

REQUEST FOR PROPOSALS



The Public Works Department is Requesting Proposals for:

Design Services for The Downtown Trash Enclosure Renovation Project

RELEASE DATE: March 6, 2025

RESPONSE DUE: April 8, 2025

REQUEST FOR PROPOSALS

NOTICE IS HEREBY GIVEN that the City of San Fernando invites proposals from qualified consulting firms to provide the City with design services for the **Downtown Trash Enclosure Renovation Project**. The City will receive such proposals at the City Clerk's Office, 117 Macneil Street, San Fernando, California, 91340, UP TO THE HOUR OF **2:00 PM** on **Tuesday, April 8, 2025**.

It is the responsibility of the proposer to ensure that any proposals submitted have sufficient time to be received by the City of San Fernando prior to this proposal due date and time. Proposals received after the due date and time will not be considered. Proposals shall be mailed, hand-delivered or sent by courier service and shall NOT be sent via email or fax.

The City reserves the right to withdraw the RFP at any time without prior notice. In addition, the City reserves the right to reject any and all proposals without indicating any reasons for such rejection. Furthermore, the City makes no representations that the project will be awarded to any respondent to the RFP.

Proposals shall be submitted in a sealed package and clearly marked with the following information, formatted as follows:

PROPOSAL FOR:

DESIGN SERVICES FOR THE DOWNTOWN TRASH ENCLOSURE RENOVATION PROJECT

IN THE CITY OF SAN FERNANDO

The proposal package shall include three (3) hard copies and one (1) electronic copy on a flash drive of the Consultant's proposal, including the fee proposal. Any bidder may withdraw their proposal, without obligation, at any time prior to the scheduled closing time for receipt of proposals. A withdrawal will not be effective unless made personally or by telephonic notification received prior to the closing date.

In strict accordance with the Request for Proposals on file in the office of the SAN FERNANDO CITY CLERK'S OFFICE, 117 Macneil Street, San Fernando, California, 91340. Copies of specifications and proposal documents may be obtained from the City's website at SFCITY.ORG/rfps-rfqs-nibs-nois/.

By: /s/ Julia Fritz, City Clerk

SECTION ONE: BACKGROUND AND DESCRIPTION

Background

The City of San Fernando was incorporated in 1911 and is currently organized according to the City Council/City Manager form of government with six departments, including a Police Department, Public Works Department, and Recreation and Community Services Department. The City employs approximately 150 full-time employees and an additional 50 part-time and seasonal employees with a total Adopted Budget for fiscal year 2024-2025 of \$51.7 million, which includes a General Fund budget of \$26.2 million. The City seeks to provide outstanding public services to its citizens and local businesses with long-term fiscal stability in mind.

The City believes that the open competition for services and products provides the City with the best results for its public dollars. The City is interested in receiving responsive and competitive proposals from experienced and qualified firms to provide design and construction support. What follows is a description of the technical environment, contractor staffing, qualifications, and performance expectations.

SECTION TWO: SCOPE OF SERVICES

1. Project Description:

The City of San Fernando is seeking proposals from qualified design firms to provide architectural and engineering design services for the proposed renovation/construction of three (3) municipal trash enclosures at San Fernando Mall.

Parking Lot No. 4

1. Enclosure 1 (Small Enclosure), located in the southwest corner of Parking Lot No. 4, south of Truman St., between Maclay Ave. and Brand Blvd. This enclosure is to be renovated or demolished and a new structure built in its place.
2. Enclosure 2 (Large Enclosure), located along the south side of Parking Lot No. 4 halfway between the two small enclosures, south of Truman St., between Maclay Ave. and Brand Blvd. This enclosure is to be renovated or demolished and a new structure built in its place.
3. Enclosure 3 (Small Enclosure), located in the southeast corner of Parking Lot No. 4, south of Truman St., between Maclay Ave. and Brand Blvd. This enclosure is to be demolished.

Parking Lot No. 5

1. Enclosure 1 (Small Enclosure), located in the southwest corner of Parking Lot No. 5, south of Truman St., between Maclay Ave. and San Fernando Mission Blvd. This enclosure is to be demolished.
2. Enclosure 2 (Large Enclosure), located in the southeast corner of Parking Lot No. 5, south of Truman St., between Maclay Ave. and San Fernando Mission Blvd. This enclosure is to be renovated or demolished and a new structure built in its place.

The approximate size of the existing large enclosures is 14 ft. x 20 ft. and the approximate size of the small enclosures is 6 ft. x 12 ft.

The renovated or new enclosures are to have water spigots, backflow preventers, floor drains, which will drain to the sanitary sewers, lights and electrical outlets.

The enclosures are to have a roof, metal gates, and be architecturally pleasing, complementing the architectural theme of the San Fernando Mall. Each large enclosure will house 4 – 3 cubic yard bins. The small enclosure will house 2 – 3 cubic yard bins. The design should be such that it complies with ADA requirements, provides deterrent to illegal trash dumping and security for staff using the enclosure, ease of graffiti control and general maintenance. The design will need to take into account any needed modifications to adjacent parking lots, ADA paths, affected parking lot landscape areas, signing and striping. It will also need to provide temporary parking lot parking arrangements during construction, traffic control plans and plans for temporary arrangements for trash bin placement and trash pickup during construction

The enclosures will be designed to support city waste management operations while ensuring compliance with local zoning, aesthetic, and environmental standards.

The firm selected is expected to provide the design services on time, at or under budget and to the City's expected standard of quality, scope and function. The preliminary construction cost estimate for this project is \$500,000.

2. Scope of Services

The selected firm will provide planning, design, and construction support services for the Downtown Trash Enclosure Renovation Project, including but not limited to:

A. Site Evaluation & Planning

- Conduct site visits to assess topography, drainage, utilities, and space constraints.
- Confirm enclosure size and placement based on city waste collection needs.
- Ensure accessibility for waste collection trucks and compliance with ADA requirements.
- As needed, provide assistance and support for public hearings or city planning reviews (if required). Assume two (2) public hearings will be held.

B. Conceptual and Final Design

- Develop two to three conceptual designs for city review.
- Incorporate materials and finishes that align with city aesthetics and durability needs.
- Provide 70%, 90% and 100% design construction drawings.
- Provide electrical, water and sewer connection design.
- Coordinate with SCE for electrical connection. Coordinate with city staff for water and sewer connections.
- Provide structural design (concrete, masonry, or metal) and calculations.

- Provide for drainage and stormwater management considerations and plans.
- Provide for enclosure security features (gates, locks, lighting).
- Provide for parking lot and landscaped area plans of affected areas.
- Provide parking lot striping plans of parking lot affected areas.
- Provide temporary traffic control plans.
- Provide for temporary placement of trash bins and pickup during construction.
- Comply with zoning, fire codes, and environmental standards.
- Provide project specifications at 90% and 100% design. City to provide boiler plate/front end portion of specs.

C. Cost Estimation and Value Engineering

- Provide cost estimates at 70%, 90% and 100% design.
- Recommend value-engineering options to maintain quality within budget.

D. Permitting and Regulatory Compliance

- Assist in securing necessary local, state, and environmental permits.
- Submit for San Fernando Building Dept. plan check and obtained approved plans ready to bid.

E. Bidding Support

- As needed, assist the city in answering contractors' questions.
- As needed, assist the city in issuing addendums to the plans and specifications.
- As needed, assist the city in answering contractors' protests.
- As needed, assist in reviewing contractor bids and provide recommendations.

F. Construction Support

- Assist as needed with reviewing and answering RFI's.
- Assist as needed with reviewing submittals and shop drawings.
- Assist as needed with questions regarding design, plans and construction related issues.
- As needed conduct site visits.
- Assist as needed with evaluation, cost analysis and preparation of construction change order.
- Assist as needed with reviewing invoices and quantities.
- Assist as needed with potential claims.
- As needed participate in final inspection and project closeout.
- Upon completion of construction prepare a complete set of as-built plans showing all deviations from the original plans.

The work shall comply with the requirements of all of the following without limitation, and shall apply to this RFP and any subsequent contract as though incorporated herein by reference:

1. Federal laws
2. State laws
3. Local laws
4. Rules and regulations of governing utility districts
5. Rules and regulations of other authorities with jurisdiction over the procurement of products

The Consultant shall comply with all insurance requirements of the City of San Fernando, included in the sample professional services agreement (Appendix "A").

SECTION THREE: INSTRUCTIONS TO PROPOSERS

A. CITY RESPONSIBILITIES

The City will provide information in its possession relevant to preparation of required information in this RFP. Prospective proposers are encouraged to review the City's provided plans and photos. In addition, the City will provide all documentation specifically referred to herein.

PROPOSER RESPONSIBILITIES

Point of Contact: The selected consultant will assume responsibility for all services in its proposal on behalf of the entire project team. The selected consultant shall identify a sole point of contact with the greatest knowledge in regard to the required service operations and contractual matters, including payment for services rendered for this project.

B. REQUEST FOR INFORMATION OR CLARIFICATION

All questions or requested clarification shall be made in writing via e-mail to Isabella Tapia (contact information as noted in Section 4.B of this RFP) by or before the "Deadline for Requests for Information" date noted in Section 3.I of this RFP. No verbal requests or responses will be accepted. Significant interpretations or clarifications will be addressed via addenda to this RFP, as indicated in Section 3.C.

C. ADDENDA

Any changes in this RFP from the date of release to date of submittal of proposals will result in an addendum or amendment. Notification of such addendum or amendment will be made available to all prospective proposers by email notification and posted to the City's website.

D. PRE-PROPOSAL MEETING

A pre-proposal meeting will not be held.

E. CITY'S RIGHT TO REJECT

The City of San Fernando reserves the right to reject any or all submitted proposals, and no representation is made that any contract will be awarded pursuant to the Request for Proposal. All costs incurred in the preparation of the proposal, in the submission of additional information,

and/or in any other aspect of a proposal prior to the award of a written contract will be borne by the respondent. The City of San Fernando will provide all documentation specifically referred to herein and will not be responsible for any other cost or obligation that may be incurred by the respondent. All proposals submitted to the City of San Fernando shall become the property of the City.

F. PROTESTS

Bid Protests shall be in accordance with San Fernando Municipal Code Section 2-830.

G. AWARD SCHEDULE

Release RFP	March 6, 2025
Deadline to submit questions	March 25, 2025
Responses to RFP questions released	March 31, 2025
Deadline to submit proposals	Tuesday, April 8, 2025 @ 2:00 PM
Interviews (if necessary)	April 2025
Consultant selection/ Council award	May 5, 2025
Kick-off meeting	May 21, 2025 (Tentative)
Design	2 months
City Reviews/Building Department Reviews	2 months

SECTION FOUR: SUBMITTAL REQUIREMENTS

A. GENERAL

Number of Proposal Copies and signature: Three (3) original hard copies signed by a company official with power to bind the company and one (1) digital copy on a flash drive shall be submitted to the City.

B. **Deadline:** Proposals are due to the City of San Fernando no later than **2:00 p.m. on Tuesday, April 8, 2025.**

C. **Proposal Submittal:** The Consultant must submit three (3) originals hard copies of the proposal and one (1) digital copy on a flash drive by **2:00 p.m., Tuesday, April 8, 2025**, to:

City of San Fernando
City Clerk's Office
117 Macneil Street,
San Fernando, California, 91340

Proposal shall be enclosed and marked clearly with the following information and formatted as follows:

PROPOSAL FOR:

**DESIGN SERVICES FOR THE DOWNTOWN TRASH ENCLOSURE RENOVATION PROJECT
IN THE CITY OF SAN FERNANDO**

Proposals shall be mailed, hand-delivered or sent by courier service and shall NOT be sent via email or fax. Late proposals will not be accepted.

Questions regarding this Request for Proposals or requests for additional background information may be emailed to Isabella Tapia at ITapia@sfcity.org, or call at (818) 898- 1240, no later than **5:00 p.m. on Tuesday, March 25, 2025.**

D. Proposal Contents

A responsive proposal shall contain the following information in the order listed:

1. Introductory Letter (1 – 2 pages)

The letter shall be on Consultant letterhead and include the Consultant's contact name, mailing address, telephone number, facsimile number, and email address. The letter will address the Consultant's understanding of the services being requested and any other pertinent information the Consultant believes should be included. All addendums received must be acknowledged in the transmittal letter.

The letter shall be wet-signed in blue ink by the individual authorized to bind the Consultant to the proposal.

2. Executive Summary (1 – 2 pages)

Provide executive summary.

3. Consultant Information, Qualifications and Experience (5 pages max.)

The City of San Fernando will only consider submittals from Consultants that demonstrate they have successfully completed comparable projects. These projects must illustrate the quality, type, and past performance of the project team. Submittals shall include a detailed description of a minimum of three (3) projects within the past five (5) years which include the following information:

1. Contracting agency
2. Contracting agency Project Manager

3. Contracting agency contact information
4. Contract amount
5. Funding source
6. Date of contract
7. Date of completion
8. Consultant Project Manager and contact information
9. Project Objective
10. Project Description
11. Project Outcome

4. Organization and Approach (5 pages max.)

1. Describe the roles and organization of your proposed team for this project. Indicate the composition of subcontractors and number of project staff, facilities available and experience of your team as it relates to this project.
2. Describe your project and management approach. Provide a detailed description of how the team and scope of services will be managed.
3. Describe the roles of key individuals on the team. Provide resumes and references for all key team members. Resumes shall show relevant experience for the Project's Scope of Services, as well as the length of employment with the proposing Consultant. Key members, especially the Project Manager, shall have significant demonstrated experience with this type of project, and should be committed to stay with the project for the duration of the project.
4. Project organizational chart.
5. Description of anticipated challenges and mitigation strategies.

5. Scope of Services

The proposal shall include a Scope of Services, which details the consultant's approach towards completing the project, work phases, the tasks to be accomplished and the deliverables to be provided, based upon the requested Scope of Services included in this RFP.

6. QA/QC Plan (1 – 2 pages)

Provide QA/QC plan to ensure quality control for the duration of the project which shall include maintaining organization and communication over the entire project team and cost.

7. Work Schedule

Provide the proposed project schedule with approximate timelines for each task and key milestones dates. The design duration shall not be more than two (2) months, excluding City reviews and Building Department plan checks. However, if this schedule does not provide sufficient time to complete requested services, in a manner that achieves City approvals, the consultant shall include in its

proposal the schedule it needs to complete the services. The City will consider the proposed schedule in their review and evaluation of the consultant proposals.

8. Conflict of Interest Statement

The proposing Consultant shall disclose any financial, business or other relationship with the City of San Fernando that may have an impact upon the outcome of the contract or the construction project. The Consultant shall also list current clients who may have a financial interest in the outcome of this contract or the construction project that will follow. The proposing Consultant shall disclose any financial interest or relationship with any construction company that might submit a bid on the construction project.

9. Litigation

Indicate if the proposing Consultant was involved with any litigation in connection with prior projects. If yes, briefly describe the nature of the litigation and the result.

10. Contract Agreement

- a. Indicate if the proposing Consultant has any issues or needed changes to the proposed contract agreement included as Appendix “A.”
- b. The Consultant shall provide a brief statement affirming that the proposal terms shall remain in effect, for ninety (90) days following the date proposal submittals are due.

11. Cost Proposal

The fee proposal shall include a competitive fee that outlines the hours to complete the Scope of Services by task, along with personnel to be involved in the project; with the number of hours by personnel to be assigned by task and hourly rate. Provide estimated reimbursable expenses.

The consultant performs the services stated in the contract for an agreed amount as full compensation, including a net fee or profit

SECTION FIVE: PROPOSAL REVIEW

A. EVALUATION AND RATING

The criteria for evaluating the proposals submitted will consider the following items and be weighted as shown:

- | | |
|---|-----|
| • Understanding of project goals and objectives | 25% |
| • Experience with similar projects | 30% |
| • Qualifications of project team members techniques | 25% |
| • Cost Proposal | 10% |

- Reference and past performance

10%

The City will evaluate proposals based on the response to the RFP, which includes adherence to outlined directions and format, and the evaluation criteria set forth above. A final score will be calculated for each submitted proposal and used to rank the proposers.

Following the evaluation of the proposals, fee negotiations may begin with the highest-ranked proposer. Should negotiations fail or result in a fee that the City does not consider fair and reasonable based on an independent cost estimate completed for this project by the city, negotiations will be formally terminated, and the City will then open the fee proposal of the second highest-ranked proposer and subsequently undertake negotiations with said proposer. If negotiations with the second highest-ranked proposer are not successful, the City will open the fee proposal and undertake negotiations with the third highest-ranked proposer, and so on, until the fee is determined to be fair and reasonable by the City and in line with the independent cost estimate.

B. SELECTION AND INTERVIEWS

The City may conduct interviews with the three top-ranked proposers. The City will recommend the award of the project to the proposer who will best suit the City's needs for this project. The City reserves the right to begin negotiations and enter into an agreement without interviews or further discussions.

SECTION SIX: AWARD OF PROJECT

Following the evaluation and rating of the proposals by the proposal review committee, the Director of Public Works will recommend to the City Council award of the project to the proposer providing the best quality and value to the City. A purchase order will then be issued to the selected firm.

SECTION SEVEN: IMPLEMENTATION

A. NOTICE TO PROCEED

A formal written Notice to Proceed (NTP) will be issued to the successful consultant after City Council award, contract execution and the purchase order has been issued. Before a purchase order can be issued, the consultant's insurance must be approved by the City and the consultant must obtain business license (if not already acquired).

B. KICK-OFF MEETING

The successful consultant will be required to attend the pre-construction meeting along with City staff and other project stakeholders to discuss the specifics of the project, schedule, etc.

SECTION EIGHT: PUBLIC RECORDS

All responses to the RFP shall become the property of the City of San Fernando and proposals will become public record after the award of the project. Proposer information identified as proprietary information shall be maintained confidential to the extent allowed under the California Public Records Act.

Appendix “A”

Sample Professional Services Agreement



2025

PROFESSIONAL SERVICES AGREEMENT**DESIGN SERVICES FOR THE DOWNTOWN TRASH ENCLOSURE RENOVATION PROJECT
(CONSULTANT)**

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter, "Agreement") is made and entered into this ____ day of _____, 2025 (hereinafter, the "Effective Date") by and between the CITY OF SAN FERNANDO, a municipal corporation (hereinafter, "CITY") and **CONSULTANT**, (hereinafter, "CONSULTANT"). For the purposes of this Agreement, CITY and CONSULTANT may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to CITY or CONSULTANT interchangeably, as appropriate.

RECITALS

WHEREAS, CITY requires construction management, inspection, labor compliance and material testing services; and

WHEREAS, CITY staff has determined that CONSULTANT possesses the experience, skills and training necessary to competently provide such services to CITY; and

WHEREAS, the execution of this Agreement was approved by the San Fernando City Council at its Regular Meeting of _____, 2025 under Agenda Item No. _____.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONSULTANT agree as follows:

I.**ENGAGEMENT TERMS****1.1 SCOPE OF WORK:**

- A. Subject to the terms and conditions of this Agreement, CONSULTANT agrees to provide the services and tasks described in that certain Request for Proposals of the CITY entitled "REQUEST FOR PROPOSALS: **Design Services for the Municipal Trash Enclosure Renovation Project**", (hereinafter, "CITY RFP") and the written proposal of CONSULTANT entitled "Proposal for- **Design Services for the Municipal Trash Enclosure Renovation Project**", (hereinafter, the "CONSULTANT Proposal") dated **DATE OF PROPOSAL**. The CITY RFP and the CONSULTANT Proposal are attached and incorporated hereto as **Exhibit "A"** and **"B"**

respectively. The term "Scope of Work" shall be a collective reference to the CITY RFP and the CONSULTANT PROPOSAL. The capitalized term "Work" shall be a collective reference to all the various services and tasks referenced in the Scope of Work. In the event of any conflict or inconsistency between the provisions of the document entitled CITY RFP and the provisions of the document entitled CONSULTANT PROPOSAL, the requirements of the document entitled CITY RFP shall govern and control but only to the extent of the conflict or inconsistency and no further. In the event of any conflict or inconsistency between the provisions of the Scope of Work and the provisions of this Agreement to which the Scope of Work is attached, the provisions of this Agreement shall govern and control.

1.2 PROSECUTION OF WORK:

- A. Time is of the essence of this Agreement and each and every provision contained herein. The Work shall be commenced within three (3) calendar days of CITY's issuance of a Notice to Proceed. CONSULTANT shall complete the various tasks identified in the Scope of Work within the timeframes set forth in the Scope of Work and shall complete all of the Work by or before **COMPLETION DATE** (the "Completion Date");
- B. CONSULTANT shall cooperate with CITY and in no manner interfere with the work of CITY, its employees or other consultants, contractors or agents;
- C. CONSULTANT shall not claim or be entitled to receive any compensation or damage because of the failure of CONSULTANT, or its subconsultants, to have related services or tasks completed in a timely manner;
- D. CONSULTANT shall at all times enforce strict discipline and good order among CONSULTANT's employees; and
- E. CONSULTANT, at its sole expense, shall pay all sales, consumer, use or other similar taxes required by law.

- 1.3 COMPENSATION:** CONSULTANT shall perform the Work in accordance with "Cost Proposal" (hereinafter, the "COMPENSATION RATE"). The foregoing notwithstanding, CONSULTANT's total compensation for the performance of all Work contemplated under this Agreement, will not exceed the total budgeted aggregate sum of **INSERT WRITTEN AMOUNT (\$ INSERT NUMBER)** (hereinafter, the "Not-to-Exceed Sum") during the prosecution of this Agreement, unless such added expenditure is first approved by the City Council. In the event CONSULTANT's charges are projected to exceed the Not-to-Exceed Sum prior to the expiration of this Agreement, CITY may suspend CONSULTANT's performance pending CITY approval of any anticipated expenditures in excess of the Not-

to-Exceed Sum or any other CITY approved amendment to the compensation terms of this Agreement.

- 1.4 PAYMENT OF COMPENSATION:** Following the conclusion of the work requested in Section 1.1, CONSULTANT shall submit to CITY an itemized invoice indicating the services performed and tasks completed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONSULTANT's compensation is a function of hours worked by CONSULTANT's personnel, the invoice should indicate the number of hours worked, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total for all services performed. Within thirty (30) calendar days of receipt of each invoice, CITY will notify CONSULTANT in writing of any disputed amounts included in the invoice. Within forty-five (45) calendar days of receipt of each invoice, CITY will pay all undisputed amounts included on the invoice. CITY will not withhold applicable taxes or other authorized deductions from payments made to CONSULTANT.
- 1.5 PREVAILING WAGES:** Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.
- 1.6 ACCOUNTING RECORDS:** CONSULTANT will maintain complete and accurate records with respect to all matters covered under this Agreement for a period of three (3) years after the expiration or termination of this Agreement. CITY will have the right to access and examine such records, without charge, during normal business hours. CITY will further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.
- 1.7 ABANDONMENT BY CONSULTANT:** In the event CONSULTANT ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Work, CONSULTANT will deliver to CITY

immediately and without delay, all materials, records and other work product prepared or obtained by CONSULTANT in the performance of this Agreement. Furthermore, CONSULTANT will only be compensated for the reasonable value of the services, tasks and other Work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which CITY may incur as a result of CONSULTANT's cessation or abandonment.

II.

PERFORMANCE OF AGREEMENT

- 2.1 CITY'S REPRESENTATIVE:** The CITY hereby designates **INSERT CITY REPRESENTATIVE** (hereinafter, the "City Representative") to act as its representative for the performance of this Agreement. The City Representative or their designee will act on behalf of the CITY for all purposes under this Agreement. CONSULTANT will not accept directions or orders from any person other than the CITY Representative or their designee.
- 2.2 CONSULTANT REPRESENTATIVE:** CONSULTANT hereby designates **INSERT CONSULTANT REPRESENTATIVE**, to act as its representative for the performance of this Agreement (hereinafter, "Consultant Representative"). Consultant Representative will have full authority to represent and act on behalf of the CONSULTANT for all purposes under this Agreement. Consultant Representative or their designee will supervise and direct the performance of the Work, using their best skill and attention, and will be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Agreement. Notice to the Consultant Representative will constitute notice to CONSULTANT.
- 2.3 COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS:** CONSULTANT agrees to work closely with CITY staff in the performance of the Work and this Agreement and will be available to CITY staff and the CITY Representative at all reasonable times. All work prepared by CONSULTANT will be subject to inspection and approval by CITY Representative or their designees.
- 2.4 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES:**

CONSULTANT represents, acknowledges and agrees to the following:

- A. CONSULTANT will perform all Work skillfully, competently and to the highest standards of CONSULTANT's profession;
- B. CONSULTANT shall at all times employ such force, plant, materials, and tools as will be sufficient in the opinion of the CITY to perform the Services within the time limits established, and as provided herein. It is understood and agreed that said tools, equipment, apparatus, facilities, labor, and material shall be furnished and said Services performed and completed as required by the Agreement, and

subject to the approval of the CITY's authorized representative;

- C. CONSULTANT will perform all Work in a manner reasonably satisfactory to the CITY;
- D. CONSULTANT will comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 et seq.). CONSULTANT shall be liable for all violations of such laws and regulations in connection with Services. If CONSULTANT performs any work knowing it to be contrary to such laws, rules and regulations, CONSULTANT shall be solely responsible for all costs arising therefrom;
- E. CONSULTANT understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;
- F. All of CONSULTANT's employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONSULTANT; and
- G. All of CONSULTANT's employees and agents (including, but not limited to, subcontractors and subconsultants) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals will be maintained throughout the term of this Agreement and made available to CITY for copying and inspection.

The Parties acknowledge and agree that CONSULTANT will perform, at CONSULTANT's own cost and expense and without any reimbursement from CITY, any services necessary to correct any errors or omissions caused by CONSULTANT's failure to comply with the standard of care set forth under this Section or by any like failure on the part of CONSULTANT's employees, agents, contractors, subcontractors and subconsultants. Such effort by CONSULTANT to correct any errors or omissions will be commenced immediately upon their discovery by either Party and will be completed within seven (7) calendar days from the date of discovery or such other extended period of time authorized by the CITY Representative in writing and in her sole and absolute discretion. The Parties acknowledge and agree that CITY's acceptance of any work performed by CONSULTANT or on CONSULTANT's behalf will not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that CITY has relied upon the foregoing representations of CONSULTANT, including but not limited to the representation that CONSULTANT possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and to the highest standards of CONSULTANT's profession.

- 2.5 ASSIGNMENT:** The skills, training, knowledge and experience of CONSULTANT are material to CITY's willingness to enter into this Agreement. Accordingly, CITY has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONSULTANT or on behalf of CONSULTANT in the performance of this Agreement. In recognition of this interest, CONSULTANT agrees that it will not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONSULTANT's duties or obligations under this Agreement without the prior written consent of the CITY. In the absence of CITY's prior written consent, any attempted assignment or transfer will be ineffective, null and void and will constitute a material breach of this Agreement.
- 2.6 SUBSTITUTION OF KEY PERSONNEL:** CONSULTANT has represented to CITY that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, CONSULTANT may substitute other personnel of at least equal competence upon written approval of CITY. In the event that CITY and CONSULTANT cannot agree as to the substitution of key personnel, CITY shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the CITY, or who are determined by the CITY to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the CONSULTANT at the request of the CITY. The key personnel for performance of this Agreement are as follows: **[INSERT NAME AND TITLE]**.
- 2.7 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR:** The Work will be performed by CONSULTANT or under CONSULTANT's strict supervision. CONSULTANT will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. CITY retains CONSULTANT on an independent contractor basis and not as an employee. CONSULTANT reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONSULTANT's competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of CITY's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONSULTANT are not employees of CITY and will at all times be under CONSULTANT's exclusive direction and control. CONSULTANT will pay all wages, salaries and other amounts due to such personnel and will assume responsibility for all benefits, payroll taxes, Social Security and Medicare payments and the like. CONSULTANT will be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: Social Security taxes, income tax withholding, unemployment insurance, disability insurance, workers' compensation insurance and the like.

- 2.8 REMOVAL OF EMPLOYEES OR AGENTS:** If any of CONSULTANT's officers, employees, agents, contractors, subcontractors or subconsultants is determined by the CITY Representative to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONSULTANT, a threat to persons or property, or if any of CONSULTANT's officers, employees, agents, contractors, subcontractors or subconsultants fail or refuse to perform the Work in a manner acceptable to the CITY, such officer, employee, agent, contractor, subcontractor or subconsultant will be promptly removed by CONSULTANT and will not be reassigned to perform any of the Work.
- 2.9 COMPLIANCE WITH LAWS:** CONSULTANT will keep itself informed of and in compliance with all applicable federal, state or local laws to the extent such laws control or otherwise govern the performance of the Work. CONSULTANT's compliance with applicable laws will include, without limitation, compliance with all applicable Cal/OSHA requirements and applicable regulations of the Federal Department of Housing and Urbanization.
- ~~2.10 FEDERAL PROVISIONS:~~** ~~When funding for the Services is provided, in whole or in part, by an agency of the federal government, CONSULTANT shall also fully and adequately comply with the provisions included in Exhibit "C" (Federal Requirements) attached hereto and incorporated herein by reference ("Federal Requirements"). With respect to any conflict between such Federal Requirements and the terms of this Agreement and/or the provisions of state law, the more stringent requirement shall control.~~
- 2.11 NON-DISCRIMINATION:** CONSULTANT represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.
- 2.12 INDEPENDENT CONTRACTOR STATUS:** The Parties acknowledge, understand and agree that CONSULTANT and all persons retained or employed by CONSULTANT are, and will at all times remain, wholly independent contractors and are not officials, officers, employees, departments or subdivisions of CITY. CONSULTANT will be solely responsible for the negligent acts and/or omissions of its employees, agents, contractors, subcontractors and subconsultants. CONSULTANT and all persons retained or employed by CONSULTANT will have no authority, express or implied, to bind CITY in any manner, nor to incur any obligation, debt or liability of any kind on behalf of, or against, CITY, whether by contract or otherwise, unless such authority is expressly conferred to CONSULTANT under this Agreement or is otherwise expressly conferred by CITY in writing.

III.
INSURANCE

3.1 DUTY TO PROCURE AND MAINTAIN INSURANCE: Prior to the beginning of and throughout the duration of the Work, CONSULTANT will procure and maintain policies of insurance that meet the requirements and specifications set forth under this Article. CONSULTANT will procure and maintain the following insurance coverage, at its own expense:

- A. Commercial General Liability Insurance: CONSULTANT will procure and maintain Commercial General Liability Insurance ("CGL Coverage") as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001) or its equivalent. Such CGL Coverage will have minimum limits of no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the general aggregate for bodily injury, personal injury, property damage, operations, products and completed operations, and contractual liability.
- B. Automobile Liability Insurance: CONSULTANT will procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance shall have minimum limits of no less than Two Million Dollars (\$2,000,000.00) per accident for bodily injury and property damage.
- C. Workers' Compensation Insurance/ Employer's Liability Insurance: A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California and which will indemnify, insure and provide legal defense for both CONSULTANT and CITY against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by CONSULTANT in the course of carrying out the Work contemplated in this Agreement.
- D. Errors & Omissions Insurance: For the full term of this Agreement and for a period of three (3) years thereafter, CONSULTANT will procure and maintain Errors and Omissions Liability Insurance appropriate to CONSULTANT's profession. Such coverage will have minimum limits of no less than Two Million Dollars (\$2,000,000.00) per claim.

3.2 ADDITIONAL INSURED REQUIREMENTS: The CGL Coverage and the Automobile Liability Insurance will contain an endorsement naming the CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers as additional insureds.

3.3 REQUIRED CARRIER RATING: All varieties of insurance required under this Agreement will be procured from insurers admitted in the State of California and authorized to issue policies directly to California insureds. Except as otherwise provided elsewhere under this Article, all required insurance will be procured from insurers who, according to the latest edition of the Best's Insurance Guide, have an A.M. Best's rating of no less than

A:VII. CITY may also accept policies procured by insurance carriers with a Standard & Poor's rating of no less than BBB according to the latest published edition the Standard & Poor's rating guide. As to Workers' Compensation Insurance/ Employer's Liability Insurance, the CITY Representative is authorized to authorize lower ratings than those set forth in this Section.

- 3.4 PRIMACY OF CONSULTANT'S INSURANCE:** All policies of insurance provided by CONSULTANT will be primary to any coverage available to CITY or CITY's elected or appointed officials, officers, employees, agents or volunteers. Any insurance or self-insurance maintained by CITY or CITY's elected or appointed officials, officers, employees, agents or volunteers will be in excess of CONSULTANT's insurance and will not contribute with it.
- 3.5 WAIVER OF SUBROGATION:** All insurance coverage provided pursuant to this Agreement will not prohibit CONSULTANT or CONSULTANT's officers, employees, agents, subcontractors or subconsultants from waiving the right of subrogation prior to a loss. CONSULTANT hereby waives all rights of subrogation against CITY, its officials, officers, employees, agents and volunteers.
- 3.6 VERIFICATION OF COVERAGE:** CONSULTANT acknowledges, understands and agrees, that CITY's ability to verify the procurement and maintenance of the insurance required under this Article is critical to safeguarding CITY's financial well-being and, indirectly, the collective well-being of the residents of the CITY. Accordingly, CONSULTANT warrants, represents and agrees that it will furnish CITY with original certificates of insurance and endorsements evidencing the coverage required under this Article on forms satisfactory to CITY in its sole and absolute discretion. The certificates of insurance and endorsements for each insurance policy will be signed by a person authorized by that insurer to bind coverage on its behalf, and will be on forms provided by the CITY if requested. All certificates of insurance and endorsements will be received and approved by CITY as a condition precedent to CONSULTANT's commencement of any Work. Upon CITY's written request, CONSULTANT will also provide CITY with certified copies of all required insurance policies and endorsements.
- 3.7 FAILURE TO MAINTAIN COVERAGE:** In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced immediately so as to avoid a lapse in the required coverage, CITY has the right but not the duty to obtain the insurance it deems necessary and any premium paid by CITY will be promptly reimbursed by CONSULTANT or CITY will withhold amounts sufficient to pay premium from CONSULTANT payments. In the alternative, CITY may cancel this Agreement effective upon notice.
- 3.8 SPECIAL RISKS OR CIRCUMSTANCES:** CITY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

IV.
INDEMNIFICATION

- 4.1** The Parties agree that CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers (hereinafter, the "CITY Indemnitees") should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the CITY Indemnitees with the fullest protection possible under the law. CONSULTANT acknowledges that CITY would not enter into this Agreement in the absence of CONSULTANT's commitment to indemnify, defend and protect CITY as set forth herein. Notwithstanding the foregoing, to the extent CONSULTANT's services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT. CONSULTANT's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the CITY, its officials, officers, employees, agents or volunteers.
- 4.2** To the fullest extent permitted by law, CONSULTANT shall indemnify, hold harmless and defend the CITY Indemnitees from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys' fees, expert fees and all other costs, and fees of litigation) of every nature arising out of or in connection with CONSULTANT's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole negligence or willful misconduct of the CITY.
- 4.3** CITY shall have the right to offset against the amount of any compensation due to CONSULTANT under this Agreement, any amount due to CITY from CONSULTANT as a result of CONSULTANT's failure to either pay CITY promptly for any costs associated with CONSULTANT's obligations to indemnify the CITY Indemnitees under this Article, or related to CONSULTANT's failure to either (i) pay taxes on amounts received pursuant to this Agreement, or (ii) comply with applicable workers' compensation laws.
- 4.4** The obligations of CONSULTANT under this Article will not be limited by the provisions of any workers' compensation act or similar act. CONSULTANT expressly waives its statutory immunity under such statutes or laws as to CITY and CITY's elected and appointed officials, officers, employees, agents, and volunteers.
- 4.5** CONSULTANT agrees to obtain executed indemnity agreements with provisions identical to those set forth herein this Article from each and every subcontractor or any other person or entity involved by, for, with or on behalf of CONSULTANT in the performance of this Agreement. In the event CONSULTANT fails to obtain such indemnity obligations

from others as required herein, CONSULTANT agrees to be fully responsible and indemnify, hold harmless and defend CITY and CITY's elected and appointed officials, officers, employees, agents, and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONSULTANT's subcontractors or any other person or entity involved by, for, with or on behalf of CONSULTANT in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of CITY's choice.

- 4.6** CITY does not, and shall not waive any rights that it may possess against CONSULTANT because of the acceptance by CITY, or the deposit with CITY, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense.
- 4.7** This Article and all provisions contained herein (including but not limited to the duty to indemnify, defend, and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which the CITY may have at law or in equity.
- 4.8** Except as otherwise provided under Section 4.2 of this Article, above, to the fullest extent permitted by law, CONSULTANT shall indemnify, defend and hold harmless the CITY Indemnitees from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys' fees, expert fees and all other costs and fees of litigation) of every nature to the extent caused by CONSULTANT's negligent performance under this Agreement, including but not limited to the negligent acts, errors or omissions of CONSULTANT or CONSULTANT's officers, employees, agents, servants, contractors, subcontractors or subconsultants or the failure of the same to comply with any of the duties, obligations or standards of care set forth herein. The duty to indemnify, defend and hold harmless under this subsection shall not encompass a duty to indemnify, defend or hold harmless for liability, loss, suit, damage, expense, or cost caused by the negligence or willful misconduct of any or all of the CITY Indemnitees. The duty to indemnify, defend and hold harmless as set forth under this subsection is intended to encompass liabilities, losses, damages, expense and costs not otherwise subject to subsection 4.2, above.
- 4.9** As to the duties to indemnify under Sections 4.1 and 4.2 of this Article, above, CITY shall have the right to offset against the amount of any compensation due CONSULTANT under this Agreement any amount due CITY from CONSULTANT as a result of CONSULTANT's failure to pay CITY promptly any indemnification arising under this Article and related to CONSULTANT's failure to either (i) pay taxes on amounts received pursuant to this Agreement, or (ii) comply with applicable workers' compensation laws.
- 4.10** As to the duties to indemnify under Sections 4.1 and 4.2 of this Article, above, the

obligations of CONSULTANT under this Article will not be limited by the provisions of any workers' compensation act or similar act. CONSULTANT expressly waives its statutory immunity under such statutes or laws as to CITY and CITY's elected and appointed officials, officers, employees, agents and authorized volunteers.

- 4.11** As to the duties to indemnify under Sections 4.1 and 4.2 of this Article, above, CONSULTANT agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Article from each and every subcontractor or any other person or entity involved by, for, with or on behalf of CONSULTANT in the performance of this Agreement. In the event CONSULTANT fails to obtain such indemnity obligations from others as required herein, CONSULTANT agrees to be fully responsible and indemnify, hold harmless and defend CITY and CITY's elected and appointed officials, officers, employees, agents and authorized volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONSULTANT's subcontractors or any other person or entity involved by, for, with or on behalf of CONSULTANT in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of CITY's choice.
- 4.12** As to the duties to indemnify under Sections 4.1 and 4.2 of this Article, above, CITY does not, and shall not, waive any rights that it may possess against CONSULTANT because of the acceptance by CITY, or the deposit with CITY, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
- 4.13** As to the duties to indemnify under Sections 4.1 and 4.2 of this Article, above, the duties to indemnify, defend and hold harmless as set forth under this Section, shall survive the early termination or normal expiration of this Agreement and shall be in addition to any other rights or remedies which the CITY may have at law or in equity.

V.

TERMINATION

- 5.1** **TERMINATION WITHOUT CAUSE:** CITY may immediately terminate this Agreement at any time for convenience and without cause by giving prior written notice of CITY's intent to terminate this Agreement which notice shall specify the effective date of such termination. Upon such termination for convenience, CONSULTANT will be compensated only for those services and tasks which have been performed by CONSULTANT up to the effective date of the termination. CONSULTANT may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, CITY may require CONSULTANT to provide all finished or unfinished Documents and Data, as defined in Section 6.1, below, and other information of any kind

prepared by CONSULTANT in connection with the performance of the Work. CONSULTANT will be required to provide such Documents and Data within fifteen (15) calendar days of CITY's written request. No actual or asserted breach of this Agreement on the part of CITY pursuant to Section 5.2, below, will operate to prohibit or otherwise restrict CITY's ability to terminate this Agreement for convenience as provided under this Section.

5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:

- A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") will occur. For all Events of Default, the Party alleging an Event of Default will give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which will specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default will be cured, which will not be less than the applicable cure period set forth under Sections 5.2B and 5.2C, below, or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default will constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.
- B. CONSULTANT will cure the Event of Default within the following time periods:
 - i. Within ten (10) business days of CITY's issuance of a Default Notice for any failure of CONSULTANT to timely provide CITY or CITY's employees or agents with any information and/or written reports, documentation or work product which CONSULTANT is obligated to provide to CITY or CITY's employees or agents under this Agreement. Prior to the expiration of the 10-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 10-day cure period. The foregoing notwithstanding, CITY will be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.i. that exceeds seven (7) calendar days from the end of the initial 10-day cure period; or
 - ii. Within fourteen (14) calendar days of CITY's issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of

Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, CITY will be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period.

In addition to any other failure on the part of CONSULTANT to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONSULTANT will include, but will not be limited to the following: (i) CONSULTANT's refusal or failure to perform any of the services or tasks called for under the Scope of Work; (ii) CONSULTANT's failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONSULTANT's and/or its employees' disregard or violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONSULTANT, whether voluntary or involuntary; (v) CONSULTANT's refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vii) CITY's discovery that a statement representation or warranty by CONSULTANT relating to this Agreement is false, misleading or erroneous in any material respect.

- C. CITY will cure any Event of Default asserted by CONSULTANT within forty-five (45) calendar days of CONSULTANT's issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, CITY may submit a written request for additional time to cure the Event of Default upon a showing that CITY has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with CITY's failure to timely pay any undisputed sums to CONSULTANT as provided under Section 1.4, above, will be cured by CITY within five (5) calendar days from the date of CONSULTANT's Default Notice to CITY.
- D. CITY, in its sole and absolute discretion, may also immediately suspend CONSULTANT's performance under this Agreement pending CONSULTANT's cure of any Event of Default by giving CONSULTANT written notice of CITY's intent to suspend CONSULTANT's performance (hereinafter, a "Suspension Notice"). CITY may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONSULTANT will be compensated only for those services and tasks which have been rendered by CONSULTANT to the reasonable satisfaction of CITY up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of CITY will operate to prohibit or otherwise restrict CITY's ability to suspend this Agreement as provided herein.
- E. No waiver of any Event of Default or breach under this Agreement will constitute

a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party will give the other Party any contractual rights by custom, estoppel, or otherwise.

- F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder will be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to CITY at law or under this Agreement in the event of any breach of this Agreement, CITY, in its sole and absolute discretion, may also pursue any one or more of the following remedies:
- i. Upon written notice to CONSULTANT, the CITY may immediately terminate this Agreement in whole or in part;
 - ii. Upon written notice to CONSULTANT, the CITY may extend the time of performance;
 - iii. The CITY may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONSULTANT's breach of the Agreement or to terminate the Agreement; or
 - iv. The CITY may exercise any other available and lawful right or remedy.

CONSULTANT will be liable for all legal fees plus other costs and expenses that CITY incurs upon a breach of this Agreement or in the CITY's exercise of its remedies under this Agreement.

- G. In the event CITY is in breach of this Agreement, CONSULTANT's sole remedy will be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONSULTANT under this Agreement for completed services and tasks.

5.3 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement will constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party will give the other Party any contractual rights by custom, estoppel, or otherwise.

5.4 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement pursuant to any provision of this Article or by normal expiration of its term or any extension thereto will not operate to terminate any Article, Section or provision contained herein which provides that it will survive the termination or normal expiration of this Agreement.

VI.

MISCELLANEOUS PROVISIONS

- 6.1 DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY:** All Documents and Data will be and remain the property of CITY without restriction or limitation upon their use or dissemination by CITY. For purposes of this Agreement, the term “Documents and Data” means and includes all reports, analyses, correspondence, plans, designs, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONSULTANT in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to CITY, a perpetual license for CITY to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONSULTANT will require all subcontractors and subconsultants working on behalf of CONSULTANT in the performance of this Agreement to agree in writing that CITY will be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subcontractor or subconsultant as applies to Documents and Data prepared by CONSULTANT in the performance of this Agreement.
- 6.2 CONFIDENTIALITY:** All data, documents, discussion, or other information developed or received by CONSULTANT or provided for performance of this Agreement are deemed confidential and will not be disclosed by CONSULTANT without prior written consent by CITY. CITY will grant such consent of disclosure as legally required. Upon request, all CITY data will be returned to CITY upon the termination or expiration of this Agreement. CONSULTANT will not use CITY’s name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of CITY.
- 6.3 FALSE CLAIMS ACT:** CONSULTANT warrants and represents that neither CONSULTANT nor any person who is an officer of, in a managing position with, or has an ownership interest in CONSULTANT has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., Section 3789 et seq. and the California False Claims Act, Government Code Section 12650 et seq.
- 6.4 NOTICES:** All notices permitted or required under this Agreement will be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

CONSULTANT:

INSERT CONSULTANT NAME

INSERT ADDRESS

Attn: INSERT CONTACT NAME

Phone: INSERT PHONE NUMBER

CITY:

City of San Fernando

117 Macneil Street

San Fernando, CA 91340

Attn: Public Works

Phone: (818) 898-1222

Such notices will be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepaid and addressed to the Party at its applicable address.

- 6.5 COOPERATION; FURTHER ACTS:** The Parties will fully cooperate with one another, and will take any additional acts or sign any additional documents as are reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.
- 6.6 SUBCONTRACTING:** CONSULTANT will not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of CITY. Subcontracts (including without limitation subcontracts with subconsultants), if any, will contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.
- 6.7 CITY'S RIGHT TO EMPLOY OTHER CONSULTANTS:** CITY reserves the right to employ other contractors in connection with the various projects worked upon by CONSULTANT.
- 6.8 PROHIBITED INTERESTS:** CONSULTANT warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONSULTANT, to solicit or secure this Agreement. Further, CONSULTANT warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, CITY will have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of CITY, during the term of his or her service with CITY, will have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 6.9 TIME IS OF THE ESSENCE:** Time is of the essence for each and every provision of this Agreement.
- 6.10 GOVERNING LAW AND VENUE:** This Agreement will be interpreted and governed according to the laws of the State of California. In the event of litigation between the

Parties, venue, without exception, will be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, will be in the Central District of California located in the City of Los Angeles, California.

- 6.11 ATTORNEYS' FEES:** If either Party commences an action against the other Party, legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation will be entitled to have and recover from the losing Party reasonable attorneys' fees and all other costs of such action.
- 6.12 SUCCESSORS AND ASSIGNS:** This Agreement will be binding on the successors and assigns of the Parties.
- 6.13 NO THIRD-PARTY BENEFIT:** There are no intended third-party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.
- 6.14 CONSTRUCTION OF AGREEMENT:** This Agreement will not be construed in favor of, or against, either Party but will be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.
- 6.15 SEVERABILITY:** If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions will continue in full force and effect.
- 6.16 AMENDMENT; MODIFICATION:** No amendment, modification or supplement of this Agreement will be valid or binding unless executed in writing and signed by both Parties, subject to CITY approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver will be void and invalid.
- 6.17 CAPTIONS:** The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.
- 6.18 INCONSISTENCIES OR CONFLICTS:** In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement will control.
- 6.19 ENTIRE AGREEMENT:** This Agreement, including all attached exhibits, constitutes the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, which may have been entered into between CITY and CONSULTANT prior to the execution of this Agreement. Any statements, representations, or other agreements,

whether oral or written, made by either Party that is not embodied herein will not be valid or binding on the Parties. No amendment, modification or supplement to this Agreement will be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.16, above.

6.20 FORCE MAJEURE: The Completion Date shall be extended in the event of any delays due to unforeseeable causes beyond the control of CONSULTANT and without the fault or negligence of CONSULTANT, including but not limited to severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the CITY, if the CONSULTANT shall within three (3) calendar days of the commencement of such delay notify the City Representative in writing of the causes of the delay. The City Representative shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the City Representative such delay is justified. The City Representative's determination shall be final and conclusive upon the parties to this Agreement. In no event shall CONSULTANT be entitled to recover damages against the CITY for any delay in the performance of this Agreement, however caused, CONSULTANT's sole remedy being extension of the Agreement pursuant to this Section.

6.21 COUNTERPARTS: This Agreement will be executed in three (3) original counterparts each of which will be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterpart will be valid or binding unless made to all three counterparts in conformity with Section 6.16, above. One fully executed original counterpart will be delivered to CONSULTANT and the remaining two original counterparts will be retained by CITY.

SIGNATURES ON NEXT PAGE

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

CITY OF SAN FERNANDO

CONSULTANT NAME:

By: _____

Nick Kimball, City Manager

By: _____

Name: _____

Date: _____

Title: _____

APPROVED AS TO FORM

Date: _____

By: _____

Richard Padilla, Assistant City Attorney

Date: _____

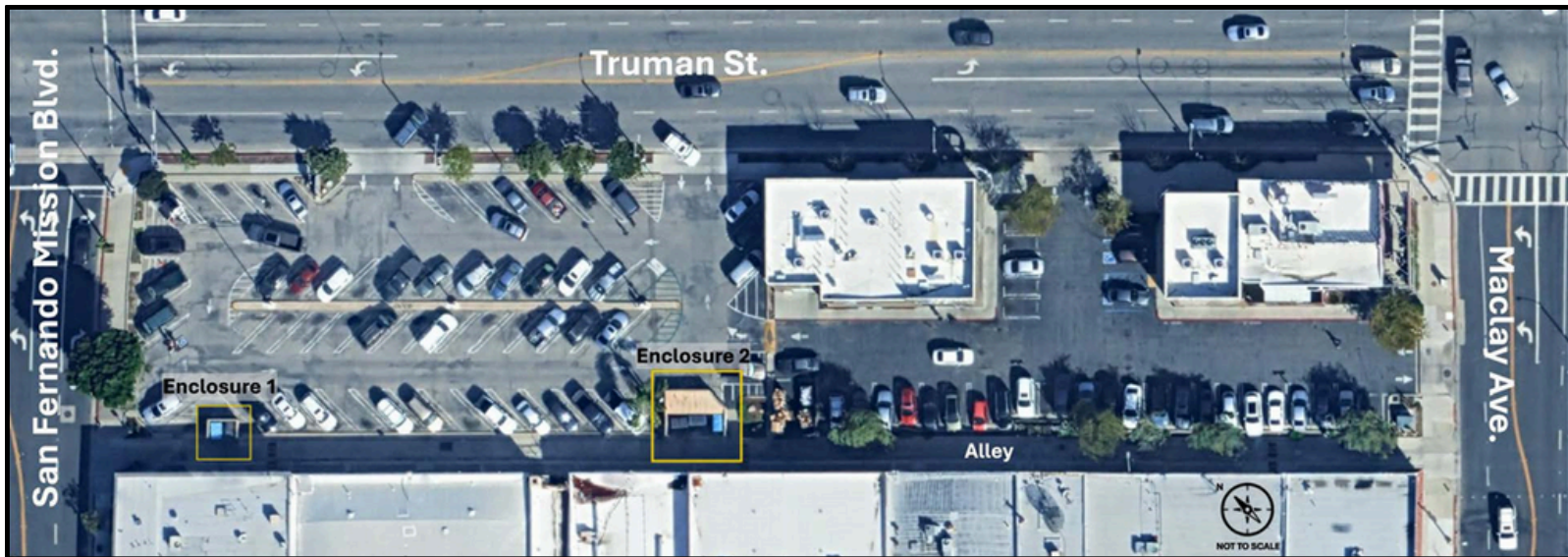
EXHIBIT "A"
CITY REQUEST FOR PROPOSAL

EXHIBIT "B"
CONSULTANT PROPOSAL

Downtown Trash Enclosure RFP Supplemental Photos

Parking Lot 5 | Alley 1

Between Maclay Ave. and San Fernando Mission Blvd.



Parking Lot 5 | Alley 1 | Enclosures

Between Maclay Ave. and San Fernando Mission Blvd.



Enclosure 1

H: 6'

W: 11' 6"

D: 6'5"



Enclosure 2

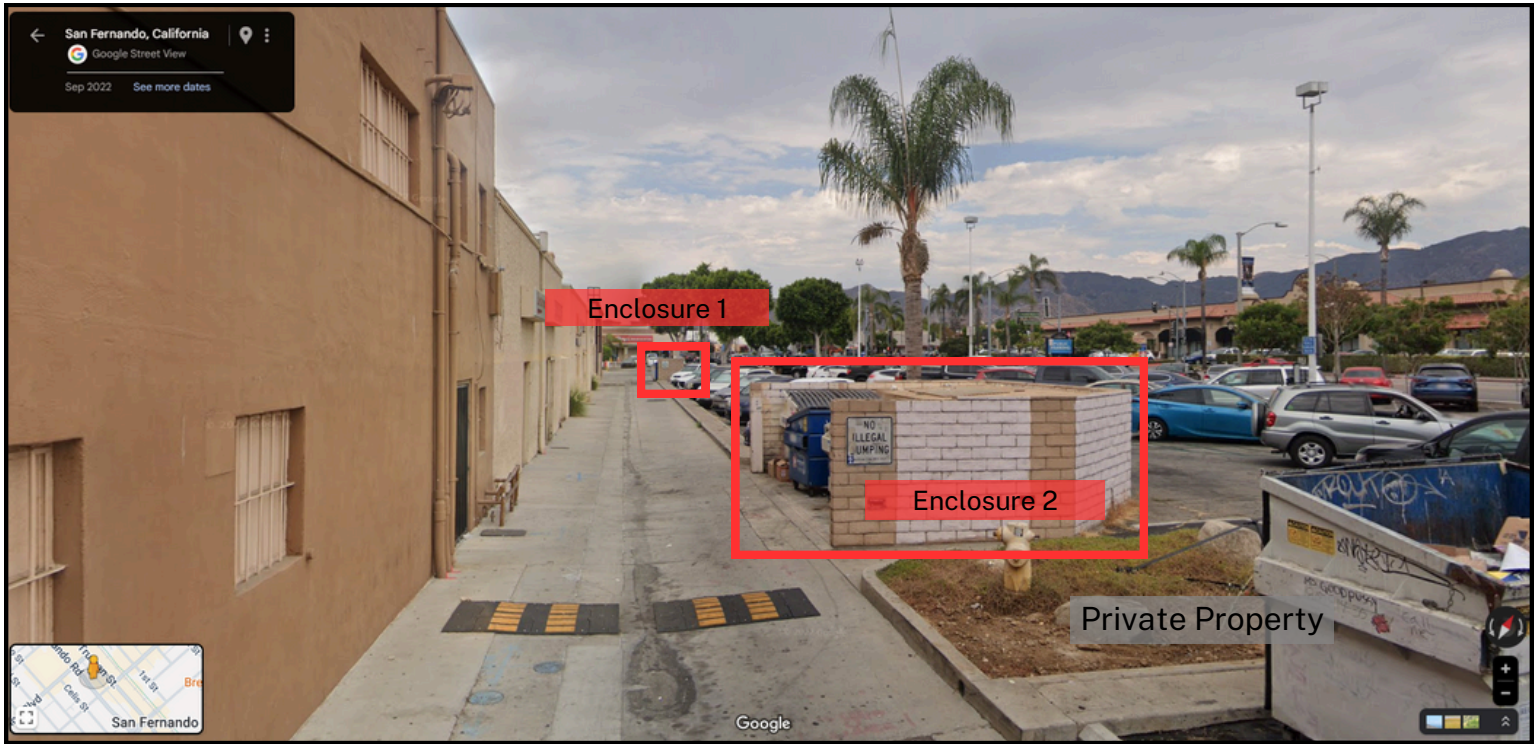
H: 6'

W: 23'

D: 17'4"

Parking Lot 5 | Alley 1

Between Maclay Ave. and San Fernando Mission Blvd.



Parking Lot 4 | Alley 2 Between Brand Blvd and Maclay Ave.



Parking Lot 4 | Alley 2 | Enclosures Between Brand Blvd and Maclay Ave.



Enclosure 1

H: 6'
W: 11'
D: 6'8"



Enclosure 2

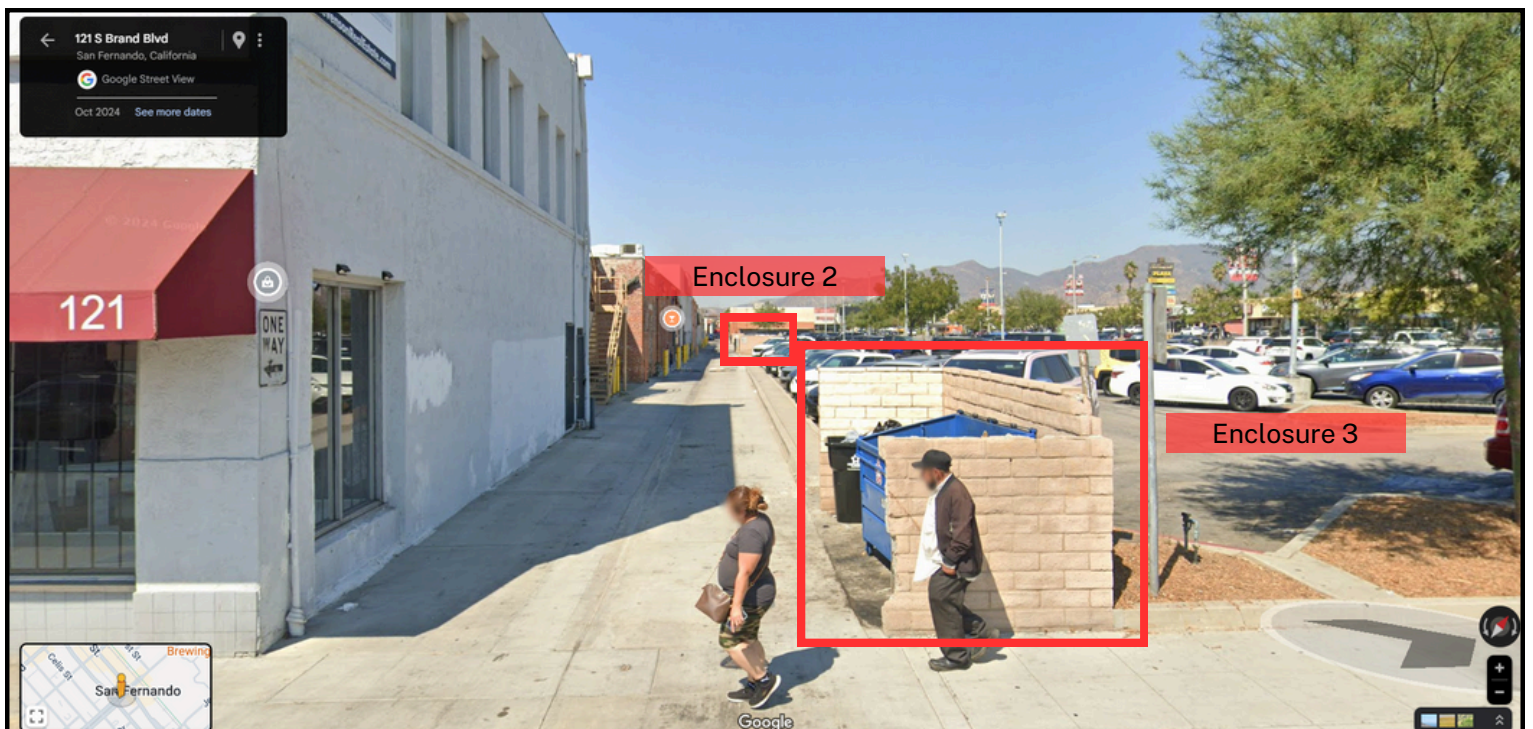
H: 6'
W: 19'4"
D: 14'8"

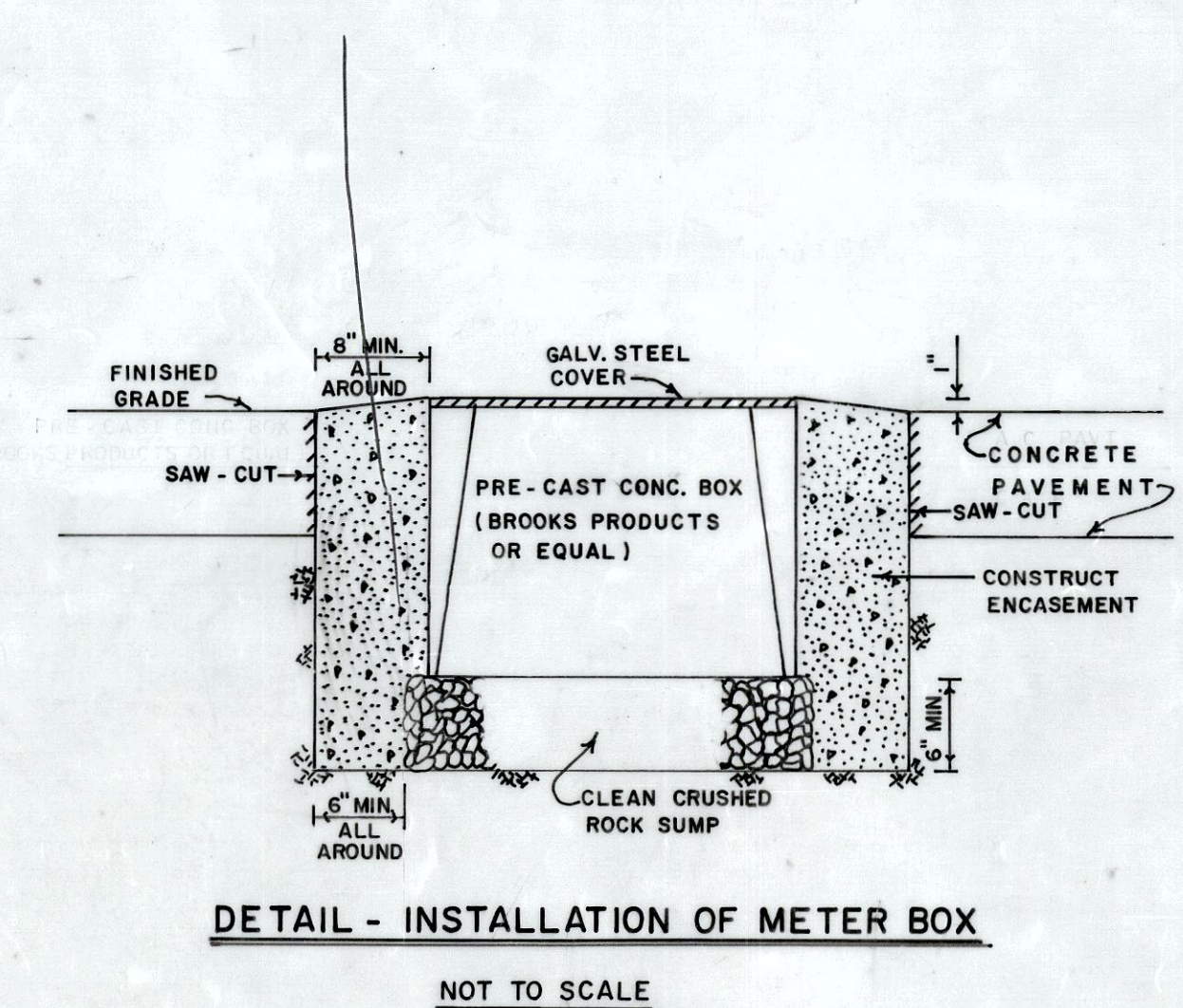
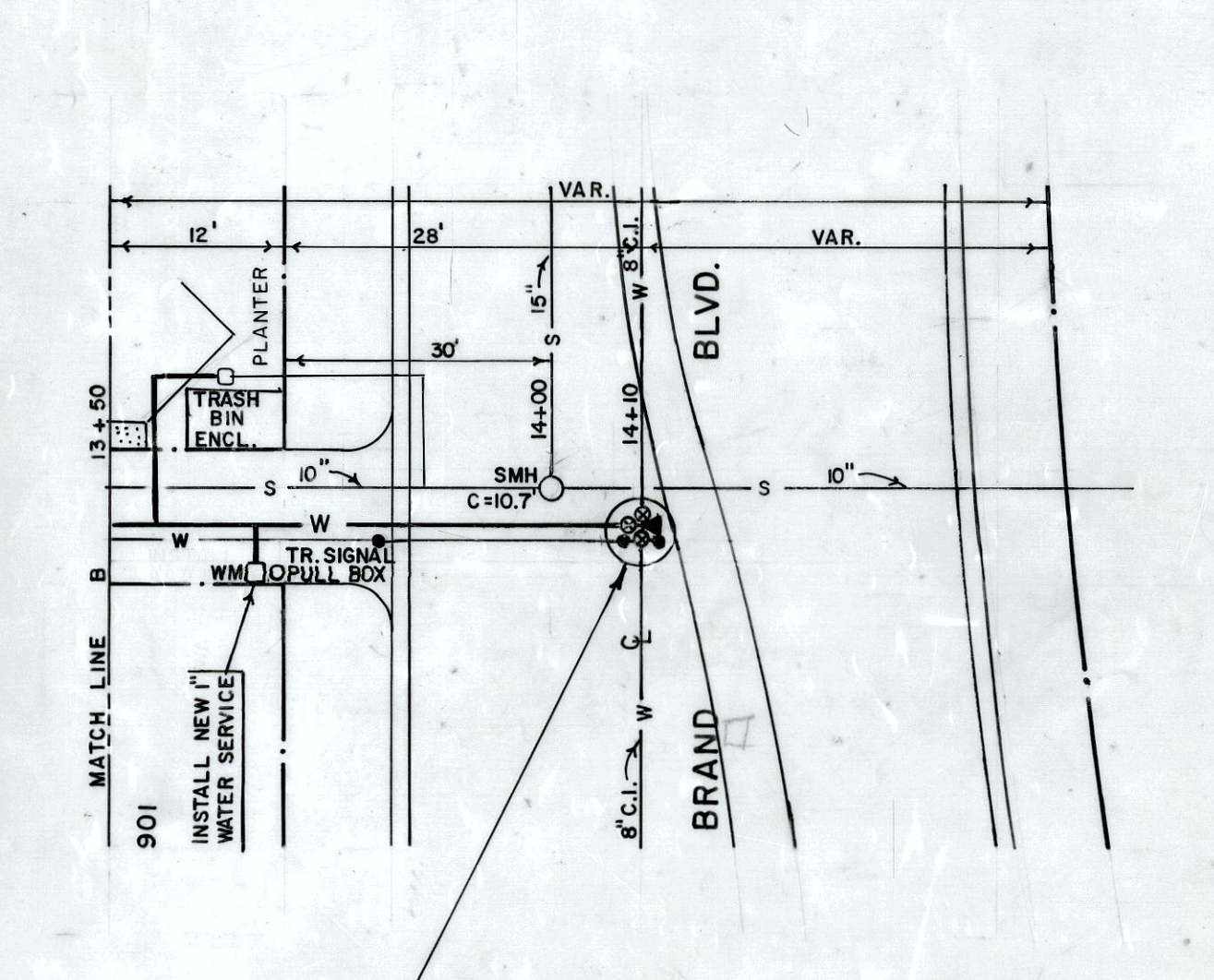
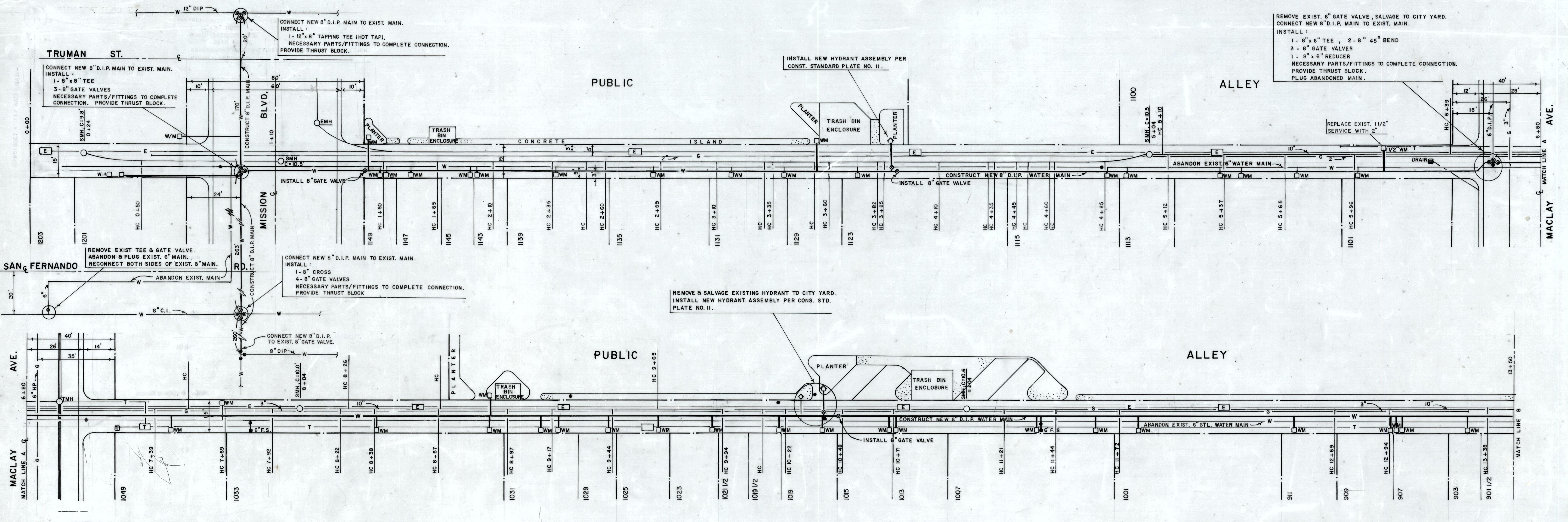


Enclosure 3

H: 6'
W: 16'
D: 6'

Parking Lot 4 | Alley 2 Between Brand Blvd and Maclay Ave.





- LEGEND**
- E — EDISON LINES
 - G — GAS MAIN
 - S — SEWER MAIN
 - W — WATER MAIN
 - T — TELEPHONE LINES
 - WM WATER METER BOX
 - SMH SEWER MANHOLE
 - TMH TELEPHONE MANHOLE
 - TV TELEPHONE VAULT
 - E EDISON VAULT
 - EXISTING GATE VALVE
 - NEW GATE VALVE
 - FIRE HYDRANT
 - ▲ CONCRETE THRUST BLOCK
 - — PROPERTY LINE
 - P.C.C. PORTLAND CEMENT CONCRETE
 - A.C. ASPHALT CONCRETE
 - CL CENTERLINE
 - F.S. FIRE SERVICE

- CONSTRUCTION NOTES**
- ALL WORK SHALL CONFORM WITH THE REQUIREMENTS OF THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, LATEST EDITION.
 - ABANDON EXISTING SERVICES AND REPLACE WITH 1" COPPER TUBE TYPE "K" AND CONNECT TO THE NEW WATER MAIN PER CONSTRUCTION STANDARD PLATE NO. 19. ENSURE THAT THE ABANDONED SERVICES WILL NOT INTERFERE WITH MAINTENANCE AND OPERATION OF THE NEW SERVICES.
 - FOR SERVICES LARGER THAN 1", REPLACE WITH THE SAME SIZE OF COPPER TUBE TYPE "K" PER CONSTRUCTION STANDARD PLATE NO. 20.
 - TOTAL NUMBER OF SERVICES 46 (45 - 1" & 1 - 2"), AND 2 - 6" FIRE SERVICES.
 - METER BOXES SHALL BE TRAFFIC TYPE (STEEL COVER) ENCASE WITH CONCRETE PER DETAIL AND SHALL BE PERPENDICULAR, NOT PARALLEL, TO PROPERTY LINE.
 - PROVIDE CONCRETE THRUST BLOCKS AT ALL CAPS, PLUGS & BEND.
 - ALL WATER METERS OUTSIDE THE ALLEY RIGHT OF WAY SHALL BE RELOCATED WITHIN THE ALLEY RIGHT OF WAY.
 - PAVEMENT OF THE ALLEY IS CONCRETE (ABOUT 10" THICK).
 - BACKFILL TRENCHES SHALL BE "SLURRY MIX" 100 - E - 100 (1 - 1/2 SACKS) PER SECTION 201-1.1.2 OF STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION BOOK.

SCALE: 1" = 20'

JOB NO. 7444

SAN FERNANDO, CALIFORNIA

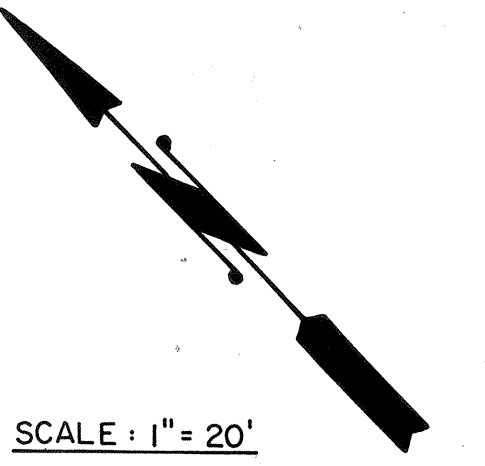
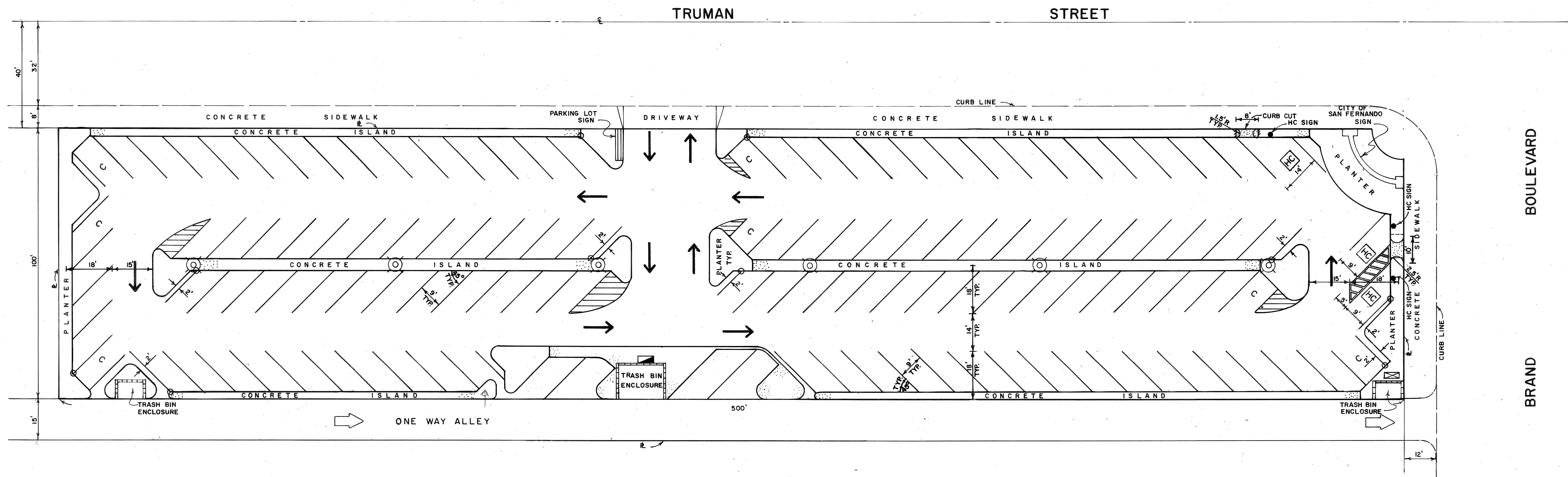
INSTALLATION OF WATER MAIN
AT
PUBLIC ALLEY
NORTH OF SAN FERNANDO ROAD.
FROM MISSION BLVD. TO BRAND BLVD.

DESIGN: SAM IBRAHIM

DATE: 2-11-99

SHEET 1 OF 1

PLAN: P-634



LEGEND

- ELECTRICAL CONTROLLER
- PARKING LOT LIGHT
- IRRIGATION CONTROLLER
- C PARKING STALL FOR COMPACT CAR
- O CONTROLLING POINT FOR STRIPING

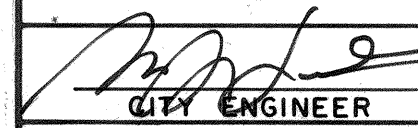
NOTE

CUT IN CONCRETE SIDEWALK FOR HANDICAP SIGNS SHALL BE AT THE SCORE LINES. CUT IN CONCRETE ISLAND SHALL BE SQUARE (WIDTH OF ISLAND PAVEMENT).

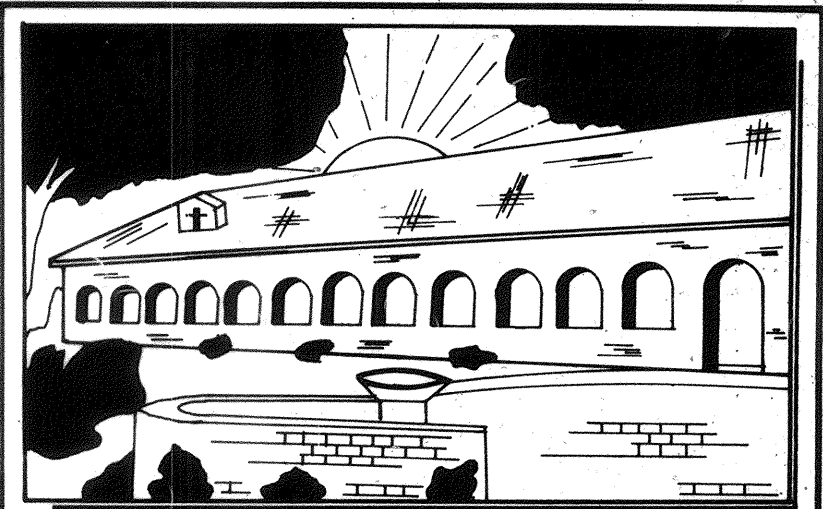
JOB NO. 7332

SAN FERNANDO, CALIFORNIA

**SLURRY SEAL, COATING,
STRIPING AND MARKING OF
PARKING LOT NO. 4**

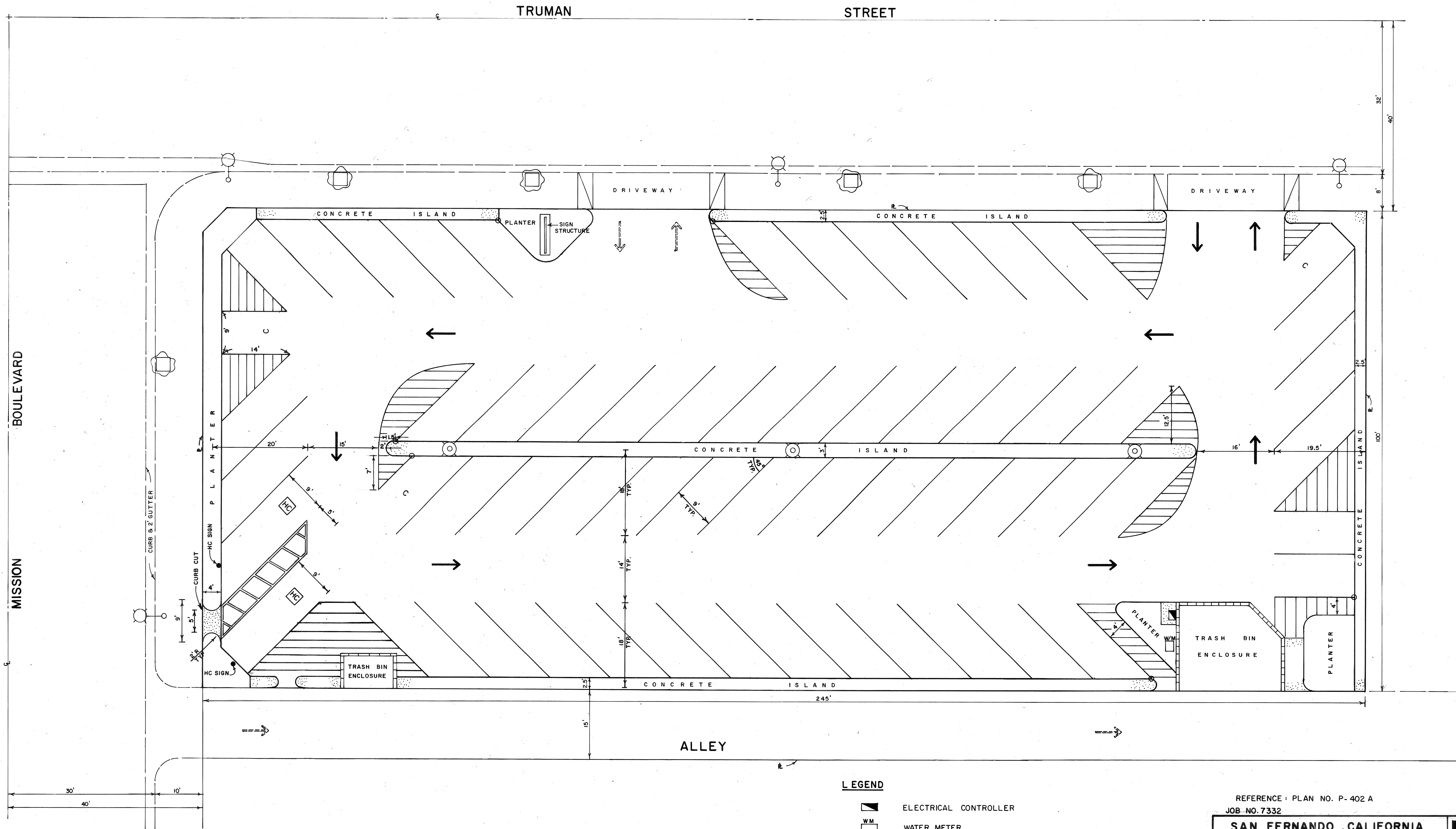
 **R. A. NAVARRO - ASST. CITY ENGINEER**
R.C.E. NO. **221328** DATE **4-13-90**

DESIGN R. A. NAVARRO **DRN.** SAM IBRAHIM



SHEET 3 OF 8

DATE FEBRUARY, 1990 **PLAN** MS - 532



SCALE: 1" = 10'

LEGEND

- ELECTRICAL CONTROLLER
- WATER METER
- PARKING LOT LIGHT
- STREET LIGHT
- PARKWAY TREE
- PARKING STALL FOR COMPACT CAR
- CONTROLLING POINT FOR STRIPING

REFERENCE: PLAN NO. P-402 A
JOB NO. 7332

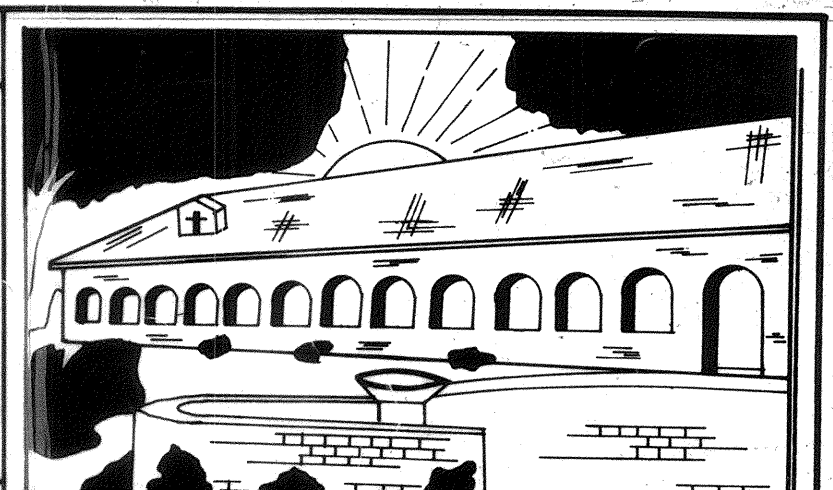
SAN FERNANDO, CALIFORNIA

SLURRY SEAL, COATING,
STRIPING AND MARKING OF
PARKING LOT NO. 5

CITY ENGINEER R.C.E. NO. 4-13-90 DATE

R. A. NAVARRO - ASST. CITY ENGINEER

DESIGN R. A. NAVARRO DRN. SAM IBRAHIM



SHEET 4 OF 8

DATE FEBRUARY, 1990 PLAN MS-532