

CITY OF SAUSALITO
420 LITHO ST
SAUSALITO CA 94965-1933

**PROJECT MANUAL
INCLUDING SPECIFICATIONS
FOR THE**

FISHING PIER REPAIR PROJECT

S A U S A L I T O
M A R I N C O U N T Y
C A L F I O R N I A

APN# 065-073-02

Bid Date: March 31, 2014

ENGINEER
W.B. Clausen Structural Engineers, Inc.
1727 64th Street
Emeryville, CA 94608
Tel: (510) 655-4144
Fax: (510) 655-1133
clausen@clausenengineers.com

Issued for Bidding: March 17, 2014



SAUSALITO FISHING PIER REPAIR PROJECT

NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN that the City of Sausalito will receive sealed bids for the performance of the Work shown and described in the Plans, Specifications and Contract Documents prepared for the above-designated project. Such sealed bids shall be received at the Office of the City Engineer of the City of Sausalito until **March 31, 2014** at 2:00 PM, which time they will be publicly opened and read. On a date to be determined later, such bids shall be tabulated and submitted to the City Council for consideration and action consistent with the provisions of Public Contract Code Division 2, Part 3, Chapter 1, Article 4.

GENERAL DESCRIPTION OF WORK: Work under this Contract includes establishing worksite controls for the protection of workers and the public, protection of existing pilings and other facilities to remain including electrical and other controls associated with the Sausalito-Marin City Sanitary District's Princess Street Wastewater Pump Station, demolition of certain existing piling supported facilities, extending and wrapping existing wooden pilings using materials to be furnished by the contractor, furnishing and installing connectors to existing concrete piles, and furnishing and installing new wooden structural framing decking, steps, as well as hot-dipped galvanized steel handrails and stainless steel cable railing systems followed by removal of all waste and recyclable materials and restoration of pedestrian access to the worksite.

BIDDERS' REQUIREMENTS: Each Bid shall be made in accordance with the Plans, Specifications and Contract Documents prepared therefor, available at the Office of the City Engineer where they may be examined and copies thereof be obtained at no cost for the first paper set. A non-refundable cost of twenty five dollars (\$25.00) will be charged for each additional paper set of plans and specifications and they must be ordered and paid for in advance (the City will print to order).

Bids shall be submitted only upon proposal forms furnished by the City Engineer. The award of the Contract will be based on the responsible Bidder submitting the lowest qualified responsive Bid. The City Engineer will open the Bids at the time and place above stated and a report will be made the City Council at a meeting of the Council following the date of opening of the bids.

Each Bid must be accompanied by a Proposal Guarantee in the form of a certified or cashier's check, currency or Bid Bond, equal to ten percent (10%) of the aggregate amount of the Bid. The check or Bond shall be made payable to the City of Sausalito. Any Bid not accompanied by a Bid Security may be rejected. Such amount accompanying the Bid shall be given as a guarantee that the Bidder will enter into the contract if awarded thereto and the Bidder will file the Contract Bonds and other requisite documents required within the specified time period in accordance with the Instruction to Bidders.

All Bids must be addressed to the City Engineer of the City of Sausalito and shall bear the title or name of the work to be constructed.

The City Council reserves the right to reject any and all Bids, and to waive any irregularity in any Bid received. The successful Bidder will be required to pay not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which this public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work shall be paid to all workers employed on this public work. Pursuant to Labor Code, Subsection 1773, the general prevailing rate has been determined by the California Director of the Department of Industrial Relations and copies of such determination are on file in the office of the City Engineer of the City of Sausalito and will be made available to any

interested party on request. A copy of these rates shall be posted at the job site by the Contractor. (See California Labor Code sections 1770, 1771, 1772, 1773, 1773.1 and 1773.2.)

Bids will only be accepted from a contractor who is licensed in accordance with the provisions of Chapter 9, Division III of the California Business and Professions Code (BPC). The license required to perform this project is a CLASS "A" (GENERAL ENGINEERING) or CLASS "B" (BUILDING) (BPC Subsection 7000 *et seq.*; Subsection 7028.15; 7059.

The time for completion of the **Thirty (30) Calendar Days** after the start date noted on the NOTICE TO PROCEED. LIQUIDATED DAMAGES for completion after the date prescribed for completion will be **Seventy Five Dollars (\$75.00) PER CALENDAR DAY.** Bidders should have fully inspected the project site in all particulars and become thoroughly familiar with the terms and conditions of the Contract Documents and local conditions affecting the performance and costs of the work prior to submitting a bid. Submission of a Bid by Bidder warrants that Bidder has visited the site of the Project and is thoroughly familiar with the work required of the Contract Documents.

BONDS: Upon award of the contract, the successful bidder shall furnish a bond for faithful performance in the amount of one hundred percent (100%) of the total bid; it shall also furnish a labor and material bond to secure the payment of all claims of labor and material in the amount of fifty percent (50%) of the total bid (CC Section 3247), and a warranty bond in an amount equal to twenty-five percent (25%) of the total bid. Such bonds shall be secured from a surety company satisfactory to the City of Sausalito. No bid or bid security may be withdrawn for 60 calendar days after the bids are opened.

Payment, Performance and Warranty Bonds are required to be filed and approved by the City Engineer before the Contractor begins the Work.

Securities eligible for substitution of Bonds shall be limited to those listed in Government Code Section 16430 or to bank or savings and loan certificates of deposit. Contractor shall be the beneficial owner of any securities so substituted for monies withheld and shall receive any interest or income thereon. Any escrow agreement entered into pursuant to this Section shall contain, as a minimum, the following provisions:

- a) The amount of securities to be deposited.
- b) The terms and conditions of conversion to cash in case of the default of the Contractor; and
- c) The termination of the escrow upon completion of contract.

RETENTION: Contract amounts to be paid under this contract will be subject to a retention to ensure performance. Pursuant to and subject to the provisions of Public Contract Code (PCC) Subsection 22300, the Contractor shall be entitled to substitute securities for retained monies. The value of any securities so substituted shall be valued by the City's Finance Director, whose decision on the valuation of the securities shall be final.

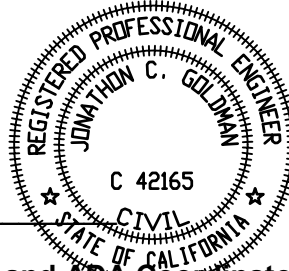
By order of the City Council of the City of Sausalito, County of Marin, State of California.

Dated: March 17, 2014

CITY OF SAUSALITO

by:

Jonathon Goldman
Director of Public Works, City Engineer and ADA Coordinator
Civil Engineer C042165
Sealed 17MAR14
Expires 31MAR16



CITY OF SAUSALITO
FISHING PIER REPAIR PROJECT
INSTRUCTIONS TO BIDDERS

1. General

- A. Definitions, terms and certain phrases used in these contract documents are as found in Section 1 of the General Provisions.
- B. Failure to comply with the following requirements shall render the bid non-responsive.

2. Examination of Plans, Specifications, Contract, and Site of Work

- A. The Bidder shall examine carefully the site of the work contemplated, the plans and specifications, the General and Special Provisions, the Notice to Bidders, Instruction to Bidders, and the Proposal and Contract Forms therefor. The submission of a bid shall be conclusive evidence that the Bidder has investigated and is satisfied as to the conditions to be encountered, as to the character, quality and quantities of work to be performed and materials to be furnished, and as to the requirements of the proposal, plans, specifications, and the Contract and all contract provisions.

3. Questions Regarding Documents

- A. Questions regarding documents, discrepancies, omissions or doubt as to meaning shall be referred immediately, and in any event not less than five (5) days prior to the opening of Bids, to the City Engineer who will send written instructions clarifying such questions to each Bidder registered with, or known to the City. Any interpretation or correction of the Construction Documents will be made only by Addendum pursuant to Paragraph 7 of these Instructions to Bidders, and will be mailed or delivered to each entity receiving a set of such documents. The City Engineer, the City, the Construction Manager (if any), the Department of Public Works and its officers, employees and agents shall not be responsible for any oral instructions, nor for any other explanation or interpretation of the documents during the bidding period other than by written Addendum issued prior to the Bid Date.

4. City Engineer's Estimate

- A. Engineer's estimate for this project is \$144,000.

5. Proposal Forms

- A. All proposals must be made upon the "Bid Form" included in the Specifications. The Bidder shall completely fill out the form in a clear and legible manner and properly sign and guarantee it. All proposals shall be submitted as directed herein and in the Notice to Bidders under sealed cover plainly marked as a proposal, and identifying the project to which the proposal relates, the name of the Bidder, and the date and hour of the bid opening therefor. Any proposal

which is not properly marked or sealed may be disregarded. No telegraphic Bid or telegraphic modification of a Bid will be considered. Late Bids will be returned to the Bidder unopened.

6. Proposal Guaranty

- A. The Proposal Guaranty (Bid Bond) shall be forfeited to the City of Sausalito if the Bidder does not, within ten (10) calendar days after receipt of written notice that the contract has been awarded to it, enter into a contract with the City for the Work. All proposals or Bids shall be accompanied by cash, cashier's or certified check, or a Bidder's Bond executed by a corporate surety insurer, all payable to the City of Sausalito, in an amount equal to ten percent (10%) of the total amount Bid.

7. Addenda

- A. The City Engineer may, when it deems necessary, and at a time prior to the Bid opening, issue addenda to the Plans and Specifications to amend, clarify or correct matters contained therein. Such addenda shall constitute a part of the Plans and Specifications and shall be equally binding with them. Addenda will be forwarded to all prospective Bidders, insofar as they are known to the City Engineer.

8. Substitution of Equals

- A. Each Bidder represents that its Bid is based upon the materials, services, and equipment described in the Construction Documents. Bidder's attention is directed to GENERAL CONDITIONS, SECTION 00700, ARTICLE 7 - CHANGES IN THE WORK.

9. Bid Submission: Withdrawal of Bids

- A. Any Bid may be withdrawn at any time prior to the time fixed in the public notice for the opening of Bids only upon written request by the Bidder and approval by the City Engineer. The withdrawal of a Bid does not prejudice the right of a Bidder to file a new Bid. Bids will not be received after the time and date fixed in the Notice to Bidders, nor may any Bid be withdrawn after the time fixed in the Notice to Bidders for the opening of Bids. No Bid or Bid proposal guarantee shall be withdrawn for 60 calendar days after the time fixed in the Notice to Bidders for the opening of Bids. Bids may be rejected if they show any alteration of form, additions, conditional bids, incomplete bids, erasures, or irregularities of any kind.

10. Opening of Bids

- A. Bids will be opened and read publicly at the time and place indicated in the Notice to Bidders. Bidders or their authorized agents are invited to be present.

11. Relief of Bidders

- A. Attention is directed to the provisions of California Public Contract Code Sections 5100-5108, inclusive, concerning relief of Bidders, including without limitation the requirements that, if the Bidder claims a mistake was made in its Bid, the Bidder shall give the City written notice within five (5) days of the opening of the Bids of the alleged mistake, specifying in the notice, in detail, how the mistake occurred.

12. Subcontractors

- A. The Successful Bidder shall comply with and be bound by the requirements of the "Subletting and Subcontracting Fair Practices Act" of the California Public Contract Code, commencing with Section 4100, for bidding, bid shopping, and bid peddling, requiring accurate listing of all subcontractors, and requiring subcontractors to be licensed. Should the Successful Bidder violate any of the provisions of that chapter, such violation shall be deemed a breach of the Contract, and the City shall have all remedies provided by California law, including but not limited to those provided in Public Contract Code Section 4110, allowing termination of the Contract or a penalty assessment of ten percent (10%) of the subcontract. As required under the provisions of Section 4104 *et seq.* of the California Public Contract Code, any person making a bid or offer to perform the Work, shall in its bid or offer, set forth: (a) the name and location of the place of business of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the Work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the primary contractor specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of one percent (0.5%) of the prime contractor's total Bid; and (b) the portion of the Work which will be done by each such subcontractor under this Act. The Successful Bidder shall list only one subcontractor for each such portion as defined by the Successful Bidder in its Bid.

13. Insurance

- A. Bidders' attention is directed to the insurance requirements set forth in Section 00800-Article 2, INDEMNITY AND INSURANCE of the SUPPLEMENTARY GENERAL CONDITIONS. It is highly recommended that Bidders confer with their respective insurance carriers or brokers to determine in advance of Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low Bidder fails to comply strictly with the insurance requirements, that Bidder may be disqualified from award of the contract.

14. Bonds Required

- A. Upon award of the contract, the successful bidder shall furnish a bond for faithful performance in the amount of one hundred percent (100%) of the total bid; it shall also furnish a labor and material bond to secure the payment of all claims of labor and material in the amount of fifty percent (50%) of the total bid (CC Section 3247), and a warranty bond in an amount equal to twenty-five percent

(25%) of the total bid. Such bonds shall be secured from a surety company satisfactory to the City of Sausalito. No bid or bid security may be withdrawn for 60 calendar days after the bids are opened.

15. Retention

- A. Contract amounts to be paid under this Contract will be subject to a retention to ensure performance. Pursuant to and subject to the provisions of Public Contract Code Section 22300, the Contractor shall be entitled to substitute securities for retained monies. The value of any securities so substituted shall be valued by the City's finance director, whose decision on the valuation of the securities shall be final.

16. Wage Rates

- A. The Successful Bidder will be required to pay not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which this public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work shall be paid to all workmen employed on this public work. Pursuant to Labor Code Section 1773, the general prevailing rate has been determined by the California Director of the Department of Industrial Relations, and copies of such determination are on file in the office of the City Engineer of the City of Sausalito and will be made available to any interested party on request. A copy of these rates shall be posted at the job site by the Contractor. (See California Labor Code Sections 1770, 1771, 1772, 1773, 1773.1, and 1773.2.) The Bidder's attention is directed to the requirements of the General Provisions.

17. Qualification of Bidders

- A. Each Bidder shall be licensed as required in the Notice to Bidders. It is the intention of the City to award a contract only to a Bidder who furnishes satisfactory evidence that it has the requisite experience, ability, capital, facilities, and plant to enable it to prosecute the Work successfully and promptly and to complete it within the time stated in the Contract. To determine the degree of responsibility to be credited to the Bidder, the City will weigh any evidence that the Bidder or personnel to be employed in responsible charge of the Work has performed satisfactorily on other contracts of like nature and magnitude of comparable difficulty at similar rates of progress.
- B. The Bidder shall complete the Contractor's License Statement Form, Contractor's Experience Statement Form and submit these forms with the Bid.

18. Disqualification of Bidders

- A. More than one Bid from an individual, firm, partnership, corporation, or combination thereof, as a principal, under the same or different names will not be considered. Reasonable grounds for believing that any individual, firm, partnership, corporation, or combination thereof is interested in more than one bid for the work contemplated may cause the rejection of all Bids in which such individual, firm, partnership, corporation, or combination thereof is interested. If there is a reason for believing that collusion exists among the Bidders, any or all

Bids may be rejected. Bids in which unit prices obviously are unbalanced may be rejected. A person, firm, or corporation submitting a sub-bid to a Bidder, or who quoted prices on materials to a Bidder, is not thereby disqualified from submitting a sub-bid or quoting prices to other Bidders or from being a principal Bidder for the same work.

19. **Work Performance**

- A. Bidders are required to be fully informed of the conditions relating to the construction of the project, and the utilization of labor, equipment, and other resources and material under or with which the work will be performed. The successful bidder must employ such means and methods and utilize such resources in the prosecution of the work which will result in a work product equal to or better than the standards set forth in these Contract Documents, and in full compliance to the requirements therein.

20. **Basis of Contract Award**

- A. If the contract is to be awarded, it will be awarded to the lowest qualified, responsible, and responsive bidder that in the City's judgement will be in the best interests of the Project. See Bid Form.

BID PROPOSAL

BID PROPOSAL

PROPOSAL TO THE CITY COUNCIL OF THE CITY OF SAUSALITO

STATE OF CALIFORNIA, FOR PROJECT KNOWN AS "FISHING PIER REPAIR PROJECT"

Name of bidder:

Address of bidder:

Telephone Number:

Fax Number:

Date of bid:

The undersigned as bidder declares that the only person or persons interested in this proposal as Principal, are those named herein; that the proposal is made without collusion with any other person, firm or corporation, that he has carefully examined the site and the location of the proposed work and improvement and all the contract documents relating to said project, and that he proposes to provide all necessary transportation, equipment, tools, apparatus, permits, materials and other means of construction, and to do all the work and labor required and specified for the following amount:

All addenda bound with the Specifications or issued during time of bidding are included in this proposal. Receipt of the following addenda and date thereof is acknowledged:

Addendum No. _____, Date _____
Addendum No. _____, Date _____
Addendum No. _____, Date _____

The undersigned has carefully checked all bid figures and agrees that City shall not be responsible or chargeable for any errors or omissions on the part of the undersigned in making up this bid.

Accompanying this bid is a guarantee in the form of corporate surety bond, cashier's or certified check or cash in the sum of _____ dollars (\$ _____), payable to or in favor of City.

This bid may not be withdrawn for a period of thirty (30) days from opening thereof.

In compliance with Sections 4100, *et seq.*, of the Government Code of the State of California, there is set forth in the attached list of subcontractors the name and location of the mill, shop or office of each subcontractor who will perform work, labor or render service to the undersigned in or about the construction of the work or improvement contemplated by the bid and the portion of the work to be done by said subcontractor.

Bidder is licensed by the State of California under Contractor's license:

No. _____, Class _____.

INDIVIDUAL

Name of bidder: _____
Address of bidder: _____

CORPORATION

If bidder is a corporation, state legal name of corporation, state of incorporation, and name of president and secretary.

Name of corporation: _____

Name of president: _____

Name of secretary: _____

State of incorporation: _____

OR PARTNERSHIP

If a partnership, state full name of all general partners and name under which business is conducted.

Name of partnership: _____

Names of general partners: _____

Signature of Bidder: _____

BASE BID FORM

Base Bid Form

Bid Item	Units	Quantity	Unit Price	Price
1. Mobilization/Demobilization ¹	LS	1		
2. Establish worksite controls for the protection of workers and the public	LS	1		
3. Protect certain existing pilings and other facilities to remain including electrical and other controls associated with the Sausalito-Marin City Sanitary District's Princess Street Wastewater Pump Station	LS	1		
4. Demolish and dispose of certain existing pile-supported facilities	LS	1		
5. Furnish and install extensions and wrapping of certain existing wooden pilings	LS	1		
6. Furnish and install connections to certain existing concrete pilings	LS	1		
7. Furnish and install new wooden structural framing, connectors, adhesives, decking, steps, ramp, hot-dipped galvanized steel handrails and stainless steel cable railing systems	LS	1		
8. Removal of all waste and recyclable materials and restoration of pedestrian access to the worksite	LS	1		
9. General Conditions and Overhead rate for compensable extensions of Contract Time ²	Day	5		
Total Base Bid Items				

¹ Maximum allowable Mobilization/Demobilization Bid, 5 percent of Total Base Bid

² Provide total cost per day if project schedule is extended as a result of compensable delays. Price should include Contractor's general conditions, field overhead, home office overhead, and all other costs and expenses associated with a compensable extension of Contract Time. In the event of a time extension due to a compensable delay, the Contractor's total compensation for General Conditions and Extended Overhead for the delay will be calculated by multiplying this daily rate by the number of days by which the Contract Time is extended. Contractor will not be entitled to any other compensation for general conditions or overhead. The Unit Price should include the daily cost of equipment needed to perform the job.

The City reserves the right to reject any and all Bids and to waive any and all irregularities in Bids not involving price, time or changes in the Work. The City reserves the right to reject any nonconforming, nonresponsive, incomplete, unbalanced or conditional Bids.

Discrepancies in the multiplication of units of Work and unit prices, if any, will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between bid amounts stated in words and in figures will be resolved in favor of the amount stated in words.

If the contract is to be awarded, it will be awarded to the lowest qualified, responsible and responsive Bidder that in the City's judgment will be in the best interests of the Project.

BIDDER'S BOND

KNOW ALL MEN BY THESE PRESENTS:

That we,

as Principal, and

as Surety, are held and firmly bound unto the City of Sausalito, County of Marin, State of California (hereinafter call "City") in the penal sum of 10% of the total aggregate amount of the bid of the Principal above named, submitted by said Principal to City for the Work described below, for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such that a bid to City for certain construction specifically described as follows,

FISHING PIER REPAIR PROJECT

has been submitted by Principal to City:

NOW, THEREFORE, if the aforesaid Principal shall not withdraw said bid within the period specified therein after the opening of the same or, if no period be specified, within sixty (60) days after said opening, and shall within the period specified therefore, or if no period be specified, within ten (10) calendar days after the prescribed forms are presented to him for signature, enter into a written contract with City, in the prescribed form, in accordance with the bid as accepted, and file the two bonds with City, one to guarantee faithful performance and the other to guarantee payment for labor and materials, as required by law, or in the event of the withdrawal of said bid with the period specified or the failure to enter into such contract and give such bonds within the time specified, if the Principal shall pay the City the difference between the amount specified in said bid and the amount for which the City may procure the required Work and/or supplies, if the latter amount be in excess of the former, together with all costs incurred by the City in again calling for bids, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

Surety for value received, hereby stipulates and agrees that no change, extension of time, alterations, or addition to the terms of the contract on the call for bids, or to the Work to be performed thereunder, or the specifications accompanying the same, shall in anyway affect its obligation under this bond, and it does, waive notice of any such change, extension of time, alteration, or addition to the terms of specifications.

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

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this _____ day of _____ of 2014.

_____(Seal)

_____(Seal)

_____(Seal)

Principal

_____(Seal)

_____(Seal)

_____(Seal)

Surety

Address

NOTE: Signature of those executing for Surety must be properly acknowledged.

DESIGNATION OF SUBCONTRACTORS/SUPPLIERS

Bidder shall completely fill in the form below for each subcontractor that exceeds one-half percent (1/2%) of the bidder's total Base Bid. A subcontractor is one who: 1) performs work or labor, or 2) provides a service to the bidder, or 3) specially fabricates and installs a portion of the work according to the plans and specifications. This shall be done in compliance with the Government Code of the State of California, Section 4100-4113 and any amendment thereof.

NAME OF SUBCONTRACTOR	LOCATION OF WORK	DIVISION OF WORK
	Street City, Zip Telephone	
	Street City, Zip Telephone	
	Street City, Zip Telephone	
	Street City, Zip Telephone	
	Street City, Zip Telephone	
	Street City, Zip Telephone	
	Street City, Zip Telephone	
	Street City, Zip Telephone	
	Street City, Zip Telephone	
	Street City, Zip Telephone	
	Street City, Zip Telephone	
	Street City, Zip Telephone	
	Street City, Zip Telephone	
	Street City, Zip Telephone	

By: _____
Bidder's Signature

NAME OF SUPPLIER	LOCATION
	Street City, Zip Telephone
	Street City, Zip Telephone
	Street City, Zip Telephone
	Street City, Zip Telephone
	Street City, Zip Telephone
	Street City, Zip Telephone
	Street City, Zip Telephone
	Street City, Zip Telephone
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	Street City, Zip Telephone
	Street City, Zip Telephone
	Street City, Zip Telephone
	Street City, Zip Telephone
	Street City, Zip Telephone
	Street City, Zip Telephone

By: _____
Bidder's Signature

Contractor's Licensing Statement

The undersigned is licensed in accordance with the laws of the State of California providing for the registration of Contractors.

Contractor's License Number
Name of Individual Contractor (Print or Type):
Signature of Owner
Business Address and Telephone Number

Name of Firm
Business Address and Telephone Number

Signature, title, and address of members signing on behalf of the partnership:

Name _____ Title
Address
Name _____ Title
Address

or

Name of Corporation
Business Address and Telephone Number

Corporation organized under the laws of the State of

Signature of President of Corporation

Signature of Secretary of Corporation

CONTRACTOR'S EXPERIENCE STATEMENT

The following outline is a record of the undersigned Bidder's experience in construction of a type similar in magnitude and character to that contemplated under this Contract. Additional numbered pages outlining this portion of the bid may be attached. Include the name, address and phone number of the owner of each project listed and the name of the individual to contract.

**NONCOLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER
AND SUBMITTED WITH BID**

State of California} ss.
County of Marin }

_____, being first duly sworn, deposes and says that he or she is _____ of _____ the party making the foregoing bid that the bid is not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder as not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract, that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, of the contents thereof, or divulged information of data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid."

Added Stats 1988 ch 15488 sec 1.
Collateral Reference
Miller & Starr, Cal Real Estate 2d Section 24:9

_____(Seal)
Signature of: President, Secretary,
Manager, Owner or
Representative

Subscribed and sworn to before me
this _____ day of _____, 2014

Signature of Notary Public in and for
the County of _____,
State of _____.

This Affidavit to be fully executed.

DESIGNATION OF INSURANCE AGENT OR BROKER

It is proposed that the following insurance agent or broker will provide policies of insurance or insurance certificates as are required by the General Provisions.

Insurance Agent or Broker

Street

City, Zip _____

Telephone

STATEMENT OF BIDDER

Please state whether you, or any officer of yours, or any employee of yours who may have a proprietary interest in your bid, have ever been disqualified, removed, or otherwise prevented from bidding on or completing a federal, state, or local government project because of a violation of law or safety regulations.

YES _____ NO

If your answer is yes, explain the circumstances.

I declare under penalty of perjury that the foregoing information is true and correct.

Executed at _____ on

STATEMENT OF MANDATORY SITE VISIT

The Bidder certifies that he has visited the construction site during the bid period, per the requirements in the Instructions to Bidders.

Bidder's Signature

Date _____

SECTION 00700

GENERAL CONDITIONS

1 ARTICLE 1 - GENERAL

1.01 CONTRACT AGREEMENT

A Bidder to whom award is made shall execute a written Agreement and required supplementary documents and submit them to the City within ten (10) days after the Notice of Award has been received by the Bidder at the address given in Section 00300, **BID FORM**. The Agreement shall be made in the form adopted by the City and incorporated in Section 00500, **AGREEMENT**.

If the lowest responsive, responsible Bidder to whom award is made fails to enter into the Contract, as herein provided, the Bidder's Security will become the property of the City, and an award may be made to the next lowest responsive, responsible Bidder, and such Bidder shall fulfill every stipulation embraced herein as if it were the party to whom the first award was made. A corporation, partnership, or joint venture to which an award is made will be required, before the Agreement is finally executed, to furnish evidence of its corporate existence and evidence that the officer signing the Agreement and bonds for the corporation is duly authorized to do so in the form as stated in Section 00100-Article 3, **BIDDER'S SIGNATURE AND AUTHORITY**.

In the event the Contractor is a joint venture of two or more contractors, the grants, covenants, provisos and claims, rights, power, privileges and liabilities of the Contract shall be construed and held to be several as well as joint. Any notice, order, direct request or any communication required to be or that may be given by the City or the Construction Manager to the Contractor under this Contract, shall be well and sufficiently given to all persons being the Contractor if given to any one or more of such persons. Any notice, request or other communication given by any one of such persons to the City or the Construction Manager under this Contract shall be deemed to have been given by and shall bind all persons being the Contractor.

If any part of the Work to be done under this Contract is subcontracted, the subcontract shall be in writing and shall provide that all work to be performed thereunder shall be performed in accordance with the terms of the Agreement. The subcontracting of any or all of the work to be done will in no way relieve the Contractor of any part of its responsibility under the Contract. Certified copies of subcontract agreements will be provided by the Contractor to the City upon request.

Equipment supplied under this Contract shall be furnished in accordance with a written agreement, and such agreement shall provide that any equipment supply shall be performed in accordance with the terms of the Contract Documents. Certified copies of agreements for equipment supply will be provided by the Contractor to the City upon request.

The Contractor shall not assign, transfer, convey, or otherwise dispose of the Contract, or its right, title, or interest therein, or its power to execute such Contract, to any other person, firm, or corporation without previous consent in writing of the City.

1.02 WRITTEN NOTICE AND SERVICE THEREOF

Any notice to any party relative to any part of this Contract shall be in writing and considered delivered and the service thereof completed as follows:

when said notice is posted deposited in the U.S. Mail, postage prepaid, to said party at its last given address, notice will be effective two business days after mailing;

or if delivered in person to the said party or its authorized representative of the Work, notice will be effective upon delivery;

or if sent by facsimile to the said party or its authorized representative at a fax number provided in connection with the Project, notice will be effective upon receipt.

1.03 RIGHTS OF ACTION

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 Contractor and the City.

1.04 PLANS AND SPECIFICATIONS

The Contract Documents are complementary; what is called for by one is as binding as if called for by all. It is the intent of the Drawings and Specifications to describe a functionally complete and operable Project (and all parts thereof) to be constructed in accordance with the requirements of the Contract Documents. Any work, materials or equipment that may reasonably be inferred from the requirements of the Contract Documents or from prevailing custom or trade usage as being required to produce this intended result will be furnished and performed whether or not specifically called for. When words or phrases that have a well-known technical or construction industry or trade meaning are used to describe Work, materials or equipment, such words or phrases shall be interpreted in accordance with that meaning. The intent of the Drawings specifically includes the intent to depict construction that complies with all applicable laws, codes and standards. Subject to applicable law, including but not limited to California Public Contract Code Section 4100 *et seq.*, and the terms of this Contract governing subcontracting, the Divisions and Sections of the Specifications and identifications of any Drawings shall not control Contractor in dividing the Work among subcontractors or suppliers or delineating the work to be performed by any specific trade.

Reasonably implied parts of the Work shall be performed as “incidental work” even though absent from the Drawings and Specifications. “Incidental” work shall be performed by Contractor without extra cost to the City. Incidental work includes any

work not shown on Drawings nor described in the Specifications, which is necessary or required to make each installation satisfactory, legally operable, functional, consistent with the intent of the Drawings and Specifications or the requirements of the Contract Documents. Incidental work shall be treated as if fully described in Specifications and shown on Drawings, and expense thereof shall be included in the Bid Price. Incidental work includes, but is not limited to, tasks required to be performed under Division 1 **GENERAL REQUIREMENTS** of the Specifications.

Upon Notice to Proceed, the Contractor may obtain from the City, free of charge, two (2) copies of the conformed Plans (half-size) and Specifications. The Contractor may also obtain from the City, free of charge, two (2) sets of full-size prints of the Plans. Additional sets of the Plans and Specifications may be procured at the cost of printing and binding. The Owner will also provide one electronic copy of the conformed Plans and Specifications upon receipt of an executed release from the Contractor. The Owner will furnish the release form at the Contractor's request.

Both the Plans and Specifications will be conformed by incorporating all addenda which may have been issued during the bid period to the original bid documents. These "Issued for Construction" documents will be provided no later than the date of the Notice to Proceed. The "Issued for Construction" documents will be produced for the convenience and efficiency of all parties involved with construction. In the event of a discrepancy or failure to include a specific item of any addendum, the addendum as issued during the bid period shall take precedence over the "Issued for Construction" documents.

The Contractor shall keep on the work site a copy of the Plans and Specifications and shall at all times give the Construction Manager access thereto. Any Drawings included in the Specifications shall be regarded as part thereof and of the Contract. Anything mentioned in these Specifications and not shown on the Drawings, or shown on the Drawings and not mentioned in these Specifications, shall be of like effect as though shown or mentioned in both. The Construction Manager will furnish from time to time such drawings, plans, profiles, and information, as it may consider appropriate for the Contractor's guidance. Unless otherwise provided in the Contract Documents, it shall be the duty of the Contractor to see that all provisions are complied with in detail irrespective of the inspections given the work during its progress by the authorized official or its representatives. Any failure on the part of the Contractor to observe the Contract Documents will be sufficient cause for the rejection of the work at any time before its acceptance.

Wherever reference specifications are referred to in these Specifications without designation of year, the reference is to the current or revised specification effective at the time of the City receiving bids, unless otherwise referenced in Section 01060, **REGULATORY REQUIREMENTS AND PERMITS**.

1.05 APPLICABILITY OF ALL PARAGRAPHS OF SPECIFICATIONS

The Technical Specifications are presented in paragraphs for convenience. However, this presentation does not necessarily delineate trades or limits of responsibility. All

paragraphs of the Plans and Specifications are interdependent and applicable to the Project as a whole.

The Specifications and all notes on the Drawings are directed to the Contractor and all Work shall be performed by the Contractor even though phrases such as "the Contractor shall" or "shall be done by the Contractor" are omitted. Where terms such as "approved," "acceptable," "favorably reviewed," "review," "selected," "directed," "equivalent," "equal," or "satisfactory" are used, it shall mean by or to the Construction Manager and/or Design Consultant.

1.06 CONTRACT INTERPRETATION BY THE CONSTRUCTION MANAGER

Any discrepancies found between the Contract Documents and site conditions or any inconsistencies or ambiguities in the Contract Documents shall be immediately reported, in writing, to the Construction Manager. Questions regarding the meaning and intent of the Contract Documents shall be referred in writing by the Contractor to the Construction Manager with a Request for Information. The Construction Manager shall respond to the Contractor in writing with a decision within fifteen (15) days of receipt of the request, or if it is necessary to extend this period, the Construction Manager shall notify the Contractor in writing as to when a decision will be provided.

Work done by the Contractor after its discovery of such discrepancies, inconsistencies or ambiguities without such notice and prior to response from the Construction Manager shall be done at the Contractor's risk.

1.07 ORDER OF PRECEDENCE

In resolving inconsistencies among two or more sections of the Contract Documents, precedence shall be given in the following order:

1. Addenda, Supplemental Agreements and Change Orders, the one dated more recently having precedence over another dated earlier.
2. Agreement (Section 00500)
3. Permits
4. General Requirements (Sections 01000-01999)
5. Supplementary General Conditions (Section 00800)
6. Instructions to Bidders (Section 00100)
7. General Conditions (Section 00700)
8. Project Plans
9. Technical Specifications (Section 02000 and all others following)
10. Typical Details

11. Reference/Standard Specifications

- a) Standard Specifications for Public Works Construction: All Cities and Counties of Marin – June 1992, Sections 20 through 80, inclusive.
- b) Uniform Construction Standards: All Cities and County of Marin - May 2008.
- c) Standard Specifications, Sausalito-Marín City Sanitary District -- 2007 with special attention to Part D, Section 14 regarding cleaning and inspection during and following construction.
- d) APWA Standard Specifications for Public Works Construction - 1994, Part 2: Construction Materials, and Part 3: Construction Methods, inclusive.
- e) State of California, Department of Transportation Standard Specifications - current version, Sections 16 through 95, inclusive.

12. Reference/Standard Plans

Figure dimensions on Drawings shall govern over scaled dimensions, and detailed Drawings shall govern over general or standard Drawings.

1.08 BONDS

The successful Bidder shall, at the time of signing the Agreement, furnish the Bond of Faithful Performance (Section 00610) and the Payment Bond (Section 00620) executed by an admitted surety authorized to conduct business in California and be made payable to the "City of Sausalito."

The Payment Bond shall be in amount equal to one hundred percent (100%) of the Contract Price and shall be for payment of just claims for materials, equipment, labor and subcontractors employed by the Contractor thereon.

The Bond of Faithful Performance shall be in an amount equal to one hundred (100) percent of the Contract Price and shall be for the faithful performance of the Contract, and for the fulfillment of such other requirements as may be provided by Law. The performance bond shall remain in effect to guarantee the repair and replacement of defective equipment, materials, and workmanship, and payment of damages sustained by the City on account of such defects, discovered within one (1) year after final acceptance by the City, for the Work performed under the Contract which, shall remain in effect for a period of one (1) year, to guarantee the repair and replacement, and payments for damages.

Attorneys-in-fact, who sign bid bonds or contract bonds, must file with each bond a notarized and effectively dated copy of their power of attorney as required on bond forms supplied by the City for Contractor use in Sections 00610 and 00620.

The surety company shall familiarize itself with all of the conditions and provisions of this Contract, and it waives the right of special notification of any change or modification of this Contract or of extension of time, or of decreased or increased work, or of the cancellation of the Contract, or of any other act or acts by the City or its authorized agents under the terms of this Contract; and failure to so notify the aforesaid surety companies of changes shall not relieve the surety companies of their obligations under this Contract.

1.09 PENALTY FOR COLLUSION

If, at any time, it is found that the person, firm, or corporation to whom the Contract has been awarded has, in presenting any Bid or Bids, colluded with any other party or parties, then the Contract may at the City's sole election be declared null and void, and the Contractor and its sureties shall be liable for loss or damage which the City may suffer thereby, and the City may advertise for new Bids.

1.10 RIGHTS AND REMEDIES

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or available by law.

No action or failure to act by the City, the Design Consultant, or the Construction Manager shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

2 ARTICLE 2 - CONTRACT ADMINISTRATION

2.01 ADMINISTRATION OF THE CONTRACT

The City's Representative, the Construction Manager, and the Design Consultant will provide administration of the Contract as hereinafter described. These parties are designated in Section 00800-1.05, **CONTRACT ADMINISTRATION**. If the status of any of the above parties should change, the City will provide written notice to the Contractor of such change.

In case of the termination of the employment of the Design Consultant or the Construction Manager, the City shall appoint a Design Consultant or a Construction Manager whose status under the Contract Documents shall be that of the former Design Consultant or Construction Manager, respectively.

2.02 CITY'S REPRESENTATIVE

A. General -The City's Representative has the authority to act on behalf of the City on change orders, progress payments, Contract decisions, acceptability of the Contractor's work, and early possession.

- B. Change Orders - The City's Representative has the authority to accept or reject Change Orders and cost proposals submitted by the Contractor or as recommended by the Construction Manager to the extent that budget for such costs has been approved by the City Council. Any Change Order or cost proposal that, taking into account the total of the Contract Price and the cost of all approved Change Orders and other costs, will exceed the budget approved by the City Council, shall require subsequent City Council approval before it can be authorized.
- C. Progress Payments - The City's Representative has the authority to accept or reject requests for progress payments which have been submitted by the Contractor and recommended by the Construction Manager.
- D. Contract Decisions - Should the Contractor disagree with the Construction Manager's decision with respect to the Contract, the Contractor may appeal to the City's Representative in accordance with the provisions of the Contract.

- E. Acceptability of Work - The City's Representative has the authority to make the final determination of the acceptability of the Work. The City's Representative also has the authority to accept or reject the Design Consultant's recommendations regarding retention of defective work as provided.

2.03 CONSTRUCTION MANAGER

- A. General - The Construction Manager is a representative of the City employed to act as advisor and consultant to the City in construction matters related to the Contract. The term Construction Manager may include more than one individual to perform Contract administration and construction observation. Hereinafter, the term Construction Manager includes any and all designated representatives working under the direction of the Construction Manager.

All instructions to the Contractor and all communications from the Contractor to the City or the Design Consultant shall be forwarded through the Construction Manager. The Construction Manager will have authority to act on behalf of the City only to the extent provided in the Contract Documents. The City has delegated its authority to the Construction Manager to make initial decisions regarding questions which may arise as to the quality or acceptability of materials furnished and work performed, and as to the manner of performance and rate of progress of the work under the Contract. The Construction Manager shall interpret the intent and meaning of the Contract and shall make initial decisions with respect to the Contractor's fulfillment of the Contract and the Contractor's entitlement to compensation. The Contractor shall look initially to the Construction Manager in matters relating to the Contract.

The Construction Manager's authority to act under Section 00700-2.01, **ADMINISTRATION OF THE CONTRACT**, and any decision made by it in good faith either to exercise or not to exercise such authority, shall not be interpreted or construed as control or responsibility of any of the work performed under this Contract.

- B. Representative - The Construction Manager will observe the progress, quality, and quantity of the Work to determine, in general, if the Work is proceeding in accordance with the provisions of the Contract Documents. The Construction Manager shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work.

In accordance with the provisions detailed elsewhere in these General Conditions, the Construction Manager will make decisions relative to all matters of interpretation or execution of the Contract Documents.

- C. Observation and Inspections of Construction - The Construction Manager shall observe the construction and shall have the authority to reject work and materials which do not conform to the Contract Documents, and to require special inspection or testing.

Observation and inspection by an inspector is not an authorization to revoke, alter, or waive any requirements of the Specifications. Observation and inspection is the authorization to call the attention of the Contractor to any failure of the Work, materials or workmanship to conform to the Contract Documents. The inspector shall have this authority including the ability to reject materials or, in any emergency, suspend the Work. The Contractor may appeal any such issue which it disagrees with to the Construction Manager for decision. If the decision of the Construction Manager is not satisfactory to the Contractor, the Contractor may appeal such decision to the City's Representative.

- D. Acceptability of the Work - The Construction Manager has the authority to make a recommendation as to the acceptability of the Work.
- E. Change Orders - The Construction Manager has the authority to initiate Change Orders; to reject Change Orders proposed by the Contractor or Design Consultant; to negotiate and recommend acceptance of Change Orders; or to order minor changes in the Work at no cost to the City that do not affect the schedule or quality of the Work..
- F. Construction Schedule - The Construction Manager has the authority to review and recommend acceptance of the Progress Schedule submitted by the Contractor at the start of the Work and subsequent significant revisions for conformance to the specified sequence of work and logic.
- G. Progress Payments - The Construction Manager has the authority to recommend acceptance or rejection of requests for progress payments which have been submitted by the Contractor.
- H. Final Payment - The Construction Manager, with the assistance of the Design Consultant, will conduct inspections to determine the dates of Substantial Completion of the Work and final completion of the Work, and will receive and forward to the City, for the City's review, written warranties, and related documents required by the Contract and assembled by the Contractor.

2.04 DESIGN CONSULTANT

- A. General - The Design Consultant will have the authority to act on behalf of the City only to the extent provided in the Contract Documents.
- B. Interpretations - The Design Consultant has the authority to be the initial interpreter of the technical requirements of the Contract Documents. Either party to the Contract may make written request to the Construction Manager for interpretations necessary for the proper execution or progress of the Work. The Construction Manager shall refer such written requests to the Design Consultant, who will render such interpretations. Where the Contractor has requested an interpretation from the Construction Manager, or been notified by the Construction Manager that such interpretation has been requested by the City, any work done before receipt of such interpretations, if not in accordance with same, shall be removed and replaced or adjusted as directed by the Construction Manager without additional expense to the City.

- C. Acceptability of the Work - The Design Consultant has the authority to make a recommendation as to the acceptability of the Work. The Design Consultant has the authority to recommend acceptance of defective work.
- D. Submittal - The Design Consultant shall receive, through the Construction Manager, shop drawings, product data and samples for review in accordance with Section 01300, **SUBMITTALS**.

The Design Consultant has the authority to review and take other appropriate action upon the Contractor's submittal such as shop drawings, product data and samples, but only for conformance with the design concept of the Work and the information given in the Contract Documents.

3 ARTICLE 3 - CITY

3.01 GENERAL

The City, acting through the City's Representative or the Construction Manager, shall have the authority to act as the sole judge of the Work and materials with respect to both quantity and quality as set forth in the Contract.

3.02 ATTENTION TO WORK

The City's, Construction Manager's and Design Consultant's representatives are designated in Section 00800-1.05, **CONTRACT ADMINISTRATION**. The Construction Manager's designated representative will normally be available at the site of the Work. An alternate representative will be designated when the designated Construction Manager's representative is not available at the site of the Work.

3.03 OBSERVATION AND INSPECTION

In addition to the Construction Manager's designated representative, the City may provide one or more inspectors to the Construction Manager to observe the work and with the same authority as provided for in Section 00700-2.03C, **Observation and Inspections of Construction**.

Separate and independent from the observations and inspections above, the project may be inspected by Building Officials for code compliance. Such inspectors shall have the authority provided to them by local jurisdiction.

3.04 CITY'S RIGHT TO USE OR OCCUPY

The City reserves the right, prior to Substantial Completion, to occupy, or use, any completed part or parts of the Work, providing these areas have been approved for occupancy by the City. The exercise of this right shall in no way constitute an acceptance of such parts, or any part of the Work, nor shall it in anyway affect the dates and times when progress payments shall become due from the City to the Contractor or in any way prejudice the City's rights in the Contract, or any bonds guaranteeing the same. The

Contract shall be deemed completed only when all the Work contracted has been duly and properly performed and accepted by the City.

Prior to such occupancy or use, the City and Contractor shall agree in writing regarding the responsibilities assigned to each of them for payments, security, maintenance, heat, utilities, damage to the Work, insurance, the period for correction of the Work, and the commencement of warranties required by the Contract Documents.

In exercising the right to occupy or use completed parts of the Work prior to the Substantial Completion thereof, the City shall not make any use which will materially increase the cost to the Contractor, without increasing the Contract Price, nor materially delay the completion of the Contract, without extending the time for completion.

The part or parts of the Work, if any, which the City anticipates the use or occupancy of prior to Substantial Completion are listed below:

- None

Failure to include a part of the Work in the above referenced section, shall not limit the City's right to use or occupy parts of the Work not listed.

3.05 CITY'S RIGHT TO CARRY OUT THE WORK

If the Contractor should neglect to prosecute the Work properly or fail to perform any provision of the Contract, and fails within five days after receipt of written notice from the City to commence and continue correction of such neglect or deficiency with diligence and promptness, the City may, and without prejudice to any other remedy, make good such default, neglect or failure.

The City also reserves the right to perform any portion of the Work due to an emergency threatening the safety of the Work, public, City, and any property or equipment.

In either case, a Change Order shall be issued unilaterally deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies and/or for performing such work, including compensation for the Design Consultant's, the Construction Manager's, and the City's additional services made necessary by such default, neglect, failure, or emergency.

3.06 CITY'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

The City reserves the right to perform work related to the Project with the City's own forces, and to award separate Contracts in connection with the Project or other work on the Site. If the Contractor claims that delay, damage, or additional cost is involved because of such action by the City, the Contractor shall make such claim as provided elsewhere in the Contract Documents.

When separate Contracts are awarded for different portions of the Project or other work on the Site, the term “Contractor” in the Contract Documents in each case shall mean the Contractor who executes each separate Agreement.

The City will provide for the coordination of the work of the City’s own forces and of each separate contractor with the Work of the Contractor, who shall cooperate therewith as provided in Section 00700-4.10, **COOPERATION WITH OTHER CONTRACTORS**.

3.07 RESPONSIBILITY OF THE CITY

The City shall not be held responsible for the care or protection of any material or parts of the Work prior to the final Acceptance, except as expressly provided in these Specifications.

4 ARTICLE 4 - CONTRACTOR

4.01 STATUS OF CONTRACTOR AND SUBCONTRACTORS

- A. It is stipulated and agreed that the Contractor shall be an independent contractor in the performance of this Contract and shall have complete charge of all persons engaged in performance of the Work. The Contractor shall perform the Work in accordance with its own methods, subject to compliance with the requirements of the Contract.
- B. Subcontractors will not be recognized as having a direct relationship with the City. The persons engaged in the Work, including employees of subcontractors and suppliers, will be considered employees of the Contractor and their work shall be subject to the provisions of the Contract. References in these Contract Documents to actions required of subcontractors, manufacturers, suppliers, or any person other than the Contractor, the City or the Construction Manager shall be interpreted as requiring that the Contractor shall require such subcontractor, manufacturer, supplier or person to perform the specified action.

The Contractor shall not employ any subcontractors that are not properly licensed in accordance with State law. Prior to commencement of any work by a subcontractor, the Contractor shall submit verification to the Construction Manager that the subcontractor is properly licensed for the work it will perform.

Contractor shall be fully responsible to City for the performance, acts and omissions of its subcontractors, and of persons directly or indirectly employed by them. Each subcontract shall expressly incorporate by reference the terms of this Contract, including the following provisions:

- Each subcontractor shall carry insurance as required by this Contract, and provide evidence of such insurance, as provided in Section 00800-2.01, **INSURANCE**.

- Each subcontractor shall be obligated to defend, indemnify, and hold the City harmless from all claims arising from the subcontractor's portion of the Work in the same manner as Contractor.
- Each subcontractor shall grant the City a license to use its drawings and design materials as provided in the Agreement.
- Each subcontract shall acknowledge the City's right to suspend or terminate the Contract, and waive any right to anticipated profits in the event of such termination.

The removal and/or substitution of any subcontractor listed in Section 00430, **DESIGNATION OF SUBCONTRACTORS**, shall be made by the Contractor and the City only as provided for in Public Contract Code Section 4100 *et seq.*

4.02 CONTRACTOR'S REPRESENTATIVE

The Contractor shall designate in writing, before starting work, an authorized representative who shall have complete authority to represent and to act for the Contractor. Said authorized representative, or designated alternate, that has the authority to act in matters relating to the Contract, shall be personally present at the work site at all times while work is actually in progress on the Contract. During periods when work is suspended, arrangements acceptable to the Construction Manager shall be made for any emergency work that may be required. The Contractor's authorized representative, or designated alternate(s) shall be fluent and proficient in the English language in order to understand, receive, and carry out oral and written communications or instructions relating to all job functions and responsibilities.

When the Contractor consists of two or more persons, firms, partnerships, or corporations functioning on a joint venture basis, said Contractor shall designate in writing to the Construction Manager, the name of their authorized representative who shall have supreme authority to direct the Work and to whom orders will be given by the Construction Manager, to be received and obeyed by the Contractor.

Information shall include the representative's name, street address, town, and telephone number, and the mailing address if different from the street address.

The Contractor shall give its personal attention to and shall supervise the Work to the end that it shall at all reasonable times be prosecuted faithfully; and when the authorized representative or designated alternate is not personally present on the Work, the representative shall at all reasonable times be represented by a competent superintendent or foreman who shall receive and obey all instructions or orders given under this Contract, and who shall have full authority to supply materials, tools, and labor without delay, and who shall be the legally appointed representative of the Contractor. The Contractor shall be liable for the faithful observation of any instructions delivered to the Contractor or to its authorized representative.

4.03 LANDS AND RIGHTS OF WAY

With the approval of the Construction Manager, the Contractor may use portions of the City's site for storage of construction equipment, materials and field offices. The City will not accept any responsibility for damage or loss of the Contractor's equipment or materials stored on any project related site caused by vandalism, nature, or otherwise, suffered by the Contractor. Protection of all construction equipment, stores, and supplies shall be the sole responsibility of the Contractor. Where additional work space is desired by the Contractor, it shall be the Contractor's sole responsibility and expense to obtain such a space for its use.

4.04 FEES AND PERMITS

The requirements for fees and permits are specified in Section 01060-1.02, **FEES AND PERMITS**.

4.05 COMPLIANCE WITH LAWS

The Contractor shall keep itself and its subcontractors fully informed of all existing and future legislated State and Federal Laws and City and County ordinances and regulations which in any manner affect those engaged or employed in the Work, or the materials and equipment used in the Work, or which in any way affect the conduct of the Work, and all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. If any discrepancy or inconsistency is discovered in the Drawings, Specifications, or in any other part of this Contract, in relation to any such law, ordinance, regulation, order or decree, the Contractor shall forthwith report of the same to the Construction Manager in writing. The Contractor shall at all times observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees; and shall protect and indemnify the City, the Construction Manager, the Design Consultant, and all of their officers, agents, employees and servants against any claim or liability arising from or based upon the violation of any such law, ordinance, regulation, order, or decree, whether by the Contractor itself or by its employees.

A. Particular attention is called to the following:

1. The Contractor shall abide by and shall include in its contracts and agreements with subcontractor(s) for the performance of Work on the City's Project a copy of the provisions the California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
2. Eight Hour Day Limitation – In accordance with the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code, State of California, and in particular Sections 1810 to 1815 inclusive, thereof, eight (8) hours labor shall constitute a day's work and no laborer, worker, or mechanic in the employ of said Contractor, or any subcontractor doing or contracting to do any part of the Work contemplated by this Contract, shall be required or permitted to work more than eight (8) hours in any one calendar day, and forty (40) hours in any one calendar week unless

compensated at not less than time and a half as set forth in California Labor Code Section 1815. However, if the prevailing wage determination requires a higher rate of pay for overtime than is required under said Section 1815, then the overtime rate must be paid, as specified in California Code of Regulations Title 8, Group 3, Section 16200(a)(3)(F). The Contractor and each subcontractor shall also keep an accurate record showing the names and actual hours worked of all workers employed by them in connection with the work contemplated by this Contract, which record shall be open at all reasonable hours for the inspection of the City or its officers or agents and by the Division of Labor Standards Enforcement of the Department of Industrial Relations, their deputies or agents; and it is hereby further agreed that said Contractor shall forfeit as a penalty to the Authority, the sum of twenty-five and No/100 Dollars (\$25.00) for each laborer, worker or mechanic employed in the execution of this Contract by the Contractor or by any subcontractor for each calendar day during which such laborer, worker or mechanic is required or permitted to labor more than eight (8) hours in any one calendar day and forty (40) hours in one calendar week in violation of this stipulation.

- B. Prior to commencing the Work, Contractor shall comply with the provisions of Labor Code 1777.5, including but not limited to the submission of contract award information to an applicable apprenticeship program that can supply apprentices to the site of the Work. Such information shall include an estimate of journeyman hours to be performed under this Contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall be submitted to the City if requested by the City.

A determination by the Chief of the Division of Apprenticeship Standard's that Contractor or its subcontractors have knowingly violated Labor Code 1777.5 shall forfeit as a civil penalty an amount not exceeding one hundred dollars (\$100) for each full calendar day of noncompliance. Contractor or its subcontractor, who knowingly commits a second or subsequent violation of Labor Code 1777.5 within a three-year period, where the noncompliance results in apprenticeship training not being provided as required, shall forfeit as a civil penalty the sum of not more than three hundred dollars (\$300) for each full calendar day of noncompliance. Upon the receipt of a determination that a civil penalty has been imposed by the Chief of the Division of Apprenticeship Standards, the City shall withhold the amount of the civil penalty from the next progress payment then due or to become due Contractor.

- C. Receipt of Workers' Wages, Fee for Registering or Placing Persons In Public Works - Attention is directed to the provisions of Sections 1778 and 1779 of the California Labor Code, which read as follows:

Section 1778. "Every person, who individually or as a representative of an awarding or public body or officer, or as a contractor or subcontractor doing public work, or agent or officer thereof, who takes, receives or conspires with another to take or receive, for its own use or the use of any other person any

portion of the wages of any workman or working subcontractor, in connection with services rendered upon any public work is guilty of a felony."

Section 1779. "Any person or agent or officer thereof who charges, collects, or attempts to charge or collect, directly or indirectly, a fee or valuable consideration for registering any person for public work, or for giving information as to where such employment may be procured, or for placing, assisting in placing, or attempting to place, any person in public work, whether the person is to work directly for the state, or any political subdivision or for a contractor or subcontractor doing public work is guilty of a misdemeanor."

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

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

- E. Worker's Compensation Insurance - The provisions of Section 00800-2.01B, Worker's Compensation Insurance, shall be considered as repeated herein.
- F. Lateral and Subjacent Supports - Attention is directed to Section 832 of the Civil Code of the State of California relating to lateral and subjacent supports, and wherever structures or improvements adjacent to the excavation may be damaged by such excavation, the Contractor shall comply with this law. As provided in Labor Code Section 6707, a separate bid item is provided for costs of shoring and bracing of excavations five feet or more in depth.
- G. Safety Standards - The Contractor shall comply with all applicable provisions of the Safety and Health Regulations of Construction, promulgated by the Secretary of Labor under Section 107 of the Contract Work Hours and Safety Standards Act (40 USC 327 et. seq.) as set forth in Title 29, C.F.R., CAL/OSHA, and the regulations issued thereunder. Compliance shall be the Contractor's sole responsibility, and neither the City, the Construction Manager nor the Design Consultant shall have any liability for non-compliance. See Section 00700-4.07, **SAFETY**, for additional safety requirements.

4.06 COMPLIANCE WITH ENVIRONMENTAL LAWS

During construction, including any suspension of the Work, the Contractor shall comply with all pertinent requirements of Federal, State, and local environmental laws and regulations, including, but not limited to, the Federal Clean Air Act, State and local air pollution and noise ordinances, construction site erosion control regulations. Specific requirements are further specified in Section 01060, **REGULATORY REQUIREMENTS AND PERMITS**, and Section 01560, **TEMPORARY CONTROLS**.

4.07 SAFETY

- A. Contractor's Safety Responsibility - The Contractor shall be solely and completely responsible for conditions of the job site, including safety of all persons and property during performance of the Work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to U.S. Department of Labor (OSHA), the California Occupational Safety and Health Act, and all other applicable Federal, State, County, and local laws, ordinances, codes, the requirements set forth below, and any regulations that may be detailed in other parts of these Contract Documents. In the event of conflicting requirements, the most stringent requirement as it pertains to the Contractor's safety responsibility, shall apply and shall be followed by the Contractor.

No provision of the Contract Documents shall act to make the City, the Construction Manager, Design Consultant or any other party than the Contractor responsible for safety. The Contractor agrees that for purposes of California Labor Code Section 6400 and related provisions of law the Contractor, the Contractor's privities and any other entities acting pursuant to this Contract will be "employers" responsible for furnishing employment and a place of employment that is safe and healthful for the employees, if any, of such entities acting pursuant to this Contract and that neither the City nor the Construction Manager, Design Consultant or their respective officers, officials, employees, agents or volunteers or other authorized representatives will be responsible for having hazards corrected and /or removed at the location(s) where the Work is to be performed. The Contractor agrees that neither the City nor the Construction Manager, Design Consultant or their respective officers, officials, employees, agents or volunteers or other authorized representatives will be responsible for taking steps to protect the Contractor's employees from such hazards, or for instructing the Contractor's employees to recognize such hazards or to avoid the associated dangers. The Contractor agrees that with respect to the Work to be performed under this Contract and the location(s) where such Work is to be performed, the Contractor will be responsible for not creating hazards, and for having hazards corrected and/or removed. The Contractor agrees that through the safety obligations contained in this Contract and the Contractor's own inspection of the site(s) where the Contract Work is to be performed, the Contractor is aware and has been notified of the hazards to which the Contractor's employees may be exposed in the performance of Contract Work. The Contractor has taken and/or will take appropriate, feasible steps to protect the Contractor's employees from such hazards, and has instructed and/or will instruct its employees to recognize such hazards and how to avoid the associated dangers. The Contractor agrees that neither the City nor the Construction Manager, Design Consultant or their respective officers, officials, employees, agents or volunteers or other authorized representatives will be "employers" pursuant to California Labor Code Section 6400 and related provisions of law with respect to the Contractor, the Contractor's privities or other entities acting pursuant to this Contract.

The Contractor shall indemnify, defend and hold Owner and Construction Manager, Design Consultant and their respective officers, officials, employees, agents and volunteers or other authorized representatives harmless to the full extent permitted by law concerning liability related to the Contractor's safety obligations in accordance with Section 00800-2.01E, **Indemnification**.

If death or serious injuries or serious damages occur, the accident shall be reported immediately by telephone or messenger to both the Construction Manager and the City. In addition, the Contractor shall furnish the Construction Manager with a copy of the Employer's Report of Injury immediately following any incident requiring the filing of said report during the prosecution of the Work under this Contract. The Contractor shall also furnish the Construction Manager with a copy of the Employer's Report of Injury involving any subcontractors on this project. The Contractor shall make all reports as are, or may be, required by any authority having jurisdiction, and permit all safety inspections of the Work being performed under this Contract.

If a claim is made by anyone against the Contractor or any subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to the Construction Manager, giving full details of the claim.

- B. Safety Program - The Contractor shall establish, implement, and maintain a written injury prevention program as required by Labor Code Section 6401.7. Before beginning the Work the Contractor shall prepare and submit to the Construction Manager a Contractor Safety Program that provides for the implementation of all of the Contractor's safety responsibilities in connection with the Work at the site and the coordination of that program and its associated procedures and precautions with safety programs, precautions and procedures of each of its subcontractors and other prime Contractors performing work at the site. The Contractor shall be solely responsible for initiating, maintaining, monitoring, coordinating, and supervising all safety programs, precautions, and procedures in connection with the Work and for coordinating its programs, precautions, and procedures of the other prime contractors and subcontractors performing the Work at the site. The Safety Program should contain all the necessary elements for the Contractor to administer its program on site. At a minimum, this written Safety Program shall address the elements required by Labor Code Section 6401.7.

The Contractor's compliance with requirements for safety and/or the Construction Manager's review of the Contractor's Safety Program shall not relieve or decrease the liability of the Contractor for safety. The Construction Manager's review of the Contractor's Safety Program is only to determine if the above listed elements are included in the program.

- C. Safety Supervisor - The Contractor shall appoint an employee as safety supervisor who is qualified and authorized to supervise and enforce compliance with the Safety Program. The Contractor shall notify the Construction Manager in writing prior to the commencement of work of the name of the person who will act as the

Contractor's safety supervisor and furnish the safety supervisor's resume to the Construction Manager.

The Contractor will, through and with its Safety Supervisor, ensure that all of its employees and its subcontractors of any tier fully comply with the Project Safety Policies. The Safety Supervisor shall be a full-time employee of the Contractor whose responsibility shall be for supervising compliance with applicable safety requirements on the work site and for developing and implementing safety training classes for all job personnel. The City shall have the authority to require removal of the Contractor's Safety Supervisor if the representative is judged to be improperly or inadequately performing the duties; however, this authority shall not in any way affect the Contractor's sole responsibility for performing this work safely, nor shall it impose any obligation upon the City to ensure the Contractor performs its work safely.

D. Safety and Protection - The Contractor shall take all necessary protection to prevent damage, injury, and loss to:

- All employees on the Project, employees of all subcontractors, and other persons and organizations who may be affected thereby;
- All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
- Other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and underground facilities not designated for removal, relocation, or replacement in the course of construction.

The Contractor shall comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss and shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and of underground facilities and utility agencies when prosecution of the Work may affect them and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All injury or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor, any subcontractor, supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by the Contractor.

E. Excavation Safety - In accordance with the provisions of Section 6705 of the Labor Code, the Contractor shall submit, in advance of excavation of any trench or trenches five feet or more in depth, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plans vary from the shoring system standards set forth in the Construction Safety

Orders of the Division of Industrial Safety in Title 8, Subchapter 4, Article 6, California Code of Regulations, the plans shall be prepared and signed by a registered civil or structural engineer employed by the Contractor, and all costs therefore shall be included in the price named in the Contract for completion of the Work as set forth in the Contract Documents. Nothing in this section shall be deemed to allow the use of a shoring, bracing, sloping, or other protective system less effective than that required by the Construction Safety Orders. Nothing in this section shall be construed to impose a tort liability on the City, the Design Consultant, the Construction Manager, nor any of their agents, consultants, or employees. The City's review of the Contractor's excavation plan is only for general conformance to the Construction Safety Orders.

Prior to commencing any excavation, the Contractor shall designate in writing to the Construction Manager the "competent person(s)" with the authority and responsibilities designated in the Construction Safety Orders.

- F. Safety Emergencies - In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, the Contractor, without special instruction or authorization from the Construction Manager, is obligated to act to prevent threatened damage, injury or loss. The Contractor shall give the Construction Manager prompt written notice if the Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby.
- G. Safety Violations - Should the Contractor fail to correct a condition, the City shall have the right to notify the Contractor through the Construction Manager that an unsafe condition may exist and must be corrected or the work in question can be stopped in accordance with Section 00700-6.06, **SUSPENSION OF WORK**, until the condition is corrected to the satisfaction of the City. No extension of time or additional compensation will be granted as a result of any stop order so issued. The notification and suspension of such work or the failure to provide such notification and suspension by the City shall not relieve the Contractor of its sole responsibility and liability for safety.

The City shall have the authority to require the removal from the project of the foreman and/or superintendent in responsible charge of the work where safety violations occur.

- H. Equipment Safety Provisions - The completed Work shall include all necessary permanent safety devices, such as machinery guards and similar ordinary safety items, required by the State and Federal (OSHA) industrial authorities and applicable local and national codes. Further, any features of the Work, including City-selected equipment, subject to such safety regulations shall be fabricated, furnished, and installed in compliance with these requirements. All equipment furnished shall be electrically grounded and provided guards and protection as required by safety codes. Where vapor-tight or explosion-proof electrical installation is required by safety codes, this shall be provided. Contractors and manufacturers of equipment shall be held responsible for compliance with the

requirements included herein. The Contractor shall notify all equipment suppliers and subcontractors of the provisions of this paragraph.

- I. Confined Spaces – The Work requires work in confined spaces and requires compliance with CAL/OSHA and Federal OSHA requirements. Confined spaces for the purposes of this section shall be as defined by the Division of Industrial Safety. Notwithstanding any classifications relative to the Tunnel Safety Orders, work within confined spaces of this project is subject to the definitions and applicable provisions of Section 5156 et. seq., Title 8, Division 1, Chapter 4, Subchapter 7, Group 16, Article 108 of California Code of Regulations. Including exposure to hydrogen sulfide, methane, carbon dioxide and other gases and vapors commonly found in municipal sewers which could have, or has the potential of having Immediate Danger to Life or Health Conditions (IDLH).
- J. Public Safety and Convenience - The Contractor shall conduct his work so as to ensure the least possible obstruction to traffic and inconvenience to the general public and the residents in the vicinity of the work and to ensure the protection of persons and property. No road or street shall be closed to the public except with the permission of the Construction Manager and the proper governmental authority. Fire hydrants on or adjacent to the work shall be accessible to fire fighting equipment. Temporary provisions shall be made by the Contractor to ensure the use of sidewalks, private and public driveways and proper functioning of gutters, sewer inlets, drainage ditches and culverts, irrigation ditches and natural water courses.

4.08 PROVISIONS FOR HANDLING EMERGENCIES

It is possible that emergencies may arise during the progress of the Work that may require special treatment or make advisable extra shifts of labor forces to continue the Work for twenty-four (24) hours per day. These emergencies may be caused by damage or possible damage to nearby existing structures or property by reason of the Work under construction, or by storm, accidents, or leakage. The Contractor shall be prepared in case of such emergencies to make all necessary repairs and shall promptly execute such work when required by the Construction Manager. The determinations made by the Construction Manager for handling emergencies shall be final and conclusive upon the parties.

Upon start of the Work, Contractor shall provide means for immediate emergency notification of Contractor's designated representative and designated emergency alternates.

4.09 NONSTANDARD WORKING HOURS

The Contractor may be required to prosecute the Work at night or outside of the normal working hours defined in Section 01560-1.07, **WORKING HOURS**. Such work may be required due to project and/or operational constraints as defined in Section 01010, **SUMMARY OF WORK**, or if emergencies arise as provided for in Section 00700-4.08, **PROVISIONS FOR HANDLING EMERGENCIES**. When required, ordered, or permitted to work at night, the Contractor shall provide sufficient and satisfactory

lighting and other facilities therefore. For work outside of the normal working hours, the Contractor shall receive no extra payment, but compensation shall be considered as having been included in the price stipulated for the Work, except for authorized work performed outside of the Contract requirements.

4.10 COOPERATION WITH OTHER CONTRACTORS

This Paragraph shall serve as notice to the Contractor that the City may let other contracts for other work at or near the site of this Work. The Contractor shall afford other contractors reasonable opportunity for the delivery and storage of their materials and the execution of their work, and shall properly connect and coordinate its work with theirs.

Should construction be under way by other forces or by other contractors within or adjacent to the limits of the work or in the vicinity of the Work to be done under this Contract, the Contractor shall so conduct its operations as to interfere to the least possible extent with the Work of such other forces or contractors.

Any difference or conflicts which may arise between the Contractor and any other forces or contractors, creating delays or hindrance to each other, shall be adjusted as determined by the Construction Manager.

Section 01010, **SUMMARY OF WORK**, indicates anticipated other potential construction activities within or adjacent to Work to performed in this Contract.

5 ARTICLE 5 - CONTROL OF WORK AND MATERIAL

5.01 MEANS, METHODS AND APPLIANCES

The means, methods and appliances adopted by the Contractor shall be planned and executed to, in the opinion of the Construction Manager, produce the highest grade quality of work and will enable the Contractor to complete the Work in the time agreed upon. The City and Construction Manager shall not supervise, direct, or have control over, or be responsible for, Contractor's means, methods and appliances of construction or for the safety precautions and programs incident thereto, or for any failure of Contractor to comply with laws and regulations applicable to the furnishing or performance of Work. However, if at any time the means, methods and appliances appear inadequate or of inferior quality, the Construction Manager may order the Contractor to improve their character or efficiency, and the Contractor shall conform to such order; failure of the Construction Manager to order such improvement of methods of efficiency will not relieve the Contractor from its obligation to perform satisfactory work and to finish it in the time agreed upon.

5.02 CHARACTER OF WORKERS

None but competent forepersons and workers shall be employed on work requiring special qualifications; and, when required by the Construction Manager, the Contractor shall remove from the work any person who commits trespass, or is, in the opinion of the Construction Manager, disorderly, dangerous, insubordinate, incompetent, or otherwise

objectionable. Such discharge shall not be the basis of any claim for compensation or damages against the Construction Manager, the City, or any of its officers or representatives.

5.03 MATERIALS AND WORKMANSHIP

Unless otherwise indicated in these Specifications, materials and equipment for the construction work shall be the best grade in quality of a manufacturer regularly engaged in the production of such materials and equipment or materials and equipment of comparable character. All materials must be of the specified quality and equal to approved samples, if samples have been submitted. All work shall be done and completed in the best workmanlike manner, obtainable in the local market. All permanent materials and equipment shall be new unless otherwise specified.

Notwithstanding any omission from these Specification or the Drawings it shall be the duty of the Contractor to call the Construction Manager's attention to apparent errors or omissions and request instructions before proceeding with the Work. The Construction Manager may, by appropriate instructions correct errors and supply omitted information. Such instructions shall be as binding upon the Contractor as though contained in the original Specifications or Drawings.

All defective work or materials shall be promptly removed from the premises by the Contractor, whether in place or not, and shall be replaced or renewed in such manner as the Construction Manager may direct. All materials and workmanship of whatever description shall be subjected to the inspection of, and rejection by, the Construction Manager if not in conformance with the Contract Documents.

Any defective material or workmanship, or any unsatisfactory or imperfect work which may be discovered before the final Acceptance of the Work or within one (1) year thereafter, shall be corrected immediately on the requirement of the Construction Manager, without extra charge, notwithstanding that it may have been overlooked in previous inspections and estimates. Failure to inspect work shall not relieve the Contractor from any obligation to perform sound and reliable work as herein described.

5.04 EXISTING UTILITIES

A. General - The location of known existing utilities and pipelines are shown on the Plans in their approximate locations. However, nothing herein shall be deemed to require the City to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the site of the Project can be inferred from the presence of other visible facilities, such as buildings, cleanouts, meter and junction boxes, on or adjacent to the site of the construction.

The City will assume the responsibility for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the construction site if such utilities are not identified by the City in the Contract Documents or which can reasonably be inferred from the presence of other visible facilities.

- B. Utility Location - It shall be the Contractor's responsibility to determine the exact location and depth of all utilities, including service connections, which have been marked by the respective utility owners and which the Contractor believes may affect or be affected by the Contractor's operations. The Contractor shall not be entitled to additional compensation nor time extensions for work necessary to avoid interferences nor for repair to damaged utilities if the Contractor does not expose all such existing utilities as required by this section.

Pursuant to Government Code Section 4216.2 the Contractor shall contact the appropriate regional notification center at least two (2) working days before, but not more than 14 calendar days prior to commencing any excavation. The Contractor shall request that the utility owners conduct a utility survey and mark or otherwise indicate the location of their service.

After the utility survey is completed, the Contractor shall commence "potholing" or hand digging to determine the actual location of the pipe, duct, or conduit. The Construction Manager shall be given notice prior to commencing potholing operations. The Contractor shall uncover all piping and conduits, to a point one (1) foot below the pipe, where crossings, interferences, or connections are shown in the Contract Documents, prior to trenching or excavating for any pipe or structures, to determine actual elevations. New pipelines shall be laid to such grade as to clear all existing facilities which are to remain in service for any period subsequent to the construction of the run of pipe involved.

- C. Utility Relocation and Repair - If interferences occur at locations other than those indicated in the Contract Documents with reasonable accuracy, the Contractor shall notify the Construction Manager in writing. The Construction Manager will supply a method for correcting said interferences in accordance with the responsibilities of this section and Government Code Section 4215.

The City shall compensate the Contractor for the costs of locating and repairing damage not due to the failure of the Contractor to exercise reasonable care, and for removing or relocating such main or trunk-line utility facilities not indicated in the Contract Documents with reasonable accuracy, and for the cost of equipment on the Project necessarily idled during such work. The payment for such costs will be made as provided in Section 00700-7.01, **CHANGE ORDERS**. The Contractor shall not be assessed liquidated damages for delay in completion of the Project, when such delay is caused by the failure of the City or utility company to provide for removal or relocation of such utility facilities. Requests for extensions of time arising out of utility relocation or repair delays shall be filed in accordance with Section 01310-1.06, **TIME IMPACT ANALYSES**.

The public utility, where they are the owner of the affected utility, shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price. The right is reserved to the City and the owners of utilities or their authorized agents to enter upon the Work area for the purpose of making such changes as are necessary for the rearrangement of their facilities or for making necessary connections or repairs to

their properties. The Contractor shall cooperate with forces engaged in such work and shall conduct its operations in such a manner as to avoid any unnecessary delay or hindrance to the work being performed by such forces and shall allow the respective utilities time to relocate their facility.

When the Contract indicates that a utility is to be relocated, altered or constructed by others, the City will conduct all negotiations with the utility company and the work will be done at no cost to the Contractor, unless otherwise stipulated in the Contract.

Temporary or permanent relocation or alteration of utilities desired by the Contractor for its own convenience shall be the Contractor's responsibility and it shall make arrangements and bear all costs for such work.

6 ARTICLE 6 - PROGRESS OF THE WORK

6.01 COMMENCEMENT OF WORK

Within thirty (30) calendar days after receipt of the required bonds and evidences of insurance and the executed Agreement from the Contractor, written Notice to Proceed will be given by the City to Contractor. Notwithstanding other provisions of the Contract, the Contractor shall not be obligated to perform work, and the City shall not be obligated to accept or pay for work performed by the Contractor, prior to Notice to Proceed. The Contractor shall provide the required Contract bonds and evidences of insurance prior to Notice to Proceed and commencing work at the Site.

The Contractor shall commence the Work covered by this Contract within ten (10) days after the date established in the Notice to Proceed for the commencement of Contract Time.

The Contractor shall give the Construction Manager written notice not less than two (2) working days in advance of the actual date on which the work will be started. The Contractor shall be entirely responsible for any delay in the Work which may be caused by its failure to give such notice.

6.02 CONTRACT TIME

Time shall be of the essence of the Contract. The Contractor shall prosecute the Work so that the various portions of the project shall be Substantially Complete and ready for use within the time specified in Section 00800-1.01, **TIME ALLOWED FOR COMPLETION**. It is expressly understood and agreed by and between the Contractor and the City that the Contract time for completion of the Work described herein is a reasonable time taking into consideration the average climatic and economic conditions and other factors prevailing in the locality and the nature of the Work. The Contractor is hereby advised that the Contractor's Bid is to be based on the entire Contract Time and the Contractor shall include its field and home office overhead costs in the Bid for the entire Contract Time.

6.03 DELAYS

- A. Notice of Delays - When the Contractor foresees a delay in the prosecution of the Work and, in any event, immediately upon the occurrence of a delay, and in any event no later than five days from the event giving rise to the delay, the Contractor shall notify the Construction Manager in writing of the probability of the occurrence and the estimated extent of the delay, and its cause. The Contractor shall take immediate steps to prevent, if possible the occurrence or continuance of the delay. The Contractor agrees that no claim shall be made for delays, which are not called, to the attention of the Construction Manager at the time of their occurrence.
- B. Non-Excusable Delays - Non-excusable delays in the prosecution of the Work shall include delays which could have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its subcontractors at any tier level, or suppliers. The Contractor shall receive no compensation for such delay.
- C. Excusable Delays - Excusable delays in the prosecution or completion of the Work shall include delays which result from causes beyond the control of the Contractor and City and which could not have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its subcontractors, at any tier level, or suppliers. The Contractor shall receive no compensation for such delay, but the Contract Time may be extended as provided in Section 6.04. Excusable delays are as further defined below.
 - 1. Abnormal Delays - Delays caused by acts of god, fire, unusual storms, floods, tidal waves, earthquakes, strikes, labor disputes, freight embargoes, and shortages of materials shall be considered as excusable delays insofar as they prevent the Contractor from proceeding with at least seventy-five (75) percent of the normal labor and equipment force for at least five (5) hours per day toward completion of the current critical activity item(s) on the latest Favorably Reviewed Progress Schedule.
 - 2. Weather Delays - Should unusual inclement weather conditions or the conditions resulting from weather prevent the Contractor from proceeding with seventy-five (75) percent of the normal labor and equipment force engaged in the current critical activity item on the latest Favorably Reviewed Progress Schedule for a period of at least five (5) hours per day toward completion of such operation or operations, and the crew is dismissed as a result thereof, it shall be a weather delay day.
 - 3. Material Shortages - Upon the submission of satisfactory proof to the Construction Manager by the Contractor, shortages of material may be acceptable as grounds for granting a time extension. In order that such proof may be satisfactory and acceptable to the Construction Manager, it must be demonstrated by the Contractor that the Contractor has made every effort to obtain such materials from all known sources within reasonable reach of the proposed Work. Only the physical shortage of material, caused by unusual circumstances, will be considered under these provisions as a cause for extension of time, and no consideration will be given to any claim that material could not be obtained at a reasonable,

practical, or economical cost or price, unless it is shown to the satisfaction of the Construction Manager that such material could have been obtained only at exorbitant prices entirely out of line with current rates, taking into account the quantities involved and usual practices in obtaining such quantities. A time extension for shortage of material will not be considered for material ordered or delivered late or whose availability is affected by virtue of the mishandling of procurement. The above provisions apply equally to equipment to be installed in the Work.

- D. **Compensable Delays** - Compensable delays in the prosecution or completion of the Work shall include delays that occur through no fault of the Contractor and prevent the Contractor from proceeding with at least seventy-five (75) percent of the normal labor and equipment force for at least five (5) hours per day toward completion of the current critical activity item(s) on the latest Favorably Reviewed Progress Schedule due to the following cause(s):
1. Delays due solely to the actions and/or inactions of the City.
 2. Delays due to differing site conditions as defined in Section 00700-7.02, **DIFFERING SITE CONDITIONS**.
 3. Delays due to other contractors employed by the City who interfere with the Contractor's prosecution of the Work as defined above.
- E. **Concurrent Delays** - Concurrent delays are those delay periods when the prosecution of the Work is delayed during the same period of time due to causes from a combination of the delays defined in Sections 00700-6.03B, **Non-Excusable Delays**, 00700-6.03C, **Excusable Delays**, or 00700-6.03D, **Compensable Delays**. During such concurrent delay periods, time extensions will be granted in accordance with Section 00700-6.04, **TIME EXTENSIONS**; however, the Contractor shall not be compensated for its overhead costs as defined in Section 00700-6.04C, **Indirect Overhead**, and the City shall not assess its actual costs as defined in Section 00700-6.04A, **Non- Excusable Delays**.

6.04 TIME EXTENSIONS

- A. **Non-Excusable Delays** - The City, at its sole option, may grant an extension to milestone or completion dates for non-excusable delays. If the City grants an extension of time for non-excusable delays, the Contractor agrees to pay the City's actual costs, including charges for engineering, inspection and administration incurred during the extension.
- B. **Excusable or Compensable Delays** - If the Contractor is delayed in the performance of its Work as defined in Sections 00700-6.03C, **Excusable Delays**, or 00700-6.03D, **Compensable Delays**, then milestone and Contract completion dates may be extended by the City for such time that, in the City's and Construction Manager's determination, the Contractor's completion dates will be delayed, provided that the Contractor strictly fulfills the following:
1. The Contractor shall provide notification, in accordance with Section 00700-6.03A, **Notice of Delays**, and submit in writing a request for an

extension of time to the Construction Manager stating at a minimum the probable cause of the delay and the number of days being requested. The time extension request shall be submitted in accordance with the requirements of Section 01310-1.06, **TIME IMPACT ANALYSES**.

2. If requested by the Construction Manager, the Contractor shall promptly provide sufficient information to the Construction Manager to assess the cause or effect of the alleged delay, or to determine if other concurrent delays affected the Work.
3. Weather Delays - The Contractor will be granted a non-compensable time extension for weather caused delays, pursuant to Section 00700-6.03 C2, **Weather Delays**, over and above an allowance as provided for in Section 00800-1.03, **WEATHER DAYS**. No compensable time extensions for weather delays will be granted until the total number of weather days exceeds this allowance.

Should the Contractor fail to fulfill any of the foregoing, which are conditions precedent to the right to receive a time extension, the Contractor waives the right to receive a time extension.

During such extension of time, neither extra compensation for engineering, inspection, and administration nor damages for delay will be charged to the Contractor. It is understood and agreed by the Contractor and City that time extensions due to excusable or compensable delays will be granted only if such delays involve the current critical activity item(s) on the latest Favorably Reviewed Progress Schedule.

Should the Contractor fail to complete the Work within the time specified in the Contract, as extended in accordance with this clause if appropriate, the Contractor shall pay to the City liquidated damages in accordance with Section 00700-6.05, **LIQUIDATED DAMAGES**.

- C. Indirect Overhead - The Contractor may be entitled to reimbursement of indirect overhead expenses for periods of time when the Work is delayed as defined in Section 00700-6.03D, **Compensable Delays**. Reimbursement for indirect overhead shall not be made for concurrent delays as defined in Section 00700-6.03E, **Concurrent Delays**.

The compensation described in Section 01035-1.05, **MARK-UP ALLOWANCES**, includes provisions for reimbursement of indirect overhead expenses for Change Order work. Compensation as described in this section shall reasonably consider the indirect overhead included in the Mark-Up Allowance, as follows:

1. If City and Contractor agree that the Mark-Up Allowance does not provide sufficient compensation for a compensable delay associated with changed work, this section shall apply.
2. Upon application of this section, an amount equal to the entire Mark-Up Allowance for all Change Order work shall be deducted from the indirect

overhead compensation as calculated based on Sections 00700 6.04 C3 (Indirect Field Overhead) and 6.04 C4 (Indirect Home Office Overhead) below.

As a condition precedent to any reimbursement of indirect overhead expense, the Contractor must fulfill all conditions as provided in Section 00700-6.04B, **Excusable or Compensable Delays**. No additional markup for overhead or profit shall be provided for such reimbursable indirect overhead expenses.

Payment to the Contractor for indirect overhead expenses will be made only for the extended Contract Time granted for Compensable Delay(s) that run following the expiration of the original Contract Time plus any time extensions granted for delays other than Compensable Time extensions.

3. Indirect Field Overhead - For those allowable delay periods as defined in Section 00700-6.04C, **Indirect Overhead**, the Contractor shall be reimbursed for its indirect field overhead based on:
 - a. Actual invoice costs for on-site field offices and temporary utilities as described in Section 01560, **TEMPORARY CONTROLS**, and Section 01510, **TEMPORARY UTILITIES**.
 - b. Actual indirect labor costs, as determined consistent with Section 01035-1.03, **FORCE ACCOUNT PAYMENT**, for field office staff.
 - c. Fair rental values acceptable to the Construction Manager as described in Section 01035-1.03, **FORCE ACCOUNT PAYMENT**, for construction equipment idled due to the delay.
4. Indirect Home Office Overhead - For those allowable delay periods as defined in Section 00700-6.04C, **Indirect Overhead**, the Contractor shall be reimbursed for its unabsorbed home office overhead based on the following formula:

$$\frac{\text{ContractAwardAmount}(\$)}{\text{OriginalContractTime}(\text{Days})} * 0.03 = \text{DailyHomeOfficeOverhead}(\$ / \text{day})$$

The Contract Award Amount is the total amount in the executed Agreement (Section 00500). The Contract Time is as provided in Section 00800-1.01, **TIME ALLOWED FOR COMPLETION**.

As it is impractical to determine the actual home office overhead, such reimbursement shall constitute full payment for any and all home office overhead expenses for such periods of time for the Contractor and all subcontractors, whether greater or less than actual. Distribution of the markup amount among the Contractor and all subcontractors and suppliers is the responsibility of the Contractor.

6.05 LIQUIDATED DAMAGES

- A. Owner and the Contractor recognize that time is of the essence of this Agreement and that the Owner will suffer financial loss if the Work is not completed within the time specified in Section 00800-1.01, **TIME ALLOWED FOR COMPLETION**, and required milestone work in Section 00800-1.02 herein, plus any extensions thereof allowed in accordance with Section 00700-6.04 of the General Conditions. It is hereby understood and agreed that it is and will be difficult and/or impossible to ascertain and determine the actual damage which the Owner will sustain in the event of and by reason of the Contractor's failure to fully perform the Work or to fully perform all of its Contract obligations that have accrued by the time for completion as specified in Section 00800-1.01 herein and/or as specified for completion of any scheduled operations or works described in Section 00800-1.02. It is, therefore, agreed in accordance with California Government Code Section 53069.85 that the Contractor will forfeit and pay to the Owner liquidated damages in the amount set forth in Section 00800-1.02, **DAMAGES FOR DELAYS**, per day for each and every calendar day that expires after the time for completion specified in Section 00800-1.01 herein and/or as specified for completion of any scheduled operations or works described in Section 00800-1.02 except as otherwise provided by extension of time pursuant to Section 00700-6.04 of the General Conditions. It is further understood and agreed in accordance with California Government Code Section 53069.85 that the liquidated damages sum specified in this provision is not manifestly unreasonable under the circumstances existing at the time this Contract was made, and that the Owner may deduct liquidated damages sums in accordance with this provision from any payments due or that may become due the Contractor.
- B. Liquidated damages will continue to accrue at the stated rate until Substantial Completion of the Work. Accrued liquidated damages may be deducted by the Owner from amounts due or that become due to the Contractor for performance of the Work. Liquidated damages may not be waived or reduced by the Owner unless expressly waived or reduced in writing by the Construction Manager.

6.06 SUSPENSION OF WORK

- A. If the Contractor fails to correct defective work as required by Section 00700-5.03, **MATERIALS AND WORKMANSHIP**, or fails to carry out the Work in accordance with the Contract Documents or any other applicable rules and regulations, the City, by a written order of the City's representative or signed personally by an agent specifically so empowered by the City, in writing, may order the Contractor to stop the Work, or any portion thereof. The suspension of Work shall remain in effect until the cause for such order has been eliminated. This right of the City to stop the Work shall not give rise to any duty on the part of the City to exercise this right for the benefit of the Contractor or any other person or entity. All delays in the Work occasioned by such stoppage shall not relieve the Contractor of any duty to perform the Work or serve to extend the time for its completion. Any and all necessary corrective work done in order to comply with the Contract

Documents shall be performed at no cost to the City. The City's concurrence that the condition or cause has been eliminated will be provided in writing to the Contractor.

- B. In the event that a suspension of Work is ordered, as provided in this paragraph, the Contractor, at its expense, shall perform all work necessary to provide a safe, smooth, and unobstructed passageway through construction for use by public, pedestrian, and vehicular traffic, during the period of such use by suspension. Should the Contractor fail to perform the Work as specified, the City may perform such work and the cost thereof may be deducted from monies due the Contractor under the Contract.
- C. The City shall also have authority to suspend the Work wholly or in part, for such period as the City may deem necessary, due to unsuitable weather, or to such other conditions as are considered unfavorable for the suitable prosecution of the Work, or for the City's own convenience. Such temporary suspension of the Work will be considered justification for time extensions to the Contract in an amount equal to the period of such suspension if such suspended work includes the current critical activity on the latest Favorably Reviewed Progress Schedule. The Contractor as directed by the City shall provide the provisions as stipulated in Section 00700-6.06, **SUSPENSION OF WORK**, above. Such additional work shall be compensated as provided for in Section 00700-Article 7, **CHANGES IN THE WORK**.

6.07 RIGHT TO TERMINATE CONTRACT

- A. Termination for Default
 - 1. In the event of default by the Contractor, the City may give 10 Days written notice to the Contractor of City's intent to terminate the Agreement and provide the Contractor an opportunity to remedy the conditions constituting the default. It will be considered a default by the Contractor whenever Contractor shall:
 - a. Declare bankruptcy, become insolvent, or assign its assets for the benefit of its creditors;
 - b. Fail to provide materials or workmanship meeting the requirements of the Contract Documents;
 - c. Disregard or violate provisions of the Contract Documents or Construction Manager's instructions;
 - d. Fail to prosecute the Work according to the accepted progress schedule; or
 - e. Fail to provide a qualified superintendent, competent workmen, or materials or equipment meeting the requirements of the Contract Documents; or
 - f. Fail to provide a consistently safe work place and follow the Contractor's approved safety plan.
 - 2. If the Contractor fails to remedy the conditions constituting default within the time allowed, the CITY may then issue the Notice of Termination.

3. In the event the Agreement is terminated in accordance with the above provisions of Paragraph 6.07, the City may take possession of the Work and may complete the Work by whatever method or means the City may select. The cost of completing the Work will be deducted from the balance which would have been due the Contractor had the Agreement not been terminated and the WORK completed in accordance with the Contract Documents. If such cost exceeds the balance which would have been due, the Contractor shall pay the excess amount to the City. If such cost is less than the balance which would have been due, the Contractor shall have no claim to the difference.

B. Termination of Agreement by City (For Convenience)

1. The City may, without cause and without prejudice to any other right or remedy of the City, terminate the Agreement at any time by providing Contractor a written Notice of Termination. In such a case, the Contractor shall have no Request for Change Orders or claims against the City except for (i) the value of Work performed up to the date the Agreement is terminated and (ii) the cost of materials and equipment on hand, in transit, or on definite commitment, as of the date the Agreement is terminated, which would be needed in the Work and which meet the requirements of the Contract Documents.
2. The value of Work performed and the cost of materials and equipment delivered to the site, as mentioned above, will be determined by the City in accordance with the procedure prescribed for the making of the final Application for Payment under Article 8 below.
3. If a Notice of Termination issued by City for default under the provision of Paragraph 15.2 is found by a court (or other tribunal having jurisdiction) to be in violation of said provisions, the termination shall be deemed to be a termination for the City's convenience under the provisions of this Paragraph 15.3, and all of the provisions of this Article relating to a Notice of Termination issued under Paragraph 15.3 shall apply.
4. After receipt of Notice of Termination, and except as directed by the City, the Contractor shall, regardless of any delay in determining or adjusting any amounts due under this termination for convenience clause, immediately proceed with the following obligations:
 - a. Stop Work as specified in the Notice of Termination.

- b. Complete any Work specified in the Notice of Termination in a least cost/shortest time manner while still maintaining the quality and safety called for under the Contract Documents.
- c. Leave the property upon which the Contractor was working and upon which the facility (or facilities) forming the basis of the Contract Documents is situated in a safe and sanitary manner such that it does not pose any threat to the public health or safety of the public (including the occupants of any adjoining properties).
- d. Terminate all subcontracts to the extent that they relate the portions of the Work terminated.
- e. Place no further subcontracts or orders, except as necessary to complete any Work specified in the Notice of Termination.

6.08 SUSPENSION, TERMINATION, OR CHANGES IN WORK DUE TO LITIGATION

- 1. If all Work is suspended, delayed, or interrupted by an order of a court of competent jurisdiction, such suspension, delay or interruption will be considered to be for the convenience and benefit of the City under the provisions of Paragraph 15.1, except where the order is determined by the City to have resulted from a failure or refusal of the Contractor to comply with this Agreement or any statute, rule, regulation, or decision directly applicable to performance of the Work in effect at the time of contract award, in which case the suspension, delay or interruption will be considered to be a suspension for failure of the Contractor to carry orders under the provisions of Paragraph 15.1.
- 2. If pursuant to court order, the City is temporarily or permanently prohibited from requiring the Contractor to perform any portion of the Work, the City Representative or Construction Manager may eliminate the enjoined Work pursuant to Paragraph 10.1.

7 ARTICLE 7 - CHANGES IN THE WORK

7.01 CHANGE ORDERS

- A. Without invalidating the Contract and without notice to sureties or insurers, the City through the Construction Manager, may at any time or from time to time, order additions, deletions, or revisions in the Work; these will be authorized by Field Directive, Field Order, or Change Order. A Change Order will not be issued for a Field Directive unless the Construction Manager concurs with an appeal by the Contractor that such Field Directive is a change in the scope of the Contract. The

Contractor shall comply promptly with the requirements for all Change Orders, Field Orders, or Field Directives. The work involved in Change Orders shall be executed under the applicable conditions and requirements of the Contract Documents. If any Field Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made by issuing a Change Order. By the acceptance of a Change Order, the Contractor waives any claim for additional time, not included in the Change Order, for the work covered by that Change Order. Additional or extra work performed by the Contractor without written authorization of a Field Order or Change Order will not entitle the Contractor to an increase in the Contract Price or an extension of the Contract Time.

- B. Compensable extra work shall be that work required for the completed project, but not shown or detailed on the Contract Drawings, and not called for in the Contract Documents, and not constituting “incidental work” as defined in Section 00700-1.04, **PLANS AND SPECIFICATIONS**. Such work shall be governed by all applicable provisions of the Contract Documents. In giving instructions, the Construction Manager shall have authority to make minor changes in the Work, not involving extra cost, and not inconsistent with the purposes of the Work; but otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless in pursuance of a written order by the City through the Construction Manager, and no claim for an addition to the total amount of the Contract shall be valid unless so ordered.
- C. In case any change increases or decreases the work shown, the Contractor shall be paid for the work actually done at a mutually agreed upon adjustment to the Contract price, based upon the provisions of Section 01035, **MODIFICATION PROCEDURES**.
- D. If the Contractor refuses to accept a Change Order, the City may issue it unilaterally. The Contractor shall comply with the requirements of the Change Order. The City shall provide for an equitable adjustment to the Contract, and compensate the Contractor accordingly. If the Contractor does not agree that the adjustment is equitable, it may submit a claim in accordance with Section 00700-7.03, **RESOLUTION OF DISPUTES**.

7.02 DIFFERING SITE CONDITIONS

Pursuant to Public Contract Code Section 7104, the Contractor shall promptly, and before such conditions are disturbed, notify the Construction Manager in writing, of any:

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

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

The City shall promptly investigate the conditions, and if it finds that the conditions do materially differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the Work the City shall cause to be issued a Change Order under the procedures provided in Section 00700-7.01, **CHANGE ORDERS**.

In the event that a dispute arises between the City and the Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the Work the Contractor shall not be excused from any scheduled completion date provided for by the Contract, but shall proceed with all work to be performed under the Contract. The Contractor shall retain any and all rights provided either by Contract or by law which pertain to the resolution of disputes and protests between the contracting parties, Section 00700-7.03, **RESOLUTION OF DISPUTES**.

No claim of the Contractor under this clause shall be allowed unless the Contractor has promptly given the notice required.

7.03 RESOLUTION OF DISPUTES

It is the intent of this Contract that disputes regarding the Contract be resolved promptly and fairly between the Construction Manager and Contractor. However, it is recognized that some disputes will require detailed investigation and review by one or both parties before a determination and resolution can be reached. For the protection of the rights of both the Contractor and the City the following provisions are provided for the resolution of disputes which cannot be resolved by the Contractor and Construction Manager within two days after either party should bring verbal notice of dispute or potential dispute to the other's attention and prior to the commencement of such work.

- A. Notice - If the Contractor disagrees with the Construction Manager's decision in Section 00700-1.06, **CONTRACT INTERPRETATION BY THE CONSTRUCTION MANAGER**, or in any case where the Contractor deems additional compensation or a time extension to the Contract Time is due the Contractor for work or materials not covered in the Contract or which the Construction Manager has not recognized as extra work, the Contractor shall notify the Construction Manager, in writing, of its intention to make claim. Notice pertaining to decisions provided in Section 00700-1.06, **CONTRACT INTERPRETATION BY THE CONSTRUCTION MANAGER**, or such other determinations by the Construction Manager shall be delivered in writing to the Construction Manager within no more than ten (10) days of receipt of such decision and prior to the commencement of such work. All other notices for extra work shall be filed in writing to the Construction Manager prior to the commencement of such work. Written notice shall include the words "Notice of Potential Claim" in the

subject line. Such Notice of Potential Claim shall state the circumstances and the reasons for the claim, but need not state the amount.

Additionally, no claim for additional compensation or extension of time for a delay will be considered unless the provisions of Sections 00700-6.03, **DELAYS**, and 6.04, **TIME EXTENSIONS**, are complied with. No claim filed after the date of final payment will be considered.

Unless notice is properly given, the Contractor shall not recover costs incurred by it as a result of the alleged extra work, changed work or other situation which had proper notice been given would have given rise to a right for additional compensation. The Contractor should understand that timely notice of potential claim is of great importance to the Construction Manager and the City, and is not merely a formality. Such notice allows the City to consider preventative action, to monitor the Contractor's increased costs resulting from the situation, to marshal facts, and to plan its affairs. Such notice by the Contractor, and the fact that the Construction Manager has kept account of the work in question, shall not in any way be construed as proving the validity of the claim.

- B. Response by Construction Manager - The Construction Manager shall review the "Notice of Potential Claim" and within ten (10) days of receipt of the notice shall respond to the Contractor in writing with its determination, or if it is necessary to extend this period, the Construction Manager shall notify the Contractor in writing as to when a decision will be provided.
- C. Appeals to the City's Representative - In the event the Contractor disagrees with any determination of the Construction Manager provided in accordance with Section 00700-7.03B, **Response by Construction Manager**, the Contractor may, within ten (10) days of receipt of such determination, appeal the determination to the City's Representative for review. The City's Representative shall review the appeal and transmit the decision in writing to the Contractor within thirty (30) days from the date of receipt of the appeal. Failure of the Contractor to appeal the determination of the Construction Manager within said ten (10) day period shall constitute a waiver of the Contractor's right to thereafter assert claim resulting from such determination or decision.

In the event the Contractor disagrees with the determination of the City's Representative, the Contractor shall notify the Construction Manager, in writing within ten (10) days of receipt of such determination, of its intention to make claim in accordance with Section 00700-7.03G, **Resolution of Claims**.

- D. Records of Disputed Work - In proceeding with a disputed portion of the Work, the Contractor shall keep accurate records of its costs, separate from costs incurred performing contract work, and shall make available to the Construction Manager, a daily summary of the hours and classification of equipment and labor utilized on the disputed work, as well as a summary of any materials or any specialized services which are used. Such information shall be submitted to the Construction Manager on a monthly basis, receipt of which shall not be construed as an authorization for or acceptance of the disputed work.

- E. Submission of Claim Costs - Within thirty (30) days after the last cost of work for which the Contractor contends it is due additional compensation is incurred, but if costs are incurred over a span of more than thirty (30) days, then within fifteen (15) days after the thirtieth (30th) day and every month thereafter, the Contractor shall submit to the Construction Manager its costs incurred for the claimed matter. Claims shall be made in itemized detail and should the Construction Manager be dissatisfied with the format or detail of presentation, upon request for more or different information, the Contractor will promptly comply, to the satisfaction of the Construction Manager. If the additional costs are in any respect not knowable with certainty, they shall be estimated as best can be done. The Construction Manager shall have the right as provided in Section 01035-1.07, **COST PRICING DATA AND ACCESS TO RECORDS**, to review the Contractor's records pertaining to a submitted claim. In case the claim is found to be just, it shall be allowed and paid for as provided in Section 01035, **MODIFICATION PROCEDURES**.
- F. Claim Meetings - From time to time the Contractor may request or the Construction Manager may call a special meeting to discuss outstanding claims should it deem this a means of possible help in the resolution of the claim. The Contractor shall cooperate and attend prepared to discuss its claims, making available the personnel, subcontractors and suppliers necessary for resolution, and all documents which may reasonably be requested by the Construction Manager.
- G. Resolution of Claims - Claims pertaining to this Agreement for three hundred and seventy-five thousand dollars (\$375,000) or less which cannot be resolved between the parties shall be resolved pursuant to the provisions of Public Contract Code commencing at Section 20104.
1. Claims Not Exceeding \$375,000 - Said Code sections provide in part that: Under the law (starting at Public Contract Code Section 20104.2) construction claims of \$375,000.00 or less on local public agency construction contracts must be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment.

The City must respond in writing to any written claim of three hundred seventy-five thousand dollars (\$375,000) or less within sixty (60) days [or, in the case of claims of less than fifty thousand dollars (\$50,000), within forty-five (45) days] of receipt of claim, or may request, in writing, within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the City may have against the claimant.

If additional information is thereafter required, it shall be requested and provided, pursuant to Public Contract Code Section 20104.2, upon mutual agreement of the City and the claimant.

The City's written response to the claim, as further documented, shall be submitted to the claimant within thirty (30) days [or, for claims of less

than \$50,000, within fifteen (15) days] after receipt of the further documentation, or within a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.

If the claimant disputes the City's written response (or if the City fails to respond within the time periods prescribed above) the claimant may notify the City, in writing, within fifteen (15) days of receipt of the City's response or within fifteen (15) days of the City's failure to respond within the times prescribed, respectively, and demand an informal settlement conference. The City must then schedule a settlement conference within thirty (30) days.

Following the settlement conference, if the claim or any portion remains in dispute, the claimant may file a claim as required by the claims statute commencing at California Government Code Section 910. The time within which a Government Code claim must be filed is tolled from the time the claimant submits the Public Contract Code claim until the time when the claim is denied.

2. Claims Exceeding \$375,000 - Unless this Contract provides otherwise, all claims between the City and the Contractor that are not resolved between the parties and are not governed by Public Contract Code Section 20104 shall be resolved according to the procedures established in Public Contract Code Section 20104 with the following exceptions:
 - a. The City must respond in writing to any written claim greater than three hundred seventy-five thousand dollars (\$375,000) within sixty (60) days of receipt of the claim, or may request in writing, within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the City may have against the claimant, or may advise the Contractor in writing within thirty (30) days of receipt of the claim when the review and response to the claim will be furnished.
 - b. The arbitration proceedings established in Public Contract Code Section 20104.4(b) and specified in Section 00700-7.03 G3, **Civil Action Proceedings**, shall only apply if both the City and Contractor mutually agree to arbitration.
3. Civil Action Proceedings - If a civil action is filed to resolve the claim, then between thirty (30) and sixty (60) days after the filing of responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by the parties. The parties are given fifteen (15) days to select a disinterested third person as mediator. Mediation must commence within thirty (30) days of submittal and conclude within fifteen (15) days of commencement unless the time is extended for good cause by the court.

4. Mediation of Disputes - All disputes among the parties arising under this Agreement shall be mediated before resorting to arbitration or Court action. Mediation is a process in which parties attempt to resolve a dispute by submitting it to an impartial neutral mediator who is authorized to facilitate the resolution of the dispute but who is not empowered to impose a settlement on the parties. The mediation fee, if any, shall be divided equally among the parties. Before the mediation begins, the parties agree to sign a document limiting the admissibility and arbitration or any civil action of anything said, any admission made, and any documents prepared in the course of the mediation, consistent with Evidence Code Section 1152.5 or any successor statute. The filing of a judicial action to enable the imposition of a receivership, injunction or other provisional remedy shall not constitute a waiver of the right to mediate under this provision. The mediation shall take place in Marin County, California. The mediator shall be experienced in construction law. At least 30 days before mediation, the parties will exchange those documents that are reasonably necessary to evaluate the issues and arrive at an informed resolution of the issues.
5. If the matter remains in dispute, the case must be submitted to judicial arbitration pursuant to procedures set forth in the Code of Civil Procedure commencing at Section 1141.10. Discovery is permitted consistent with the rules pertaining to judicial arbitration.
6. Should either party to this Contract bring legal action against the other, the case shall be handled by a court of competent jurisdiction in Marin County, California.

8 ARTICLE 8 - PAYMENT

8.01 BASIS OF PAYMENT

- A. General - The Contractor shall accept the compensation, as herein provided, as full payment for furnishing all labor, materials, tools, equipment, and incidentals necessary to the completed Work and for performing all work contemplated and embraced under the Contract; also for loss or damage arising from the nature of the Work, or from the action of the elements, or from any unforeseen difficulties which may be encountered during the prosecution of the Work, also for all expenses incurred in consequence of the suspension or discontinuance of the Work as herein specified; and for completing the Work according to the Contract Documents. Neither the payment of any estimate nor of any retained percentage shall relieve the Contractor of any obligation to make good any defective work or material.

No compensation will be made in any case of loss of anticipated profits. This includes the event of the termination of the Contract, and therefore no compensation will be made to the Contractor for the loss of anticipated profits associated with the terminated work. Increased or decreased work involving supplemental agreements will be paid for as provided in such agreements.

Full compensation for conforming to all of the provisions of the Contract Documents shall be considered as included in the prices paid for the various Contract items of work and no additional compensation will be allowed therefore.

- B. Payment for Patents and Patent Infringement - All fees or claims for any patented invention, article, or arrangement that may be used upon, or in, any manner connected with the performance of the Work or any part thereof shall be included in the price bid for doing the work, and the Contractor and its sureties shall defend, protect, and hold the City, the Construction Manager, and Design Consultants, together with all their officers, agents, and employees harmless against liability of any nature or kind for any and all costs, legal expenses, and damages made for such fees or claims and against any and all suits and claims brought or made by the holder of any invention or patent, or on account of any patented or unpatented invention, process, article, or appliance manufactured for or used in the performance of the Contract, including its use by the City, unless otherwise specifically stipulated in the Contract. Before final payment is made on the Contract, the Contractor shall furnish an affidavit to the City regarding patent rights for the project. The affidavit shall state that all fees and payments due as a result of the work incorporated into the project or methods utilized during construction have been paid in full. The Contractor shall certify in the affidavit that no other fees or claims exist for work in this project.
- C. Payment of Taxes - The Contractor shall pay and shall assume exclusive liability for all taxes levied or assessed on or in connection with its performance of this Contract, whether before or after acceptance of the Work, including, but not limited to, State and local sales and use taxes, Federal and State payroll taxes or assessments, and excise taxes, including any taxes or assessments levied or increased during the performance period of the Work. No separate allowance will be made therefore, and all costs in connection therewith shall be included in the total amount of the Contract price.

8.02 PARTIAL PAYMENTS

- A. General - In consideration of the faithful performance of the Work prosecuted in accordance with the provisions of these Specifications and the Contract, the City will pay the Contractor for all such work installed on the basis of unit prices and/or percentage completion of lump sum Bid Items. Amounts earned for lump sum work will be based on accepted Cost Breakdown (Section 01025, **MEASUREMENT AND PAYMENT**).

Payments will be made by the City to the Contractor on estimates duly certified and approved by the Construction Manager, based on the Lump Sum or unit price value of equipment installed and tested, labor and materials incorporated into said permanent work by the Contractor during the preceding month. Payments will not be made for temporary construction unless specifically provided for in the Contract Documents.

Partial payments will be made monthly based on work accomplished as of a day mutually agreed to by the City and the Contractor. Additionally, the Contractor shall submit a detailed statement of the Contractor's request for payment of acceptable materials and equipment on hand in compliance with Section 00700-8.02B, **Partial Payments: Inclusion of Materials on Hand**. Each payment request shall list each Change Order executed prior to date of submission, including the Change Order Number.

Upon receipt of Contractor's requests for payment, the City shall act in accordance with the following:

1. The Construction Manager shall review the submitted estimates, as soon as practicable after receipt for the purpose of determining that the estimates are a proper request for payment, and shall prepare a certified estimate of the total amount of work done.
2. Any request for payment determined not to be a proper payment request suitable for payment shall be returned to the Contractor as soon as practicable, but not later than seven (7) days after receipt. A request for payment returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the request for payment is not proper.
3. The number of days available to the City to make a payment without incurring interest pursuant to this section shall be reduced by the number of days by which the City exceeds the seven (7) day return requirement set forth in Section 00700-8.02 A2 above.

If requested, the Contractor shall provide such additional data as may be reasonably required to support the partial payment request. The Construction Manager will be available to meet to discuss the partial payment request prior to its resubmittal(s). When the Contractor's estimate of amount earned conforms to the Construction Manager's evaluation, the Contractor shall submit to the Construction Manager a properly completed and signed progress payment request. The Construction Manager will submit the recommended progress payment request for the City's approval and processing. Payment will be made by the City to the Contractor in accordance with the City's normal accounts payable procedures; the City shall retain amounts in accordance with Section 00700-8.03, **RIGHT TO WITHHOLD AMOUNTS**.

No such estimate or payment shall be required to be made, when in the judgment of the Construction Manager, the Work is not proceeding in accordance with the provisions of the Contract, or when in the Construction Manager's judgment the total value of the Work done since the last estimate amounts to less than one thousand dollars (\$1,000).

Subject to the provisions of this section, the City shall pay the Contractor within thirty (30) days after receipt of undisputed and properly submitted requests for payment from the Contractor. In accordance with Public Contract Code Section

20104.50, if the City fails to pay an undisputed request for payment within the allotted thirty (30) days, the City shall pay interest to the Contractor equivalent to the legal rate set forth in subdivision (a) of Section 685.010 of the Code of Civil Procedure.

- B. Partial Payments: Inclusion of Materials on Hand - Materials, as used herein, shall be considered to be those items which are fabricated and manufactured material and equipment. Only those materials for which the Contractor can transfer clear title to the Owner will be qualified for partial payment. The Contractor may request payment of seventy-five (75) percent of the actual net cost of these materials. The request for partial payment will be subject to retention as provided elsewhere in the Contract Documents.

To receive partial payment for materials and equipment not incorporated in the Work, it shall be necessary for the Contractor to submit to the Construction Manager a list of such materials, at least seven (7) days prior to submitting the monthly estimate of amount earned for work completed. At the Construction Manager's sole discretion, it will approve items for which partial payment is to be made subject to the following:

1. Equipment and materials will only be eligible if given conditional or final acceptance by the Design Consultant and are in apparent compliance with Favorably Reviewed Shop Drawings.
2. Only materials which have received Favorable Review of shop drawings will qualify.
3. Eligible equipment or materials must be delivered and properly stored, protected, and maintained in a manner Favorably Reviewed by the Construction Manager, at the job site or an offsite location acceptable to the Construction Manager.
4. The Contractor's actual net cost for the materials must be supported by paid invoices of suppliers, or other documentation requested by the Construction Manager.
5. At the City's request, Contractor shall obtain an executed security agreement and all necessary UCC-1's as a condition of payment by City.
6. Materials or equipment delivered to the Site less than thirty (30) days prior to their scheduled incorporation in the Work shall not qualify.
7. Final payment shall be made only for materials actually incorporated in the Work and, upon acceptance of the Work, all materials remaining for which advance payments had been made shall revert to the Contractor, unless otherwise agreed, and partial payments made for these items shall be deducted from the final payment for the Work.
8. Partial payments for materials and equipment on hand shall not be deemed to be final payment for the material nor relieve the Contractor of its obligations under the Contract.

- C. Effect of Payment – Payment will be made by Owner based on the Construction Manager’s observations at the Site and the data comprising the progress payment request. Payment will not be a representation that the City has:
1. Made exhaustive or continuous on-site inspections to check the quality or quantity of Work;
 2. Reviewed construction means, methods, techniques, sequences or procedures;
 3. Reviewed copies of requisitions received from subcontractors and material suppliers and other data requested by Owner to substantiate Contractor’s right to payment;
 4. Made examination to ascertain how or for what purpose Contractor has used money previously paid on account of the Contract Sum; or
 5. Accepted all or part of the Work.

8.03 RIGHT TO WITHHOLD AMOUNTS

- A. Retention - The City will withhold from each of the partial payments and retain as part security, five (5) percent of the amount earned until the final payment.
- B. Other Withholds - In addition to the amount which the City may otherwise retain under the Contract, the City may withhold a sufficient amount or amounts of any payment or payments otherwise due the Contractor, as in its judgment may be necessary to cover:
1. For defective work not remedied.
 2. A reasonable doubt that the Contract can be completed for the balance then unpaid.
 3. Damage to another contractor or third party, or to property.
 4. Failure of the Contractor to maintain Record Documents current as required in Section 01720, **PROJECT RECORD DOCUMENTS**.
 5. Cost of insurance arranged by the City due to cancellation or reduction of the Contractor's insurance.
 6. Failure to submit, revise, resubmit or otherwise conform to the requirements herein for preparing and maintaining a construction schedule as required in Section 01310, **PROGRESS SCHEDULES**.
 7. Failure to make proper submissions, as specified herein.
 8. Amounts due the City from the Contractor.
 9. The Contractor's neglect or unsatisfactory prosecution of the Work including additional engineering and administrative costs related to construction and/or shop drawing errors and the failure to clean up.
 10. Provisions of law that enable or require the City to withhold such payments in whole or in part.

11. Stop Notice claims filed by Contractor's subcontractors, of any tier, or its material suppliers.

When the above reasons for withhold amounts are removed, payment will be made to the Contractor for amount withheld because of them.

8.04 SECURITY SUBSTITUTION FOR WITHHOLDS

For any retention of amount earned by the Contractor under Sections 00700-8.02, **PARTIAL PAYMENTS**, or 00700-8.07, **FINAL INSPECTION AND PAYMENT**, the Contractor may substitute securities as provided in Section 22300 of the Public Contract Code, as amended, which state in part as follows:

"Provisions shall be included in any invitation for bid and in any Contract Documents to permit the substitution of securities for any moneys withheld by a public agency to ensure performance under a Contract; however, substitution of securities provisions shall not be required where federal regulations or policies, or both, do not allow the substitution of securities. At the request and expense of the contractor, securities equivalent to the amount withheld shall be deposited with the public agency, or with a state or federally chartered bank in the State of California as the escrow agent, who shall then pay those monies to the contractor. Upon satisfactory completion of the Contract, the securities shall be returned to the contractor."

"Alternatively, the contractor may request and the City shall make payment of retentions earned directly to the escrow agent at the expense of the contractor. At the expense of the contractor, the contractor may direct the investment of the payments into securities and the contractor shall receive the interest earned on the investments upon the same terms provided for in this section for securities deposited by the contractor. Upon satisfactory completion of the Contract, the contractor shall receive from the escrow agent all securities, interest and payments received by the escrow agent from the City, pursuant to the terms of this section."

"The contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon."

The escrow agreement used hereunder shall be substantially similar to the form in Section 00630, **ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION**.

8.05 WARRANTY OF TITLE

No material, supplies, or equipment for the Work under this Contract shall be purchased subject to any chattel mortgage, security agreement, or under a conditional sale or other agreement by which an interest therein or any part thereof is retained by the seller or supplier. The Contractor warrants good title to all material, supplies, and equipment installed or incorporated in the Work and agrees upon completion of all Work to deliver the premises, together with all improvements and appurtenances constructed or placed thereon by the Contractor, to the City free from any claim, liens, security interest, or

charges. The Contractor further agrees that neither the Contractor nor any person, firm, or corporation furnishing any materials or labor for any work covered by this Contract shall have any right to a lien upon the premises or any improvement or appurtenances thereon, provided that this shall not preclude the Contractor from installing metering devices and other equipment of utility companies or of municipalities, the title of which is commonly retained by the utility company or the municipality. In the event of the installation of any such metering device or equipment, the Contractor shall advise the Owner as to the legal City thereof.

Nothing contained in this paragraph, however, shall defeat or impair the right of such persons furnishing materials or labor under any bond given by the Contractor for their protection or any rights under any law permitting such persons to look to funds due the Contractor in the hands of the City. The provisions of this Paragraph shall be inserted in all subcontracts and material contracts, and notice of its provisions shall be given to all persons furnishing materials for the Work when no formal Contract is entered into for such materials.

8.06 SUBSTANTIAL COMPLETION

When the Contractor considers that the Work is Substantially Complete, the Contractor shall notify the Construction Manager in writing. Upon receipt of the notification, the Construction Manager, the City and/or their authorized representatives will make inspection, to determine if the Work and administrative requirements are sufficiently complete in accordance with the Contract Documents so the City can occupy or utilize the Work for its intended use. If items are found which prevent such use or occupancy, the Construction Manager shall notify the Contractor in writing of such items by issuing a Corrective Work Item List.

Upon the completion of such corrective work, the Contractor shall so notify the Construction Manager in writing. The Construction Manager shall inspect the Work to determine its acceptability for Substantial Completion and for determination of the status of any other items which are required to meet the terms of Substantial Completion as listed in the Contract Documents. Upon verification that the project is Substantially Complete, the Construction Manager shall prepare a Certificate of Substantial Completion and the Punch List. The Certificate shall establish the date of Substantial Completion and the responsibilities of the City and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, commencement of warranties required by the Contract Documents, and shall fix the time, not to exceed sixty (60) days, within which the Contractor shall finish all items on the Punch List or remaining work or administrative requirements accompanying the Certificate. When the preceding provisions have been approved by both the City and the Contractor, they shall sign the Certificate to acknowledge their written acceptance of the responsibilities assigned to them in such Certificate. By such acknowledgment, the Contractor agrees to pay the City's actual costs including, but not limited to, charges for engineering, inspection and administration incurred due to the failure to complete the Punch List within the time period provided in the Certificate of Substantial Completion.

8.07 FINAL INSPECTION AND PAYMENT

Upon completion of the Work, including all items on the Punch List, and upon completion of final cleaning, the Contractor shall so notify the Construction Manager in writing. Upon receipt of the notification, the Construction Manager, the City and/or their authorized representatives will make the final inspection, to determine the actual status of the Work in accordance with the terms of the Contract. If materials, equipment, workmanship or administrative requirements are found which do not meet the terms of the Contract, the Construction Manager shall prepare a Final Inspection List of such items and submit it to the Contractor. Following completion of the work to correct all items in the Final Inspection List the Contractor shall notify the Construction Manager. The Construction Manager shall, in turn, notify the City that the Work has been completed in accordance with the Contract. Final determination of the acceptability of the Work shall be made by the City. After completion of the Work, but prior to its Acceptance by the City, the last partial payment will be made to the Contractor in accordance with Section 00700-8.02, **PARTIAL PAYMENTS**.

After receipt of the last partial payment, but prior to Acceptance of the Work by the City, the Contractor shall send a letter to the Construction Manager. The letter, pursuant to California Public Contract Code Section 7100, shall state that acceptance of the final payment described below shall operate as and shall be, a release to the City, the Construction Manager, the Design Consultant, and their duly authorized agents, from all claim of and/or liability to the Contractor arising by virtue of the Contract related to those amounts. Disputed Contract claims in stated amounts previously filed as provided in Section 00700-7.03, **RESOLUTION OF DISPUTES**, may be specifically excluded by the Contractor from the operation of the release.

Following receipt of all required submittals and the Construction Manager's written statement that construction is complete and recommendation that the City accept the project, the City will take formal action on Acceptance.

Within ten (10) days of the Acceptance by the City of the completed Work embraced in the Contract, the City will cause to be recorded in the office of the County Recorder a Notice of Completion.

Thirty-five (35) days after recording the Notice of Completion of the work involved in the Contract, the City will pay the Contractor in lawful money such sums of money as may be due the Contractor including all sums retained but excluding such sums as have previously been paid the Contractor or as may be needed to cover outstanding stop notice claims or disputes. This payment will constitute the final payment to the Contractor under this Contract except for outstanding stop notice claims and disputed amounts.

In the event of a dispute between the City and the Contractor, the City may in accordance with Public Contract Code Section 7107 withhold from the final payment an amount of one hundred fifty (150) percent of the disputed amount.

****END OF SECTION****

SECTION 00800

SUPPLEMENTARY GENERAL CONDITIONS

1 ARTICLE 1 - MODIFICATIONS TO THE GENERAL CONDITIONS

1.01 TIME ALLOWED FOR COMPLETION

In accordance with the provisions of Section 00700-6.02, **CONTRACT TIME**, Substantial Completion of this Project shall be completed within thirty (30) consecutive calendar days from the date established in the Notice to Proceed for the commencement of Contract Time.

1.02 DAMAGES FOR DELAYS

A. General

In accordance with the provisions of Section 00700-6.05, **LIQUIDATED DAMAGES**, for the period of time that any portion of the Work remains unfinished after the time fixed for Substantial Completion in Section 00800-1.01, **TIME ALLOWED FOR COMPLETION**, as modified by extensions of time granted by the City, it is understood and agreed by the Contractor and the City that the Contractor shall pay the City the damages listed below for direct costs the City incurs.

<u>Item</u>	<u>Dollars Per Day Liquidated Damages</u>
Substantial Completion of the Work	\$250

B. Other Delay Damages

The Liquidated Damages described above are intended to compensate the City only for its direct costs of project management, staff resources, and other internal costs, and shall not be the sole remedy for delays in completion of the Restricted Work or the Work as a whole. In addition to Liquidated Damages, Contractor shall be responsible for all of the following:

1. All costs and expenses the City incurs to renew or modify the Permits on account of delays in completion of the Work as a whole.
2. Any and all fines or penalties assessed in connection with violation of any of the Permits.

1.03 WEATHER DAYS

In accordance with the provisions of Section 00700-6.04 B3, **Weather Delays**, an allowance of two (2) working days of weather caused delay have been included in the time allowed for completion. This allowance represents a reasonable assessment of anticipated lost working days based on historical weather patterns. These weather days

shall be included in the Contractor's schedule as specified in Section 01310-1.04, **WEATHER CONDITIONS**.

1.04 NOT USED

1.05 CONTRACT ADMINISTRATION

The following project representatives are hereby designated by the City:

- A. Name of City Representative
Jonathon Goldman, City Engineer
415-289-4176
Email: jgoldman@ci.sausalito.ca.us
- B. Name of Construction Manager
To be determined.
- C. Name of Design Consultant Representative
Kers Clausen
Tel: (510) 655-4144 Fax: (510) 655-1133
Email: clausen@clausenengineers.com

1.06 NOT USED

2 **ARTICLE 2 - INDEMNITY AND INSURANCE**

2.01 INSURANCE

Within ten (10) days after award of the Contract, the Contractor shall promptly obtain, at its own expense, all the insurance required by Section 00800-Article 2, **INDEMNITY AND INSURANCE**, and submit coverage verification for review and approval by the City prior to the City's execution of the Contract.

The Contractor shall not commence work until such insurance has been approved by the City. Such insurance shall remain in full force and effect at all times during the prosecution of the Work and until the final completion and Acceptance thereof. In addition, the Commercial General Liability Insurance shall be maintained for a minimum of five (5) years after final completion and acceptance of the Work (the "Guarantee Period"). The Notice to Proceed does not relieve the Contractor of the duty to obtain such insurance as required herein.

The Contractor shall not allow any subcontractor to commence work on its subcontract until all insurance required of the subcontractor has been obtained and verified by the Contractor and submitted to the Construction Manager for the City's review and records. Subcontractors shall furnish original certificates and endorsements as verification of insurance coverage. The insurance liability limits specified in Section 00800-Article 2, **INDEMNITY AND INSURANCE**, shall apply for all subcontractors listed in Section 00430, **DESIGNATION OF SUBCONTRACTORS**. The Contractor shall designate the insurance liability limits for all other subcontractors.

Companies writing the insurance under this article shall be admitted to do business in the State of California or, if unavailable from an admitted carrier, the insurance may be acquired from otherwise eligible non-admitted company(s) admitted to do business under the Surplus Line Law of the State of California. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

None of the policies of insurance required herein shall be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior notice by certified mail return receipt requested has been given to the City.

All costs for all insurance shall be included in the Bid.

Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from its operations under this Contract. For any claims related to this Project, the Contractor's insurance coverage shall be primary insurance as respects the City, Sausalito Yacht Harbor, the Spinnaker Restaurant, the Design Consultant, the Construction Manager, and all of their officers, officials, employees, agents and volunteers (the "Additional Insureds"). Any insurance or self-insurance maintained by an Additional Insured shall be in excess of the Contractor's insurance and shall not contribute with it.

Any failure of the Contractor to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.

The Contractor shall take out, pay for, and maintain throughout the duration of this Contract and for such additional periods as more specifically required herein the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by the Contractor, the Contractor's agents, representatives, employees or subcontractors.

- A. Commercial General (including Pollution), Protection and Indemnity (marine equipment and vessels) and Automobile Liability Insurance - These coverages shall protect the Contractor from claims for bodily injury and property damage which may arise because of the nature of the Work or from operations, products or completed operations under this Contract.
 1. Additional Insureds – The Commercial General Liability, Protection and Indemnity and Automobile Liability policies of insurance shall be endorsed to name as additional insureds the City of Sausalito, Sausalito Yacht Harbor, the Spinnaker Restaurant and each of their officers, employees, and agents; the Design Consultant, the Construction Manager and each of their partners, officers, employees, and agents and coverage provided to such additional insureds. These policies shall provide coverage to each of the insureds with respect to the Work. Both bodily injury and property damage insurance must be on an occurrence basis. These policies shall be endorsed to provide primary coverage to the full limit of liability stated in the declarations, and if there is any

other insurance against the loss covered by said policy, that other insurance shall be excess insurance and not contribute with Contractor's policy.

2. Amount of Coverage - The bodily injury and property damage liability of the Commercial General Liability insurance shall provide coverage in the following limits of liability: \$5,000,000 on account of any one occurrence with an annual general aggregate limit of not less than \$5,000,000, and \$1,000,000 products and completed operations aggregate, combined single limit. The limits of coverage for Protection and Indemnity (for marine equipment and vessels) shall be not less than \$5,000,000 on account of any one accident arising out of the ownership, maintenance, or use of any owned or non-owned vessels. The Automobile Liability insurance policy shall provide minimum limits of \$5,000,000 per accident arising out of the ownership, maintenance, or use of any owned or non-owned vehicles. These limits shall apply separately to the Project; if the limits are not project specific, Contractor shall provide insurance with limits double the amounts set forth above.
3. Subcontractors - The bodily injury and property damage liability insurance shall not be deemed to require the Contractor to have its subcontractors named as insureds in the Contractor's policy, but the policy shall protect the Contractor from contingent liability which may arise from operations of its subcontractors.
4. Included Coverage - The above Commercial General Liability insurance shall also include the following coverage:
 - a. Premises - Operations
 - b. Owner's / Independent Contractor's and Contractor's Protective
 - c. Products - Completed Operations
 - d. Personal Injury - (False Arrest, Libel, Wrongful Eviction, etc.)
 - e. Broad Form Property Damage – including to the Maximum Extent Possible, coverage for the Assumption of Liability Pursuant to Completed Operations
 - f. Separation of Insureds / Cross-Liability Provisions
 - g. Duty to Defend all Insureds
 - h. Deletion of any Limitation on Coverage for Bodily Injury or Property Damage Arising out of Subsidence or Soil or Earth Movement.
 - i. A provision that the annual general aggregate and the products and completed operations annual aggregate shall apply separately to each Project for which Contractor provides services away from premises owned by or rented to Contractor.
 - j. Pollution Legal Liability Endorsement
 - k. XCU - (Explosion, Collapse, Underground Damage) XCU may be deleted when not applicable to operations performed by the Contractor or its sub-contractors.

1. Blanket Contractual Liability including the Indemnification Agreement as herein stated.
 5. Umbrella Policy - At the option of the Contractor, primary limits may be less than required, with an Umbrella Policy providing the additional limits needed. This form of insurance will be acceptable provided that the Primary and Umbrella Policies both provide the insurance coverages herein required, including all additional insured requirements. The umbrella policy shall provide coverage at least as broad as provided on the underlying commercial General Liability insurance.
- B. Workers' Compensation Insurance - In accordance with the provisions of Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860) and Chapter 4, Part 1, Division 4 (commencing with Section 3700) of the Labor Code of the State of California, the Contractor is required to secure the payment of compensation to its employees and for that purpose obtain and keep in effect adequate Workers' Compensation Insurance.

The Contractor is advised 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 shall comply with such provisions and have Employers' Liability limits of \$1,000,000 per accident before commencing the performance of the Work of this Contract.

Contractor and its subcontractors shall comply with the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Worker's Compensation, including Longshoremen's and Harbor Workers' Compensation and Jones Act coverages, if applicable, before commencing the performance of the Work.

Before begins performance of the Work, the Contractor shall submit written evidence that the Contractor has obtained Workers' Compensation Insurance coverage for all persons whom it employs or may employ in carrying out the Work under this Contract. This insurance shall be in accordance with the requirements of the most current and applicable State Workers' Compensation Insurance Laws.

- C. Builder's Risk Insurance - "All Risk or Special Form" Builder's Risk Insurance on the replacement cost basis, in an amount equal to the full replacement cost on a completed value basis. Such insurance shall be obtained, paid for, and maintained by the Contractor and shall cover, but shall not be limited to, fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, smoke damage, damage by aircraft, watercraft or vehicles, vandalism and malicious mischief, theft, collapse, flood and earthquake. This insurance shall name the City, the Design Consultant, the Construction Manager and the Contractor as insureds, as their interests may appear and shall include coverage including, but not by way of limitation, for all damages of

loss to the Work and to appurtenances, to materials and equipment to be incorporated into the Project while the same are in transit, stored on or off the Project site, to construction plant and temporary structures.

Pursuant to Section 7105 of the Public Contract Code, the City requires Contractor to obtain insurance providing full replacement value coverage for any damage to the Work caused by an Act of God, as defined by Section 7105(b)(2) of that Code. Builder's Risk Insurance policies shall contain the following provisions:

- (1) The City shall be named as loss payee.
- (2) The Insurer shall waive all rights of subrogation against the City.

Builder's Risk Insurance may have a deductible clause not to exceed the following limits:

- (1) The deductible for coverage for any damage to the Work caused by an Act of God, as defined by Section 7105(b) of the Public Contract Code shall not exceed five percent of the value at risk at the time of the loss. The City shall be named as an insured.
- (2) All Other Perils: \$5,000

The Contractor shall be responsible for paying any and all deductible costs. The policy shall provide the City the right to occupy the premises without termination of the policy until acceptance of the Project.

- D. Proof of Coverage - Contractor shall furnish the City with certificate(s) evidencing issuance of all insurance mentioned herein, copies of the policy declaration or information page(s) and endorsements. The certificate(s) and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on Forms A-1 and B-1 as included in Section 00650, **GENERAL LIABILITY ENDORSEMENT**, Section 00651, **AUTO LIABILITY ENDORSEMENT**, or equivalent endorsement forms acceptable to the City. The certificate(s), policy declaration or information page(s), and endorsements are to be received and approved by the City before work commences. Endorsements are not required for Workers' Compensation or Builder's Risk Insurances. Such policies of insurance shall be endorsed to provide that the insurance policy shall not be cancelable, be subject to non-renewal, or otherwise be subject to material modification, except with thirty (30) days prior written notice to the City and Contractor shall also provide certificate(s) evidencing renewals of all insurance required herein, at least ten (10) days prior to the expiration date of any such insurance.

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, Sausalito Yacht Harbor, the Spinnaker Restaurant, the Design Consultant, the Construction Manager, and all of their officers, officials, employees and agents; or the Contractor shall procure a

bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

In the event of the breach of any provision of this paragraph, or in the event of any notices received which indicate any required insurance coverage will be diminished or canceled, the City, at its option, may, notwithstanding any other provisions of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

- E. Hold Harmless - The City of Sausalito and all officers and employees thereof connected with the Work, including but not limited to the City Council, shall not be answerable or accountable in any manner: for any loss or damage that may happen to the Work or any part thereof; for any loss or damage to any of the materials or other things used or employed in performing the Work; for injury to or death of any person; or for damage to property from any cause except losses due to sole or active negligence of the City of Sausalito's officers or employees.
- F. Indemnification - To the fullest extent allowed by law, Contractor shall defend, indemnify and hold harmless the City of Sausalito, its elected and appointed officials, the Design Consultant, Construction Manager, Sausalito Yacht Harbor, The Spinnaker Restaurant, their employees and agents (collectively, the "Indemnified Parties"), from all liability, penalties, costs, losses, damages, expenses, causes of action, claims or judgments, including attorney's fees and other defense costs, resulting from injury to or death sustained by any person (including Contractor's employees), or damage to property of any kind, or any other injury or damage whatsoever, which injury, death or damage arises out of or is in any way connected with the performance of the Work, regardless of the Contractor's fault or negligence, including any of the same resulting from the alleged or actual negligent act or omission, of an Indemnified Party; except that said indemnity shall not be applicable to injury, death or damage to property arising from the sole or active negligence or willful misconduct of City, its officers, agents, or servants who are directly responsible to City. This indemnification shall extend to claims asserted after termination of this Contract for whatever reason. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist.
- G. In addition to any remedy authorized by law, so much of the money due the Contractor under and by virtue of the contract as shall be considered necessary by the City, may be retained by the City until disposition has been made of such suits or claims for damage.

2.02 INSURANCE DURING GUARANTEE PERIOD

Contractor shall maintain the above-described worker's compensation, commercial general liability, and property damage insurance in force during the entire period of the Guarantee Period as defined above.

2.03 INJURY OR ILLNESS REPORTS

The Contractor shall furnish the Construction Manager with a copy of the Employer's Report of Injury as required by CAL/OSHA immediately following any incident requiring the filing of said report during the prosecution of the Work under this Contract. The Contractor shall also furnish the Construction Manager with a copy of the Employer's Report of injury involving any subcontractor on this Project.

2.04 NOTIFICATION OF INSURANCE COMPANIES

The Contractor shall advise all insurance companies to familiarize themselves with all of the conditions and provisions of this Contract, and they shall waive the right of special notification of any change or modification of this Contract or of extension of time, or of decreased or increased work, or of the cancellation of the Contract, or of any other act or acts by the City or its authorized employees and agents, under the terms of this Contract, and failure to so notify the aforesaid insurance companies of changes shall in no way relieve the insurance companies of their obligation under this Contract.

3 ARTICLE 3 - TERMINATION

3.01 TERMINATION FOR DEFAULT

A. Add this language to the end of Section 00700-6.07A

4. Payments Withheld. If the City terminates the Contract for one of the reasons stated in paragraph 6.07A.1, the Contractor shall not be entitled to receive further payment until the Work is complete.

5. Payments Upon Completion. If the unpaid balance of the Contract Sum, including contract retentions, exceeds costs of completing the Work, including compensation for professional services and expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the District within thirty days of the City's written demand. This payment obligation shall survive termination or completion of the Contract.

3.02 TERMINATION FOR CONVENIENCE

NOTE: THIS PROVISION REPLACES 00700-6.07.B IN ITS ENTIRETY.

A. The City may, without cause, order the Contractor in writing to suspend, interrupt or terminate performance of the Work in whole or in part for such period of time as the City may determine. An adjustment may be made for an increase in the cost of performance of the Contract including profit on the increased cost of performance, if any, caused by any such suspension or interruption or termination. An equitable adjustment may be made of the price or prices specified in the Contract relating to the portion of the Work not suspended, interrupted, or terminated by notice of suspension, interruption, or termination. No adjustment shall be made to the extent:

1. That performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or

2. An equitable adjustment is made or denied under another provision of this Contract.
- B. Any such suspension, interruption, or termination shall be effected by delivery to the Contractor of a written notice of suspension, interruption or termination specifying the extent to which performance of work under the Contract is suspended, interrupted, or terminated and the date upon which such suspension, interruption, or termination becomes effective. The effective date shall be not less than three (3) days after delivery of the written notice. After receipt of the notice of suspension, interruption, or termination, and except as otherwise directed by the City, the Contractor shall:
1. Stop work under the Contract on the date and to the extent specified in the notice of suspension, interruption, or termination;
 2. Place no further orders or subcontracts for materials, services or facilities except as necessary to complete the portion of the Work under the Contract which is not suspended, interrupted or terminated;
 3. Terminate all orders or subcontracts to the extent they relate to the performance of work suspended, interrupted or terminated by notice of suspension, interruption or termination;
 4. Assign to the City in the manner, at the times, and to the extent directed by the City, all the right, title and interest of the Contractor under the orders and subcontracts so suspended, interrupted or terminated. The City shall have the right, in its discretion, to settle or pay any or all claims arising out of the suspension, interruption, or termination of such orders and subcontracts;
 5. Settle all outstanding liabilities and all claims arising out of such suspension, interruption, or termination of orders and subcontractors, with the approval or ratification of the City to the extent the City may so require. The City's approval or ratification shall be final for all purposes of his clause;
 6. Transfer title to the City, and deliver in the manner, at the times, and to the extent, if directed by the City, the fabricated or unfabricated parts, work in process, completed work, supplies, and other materials produced as a part of, or acquired in connection with the performance of the work terminated by the notice of suspension, interruption, or termination, and the completed or partially completed plans, drawings, information, and other property, which, if the contract had been completed, would have been required to be furnished to the City;

7. Use its best efforts to sell, in the manner, at the times, and to the extent, and at the price or prices that the City directs or authorizes, any property of the types previously referred to herein, but the Contractor shall not be required to extend credit to any purchaser and may acquire any such property under the conditions prescribed and at a price or prices approved by the City. The proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the City to the Contractor under this Contract or shall otherwise be credited to the price or cost of the work covered by this Contract or paid in such other manner as the City may direct;
 8. Complete performance of such part of the Work as shall not have been suspended, interrupted, or terminated by the notice of suspension, interruption, or termination; and
 9. Take such action as may be necessary, or as the City may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the City has or may acquire an interest.
- C. After receipt of the notice of suspension, interruption, or termination, the Contractor shall submit to the City a certified suspension, interruption, or termination claim. Such claim shall be submitted promptly but in no event later than sixty (60) days from the effective date of the notice of suspension, interruption, or termination. If the Contractor fails to submit a suspension, interruption, or termination claim within such sixty (60) day period, the City may determine, on the basis of information available to it, the amount, if any, due to the Contractor. The City shall then pay to the Contractor the amount so determined, and that payment shall constitute full compensation for all work performed and costs incurred in connection with the Project.
- D. After receipt of a certified claim, the City and the Contractor may agree upon the whole or any part of the amount or amounts to be paid to the Contractor because of the total or partial suspension, interruption, or termination of the Contract. The amount may include a reasonable allowance for profit on work performed. However, such agreed amount or amounts, exclusive of costs solely attributable to the suspension, interruption or termination, shall not exceed the total Contract Sum as reduced by the amount of payments otherwise made and as further reduced by the Contract Sum of work not suspended, interrupted, or terminated and any claims the City may have against the Contractor. Nothing in paragraph E of this section, shall be deemed to limit, restrict, or otherwise determine or effect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph.
- E. After receipt of a certified claim, if the Contractor and City fail to agree on the amounts to be paid to the Contractor, the City shall determine, on the basis of the information available to it the amount, if any due, the Contractor by reason of the

suspension, interruption, or termination and shall pay the Contractor the amounts determined as follows:

1. For all work specified in the Contract which is performed before the effective date of the notice of suspension, interruption, or termination, the total of:
 - a. The reasonable cost to the Contractor, without profit, for all contract Work performed prior to the notice of suspension, interruption, or termination, including the work done to secure the project. In determining the reasonable cost, the City may utilize the schedule of values, contract unit prices, or lump sums, the percentage of Work completed and any other method available to it. For purposes of determining reasonable cost, deductions will be made for the cost of materials to be retained by the Contractor, amounts realized by the sale of materials, and for other appropriate credits against the cost of the Work. When in the opinion of the City the cost of an item of Work is unreasonably high, the reasonable cost to be allowed will be the estimated reasonable cost of performing such work in compliance with the requirements of the plans and specifications and excessive actual cost shall be disallowed.
 - b. Reasonable cost will include a reasonable allowance for project overhead and general administrative overhead not to exceed a total of ten percent (10%) of direct costs of such work.
 - c. A reasonable allowance for profit on the cost of the work performed as determined under subsection (1) provided the Contractor established to the satisfaction of the City that it would have made a profit had the Contract been completed and provided further, that the profit allowed shall in no event exceed five percent (5%) of the cost of the Work completed.
 - d. The reasonable cost to the Contractor of handling material returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.

4 ARTICLE 4 - TEAMING

The successful Bidder will have the opportunity to enter into a teaming agreement with the City. Teaming consists of a voluntary effort by all parties having a major role in the Project to develop joint goals and establish a cooperative rather than an adversarial atmosphere while executing the construction project. The objective of teaming is the effective completion of the work on schedule, within budget and in accordance with the Contract Documents.

Although teaming is strongly encouraged, it is not a requirement of the Contract. The establishment of a teaming agreement will not change the legal relationship of the parties to the Contract nor relieve either party of any of the terms of the Contract.

To initiate the teaming process, the City and Contractor will meet after the Notice of Award to confirm if both parties agree that teaming will be utilized on the Project.

If agreement is reached that teaming will be utilized, the parties will conduct a Teaming workshop prior to the preconstruction conference. Follow-up workshop(s) may also be held throughout the Project. All workshops may be conducted by an outside facilitator. It is expected that, at the conclusion of the initial workshop, the parties will express a consensus regarding, among other things, the respective goals in completing the Contract.

A successful partnership will require the participation of the following project personnel:

Contractor:	Company Executive, Project Manager, Superintendent, Foreman, Key suppliers Subcontractor's supervisory personnel
City:	City Engineer, Inspector, Key staff
Design Consultant:	Principal-in-Charge, Project Manager, Project Engineer
Construction Manager:	Principal-in-Charge, Project Manager, Inspectors(s)

The City will make all the necessary arrangements for the workshop(s). The Contractor's costs associated with effectuating this teaming agreement will include attendance of appropriate personnel at the workshops. The City will pay for the actual site and facilitator costs for the teaming workshop.

5 ARTICLE 5 - RECORD DRAWINGS AND ADDITIONAL INFORMATION

Any record or other information available at the City's offices regarding existing conditions at the Job Site may be reviewed by the Contractor upon request. The City makes no warranty as to the accuracy of the information available.

6 ARTICLE 6 - SUBSTANTIAL COMPLETION

Substantial completion of the Project as required by Section 00700-8.06, **SUBSTANTIAL COMPLETION**, requires that the following portions of the Work must be completed in accordance with the requirements of the Contract Documents:

- Completion of the Work as required by the Contract Documents so the City, the public and Sausalito Yacht Harbor can occupy and utilize the Project and any areas to which access has been restricted on account of the Work for their intended purpose.
- Completion of the Corrective Work Item List as described in Section 00700-8.06, **SUBSTANTIAL COMPLETION**
- All testing required by the Contract and the City's General Provisions and Specifications has been successfully completed.

- All items related to health and safety of Owner operations and maintenance staff, including warning signs, guardrails, and safety equipment shall be complete.
- All record drawings have been submitted, updated, reviewed and approved.

Portions of the Work not essential to public access or operations of the Sausalito Yacht Harbor that can be completed without interruption of public access or yacht harbor operations, may be completed after the Work is substantially complete, and may include the following items:

- Final Site Clean-Up
- Completion of the Punch List prepared by the Construction Manager in accordance with Section 00700-8.06, **SUBSTANTIAL COMPLETION**.

****END OF SECTION****

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SECTION 01010

SUMMARY OF WORK

PART 1 – GENERAL

1.01 SUMMARY

- A. General work included in this section:
 - 1. Furnish all labor, materials and equipment required by the Contract Documents or required to complete the Work.
 - 2. Coordinate work of all trades.
 - 3. Furnish and install miscellaneous items incidental to or necessary for completion of the Work, whether these items are specifically indicated in the Contract Documents or not.

1.02 WORK COVERED BY CONTRACT

- A. The Work covered under this Contract will be performed along public right of ways and within City-owned property located within the City of Sausalito. The project location is indicated on the Drawings.
- B. The Work includes, but is not limited to:
 - 1. Establishing worksite controls for the protection of workers and the public,
 - 2. protection of existing pilings and other facilities to remain including electrical and other controls associated with the Sausalito-Marin City Sanitary District's Princess Street Wastewater Pump Station,
 - 3. demolition of certain existing piling supported facilities,
 - 4. extending and wrapping existing wooden pilings using materials to be furnished by the contractor,
 - 5. furnishing and installing connectors to existing concrete piles,
 - 6. furnishing and installing new wooden structural framing, connectors, decking, steps, ramp, as well as hot-dipped galvanized steel handrails and stainless steel cable railing systems,
 - 7. removal of all waste and recyclable materials and restoration of pedestrian access to the worksite.
- C. Owner-Furnished Materials:
 - i. None.

1.03 OTHER CONTRACTS

- A. Construction of portions of the Project may coincide with construction activities by other contractors and agencies. Coordination with the contractors undertaking related work or un-related work within the project work areas is the responsibility of the Contractor.

1.04 SPECIFICATION LANGUAGE

- A. Specifications may be written in the imperative mood and streamlined form in accordance with practices and principals of the Construction Specifications Institute.
- B. Imperative language is directed to the Contractor unless specifically noted otherwise.
- C. The words “shall be” are included by inference where a colon (:) is used within sentences or phrases.
- D. This project must conform to regulatory permit requirements, a copy of each provided as an Attachment to the Instructions to Bidders.
 - 1. Contractor to alert Construction Manager if the Contractor believes the permit requirements exceed the contract requirements.

1.05 REGULATORY REQUIREMENTS

- A. Comply with all Federal, State, and local laws, regulations, codes, and ordinance applicable to the work.
- B. References in the Contract Documents to local codes shall mean those of Marin County.
- C. Other standards and codes that apply to the work are designated in the Specifications.

1.06 ACCESS BY GOVERNMENT OFFICIALS

- A. Authorized representatives of governmental agencies shall at all times have access to the work area. Provide proper facilities for access and inspection.

1.07 PROTECTION OF PUBLIC AND PRIVATE PROPERTY

- A. Project construction may encounter numerous existing features of various types, such as floating docks, boats, piers, fences, drain culverts, irrigation facilities, roadside drainage facilities, mailboxes, signs, private and public driveways, curbs, asphalt pavement, buildings, utility poles, guy wires and other surface structures. Contractor shall protect existing features of this nature and all features affected by construction operations shall be restored to their original condition.
- B. To the greatest extent possible, remove existing features without damaging the materials and re-use the material to place back in the original condition. When

existing features are damaged during removal, install new materials of similar type, appearance and function, at no additional cost to the Owner.

- C. Contractor shall be responsible for all damage to floating docks, boats, piers, buildings, streets, roads, driveways, highways, shoulders, ditches, embankments, culverts, bridges, and other public or private property, regardless of location or character, that may be caused by transporting equipment, materials, or workers to or from the work or any part or site thereof, whether by Contractor or Contractor's subcontractors or suppliers.
- D. Keep fire hydrants and water control valves free from obstruction and available for use at all times.
- E. In areas where the Contractor's operations are adjacent to or near a utility and such operations that may cause damage resulting in expense, loss and inconvenience, construction operations shall be suspended until all arrangements necessary for the protection thereof have been made by the Contractor.

1.08 CONSTRAINTS

- A. Restrict work activities to work limit areas indicated on the Drawings. Equipment and materials shall not be stored on public streets or unapproved storage areas.
- B. Bridgeway shall remain passable for cars, tourist busses and emergency vehicles at all times and provisions for the safe and accessibility-code-compliant passage of pedestrians including those using wheelchairs or of low- or no vision from one side of the Project Site to the other shall be in place at all times.
- C. No un-plated excavation shall be left open over night and no trench plating shall be permitted on the travelled way of Bridgeway.
- D. The Contractor is alerted to the fact that the Project is situated in part on fill material of varying quality over Bay mud. Vibration due to construction activities shall be limited to attempt to avoid disturbance to existing pilings and business operations and facilities in the vicinity of the Project.

1 PART 2 - PRODUCTS (NOT USED)

2 PART 3 - EXECUTION (NOT USED)

****END OF SECTION****

SECTION 01025

MEASUREMENT AND PAYMENT

PART 1 - GENERAL

1.01 GENERAL

- A. Measurements of the completed work shall be in accordance with, and by instruments and devices calibrated to United States Standard Measures and the units of measurement for payment, and the limits thereof, shall be made as shown on the Plans, Specifications, General Conditions and Requirements, and Supplementary Conditions.
- B. Units of Measurement
 - 1. Measurements shall be in accordance with U.S. Standard Measures.
 - 2. A pound is an avoirdupois pound.
 - 3. A ton is 2,000 pounds avoirdupois.
 - 4. The unit of liquid measure is the U.S. gallon.
- C. Certified Weights
 - 1. When payment is to be made on the basis of weight, the weighing shall be done on certified platform scales, or when approved by the Construction Manager, on a completely automated weighing and recording system.
 - 2. The Contractor shall furnish the Construction Manager with duplicate licensed weighmaster's certificates showing the actual net weights.
 - 3. The City will accept the certificates as evidence of the weights delivered.
- D. Methods of Measurement
 - 1. Materials and items of work which are to be paid for on the basis of measurement shall be measured in accordance with the method stipulated in the particular sections involved.
 - 2. In determining quantities, all measurements shall be made in a horizontal plane unless otherwise specified.
 - 3. Material not used from a transporting vehicle shall be determined by the Construction Manager and deducted from the certified tag.
 - 4. When material is to be measured and paid for on a volume basis and it would be impractical to determine the volume, or when requested by the Contractor in writing and approved by the Construction Manager in writing, the material will be weighed and converted to volume measurement for payment purposes.

5. Factors for conversion from weight measurement to volume measurement will be determined by the Construction Manager and shall be agreed to by the Contractor before such method of measurement of pay quantities will be adopted.
6. Full compensation for all expense involved in conforming to the above requirements for measuring and weighing materials shall be considered as included in the unit prices paid for the materials being measured or weighed and no additional allowances will be made therefore.
7. Quantities of material wasted or disposed of in a manner not called for under the Contract; or rejected loads of material, including material rejected after it has been placed by reason of failure of the Contractor to conform to the provisions of the Contract; or material not unloaded from the transporting vehicle; or material placed outside the lines indicated on the Plans or given by the Construction Manager; or material remaining on hand after completion of the Contract, will not be paid for and such quantities will be deducted from the final total quantities.
8. No compensation will be allowed for hauling rejected material.

1.02 BID ITEMS

- A. The Bid amounts for each Bid Item will be used for comparative bid analysis. The Bid amounts will also form the basis of monthly progress payments. Each Lump Sum bid amount will undergo further breakdown as described later in this Section. Unit prices for any unit price bid items will be the basis for monthly progress payment determinations and for any changes related to that Work item. Bid Item will also demonstrate the Contractor's compliance with the California Labor Code relating to the price for sheeting, shoring, and bracing of excavations. Bid items are not intended to be exclusive descriptions of work categories and the Contractor shall determine and include in its pricing all materials, labor, and equipment necessary to complete each Bid Item (work phase) as shown and specified. Measurement and payment for each Bid Item is defined in each section of the Special Provisions.

1.03 LUMP SUM PAYMENT ITEMS

- A. Payment items for the Project for which contract lump sum payments will be made are as listed in the Bid Schedule.
- B. Payment for each lump sum item provides full compensation for furnishing the labor, materials, tools, and equipment and doing all the work involved to complete the work covered by each item and included in the Contract Documents. Costs for items of Work, not specifically mentioned to be included in a particular lump sum or unit price payment item, but deemed incidental to the Work to be considered complete, shall be included in the listed lump sum item most closely associated with the Work involved.

- C. The lump sum price and payment made for each item listed shall be for performing all work required to complete the item and for which separate payment is not otherwise provided.
- D. Contractor shall submit a Schedule of Values for lump sum items. Provide itemized costs of lump sum items to facilitate progress payments of lump sum items that will take longer than one month to complete and are not tied to overall project completion.

1.04 UNIT PRICE PAYMENT ITEMS

- A. Payment items for the Project on which the contract unit price payments will be made are as listed in the approved Bid Schedule.
- B. Each unit price item provides full compensation for furnishing the labor, materials, tools, and equipment and doing all the work involved to complete the work covered by each item and included in the Contract Documents. Measurement and payment stipulations are as detailed in the Specifications.

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1.05 BID SCHEDULE QUANTITIES

- A. Contract quantities are those quantities that have been calculated from the neat lines shown on the Plans and Specifications with no allowance for so-called shrinkage, swelling or settlement.
- B. When the Plans and Specifications have been altered or when disagreement exists between the Contractor and the Construction Manager as to the accuracy of the Plan and Specification quantities, either party shall, before any work is started that would affect the measurement, have the right to request in writing a change to the noted quantity.

1.06 SCHEDULE OF VALUES

- A. In addition to the requirements stated in Contract Documents, the Schedule of Values shall be in the form of an Excel hardcopy spreadsheet along with the electronic file. A Schedule of Values shall be submitted for each bid item as directed by the Construction Manager. Each component of work shall be consistent with the Contractor's Construction Schedule as defined in Section 01310 PROGRESS SCHEDULES. Construction Manager will use the approved Schedule of Values to assist in determining monthly progress payments for associated bid items, but will pay for work in terms of percentages actually completed.
- B. Lump Sum bid items as listed in the Bid Schedule submitted by the Contractor with the accepted bid shall be included in a separate detailed Schedule of Values addendum. Each lump sum item shall be as included on the Bid Schedule and shall indicate the portion of the lump sum expected to be requested for each month for the

period of the Project. Construction Manager will use this information for reviewing and approving partial payments for these items.

- C. Construction Manager will review the Schedule of Values to assure that item breakdowns are reasonable and balanced. Before any work associated with Schedule of Value items can commence, Construction Manager must approve the Schedule of Values. When approved, they will be used in reviewing and approving the associated bid items to be included in the monthly partial payment requests.
- D. Updates and proposed changes to cash flow and Schedule of Values shall be submitted with the monthly partial payment request. Construction Manager will review the updates and proposed changes and advise the Contractor as to their acceptance, modification or rejection.

1.07 CHANGES AND EXTRA WORK

- A. Measurement and payment of changes and extra work shall be as detailed in the Contract Documents.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION (NOT USED)

****END OF SECTION****

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SECTION 01035

MODIFICATION PROCEDURES

PART 1 - GENERAL

1.01 CHANGES IN CONTRACT PRICE

This section provides supplementary procedures for the administration of changes to the Contract as specified in Section 00700-Article 7, **CHANGES IN THE WORK**. Whenever corrections, alterations, or modifications of the Work under this Contract are ordered by the Construction Manager and approved by the City and increase the amount of work to be done, such added work shall be known as extra work; and when such corrections, alterations, or modifications decrease the amount of work to be done, such subtracted work shall be known as omitted work.

The difference in cost of the work affected by such change will be added to or deducted from the amount of said Contract price, as the case may be, by a fair and reasonable valuation, which shall be determined in one or more of the following ways as directed by the Construction Manager:

- A. Where applicable, by unit prices accepted by the City and stated in the Contract Documents;
- B. By unit prices subsequently fixed by agreement between the parties;
- C. By an acceptable lump sum proposal from the Contractor; or
- D. By Force Account (as described in Section 01035-1.03, **FORCE ACCOUNT PAYMENT**), when directed in writing and administered by the City through its agents or representatives.

The prices agreed upon and any agreed upon adjustment in Contract Time shall be incorporated in the written order issued by the City, which shall be written so as to indicate an acceptance on the part of the Contractor as evidenced by its signature. By signature of the Change Order, the Contractor acknowledges that the adjustments to cost and time contained in the Change Order are in full satisfaction and accord, payment in full, and so waives any right to claim any further cost and time impacts at any time during and after completion of the Contract for the changes encompassed by the Change Order.

1.02 NEGOTIATED CHANGE ORDERS

Under the methods described in Sections 01035-1.01B and 01035-1.01C, the Contractor shall submit substantiating documentation with an itemized breakdown of Contractor and subcontractor direct costs, including labor, material, equipment rentals, and approved services, pertaining to such ordered work in the form and detail acceptable to the

Construction Manager. The direct costs shall include only costs as described in Section 01035-1.04, **DIRECT COST CATEGORIES**.

The Construction Manager will review the Contractor's proposal for the change and negotiate an equitable adjustment with the Contractor. After there is an agreement the Construction Manager will prepare and process the Change Order and make a recommendation for action by the City. All Change Orders must be approved by the City in writing before the work can be authorized and the Change Order executed.

1.03 FORCE ACCOUNT PAYMENT

If either the amount of work or payment for a Change Order cannot be determined or agreed upon beforehand, the City may direct by written Change Order or Field Order that the work be done on a force account basis. The term "force account" shall be understood to mean that payment for the work will be done on a time and expense basis, that is, on an accounting of the Contractor's forces, materials, equipment, and other items of cost as required and used to do the work. For the work performed, payment will be made for the documented actual cost of the work as described in Section 01035-1.04, **DIRECT COST CATEGORIES**.

Prior to the commencement of force account work, the Contractor shall notify the Construction Manager of its intent to begin work. Labor, equipment and materials furnished on force account work shall be recorded daily by the Contractor upon report sheets acceptable to the Construction Manager. The reports, if found to be correct, shall be signed by both the Contractor and Construction Manager, or inspector, and a copy of which shall be furnished to the Construction Manager no later than the working day following the performance of said work. The daily report sheet shall thereafter be considered the true record of force account work provided. If the Construction Manager, or inspector, do not agree with the labor, equipment and/or materials listed on the Contractor's daily force account report, the Contractor and Construction Manager, or inspector, shall sign-off on the items on which they are in agreement. The Construction Manager shall then review the items of disagreement and will advise the Contractor, in writing, of its determination. If the Contractor disagrees with this determination, it shall have the right to file a claim notice as provided in Section 00700-7.03A, **Notice**.

The Contractor shall maintain its records in such a manner as to provide a clear distinction between the direct costs of work paid for on a force account basis and the costs of other operations.

To receive partial payments and final payment for force account work, the Contractor shall submit, in a manner approved by the Construction Manager, detailed and complete documented verification of the Contractor's and any of its subcontractor's actual costs involved in the force account pursuant to the pertinent Change Order or Field Order. Such costs shall be submitted within thirty (30) days after said work has been performed. No payments will be made for work billed and submitted to the Construction Manager after the thirty (30) day period has expired.

The force account invoice shall itemize the materials used and shall cover the direct costs of labor and the charges for equipment rental, whether furnished by the Contractor, subcontractor, or other forces. The invoice shall be in a form acceptable to the Construction Manager and shall provide names or identifications and classifications of workers, the hourly rate of pay and hours worked, and also the size, type, and identification number of equipment and hours operated. Material charges shall be substantiated by valid copies of vendor's invoices.

1.04 DIRECT COST CATEGORIES

The categories described below are defined to be direct costs. No other type of costs will be allowable as direct costs. Direct costs shall not include any labor costs pertaining to the Contractor's and subcontractors' managers or superintendents, their office and engineering staffs, the cost of their offices, facilities, vehicles, or anyone not directly employed on such work, nor small tools and supplies. All such items are considered indirect costs which form a part of the Contractor's and subcontractors' overhead expenses.

The City reserves the right to furnish such labor, materials and equipment as it deems expedient, and the Contractor shall have no claim for profit or added fees on the cost of such items.

A. Direct Labor

The Contractor will be paid the cost of direct craft labor for the workers and foremen (when authorized by the Construction Manager) used or proposed to be utilized in the actual and direct performance of the work.

The direct labor cost will be the actual payroll cost, including wages, subsistence and travel payments, and fringe benefits as established by negotiated labor agreements or state prevailing wages. To these actual wages, a labor surcharge in the amount of 11% of the direct labor cost will be added for all workers including Pile Drivers and Longshoremen and Harbor Workers. The labor surcharge compensates Contractor for the following statutory payroll-related costs: Workers Compensation, Social Security, Medicare, Federal Unemployment, State Unemployment, and State Training taxes. No other fixed labor burdens will be considered, unless approved in writing by the Construction Manager. Except as otherwise provided, the Contractor shall receive no additional compensation for wage premiums resulting from overtime work performed under change conditions without the prior written authorization of the Construction Manager.

B. Materials

The Contractor will be paid the cost of the materials to the purchaser, including tax and delivery if paid. If the Contractor does not furnish satisfactory evidence of the cost of such materials, it shall be deemed to be the lowest current price for the materials delivered to the job site for the applicable quantities of the materials.

No payment for small tools and supplies will be made for modifications. The Contractor's base compensation shall be deemed as full compensation for all tools and materials which are incidental to performing work including safety equipment provided by the Contractor to its employees.

C. Construction Equipment

The cost of construction machinery and equipment for changes shall be based on fair rental cost or equivalent rental cost of owned equipment. Such costs will be allowed for only those days or hours during which the equipment is in actual use. Payment shall be based on actual rental and transportation invoices but shall not exceed the rental rates listed for such equipment in the State of California Department of Transportation publication entitled "Labor Surcharge and Equipment Rental Rates" which is in effect on the date upon which the work is performed. Owner-operated equipment rates shall not exceed the rates in the aforesaid Rental Rate publication plus the labor costs as provided in Section 01035-1.04A, **Direct Labor**. The rental cost allowed for equipment will, in all cases, be understood to cover all fuel, supplies, repairs, ownership, and incidental costs and no further allowances will be made for those items, unless specific written agreement to that effect is made. Compensation for idle time of equipment through delays caused by the City will be made consistent with Section 8-1.09, Right of Way Delays, of the Caltrans Standard Specifications.

Individual items of construction equipment or small tools which have a replacement value of five hundred dollars (\$500) or less shall not be charged to the Change Order work unless it can be demonstrated that the particular item is needed solely for the completion of the Change Order work.

1.05 MARK-UP ALLOWANCES

To the total of the direct costs of labor, materials and equipment computed as described above, Contractor may add the following markups to the direct cost of the Change Order work, as further described below. The maximum markups allowed are:

- A. For work by its own organization, the Contractor may add up to the following percentages:
 - 1. Direct Labor
 - a. Negotiated Change Orders (Section 01035-1.02): 25 percent
 - b. Force Account Payment (Section 01035-1.03): 15 percent
 - 2. Materials 10 percent
 - 3. Equipment (owned or rented) 15 percent

- B. For all such work performed by subcontractors, such subcontractor may add the same percentages as the Contractor as listed in Section 01035-1.05A above to its actual net increase in costs for combined overhead and profit. The Contractor may

add up to five (5) percent of the subcontractor's total for its combined overhead and profit. No further compensation will be allowed for the Contractor's administration of the work performed by the subcontractor.

- C. For all such work done by sub-tier subcontractors, such sub-subcontractors may add the same percentages as the Contractor as listed in Section 01035-1.05A above to its actual net increase in costs for combined overhead and profit. The subcontractor may add up to five (5) percent of the sub-subcontractor's total for its combined overhead and profit. The Contractor may add up to five (5) percent of the subcontractor's total for its combined overhead and profit. No further compensation will be allowed for the Contractor's administration of the work performed by the subcontractor.
- D. For all such work performed by consultants, engineers, surveyors, etc. the combined total allowable markup for the Contractor and all subcontractors shall be five (5) percent of the fee total.
- E. To the total of the direct costs and markups allowed herein under, not more than two (2) percent shall be added for any and all additional contractor bond and insurance, other than workers compensation insurance. (Cost for workers compensation insurance is included in the labor surcharge.) The compensable percentage for additional bonds and insurance shall be based on actual costs for the contractors bonds and insurance, as substantiated through documentation submitted to the Construction Manager.

When both additional and deleted work are involved in any one change, the markup allowances of this Section shall be applied to the net extra cost of the work, if any, after subtraction of the costs for the deleted work. For Change Order work which results in a net decrease in cost a minimum of five (5) percent markup shall be added to the sum of the direct labor, materials and equipment as a deduction for profit, indirect and overhead costs, and reduction in bond and insurance. The Contractor shall not be entitled to nor claim for anticipated profits on work that may be omitted.

The added mark ups shall be considered to be full compensation covering the cost of general supervision, field and home office overhead, profit, delay costs, small tools, safety equipment, incidentals and any other items of expense not specifically designated as cost for labor, materials and equipment, above. The above mark ups represent the maximum limits which will be allowed, and they include the Contractor's and all subcontractors' indirect field and home office expenses and all other costs for cost proposal preparation, schedule analysis and preparation, operation and maintenance manual documentation, and record documents and change order administration.

1.06 INCREASED OR DECREASED QUANTITIES

Increases or decreases in the quantity of a Contract unit price bid item of work will be determined by comparing the total pay quantity of such item of work with the Bid Schedule quantity.

If the total pay quantity of any item of work required under the Contract varies from the Bid Schedule quantity by twenty five (25) percent or less, payment will be made for the quantity of work of said item performed at the Contract unit prices therefore, unless eligible for adjustment pursuant to Section 01035-1.06D, **Changes in Character of Work**.

If the total pay quantity of any item of work required under the Contract varies from the Bid Schedule quantity by more than twenty five (25) percent in the absence of an executed Contract change order specifying the compensation to be paid, the compensation payable to the Contractor will be determined in accordance with Sections 01035-1.06A, 1.06B or 1.06C, as the case may be.

A. Increases of More Than Twenty five (25) percent

Should the total pay quantity of any item of work required under the Contract exceed the Bid Schedule quantity by more than twenty five (25) percent, the work in excess of one hundred twenty five (25) percent of the Bid Schedule quantity will be paid for by adjusting the Contract unit price, as hereinafter provided. At the option of the Construction Manager, payment for the work involved in such excess will be made on the basis of force account as provided by Section 01035-1.03, **FORCE ACCOUNT PAYMENT**.

Such adjustment of the Contract unit price will be the difference between the Contract unit prices and the actual unit costs, which will be determined as hereinafter provided, of the total pay quantity of the item. If the costs applicable to such item of work include fixed costs, such fixed costs will be deemed to have been recovered by the Contractor by the payments made for one hundred twenty five (125) percent of the Bid Schedule quantity for such item, and in computing the actual unit cost, such fixed costs will be excluded. Subject to the above provisions, such actual unit cost will be determined by the Construction Manager in the same manner as if the work were to be paid for on a force account basis as provided in Section 01035-1.03, **FORCE ACCOUNT PAYMENT** or such adjustment will be as agreed to by the Contractor and the Construction Manager.

When the compensation payable for the number of units of an item of work performed in excess of one hundred twenty five (25) percent of the Bid Schedule quantity is less than \$5,000 at the applicable Contract unit price, the Construction Manager reserves the right to make no adjustment in said price if it so elects, except that an adjustment will be further considered if requested in writing by the Contractor.

B. Decreases of More Than Twenty five (25) percent

Should the total pay quantity of any item of work required under the Contract be less than seventy five (75) percent of the Bid Schedule quantity, an adjustment in compensation pursuant to this Section will not be made unless the Contractor so requests in writing. If the Contractor so requests, the revised quantity will be paid for by adjusting the Contract unit price as hereinafter provided. At the option of the

Construction Manager, payment for the quantity of the work of such item performed will be made on the basis of force account as provided in Section 01035-1.03, **FORCE ACCOUNT PAYMENT**. However, in no case shall the payment for such work be less than that which would be made at the Contract unit price.

Such adjustment of the Contract unit price will be the difference between the Contract unit price and the actual unit cost of the total pay quantity of the item, including fixed costs. Such actual unit cost will be determined by the Construction Manager in the same manner as if the work were to be paid for on a force account basis as provided in Section 01035-1.03, **FORCE ACCOUNT PAYMENT**; or such adjustment will be as agreed to by the Contractor and the Construction Manager.

The payment for the total pay quantity of such item of work will in no case exceed the payment which would have been made for the performance of seventy five percent (75) of the Bid Schedule of the quantity for such item at the original Contract unit price.

C. Eliminated Items

In the event that a part of the Work is to be eliminated in its entirety and such Work is covered by unit price(s) contained in the Bid and/or Contract Documents, the price of the eliminated Work item shall be based on the applicable unit price(s). The Contractor shall be paid five (5) percent of the total extended amount (bid price times the Bid Schedule quantity) for the eliminated Work item in consideration of the applicable Contractor's overhead costs.

Should any Contract item of the Work be eliminated in its entirety, in the absence of an executed Contract Change Order covering such elimination, payment will be made to the Contractor for actual costs incurred in connection with such eliminated Contract item if incurred prior to the date of notification in writing by the Construction Manager of such elimination.

If acceptable material is ordered by the Contractor for the eliminated item prior to the date of notification of such elimination by the Construction Manager, and if orders for such material cannot be canceled, it will be paid for at the actual cost, including a five (5) percent mark-up, to the Contractor. In such case, the material paid for shall become the property of the City and the actual cost of any further handling will be paid for. If the material is returnable to the vendor, and if the Construction Manager so directs, the material shall be returned and the Contractor will be paid for the actual costs of charges made by the vendor for returning the material. The actual cost of handling returned material will be paid for by the City.

D. Changes in Character of Work

If an ordered change in the Plans and Specifications materially changes the character of work of a Contract unit price bid item from that on which the Contractor based its Bid price, and if the change increases or decreases the actual

unit cost of such changed item as compared to the actual or estimated actual unit cost of performing the work of said item in accordance with the Plans and Specifications originally applicable thereto, in the absence of an executed Contract Change Order specifying the compensation payable, an adjustment in compensation therefore will be made in accordance with the following:

The basis of such adjustment in compensation will be the difference between the actual unit cost to perform the work of said item or portion thereof involved in the change as originally planned and the actual unit cost of performing the work of said item or portion thereof involved in the change, as changed. Actual unit costs will be determined by the Construction Manager in the same manner as if the work were to be paid for on a force account basis as provided in Section 01035-1.03, **FORCE ACCOUNT PAYMENT**; or such adjustment will be agreed to by the Contractor and the Construction Manager. Any such adjustment will apply only to the portion of the work of said item actually changed in character. At the option of the Construction Manager, the work of said item or portion of item which is changed in character will be paid for by force account as provided in Section 01035-1.03, **FORCE ACCOUNT PAYMENT**.

If the compensation for an item of work is adjusted under this Section, the costs recognized in determining such adjustment shall be excluded from consideration in making an adjustment for such item of work under the provisions in Sections 01035-1.06A, **Increases of More Than Twenty five (25) percent** and 1.06B, **Decreases of More Than Twenty five (25) percent**.

1.07 COST PRICING DATA AND ACCESS TO RECORDS

All cost and pricing data submitted by the Contractor with respect to any change, prospective or executed, or any claim for extra compensation shall be a true, complete, accurate and current representation of actual cost and pricing of the work. The Construction Manager may require a formal certification as to cost and pricing data submitted by the Contractor.

The City, its Construction Manager or other designated representative shall have access, upon reasonable notice during normal business hours, to any books, documents, accounting records, papers, project correspondence, project files, scheduling information and other relevant records of the Contractor and all subcontractors directly or indirectly pertinent to the work, original as well as changes and claimed extra work, and the Contract for the purpose of making audit, examination, excerpts and transcriptions and in order to verify or evaluate any change, prospective or executed, or any claim for which compensation has been requested or notice of potential claim has been tendered.

Such books, documents, and other records mentioned above shall include, but are not limited to all those reasonably necessary to determine the accurate amount of direct and indirect costs, job site, and delay and impact costs, however characterized, and shall include the original Bid and all documents related to the Bid and its preparation, as well as, the as-planned construction schedule and all related documents.

Such access shall include the right to examine and audit such records and make excerpts, transcriptions, and photocopies at the City's cost.

1.08 TIME EXTENSIONS FOR CHANGE ORDERS

If the Contractor requests a time extension for the extra work necessitated by a proposed Change Order, the request must comply with the applicable requirements of Section 01310-1.06, **TIME IMPACT ANALYSES**.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION (NOT USED)

****END OF SECTION****

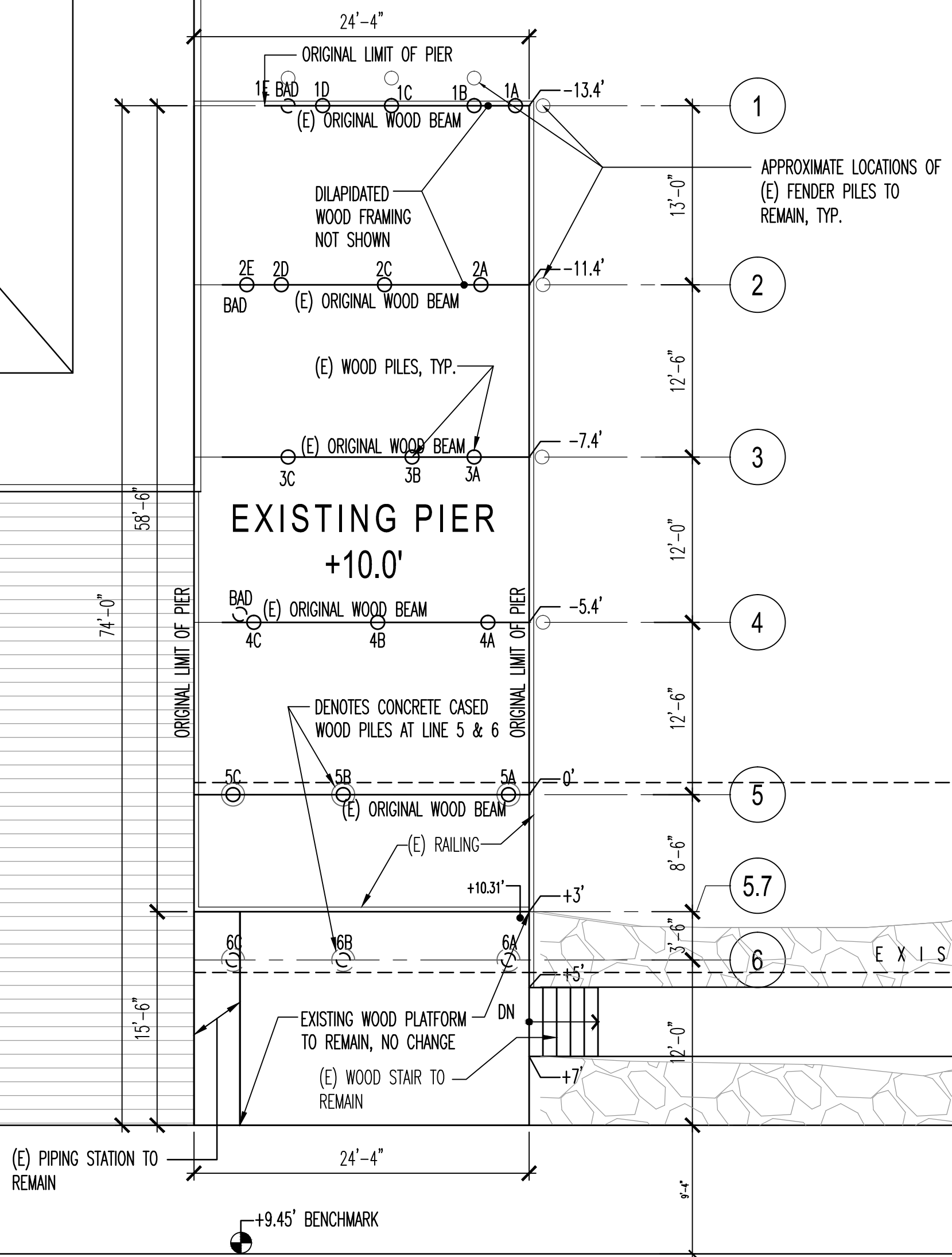
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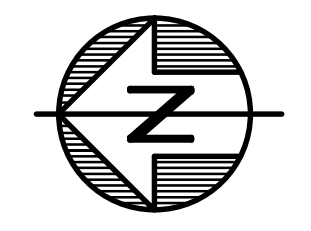
ONDINE RESTAURANT

EXISTING PARKING DECK

SIDEWALK
TOP OF CURB



EXISTING SITE PLAN
Scale 1/8" = 1'-0"



B R I D G E W A Y



VICINITY MAP

SITE LOCATION

INDEX OF DRAWINGS	
C1.1	TITLE SHEET & EXISTING SITE PLAN
C1.2	NEW SITE PLAN
D1.1	DEMOLITION PLAN
A1.1	FLOOR PLAN, ELEVATIONS & SECTIONS
A1.2	ARCHITECTURAL DETAILS
S0.0	STRUCTURAL NOTES
S1.0	PIER FRAMING PLAN & DETAILS
S1.1	STRUCTURAL DETAILS

SCOPE OF WORK	
•	REMOVE FRAMING AND REPLACE WOOD FRAMING OF EXISTING PIER
•	ADD NEW ADA PLATFORM AND RAMP
•	ADD NEW GUARDRAILS AND GRAB BARS

SAN FRANCISCO BAY

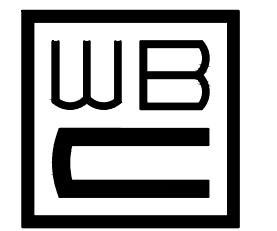
APPROXIMATE MEAN LOW WATER LINE

APPROXIMATE MEAN HIGH TIDE LINE

(E) CONCRETE WALKWAY

EXISTING RIP RAP

SIDEWALK
TOP OF CURB



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SAUSALITO FISHING PIER
REPAIR PROJECT

558 BRIDGEWAY ADJACENT ONDINE RESTAURANT
SAUSALITO, CALIFORNIA

REVISIONS		
No.	DATE	DESCRIPTION
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△	01/10/14	GENERAL
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EXISTING SITE PLAN

SCALE:
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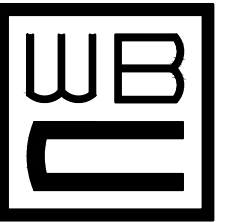
C1.1

PROJECT No.: 25441

CAD FILE: 25441\25441C1.1 DATE ISSUED: 8/02/13

DATUM: NAVD 88
DATUM CONVERSION TO MLLW:
MLLW = EL +0.2 NAVD88

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PROJECT NAME:

**SAUSALITO FISHING PIER
REPAIR PROJECT**

558 BRIDGEWAY ADJACENT ONDINE RESTAURANT
SAUSALITO, CALIFORNIA

STAMP:

REVISIONS:

No.	DATE	DESCRIPTION
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DRAWING TITLE:

DEMOLITION PLAN

SCALE:



DRAWN:

CHECKED:

KCC

SHEET No.:

D1.1

PROJECT No.:

25441

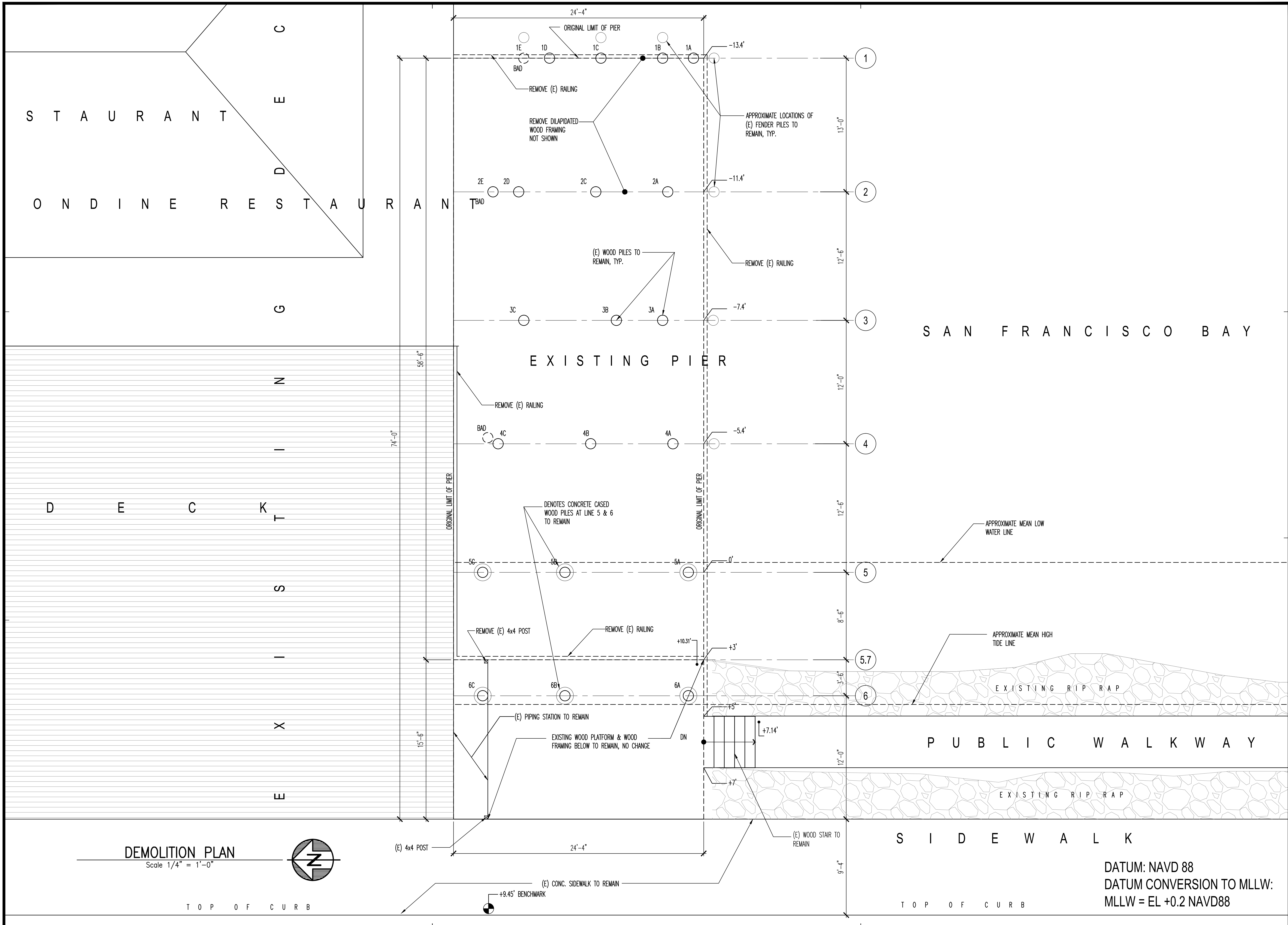
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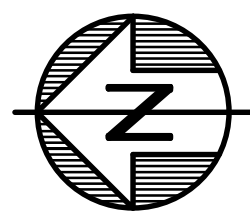
DATE ISSUED:

8/02/13

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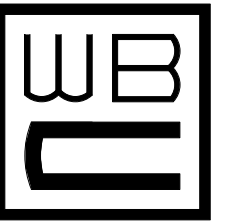


DEMOLITION PLAN
Scale 1/4" = 1'-0"



T O P O F C U R B

DATUM: NAVD 88
DATUM CONVERSION TO MLLW:
MLLW = EL +0.2 NAVD88



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PROJECT NAME:

**Sausalito Fishing Pier
Repair Project**

568 Bridgeway Adjacent Ondine Restaurant
Sausalito, California

STAMP

DATE ISSUED:

DATE	DESCRIPTION
01.10.14	

REVISIONS:

No.	DATE	DESCRIPTION
1	01.10.14	General

DRAWING TITLE:

**Floor Plan,
Elevations &
Sections**

SCALE:



DRAWN: Author CHECKED: Checker

SHEET No.:

A1.1

PROJECT No.:

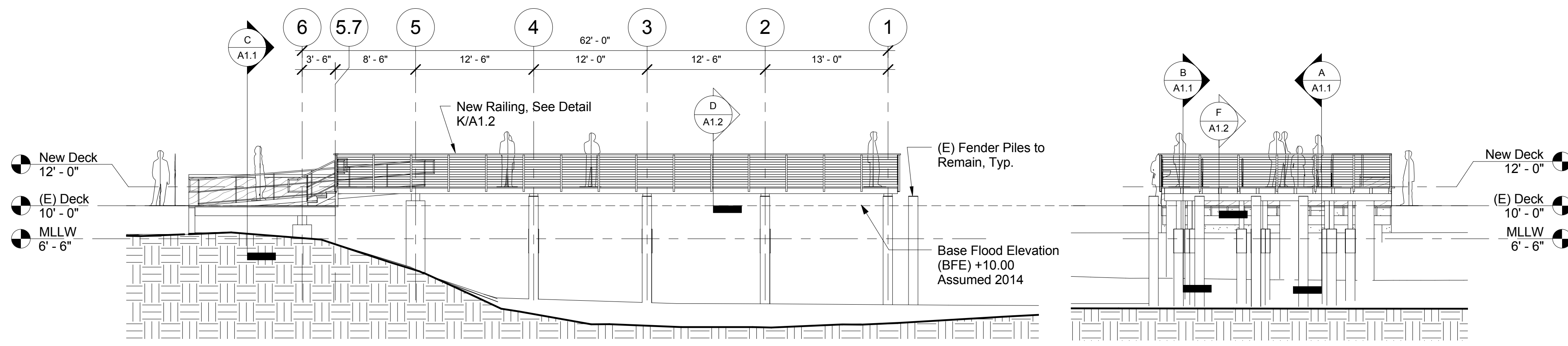
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PLOT DATE:

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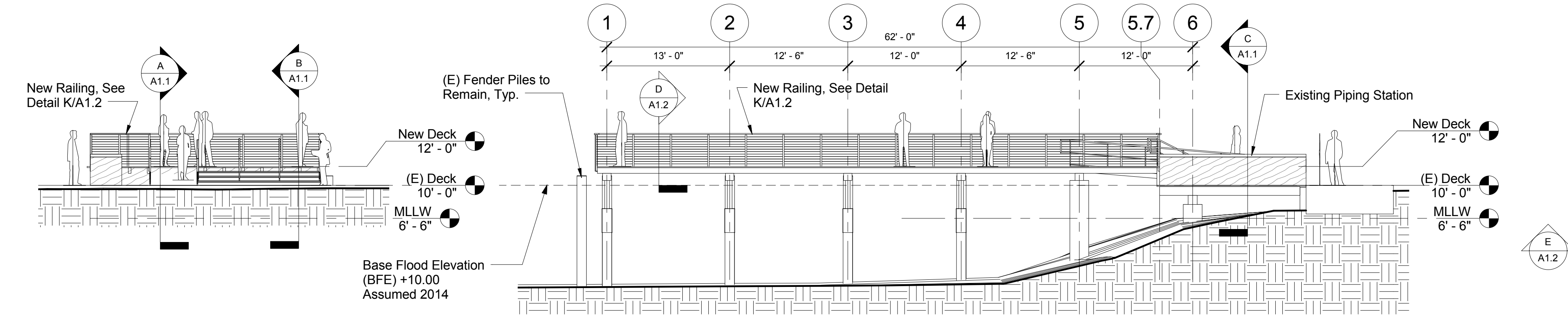


South Elevation

Scale 1/8" = 1'-0"

East

Scale 1/8" = 1'-0"

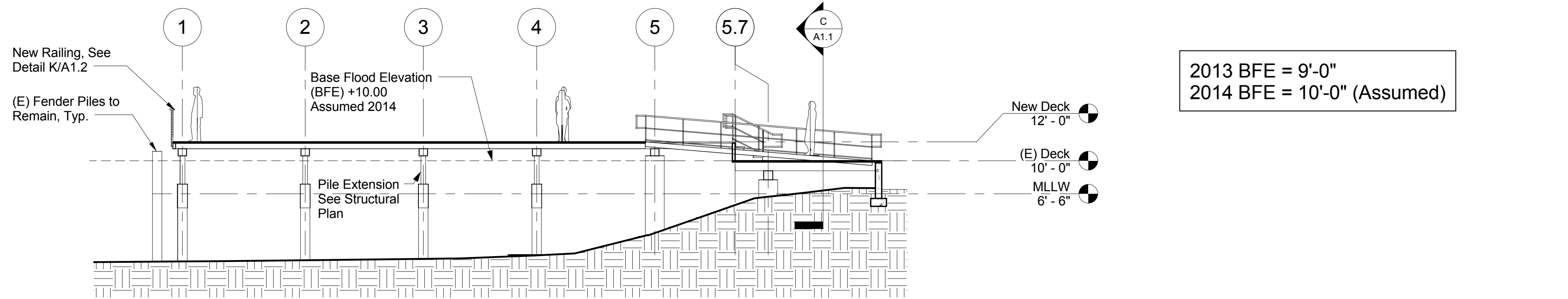


West

Scale 1/8" = 1'-0"

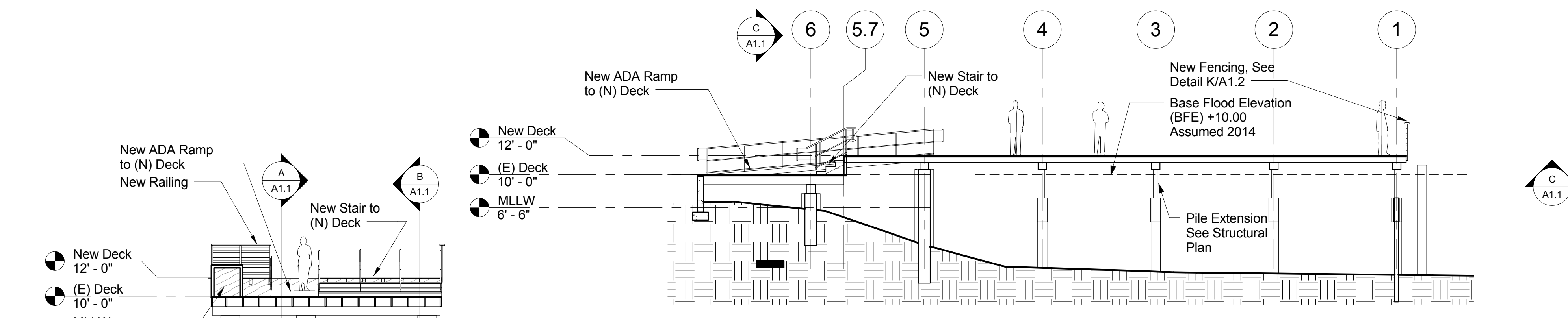
North Elevation

Scale 1/8" = 1'-0"



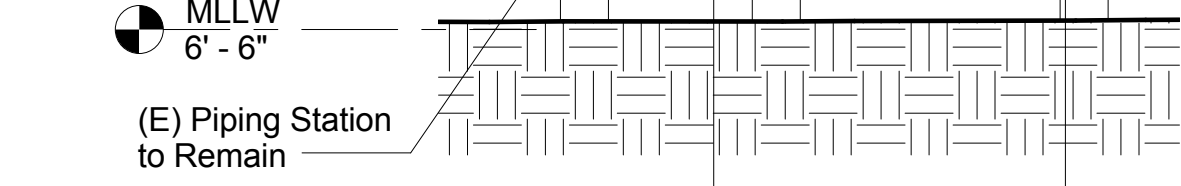
Section A

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Section B

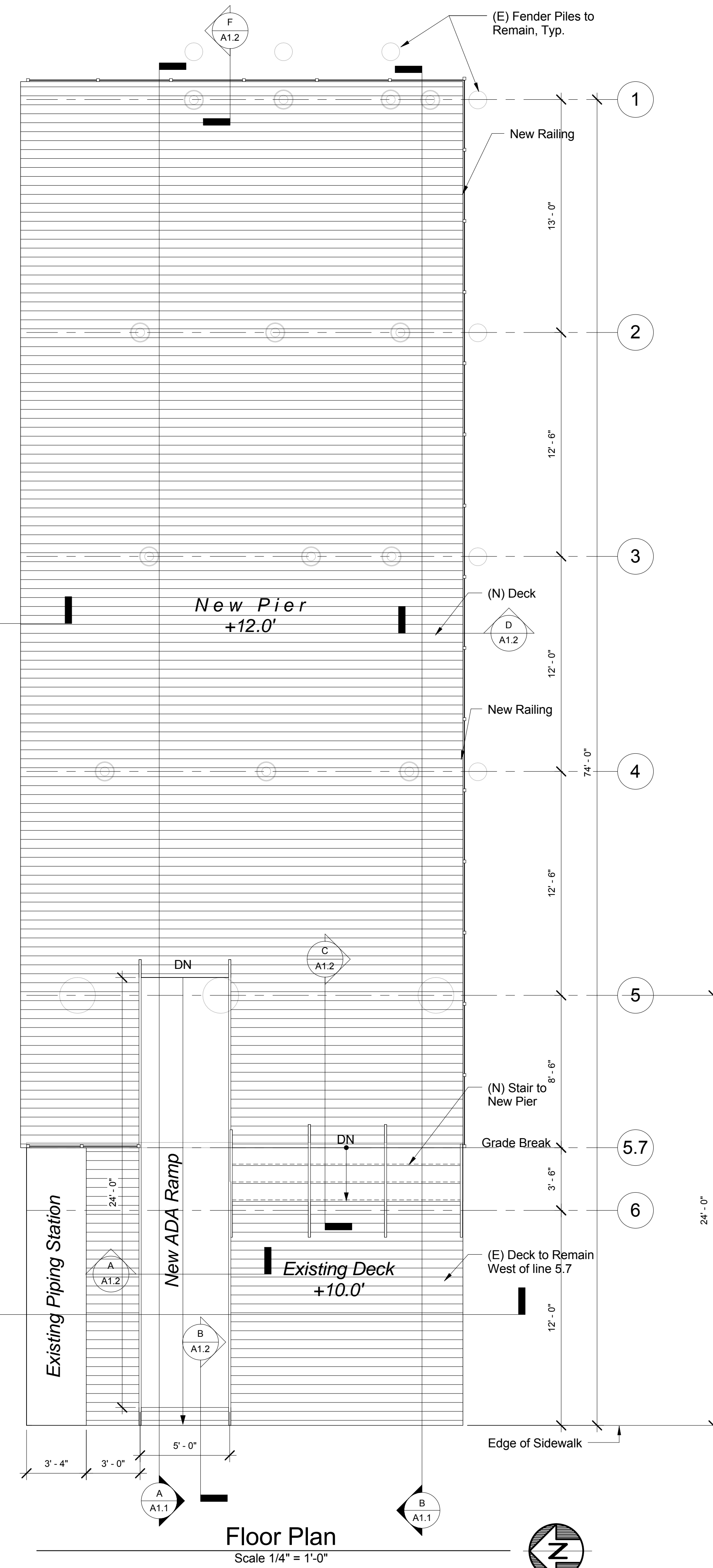
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Section C

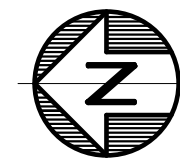
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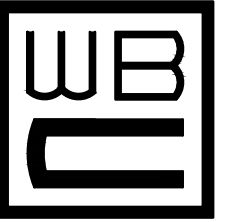
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MLLW = EL 0.2 NAVD88



Floor Plan

Scale 1/4" = 1'-0"





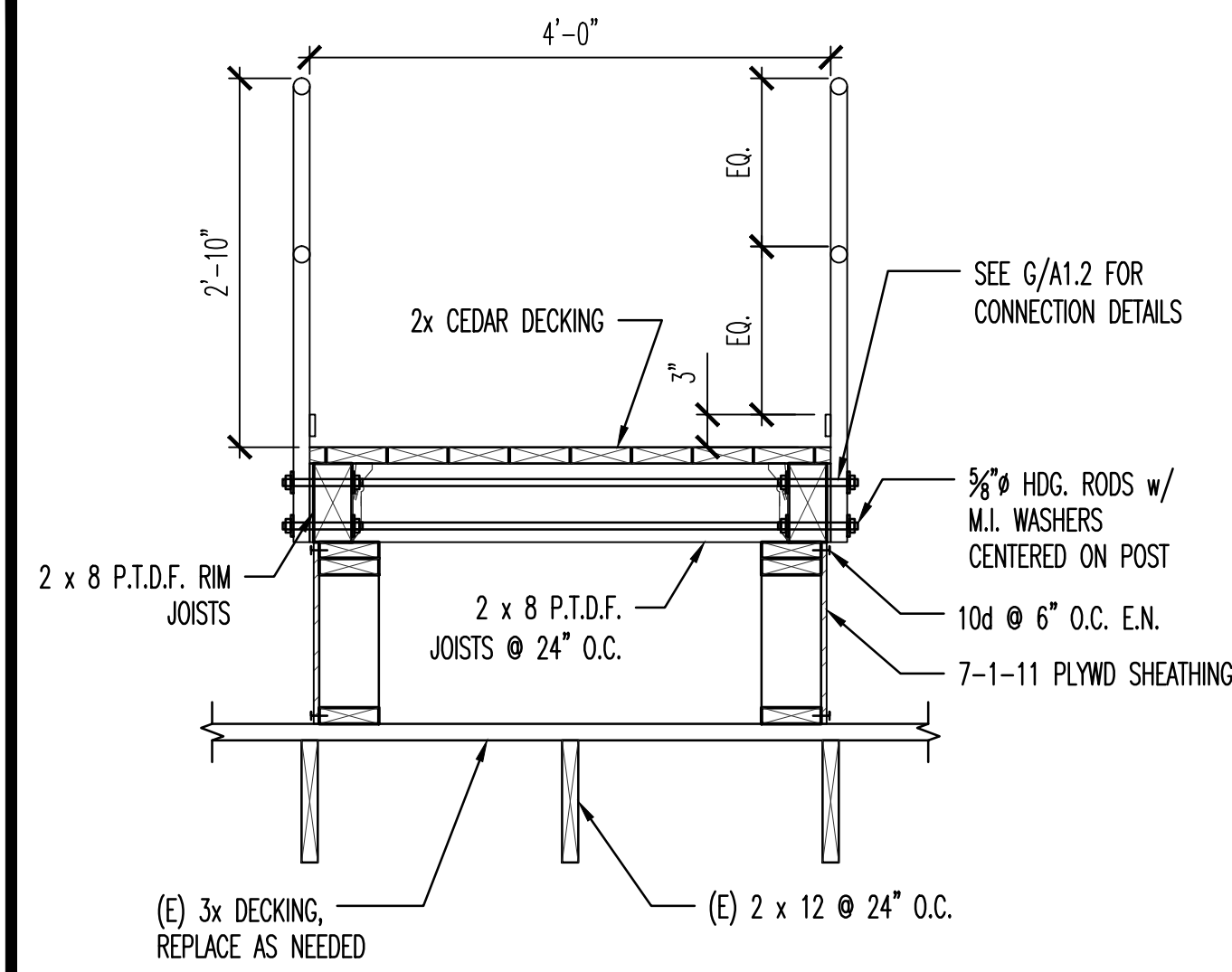
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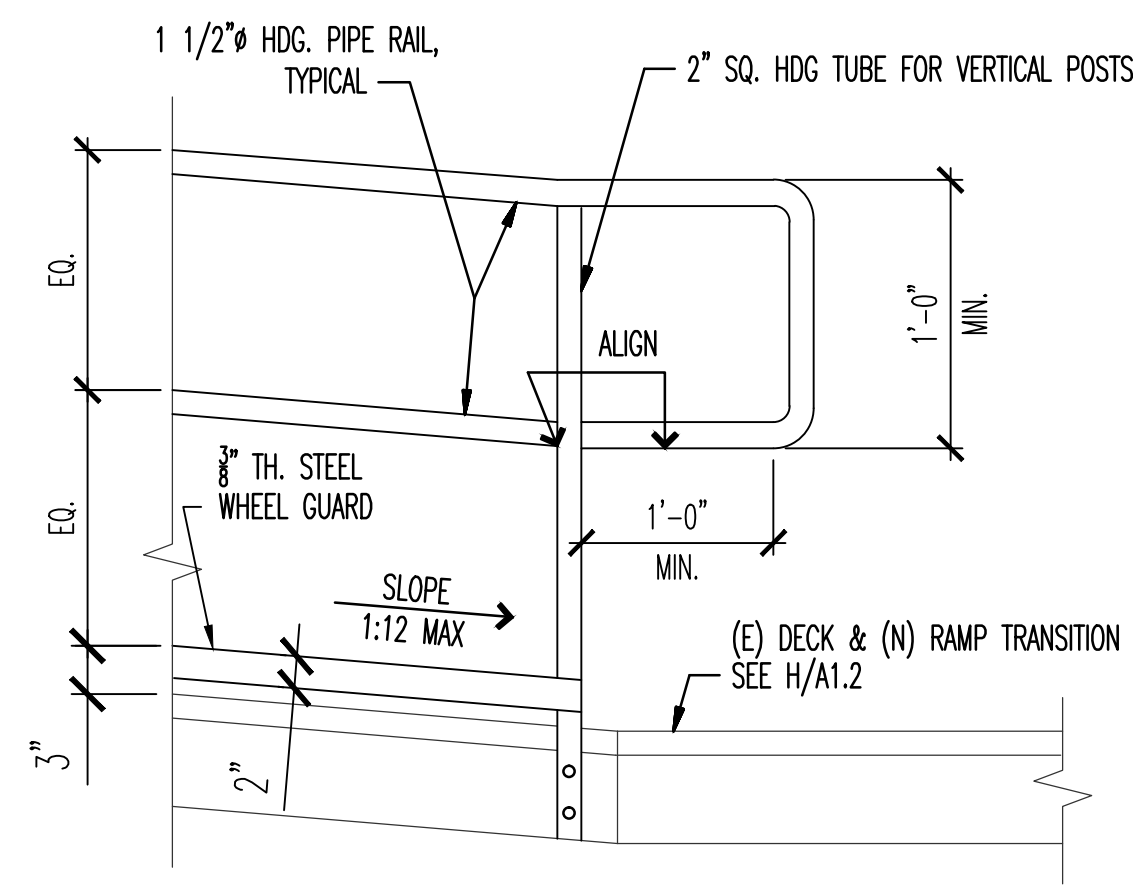
PROJECT NAME

**SAUSALITO FISHING PIER
REPAIR PROJECT**

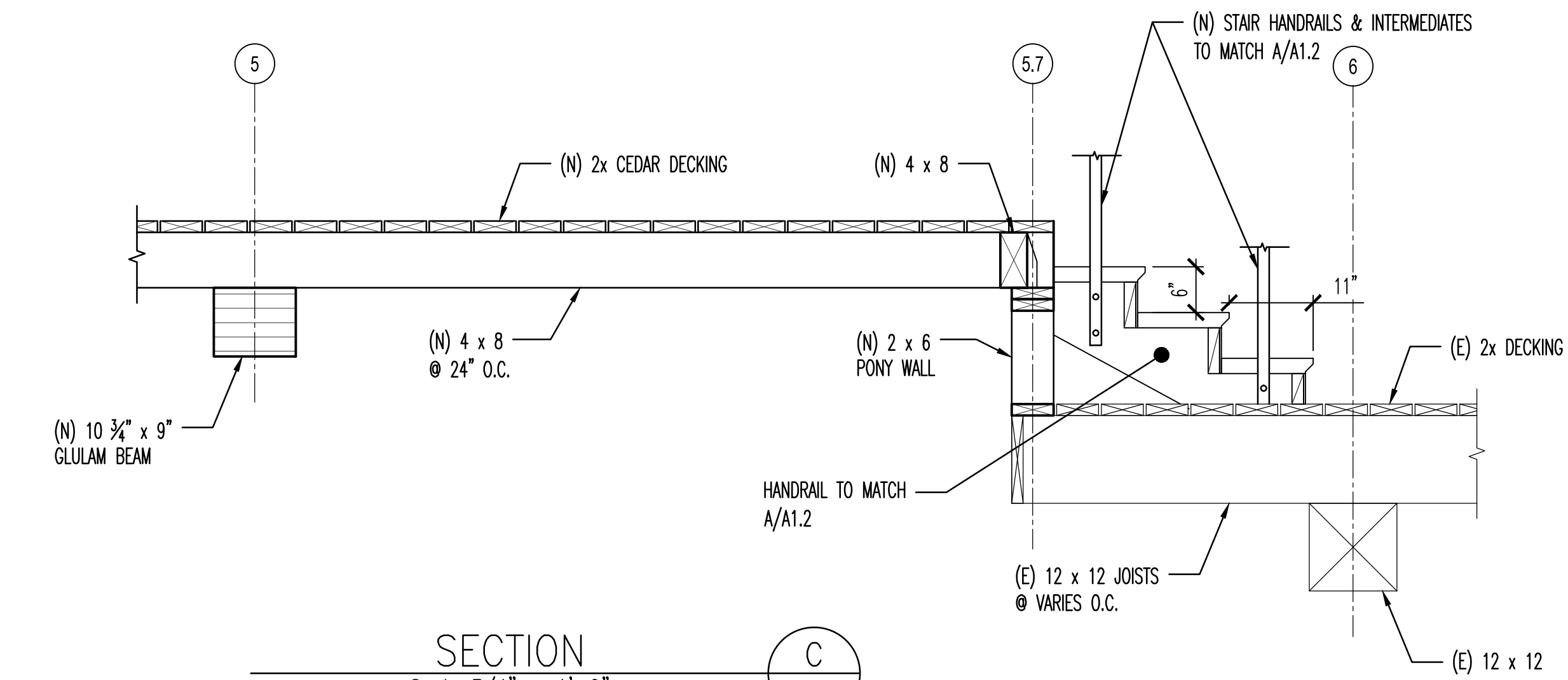
568 BRIDGEWAY ADJACENT ONDINE RESTAURANT
SAUSALITO, CALIFORNIA



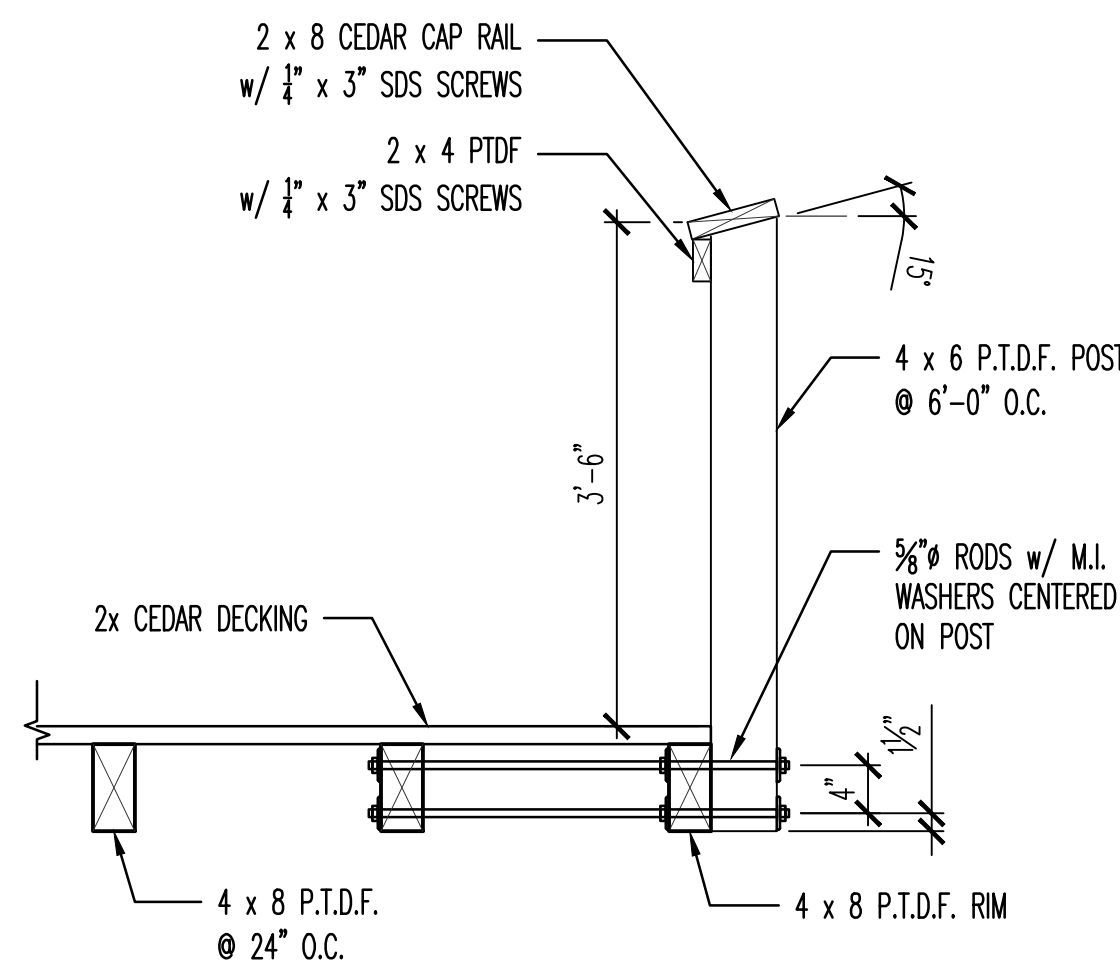
EXTERIOR RAMP SECTION A
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A1.2



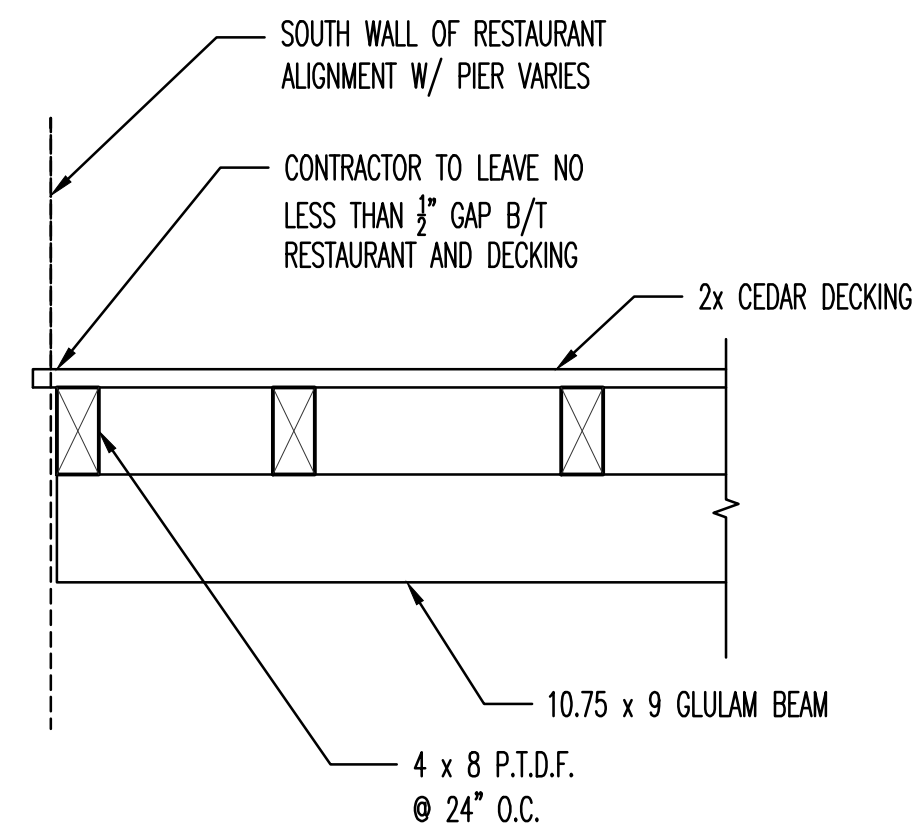
SECTION B
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A1.2



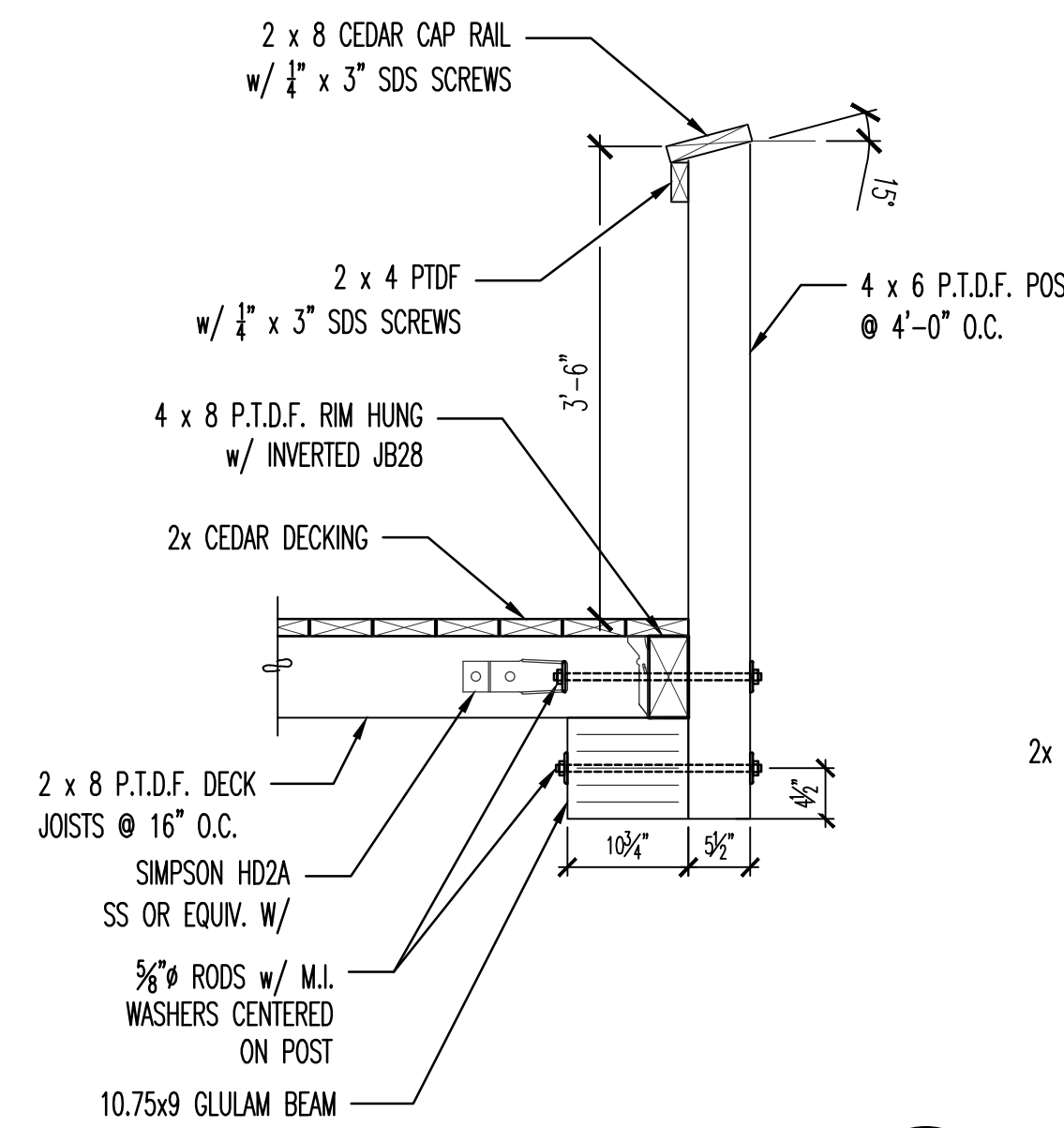
SECTION C
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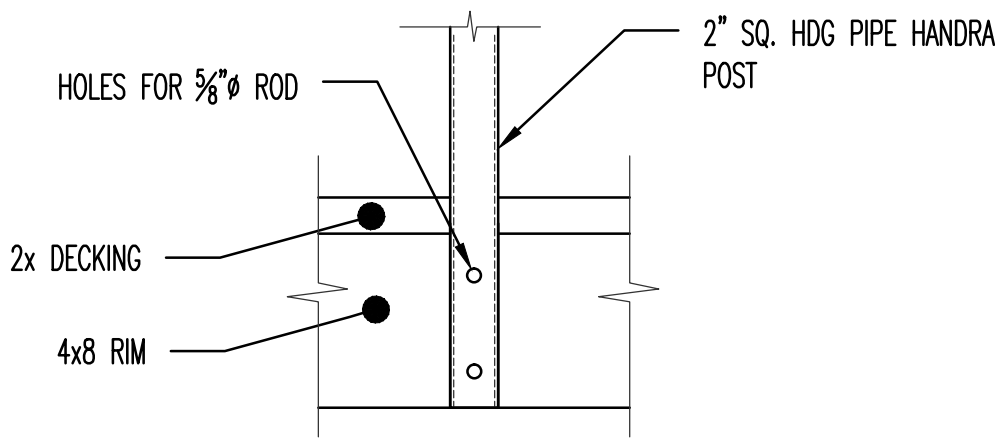
SECTION D
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A1.2



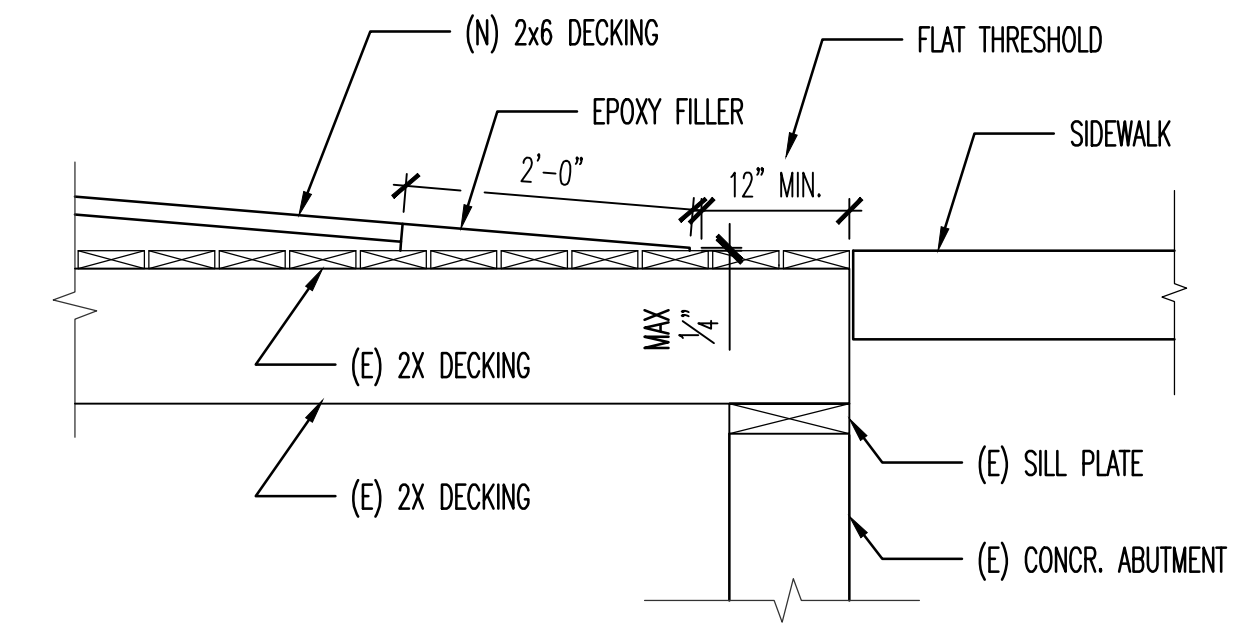
SECTION E
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A1.2



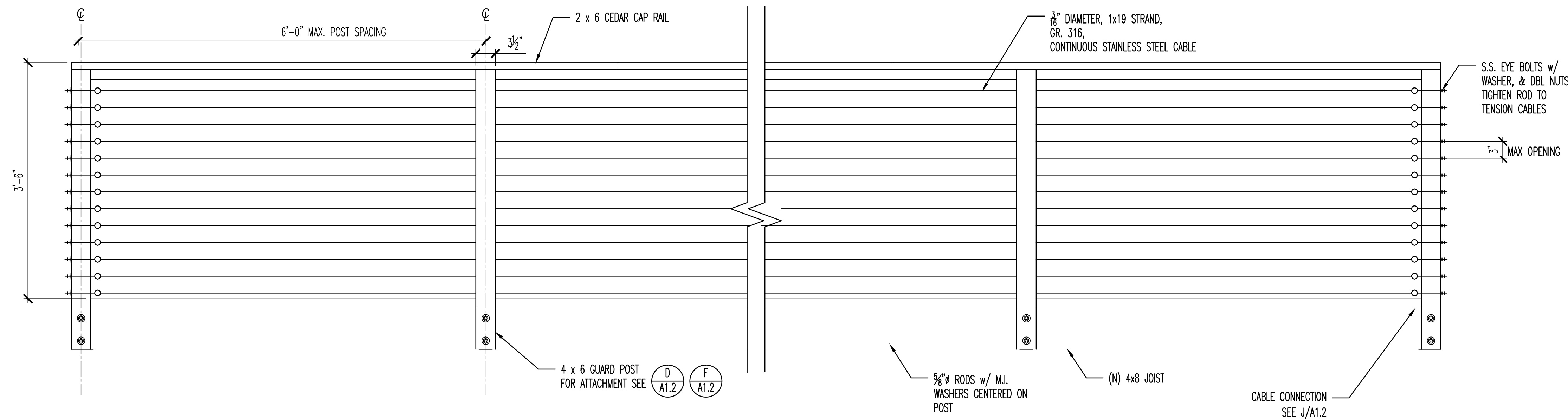
SECTION F
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A1.2



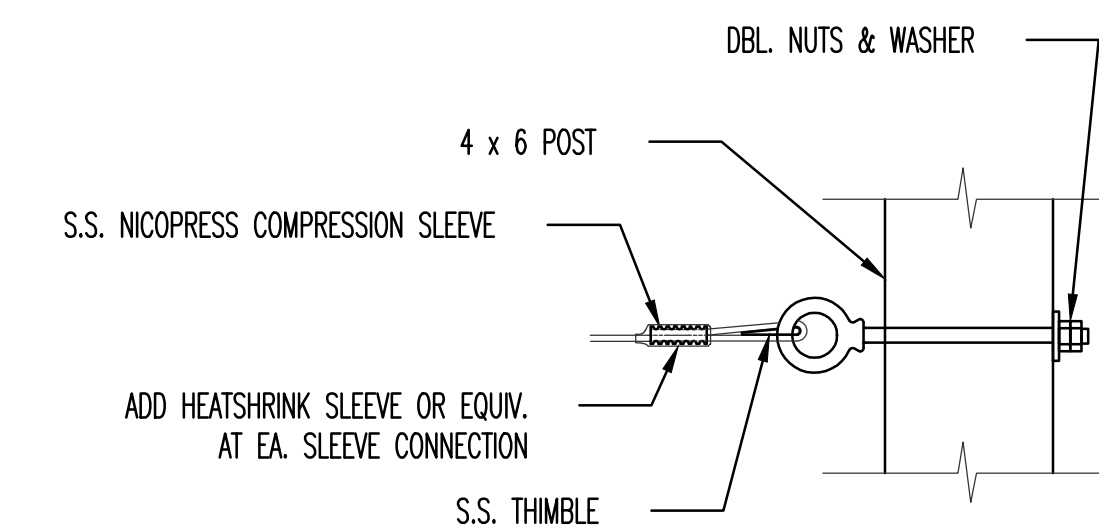
HANDRAIL ATTACHMENT DET. G
Scale 1 1/2" = 1'-0"
A1.2



TRANSITION SECTION H
Scale 3/4" = 1'-0"
A1.2



CABLE RAILING SECTION K
Scale 1" = 1'-0"
A1.2



CABLE ATTACHMENT DET. J
Scale 3" = 1'-0"
A1.2

No.	DATE	DESCRIPTION
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2	02/18/14	GENERAL
3	3/5/14	GENERAL

DRAWING TITLE

Architectural Details

SCALE

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PROJECT No.

25441

CAD FILE

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DATE ISSUED

2/14/14

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GENERAL NOTES

01000 GENERAL

1. MATERIALS AND CONSTRUCTION SHALL CONFORM TO THE MINIMUM REQUIREMENTS OF THE CALIFORNIA BUILDING CODE, 2013 EDITION (IBC 2009 AMENDED), ASCE 7-10, AND ALL LOCAL ORDINANCES.

2. GRAVITY DESIGN IS BASED UPON THE REFERENCED CODE, USING AN ALLOWABLE STRESS LOADS AS FOLLOWS:
DECK LIVE LOAD OF 100 PSF

3. SEISMIC DESIGN IS BASED UPON THE REFERENCED CODE AND ASCE 7-10 USING EQUIVALENT LATERAL FORCE PROCEDURES, ASSUMING OCCUPANCY CATEGORY II, SITE CLASS D, WITH IMPORTANCE FACTOR OF 1. $V = 0.30 \times W$ (ALLOWABLE STRESS DESIGN).

4. WIND DESIGN IS IN ACCORDANCE WITH THE REFERENCED CODE USING THE SIMPLIFIED PROCEDURE (METHOD 1) WITH BASIC WIND SPEED (3 SECOND GUST) VALUE OF 85 M.P.H., IMPORTANCE FACTOR OF 1.0, EXPOSURE CATEGORY B, HEIGHT AND EXPOSURE ADJUSTMENT COEFFICIENT OF 1.0.

5. THE CONTRACTOR SHALL VERIFY EXISTING JOB CONDITIONS, REVIEW ALL DRAWINGS AND SPECIFICATIONS AND VERIFY DIMENSIONS PRIOR TO CONSTRUCTION. ANY DEVIATIONS BETWEEN DOCUMENTS SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER (ARCHITECT) PRIOR TO SUBMITTING BID PROPOSAL.

6. THE CONTRACTOR SHALL ASSUME SOLE RESPONSIBILITY FOR PROJECT SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY.

7. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO PROVIDE ADEQUATE BRACING AND SUPPORT OF ALL TEMPORARY CONSTRUCTION AND PARTIALLY COMPLETED PORTIONS OF THE WORK. SUCH BRACING, SHORING, AND SUPPORT SHALL INSURE THE SAFETY OF THE STRUCTURE AND ALL PERSONS WHO COME IN CONTACT WITH THE PROJECT. THE CONTRACTOR IS RESPONSIBLE FOR ALL SHORING, BRACING, AND DEMOLITION PROCEDURES.

8. INFORMATION REGARDING EXISTING CONSTRUCTION IS BASED ON SITE INSPECTIONS. THIS INFORMATION IS BELIEVED TO BE CORRECT BUT IS NOT GUARANTEED. PRIOR TO CONSTRUCTION, THE CONTRACTOR SHALL REVIEW ALL DRAWINGS AND SPECIFICATIONS, AND FIELD VERIFY ALL DIMENSIONS, AND EXISTING JOB CONDITIONS AND CONSTRUCTION. THE CONTRACTOR SHALL NOTIFY THE ENGINEER IF EXISTING JOB CONDITIONS AND/OR CONSTRUCTION IS NOT AS SHOWN ON THE DRAWINGS.

9. ALL WORK SHALL CONFORM TO THESE NOTES AND DRAWINGS IN ALL RESPECTS. NO CHANGES SHALL BE ALLOWED WITHOUT WRITTEN AUTHORITY FROM THE ENGINEER, AND APPROVAL OF THE BUILDING DEPARTMENT.

10. ALL DEMOLITION MATERIAL SHALL BE REMOVED FROM THE SITE. ALL HAZARDOUS MATERIALS SHALL BE REMOVED AND DISPOSED OF IN ACCORDANCE WITH ALL EPA, STATE AND LOCAL STANDARDS AND ORDINANCES. NO MATERIALS SHALL DROP INTO THE BAY WITHOUT RETRIEVAL.

11. CONTRACTOR SHALL COORDINATE ALL METHODS OF OPERATIONS AND THE TIME IN WHICH WORK SHALL BE PERFORMED WITH THE OWNER PRIOR TO STARTING PROJECT.

05000 STEEL

1. UNLESS INDICATED OTHERWISE, STEEL COMPONENTS AND HARDWARE SHALL BE 316 STAINLESS.

06000 WOOD

1. WOOD JOISTS, STRUCTURAL BLOCKING, AND STRUCTURAL FRAMING SHALL BE PRESSURE TREATED DOUGLAS FIR.

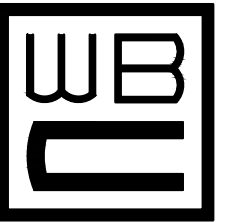
2. REFER TO C.B.C. TABLE NO. 2304.9.1 FASTENING SCHEDULE FOR TYPICAL NAILING CONDITIONS NOT OTHERWISE SPECIFIED ON THE NAILING SCHEDULE ON THESE DRAWINGS.

3. NAILS USED TYPICALLY ON PROJECT SHALL BE "COMMON WIRE NAILS" WITH ROUND HEAD (P-NAILS) WITH THE FOLLOWS MINIMUM SHANK DIAMETERS: 8D HAVE 0.131" SHAFT WITH 1.57" MIN. EMBEDMENT, 10D HAVE 0.148" SHAFT WITH 1.78" MIN. EMBEDMENT, 16D HAVE 0.162" SHAFT WITH 1.94" MIN. EMBEDMENT, AND 20D HAVE 0.192" SHAFT WITH 2.30" MIN. EMBEDMENT. TABULATED DIAMETERS APPLY TO FASTENERS BEFORE APPLICATION OF ANY PROTECTIVE COATING. GALVANIZED NAILS SHALL BE USED AT ALL LOCATIONS FASTENING PRESSURE TREATED LUMBER, ALL PLYWOOD ROOF AND EXTERIOR WALL SHEATHING FASTENING, AND WHERE EXPOSED TO WEATHER OR DAMP ENVIRONMENT. UN-COATED OR COATED NAILS MAY BE USED ELSEWHERE. BORED HOLES ARE REQUIRED IN SEASONED LUMBER TO PREVENT SPLITTING OF WOOD, AND HOLE SHALL NOT EXCEED 75% OF THE NAIL DIAMETER. TOE-NAILS SHALL BE DRIVEN AT AN ANGLE OF APPROXIMATELY 30 DEGREES WITH THE MEMBER AND START APPROXIMATELY 1/3 THE LENGTH OF THE NAIL FROM THE MEMBERS END.

4. JOIST HANGERS AND FRAMING CONNECTORS / HARDWARE SHALL SHALL BE 316 STAINLESS STEEL.

5. ALL FRAMING SHALL CONFORM TO MINIMUM STANDARDS ESTABLISHED IN CHAPTER 23 IN THE CALIFORNIA BUILDING CODE, NATIONAL DESIGN SPECIFICATION FOR WOOD CONSTRUCTION PUBLISHED BY AMERICAN FOREST & PAPER ASSOCIATION, AND GUIDES PUBLISHED BY THE AMERICAN PLYWOOD ASSOCIATION. STRUCTURAL FRAMING, BLOCKING, AND MEMBERS WITH DEFECTS SUCH AS SPLITS, KNOTS, CHECKS, OR SHAKES THAT MAY EFFECT THE PERFORMANCE OF THE PARTICULAR MEMBER SHALL NOT BE USED. SHALL SPLITS DEVELOP DURING INSTALLATION OR WITH SEASONING, THE MEMBER SHALL BE REMOVED AND REPLACED. ALL LUMBER AND TIMBER PRODUCTS DELIVERED TO PROJECT SITE SHALL BEAR GRADE AND TRADEMARK CERTIFICATION OF COMPLIANCE, AND SHALL REMAIN WITH MAIN FRAMING MEMBERS WITHIN THE BUILDING.

6. WIRE ROPE FOR GUARDRAIL SHALL BE $\frac{1}{8}$ " DIAMETER, 1x19 STRAND, GRADE 316 STAINLESS STEEL. ALL TENSIONING DEVICES, SWAGING, AND OTHER COMPONENTS SHALL BE 316 STAINLESS STEEL.



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PROJECT NAME:

**SAUSALITO FISHING PIER
REPAIR PROJECT**

558 BRIDGEWAY ADJACENT ONDINE RESTAURANT
SAUSALITO, CALIFORNIA

STAMP:

REVISIONS:

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**STRUCTURAL
NOTES**

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SHEET No.:

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PROJECT No.:

25441

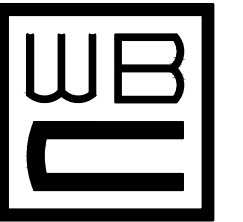
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DATE ISSUED:

11/05/13

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**SAUSALITO FISHING PIER
REPAIR PROJECT**

558 BRIDEWAY ADJACENT ONDINE RESTAURANT
SAUSALITO, CALIFORNIA

STAMP:

DATE ISSUED:

DATE	DESCRIPTION

REVISIONS:

No.	DATE	DESCRIPTION
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DRAWING TITLE:

**DECK FRAMING
PLAN**

SCALE:



DRAWN:

CHECKED:
KCC

SHEET No.:

S1.0

PROJECT No.:

25441

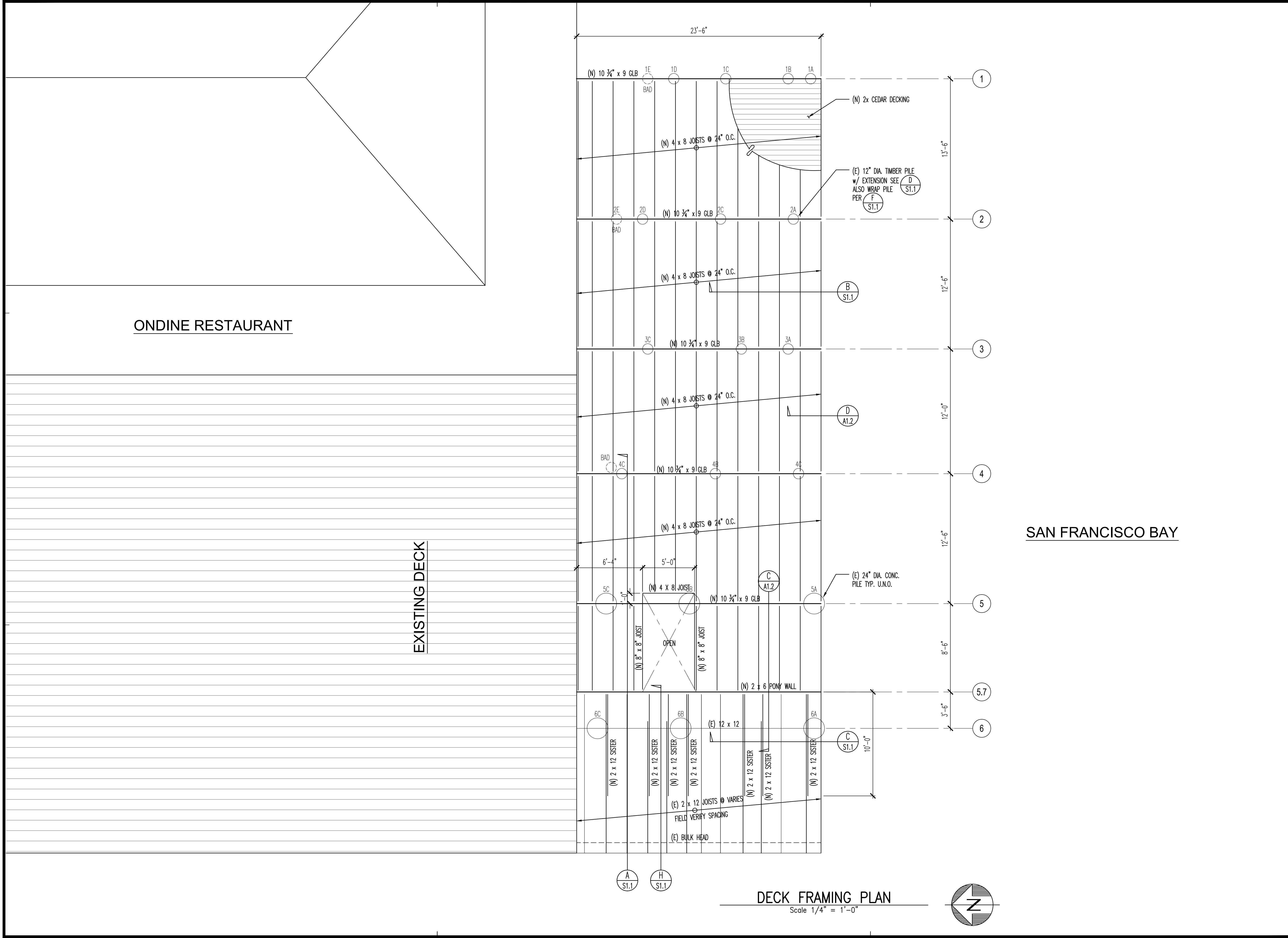
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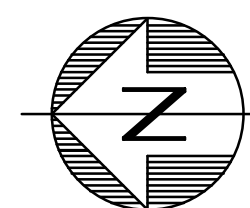
11/05/13

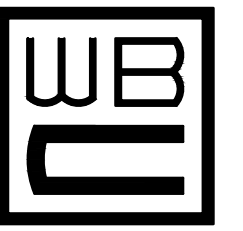
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DECK FRAMING PLAN

Scale 1/4" = 1'-0"





W.B. Clausen
Structural Engineers

1727 64TH Street
Emeryville, California 94608
www.clausenengineers.com

PROJECT NAME:

**SAUSALITO FISHING PIER
REPAIR PROJECT**

558 BRIDGEWAY ADJACENT ONDINE RESTAURANT
SAUSALITO, CALIFORNIA

STAMP:

REVISIONS		
No.	DATE	DESCRIPTION
1	01/10/14	GENERAL
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DRAWING TITLE:

**SECTIONS &
DETAILS**

SCALE:

DRAWN:

CHECKED:

SHEET No.:

S1.1

PROJECT No.:

25441

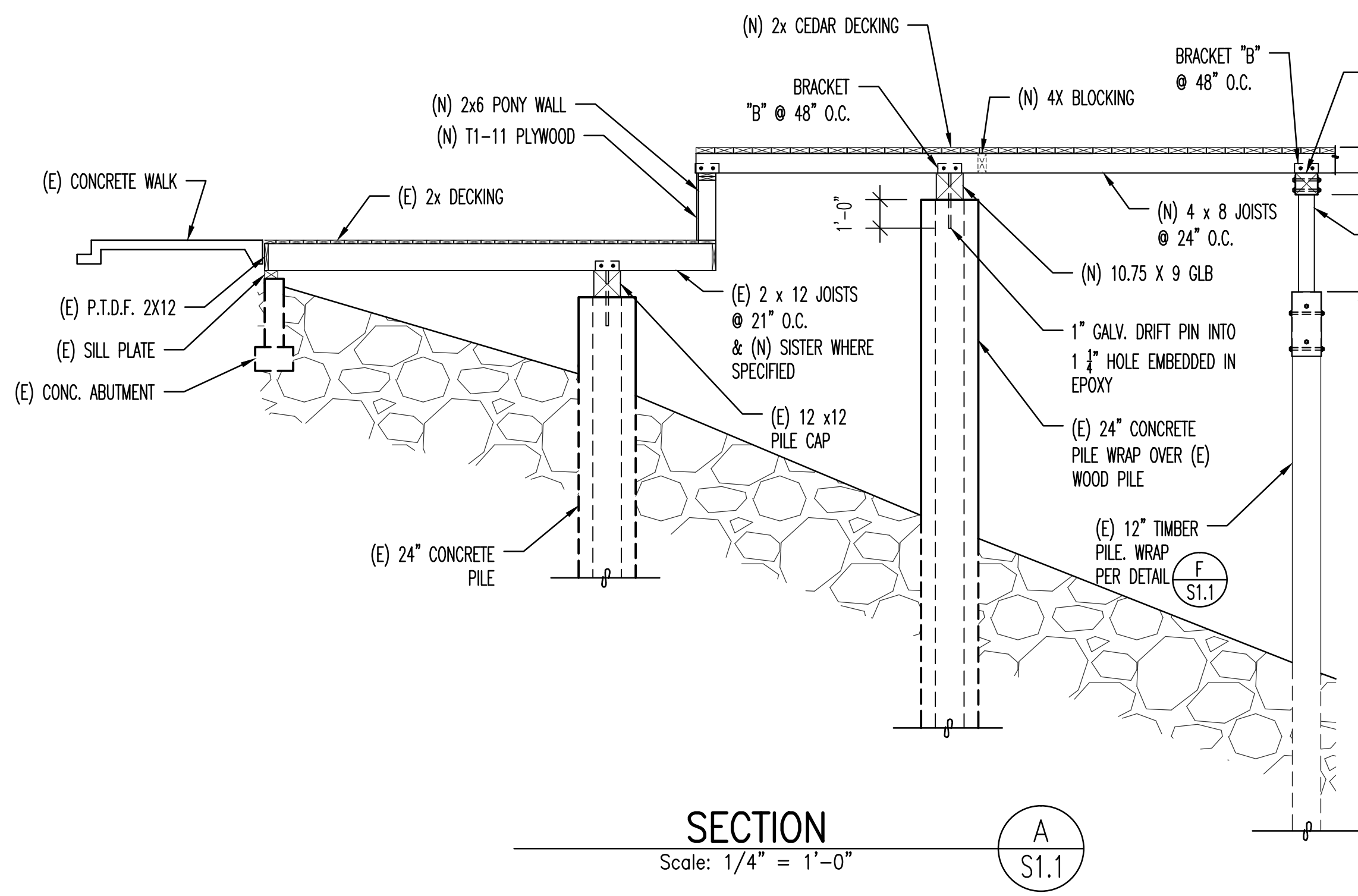
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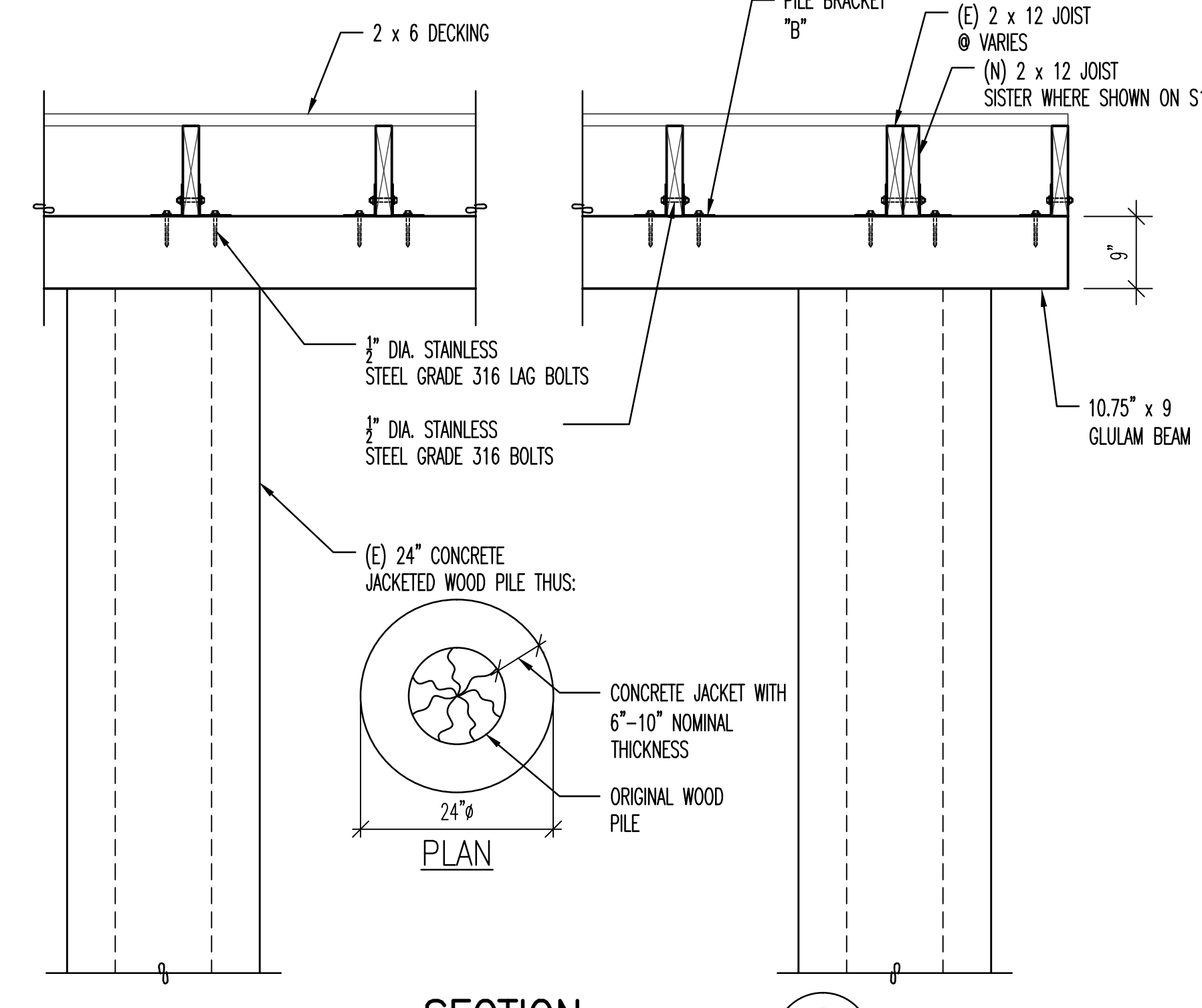
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11/05/13

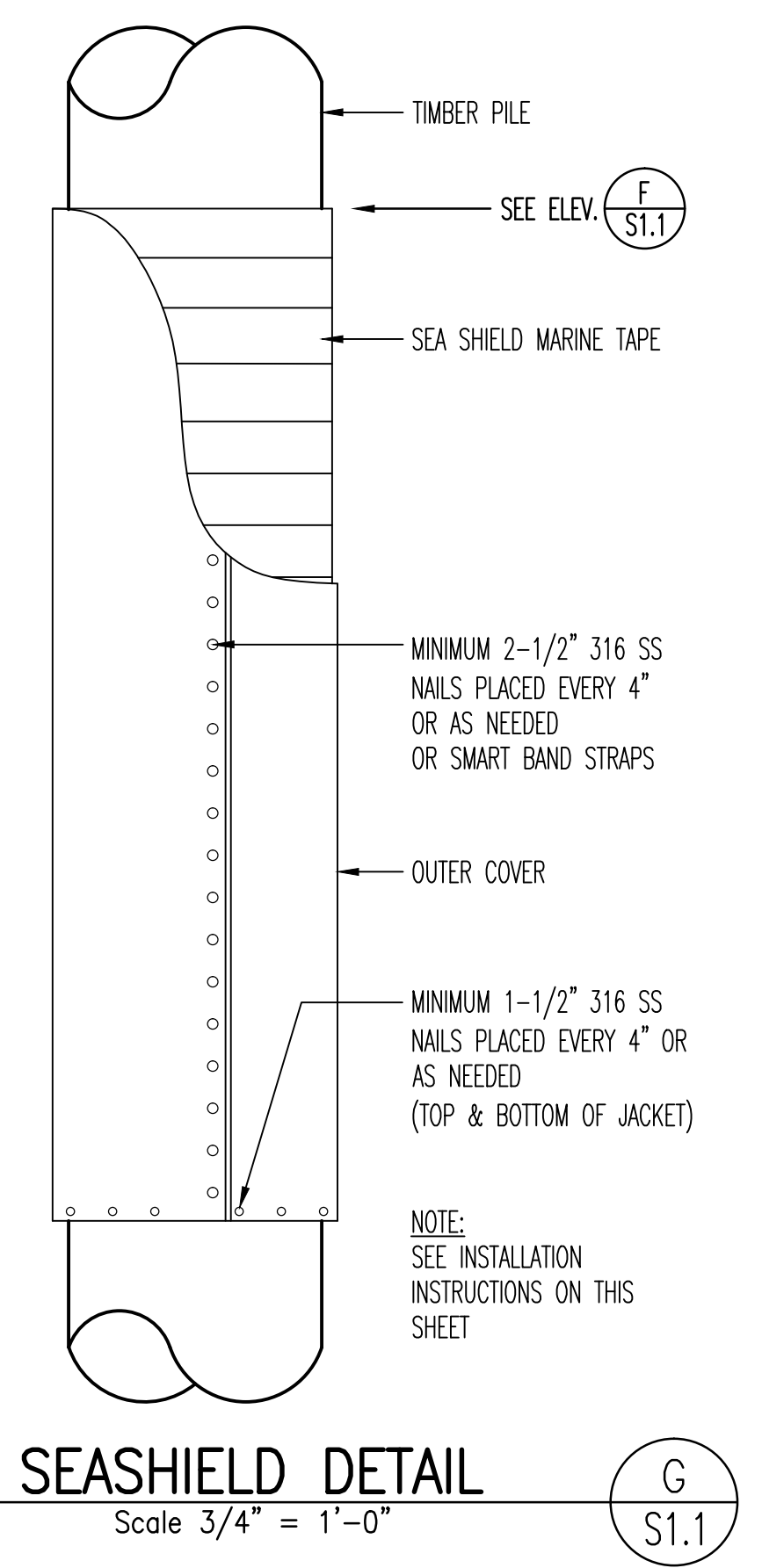
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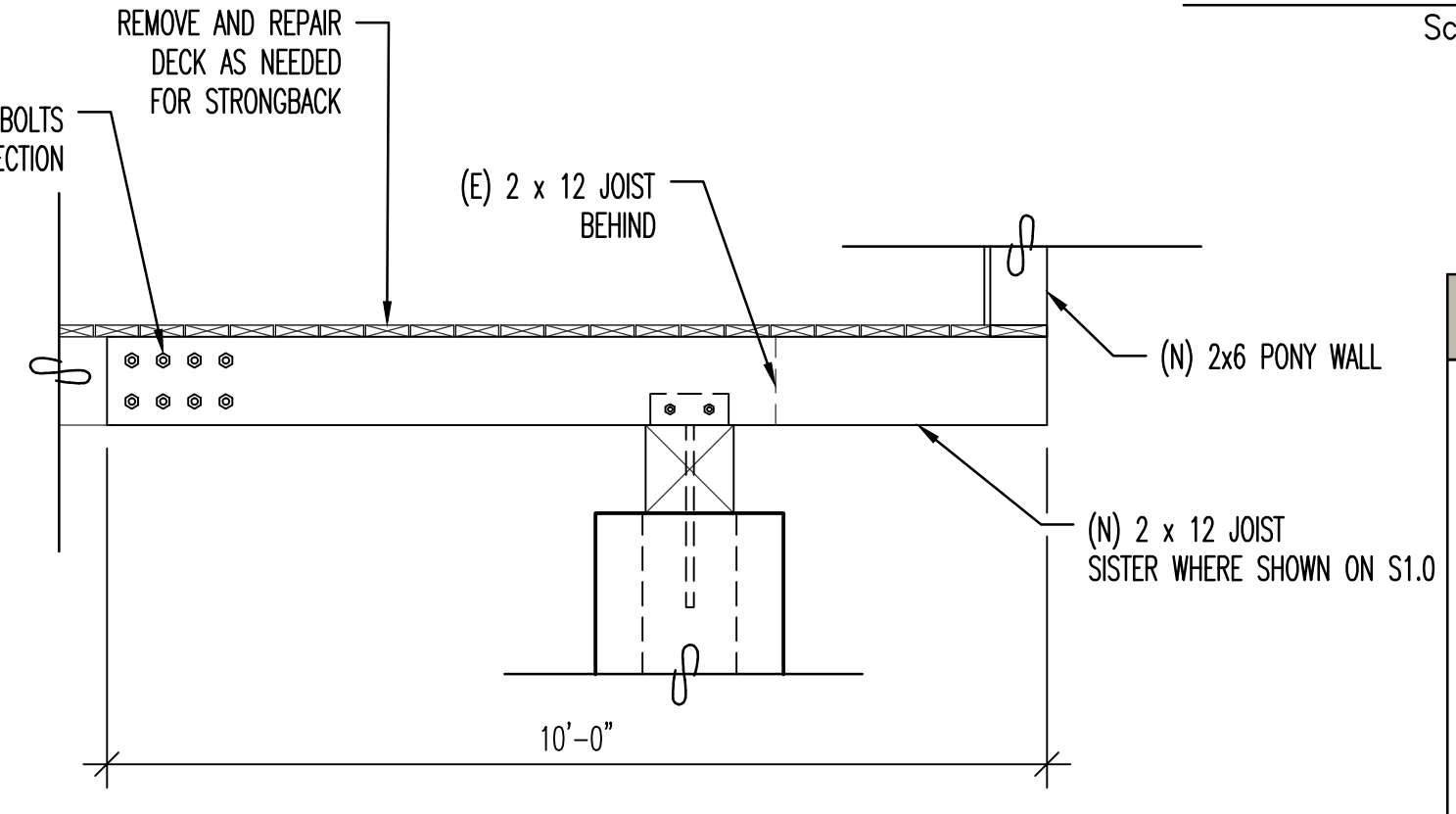
SECTION A
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S1.1



SECTION C
Scale: 3/4" = 1'-0"
S1.1



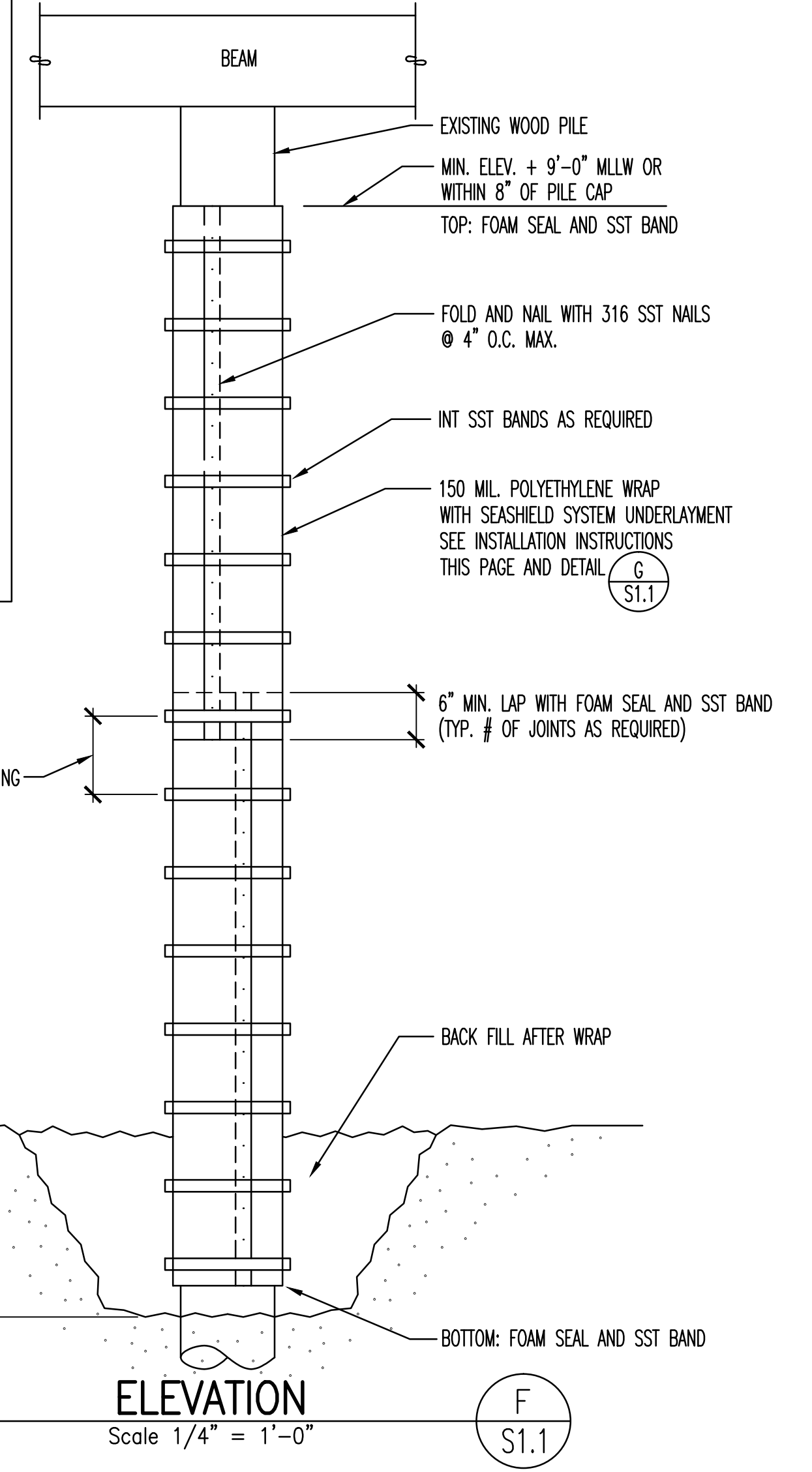
SEASHIELD DETAIL G
Scale 3/4" = 1'-0"
S1.1



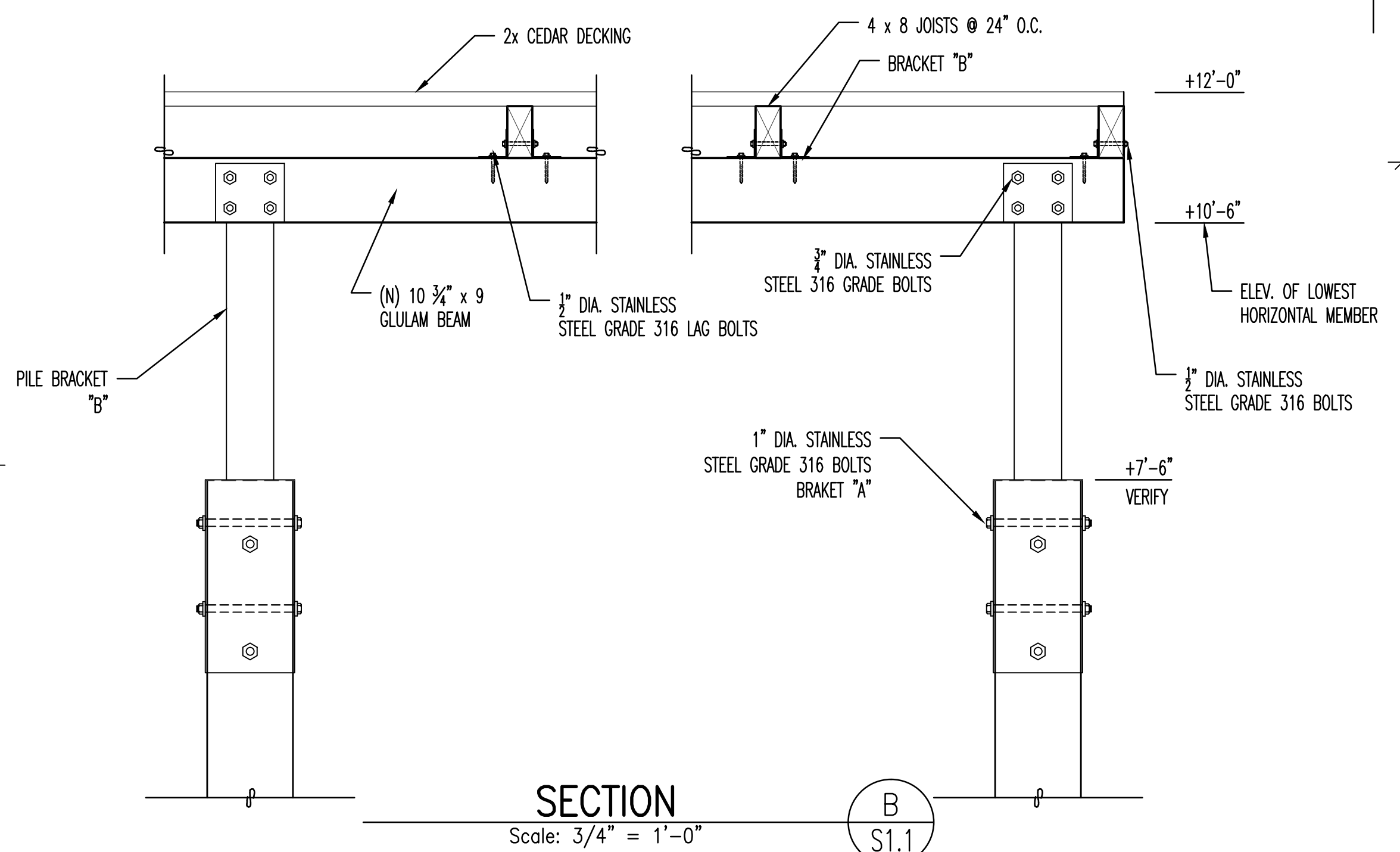
SECTION H
Scale: 1/4" = 1'-0"
S1.1

INSTALLATION INSTRUCTIONS

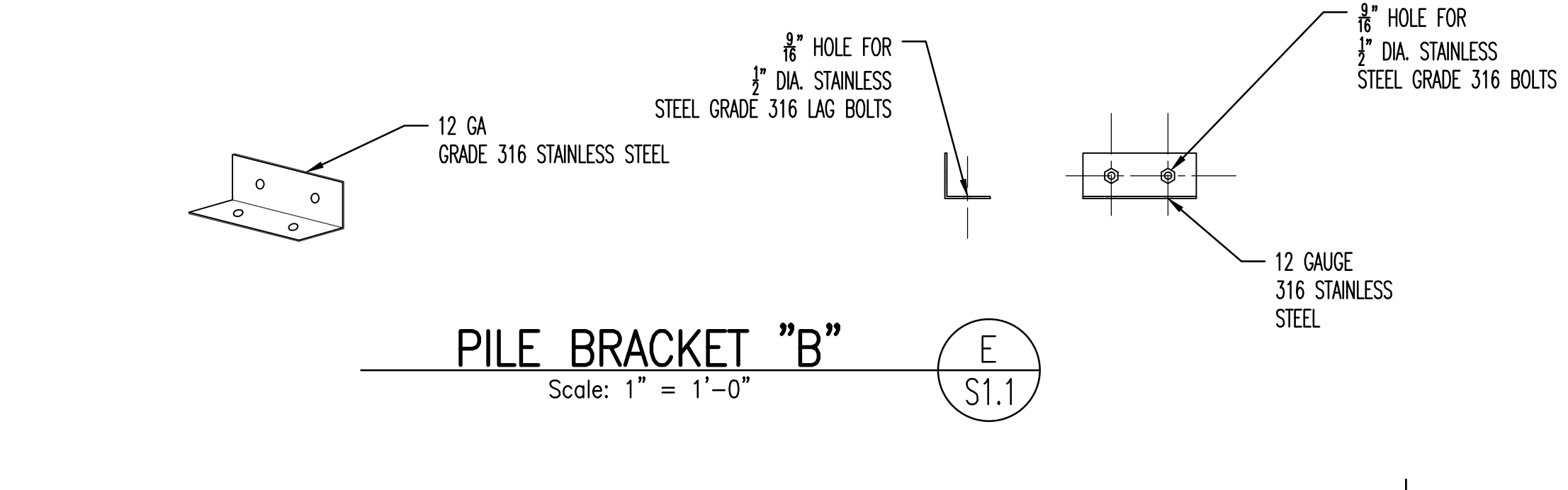
- INSPECT PILES AND FILL VOIDS WITH EPOXY FILLER.
- EXCAVATE SOIL 2' AROUND BASE OF PILE SO OUTER COVER IS BELOW MUD LINE AND BACK FILL.
- REMOVE MARINE GROWTH AND FOREIGN MATTER THE ENTIRE LENGTH OF PILE IN WHICH IS TO BE PROTECTED BY BARRIER WRAP. APPLY SEA SHIELD MARINE TAPE. SHALL BE WRAPPED ONTO TIMBER PILE USING A MIN. 1" OVERLAP. THE TAPE SHALL WRAP FROM THE BOTTOM OF TIMBER PILE AS INDICATED PER PLANS AND PROCEED UPWARD TO THE HIGH POINT CREATING A WEATHER BOARD EFFORT. A MIN. 6" OVERLAP SHALL BE OBTAINED WHEN OVERLAPPING ONE ROLL END WITH THE START OF ANOTHER.
- PLASTIC BARRIER OUTER COVER (150 MIL. POLYETHYLENE). THE OUTER COVER SHALL BE PLACED AS THE PLAN ELEVATIONS SPECIFY. THE PILE IS TO BE WRAPPED TO FROM A TIGHT SHEATH WITH A MIN. 3" OVERLAP. WHERE MORE THAN ONE OUTER COVER IS NEEDED WE SHALL MAINTAIN A 12" OVERLAP IN THE VERTICAL APPLICATION. TO SECURE THE OUTER WRAP TO TIMBER PILE IT SHALL BE NAILED 8" ON CENTER WITH 2-1/2" 316 STAINLESS STEEL NAILS ON THE HORIZONTAL SEAMS AND 2-1/2" 316 STAINLESS STEEL 10" ON CENTER ON VERTICAL SEAMS. OR THE USE OF SMART BAND STRAPS EVERY 12" IF NEEDED.



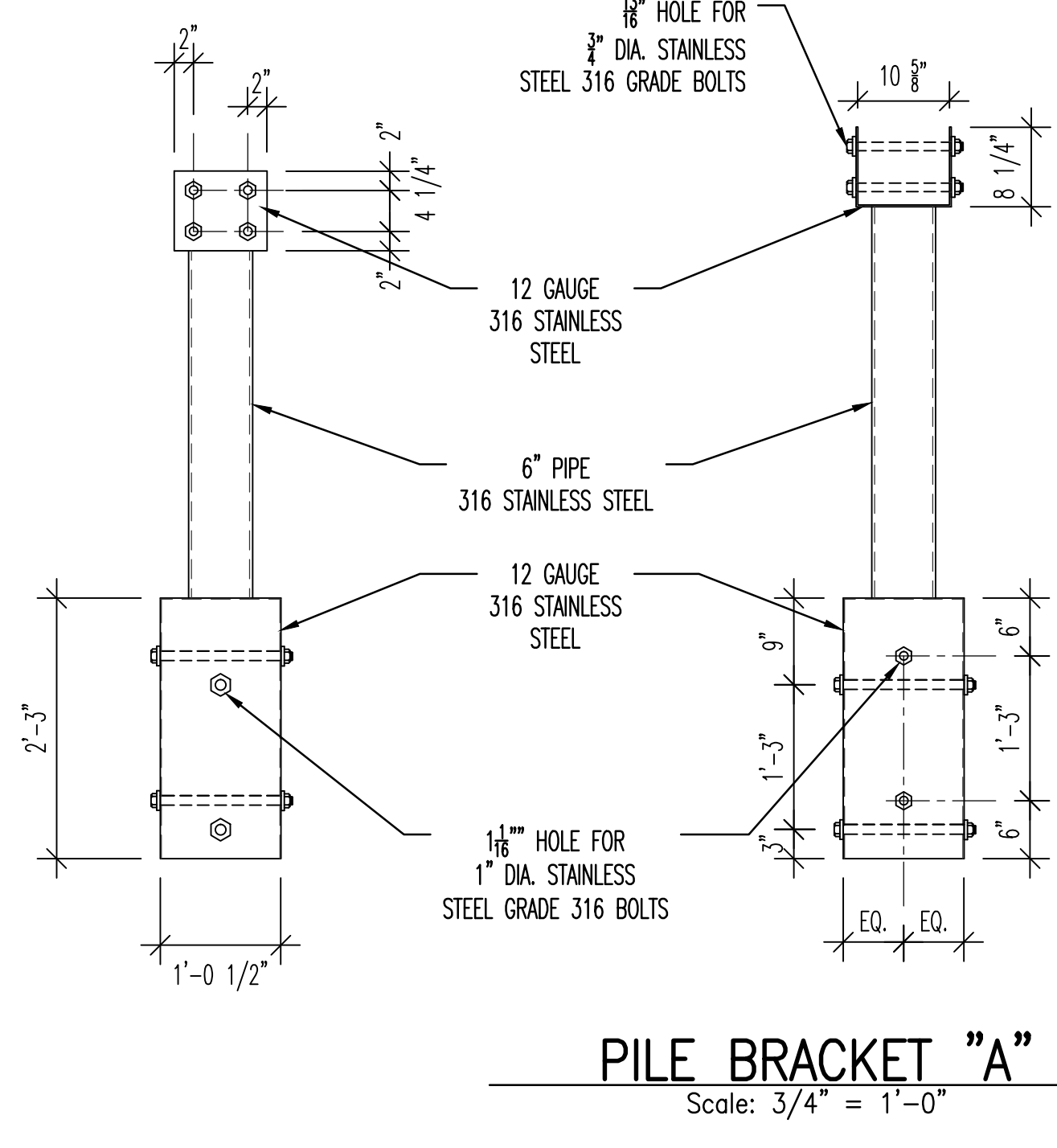
ELEVATION F
Scale 1/4" = 1'-0"
S1.1



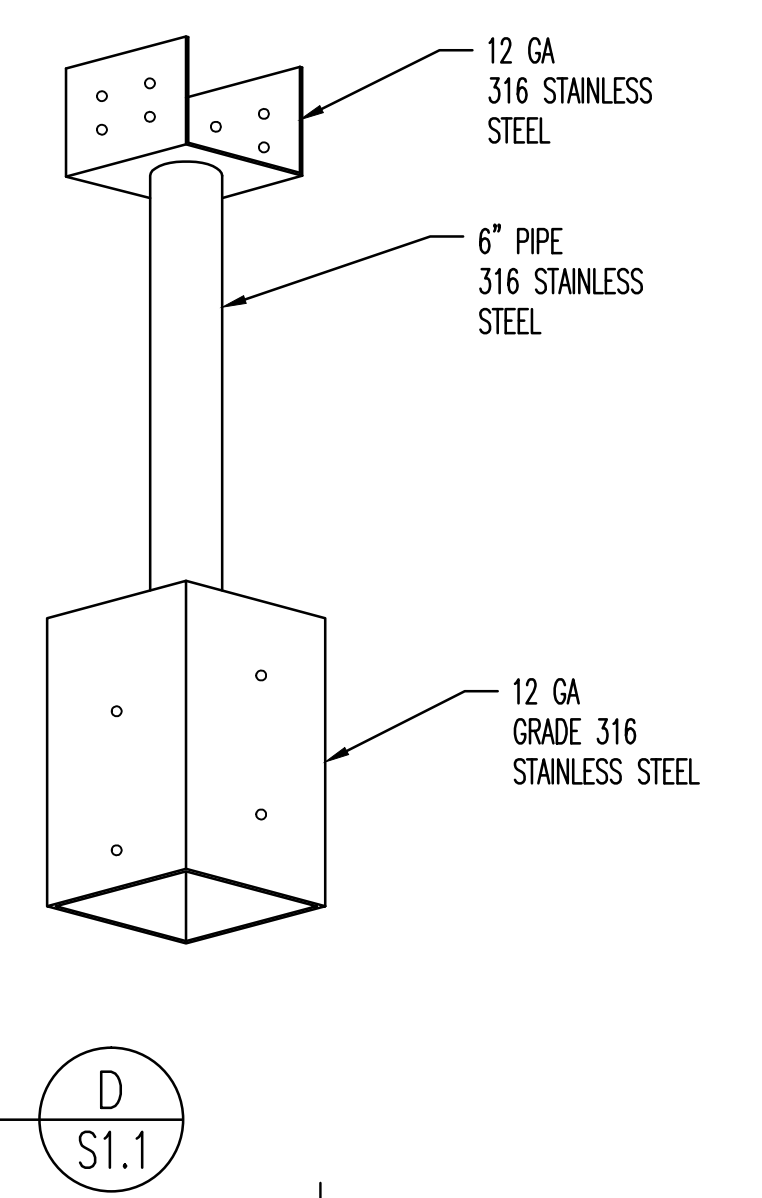
SECTION B
Scale: 3/4" = 1'-0"
S1.1



PILE BRACKET 'B' E
Scale: 1" = 1'-0"
S1.1



PILE BRACKET 'A' D
Scale: 3/4" = 1'-0"
S1.1



PILE BRACKET 'A' D
Scale: 3/4" = 1'-0"
S1.1