Except as provided in the Design-Build Agreement or applicable  
20 law, the payment, withhold, or retention of any progress payment shall not be grounds for an  
21 extension of the Contract Time.  
22  
23  
24



1 **ARTICLE 13. TIME OF WORK**

2  
3 Section 13.01. Construction Schedule Development.

4 Within ten days (10) days of the Effective Date of the Design-Build Agreement, the Design-Builder  
5 shall submit to the City's Representative a detailed proposed Construction Schedule for the Project.  
6 The detailed proposed Construction Schedule shall present an orderly and realistic plan for  
7 completion of the Work, in conformance with the requirements of this Article.

8  
9 The Contract Schedule shall furnish and comply with the following requirements:

- 10  
11 A. A time scaled CPM type schedule prepared in MS Project Software or as otherwise  
12 approved by the City. Submit the PS project schedule electronically (pdf, tiff or jpeg format  
13 not acceptable)- and hard copy format
- 14  
15 B. No activity on the schedule shall have a duration longer than fourteen (14) days, with the  
16 exception of fabrication and procurement activities, unless otherwise approved by the City  
17 Representative. Activity durations shall be the total number of actual days required to  
18 perform that activity including consideration of weather impact on completion of that  
19 activity.
- 20  
21 C. Procurement of major equipment, through receipt and inspection at the job site, identified  
22 as a separate activity.
- 23  
24 D. Owner furnished materials and equipment if any, identified as separate activities.
- 25  
26 E. Dependencies (or relationships) between activities.
- 27  
28 F. Processing/approval of submittals and shop drawings for major equipment. Activities that  
29 are dependent on submittal acceptance and/or material delivery shall not be scheduled to  
30 start earlier than the expected acceptance or delivery dates.
- 31  
32 G. Separate buildings and other independent project elements shall be individually identified in  
33 the network.
- 34  
35 H. Fourteen (14) days for developing punch list(s), completion of punch list items, and final  
36 clean-up for the work or any designated portion thereof. No other activities shall be  
37 scheduled during this period.
- 38  
39 I. Interface with the work of other Contractors (or entities).

40  
41 No unspecified milestones, contractor-designated Constraints, Float suppression techniques, or  
42 use-of-Activity durations, logic ties and/or sequences deemed unreasonable by the City  
43 Representative shall be used in the Construction Schedule.

44  
45 The Design-Builder shall submit the reports and the number of copies as required under Section  
46 13.05 of these General Construction Terms and Conditions.

47  
48 The City Representative will review the proposed Construction Schedule for conformance with the  
49 requirements of the Contract Documents. Within ten (10) days after receipt, the City's

1 Representative will accept the Construction Schedule or will return it with comments. If the  
2 proposed Construction Schedule is not accepted, the Design-Builder shall revise the schedule to  
3 incorporate comments and become the Construction Schedule. The Design-Builder shall have the  
4 right to modify the schedule to alter sequences or durations of work in the interests of the Project  
5 provided it gives timely notice to the City of such modifications. The City shall have the right to  
6 reasonably object to any modifications. In the event of such objection by the City, the Design-  
7 Builder will not make the modification(s).

8  
9 An accepted Construction Schedule, as referenced above, shall be incorporated into the Project  
10 Schedule developed under the Design-Build Agreement and be the basis for evaluating  
11 construction job progress and for Owner planning purposes. The responsibility for developing the  
12 Project and Construction Schedules and monitoring actual progress as compared to the Project  
13 Schedule rests with the Design-Builder. The Project Schedule shall be the basis for evaluating  
14 time extension requests.

15  
16 Failure of either the Project Schedule or the Construction Schedule to include any element of the  
17 Work or any inaccuracy in either Schedule will not relieve the Design-Builder from responsibility  
18 for accomplishing all the Work in accordance with the Contract Documents.

19  
20 Acceptance of the Project Schedule and/or the Construction Schedule will not relieve the Design-  
21 Builder of the responsibility for accomplishing the Work in accordance with the Contract  
22 Documents.

23  
24 Section 13.02. Not Used.

25  
26 Section 13.03. Monthly Updates.

27 The Design-Builder shall submit to the City's Representative each month an up-to-date status  
28 report of the Work. The status report shall include:

- 29
- 30 A. The Design-Builder's estimated percentage complete and remaining duration for each  
31 activity not yet complete.
  - 32
  - 33 B. Actual start/finish dates for activities as appropriate.
  - 34
  - 35 C. Identification of processing errors, if any on the previous update reports.
  - 36
  - 37 D. Revisions, if any, to the assumed activity durations including revisions for weather impact  
38 for any activities due to the effect of the previous update on the schedule.
  - 39
  - 40 E. Best efforts to identify activities that are affected by Proposed Change Orders issued during  
41 the update period. The parties recognize that depending on the nature, amount, or timing of  
42 changes this may be difficult to accomplish..
  - 43
  - 44 F. Best efforts to resolve any conflicts between actual work progress and schedule logic.  
45 When out of sequence activities develop in the Construction Schedule because of actual  
46 construction progress, the Design-Builder shall submit revision to schedule logic to conform  
47 to current status and direction. The parties recognize that depending on the nature,  
48 amount, or timing of changes this may be difficult to accomplish.
  - 49

1 The Project Schedule shall be updated monthly throughout the entire Project performance period  
2 until Project completion is achieved.

3  
4 The City's Representative will review the updated information and meet with the Design-Builder  
5 each month at the Site to determine the status of the Work. If agreement cannot be reached on  
6 any issue, the Design-Builder will use the City Architect's determination in the processing of the  
7 update.

8  
9 No progress payments will be made without the required monthly update of the Project Schedule.

10  
11 Section 13.04. Schedule Revisions.

12 If the sequence of construction differs significantly, as determined by the City's Representative,  
13 from the Construction Schedule, the Design-Builder shall submit within fifteen (15) days a revised  
14 schedule to the City's Representative for acceptance. The accepted updated Construction  
15 Schedule shall be incorporated into an updated Project Schedule and submitted to the City  
16 Representative. Updating the Construction Schedule to reflect actual progress shall not be  
17 considered revisions to the Construction Schedule.

18  
19 When a Proposed Change Order is issued which has the potential to impact specified completion  
20 dates, a revision shall be prepared by the Design-Builder to reflect the impact of such changes as  
21 expeditiously as is reasonably possible in light of the nature, quantity and timing of potential  
22 changes. The City's Representative will promptly review and act on the revision. Time extensions  
23 will be considered only to the extent there is insufficient remaining float to accommodate these  
24 changes, and pursuant to Article 14 of these General Conditions. No additional cost beyond that  
25 provided in Article 15 will be allowed for the incorporation of approved Proposed Change Orders  
26 into the Construction Schedule, except that, if City Initiated Changes, as defined and described in  
27 Section 15.02, exceed twelve percent (12%) of the Contract Sum, the Design-Builder shall be  
28 entitled to compensation for its added costs of updating and maintaining the schedule as a result of  
29 such changes. Such added costs must be properly substantiated by supporting data.

30  
31 Should the Design-Builder, after acceptance of the Construction Schedule, intend to change its  
32 plan of Construction, it shall submit its requested revisions to the City's Representative, along with  
33 a written statement of the revision, including a description of the logic for rescheduling the Work,  
34 methods of maintaining adherence to Intermediate milestones and other specific dates and the  
35 reasons for the revisions. If the requested changes are acceptable to the City's Representative,  
36 they will be incorporated into the Construction Schedule and the Project Schedule in the next  
37 reporting period.

38  
39 Schedule revisions shall be submitted at least seven (7) days prior to the date of submission of  
40 update information. The Owner will have seven (7) days to review the revisions.

41  
42 Section 13.05. Construction Schedule Report.

43 Together with the monthly schedule updates, the Design-Builder shall submit a report for the  
44 proposed Construction Schedule, Construction Schedule Updates, Construction Schedule  
45 Revisions and Recovery Schedules that outlines a clarification/explanation of items such that City  
46 is informed of the approach used to plan and sequence the work, coordinate with other  
47 contractors to the extent applicable, and resource and cost load the Construction Schedule. This  
48 narrative shall also address the following: (1) description of Work performed during the reporting  
49 period; (2) Description of the primary, secondary and tertiary Critical Paths; (3) description of the

1 Work anticipated to be performed during the next reporting period; (4) number of days  
2 ahead/behind the Completion Date; (5) discussion of the changes to the primary Critical Path  
3 since the prior month's update; (6) description of problem areas and anticipated problem areas;  
4 (7) current and anticipated delays including cause of delay, corrective actions taken, and impact of  
5 the delay on other activities, milestones, and completion dates; (8) the actual weather days used  
6 (9) pending items (change orders, requests for time extensions, etc) and status thereof.  
7

8 Section 13.06. Short Interval Schedules.

9 The Design-Builder shall prepare a Short Interval Schedule (SIS) to be used throughout the duration  
10 of Work. The SIS shall include all current activities and projected activities for the succeeding two  
11 (2) weeks. The SIS shall include actual start/finish dates for the preceding one (1) week and it shall  
12 be tied to the updated Construction Schedule. The SIS shall be submitted to the City's  
13 Representative prior to the weekly construction meeting. The Design-Builder shall participate in  
14 short interval scheduling coordination during the weekly construction meetings.  
15

16 Section 13.07. Time of Essence.

17 Time is of the essence. The Design-Builder shall, to the fullest extent possible, carry on the various  
18 classes or parts of the Work concurrently, and shall not defer construction of any portion of the Work  
19 in favor of any other portion of the Work, without the express approval of the City's Representative.  
20

21 Section 13.08 Date of Completion.

22 The Design-Builder shall fully and satisfactorily complete the Work within the Contract Time. The  
23 Date of Completion is set forth in the Design-Build Agreement.  
24

25 Section 13.09 Responsibility for Completion.

26 The Design-Builder shall furnish sufficient manpower, materials, facilities and equipment and shall  
27 work sufficient hours, including night shifts, overtime operations, Sundays and holidays as may be  
28 necessary to insure the prosecution and completion of the Work in accordance with the accepted  
29 Project Schedule. Unless there are excusable and/or compensable grounds for delay, if work on  
30 the critical path is seven (7) days or more behind the currently updated Project Schedule and it  
31 becomes apparent that the Work will not be completed within the Contract Time, the Design-Builder  
32 will implement whatever steps it deems necessary to make up all lost time. The City reserves the  
33 right to deny permission for extra work on days or nights where activities in Quarry Park may be  
34 impacted by the work. A denial of permission to work on certain weekend days or nights or certain  
35 hours will not excuse Design-Builder's lack of maintaining the schedule. If the Design-Builder's  
36 solution is not successful, it will make further attempts using the following sequence of events:  
37

38 A. Reschedule activities to achieve maximum practical concurrence of accomplishment of  
39 activities.  
40

41 B. If the above cannot be achieved then;  
42

- 43 1. The Design-Builder shall increase manpower in such quantities and crafts as will  
44 substantially eliminate, in the judgment of the City's Representative, the backlog of work;  
45 or increase the number of working hours, shifts per working day, working days per week  
46 or the amount of equipment or any combination of the foregoing sufficiently to  
47 substantially eliminate in the judgment of the City's Representative the backlog of work.  
48  
49

1 2. In addition, the City's Representative may require the Design-Builder to submit a recovery  
2 schedule demonstrating its program and proposed plan to make up a lag in scheduled  
3 progress and to ensure completion of the Work within the Contract Time. If the City's  
4 Representative finds the proposed recovery schedule unacceptable, it may require the  
5 Design-Builder to submit a new plan. If the actions taken by the Design-Builder or the  
6 second plan proposed are unsatisfactory, the City's Representative may require the  
7 Design-Builder to take any of the actions set forth in the previous paragraph without  
8 additional cost to the City to make up the lag in scheduled progress.  
9

10 Float, the amount of time an activity can be delayed without affecting the Completion Date, is  
11 considered a project commodity jointly shared between City and Design-Builder and shall be used in  
12 the best interest of completing the Project on time by the party who needs it first.  
13

14 Failure of the Design-Builder to comply with the requirements of this Section 13.09 shall be  
15 considered grounds for a determination by the City, pursuant to the Design-Build Agreement and  
16 these General Construction Terms and Conditions, that the Design-Builder is failing to prosecute the  
17 Work with such diligence as will ensure its completion within the time specified.  
18

19 Section 13.10. Daily Reports.

20 No less than on a weekly basis, the Design-Builder's superintendent shall submit to the City  
21 Representative daily reports on the City's furnished form. If the Design-Builder enters the daily  
22 reports electronically, then the Design-Builder shall place the daily report in a 'locked' status, on a  
23 weekly basis, such that it may no longer be modified. The daily reports shall include, without  
24 limitation, the identity of subcontractors on the Site; an accurate headcount of workers on the Site;  
25 materials and equipment delivered to the Site; visitors to the Site; and any problems encountered.  
26  
27



1 the Design-Builder's Contingency. An increase in the Contract Sum shall be based only  
2 on the non-concurrent portion of any Compensable Delay.  
3

- 4 2. If an Inexcusable Delay occurs concurrently with either an Excusable Delay and/or a  
5 Compensable Delay, the maximum extension of the Contract Time shall be the number of  
6 days, if any, from commencement of the first Excusable and/or Compensable Delay to  
7 the cessation of the Excusable Delay and/or the Compensable Delay. For the  
8 concurrency period, regardless of whether with an Excusable or Compensable Delay, the  
9 Design-Builder shall be entitled to an adjustment of the Contract Sum based on an  
10 adjustment of the General Conditions at the time of the contract extension based on  
11 actual General Conditions costs as allowed by the Contract Documents but not to exceed  
12 the daily rate of **One thousand five hundred dollars (\$1,500.00)** and not to include any  
13 delays between Substantial and Final Completion, which shall be a permitted use of the  
14 Design-Builder's Contingency but not an increase in the Contract Sum. An increase in the  
15 Contract Sum shall be based only on the non-concurrent portion of any Compensable  
16 Delay. The non-concurrent Inexcusable Delay will not entitle the Design-Builder to an  
17 extension of the Contract Time or an adjustment of the Contract Sum and subjects the  
18 Design-Builder to liquidated damages.  
19

20 Delays in the prosecution of parts or classes of the Work, which do not prevent or delay the  
21 completion of the whole Work within the Contract Time, are not Excusable or Compensable.  
22

23 Section 14.02. Notice of Delays; Requests for Time Extensions.

24 Whenever the Design-Builder foresees any delay in the prosecution of the Work, and in any event  
25 immediately upon the occurrence of any delay which the Design-Builder regards as good cause for  
26 an extension, the Design-Builder shall notify the City's Representative in writing of the delay. The  
27 notice shall specify with detail the cause asserted by the Design-Builder to constitute good cause for  
28 an extension and a quantification of the length of the requested extension of time together with a  
29 detailed schedule analysis showing the effect of the delay on the critical path of the Project  
30 Schedule and a quantification of the length of the requested extension of time. Failure of the  
31 Design-Builder to submit such a notice within fifteen (15) days after the initial occurrence of the  
32 event giving rise to the delay shall constitute a waiver by the Design-Builder of any entitlement to a  
33 time extension, as well as to any associated additional compensation, and no extension shall be  
34 granted as a consequence of such delay. The City shall have no obligation to consider any time  
35 extension request unless the requirements of the Contract Documents are complied with.  
36

37 The City shall consider and respond promptly to time extension requests that comply with the terms  
38 of the Design-Build Agreement and the Construction Documents. The City shall not be liable for  
39 any constructive acceleration due to failure to grant time extensions should the Design-Builder fail to  
40 comply with the requirements of the Construction Documents for time extension requests.  
41

42 Section 14.03. Investigation; Procedure.

43 Upon receipt of a request for extension, the City's Representative shall investigate facts asserted by  
44 the Design-Builder to constitute good cause for an extension. The City's Representative shall report  
45 the results of this investigation, as well as the propriety of the time extension requested, to the  
46 Design-Builder in writing within ten (10) days of receipt of the request and shall indicate whether it  
47 will recommend for or against the extension. Upon receiving the City's Representative's  
48 recommendation, the Design-Builder may either concur in the recommendation, or reject the  
49 recommendation and proceed with a claim as provided for in Article 23.

1 Section 14.04. Discretionary Time Extensions for Best Interest of City.

2 The City reserves the right to extend the time for completion of the Work if the City Council  
3 determines that such extension is in the best interest of the City. In the event that a discretionary  
4 extension is granted at the request of the Design-Builder, the City shall have the right to charge to  
5 the Design-Builder all or any part, as the City Council may deem proper, of the actual cost of project  
6 management, engineering, inspection, supervision, incidental and other overhead expenses that  
7 accrue during the period of the extension, and to deduct all or any portion of that amount from the  
8 final payment.

9  
10 In the event a discretionary time extension is ordered over the objection of the Design-Builder, and  
11 the decision rests solely with the City Council and is not legally compelled for any cause, the  
12 Design-Builder shall be entitled to a Change Order adjusting the price paid to reflect the actual costs  
13 incurred by the Design-Builder as a direct result of the delay, upon its written application therefore,  
14 accompanied with such verification of costs as the City's Representative requires. The decision of  
15 the City Council on any discretionary time extension and the costs thereof shall be final and binding  
16 on the City and the Design-Builder.

17  
18 Section 14.05. Liquidated Damages.

19 If the Work is not completed by the Design-Builder in the time specified in the Design-Build  
20 Agreement, or within any period of extension authorized pursuant to this Article, the Design-Builder  
21 acknowledges and admits that the City will suffer damage, and that it is impracticable and infeasible  
22 to fix the amount of actual damages. Therefore, it is agreed by and between the Design-Builder and  
23 the City that the Design-Builder shall pay to the City as fixed and Liquidated Damages, and not as a  
24 penalty, the sum specified in the Design-Build Agreement, and that both the Design-Builder and the  
25 Design-Builder's surety shall be liable for the total amount thereof, and that City may deduct  
26 Liquidated Damages from any monies due or that may become due to the Design-Builder.

27  
28 Pursuant to Government Code Section 4215, the Design-Builder shall not pay fixed and Liquidated  
29 Damages for delay in completing the Project caused by the failure of the City or the owner of utility  
30 facilities located on the Project Site to provide for removal or relocation of such facilities.

31  
32 Section 14.06. Extension of Time Not a Waiver.

33 Any extension of time granted the Design-Builder pursuant to this Article shall not constitute a  
34 waiver by the City of, nor a release of the Design-Builder from the Design-Builder's obligation to  
35 perform its Work in the time specified by the Design-Build Agreement, as modified by the particular  
36 extension in question.

37  
38 The City's decision to grant a time extension due to one circumstance set forth in one request, shall  
39 not be construed as a grant of an extension for any other circumstance or the same circumstance  
40 occurring at some other time, and shall not be viewed by the Design-Builder as a precedent for any  
41 other request for extension.

42  
43 Section 14.07. Effect of Stop Work Notice.

44 If the City issues a Stop Work Notice pursuant to Article 9, the days on which the suspension is in  
45 effect shall be included in determining the required completion date, and shall not otherwise modify  
46 or extend the time within which the Design-Builder is to perform. In such event, the Design-Builder  
47 shall not be entitled to any damages or compensation on account of such suspension or delay,  
48 unless the Design-Builder can establish that Stop Work Notice was not warranted.

49



1 **ARTICLE 15. CHANGES TO THE WORK**

2  
3 Section 15.01. No Changes Without Consent.

4 Subject to the Design-Builder's right to access the Contingencies and Allowances, Design-Builder  
5 will complete the Project for the Contract Sum, except as provided below. Design-Builder agrees,  
6 for itself and on behalf of its Subcontractors and Suppliers, that no increase in the Contract Sum will  
7 be made for work that Design-Builder or its Subcontractors and Suppliers might otherwise claim as  
8 a Change Order or extra work unless Design-Builder establishes that the additional cost is the result  
9 of one of the following:

- 10  
11 A. A material change in the scope of work directed or authorized by the City;
- 12  
13 B. A change required by regulatory authorities (including inspections) that was not  
14 reasonably ascertainable from the Contract Documents and not reasonably inferable from  
15 Design-Builder's or Subcontractor's knowledge of local practices or circumstances;
- 16  
17 C. Regulatory fees not included in the Contract Sum or excluded by the Contract  
18 Documents;
- 19  
20 D. Differing Site Conditions under Section 15.10;
- 21  
22 E. Whenever costs are more than or less than Allowances, if any, and the City's  
23 Contingency, the compensation shall be adjusted accordingly by Change Order, and the  
24 amount of the Change Order shall reflect the difference between actual costs and the  
25 Allowances and City's Contingency; or
- 26  
27 F. Wrongful acts of City or a separate contractor employed by City, or by damage to the  
28 Work caused by fire or other unavoidable casualties not the fault of the Design-Builder or  
29 Subcontractors or Suppliers.
- 30

31 Design-Builder further acknowledges that its contractual obligation to indemnify City extends to  
32 claims asserted by Subcontractors or Suppliers seeking compensation for alleged Change Orders  
33 or extra work for which City is not liable to Design-Builder as a result of these provisions. Subject to  
34 the provisions in Article 4 of the Design-Build Agreement, nothing in this section shall foreclose  
35 Design-Builder from access to the Design-Builder's Contingency for properly incurred Costs of the  
36 Work that are attributable to causes for which a Change Order is prohibited by this section.

37

38 No extra work shall be performed, and no change shall be made, except pursuant to a written  
39 Change Order or Proposed Change Order, signed by the City, or by a Directive (signed by either the  
40 City or the City's Representative) stating that the extra work or change is authorized, and no claim  
41 for any addition to the Contract Sum or Contract Time shall be valid unless so authorized; provided,  
42 however, that nothing in this Article shall excuse the Design-Builder from proceeding with the  
43 prosecution of the work so changed. The Design-Builder shall furnish an itemized breakdown of the  
44 quantities and prices used in computing the value of any change, including permitted uses of  
45 Contingencies and Allowances requested by the Design-Builder, or that may have been ordered by  
46 the City, including all items listed in Section 15.06 and 15.07, below.

47

1 Change Orders shall specify the cost adjustments associated therewith, and in no case shall the  
2 City pay or become liable to pay any sums different than those specified or those established under  
3 Section 15.06 and 15.07.

4  
5 Substitutions may be considered Construction Change Directives.

6  
7 Section 15.02. Change Orders.

8 The City may require changes in, additions to, or deductions from the Work to be performed or the  
9 materials to be furnished pursuant to the Construction Documents. Changes may be made  
10 pursuant to a written Change Order (signed by the City), which shall state the agreement of the City,  
11 the Design-Builder, and the Architect, to all of the following:

- 12 A. The scope of the change in the Work;
- 13 B. The amount of the adjustment in the Contract Sum, if any; and
- 14 C. The extent of the adjustment in the Contract Time, if any.

15  
16 The City may also issue unilateral Change Orders based upon a previously issued Directive.  
17 Unilateral Change Orders shall be approved by the City and the City Representative, but need not  
18 be signed by the Design-Builder.

19  
20 All adjustments to the Contract Sum or the Contract Time must be approved by the City Council, at  
21 its discretion, before being binding on the City.

22  
23 Signature by the Design-Builder on the Change Order constitutes its agreement with and  
24 acceptance of the adjustments in the Contract Sum and Contract Time, if any, set forth in the  
25 Change Order as full and complete satisfaction of any direct or indirect additional cost and/or time  
26 incurred by the Design-Builder in connection with performance of the change work.

27  
28 Section 15.03. Not Used.

29  
30 Section 15.04. Change Orders Regarding Time for Completion.

31 Any time extension authorized by the City pursuant to Article 14 hereof shall be set forth in a  
32 Change Order signed by the City.

33  
34 Section 15.05. Construction Change Directive/Directive.

35 Changes also may be made pursuant to a Directive, which shall direct a change in the Work and  
36 state a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. A  
37 Directive shall be used in the absence of total agreement on the terms of a Change Order, or when  
38 time does not permit processing of a Change Order prior to implementation of the change.  
39 Directives shall be approved by the City and the Architect, but need not be signed by the Design-  
40 Builder. Upon receipt of a Directive, the Design-Builder shall promptly proceed with the change in  
41 the Work involved. It is the intent of the City that all Directives will be converted to a Change Order.

42  
43 When a Directive is used because time does not permit processing of a Change Order prior to  
44 implementation of the change, signature by the Design-Builder on the Directive constitutes its  
45 agreement with and acceptance of the adjustments in the Contract Sum and Contract Time, if any,  
46 set forth in the Directive as full and complete satisfaction of any direct or indirect additional cost  
47 and/or time incurred by the Design-Builder in connection with performance of the changed work.

1 If the Design-Builder disagrees with the method for adjustment in the Contract Sum, the adjustment  
2 shall be determined by the City Representative on the basis of any of the methods described in  
3 Section 15.06A, Paragraphs 2, 3, or 4.  
4

5 Section 15.06. Pricing of Changes.

6 A. The following pricing methods shall apply to (1) permitted uses of any Contingency or  
7 Allowance or (2) any change order or Directive that provides for an adjustment to the  
8 Contract Sum:  
9

- 10 1. Mutual acceptance of a lump sum properly itemized and supported by sufficient  
11 substantiating data to permit evaluation;
- 12 2. Unit prices as mutually agreed upon;
- 13 3. The City Representative's estimate of the value of the change; or
- 14 4. A "cost plus" adjustment subject to the limitations in Section 15.08.  
15  
16  
17  
18

19 Section 15.07. Allowable Costs.

20 A. Allowable costs for any Change Order or permitted use of contingency or allowance shall be  
21 limited to the following:  
22

- 23 1. Costs of labor, including social security, Medicare and unemployment insurance, fringe  
24 benefits required pursuant to Article 7, and workers' compensation insurance;
- 25 2. Costs of first line supervision labor, including labor burden as described in Paragraph 1.  
26 "First Line Supervision" shall mean a working foreman or lead craft worker other than the  
27 project superintendent;
- 28 3. Actual cost of the project superintendent associated with any period of compensable  
29 delay caused by issuance of the Change Order. In the absence of a compensable delay,  
30 all of the project superintendent's time is considered to have been paid for as part of the  
31 Overhead;
- 32 4. Actual costs of materials, including sales tax and delivery;
- 33 5. Rental costs of machinery and equipment, exclusive of small tools, whether rented from  
34 the Design-Builder or others;
- 35 6. Overhead and Profit as specified below. "Overhead" shall include the following:  
36  
37  
38  
39  
40  
41

42 Preparation of all paperwork related to changes in the Work, including field review,  
43 estimating and cost breakdown; coordination and supervision, both office and field,  
44 including the project superintendent; vehicles including gas and maintenance; small tools,  
45 incidentals and consumables; engineering, detailing, and revisions to shop drawings and  
46 as-built drawings; general office and administrative expense; extended and unabsorbed  
47 home office overhead; warranty; costs of bonds, liability insurance, builder's risk  
48 insurance, all taxes; and all other expenses not specifically included in Paragraph A  
49 above.

- 1 B. For changes above the Contract Sum, the following markups shall apply: (1) the Design-  
2 Builder's combined Overhead and Profit for Work performed by its own forces shall be fifteen  
3 percent (15 %) of the costs specified in Section 15.07A (1)-(5); (2) if the changed Work is  
4 performed by a Subcontractor, the Subcontractor shall be entitled to an allowance of fifteen  
5 percent (15%) of its labor, material and rental costs for Overhead and Profit, and the Design-  
6 Builder shall be allowed to mark-up the Subcontractor's price ten percent (10%) for its  
7 Overhead and Profit. Cumulative total markup for all tiers of contractors and subcontractors  
8 shall not exceed twenty-five percent (25%).  
9
- 10 C. For permitted use of the Contingencies or Allowances included in the Contract Sum, the  
11 following markups apply: (1) the Design-Builder's combined Overhead and Profit for Work  
12 performed by its own forces shall be its actual fee as noted in its Proposal plus its actual  
13 percentage as noted in its Proposal of costs for bonds and insurance of the costs specified in  
14 Section 15.07 (1) – (5) unless previously paid; (2) If the changed Work is performed by a  
15 Subcontractor, the Subcontractor shall be entitled to an allowance of up to fifteen percent  
16 (15%) as determined by the Design-Builder, for its labor, material and rental costs for  
17 Overhead and Profit and the Design-Builder shall be allowed to markup the Subcontractor's  
18 price its actual fee as noted in its Proposal plus its actual percentage as noted in its Proposal  
19 of costs for bonds and insurance for its Overhead and Profit. Cumulative total markup for all  
20 tiers of contractors and subcontractors shall not exceed twenty two percent (22%).  
21
- 22 D. If the net value of a change results in a credit from the Design-Builder or subcontractor, the  
23 credit shall be the actual net cost. When both additions and credits covering related work or  
24 substitutions are involved in any one change, the allowance for Overhead and Profit shall be  
25 figured on the basis of the net increase or decrease, if any, with respect to the change.  
26

27 Section 15.08. Time and Materials Adjustment.

- 28 A. Record Keeping. In the event that the pricing method selected is the "time and materials"  
29 method described in Section 15.06A, Paragraph 4, the pricing shall be calculated using the  
30 formula and costs set forth in Section 15.07, except that time and material (T&M) labor rates  
31 shall be pre-approved by the City Representative for T&M work. The Design-Builder shall  
32 keep and present daily, in such form as the City Representative may prescribe, an itemized  
33 accounting together with appropriate invoices and other supporting data of the labor,  
34 materials, and equipment used during that day. All labor shall be recorded on separate time  
35 sheets clearly identified with the Directive number and scope of extra work involved. These  
36 time sheets shall be signed daily by the City's Representative. No costs will be allowed for  
37 time not recorded and signed the same day the work takes place. The Design-Builder and  
38 the City's Representative shall discuss and attempt to resolve any disputes concerning the  
39 Design-Builder's daily records at the time the report is submitted.  
40
- 41 B. Reconciliation. The Design-Builder shall on a monthly basis accompanying its progress  
42 payment submissions submit a reconciliation for all work performed under a cost plus  
43 Directive during the period of the progress payment. A final reconciliation shall be submitted  
44 within thirty (30) days after the work of the Directive is completed. The reconciliation shall  
45 recap all costs and appropriate markups for the period. No costs will be allowed for work not  
46 included in a reconciliation within the time periods specified.  
47

1 Section 15.09. Effect on Sureties.

2 All changes authorized by the Construction Documents may be made without notice to or consent of  
3 the sureties on the contract bonds, and shall not reduce the sureties' liability on the bonds.

4

5 The City may require additional payment or performance bonds to secure a Change Order.

6

7 Section 15.10. Differing Site Conditions.

8 If the Contract Documents require the digging of trenches or other excavations that extend deeper  
9 than four feet below the existing surface, the following provision shall apply to those trenches or  
10 excavations:

11

12 A. If any of the following described conditions is suspected to exist in the trench or excavation,  
13 the Design-Builder shall promptly, and before the condition is disturbed, notify the City's  
14 Representative, in writing, of any:

15

16 1. Material that the Design-Builder believes may be material that is hazardous waste, as  
17 defined in Section 25117 of the Health and Safety Code, that is required to be removed to  
18 a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

19

20 2. Subsurface or latent physical conditions at the Site differing materially from those  
21 indicated by information about the Site made available prior to the deadline for submitting  
22 proposals.

23

24 3. Unknown physical conditions at the Site of any unusual nature, differing materially from  
25 those ordinarily encountered and generally recognized as inherent in work of the  
26 character provided for in the Contract Documents.

27

28 B. Upon receipt of notice from the Design-Builder, the City's Representative, the City and the  
29 City Architect shall promptly investigate the conditions, and if it is determined that the  
30 conditions do materially so differ or do involve hazardous waste, and cause a decrease or  
31 increase in the Design-Builder's cost of, or the time required for, performance of any part of  
32 the work shall issue a Change Order or Directive under the procedures described in the  
33 Contract Documents.

34

35 C. If a dispute arises between the City and the Design-Builder as to whether the conditions  
36 materially differ, or involve hazardous waste, or cause a decrease or increase in the Design-  
37 Builder's cost of, or time required for, performance of any part of the Work, the Design-  
38 Builder shall not be excused from any scheduled completion date provided for by the  
39 Construction Documents, but shall proceed with all Work to be performed under the Contract  
40 Documents. The Design-Builder shall retain any and all rights provided either by the  
41 Contract Documents or by law, which pertain to the resolution of disputes and protests  
42 between the contracting parties.

43

44 D. No cost or time adjustment, which results in a benefit to the Design-Builder, will be allowed  
45 unless the Design-Builder has provided the required written notice under Paragraph A of  
46 this Section 15.10.

47

48 E. Nothing in these provisions relieves the Design-Builder of its design obligations, including,  
49 without limitation, for geotechnical work. All such design obligations must be performed

1 according to the professional standard of care stated in the Design-Build Agreement. In the  
2 event the Design-Builder makes a claim for differing site conditions, and as a condition to  
3 such claim, the Design-Builder will be required to establish that its design work related to the  
4 site, subsurface conditions and geotechnical conditions, did not fall below the standard of  
5 care.

6  
7 F. No cost or time adjustment will be allowed under the provisions specified in this Section for  
8 any effects caused on unchanged work.  
9

10 As between the Design-Builder and the City, the City is responsible for the timely removal,  
11 relocation, or protection of existing main or trunkline utility facilities located on the Site if such utilities  
12 are not identified in the Plans and Specifications, provided the failure to locate such facilities on the  
13 Plans and Specifications is not due to Design-Builder's services following below the standard of  
14 care and/or could not reasonably be assumed to be a component of the existing Site. If the Design-  
15 Builder, while performing its work, discovers utility facilities not identified in the Plans or  
16 Specifications, it shall immediately notify the City and the associated utility in writing. Thereafter,  
17 and provided it has given such notice, the Design-Builder shall be entitled to an adjustment of the  
18 Contract Sum and an extension of the Contract Time, in accordance with Articles 14 and 15 of these  
19 General Construction Terms and Conditions, for the costs of locating, repairing damage not due to  
20 the failure of the Design-Builder to exercise reasonable care, and removing or relocating such utility  
21 facilities not indicated in the Plans and Specifications with reasonable accuracy, and for equipment  
22 on the project necessarily idled during such work when such costs and time are caused by the  
23 failure of the City or the owner of the utility to provide for removal or relocation of such utility  
24 facilities. Notwithstanding anything to the contrary herein, the City is not required to indicate the  
25 presence of existing service laterals or appurtenances whenever the presence of such utilities on  
26 the Site can be inferred from the presence of other visible facilities, such as buildings, meter and  
27 junction boxes, on or adjacent to the Site. Nothing herein shall preclude the City from pursuing any  
28 appropriate remedy against the utility for delays which are the responsibility of the utility.  
29  
30

1  
2  
3  
4

**ARTICLE 16. NOT USED**

1           **ARTICLE 17. REJECTION AND REPLACEMENT OF WORK AND MATERIALS**

2  
3   Section 17.01. Rejection of Materials and Workmanship.

4   The City shall have the right to reject materials and workmanship, which are determined, by the  
5   City's Representative or the Project Inspector to be defective or fail to comply with the Contract  
6   Documents. Rejected workmanship shall be corrected to the satisfaction of the City and/or City  
7   Architect, and rejected materials shall be removed from the premises and replaced, all without  
8   added cost or time to the City.

9  
10   If the Design-Builder does not correct such rejected work and/or materials within a reasonable time,  
11   fixed by the City's Representative or the City Architect in a written notice to the Design-Builder, the  
12   City may correct the same and charge the expense to the Design-Builder, and deduct such expense  
13   from the next payment otherwise payable to the Design-Builder.

14  
15   If the City determines that it is in its best interest not to correct defective workmanship and/or  
16   materials, or work not done in accordance with the Contract Documents, the Design-Builder agrees  
17   that an equitable deduction from the Contract Sum shall be made therefore.

18  
19   Section 17.02. Correction of Work.

20   The Design-Builder shall promptly correct all work rejected by the City's Representative, Project  
21   Inspector or the City Architect as defective or as failing to conform to the Construction Documents,  
22   whether observed before or after Final Completion and whether or not fabricated, installed or  
23   completed. The Design-Builder shall bear all costs of correcting such rejected work including  
24   compensation for the City Architect's, Project Inspector's and the City's Representative's additional  
25   services.

26  
27   If within **two (2) years** after the Date of Completion and acceptance of the Work or within such  
28   longer period of time as may be prescribed by law or by the terms of any applicable special warranty  
29   required by the Contract Documents, any of the Work is found to be defective or not in accordance  
30   with the Contract Documents, the Design-Builder shall correct any or all such work, together with  
31   any other work which may be displaced in so doing, without expense to the City, promptly after  
32   receipt of a written notice from the City unless the City has previously given the Design-Builder a  
33   written acceptance of such condition. The City shall issue a correction notice promptly after  
34   discovering the condition. The Design-Builder shall notify the City upon completion of repairs. This  
35   obligation shall survive termination of the Design-Build Agreement with respect to work in place prior  
36   to termination.

37  
38   The Design-Builder shall bear the cost of making good work destroyed or damaged by such  
39   correction or removal.

40  
41   Nothing contained in this Section shall be construed to establish a period of limitation with respect to  
42   any other obligations which the Design-Builder might have under the Construction Documents or by  
43   operation of law. The establishment of the time period of two (2) years after the Date of Completion,  
44   or such longer period of time as may be prescribed by law or by the terms of any warranty required  
45   by the Construction Documents, relates only to the specific obligation of the Design-Builder to  
46   correct the Work and has no relationship to the time within which an action may be commenced to  
47   establish the Design-Builder's liability with respect to its obligations other than specifically to correct  
48   the work.



1 **ARTICLE 18. CITY’S RIGHT TO TERMINATE CONTRACT**

2  
3 Section 18.01. Termination by the City for Convenience.

4 The City may at any time and for any reason, terminate, in whole or in part, the Design-Builder's  
5 Work at the City’s convenience. Termination shall be by written notice to the Design-Builder.  
6 Upon receipt of such notice, the Design-Builder shall, unless the notice directs otherwise,  
7 immediately discontinue its work and the placing of orders for materials, facilities and supplies in  
8 connection therewith, and shall, if requested, make every reasonable effort to procure cancellation  
9 of all existing orders or contracts upon terms satisfactory to the City, or at the option of the City,  
10 the City shall have the right to assume those obligations directly, including all benefits to be  
11 derived there from. The Design-Builder hereby assigns to the City all of its interest in said orders  
12 and/or contracts, and the assignment of said orders and/or contracts shall be effective upon notice  
13 of acceptance by the City in writing, and only as to those orders and/or contracts which the City  
14 designates in writing. Following receipt of notice of termination, the Design-Builder shall thereafter  
15 do only such work as may be necessary to preserve and protect portions of its work already in  
16 progress and to protect materials and equipment on or in transit to the Project.

17  
18 Upon such termination, the Design-Builder shall be entitled to payment only as follows: (1) the  
19 Design-Builder’s direct, actual cost of the Work allocable to the portion of the Work completed in  
20 conformity with the Contract, but in no event to exceed the amount of the Contract Sum allocable  
21 to the portion of the Work completed in conformity with the Contract; plus (2) previously unpaid  
22 costs of any items delivered to the Project Site which were fabricated for subsequent incorporation  
23 in the Work, but in no event to exceed the portion of the Contract Sum allocable to said items; plus  
24 (3) an allowance of ten percent (10%) of the foregoing costs for the Design-Builder's overhead  
25 and profit; plus (4) any proven losses with respect to materials and equipment directly resulting  
26 from the termination; plus (5) reasonable demobilization costs. The costs referred to in this section  
27 shall be calculated and documented as required for a change order under Article 15 of the  
28 General Conditions, except that mark-up for overhead and profit shall be only as allowed by this  
29 section. There shall be deducted from such sums the amount of any payments made to the  
30 Design-Builder prior to the date of the termination of this Contract. The Design-Builder shall not be  
31 entitled to any claim or claim of lien against the City for any additional compensation or damages  
32 in the event of such termination and payment beyond that provided for in this Section.

33  
34 In connection with any termination for convenience, the Design-Builder shall allow the City, City  
35 Representative or any authorized representative(s) to inspect, audit, or reproduce any records to  
36 the extent necessary for the City or City Representative to evaluate and verify the costs incurred  
37 by the Design-Builder in performing the Work, including direct and indirect costs such as overhead  
38 allocations. The Design-Builder will make this material available upon 48-hours’ written notice  
39 from the City or City Representative. The City and City Representative may inspect and copy,  
40 from time to time and at reasonable times and places, any and all information, materials and data  
41 of every kind and character (hard copy, as well as computer readable data if it exists), including  
42 without limitation, books, papers, documents, subscriptions, recordings, estimates, price  
43 quotations, agreements, purchase orders, leases, contracts, commitments, arrangements, notes,  
44 daily diaries, superintendent reports, drawings, receipts, vouchers, monthly, quarterly, yearly or  
45 other financial statements, and any and all other information or documentation that may, in the  
46 judgment of the City or City Representative, have any bearing on or pertain to any matters, rights,  
47 duties, or obligations under or covered by the Contract Documents. Such records shall include  
48 but not be limited to, the following: accounting records, payroll records, job cost reports, job cost  
49 history, margin analysis, written policies and procedures, subcontract files (contracts,

1 correspondence, change order files, including documentation covering negotiated settlements),  
2 back charge logs and supporting documentation, general ledger entries detailing cash and trade  
3 discounts earned, insurance rebates and dividends, and any other documents customarily  
4 maintained by contractors performing work on public works projects or that the City or City  
5 Representative otherwise deem necessary to substantiate charges related to a termination.  
6

7 If this Contract is terminated for default under Section 18.02 and if it is later determined that the  
8 default was wrongful, such default termination automatically shall be converted to and treated as a  
9 termination for convenience under this section. In such event, the Design-Builder shall be entitled  
10 to receive only the amounts payable under this section, and the Design-Builder specifically waives  
11 any claim for any other amounts or damages, including any claim for consequential damages or  
12 lost profits.  
13

14 Section 18.02. Termination by the City for Cause.

15 The City may terminate the Contract and/or the Design-Builder's right to proceed with the Work,  
16 pursuant to the provisions of this Article, for the following causes:  
17

- 18 A. The Design-Builder is insolvent or has made a general assignment for the benefit of  
19 creditors, or a receiver has been appointed due to the insolvency of the Design-Builder.
- 20
- 21 B. The Design-Builder or any of its Subcontractors violate any of the material provisions of the  
22 Contract Documents or fail to perform the work within the time specified in the current  
23 Contract Schedule.
- 24
- 25 C. The Design-Builder or any of its Subcontractors should fail to make prompt payment to  
26 Subcontractors or material suppliers for material or for labor as required by statute.  
27
- 28 D. The Design-Builder or a Subcontractor persistently disregards laws, ordinances, or the  
29 instructions of the City Representative, City Architect or the City.
- 30
- 31 E. The Design-Builder fails to abide by a stop work notice issued pursuant to Article 9 or fails to  
32 correct rejected work or materials as required by Article 17.
- 33
- 34 F. The Design-Builder fails to provide and keep in full force and effect all insurance required by  
35 the Contract Documents 3, or fails to cause all Subcontractors to so comply.
- 36
- 37 G. The Design-Builder fails to supply sufficient properly-skilled workers or proper materials.
- 38
- 39 H. The Design-Builder commits any substantial violation of the terms and conditions of the  
40 Contract Documents which the City, in its sole discretion, finds to be a material breach of the  
41 Contract.  
42

43 Section 18.03. Procedure for Termination for Cause.

44 The City may, without prejudice to any other right or remedy, give written notice to the Design-  
45 Builder and its surety or sureties of its intention to terminate the Contract and/or the Design-Builder's  
46 right to proceed with the Work.  
47

48 Unless within seven (7) days of the delivery of such notice, the Design-Builder shall cease such  
49 violation and make satisfactory arrangements for a correction thereof, which arrangements are set

1 forth in a written agreement signed by the Design-Builder and the City, the Design-Builder's right to  
2 complete the Work shall cease and terminate.  
3

4 In the event of any such termination, the City shall immediately give written notice thereof to the  
5 surety and to the Design-Builder and the surety shall have the rights and obligations set forth in the  
6 performance bond. If the City is forced to take over the Work, it may prosecute the same to  
7 completion by contract or by any other method it may deem advisable, for the account and at the  
8 expense of the Design-Builder, and the Design-Builder and its sureties shall be liable to the City for  
9 any excess costs, including management, supervision, and design support, occasioned thereby. In  
10 such event, the City may, without liability, take possession of and utilize in completing the Work, the  
11 Design-Builder's materials whether stored at the Site or elsewhere, that are necessary for  
12 completion. The Design-Builder hereby assigns to the City all of its interest in orders and/or  
13 contracts existing at the time of termination. The assignment of said orders and/or contracts shall  
14 be effective upon notice of acceptance by the City in writing, and only as to those orders and/or  
15 contracts which the City designates in writing. Whenever the Design-Builder's right to proceed is  
16 terminated, the Design-Builder shall not be entitled to receive any further payment until the Work is  
17 finished and shall be liable to the City for liquidated damages for all periods of time from such  
18 termination date until the Date of Substantial Completion, as well as for all losses incurred by the  
19 City in completing the Work.  
20

21 Section 18.04. Option in Event of a Loss.

22 In the event that any destruction or loss should exceed twenty percent (20%) of the value of the  
23 construction completed to date, as determined at the end of the preceding month, or is due to an  
24 "Act of God," the City shall have the option, at its sole discretion, to terminate this Contract.  
25

26 Section 18.05. Provisions for Termination of Contract.

27 This Contract is subject to termination as provided by Sections 4410 and 4411 of the Government  
28 Code, being portions of the Emergency Termination of Public Contracts Act of 1949.  
29

30 Section 18.06. Survival of Obligations.

31 No termination of this Contract or of the Design-Builder's right to proceed with the Work shall  
32 excuse or otherwise relieve the Design-Builder of its responsibilities under the Contract Documents  
33 with respect to any Work performed prior to the date of termination, including, without limitation, its  
34 obligation to perform the Work in a good and workmanlike manner, free of defects, and in  
35 accordance with the Contract Documents, its warranty obligations with respect to the Work, and its  
36 obligation to make all payments due. All of the Design-Builder's responsibilities under the Contract  
37 Documents with respect to Work performed prior to the date of termination survive any termination.  
38

39 Section 18.07. Termination After Contract Time.

40 In addition to any rights it may have, the City may terminate this Contract or the Design-Builder's  
41 right to proceed with the Work at any time after the Contract Time, as adjusted by any extensions of  
42 time that the City may have granted.  
43

44 Upon such termination, in addition to the Design-Builder's obligations under Section 18.06 and the  
45 other provisions of the Contract Documents, the Design-Builder shall not be entitled to receive any  
46 compensation for services rendered before or after such termination until the Work is completed,  
47 and the Design-Builder shall be liable to the City for liquidated damages for all periods of time from  
48 the Contract Time, adjusted by any extensions of time that the City may have granted, until the date  
49 of Substantial Completion, as well as for all losses incurred by the City in completing the Work.  
50

1 **ARTICLE 19. PRESERVATION AND CLEANING**

2  
3 Section 19.01. Periodic Cleaning of Project.

4 The Design-Builder shall properly clean its Work and the Site, and maintain its Work area in an  
5 orderly manner. The Design-Builder shall remove all dirt, debris, waste, rubbish, and implements of  
6 service from the Project, the adjacent sidewalks and streets, and the working area daily or as  
7 directed by the City's Representative. Debris, waste, or unused construction materials shall not be  
8 left under, in, or about the Project, nor allowed to accumulate on the Site or in the working area.  
9

10 The Design-Builder, at its sole cost, shall contract with a disposal company to remove all rubbish,  
11 and shall have the refuse containers emptied at frequent enough intervals so that waste does not  
12 overflow the containers.  
13

14 If the Design-Builder fails to clean up during progress or upon completion of the Work, the City may,  
15 at the Design-Builder's expense and reduce the amount of the Contract Sum, including any  
16 payment(s) due or to become due, accordingly.  
17

18 Section 19.02. Final Cleaning of Project.

19 Prior to final acceptance, the Design-Builder shall thoroughly clean the interior and exterior of the  
20 buildings, and the Site and adjacent areas, of all material related to its performance of the Work,  
21 including spots, stains, paint spots, trade markings and labels, and accumulated dust and dirt. In  
22 the event the Design-Builder fails to do so, the City may cause this work to be done at the Design-  
23 Builder's expense and reduce the amount of the Contract Sum, including any payment(s) due or to  
24 become due, accordingly.  
25

26 The following list is not inclusive but to act as a guideline to include:  
27

- 28 A. Removal of all paint spots, stains, rubbish, debris, tools and equipment from all areas and  
29 broom clean. Steam clean all carpets and mop floors.
- 30
- 31 B. Cleaning interior and exterior of the buildings including all windows in any area affected by  
32 the Work.
- 33
- 34 C. Brush off, broom sweep, dust and clean ledges, stairs, doors, hardware, chalk board trays  
35 and any adjoining rooms or areas that were affected by the Work.
- 36
- 37 D. The Design-Builder shall clear grounds and exterior paved areas and walks of all  
38 construction debris, dirt and dust and shall repair any Site areas damaged during the  
39 course of construction.  
40

41 Prior to Final Completion or Owner occupancy, the Design-Builder shall conduct an inspection of  
42 sight-exposed surfaces, and all work areas, to verify that the entire work is clean. In the event the  
43 Design-Builder fails to do so, the City may cause this work to be done at the Design-Builder's  
44 expense and reduce the amount of the Contract Sum, including any payment(s) due or to become  
45 due, accordingly.  
46  
47  
48

1                   **ARTICLE 20. COMPLETION, INSPECTION, AND OCCUPANCY BY CITY**  
2

3 Section 20.01. Inspection.

4 When the Design-Builder believes that its Work is complete, it shall request in writing a final  
5 inspection. Before calling for final inspection, the Design-Builder shall determine that the following  
6 work has been performed:

- 7
- 8       A. General construction has been completed.
- 9       B. Mechanical and electrical work complete, fixtures and portables, in place, connected and  
10       ready for tryout and test.
- 11       C. Electrical circuits scheduled in panels and disconnect switches labeled.
- 12       D. Painting and special finishes complete.
- 13       E. Grounds cleared of Design-Builder's equipment, raked clean of debris, and trash removed  
14       from the Site.
- 15       F. All constructed areas and equipment cleaned, free of stains, scratches, and other foreign  
16       matter, replacement of damaged and broken material.
- 17

18 Final inspection will be made upon written notification from the Design-Builder to City that the Work  
19 has been completed. The Design-Builder shall receive a list (punch list) of items found unacceptable  
20 and shall promptly correct them. Upon written notification from the Design-Builder that all punch list  
21 items have been corrected, re-inspection for final acceptance of the Project will be made. Failure of  
22 the Design-Builder to complete punch list items will necessitate further re-inspection. Costs of  
23 re-inspection will be deducted from any amounts due to the Design-Builder.  
24

25 Section 20.02. Use of Work Prior to Acceptance.

26 Whenever, in the opinion of the City, the Work or any part thereof, is in a condition suitable for use,  
27 and the best interests of the City require such use, the City may take possession of, connect to, and  
28 open for public or City use that portion of the Work. The City shall provide Design-Builder  
29 reasonable notice of such possession or use. The City and the eventual Adventure Park Operator  
30 may have reasonable access to the site at reasonable times for training, inspection and other  
31 reasons consistent with eventual operation of the Adventure Park.  
32

33 Section 20.03. Repairs or Renewal in the Work.

34 Prior to the Date of Completion, the Design-Builder shall make all repairs or renewals in the portion  
35 of the Work occupied pursuant to Section 20.02 made necessary due to defective material or  
36 workmanship, or the operations of the Design-Builder, ordinary wear and tear accepted.  
37

38 Section 20.04. Effect of Occupancy.

39 The City's occupancy as contemplated in this Article shall not constitute acceptance by the City of  
40 the Work or any part thereof. Such use shall neither relieve the Design-Builder of any of its  
41 responsibilities under the Construction Documents, nor act as a waiver by the City of any of the  
42 terms or conditions of the Construction Documents. Except as provided in Article 10 of Exhibit D,  
43 any damage done by the City is the responsibility of the City and the Design-Builder shall not be  
44 required to continue to maintain builder's risk insurance for any facilities occupied by the City under  
45 this Article before completion of all of the Work.  
46

1 Section 20.05. Coordination with Other Activities.

2 The Design-Builder shall conduct its operations so as not to interfere unreasonably with the City's  
3 use of the occupied portions of the Site. The Design-Builder shall submit periodic schedules to the  
4 City's Representative proposing the times, areas, and types of work to be done within such areas.

5  
6 If the Work produces conditions rendering the occupied portions of building, the Site, or other areas  
7 uninhabitable, either because of noise, dust, vibration, smoke, fumes, or for any other cause  
8 whatsoever, the City's Representative may suspend the Work or request the Design-Builder to  
9 modify the Construction Schedule, and the Design-Builder shall comply.

10  
11 If the City takes occupancy pursuant to Section 20.02 it shall not unreasonably interfere with the  
12 Design-Builder's ability to complete its work in a timely and efficient manner.

13  
14 Except as provided by Change Order, the Design-Builder shall not be entitled to a time extension or  
15 increase in the Contract Sum by virtue of conflicts between the Design-Builder's work and the City's  
16 occupancy.

17

1 **ARTICLE 21. PROJECT CLOSEOUT**

2  
3 Section 21.01. Design-Builder's Certificate of Completion.

4 When the Design-Builder determines that the Project is complete and all items on the punch list  
5 have been satisfied, the Design-Builder shall submit a Certificate of Completion to the City's  
6 Representative.

7  
8 Section 21.02. Additional Submissions.

9 Simultaneously with the Design-Builder's Certificate of Completion, the Design-Builder shall submit  
10 the following items to the City's Representative:

11  
12 A. As-built drawing information pursuant to Section 5.02.

13  
14 B. Two (2) sets of documentation completely covering the operation and maintenance of the  
15 mechanical and electrical installation, elevators, kitchen equipment, and all other equipment  
16 required by the technical specifications to be furnished with such manuals. The documentation  
17 shall include charts, diagrams, performance curves, catalog information, lubrication manuals,  
18 and details pertaining to the functioning of various items of equipment. The documentation shall  
19 be divided logically into "systems" on the basis of operation, without respect to trades,  
20 subcontractors or arbitrary specifications sections. The relationship of the "systems" shall be  
21 clearly and concisely detailed.

22  
23 C. Hazardous material documentation if required.

24  
25 D. Any extra stock material and equipment and manufacturer warranties/guarantees as required  
26 by the contract documents.

27  
28 E. Other items as required in the Contract Documents.

29  
30 Section 21.03. Final Payment Process.

31 Upon approval of the submittals required by this Article and receipt of the Contractor's final payment  
32 application, and upon verification that all of the Work is complete, including all punch list items, the  
33 City Representative shall either (1) recommend to the City that the payment application be  
34 accepted, which recommendation shall be made within five (5) business days of receipt of the  
35 Design-Builder's final payment application, or (2) send a notice to the Design-Builder rejecting the  
36 payment application, stating the basis therefor, and submitting a written estimate of the sum due to  
37 the Design-Builder, which written estimate shall be provided to the Design-Builder within twenty (20)  
38 calendar days of the City Representative's receipt of the Design-Builder's final payment application.  
39 The City Representative's estimate shall take into account the Contract Sum, as adjusted by any  
40 Change Orders; amounts already paid; and sums to be retained for incomplete work, liquidated  
41 damages, and for any other cause under the Contract Documents. Any protest by the Design-  
42 Builder of the City Representative's estimate shall be as set forth in Section 21.04 and Article 23.

43  
44 The City's Representative shall prepare a statement of final inspection, stating that the Work has  
45 been given a final inspection, that the Design-Builder has submitted the required documents, setting  
46 forth with detail any deviations in the Work as completed from the Contract Documents, and  
47 estimating the cost of correction of such deviations.

1 The City Representative's statement shall be transmitted to the City along with the Design-Builder's  
2 application for final payment approved by the City Representative and Project Inspector. The City  
3 Representative shall provide a copy of the statement of final inspection to the Design-Builder.  
4

5 Section 21.04. Protest of the City Representative's Estimate; Claims.

6 If the Design-Builder contests the estimate of sums due prepared by the City Representative, the  
7 Design-Builder may file a claim in writing with the City Representative pursuant to the requirements  
8 of Article 23 and setting forth in detail all grounds alleged by the Design-Builder to justify an  
9 adjustment to the City Representative's estimate. The Design-Builder's claim shall be certified  
10 under penalty of perjury and in compliance with the California False Claims Act. Failure to include  
11 these required certifications will constitute grounds for immediate rejection of the claim.  
12

13 Failure to file a timely claim shall constitute a waiver and acceptance by the Design-Builder of the  
14 City Representative's estimate, which shall then become final and be forwarded to the City for  
15 approval of payment.  
16

17 Section 21.05. Completion; Acceptance of Contract; Notice of Completion.

18 The Design-Builder acknowledges and agrees that completion shall mean the Design-Builder's  
19 complete performance of all Work required by the Contract Documents, amendments, Change  
20 Orders, Construction Change Directives and punch lists, and the City's formal acceptance of the  
21 Work, without regard to prior occupancy, substantial completion doctrine, beneficial occupancy or  
22 otherwise.  
23

24 Acceptance of the Work shall be made only by formal acceptance by the City. Recordation of a  
25 Notice of Completion shall be in the manner prescribed by law, provided that the Work shall then be  
26 fully and satisfactorily completed and the provisions of the Contract Documents fully and  
27 satisfactorily performed in all respects.  
28

29 Section 21.06. Approval of Final Payment.

30 Following acceptance of the Work, the City shall authorize final payment to the Design-Builder of the  
31 undisputed sums found due, subject to retentions for stop payment notices as provided in Section  
32 21.07 below. This final payment shall be made within sixty (60) days after completion, as defined in  
33 Section 21.05 above, and recordation of the Notice of Completion.  
34

35 Section 21.07. Withholding for Stop Notices.

36 The City may, in its sole discretion, and at any time, withhold from the Design-Builder any unpaid  
37 claims alleged in stop payment notices filed pursuant to the California Civil Code. The City reserves  
38 all remedies it may have in the event of a stop payment notice dispute. The basic standard to  
39 determine a sufficient withholding in the event of a stop payment notice shall be one hundred fifty  
40 percent (150%) of the total of all stop payment notices filed; provided, however, the City reserves  
41 the right to withhold different or greater sums in its discretion.  
42

43 Section 21.08. Non-Waiver.

44 Neither acceptance of, nor payment for, the Work or any part thereof, nor any extension of time, nor  
45 any possession taken by City shall operate as a waiver of any of the provisions of this Contract, nor  
46 shall a waiver of any breach of this Contract be held to be a waiver of any other or subsequent  
47 breach. In addition, recordation of a Notice of Completion shall not be deemed an acceptance of  
48 latent defects, nor shall it constitute a waiver of any of the provisions of this agreement.  
49



1 **ARTICLE 22. GUARANTEES**

2  
3 Section 22.01. Guarantee Required.

4 Neither the final payment nor any provision in the Contract Documents shall relieve the Design-  
5 Builder of responsibility for any faulty Work under the Contract Documents. The Design-Builder  
6 shall and does unconditionally guaranty the quality and adequacy of all of Work provided under the  
7 Contract Documents including, without limitation, all labor, materials and equipment provided by the  
8 Design-Builder and its Subcontractors (of all tiers) in connection with the Work and hereby agrees,  
9 immediately upon receiving notification from City, to remedy, repair or replace, without cost to City,  
10 all defects which may appear as a result of any faulty Work in the Project, at any time, or from time  
11 to time, during a period beginning with commencement of the Project and ending **two (2) years**  
12 after the Notice of Completion date for the Project. The foregoing warranty of the Design-Builder  
13 applies to the remedy, repair or replacement of defects which may appear as a result of faulty  
14 designs prepared by the Design-Builder and/or any party retained by, through or under the Design-  
15 Builder in connection with the Project, but the foregoing warranty of Design-Builder does not  
16 guarantee against damage to the Project sustained by lack of normal maintenance or as a result of  
17 changes or additions to the Project made or done by parties not directly responsible to the Design-  
18 Builder, except where such changes or additions to the Project are made in accordance with the  
19 Design-Builder's directions. No guarantee furnished by a party other than the Design-Builder with  
20 respect to equipment manufactured or supplied by such party shall relieve the Design-Builder from  
21 the foregoing warranty obligation of the Design-Builder. The warranty period set forth hereinabove  
22 shall not apply to latent defects appearing in the Project, and with respect to such defects, the  
23 applicable statute of limitations shall apply.

24  
25 In the event of failure of the Design-Builder to comply with above mentioned conditions within one  
26 (1) week after being notified in writing, the City is hereby authorized to proceed to have defects  
27 repaired and made good at expense of the Design-Builder who hereby agrees to pay reasonable  
28 costs and charges therefore immediately on demand.

29  
30 If, in the opinion of the City, defective work creates a dangerous condition or requires immediate  
31 correction or attention to prevent further loss to the City, the City will attempt to give the notice  
32 required by this Article. If the Design-Builder cannot be contacted or does not comply with the City's  
33 requirements for correction within a reasonable time as determined by the City, the City may,  
34 notwithstanding the provisions of this Article, proceed to make such correction and the reasonable  
35 cost shall be charged against the Design-Builder. Such action by the City will not relieve the Design-  
36 Builder of the guarantee provided in this Article or elsewhere in the Design-Build Agreement and/or  
37 Construction Documents.

38  
39 This Article does not in any way limit the guarantee on any items for which a longer guarantee is  
40 specified or on any items for which a manufacturer gives a guarantee for a longer period. The  
41 Design-Builder shall furnish City all appropriate guarantee and warranty certificates upon completion  
42 of the Project.

43  
44 The guarantee period for corrected defective work shall continue for a duration equivalent to the  
45 original guarantee period.

46  
47 The guarantee is in addition to, and not in lieu of, the City's rights under the Design-Build  
48 Agreement, these General Conditions and/or the Contract Documents.

1 **ARTICLE 23. CLAIMS AND DISPUTES**

2  
3 Claims shall be subject to the requirements of Public Contract Code sections 20104 *et seq.* and  
4 9204. A summary of those provisions is set forth below. A waiver of the rights granted by the  
5 referenced statutes is void and contrary to public policy, provided, however, that (1) upon receipt of  
6 a Claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the  
7 commencement of a civil action or binding arbitration, as applicable; and (2) the City may prescribe  
8 reasonable change order, claim, and dispute resolution procedures and requirements in addition to  
9 the statutory requirements, so long as the contractual provisions do not conflict with or otherwise  
10 impair the statutory timeframes and procedures. To the extent that the summary below is  
11 inconsistent with any requirement of those statutes, the statutes shall control. The terms below are  
12 intended to be consistent with the governing statutes, and any modifications shall be understood as  
13 lawful modifications or additions to the statutory requirements if at all possible.

14  
15 Section 23.01. Definitions.

16 "Claim" means a separate demand by Design-Builder sent by registered mail or certified mail with  
17 return receipt requested, for one or more of the following:

- 18  
19 (A) a time extension, including, without limitation, for relief from damages or penalties for  
20 delay assessed by a public entity under a contract for a public works project.  
21  
22 (B) payment by the public entity of money or damages arising from work done by, or on  
23 behalf of, Design-Builder pursuant to the contract for a public works project and payment for  
24 which is not otherwise expressly provided or to which the claimant is not otherwise entitled.  
25  
26 (C) payment of an amount that is disputed by the City.

27  
28 "Mediation" means any nonbinding process, including, but not limited to, neutral evaluation or a  
29 dispute review board, in which an independent third party or board assists the parties in dispute  
30 resolution through negotiation or by issuance of an evaluation.

31  
32 "Public works contract" or "public works project" means the erection, construction, alteration, repair,  
33 or improvement of any public structure, building, road, or other public improvement of any kind.

34  
35 "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with  
36 Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract  
37 with the Design-Builder or is a lower tier subcontractor.

38  
39 Section 23.02. Claims Procedure.

40 All Claims under the Agreement shall be resolved using the following procedure.

- 41  
42 23.02.01 The Claim shall be in writing and include the documents necessary to substantiate the  
43 Claim. Claims must be filed on or before the date of final payment, except that the  
44 Claim must be submitted no later than thirty (30) days from the date of the City  
45 Representative's estimate of sums due. Any Claim shall be certified under penalty of  
46 perjury and in compliance with the California False Claims Act, as set forth in Section  
47 23.03 below. Failure to include these required certifications will constitute grounds for  
48 immediate rejection of the Claim and shall be deemed a waiver and absolute bar of  
49 the Claim, including any right to pursue the Claim further.

- 1 23.02.02 If a Subcontractor, including a lower tier Subcontractor, lacks legal standing to assert  
2 a Claim against the City because privity of contract does not exist, then the Design-  
3 Builder may present a Claim on behalf of such a Subcontractor. A first-tier  
4 Subcontractor may request in writing, either on its own behalf or on behalf of a lower  
5 tier Subcontractor, that the Design-Builder present a Claim on behalf of the  
6 Subcontractor for work that was performed by the Subcontractor. The Subcontractor  
7 requesting that the claim be presented shall furnish reasonable documentation to  
8 support the Claim. Within 45 days of receipt of this written request, the Design-Builder  
9 shall notify the Subcontractor in writing as to whether the Design-Builder presented  
10 the Claim and, if the Design-Builder did not present the Claim, provide the  
11 Subcontractor with a statement of the reasons for not having done so.  
12
- 13 23.02.03 Upon receipt of a Claim, the City shall conduct a reasonable review of the Claim.  
14 Within 30 days of receipt of the Claim, the City may request, in writing, any additional  
15 documentation supporting the Claim or relating to defenses to the Claim that the City  
16 may have against the claimant. Where additional information is requested by the City,  
17 the time in which the City must respond to a Claim shall be tolled until all requested  
18 information is provided. If additional information is thereafter required, then it shall be  
19 requested and provided upon mutual agreement of the City and the claimant.  
20
- 21 23.02.04 Within 45 days of receipt of the Claim, as that time may be tolled as provided in  
22 Section 23.02.03 above, the City shall provide the claimant with a written statement  
23 identifying what portion of the Claim is disputed and what portion is undisputed. Upon  
24 receipt of a Claim, the City and the Design-Builder may, by mutual agreement, extend  
25 the time period for a response. Failure by the City to respond to a Claim within the  
26 time periods described herein shall result in the Claim being deemed rejected in its  
27 entirety. A Claim that is denied by failure of the City to respond shall not constitute an  
28 adverse finding with regard to the merits of the Claim or the responsibility or  
29 qualifications of the claimant.  
30
- 31 23.02.05 Any payment due on an undisputed portion of the Claim shall be processed and made  
32 within 60 days after the City issues its written statement. The City shall not fail to pay  
33 money as to any portion of a claim which is undisputed except as otherwise provided  
34 in the Agreement.  
35
- 36 23.02.06 If the claimant disputes the City's written response, or the City fails to respond within  
37 the time prescribed, the claimant may so notify the City, in writing, either within 15  
38 days of receipt of the City's response or within 15 days of the City's failure to respond  
39 within the time prescribed, respectively, and demand an informal conference to meet  
40 and confer for settlement of the issues in dispute. Upon receipt of a demand, sent by  
41 registered mail or certified mail, return receipt requested, the City shall schedule a  
42 meet and confer conference within 30 days for settlement of the dispute.  
43
- 44 23.02.07 Within 10 business days following the conclusion of the meet and confer conference, if  
45 the Claim or any portion of the Claim remains in dispute, then the City shall provide  
46 the claimant a written statement identifying the portion of the Claim that remains in  
47 dispute and the portion that is undisputed. Failure by the City to provide the written  
48 statement within the time periods described herein shall result in the remaining Claim  
49 issues being deemed rejected in their entirety. Denial by failure of the City to respond

1 shall not constitute an adverse finding with regard to the merits of the remaining Claim  
2 issues or the responsibility or qualifications of the claimant. Any payment due on an  
3 undisputed portion of the Claim shall be processed and made within 60 days after the  
4 City issues its written statement.  
5

6 23.02.08 Any remaining disputed portion of the Claim following the meet and confer conference  
7 shall be submitted to nonbinding mediation, with the City and the claimant sharing the  
8 associated costs equally. The City and claimant shall mutually agree to a mediator  
9 within 10 business days after the disputed portion of the Claim has been identified in  
10 writing. If the parties cannot agree upon a mediator, each party shall select a mediator  
11 and those mediators shall select a qualified neutral third party to mediate with regard  
12 to the disputed portion of the Claim. Each party shall bear the fees and costs charged  
13 by its respective mediator in connection with the selection of the neutral mediator.  
14 Unless otherwise agreed to by the City and the Design-Builder in writing, the  
15 mediation conducted pursuant to this Section shall excuse any further obligation under  
16 Public Contract Code Section 20104.4 to mediate after litigation has been  
17 commenced. This Section does not preclude arbitration if mediation under this  
18 Section does not resolve the parties' dispute.  
19

20 23.02.09 If mediation is unsuccessful, then the claimant may file a claim as provided in Chapter  
21 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of  
22 Part 3 of Division 3.6 of Title 1 of the Government Code with respect to the parts of the  
23 Claim remaining in dispute. For purposes of those provisions, the running of the  
24 period of time within which a claim must be filed shall be tolled from the time the  
25 claimant submits his or her written Claim pursuant to Section 23.02.01 until the time  
26 that mediation of disputed portions of that Claim is completed. This Section does not  
27 apply to tort claims, and nothing in this Section is intended nor shall be construed to  
28 change the time periods for filing tort claims or actions specified by Chapter 1  
29 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part  
30 3 of Division 3.6 of Title 1 of the Government Code.  
31

32 23.02.10 Amounts not paid in a timely manner as required by this Section shall bear interest at  
33 seven percent (7%) per year.  
34

35 23.02.11 Claims of \$375,000 or less are subject to the following procedures for civil actions filed  
36 to resolve the claims:  
37

38 (a) The case shall be submitted to judicial arbitration pursuant to Chapter 2.5  
39 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure,  
40 notwithstanding Section 1141.11 of that code. The Civil Discovery Act (Title 4  
41 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure) shall  
42 apply to any such proceeding, consistent with rules pertaining to judicial arbitration.  
43

44 (b) The parties stipulate that the arbitrator shall be experienced in construction law  
45 and shall be paid necessary and reasonable hourly rates of pay not to exceed their  
46 customary rate, and such fees and expenses shall be paid equally by the parties,  
47 except in the case of arbitration where the arbitrator, for good cause, determines a  
48 different division. In no event shall these fees or expenses be paid by state or county  
49 funds.

1 (c) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of  
2 Part 3 of the Code of Civil Procedure, any party who, after receiving an arbitration  
3 award, requests a trial *de novo* but does not obtain a more favorable judgment shall,  
4 in addition to payment of costs and fees under that chapter, pay the attorneys' fees of  
5 the other party arising out of trial *de novo*.  
6

7 (d) The court may, upon request by any party, order any witnesses to participate in  
8 arbitration process.  
9

10 Any suit filed under Public Contract Code section 20104.4 shall be venued in Placer County.

11  
12 In any suit filed under Public Contract Code section 20104.4, the City shall pay interest at the legal  
13 rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is  
14 filed in a court of law.  
15

16 Section 23.03. Claim Certification.

17 Design-Builder acknowledges that it has read and is familiar with the provisions of the False Claims  
18 Act (California Government Code sections 12650 *et seq.*). Submission by Design-Builder of any  
19 claim (as the term "claim" is defined in False Claims Act) to the City in connection with the Project,  
20 whether on its behalf or on behalf of a Subcontractor or material supplier, shall constitute a  
21 representation by Design-Builder to the City that submission of the claim does not in any respect,  
22 violate the False Claims Act. Any party with an interest in the claim, including Design-Builder and  
23 any Subcontractor or material supplier, shall certify under penalty of perjury the validity and  
24 accuracy of any claim submitted to the City, as provided below. Compliance with this claims  
25 certification requirement shall be a condition precedent to any obligation City might otherwise have  
26 to review the claim, and failure to provide such certification shall constitute a waiver of the claim.  
27 The claim certification required by this section shall provide as follows:  
28

29 CLAIM CERTIFICATION  
30

31 Under penalty of perjury, and with reference to the California False Claims Act, Government  
32 Code sections 12650 *et seq.*, I certify that submission of the attached claim is made in good faith;  
33 that the supporting data prepared by the undersigned company are accurate and complete to the  
34 best of my knowledge and belief; that submission of the claim to the City does not violate the False  
35 Claims Act; and that I am duly authorized to certify the claim on behalf of the claimant.

36 Dated: \_\_\_\_\_

37 Company \_\_\_\_\_

38  
39 Signature \_\_\_\_\_

40  
41 Title \_\_\_\_\_  
42

43 Section 23.04. Continuance of Work.

44 In the event of a dispute between the parties as to performance of the Work or the interpretation of  
45 the Contract Documents, or payment or nonpayment for Work performed or not performed, the  
46 parties shall attempt to resolve the dispute. Pending resolution of this dispute, the Design-Builder  
47 agrees to continue the Work diligently to completion. If the dispute is not resolved, the Design-  
48 Builder agrees it will neither rescind the Design-Build Agreement, nor stop the progress of the  
49 Work on the Project.  
50

1 **ARTICLE 24. ADDITIONAL PROVISIONS**

2  
3 Section 24.01. Conflict of Interest.

4  
5 The City has adopted Conflicts Guidelines as required by Public Contract Code section 22162, a  
6 copy of which is attached and incorporated herein by reference. Design-Builder shall assure  
7 compliance with the Conflicts guidelines at all times during the Project.  
8

9 No official of the City who is authorized on behalf of the City to negotiate, make, accept, or approve,  
10 any architectural, engineering, inspection, construction, or materials supply contract, or any  
11 subcontract in connection with the design and/or construction of the Project, or any land acquisition  
12 in connection with the Project, shall become directly or indirectly interested personally in the contract  
13 or in any part thereof.  
14

15 No officer, employee, architect, attorney, consultant, engineer, or inspector of or for the City who is  
16 authorized on behalf of the City to exercise any executive, supervisory, or other similar function in  
17 connection with the Construction of the Project shall become directly or indirectly interested  
18 personally in the contract or any part thereof.  
19

20 Section 24.02. No Oral Agreements.

21 No oral agreement or conversation with any officer, agent, or employee of the City, either before,  
22 during, or after the execution of the Design-Build Agreement shall affect or modify any term or  
23 condition contained in the Contract Documents, nor shall such oral agreement or conversation  
24 entitle the Design-Builder to any additional payment or time to perform under the terms thereof.  
25

26 Section 24.03. Anti-Trust Assignment.

27 By execution of the Design-Build Agreements, or any Subcontract awarded by the Design-Builder,  
28 the Design-Builder or any Subcontractor offers and agrees to assign and hereby does assign to the  
29 City all rights, title, and interest in and to all causes of action the Design-Builder or Subcontractor  
30 may have under Section 4 of the Clayton Act (15 USC section 15) or under the Cartwright Act  
31 (Chapter 2 of Part 2 of Division 7 of the Business and Professions Code, commencing with Section  
32 16700), arising from purchases of goods, services, or materials pursuant to the Contract Documents  
33 or subcontract. This assignment shall be made and shall become effective at the time the City  
34 tenders final payment to the Design-Builder, without further acknowledgement by the parties.  
35

36 Section 24.04. Design-Builder Not Agent, Nor Employee.

37 Neither the Design-Builder nor any Subcontractor, or any officer, agent, or employee of either, is,  
38 nor shall they represent themselves to be, an officer, agent, or employee of the City for any purpose  
39 whatsoever. No person employed by the Design-Builder, or by any subcontractors, are, nor shall  
40 they be construed to be in any manner or for any purpose whatsoever, employees of the City.  
41

42 Section 24.05. Access to Records.

43 The City or the City's Authorized Representative shall have access, upon reasonable notice, during  
44 normal business hours, to any books, contracts, documents, accounting records, papers, project  
45 correspondence, project files, scheduling information and other relevant records of the Design-  
46 Builder and all subcontractors directly or indirectly pertinent to the Work, original as well as change  
47 and claimed extra work, to verify and evaluate the accuracy of cost and pricing data submitted with  
48 any permitted use of the Contingencies or Allowances, Change Order prospective or executed, or  
49 any claim for which additional compensation has been requested.

- 1
- 2 Such access shall include the right to examine and audit such records, and make excerpts,
- 3 transcriptions and photocopies at the City's cost.

**DIVISION 1 GENERAL REQUIREMENTS**

1  
2  
3  
4

The following constitute the Division 1 General Requirements applicable to the Project.





**EXHIBIT H**

**Performance Bond Form**

**PERFORMANCE BOND**

BOND NO.: \_\_\_\_\_

PREMIUM: \_\_\_\_\_

**City of Rocklin**

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the CITY OF ROCKLIN (hereinafter referred to as "CITY" ) has awarded to \_\_\_\_\_, hereinafter designated as the "Principal" a contract for design and construction of \_\_\_\_\_ (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by Principal is more particularly set forth in the Contract Documents for the Project dated \_\_\_\_\_, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, said Principal is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, the undersigned Principal and \_\_\_\_\_ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the CITY in the sum of \_\_\_\_\_ DOLLARS, (\$\_\_\_\_\_), said sum being not less than one hundred percent (100%) of the total amount of the construction services under the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if said Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the guarantee of all materials and workmanship; and shall indemnify and save harmless the CITY, its officers and agents, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees including reasonable attorneys' fees, incurred by CITY in enforcing such obligation.

The obligations of Surety hereunder shall continue so long as any obligation of Principal remains. Nothing herein shall limit the CITY's rights or Principal's or Surety's obligations under the Contract, law or equity.

Whenever Principal shall be, and is declared by the CITY to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the CITY's option:

(1) Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or

(2) Obtain a bids or negotiated proposals from qualified contractors acceptable to the CITY for completing the Project in accordance with all terms and conditions in the Contract Documents; arrange for a Contract between such bidder and the CITY, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract Documents; and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Principal by the CITY under the Contract and any modification thereto, less any amount previously paid by the CITY to Principal and any other set offs pursuant to the Contract Documents.

(3) Permit the CITY to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Principal by the CITY under the Contract and any modification thereto, less any amount previously paid by the CITY to Principal and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the CITY may reject any design-builder, contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by Principal. Surety shall not utilize Principal in completing the Project nor shall Surety accept a bid from Principal for completion of the Project if the CITY, when declaring Principal in default, notifies Surety of the CITY's objection to Principal's further participation in the completion of the Project.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed there under shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project. Surety further waives the provisions of State of California Civil Code section 2845.

Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction. The prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees, to be taxed as an item of costs.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2017, then names and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

Principal: \_\_\_\_\_

Surety: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

Note: Notary Acknowledgement for Surety and Surety's Power of Attorney must be attached

**EXHIBIT I**

**Payment Bond Form**

**PAYMENT BOND**

BOND NO.: \_\_\_\_\_

PREMIUM: \_\_\_\_\_

**City of Rocklin**

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the CITY OF ROCKLIN (hereinafter referred to as "CITY") has awarded to \_\_\_\_\_, (hereinafter designated as "Principal") an agreement for design and construction of \_\_\_\_\_ (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by Principal is more particularly set forth in the Contract Documents for the Project dated \_\_\_\_\_, (hereinafter referred to as the "Contract"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, said Principal is required to furnish a bond in connection with said Contract providing that if Principal or any of its subcontractors shall fail to pay for any materials, provisions, or other supplies, or terms used in, upon, for or about the performance of the Work contracted to be done, or for any work or labor done thereon of any kind the Surety on this bond will pay the same together with a reasonable attorney's fee in case suit is brought on the bond.

NOW, THEREFORE, we, the undersigned Principal and \_\_\_\_\_ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the CITY in the sum of \_\_\_\_\_ DOLLARS, (\$ \_\_\_\_\_), said sum being not less than one hundred percent (100%) of the total amount of the construction services under the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal, his or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provisions, or other supplies or machinery used in, upon, for or about the performance of the Work contracted to be done, or for work or labor thereon of any kind, or fail to pay any of the persons named in California Civil Code Section 9100, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Principal and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, and all other applicable laws of the State of California and rules and regulations of its agencies, then said Surety will pay the same in or to an amount not exceeding the sum specified herein. In case legal action is required to enforce the provisions of this bond, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to court costs, necessary disbursements and other consequential damages. In addition to the provisions hereinabove, it is agreed that this bond will inure to the benefit of any and all persons, companies and corporations

entitled to make claims under Section 9100 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the said Contract or to the work to be performed thereunder or the specification accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the specifications. Surety further waives the provisions of State of California Civil Code section 2845.

Surety's obligations hereunder are independent of the obligations of any other surety for the payment of claims of laborers, mechanics, material suppliers, and other persons in connection with the Contract; and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing the CITY's rights against the other.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2017, then names and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

Principal: \_\_\_\_\_

Surety: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

Note: Notary Acknowledgement for Surety and Surety's Power of Attorney must be attached



**Exhibit J**

**GUARANTEE FORM**

\_\_\_\_\_ (“Design-Builder”) hereby unconditionally guarantees that the Work performed for the (Insert project name/description) (“Project”), has been done in accordance with the requirements of the Contract therefor and further guarantees the Work of the Contract to be and remain free of defects in workmanship and materials for a period of two (2) years from and after the recordation of the Notice of Completion of the Project and completion of all Contract obligations by the Design-Builder, including formal acceptance of the entire Project by the City of Rocklin (“City”), unless a longer guarantee period is called for by the Contract Documents, in which case the terms of the longer guarantee shall govern. Design-Builder specifically waives any right to claim or rely on the statutory definition of completion set forth in Civil Code section 9200. Design-Builder specifically acknowledges and agrees that completion shall mean Design-Builder’s complete performance of all Work required by the Contract Documents, amendments, change orders, construction change directives and punch lists, and the City’s formal acceptance of the entire Project, without regard to prior occupancy, substantial completion doctrine, beneficial occupancy, or otherwise. Design-Builder hereby agrees to repair or replace any and all Work, together with any adjacent Work which may have been damaged or displaced in so doing, that may prove to be not in accordance with the requirements of the Contract or that may be defective in its workmanship or materials within the guarantee period specified, without any expense whatsoever to the City, ordinary wear and tear and unusual abuse and neglect only excepted. Design-Builder has provided contract bonds, which will remain in full force and effect during the guarantee period.

Design-Builder further agrees that within ten (10) calendar days after being notified in writing by the City of any Work not in accordance with the requirements of the contract or any defects in the Work, it will commence and prosecute with due diligence all Work necessary to fulfill the terms of this guarantee, and to complete the Work within a period of time stipulated in writing. In the event it fails to so comply, Design-Builder does hereby authorize the City to proceed to have such Work done at the Design-Builder’s expense and it will pay the cost thereof upon demand. The City shall be entitled to all costs, including reasonable attorneys’ fees, necessarily incurred upon Design-Builder’s refusal to pay the above costs.

The guarantee period for corrected defective work shall continue for a duration equivalent to the original guarantee period.

Notwithstanding the foregoing paragraph, in the event of an emergency constituting an immediate hazard to the health or safety of the employees of the City, or its property or

licensees, the City may undertake at the Design-Builder's expense without prior notice, all Work necessary to correct such hazardous condition when it was caused by the Work of the Design-Builder not being in accordance with the requirements of this contract, or being defective, and to charge the same to the Design-Builder as specified in the preceding paragraph.

The guarantee set forth herein is not intended by the parties, nor shall it be construed, as in any way limiting or reducing the City's rights to enforce all terms of the Contract referenced hereinabove or the time for enforcement thereof. This guarantee is provided in addition to, and not in lieu of, the City's rights on such contract.

---

DESIGN-BUILDER'S SIGNATURE

---

PRINT NAME

**Exhibit K**

**DESIGN-BUILD SUBCONTRACTOR LISTING FORM**

LIST OF SUBCONTRACTORS FOR \_\_\_\_\_ [Design-Builder]

PROJECT: \_\_\_\_\_

Pursuant to Public Contract Code sections 4100 to 4114, and as set forth in the General Conditions, the above-named Design-Builder hereby designates below the names, contractor license numbers, and locations of the place of business of each Subcontractor and the portion of work to be performed by the Subcontractor. The portion of the work to be performed must be identified with sufficient specificity to distinguish it from other work, including identifying the bid package under which the work was awarded if the work was competitively procured following award of the Design-Build Agreement. Please check one of the boxes and sign below:

- We are not using any Subcontractors.
- All of our Subcontractors performing at least one-half of 1% of the Work are listed below.

<b>WORK TO BE PERFORMED</b>	<b>NAME OF SUBCONTRACTOR</b>	<b>LICENSE NUMBER</b>	<b>LOCATION OF PLACE OF BUSINESS</b>

\_\_\_\_\_  
Signed