

**04-SM-82-5004-01**  
**AIRSPACE LEASE AGREEMENT**  
**TIE BACK SUPPORTS**

**ARTICLE 1. SUMMARY OF LEASE AGREEMENT PROVISIONS**

LESSOR: State of California Department of Transportation

LESSEE: City of South San Francisco

PREMISES: \_Subsurface of right of way adjacent to State Route (SR) 82 at along a portion of frontage running along 1010 El Camino Real

Located in the City of South San Francisco,

County of San Mateo, State of California,

commonly known as Lease Area No. 04-SM-82-5004

and more particularly described in Article 2.

Lease Term: Two (2) Years

Commencing July 1, 2020 and expiring on June 30, 2022 (Article 3)

Rent: \$\_38,000\_(Lump sum) (Article 4)

Security Deposit: \$-0- (Article 17)

Use: Temporary Tie-Back Foundation Supports (Article 5)

Comprehensive General Liability Insurance: \$5,000,000. (Article 10)

Insurance provider: \_\_\_\_\_.

Policy Number: \_\_\_\_\_.

Excess/Umbrella Insurance: \$20,000,000. (Article 10)

Insurance provider: \_\_\_\_\_.

Policy Number: \_\_\_\_\_.

Address for Notices: (Article 18)

To LESSOR: State of California Department of Transportation  
Right of Way Airspace Development MS 11  
U.S. Mail: P.O. Box 23440, Oakland, CA 94623-0440  
Street Address: 111 Grand Ave., 13<sup>th</sup> Floor, Oakland, CA 94612-1371

To LESSEE: City of South San Francisco  
City Manager's Office  
Attn: Mike Futrell  
400 Grand Avenue  
mike.futrell@ssf.net

References in this Article 1 to the other Articles are for convenience and designate other Articles where references to the particular item contained in the Summary of Lease Agreement Provisions appear. Each reference in this Lease to the Summary of Lease Agreement Provisions contained in this Article 1 shall be construed to incorporate all of the terms provided under the Summary of Lease Provisions. In the event of any conflict between the Summary of Lease Agreement Provisions and any other part of the Lease, the latter shall control.

(Lease Area No. \_04-SM-82-5004)

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION  
**AIRSPACE LEASE AGREEMENT**  
**TIE-BACK SUPPORTS**

This Airspace Lease Agreement ("Lease"), dated July 1, 2020, is by and between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, hereinafter called "Lessor," and the City of South San Francisco, hereinafter called "Lessee."

W I T N E S S E T H

For and in consideration of the rental and of the covenants and agreements hereinafter set forth to be kept and performed by the Lessee, Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the PREMISES herein described for the term, at the rental amounts, and subject to and upon all of the terms, covenants and agreements hereinafter set forth.

ARTICLE 2. PREMISES

Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, for the term, at the rent, and upon the covenants and conditions hereinafter set forth, that certain premises known as Airspace Lease Area No. 04-SM-82-5004, situated in the City of South San Francisco, County of San Mateo, said land or interest herein being shown on the map, design overlays and elevations marked "Exhibit A," attached hereto and by this reference made a part hereof (PREMISES). The PREMISES shall consist solely of subsurface rights; Lessee shall have no right to occupy or use the surface area above the PREMISES. EXCEPTING THEREFROM all those portions of the PREMISES occupied by the supports and foundations of the existing structure.

ARTICLE 3. TERM

The term of this Lease shall be for no more than two (2) years, commencing July 1, 2020, and expiring June 30, 2022. Lessee shall have the option to extend the term for one (1) six (6) month period. Lessee shall have no further option to extend the term.

ARTICLE 4. RENT

Lessee shall pay to Lessor in advance of the commencement of the lease term the lump sum of \$ 38,000.00 as the full rent due and payable for the Term of this Lease. All rent shall be paid to Lessor at the following address: State of California, Department of Transportation, Attention: Cashier, P.O. Box 168019, Sacramento, CA 95816-3819 or State of California, Department of Transportation, 1820 Alhambra Boulevard, 2<sup>nd</sup> Floor, Sacramento, CA.

## ARTICLE 5. USE

### Section 5.1 Specified Use

The PREMISES shall be used and occupied by Lessee only and exclusively for the purpose of the placement of 38 tie-back foundation supports beneath the Lessor's right of way (as described in Exhibit A) and for no other purpose whatsoever without obtaining prior written consent of Lessor. Under no circumstances at the end of the Lease term shall the tie-back rods left in the State's right of way remain functional and/or under tension.

### Section 5.2 Condition of Premises

Lessee hereby accepts the PREMISES (as described in the attached "Exhibit A" incorporated herein.) in the condition existing as of the date of the execution hereof, subject to all applicable zoning, municipal, county, state, and federal laws, ordinances and regulations governing and regulating the use of the PREMISES, and accepts this Lease subject thereto and to all matters disclosed thereby and by any exhibits attached hereto. Lessee acknowledges that neither Lessor, nor any agent of Lessor, has made any representation or warranty with respect to the condition of the PREMISES or the suitability thereof for the conduct of Lessee. Further Lessor has not agreed to undertake any modification, alteration or improvement to the PREMISES except as provided in this Lease.

As a condition of possession and use of the PREMISES, the Lessee shall obtain and maintain a valid Encroachment Permit from the Traffic Operations Division of the Department of Transportation (Caltrans).

Except as may be otherwise expressly provided in this Lease, the taking of possession of the PREMISES by Lessee shall in itself constitute acknowledgement that the PREMISES are in good and useable condition, and Lessee agrees to accept the PREMISES in its presently existing conditions "as is," and that the Lessor shall not be obligated to make any improvements or modifications thereto except to the extent that may otherwise be expressly provided in this Lease.

Lessee represents and acknowledges that it has made a sufficient investigation of the conditions of the PREMISES existing immediately prior to the execution of this Lease, including but not limited to investigation of the surface, subsurface, and groundwater for contamination and hazardous materials) and is satisfied that the PREMISES will safely support the project type to be constructed by Lessee upon the PREMISES, that the PREMISES is otherwise fully fit physically and lawfully for the uses required and permitted by this Lease and that Lessee accepts all risks associated therewith.

Lessee acknowledges that (1) Lessor has informed Lessee prior to the commencement of the term of this Lease that the Lessor does not know nor has reasonable cause to believe that any release of any hazardous material has come to be located on or beneath the PREMISES; (2) prior to the commencement of the term of this Lease, the Lessor has made available to Lessee, for review and inspection, records in the possession or control of the Lessor which might reflect the potential existence of hazardous materials on or beneath the PREMISES; (3) Lessor has provided Lessee access to the PREMISES for a reasonable time and upon reasonable terms and conditions for

purposes of providing to Lessee the opportunity to investigate, sample, and analyze the soil and groundwater on the PREMISES for the presence of hazardous materials; (4) by signing this Lease Lessee represents to Lessor that, except as otherwise may be stated on Exhibit "B" attached hereto and by this reference incorporated herein, Lessee does not know nor has reasonable cause to believe that any release of hazardous material has come to be located on or beneath the PREMISES; and (5) with respect to any hazardous material which Lessee knows or has reasonable cause to believe has come or will come to be located on or beneath the PREMISES, Lessee has listed the hazardous material on attached Exhibit "B" and agrees promptly to commence and complete the removal of or other appropriate remedial action regarding the hazardous material introduced to the PREMISES during Lessee's period of use at no cost or expense to Lessor and in full compliance with all applicable laws, regulations, permits, approvals, and authorizations. The phrase "hazardous material," as used herein, has the same meaning as that phrase has in Section

5.6 of this Lease.

In the event Lessee breaches any of the provisions of this Section, this Lease may be terminated immediately by Lessor.

Lessee agrees that, except as otherwise expressly provided in this Lease, Lessee is solely responsible, without any cost or expense to the Lessor, to take all actions necessary, off as well as on the PREMISES, to continuously use the PREMISES as required by this Lease and in compliance with all applicable laws and regulations.

#### Section 5.3 Compliance with Law

Lessee shall not use the PREMISES or permit anything to be done in or about the PREMISES which will in any way conflict with any law, statute, zoning restriction, ordinance, or governmental rule or regulation or requirements of duly constituted public authorities now in force or which may hereafter be in force, or with the requirements of the State Fire Marshal or other similar body now or hereafter constituted, relating to or affecting the condition, use or occupancy of the PREMISES. The judgment of any court of competent jurisdiction or the admission of Lessee in any action against Lessee, whether Lessor be a party thereto or not, that Lessee has violated any law, statute, ordinance or governmental rule, regulation, or requirement, shall be conclusive of that fact as between Lessor and Lessee. Lessee shall not allow the PREMISES to be used for any unlawful purpose, nor shall Lessee cause, maintain or permit any nuisance in, on or about the PREMISES. Lessee shall not commit or suffer to be committed any waste in or upon the PREMISES.

#### Section 5.4 Explosives and Flammable Materials

The PREMISES shall not be used by Lessee or its contractors, employees, agents or invitees for the storage of flammable materials, explosives, or other materials or other purposes deemed by Lessor to be a potential fire or other hazard to the transportation facility. The operation and maintenance of the PREMISES shall be subject to regulation by Lessor so as to protect against fire or other hazard impairing the use, safety and/or appearance of the transportation facility. The occupancy and use of the PREMISES by Lessee shall not be such as will permit hazardous or unreasonably objectionable smoke, fumes, vapors or odors to rise above the surface of the traveled way of the transportation facility.

## Section 5.5 Hazardous Materials

Lessee shall at all times and in all respects comply with all federal, state, and local laws, ordinances and regulations, including, but not limited to, the Federal Water Pollution Control Act (33 U.S.C. section 1251, et seq.), Resource Conservation and Recovery Act (42 U.S.C. section 6901, et seq.), Safe Drinking Water Act (42 U.S.C. section 300f, et seq.), Toxic Substances Control Act (15 U.S.C. section 2601, et seq.), Clean Air Act (42 U.S.C. section 7401, et seq.) Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601, et seq.), Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code section 25249.5, et seq.), other applicable provisions of the California Health and Safety Code (section 25100, et seq., and section 39000, et seq.), California Water Code (section 13000, et seq.), and other comparable state laws, regulations, and local ordinances relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, disposal, or transportation of any oil, flammable explosives, asbestos, urea formaldehyde, radioactive materials, or waste, or other hazardous, toxic, contaminated or polluting materials, substances or wastes, including, without limitation, any "hazardous substances" under any such laws, ordinances or regulations (collectively "Hazardous Materials Laws"). As used in the provisions of this Lease, "hazardous materials" include any "hazardous substance" as that term is defined in section 25316 of the California Health and Safety Code and any other material or substance listed or regulated by any Hazardous Materials Law or posing a hazard to health or the environment. Except as otherwise expressly permitted in this Lease, Lessee shall not use, create, store or allow any hazardous materials on the PREMISES.

Except for the steel tie-backs and necessary grouting, in no case shall Lessee cause or allow the deposit or disposal of any hazardous materials of any kind on the PREMISES. Lessor, or its agents or contractors, shall at all times have the right to go upon and inspect the PREMISES and the operations thereon to assure compliance with the requirements herein stated. This inspection may include taking samples of substances and materials present for testing, and/or the testing of surface soils and soils below or underground tanks on the PREMISES. In the event Lessee breaches any of the provisions of this Section, this Lease may be terminated immediately by Lessor

It is the intent of the parties hereto that Lessee shall be responsible for and bear the entire cost of removal and disposal of any and all hazardous materials introduced to the PREMISES by Lessee or its contractors, employees or agents during Lessee's period of use of the PREMISES. Lessee shall also be responsible for any clean-up and decontamination on or off the PREMISES necessitated by the introduction of such hazardous materials within the PREMISES or any surface below the PREMISES by Lessee or its contractors, employees or agents, or of the introduction of hazardous materials by a trespasser within an adjacent property possessed and controlled by Lessee or its contractors, employees or agents, and such hazardous materials leech into Lessor's adjacent right of way. Lessee shall not be responsible for or bear the cost of removal or disposal of hazardous materials introduced to the PREMISES (a) by any party other than a Lessee or (b) during any period prior to commencement of Lessee's period of use of the PREMISES.

Lessee shall further defend, indemnify, and hold harmless Lessor, and Lessor's directors, officers, and employees, from any and all responsibilities, liabilities, penalties, and claims for damages resulting from the presence or use of hazardous materials within the PREMISES by Lessee or its contractors, employees or agents, or of the introduction of hazardous materials by a trespasser within an adjacent property possessed and controlled by Lessee or its contractors,

employees or agents during Lessee's period of use of the PREMISES, as required under Article 10.

#### Section 5.6 Encroachment Permit and Lease

Prior to using the PREMISES, Lessee shall apply for and be issued an Encroachment Permit from Lessor's Division of Traffic Operations specifically permitting Lessee to enter the PREMISES. Lessee shall maintain a valid encroachment permit for the entire term of this Lease.

Any suspension, termination or revocation of the issued Encroachment Permit for any reason shall be a material breach of this Lease as provided in Article 13 of this Lease. The Lease shall be terminated immediately upon revocation of Encroachment Permit by Lessor.

If the Encroachment Permit and this Lease conflict, the requirements of the Encroachment Permit shall prevail. While this Lease solely provides Lessee with subsurface rights to install tiebacks within the PREMISES as more particularly described in Section 5.1, the required Encroachment Permit may provide Lessee with specific permission to occupy the ground surface or sub-surface located below the PREMISES for temporary sidewalk or roadway safety closures or other uses indirectly related to the tieback operations within the PREMISES.

#### Section 5.7 Signs

No advertising signs or banners of any size may be erected on the PREMISES. Lessee shall not place, construct or maintain upon the PREMISES, and shall not allow others to place, construct, or maintain upon the PREMISES, any advertising media that include moving or rotating parts, searchlights, flashing lights, loudspeakers, phonographs or other similar visual or audio media. The term "sign" means any card, cloth, paper, metal, painted, or wooden sign of any character placed for any purpose on or to the ground or any tree, wall, bush, rock, fence, building, structure, trailer, or thing. Lessor may remove any sign, banner or flag existing on the PREMISES, and Lessee shall be liable to and shall reimburse Lessor for the cost of such removal plus interest as provided in Section 18.11 from the date of completion of such removal.

#### Section 5.8 Lessor's Rules and Regulations

Lessee shall faithfully observe and comply with the rules and regulations that Lessor shall from time to time promulgate for the protection of the transportation facility and the safety of the traveling public. Lessor reserves the right to make modifications to said rules and regulations at any time without prior notice to Lessee and without Lessee's consent. The additions and modifications to those rules and regulations shall be binding upon Lessee upon delivery of a copy of them to Lessee.

#### Section 5.9 Water Pollution Control

Lessee shall comply with all applicable State and Federal water pollution control requirements regarding storm water and non-storm water discharges from the Lessee's leasehold area and will be responsible for all applicable permits including but not limited to the National Pollutant Discharge Elimination System (NPDES) General Permit and Waste Discharge

Requirements for Discharges of Stormwater Associated with Industrial Activities (Excluding Construction), the NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities, and the Caltrans Municipal Separate Storm Sewer System NPDES Permit, and permits and ordinances issued to and promulgated by municipalities, counties, drainage districts, and other local agencies regarding discharges of storm water and non-storm water to sewer systems, storm drain systems, or any watercourses under the jurisdiction of the above agencies. Copies of the current storm water related NPDES permits are available on the State Water Resources Control Board's website at [www.swrcb.ca.gov](http://www.swrcb.ca.gov) under Stormwater.

Lessee understands the discharge of non-storm water into the storm sewer system is prohibited unless specifically authorized by one of the permits or ordinances listed above. In order to prevent the discharge of non-storm water into the storm sewer system, vehicle or equipment washing, fueling, maintenance and repair on the PREMISES is prohibited.

In order to prevent the discharge of pollutants to storm water resulting from contact with hazardous material, the storage or stockpile of hazardous material on PREMISES is strictly prohibited. Lessee shall implement and maintain the Best Management Practices (BMPs) shown in the attached Stormwater Pollution Prevention Fact Sheet for: General Land Use marked "Exhibit B". Lessee shall identify any other potential sources of storm water and non-storm water pollution resulting from Lessee's activities on the PREMISES, which are not addressed by the BMPs, contained in the attached Fact Sheet(s), and shall implement additional BMPs to prevent pollution from those sources. Additional BMPs may be obtained from 2 other manuals, (1) Right of Way Property Management and Airspace Storm Water Guidance Manual (RW Storm Water Manual) available for review at the Lessor's District Right of Way office or online at [www.dot.ca.gov/hq/row/rwstormwater](http://www.dot.ca.gov/hq/row/rwstormwater) and (2) Construction Site Best Management Practices (BMPs) Manual, which is available online at [www.dot.ca.gov/hq/construc/stormwater/manuals.htm](http://www.dot.ca.gov/hq/construc/stormwater/manuals.htm). In the event of conflict between the attached Fact Sheet(s), the manuals and this Lease, this Lease shall control.

Lessee shall provide Lessor with the Standard Industrial Classification (SIC) code applicable to Lessee's facilities and activities on the lease PREMISES. A list of SIC codes regulated under the General Industrial Permit SIC codes may be found at the State Water Resources Control Board (SWRCB) website at [http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/gen\\_indus.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/gen_indus.shtml). Other SIC codes may be found at [www.osha.gov/pls/imis/sicsearch.html](http://www.osha.gov/pls/imis/sicsearch.html).

Lessor, or its agents or contractors, shall at all times have the right to enter and inspect the PREMISES and the operations thereon to assure compliance with the applicable permits, and ordinances listed above. Inspection may include taking samples of substances and materials present for testing PREMISES.

## ARTICLE 6. IMPROVEMENTS

No improvements of any kind, except the tie-back rods and supports (including injected grout) below the surface shall be placed below, above, in, on, or, upon the PREMISES, and no alterations shall be made in, on, or, upon the PREMISES without the prior written consent of Lessor and the concurrence of the Federal Highway Administration (FHWA). In the event Lessee violates any of the provisions of this Article, this Lease may be terminated immediately by Lessor.



## ARTICLE 7. SURRENDER OF PREMISES AT EXPIRATION OR TERMINATION OF LEASE

Immediately upon the expiration or earlier termination of this Lease, Lessee shall peaceably and quietly leave, surrender, and yield up to Lessor the PREMISES together with all appurtenances and fixtures in good order, condition and repair, reasonable wear and tear excepted.

## ARTICLE 8. REMOVAL OF PERSONAL PROPERTY

Where relevant, appurtenances placed on the PREMISES by Lessee under this Lease are the personal property of Lessee. At the expiration or earlier termination of this Lease, Lessee shall remove all personal property placed on the PREMISES and shall restore the PREMISES to its previous condition, except surfacing, wheel rails, column guards, tie-backs and associated grouting, at Lessee's sole expense. Any personal property not removed by Lessee after thirty (30) days from Lessor's sending written notice to Lessee may be removed by Lessor. Lessee shall be liable to Lessor for all costs incurred by Lessor in effecting the removal of personal property and restoring the PREMISES. Lessor may, in its sole discretion, declare all personal property not removed by Lessee to be abandoned by Lessee and this property shall, without compensation to Lessee, become Lessor's property, free and clear of all claims to or against it by Lessee or any other person.

## ARTICLE 9. MAINTENANCE AND REPAIRS

### Section 9.1 Lessee's Obligations

Lessee, at its own cost and expense, shall maintain the PREMISES, and keep it free of all debris of every description. Lessee shall ensure that the PREMISES is at all times in an orderly, clean and safe condition. Lessor requires a high standard of cleanliness, consistent with location of the PREMISES as an adjunct of the California State Highway System. Lessee shall dispose of swept or picked up material properly and shall not deposit such material in the State Highway.

Where relevant, Lessee hereby expressly waives the right to make repairs at the expense of Lessor and waives the benefit of the provisions of Sections 1941 and 1942 of the California Civil Code or any successor thereto.

Lessee shall take all steps necessary to protect effectively all Lessor's improvements including but not limited to the piers, footings, utilities, columns and all other Lessor owned sub-surface structures, if any, from damage incident to Lessee's use of the PREMISES and any improvements, all without expense to Lessor. Lessee shall, at its own cost and expense, repair in accordance with Lessor's standards any damage to any property owned by Lessor, including, but not limited to, all fences, guardrails, piers, and columns, regardless of whether such damage is caused by Lessee, sub-lessees, invitees or other third parties. At Lessee's request, Lessor will repair the damage to its property on the PREMISES, and Lessee agrees to reimburse Lessor promptly after demand for the amount Lessor has reasonably expended to complete the repair work.

Lessee shall designate in writing to Lessor a representative who shall be responsible for the day-to-day operation on the PREMISES.

## Section 9.2 Lessor's Rights

In the event Lessee fails to perform Lessee's obligations under this Article, Lessor shall give Lessee written notice to do such acts as are reasonably required to so maintain the PREMISES. If within ten (10) days after Lessor sends such written notice, Lessee fails to comply do the work and diligently proceed in good faith to prosecute such maintenance and/or repair it to completion, Lessor shall have the right, but not the obligation, to do such acts and expend such funds at the expense of Lessee as are reasonably required to perform such work. Any amount so expended by Lessor shall be paid by Lessee promptly after demand plus interest as provided in Section 18.11 of this Lease from the date of completion of such work to date of payment. Lessor shall have no liability to Lessee for any damage, inconvenience or interference with the use of the PREMISES by Lessee as a result of performing any such work.

## ARTICLE 10. INDEMNITY AND INSURANCE

### Section 10.1 Indemnification

Neither Lessor nor any of Lessor's officers or employees is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by Lessee under or in connection with any work, authority, or jurisdiction conferred upon Lessee or arising under this Lease.

It is understood and agreed Lessee will fully defend, indemnify, and save harmless Lessor and all of its officers and employees from all claims, suits, or actions of every kind brought forth under any theory of liability occurring by reason of anything done or omitted to be done by Lessee under this Lease. Lessee's obligations to defend, indemnify, and save harmless Lessor extends to any and all claims, suits, or actions of every kind brought forth under any theory of liability occurring due to the use of the PREMISES and Lessee's operations under this Lease, any accompanying agreement with Lessor, and any encroachment permit issued by Lessor.

Lessee shall include in any contract it enters with any third party to conduct work in association with this Lease, including any contractors who design, construct, or maintain equipment, structures, fixtures or other property, a requirement the contractor will fully defend, indemnify and save harmless Lessor and its officers and employees from any and all claims, suits or actions of every kind brought forth under any theory of liability occurring due to the work conducted in association with this Lease. If Lessee has any additional insured endorsements executed by any third parties conducting work in association with this Lease naming Lessor to comply with this provision, Lessee shall provide copies of the additional insured endorsements and a Certificate of Insurance to Lessor.

If the Lease is terminated for any reason, Lessee also agrees to indemnify, defend, and save harmless Lessor from any third party claims for damages arising out of the termination of the Lease due to Lessor's failure to comply with the requirements of the Lease. Such third party claims include any claims from any contractors retained by Lessee or its successors.

Furthermore, Lessee agrees it controls the PREMISES. As such, Lessee agrees to defend, indemnify and hold harmless Lessor, its officers, agents, and employees for any and all claims arising out of any allegedly dangerous condition of public property based upon the condition of the PREMISES.

Lessee agrees to defend, indemnify and save harmless Lessor, its officers, employees, and agents from any and all claims, suits or actions of every kind brought forth under any theory of liability with respect to the PREMISES or the activities of Lessee or its officers, employees, and agents at the PREMISES, excluding those arising by reason of the sole or active negligence of Lessor, its officers, employees, and agents.

Lessee's obligations to defend and indemnify Lessor is not excused because of Lessee's inability to evaluate liability or because Lessee evaluates liability and determines Lessee is not liable. Lessee must respond within 30 days to the tender of any defense and indemnity by Lessor, unless this time has been extended by Lessor.

## Section 10.2 Insurance

Nothing in this Lease is intended to establish a standard of care owed to any member of the public or to extend to the public the status of a third-party beneficiary for any of these insurance specifications.

### A. Workers' Compensation and Employer's Liability Insurance

Lessee shall provide workers' compensation and employer's liability insurance as required under the Labor Code and provide Lessor the following certification before performing any work (Labor Code § 1861) in connection with this Lease:

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

Lessee shall provide Employer's Liability Insurance in amounts not less than:

1. \$1,000,000 for each accident for bodily injury by accident
2. \$1,000,000 policy limit for bodily injury by disease
3. \$1,000,000 for each employee for bodily injury by disease

### B. Comprehensive General Liability Insurance

Lessee shall procure Comprehensive General Liability Insurance with \$5 million per occurrence and aggregate limits and Umbrella or Excess Liability Insurance with \$20 million limits covering all operations by or on behalf of Lessee, providing insurance for bodily injury liability and property damage liability, and including coverage for:

1. PREMISES, operations and mobile equipment
2. Products and completed operations
3. Broad form property damage (including completed operations)
4. Explosion, collapse, and underground hazards
5. Personal injury
6. Contractual liability

Lessee shall provide a complete copy of the Comprehensive General Liability and the Excess/Umbrella insurance policies with all endorsements, riders, and amendments to Lessor on or before the commencement of this Lease.

The Comprehensive General Liability insurance procured by Lessee shall also comply with the following:

1. Shall extend to all of Lessee's operations and remain in full force and effect during the term of this Lease.
2. Must be with an insurance company with a rating from A.M. Best Financial Strength Rating of A- or better and a Financial Size Category of VII or better.
3. Shall be on Commercial General Liability policy form no. CG0001 as published by the Insurance Services Office (ISO) or under a policy form at least as broad as policy form no. CG0001.
4. Shall contain completed operations coverage with a carrier acceptable to LESSOR through the expiration of the latent and patent deficiency in construction statutes of repose set forth in Code of Civil Procedure section 337.15.
5. Shall name Lessor, including its officers, directors, agents (excluding agents who are design professionals), and employees, as additional insureds under the General Liability and Umbrella Liability Policies with respect to liability arising out of or connected with work or operations performed in connection with this Lease. Coverage for such additional insureds does not extend to liability to the extent prohibited by Insurance Code section 11580.04.
6. Shall provide additional insured coverage by a policy provision or by an endorsement providing coverage at least as broad as Additional Insured (Form B) endorsement form CG 2010, as published by the Insurance Services Office (ISO), or other form designated by Lessor.
7. Shall state the insurance afforded the additional insureds applies as primary insurance. Any other insurance or self-insurance maintained by Lessor is excess only and must not be called upon to contribute with this insurance.

Lessee shall carry automobile liability insurance, including coverage for all owned, hired, and nonowned automobiles. The primary limits of liability must be not less than \$1,000,000 combined single limit for each accident for bodily injury and property damage. The umbrella or excess liability coverage required under this Article shall also apply to automobile liability.

The umbrella or excess policy must contain a clause stating it takes effect (drops down) in the event the primary limits are impaired or exhausted.

Lessor allows reasonable deductible clauses not overly broad, exceeding \$250,000, or harmful to Lessor. Lessee agrees by executing this Lease it shall defend, indemnify, and hold harmless Lessor until such deductible is paid or applied to any claim arising out of this Lease, regardless of Lessee's evaluation of liability, as discussed in Section 9.1.

Lessor may assure Lessee's compliance with Lessee's insurance obligations. Ten days before an insurance policy lapses or is canceled during the term of this Lease, Lessee must submit evidence of renewal or replacement of the policy. Lessee is not relieved of its duties and responsibilities to indemnify, defend, and hold harmless Lessor, its officers, agents, and employees by Lessor's acceptance of insurance policies and certificates. The minimum insurance coverage amounts do not relieve Lessee from liability in excess of such coverage.

#### C. Self-Insurance

Reasonable self-insurance programs and self-insured retentions in insurance policies are permitted by Lessor. If Lessee uses a self-insurance program or self-insured retention, Lessee

must provide Lessor with the same protection from liability and defense of suits as would be afforded by first-dollar insurance. Further, execution of this Agreement is Lessee's acknowledgment Lessee will be bound by all laws as if Lessee were an insurer as defined under Insurance Code section 23 and Lessee's self-insurance program or self-insured retention shall operate as insurance as defined under Insurance Code section 22.

### Section 10.3 Failure to Procure and Maintain Insurance

If Lessee fails to procure or maintain the insurance required by this Article in full force and effect, this Lease may be terminated immediately by Lessor. In addition, if Lessee fails to procure or maintain the insurance required by this Article, Lessee shall cease and desist from operating any business on the PREMISES and the improvements erected thereon and shall prevent members of the public from gaining access to the PREMISES during any period in which such insurance policies are not in full force and effect.

### Section 10.4 Waiver of Subrogation

Lessee hereby waives any and all rights of recovery against Lessor, or against the officers, employees, agents and representatives of Lessor, for loss of or damage to Lessee or its property or the property of others under its control to the extent that such loss or damage is insured against under any insurance policy in force at the time of such loss or damages. Lessee shall give notice to its insurance carrier or carriers that the foregoing waiver of subrogation is contained in the Lease.

## ARTICLE 11. PAYMENT OF TAXES

Lessee agrees to pay and discharge, or cause to be paid and discharged when due, before the same become delinquent, all taxes, assessments, impositions, levies and charges of every kind, nature and description, whether general or special, ordinary or extraordinary, which may at any time or from time to time during the term of this Lease, by or according to any law or governmental, legal, political, or other authority whatsoever, directly or indirectly, be taxed, levied, charged, assessed or imposed upon or against, or which shall be or may be or become a lien upon the PREMISES or any buildings, improvements or structures at any time located thereon, or any estate, right, title or interest of Lessee in and to the PREMISES, buildings, improvements or structures. Specifically, and without placing any limitation on Lessee's obligations under the immediately preceding sentence, Lessee shall pay when due, before delinquency, any and all possessory interest taxes, parking taxes, workers' compensation, taxes payable to the California Franchise Tax Board, personal property taxes on fixtures, equipment and facilities owned by Lessee, whether or not the same have become so fixed to the land as to comprise a part of the real estate.

Lessee understands that any possessory interest of Lessee created in the PREMISES by this Lease may be subject to property taxation and that Lessee may be liable for payment of any such tax levied on such interest. Any obligation of Lessee under this Article, including possessory interest tax that the city or county may impose upon Lessee's interest herein, shall not reduce any rent due hereunder and any such obligation shall become the liability of and be paid by Lessee. In the event Lessee defaults in the payment of any of the obligations set forth in this Article, this Lease may be terminated immediately by Lessor and upon such termination Lessee must immediately cease using the PREMISES.

## ARTICLE 12. RIGHT OF ENTRY

### Section 12.1 Inspection, Maintenance, Construction and Operation of Freeway Structures

Lessor, through its agents or representatives, and other city, county, state and federal agencies, including the Federal Highway Administration, through their agents or representatives, shall have full right and authority to enter in and upon the PREMISES and any building or improvements situated thereon at any and all reasonable times during the term of this Lease for the purpose of inspecting the same without interference or hindrance by Lessee, Lessee's directors, officers, employees, agents, and/or representatives.

Lessor further reserves the right of entry for the purpose of inspecting the PREMISES, or the doing of any and all acts necessary or proper on said PREMISES in connection with the protection, maintenance, reconstruction, and operation of any and all freeway structures and their appurtenances; provided, further, that Lessor reserves the further right, at its discretion, to immediate possession of the same in case of any national or other emergency, or for the purpose of preventing sabotage, and for the protection of said freeway structures and/or appurtenances, in which event the term of this Lease shall be extended for a period equal to the emergency occupancy by Lessor, and during said period Lessee shall be relieved, to the degree of interference, from the performance of conditions or covenants specified herein.

Lessor further reserves the right of entry by any authorized officer, engineer, employee, contractor or agent of the Lessor for the purpose of performing any maintenance activities upon the PREMISES which Lessee has failed to perform. All agreements which Lessee enters into for the sublease or use of all or any part of the PREMISES shall contain a provision, approved by Lessor, which describes Lessor's right of entry as set forth in this Article.

### Section 12.2 Lessor's Use of the PREMISES

Lessee understands and agrees that Lessor may, from time to time, be required to perform work on all or a part of the freeway structures which are situated on, above or adjacent to the PREMISES or be required to use all or a portion of the PREMISES in connection with the protection, maintenance, reconstruction, and operation of the state highway system. Lessor shall have the right to impose such restrictions on Lessee's right to enter, occupy, and use the PREMISES and to construct improvements thereon as Lessor deems are necessary to enable it to maintain, protect, reconstruct or operate the state highway system without interference from Lessee and/or anyone acting by, through, or on behalf of Lessee.

In the event Lessor determines that it needs possession of all or a portion of the PREMISES, or needs to place restrictions on Lessee's use of the PREMISES, Lessor shall, at least thirty (30) days prior to the effective date of the commencement of such possession or restrictions notify Lessee in writing describing the extent of the possession or restrictions and the effective date of their commencement, except in cases of emergency in which cases Lessor will attempt to provide notice to Lessee in advance of placing such restrictions or taking possession but may place such restrictions or take possession effective immediately without advance notice to Lessee.. Upon the effective date of said notice, Lessee shall peaceably surrender possession of all or any specified portion of the PREMISES and comply with the restrictions as stated therein. The monthly rent stated in Article 4, shall be reduced by an amount equal to the proportion which the area of the portion of the PREMISES which Lessee is restricted from using or which has been surrendered to Lessor bears to the total area of the PREMISES. This reduction in rent shall be Lessee's sole remedy against Lessor for Lessee's inability to possess or use the entire area of the PREMISES, or

for any disruption of Lessee's ability to use any part of the PREMISES, and Lessee expressly agrees to hold Lessor harmless from any and all liability for, and expressly waives any right it may have to recover compensation from Lessor, waives any right it may have to recover for damages to the PREMISES or any improvements constructed on the PREMISES, waives any right it may have to assert or recover lost profits or other revenue, and waives its right to use or possess any portion of the PREMISES or improvements thereon, and damages to any other property, project or operation caused by Lessor's possession of the PREMISES, Lessor's, imposition of restrictions or Lessee's inability to use or possess all or any portion of the PREMISES.

Lessee shall conduct its operations on the PREMISES in such a manner so as not to interfere with Lessor's or its contractor's performance of any work done on or above the PREMISES. Lessee acknowledges that the performance of the work may cause damage to paving or other improvements constructed by Lessee on the PREMISES.

At the end of the lease, and forever thereafter if remaining tie-back rods are bent, cut or removed from State's right of way, the State will have no liability for any damage incurred to adjacent private property structures by the bending, cutting or removal of those tie-back rods from the State's right of way.

## ARTICLE 13. TERMINATION OF LEASE

### Section 13.1 Termination by Mutual Consent

Notwithstanding any provision herein to the contrary, this Lease may be terminated, and the provisions of this Lease may be altered, changed or amended by mutual written consent of Lessor and Lessee.

### Section 13.2 Termination by One Party

Notwithstanding any provision herein to the contrary, this Lease may be terminated at any time by Lessee upon providing Lessor with ninety (90) days prior notice in writing, or by Lessor upon providing Lessee with ninety (90) days prior notice in writing. In addition, failure of the Lessee to continually maintain a current, valid encroachment permit issued by Lessor's Division of Traffic Operations as required within Section 5.8 of this Lease, shall result in the immediate termination of this Lease. Notices of termination under this section shall be delivered in accordance with the provisions of Section 18.13 to the addresses set forth in Article 1.

## ARTICLE 14. DEFAULT

### Section 14.1 Default

In addition to any other grounds for breach identified elsewhere in this Lease, the occurrence of any of the following shall constitute a material breach and default of this Lease by Lessee:

- (a) Any failure by Lessee to pay rent or any other monetary sums required to be paid under this Lease, where such failure continues for ten (10) days after written notice thereof has been given by Lessor to Lessee.
- (b) The abandonment or vacation of the PREMISES by Lessee. Failure to occupy and operate within the PREMISES for thirty (30) consecutive days following the mailing of written notice from Lessor to Lessee calling attention to the abandonment shall be

deemed an abandonment or vacation.

- (c) The making by Lessee of any general assignment or general arrangement for the benefit of creditors; the filing by or against Lessee of a petition to have Lessee adjudged bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Lessee the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets, where possession is not restored to Lessee within forty-five (45) days; or the attachment, execution or other judicial seizure of substantially all of Lessee's assets, where such seizure is not discharged within thirty (30) days.
- (d) The failure by Lessee to comply with any provision of any law, statute, zoning restriction, or ordinance, or of any governmental rule, regulation, or requirement as set forth in Section 5.3 of this Lease.
- (e) The failure by Lessee to comply with the requirements regarding explosives and flammable materials as set forth in Section 5.4 of this Lease, or regarding hazardous materials as set forth in Section 5.5 of this Lease.
- (f) The failure by Lessee to pay any tax, assessment, imposition, levy, or charge of any kind as set forth in Article 10 of this Lease.
- (g) The construction by Lessee of any improvements on the PREMISES contrary to the provisions of Article 6 of this Lease.
- (h) The failure by Lessee to observe and perform any other provision of this Lease to be observed or performed by Lessee, where such failure continues for thirty (30) days after written notice thereof by Lessor to Lessee; provided, however, that if the nature of such default is such that it cannot be reasonably cured within such thirty (30) day period, Lessee shall not be deemed to be in default if Lessee shall within such period commence such cure and thereafter diligently prosecute the same to completion.
- (i) Failure of the Lessee to continually maintain a current valid Encroachment Permit issued by Lessor's Division of Traffic Operations as required within Sections 5.2 and 5.6 of this Lease.

#### Section 14.2 Lessor's Remedies

In the event of any material breach or default by Lessee, Lessor may at any time thereafter, without limiting Lessor in the exercise of any right of remedy at law or in equity which Lessor may have by reason of such default or breach, terminate Lessee's right to possession by any lawful means, in which case this Lease shall immediately terminate and Lessee shall immediately surrender possession of the PREMISES to Lessor. In such event Lessor shall be entitled to recover from Lessee all damages incurred by Lessor by reason of Lessee's breach or default including, but not limited to, the following:

- (a) any unpaid rent for the remaining term of the Lease; plus
- (b) any other amount necessary to compensate Lessor for all the detriment proximately caused by Lessee's failure to perform its obligations under this Lease or which in the ordinary course of events would be likely to result therefrom; plus
- (c) at Lessor's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable State law.

The term "rent" as used in this Article shall be deemed to be and to mean rent to be paid pursuant to Article 4 and all other monetary sums required to be paid by Lessee pursuant to the



terms of this Lease.

### Section 14.3 Late Charges

Lessee hereby acknowledges that late payment by Lessee to Lessor of rent and other sums due hereunder will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if any installment of rent or any other sum due from Lessee shall not be received by Lessor or Lessor's designee within ten (10) days after such amount shall be due, a late charge equal to one and one-half percent (1.5%) of the payment due and unpaid plus \$100.00 shall be added to the payment, and the total sum shall become immediately due and payable to Lessor. An additional charge of one and one-half percent (1.5%) of such payment, excluding late charges, shall be added for each additional month that such payment remains unpaid. Lessor shall apply any monies received from Lessee first to any accrued delinquency charges and then to any other payments due under the Lease. The parties hereby agree that such late charges represent a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Lessee. Acceptance of such late charges by Landlord shall in no event constitute a waiver of Lessee's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

## ARTICLE 15. ASSIGNMENTS, TRANSFERS, SUBLEASES AND ENCUMBRANCES

### Section 15.1 Prohibition on Assignments, Transfers and Subleases during the Term

Lessee shall not assign, transfer, or sublease all or any part of its interest in this Lease, and Lessor will not grant its consent to any purported assignment, transfer, or sublease of all or any part of this Lease.

### Section 15.2 Encumbrances

Lessee has no right to and shall not encumber the PREMISES in any manner whatsoever.

## ARTICLE 16. NONDISCRIMINATION

Lessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person, on the ground of race, color, or national origin shall be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in the use of said facilities, (2) in connection with the construction of any improvements on said land and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors in the selection and retention of first-tier subcontractors, and by first-tier subcontractors in the selection and retention of second-tier subcontractors, (3) such discrimination shall not be practiced against the public in its access to and use of the PREMISES and (4) Lessee shall use the PREMISES in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Part 21 (49 C.F.R., Part 21) and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the Lessor shall have the right to immediately terminate this Lease, and to re-enter and repossess the PREMISES, and hold the same as if said Lease had never been made or issued.

## ARTICLE 17. SECURITY DEPOSIT

Concurrently with Lessee's execution of this Lease, Lessee shall deposit with Lessor the sum of \$-0- as a Security Deposit. Said sum shall be held by Lessor as a Security Deposit for the faithful performance by Lessee of all of the terms, covenants, and conditions of this Lease to be kept and performed by Lessee during the term hereof. If Lessee defaults with respect to any provision of this Lease, including but not limited to the provisions relating to the payment of rent and any of the monetary sums due, Lessor may at Lessor's option use, apply, or retain all or any part of this Security Deposit for the payment of any other amount which Lessor may spend by reason of Lessee's default or use it to compensate Lessor for any other loss or damage which Lessor may suffer by reason of Lessee's default. If any portion of said Security Deposit is so used or applied, Lessee shall within ten (10) days after written demand therefor, deposit cash with Lessor in an amount sufficient to restore the Security Deposit to its original amount, and Lessee's failure to do so shall be a material breach of this Lease. Lessor shall not be required to keep this Security Deposit separate from its general funds, and Lessee shall not be entitled to interest on such deposit. If Lessee shall fully and faithfully perform every provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to Lessee at the expiration of the Lease term and after Lessee has vacated the PREMISES.

## ARTICLE 18. ADDITIONAL PROVISIONS

### Section 18.1 Quiet Enjoyment

Lessor covenants and agrees with Lessee that upon Lessee paying rent and other monetary sums due under the Lease and performing Lessee's covenants and conditions, Lessee shall and may peaceably and quietly have, hold, and enjoy the PREMISES for the Lease term, except as otherwise provided in this Lease.

### Section 18.2 Captions, Attachments, Defined Terms

The captions of the Articles and Sections in this Lease are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any section of this Lease. Exhibits attached hereto, and addenda and schedules mutually agreed upon by the parties, are deemed by attachment to constitute part of this Lease and are incorporated herein. The words "Lessor" and "Lessee," as used herein, shall include the plural as well as the singular. Words used in neuter gender include the masculine and feminine and words in the masculine or feminine gender include the neuter. If there be more than one Lessor or Lessee, the obligations hereunder imposed upon Lessor or Lessee shall be joint and several. If the Lessees are husband and wife, the obligations shall extend individually to their sole and separate property as well as to their community property.

### Section 18.3 Entire Agreement

This Lease, along with any exhibits and attachments hereto, constitutes the entire agreement between Lessor and Lessee relative to the PREMISES and this Lease and the exhibits and attachments may be altered, amended, or revoked only by an instrument in writing signed by both Lessor and Lessee, except as otherwise provided in this Lease. Lessor and Lessee agree that

all prior or contemporaneous oral agreements between and among themselves and their agents and representatives relative to the leasing of the PREMISES are merged in or revoked by this Lease Agreement.

#### Section 18.4 Severability

If any term or provision of this Lease is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, such term or provision shall be automatically severed from this Lease and the remainder of this Lease shall not be affected thereby, and the remaining terms and provisions of this Lease shall be valid and enforceable to the fullest extent permitted by law.

#### Section 18.5 Costs of Suit

If Lessee or Lessor shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Lessor for the recovery of rent or possession of the PREMISES, the losing party shall pay the successful party a reasonable sum for attorney's fees which shall be deemed to have accrued on the commencement of such action. Should Lessor, without fault on Lessor's part, be made a party to any litigation instituted by Lessee or by any third party against Lessee, or by or against any person holding under or using the PREMISES by license of Lessee, or for the foreclosure of any lien for labor or materials furnished to or for Lessee or any such other person or otherwise arising out of or resulting from any act or transaction of Lessee or of any such other person, Lessee shall defend, indemnify and hold harmless Lessor, and Lessor's directors, officers, employees, and representatives, from any and all such claims and/or judgment rendered against Lessor or the PREMISES or any part thereof, and Lessee shall pay and/or reimburse Lessor for all costs and expenses, including reasonable attorney's fees, incurred by Lessor in connection with such litigation.

#### Section 18.6 Time; Joint and Several Liability

Time is of the essence for this Lease and each and every provision hereof, except as to the conditions relating to the delivery of possession of the PREMISES to Lessee. All the terms, covenants, and conditions contained in this Lease to be performed by Lessee, if such Lessee shall consist of more than one person or organization, shall be deemed to be joint and several among the component persons and/or organizations making up such Lessee. All rights and remedies of the parties shall be cumulative and non-exclusive of any other remedy at law or in equity.

#### Section 18.7 Binding Effect; Choice of Law

The parties hereto agree that all the provisions hereof are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate section hereof; and all of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Lease shall be governed by the laws of the State of California, without regard for its conflict of law provisions.

#### Section 18.8 Waiver

No covenant, term, or condition, or the breach thereof, shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver or the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition. Acceptance by Lessor of any performance by Lessee after the time the same shall have become due shall not constitute a waiver by Lessor of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by Lessor in writing.

#### Section 18.9 Surrender of PREMISES

The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation thereof, shall not work a merger and shall, at the option of the Lessor, terminate all or any existing subleases or sub tenancies, or may, at the option of Lessor, operate as an assignment to it of any or all such subleases or sub tenancies.

#### Section 18.10 Holding Over

If Lessee remains in possession of all or any part of the PREMISES after the expiration of the Lease term, with or without the express or implied consent of Lessor, such tenancy shall be from month to month only and not a renewal hereof or an extension for any further term, and in such case, rent and other monetary sums due hereunder shall be payable at the time specified in this Lease and such month-to-month tenancy shall be subject to every other term, covenant, condition and agreement contained herein, except that the monthly rental rate set forth in Article 4 shall be increased by ten percent (10%) effective the first month of the holdover period. Lessor further reserves the right to review the rental rates of all holdover Lessees periodically for the purpose of making reasonable adjustments to the monthly rental payments.

#### Section 18.11 Interest on Past Due Obligations

Except as expressly provided otherwise in this Lease, any amount due to Lessor not paid when due shall bear interest at a rate one percent (1%) above the discount rate of the Federal Reserve Bank of San Francisco, per month, from the original due date. Except as expressly provided otherwise in this Lease, payment of such interest together with the original amount due shall excuse or cure any default by Lessee caused by failure to timely pay the original amount due.

#### Section 18.12 Recording

Neither Lessor nor Lessee shall record this Lease.

#### Section 18.13 Notices

All notices or demands of any kind required or desired to be given by Lessor or Lessee hereunder shall be in writing and shall be deemed delivered two (2) calendar days after depositing the notice or demand in the United States mail, certified or registered, postage prepaid, addressed to the Lessor or Lessee respectively at the addresses set forth in Article 1.

#### Section 18.14 No Reservation

Submission of this instrument for examination or signature by Lessee does not constitute a reservation of or option for lease; it is not effective as a lease or otherwise until execution and delivery by both Lessor and Lessee.

#### Section 18.15 Corporate Authority

If Lessee is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that he/she is duly authorized to execute and deliver this Lease on behalf of said corporation in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the Bylaws of said corporation, and that this Lease is binding upon said corporation in accordance with its terms. If Lessee is a corporation, Lessee shall, within thirty (30) days after execution of this Lease, deliver to Lessor a certified copy of a resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Lease.

#### Section 18.16 Force Majeure

If either Lessor or Lessee shall be delayed or prevented from the performance of any act required under this Lease by reason of acts of God, or by governmental restrictions, regulations, or controls (except those reasonably foreseeable in connection with the uses contemplated by this Lease), or by other cause without fault and beyond the control of the party obligated (except financial inability), then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Nothing in this section shall excuse Lessee from prompt payment of any rent, taxes, insurance or any other charge required of Lessee, except as may be expressly provided in this Lease.

In Witness Whereof Lessor and Lessee have executed this Lease as of the date first written above.

LESSOR: STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Dated: \_\_\_\_\_

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

JULIE MCDANIEL, Right of Way-  
District Office Chief  
Airspace Development, Local Programs,  
Relocation Assistance & Utility Relocations

LESSEE: CITY OF SOUTH SAN FRANCISCO

Dated: \_\_\_\_\_

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

MIKE FUTRELL, City Manager  
City of South San Francisco

# Stormwater Pollution Prevention

## General Land Use

### Illicit Connections/Illegal Discharge

- Locate solid waste storage areas away from drainage facilities and watercourses and not in areas prone to flooding or ponding. Prevent storm water run-on from contacting stored solid waste through the use of ditches, berms, dikes and swales. Use dry cleanup techniques (e.g., vacuuming, sweeping, dry rags) to remove solid waste from the site when practicable. Use wet cleaning techniques only when dry cleanup techniques are not practicable. Periodically inspect the solid waste storage areas and review the disposal procedures.
- Non-storm water discharges to drainage paths, drain systems and watercourses are prohibited. Fluids should be collected by vacuum or other methods and contained and recycled, evaporated or discharged to the sanitary sewer system with approval from the publicly-owned treatment works.
- Store, transport and dispose of all hazardous waste in accordance with federal, state and local regulations. Follow label instructions regarding the proper handling, mixing and application of materials which could generate hazardous waste and a discharge to waterways.
- Train employees in proper waste disposal and cleaning, maintenance and good housekeeping procedures.



### General Maintenance and Repair

Properly collect and dispose of water when pressure washing buildings, rooftops, and other large objects. Properly prepare work area before conducting building maintenance. Properly clean and dispose of equipment and wastes used and generated during building maintenance.

Recycle residual paints, solvents, lumber, and other materials to the maximum extent practical. Buy recycled products to the maximum extent practical.

Do not dump waste liquids down the storm drain. Make sure that nearby storm drains are well marked to minimize the chance of inadvertent disposal of residual paints and other liquids.



Keep the work site clean and orderly. Remove debris in a timely fashion. Sweep the area. Cover materials of particular concern that must be left outside, particularly during the rainy season. Use drip pans or absorbent material under leaking vehicles and equipment to capture fluids.

All maintenance activities should practice water conservation. Keep water application equipment in good working condition. Use the minimum amount of water needed to complete each maintenance activity.

# Stormwater Pollution Prevention

## General Housekeeping

- Purchase only the amount of material that will be needed for foreseeable use. Choose products that do the same job with less environmental risk.
- Keep work sites clean and orderly. Remove debris in a timely fashion. Sweep the area. Dispose of wash water, sweepings, and sediments, properly. Recycle or dispose of fluids properly.
- Specific employees should be assigned specific inspection responsibilities at the work site and given the authority to remedy any problems found.
- Prohibit littering by employees, subcontractors, and visitors.
- Keep lids on dumpsters closed. Arrange for larger dumpsters or more frequent collection of trash from dumpsters to prevent overflow. Do not conduct dumpster washout on the work site. Notify trash hauling contractors that only watertight dumpsters are acceptable for use on-site.