

**AGENDA
MCFARLAND CITY COUNCIL
MCFARLAND SUCCESSOR AGENCY
MCFARLAND PUBLIC FINANCE AUTHORITY
MCFARLAND IMPROVEMENT AUTHORITY
MCFARLAND PARKING AUTHORITY
MCFARLAND USA FOUNDATION**

**SPECIAL MEETING
CITY COUNCIL CHAMBERS
103 W. SHERWOOD AVE, MCFARLAND, CA**

**May 05, 2021
5:00 PM**

In Person Meeting

How to submit public comments:

- If you have a comment, a statement or question, please submit these in writing to the City Clerk by mail at 401 W. Kern Ave, McFarland, CA 93250, or email at falvarado@mcfarlandcity.org. Such comments must be identified by adding the Agenda Item Number in the subject line of the email. Please include your name and address for the record. In the subject line, please provide “Public Comment Item #” (insert the item number relevant to your comment) or “Public Comment Non-Agenda Item”. All public comments will be read into the record or compiled as part of the record.

- Speakers are limited to two (2) minutes.

Americans with Disabilities Act:

In compliance with the ADA, if you need special assistance to participate in a City meeting or other services offered by the City, please contact the City Clerk’s office, at (661) 792-3091 ext. 2135. Notification of at least 48 hours prior to the meeting, or time when services are needed, will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or services.

CALL TO ORDER: Mayor Sally Gonzalez

ROLL CALL:

Mayor/Chairman, Sally Gonzalez
Mayor Pro Tem, María T. Pérez
Council Member/Board Member, Eric Rodriguez
Council Member/Board Member, Saul Ayon
Council Member/Board Member, Ricardo Cano

INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT: The public may address the Council/Board Member on items, that appear on the agenda. Council/Board Members may respond briefly to statements made or questions posed. They may ask a question for clarification; may refer the item to staff for further study or for placement on a future agenda. **Speakers are limited to two minutes for each person. Please state your name and address for the record prior to making a presentation. Fifteen minutes total will be allowed for any one subject.**

PRESENTATIONS, INTRODUCTIONS AND AWARDS

1. Listening Session: Water Balance and Use Area Management Plan Report for the City of McFarland Wastewater Treatment Facility.

This presentation is intended to give the City an indication to the possibility of selling 59 acres of the 159-acre City owned farm that is used for effluent disposal by means of irrigating feed and fodder crops and to move forward with conducting a Use Area Management Plan required under the Waste Discharge Requirement (WDR) Order R5-2008-0072.

- a. Brief presentation by Amando Garza, Cannon Corp Engineering.
- b. Questions and Answers

ADJOURNMENT

This is to certify this agenda was posted at McFarland City Hall on May 3, 2021.

Francisca Alvarado

Francisca Alvarado, City Clerk

Next Meeting: Regular City Council May 13, 2021.

The City of McFarland does not discriminate based on disability and complies with the provisions of the Americans with Disabilities Act (ADA). If you need special assistance to participate in this meeting, please contact the City Clerk's Office at (661) 792-3091 at least 48 hours prior to the meeting to make reasonable arrangements to ensure accessibility to this meeting.

**MEMORANDUM
CITY OF MCFARLAND**

TO: Honorable Mayor and Council Members

FROM: Maria Lara, City Manager
Larry A Ronk III, Acting Community Development Director
Mario Gonzalez, Public Works Director

DATE: May 5, 2021

SUBJECT: Water Balance and Use Area Management Plan Report for the City of McFarland Wastewater Treatment Facility Listening Session

Discussion:

There is no single right or wrong way to conduct a listening session. Different cities have different operating practices. What is provided below is one approach that leads to a tightly focused business meeting. Council is of course free to modify the outline provided or approach the meeting differently based on McFarland's past practices.

The meeting begins with a welcome by the Council and a presentation by Amando Garza, Wastewater engineer on the subject matter. Based on the recent interest for private development to purchase the farmland adjacent to the wastewater treatment plant, there will be a need to further evaluate the evaporation/percolation ponds and land management effluent irrigation.

A Use Area Management Plan is required thru the Waste Discharge requirements ((WDR) Order R5-2008-0072). Specifically, this report would be intended to give the City an indication to the possibility of selling 59 acres of the 159-acre City owned farm that is used for effluent disposal by means of irrigating feed and fodder crops.

The City owns and operates a wastewater treatment facility (WWTF) for the treatment of domestic and commercial wastewater. The WWTF is on the northwest corner of Perkins Avenue and Melcher Avenue, about two miles west of the City. On April 25, 2008, the RWQCB adopted WDR Order No. R5-2008-0072 to regulate the WWTF. The WWTF consists of headworks with mechanical screening, two aeration lagoons, a settling pond, and two storage ponds. The City has been using final effluent to irrigate approximately 159 acres (primarily alfalfa) of City owned farmland.

With the possible removal of 60 acres of farmland effluent irrigation disposal, the proposed change in property will result different land use management plan and a revised water balance must be completed with only 100 acres in farm production. With a reduction in farmland more percolation is desired for the effluent disposal (i.e. Water Pond Recharge).

On September 20, 2019, a Water Balance and Use Area Management Plan Report for the City of McFarland Wastewater Treatment Facility was conducted for the removal of the 80 acres of farmland to the north of wastewater facility and it was determined that the City can manage the Use Area with 158 acres of feed and fodder farming with a large effluent disposal component thru percolation/evaporation in the ponds. This report has not been done for the 159 acres of farmland to the south of the wastewater facility.

On April 13, 2021, City Staff had a conference call with the city wastewater engineer, Amando Garza and the California Regional Water Quality Control Board (Region 5) – Fresno, to discuss the potential change of effluent irrigation disposal and it was made clear that the proposed change requires the City to submit an updated Water Balance and Use Area Management Report for approval.

Therefore, it is staff recommendation that prior to entering any negotiations related to the sale of this property the City conduct this report. Although going through the above process will take more time and cost engineering fees than simply negotiating the sale of the Property, it is necessary to limit the liability and ensure the wastewater plant will be sustainable for future development.

If an action item is required Council may direct an item be added to a future agenda.

Finally, staff will be prepared to be responsive to the needs of Council during the listening session.

FISACL IMPACT:

There is no fiscal impact as there is no action that may be taken at this meeting.

RECOMMENDATION:

Staff recommends Council listen to the presentation and public feedback provided. This agenda item is not listed as an action item and as a result no action is required.

ATTACHMENTS

Cannon Project Proposal



April 22, 2021

Mr. Maria Lara
City Manager
Community Development Director
401 West Kern Avenue
McFarland, CA 93250

PROJECT: ENGINEERING SERVICES FOR REVISED LAND MANAGEMENT REPORT UPDATE

Dear Ms. Lara:

Based on the recent interest for private development to purchase the farmland adjacent to the wastewater treatment plant, there will be a need to further evaluate the evaporation/percolation ponds and land management effluent irrigation. Previously, the land management goal was to maximize the use of effluent onto 240 acres of City owned land. Recently, the City sold the north 80 acres of the 240 acres of farmland. A water and nitrogen balance was completed in September 2019 for this scenario. With additional land being considered for sale, the revised water, nitrogen and salts loading must be revisited/recalculated for the viability of the City moving towards less effluent disposal farming.

Cannon contacted the Regional Water Quality Control Board for preliminary indications as to the requirements for the consideration of farmland sales and ultimately moving towards complete evaporation percolation. They indicated that a formal Report of Waste Discharge will be required along with the necessary Water, Nitrogen, and salt loadings (TDS loadings). Lastly, they also mentioned the need for an updated Title 22 report required by the Division of Drinking Water for the use of reclaimed wastewater.

The purpose of this letter proposal is to present the services needed to provide the initial report for a water and nitrogen balance and salts loading calculations. There other regulatory reports will be deferred to another date. Although this proposed Land Management report is not an all-inclusive list for regulatory requirements of changing up the disposal practices, it will be the start for the information required to determine how the city will dispose of the treated wastewater as the City grows up to 2.3 mgd.

We look forward to our continued working relationship with the City of McFarland. The following pages detail the scope of work for an effluent percolation and land management analysis.

Sincerely,


Armando G. Garza, PE
Senior Principal Engineer
C 54148



PROJECT UNDERSTANDING AND APPROACH

The City of McFarland and Cannon Corporation have been very successful in the completion of three major wastewater plant upgrades including: 1) the Irrigation Pump Station and Pipelines, 2) the new Headworks Screening Facility and, 3) Aeration Basin and Blower upgrade. The last upgrade remains to be completed. The plant upgrades initially included the plan to continue the on-going effluent disposal for irrigation of feed and fodder crop on the adjacent City-owned farmland. Due to potential economic interests for the farmland sale to private developers, the City is now moving towards disposal exclusively by evaporation/percolation. Moving towards this different disposal practice requires various regulatory requirements to be completed with the regional water quality control board.

With the ongoing interest in selling the existing City farmland, the Regional Water Quality Control Board (RWQCB) was initial consulted. City Management and staff and Cannon Corporation conducted a phone discussion with this RB management and staff (on April 22, 2021). Although the RWQCB encourages reclamation, they would not discourage the city from selling more land (potentially moving toward full percolation/evaporation). They will ensure that the proper regulations are being followed. With the sale of the north 80 acres, the revised water balance was forwarded to the RWQCB. Further sale of additional land requires addition engineering analysis of water, nitrogen, and salts loading, including the submission of a formal Report of Waste Discharge. By selling the north 80 acres and potentially another 60 acres of the south farmland, the City may be migrating towards full percolation/evaporation of the effluent disposal.

Cannon will consult with BSK and Associates to evaluate the existing soil types, perform soil boring and conduct infiltration test(s) to determine a viable percolation rate with the idea that the farm acreage just south of the plant may be converted to evaporation/percolation ponds.

Utilizing the percolation values from the soil investigation effort, the existing water balance spreadsheet will be re-visited for removing 60 acres of the remaining south 160 acres of farmland for effluent disposal. The intent will be to utilizing less land while maximizing percolation for both the existing and projected design annual average daily flow of 2.3 million gallons per day (with a 2.5 mgd maximum month daily flow). This water balance must incorporate the 100-year rainfall event per the RWQCB standards.

SCOPE OF WORK

This scope of work was developed based on utilizing the existing water balance spreadsheet along with newly determined percolation value for maximum percolation (with the idea that the pond bottoms will be routinely deep ripped).

Task 1. Farmland soil borings, soil analysis, and Infiltration testing by BSK

Cannon will sub consult with BSK and Associates for the field soil investigation efforts. These efforts will consist of various shallow hand auger soil borings and 2 deeper soil borings along with 1 or 2 infiltration tests. A written report on the findings will be developed by BSK staff.

Task 2 – Modified Land Management Report

Develop a revised Land Management report (water, nitrogen and salts loading report) for effluent disposal for complete evaporation/percolation of existing and future effluent (limited



farming may remain in the mix). The revised land management report will be similar to the September 2019 report for the north 80 acres.

DELIVERABLES

The anticipated deliverables for this project are as follows:

- Soil Investigation report by BSK
- Revised Water Balance and Written Report

ASSUMPTIONS AND EXCLUSIONS

The following assumptions and exclusions apply to this proposal:

- City staff will be responsible for providing data in a timely manner for expedited execution of the tasks at hand.

SCHEDULE

The following schedule will be targeted for the percolation evaluation.

Soil boring and report 2 weeks from NTP
 Revised Water Balance Report..... 2 weeks after receipt of Soils report

FEES

Fees are based on the rates per the enclosed fee schedule and do not include Agency checking or recording fees, or title company fees. It is our understanding that this project qualifies qualify for California Prevailing Wages.

Task 1. Soil investigation for infiltration values with report	\$ 6,500.00
Task 2. Water Balance Calculations & Report	<u>\$ 8,400.00</u>
T&M Estimate:	\$14,900.00

EXCLUSIONS

1. The scope or work above does not include the design efforts for a new Evaporation and Percolation pond. It is anticipated that additional evaporation/percolation/storage pond(s) would be needed should the City rely entirely on disposal by evaporation/percolation. Additionally, the scope of work does not include any design efforts for piping required to a newly planned pond.

2. Report of Waste Discharge. This document will eventually be required with the upcoming final phase of the plant expansion.

2. Environmental Documentation necessary for the revised Discharge is not included in the Scope of Work above.



3. Antidegradation Study (Item E of the Report of Waste Discharge). An Antidegradation study is not including in the scope of work above.

4. Industrial Stormwater Permit. The scope of work does not include the Item F of the WDR.

5. General WDRs for Sanitary Sewer System (Collection Systems). The list of items required by the WDR includes the development of a Sewer System Management Plan. The City has previously completed this document in April 2011, and it is not anticipated that a re-submittal is required.



2020 Fee Schedule

Bill Rate Ranges
Subject to change

Accounting Specialist/Admin Assistant	\$ 45 - \$ 65
Business Services Administrator I - III	\$ 62 - \$ 72
Business Services Coordinator I - II	\$ 52 - \$ 57
Assistant Resident Engineer	\$ 135 - \$ 145
Associate Construction Engineer	\$ 110 - \$ 120
Associate Engineer	\$ 140 - \$ 175
Associate Landscape Architect	\$ 145 - \$ 155
Associate Planner	\$ 140 - \$ 150
Automation Design/Project Engineer	\$ 115 - \$ 135
Automation Specialist	\$ 135 - \$ 145
Automation Technician	\$ 95 - \$ 105
CAD Tech	\$ 85 - \$ 95
CAD Manager	\$ 100 - \$ 110
Clerical Assistant I - II	\$ 60 - \$ 65
Construction Inspector I - III	\$ 110 - \$ 130
Construction Manager	\$ 155 - \$ 165
Controller	\$ 70 - \$ 110
Design Engineer	\$ 110 - \$ 130
Director	\$ 180 - \$ 220
Engineer Tech	\$ 98 - \$ 108
Engineering Assistant I - II	\$ 80 - \$ 95
Engineering Manager	\$ 210 - \$ 230
Grant Funding Manager I - II	\$ 130 - \$ 145
I&E Construction Coordinator I - II	\$ 93 - \$ 114
I&E Services Coordinator	\$ 80 - \$ 90
Information Systems Admin/Manager	\$ 75 - \$ 115
Land Surveyor I - V	\$ 150 - \$ 195
Landscape Architect	\$ 105 - \$ 115
Landscape Designer I - II	\$ 80 - \$ 104
Lead Automation Specialist	\$ 147 - \$ 157
Lead Automation Technician	\$ 105 - \$ 115
Lead Designer	\$ 100 - \$ 122
Marketing Manager / Director	\$ 125 - \$ 150
Office Engineer / Construction I - III	\$ 98 - \$ 120
Plan Check Engineer I - III	\$ 120 - \$ 165
Planner I - III	\$ 83 - \$ 104
Planning Assistant I	\$ 55 - \$ 70
Principal Construction Engineer	\$ 185 - \$ 195
Principal Designer	\$ 110 - \$ 134
Principal Engineer	\$ 170 - \$ 202
Project Coordinator I - II	\$ 88 - \$ 104

Project Designer	\$ 83 - \$ 120
Project Engineer	\$ 120 - \$ 145
Project Manager / Sr. Principal	\$ 195 - \$ 220
Resident Engineer	\$ 155 - \$ 165
Sr. Associate Engineer	\$ 150 - \$ 180
Sr. Automation Specialist	\$ 163 - \$ 170
Sr. Automation Technician	\$ 126 - \$ 136
Sr. CAD Tech	\$ 90 - \$ 110
Sr. Construction Engineer	\$ 175 - \$ 195
Sr. Construction Manager	\$ 180 - \$ 200
Sr. Consultant / Principal-in-Charge	\$ 185 - \$ 260
Sr. Land Surveyor	\$ 191 - \$ 221
Sr. Landscape Architect	\$ 153 - \$ 163
Sr. Planner	\$ 153 - \$ 163
Sr. Principal Designer	\$ 110 - \$ 150
Sr. Principal Engineer	\$ 180 - \$ 230
Sr. Project Designer	\$ 105 - \$ 130
Sr. Project Engineer	\$ 130 - \$ 155
Sr. Project Manager	\$ 190 - \$ 213
Sr. Resident Engineer	\$ 172 - \$ 185
Structures Representative	\$ 172 - \$ 182
Survey Manager	\$ 195 - \$ 225
Survey Technician I - VI	\$ 105 - \$ 165
Technical Writer I - IV	\$ 90 - \$ 125

Survey Crew Rates - Regular

One-Man Field	\$ 166
Two-Man Field	\$ 245
Three-Man Field	\$ 325
Two-Man - HDS	\$ 295

Survey Crew Rates - Prevailing Wage

One-Man Field	\$ 220
Two-Man Field	\$ 295
Three-Man Field	\$ 425

Electrical - Prevailing Wage

Electrician	\$ 110 - \$ 158
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CM - Prevailing Wage

BCI Construction Inspector	\$ 140
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Forensics Engineering / Expert Testimony Fee Schedule Available Upon Request

Other Direct Charges

Black Line Plots	\$2.00 per page
Outside Reproduction	Cost + 15%
Automation & Electrical Materials	Cost + 25% (+tax)
Subconsultant Fees	Cost + 10%

Color Plots	\$5.00 per page
Travel and Related Subsistence	Cost + 15%
Standard Mileage Rate	IRS Rate per mile
Airplane Mileage Rate	GSA Rate per mile

All of the above hourly rates include all direct labor costs and labor overhead, general and administrative expenses and profit. All direct expenses, such as special equipment, shipping costs, travel other than by automobile, parking expenses, and permit fees will be billed at the actual cost plus 15%. If the client requests, or the client's schedule requires work to be done on an overtime basis, a multiplier of 1.5 will be applied to the stated rates for weekdays for daily hours in excess of 8 as well as weekends and a multiplier of 2.0 for daily hours in excess of 12 and holidays. If the client requests field services to be provided outside of normal working hours (between 6:00 p.m. and 6:00 a.m.), a multiplier of 1.5 will be applied to the stated rates. For prevailing wage projects, if the client requests field services to be provided on any given Sunday, a multiplier of 2.0 will be applied to the stated rates and on or around an observed holiday, other rates may be applied. Survey Crews and Automation Field staff are billed portal to portal, and mileage charges are included in the hourly rate. A minimum charge of 4 hours will be charged for any Automation Field Service calls outside of normal working hours (between 6:00 p.m. and 6:00 a.m.). The stated rates are subject to change, typically on an annual basis.



APPENDIX A: TERMS FOR CANNON SERVICES

Section 1: The Agreement

- 1.1 The agreement between the above noted parties consists of the following terms, the attached proposal and any exhibits or attachments noted in the proposal. Together these elements will constitute the entire agreement superseding any and all prior negotiations, correspondence, or agreements either written or oral. Any changes to this agreement must be mutually agreed to in writing.

Section 2: Standard of Care

- 2.1 Data, interpretations, and recommendations by Cannon will be based solely on information provided to Cannon. Cannon is responsible for those data, interpretations, and recommendations, but will not be responsible for other parties' interpretations or use of the information developed.
- 2.2 Services performed by Cannon under this agreement are expected by the Client to be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of this profession practicing contemporaneously under similar conditions in the locality of the project. No other warranty, expressed or implied, is made.
- 2.3 The Client agrees that Cannon may use and publish the Client's name and a general description of Cannon's services with respect to the project in describing Cannon's experience and qualifications to other Clients and prospective Clients. The Client also agrees that any patentable or copyrightable concepts developed by Cannon as a consequence of service hereunder are the sole and exclusive property of Cannon.
- 2.4 The Client recognizes that it is neither practical nor customary for Cannon to include all construction details in plans and specifications, creating a need for interpretation by Cannon or an individual who is under Cannon's supervision. The Client also recognizes that construction review permits Cannon to identify and correct quickly and at comparatively low cost professional errors or omissions that are revealed through construction, or errors or omissions committed by others due to misinterpretation of design documents, or due to other causes. For the foregoing reasons construction review is generally considered an essential element of a complete design professional service. Accordingly, if the Client directs Cannon not to provide construction monitoring, Cannon shall be held harmless for any and all acts, errors or omissions, except for those consequences which it reasonably could be concluded that Cannon's review services would not have prevented or mitigated.
- 2.5 Client acknowledges that Cannon is not responsible for the performance of work by third parties including, but not limited to, engineers, architects, contractors, subcontractors, or suppliers of Client.

Section 3: Billing and Payment

- 3.1 Client will pay Cannon on a monthly basis to be billed by Cannon. Prior to the start of the project, a retainer as specified in the proposal, is required. Invoices for the balance will be submitted to Client by Cannon and will be due and payable within 10 days of invoice date. If Client objects to all or any portion of any invoice, Client will so notify Cannon in writing within fourteen (14) days of the invoice date, identify the cause of the disagreement, and pay when due that portion of the invoice not in dispute. The parties will immediately make every effort to settle the disputed portion of the invoice. In the absence of written notification described above, the balance as stated on the invoice will be paid.
- 3.2 Invoices are delinquent if payment has not been received within thirty (30) days from date of invoice. Client will pay an additional charge of 1-1/2 (1.5) percent per month or 18% per year of any delinquent amount, excepting any portion of the invoiced amount in dispute and resolved in favor of Client. All time spent and expenses incurred (including any attorney's fees) in connection with collection of any delinquent amount will be paid by Client to Cannon per Cannon's current fee schedule. In the event Client fails to pay Cannon within sixty (60) days after invoices are rendered, Client agrees that Cannon will have the right to consider the failure to pay Cannon's invoice as a breach of this agreement.
- 3.3 Client agrees that if Client requests services not specified herein, Client agrees to timely pay for all such services as extra work. Cannon will notify the Client prior to performance of services which are not specified in this agreement.
- 3.4 Client agrees that payment to Cannon is in no way contingent on the results of work by Cannon or on the outcome of any litigation.
- 3.5 Preparation for and/or travel time to client requested meetings will be charged at the hourly rate.
- 3.6 Billing rates are subject to change, typically on an annual basis.



Section 4: Additional Services

- 4.1 Additional services include making revisions in drawings, specifications or other documents when such revisions are:
Inconsistent with approvals or instructions previously given by the Client, including revisions made necessary by adjustments in the Client's program or project budget;
Required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents.
- 4.2 Additional services includes providing services required because of significant changes in the project including, but not limited to, size, quality, complexity, the Client's schedule, or the method of bidding or negotiating and contracting for construction.
- 4.3 Where unexpected developments increase the scope of work as defined herein and/or prove the assumptions of this proposal invalid, Cannon will make a reasonable effort to contact the Client to discuss the effects and adjustment of cost.

Section 5: Site Access and Site Conditions

- 5.1 Client will grant or obtain free access to the site for all equipment and personnel necessary for Cannon to perform the work set forth in this agreement. Client will notify any and all possessors of the project site that Client has granted Cannon free access to the site. Cannon will take reasonable precautions to minimize damage to the site, but it is understood by Client that, in the normal course of work, some damage may occur and the correction of such damage is not part of this agreement unless so specified in the proposal.

Section 6: Ownership of Documents

- 6.1 All reports, maps, plans, field data, field notes, estimates and other documents, whether in hard copy or machine readable form, which are prepared by Cannon as instruments of professional service, shall remain the property of Cannon. The Client may retain copies, including copies stored on magnetic tape or disk, for information and for reference in connection with the occupancy and use of the project.
- 6.2 Because of the possibility that information and data delivered in machine readable form may be altered, whether inadvertently or otherwise, Cannon reserves the right to retain the original tapes/disks and to remove from copies provided to the Client all identification reflecting the involvement of Cannon in their preparation. Cannon also reserves the right to retain hard copy originals of all project documentation delivered to the Client in machine readable form, which originals shall be referred to and shall govern in the event of any inconsistency between the two.
- 6.3 The Client recognizes that changes or modifications to Cannon's instruments of professional service introduced by anyone other than Cannon may result in adverse consequences which Cannon can neither predict nor control. Therefore, and in consideration of Cannon's agreement to deliver its instruments of professional service in machine readable form, the Client agrees, to the fullest extent permitted by law, to hold harmless and indemnify Cannon from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising out of or in any way connected with the modification, misinterpretation, misuse or reuse by others of the machine readable information and data provided by Cannon under this Agreement. The foregoing indemnification applies, without limitation, to any use of the project documents on other projects, for additions to this project, or for completion of this project by others, excepting only such use as may be authorized, in writing, by Cannon.
- 6.4 Client agrees that all reports and other work furnished to Client or his agents, which is not paid for, will be returned upon demand and will not be used by Client or others for any purpose whatsoever.

Section 7: Client Responsibilities

- 7.1 The Client shall provide full information including a program setting forth the Client's design objectives, constraints, and construction budget criteria.
- 7.2 The Client shall furnish a legal description, a certified land survey, and the services of a soil, structural, mechanical, electrical or other engineer or consultant services, and laboratory tests, inspections, or reports as required by law or as requested by Cannon to perform the functions and services required of this agreement. The information shall be furnished at the Client's expense and Cannon shall be entitled to rely upon the accuracy and completeness thereof.
- 7.3 The Client shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the project, including auditing services the Client may require to verify the Contractor's Applications for Payment or to ascertain how or for what purposes the Contractor uses the moneys paid by the Client. The information above shall be furnished at the Client's expense, and Cannon shall be entitled to rely upon the accuracy and completeness thereof.



- 7.4 If the Client observes or otherwise becomes aware of any fault or defect in the project or nonconformance with the Contract Documents, prompt written notice shall be given by the Client to Cannon.
- 7.5 The Client shall furnish information and shall review Cannon's work and provide decisions as expeditiously as necessary for the orderly progress of the project and of Cannon's services.

Section 8: Insurance

- 8.1 Cannon represents and warrants that it and its agents, staff and consultants employed by it, is and are protected by worker's compensation insurance and that Cannon has such coverage under public liability and property damage insurance policies which Cannon deems to be adequate. Certificates for all such policies of insurance shall be provided to Client upon request in writing. Within the limits and conditions of such insurance, Cannon agrees to indemnify and save Client harmless from and against any loss, damage or liability arising from any negligent acts by Cannon, its agents, staff, and consultants employed by it. Cannon shall not be responsible for any loss, damage or liability beyond the amounts, limits, and conditions of such insurance. Cannon shall not be responsible for any loss, damage, or liability arising from any acts by Client, its agents, staff, and other consultants employed by Client.

Section 9: Termination

- 9.1 This agreement may be terminated by either party seven (7) days after written notice in the event of any breach of any provision of this agreement or in the event of substantial failure of performance by the other party, or if Client suspends the work for more than three (3) months. In the event of termination, Cannon will be paid for services performed prior to the date of termination plus reasonable termination expenses including the cost of completing analyses, records and reports necessary to document job status at the time of termination.
- 9.2 Failure of the Client to make payments to Cannon when due in accordance with this agreement shall be considered substantial nonperformance and cause for termination. If the Client fails to make payment when due to Cannon for services and expenses, Cannon may, upon seven (7) days written notice to the Client, suspend performance of services under this agreement. Unless payment in full is received by Cannon within seven (7) days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, Cannon shall have no liability to the Client for delay, damage, loss of agency approvals, loss of financing, interest expenses, etc. caused to the Client because of such suspension of service.

Section 10: Disputes Resolution

- 10.1 All claims, disputes, and other matters in controversy between Cannon and Client arising out of or related to this agreement will be submitted to "alternative dispute resolution" (adr) such as mediation and/or arbitration, before and as a condition precedent to other remedies provided by law. If and to the extent Client and Cannon have agreed on methods for resolving such disputes, then such methods will be set forth in the "alternative dispute resolution agreement" which, if attached, is incorporated and made a part of this agreement.
- 10.2 If a dispute at law related to the services provided under this agreement and that dispute requires litigation instead of adr as provided upon, then:
 - (1) The claim will be brought and tried in judicial jurisdiction of the court of the county where Cannon's principal place of business is located and Client waives the right to remove the action to any other county or judicial jurisdiction, and
 - (2) The prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorney's fees, and other claim related expenses.

Section 11: Assigns

- 11.1 Cannon shall not assign this agreement in whole or in part nor shall it subcontract any portion of the work to be performed hereunder; except that Cannon may use the services of persons or(?) entities not in our employ when it is appropriate and customary to do so. Such persons and entities include, but are not necessarily limited to, specialized consultants and testing laboratories. Cannon's use of others for additional services shall not be unreasonably restricted by the Client provided Cannon notifies the Client in advance.

Section 12: Governing Law and Survival

- 12.1 The law of the State of California will govern the validity of these terms, their interpretation and performance.
- 12.2 If any of the provisions contained in this agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions will not be impaired. Limitations of liability and indemnities will survive termination of this agreement for any cause.



Section 13: Limitation of Liability

- 13.1 To the fullest extent permitted by law, the total liability, in the aggregate, of Cannon and Cannon's officers, directors, employees, agents and independent professional associates and consultants, and any of them, to Client and anyone claiming by, through or under Client, for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to Cannon's services, the project or this agreement from any cause or causes whatsoever, including but not limited to the negligence, errors, omissions, strict liability or breach of contract of Cannon or Cannon's officers, directors, employees, agents and independent professional associates and consultants, or any of them, shall not exceed the total compensation received by Cannon under this agreement, or the total amount of \$50,000.00, whichever is greater.

Section 14: Hiring Cannon's Employees

- 14.1 From time to time, Clients who have come to know and work with our employees in the course of a project wish to hire them to work as the Client's own in-house employees. We pride ourselves on recruiting, hiring, and training the very best employees possible, and in assigning to projects our employees who best meet our Clients' individual needs. Our goal is to have our Clients view Cannon and its individual employees as indispensable.
- 14.2 Client agrees to pay Cannon a finder's fees equal to 12 months of the employee's current salary or wage for each of our employees whom the client(?) choose to hire, either directly or indirectly. Client acknowledges and agrees that the finder's fee is both fair and reasonable, and is equivalent to a recruiting or "headhunter's fee" that Client would expect to pay to a third party for locating and recruiting an employee of the caliber of the hired Cannon employee.
- 14.3 This Section 14 shall be limited to those of Cannon's employees with whom Client works or is introduced by Cannon during the course of this engagement, and shall be applicable to such employees both during his/her employment with Cannon and for a period of six (6) months thereafter. This Section 14 shall survive the cancellation or expiration of this Agreement.

Section 15: Prevailing Wage

- 15.1 Cannon acknowledges the requirements of California Labor Code Sections 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 certain "public works" and "maintenance" projects. To the extent required by the California Labor Code, Cannon shall fully comply with and require its subconsultants to fully comply with such Prevailing Wage Laws.
- 15.2 Pursuant to Labor Code Sections 1725.5 and 1771.1, Cannon and all its subconsultants performing work subject to prevailing wage must be registered with the Department of Industrial Relations and submit their certified payroll records directly to the DIR. In order to do so, the awarding body needs to complete the PWC-100 (Public Works Project Registration) within five days of awarding the contract; and provide Cannon with the DIR Project ID prior to the start of Cannon's work.