

## Appendix A – Regulatory Permits

1. BCDC Permit M2007.008.03 (expired, extension not yet obtained)
2. City of Berkeley Building Permit B2025-00046 (not yet issued)

Appendix B  
Final South Cove Geotechnical Investigation Report, A3GEO,  
February 12, 2013

## Geotechnical Investigation

# South Cove Public Dock and Parking Lot Renovation Project Berkeley Marina, Berkeley, California



SUBMITTED TO:

Jerome de Verrier, P.E.  
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Oakland, CA 94612

February 12, 2013

**A3GEO**

February 12, 2013  
A3GEO Project #1118-1A

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RE: Geotechnical Investigation Report  
South Cove Public Dock and Parking Lot Renovation Project  
Berkeley Marina, Berkeley, California

Dear Mr. de Verrier:

This report presents the results of our geotechnical investigation for the South Cove Public Dock and Parking Lot Renovation project in Berkeley, California. A3GEO is providing services for this project in accordance with our professional services agreement with TranSystems Corporation dated August 10, 2012.

## 1.00 INTRODUCTION

### 1.01 Project Setting

As shown below, the project site is located at the Berkeley Marina at the western end of University Avenue. The Berkeley Marina is situated on a narrow piece of man-made land which was created by filling in the bay. The historic shoreline is approximately 3,000 feet east of the site.



A recent aerial photograph of the project site is presented below. As shown on the photograph, the site is bordered by University Avenue to the north, the San Francisco Bay to the south, Adventure Playground to the west and open space to the east. The site is currently occupied by gravel parking lots and the Cal Adventures Sailing Club. The sailing club consists of numerous sheds, boat storage areas and three small floating docks along the southern edge of the site. For the purposes of this report, the docks are identified at the West Dock, Middle Dock and East Dock. The southern edge of the site is supported by a sheet pile wall along the western half and by a rip-rap slope along the eastern half.



### 1.02 Project Description

As currently planned, the project will include the following elements:

- Replacing the East and West Docks,
- Adding an ADA accessible gangway and supporting dock to the Middle Dock,
- Constructing a new 625 square foot restroom facility with outdoor showers in the center of the site;
- Paving the existing parking lot areas (approximately 75,750 square feet) with asphalt concrete; and
- Constructing a bio-swale for water infiltration.

### 1.03 Purpose and Scope

The purpose of our investigation was to: 1) evaluate subsurface conditions in the areas of the planned parking lots, restroom facility and ADA accessible gangway; and 2) develop geotechnical recommendations for the new pavements and the new foundations to support the restroom facility and ADA accessible gangway. Our scope of services included drilling four shallow exploratory borings, performing geotechnical laboratory tests, conducting engineering analyses, and preparing this report.

As outlined in our proposal, our scope of services did *not* include investigations, evaluations, conclusions or recommendations pertaining to: 1) earthquake-induced liquefaction or lateral spreading; 2) flooding; 3)

tsunami run-up; 4) long-term consolidation of bay mud; 5) bio-swale design; and/or 6) hazardous, toxic, or corrosive materials on, below, or around the site.

## **2.00 METHODS OF INVESTIGATION**

### **2.01 Review of Published Information**

We reviewed a variety of published materials containing information relevant to the subject site. These sources included reports and maps published by the United States Geological Survey and by the California Geological Survey (formerly the California Division of Mines and Geology). Information obtained from our review of published information is discussed in Section 3.01, Geologic and Seismic Setting.

### **2.02 Site Reconnaissance Visits**

Our site reconnaissance visit was performed on December 4, 2012. During this visit, we observed the surficial conditions present and checked for obvious geotechnical concerns. Observations made during our site reconnaissance visit are discussed in Section 3.03, Surface Conditions.

### **2.03 Subsurface Exploration**

On December 4, 2012, we drilled four exploratory borings (B-1 through B-4) at the approximate locations shown on the Site Plan, Figure 1. Boring B-1 was drilled in the northwest corner of the parking lot. Boring B-2 was drilled at the north end of the Middle Dock. Boring B-3 was drilled in the area of the planned restroom facility, and Boring B-4 was drilled in the southeast corner of the parking lot. Borings B-1 and B-4 extended to 5.0 feet. Boring B-2 extended to 16.5 feet, and Boring B-3 extended to 18.0 feet.

Northstar Drilling, Inc. of Escalon, California drilled the borings using a truck mounted, B-24 type drill rig equipped with a 4.5-inch-diameter solid stem flight auger. An A3GEO engineer directed the drilling operations, logged the subsurface conditions encountered and obtained samples at frequent intervals. Soil samples were obtained using a 3-inch O.D. Modified California (MC) sampler with liners and a standard penetration test (SPT) sampler without liners. The samplers were driven with a rope-and-cathead activated, 140-pound hammer falling about 30 inches. The hammer blows required to drive the sampler the final 12 inches of each 18-inch drive are presented on the attached logs. Sampler blow counts presented on the logs are adjusted N-values. Blow counts have been adjusted for sampler type only (i.e., the MC field blow counts were "adjusted" to approximate N-value equivalents by multiplying by a factor of 0.63). At the conclusion of the field investigation, the borings were checked for indications of free groundwater and were then grouted in accordance with City of Berkeley drilling permit requirements.

During drilling, the soils were visually/manually classified in general accordance with ASTM D2488 classifications which are based on the Unified Soil Classification System (USCS). Field classifications were subsequently checked and revised, where appropriate, based on laboratory test data. The logs of the borings are attached at the end of this report and are preceded by a Key to Exploratory Boring Logs that describes the USCS and the symbols used on the logs.

Please note that the attached boring logs and related information depict subsurface conditions only at the boring locations shown on the Site Plan on the particular date designated on the boring logs. The attached boring logs represent our interpretation of the subsurface materials at the boring locations at the time of drilling and the passage of time may result in changes in the subsurface conditions. The boring locations indicated on the attached materials were determined by measuring from existing improvements and should be considered approximate. A summary of our findings from our subsurface exploration can be found in Section 3.04, Subsurface Conditions.

## 2.04 Laboratory Testing

Our geotechnical laboratory testing program was directed toward a quantitative and qualitative evaluation of the physical properties of the soils that underlie the site. The following geotechnical laboratory tests were performed:

- Water content per ASTM Test Designation D-2216;
- Dry density per ASTM Test Designation D-2937; and
- Atterberg limits per ASTM Test Designation D-4318.

The results of the laboratory tests are presented on the attached boring logs at the corresponding sample depths as well as on the attached laboratory data sheets.

## 3.00 SITE CONDITIONS

### 3.01 Geologic and Seismic Setting

A recent USGS geologic map showing the site area (Graymer, 2000) is presented below. On this map, the site is mapped as artificial fill. The unit is described by the USGS (Graymer, 2000) as follows:

**Artificial fill (Historic) [map symbol af]** – Man-made deposit of various materials and ages. Some are compacted and quite firm, but fills made before 1965 are nearly everywhere not compacted and consist simply of dumped materials.



The site is located within the San Francisco Bay Region, which includes a series of major northwest-trending faults that are seismically active. The nearest active fault is the Hayward fault approximately 3.1 miles to the northeast of the project site (Jennings, 2010). The site is not located within an Alquist-Priolo Earthquake Fault Zone designated by the State of California (CDMG, 1982) and no active faults have been mapped in the direct vicinity of the site.

Studies by the United States Geological Survey's Working Group on California Earthquake Probabilities (WGCEP, 2008) have estimated:

- A 63 percent probability of at least one magnitude 6.7 or greater earthquake occurring in the San Francisco Bay Region before the year 2037, and
- A 31 percent probability of at least one magnitude 6.7 or greater earthquake occurring on the Hayward/Rogers Creek fault system before the year 2037

The California Geological Survey (CGS) Seismic Hazard Zone map for the Oakland West quadrangle shows the site in an area that may be subject to earthquake-induced liquefaction. A regional USGS map of liquefaction susceptibility (Knudsen et al, 2000) shows the site in an area of "very high" susceptibility.

### **3.02 Site Development History**

Historic USGS topographic maps show that much of the land within the Berkeley Marina area was constructed by filling in the bay sometime between 1949 and 1959, but that the land supporting the project site was not filled-in until sometime between 1959 and 1968.

An existing, 1965 geotechnical report shows a boring that was drilled on the northern side of University Avenue directly across from what is now the project site. The 1965 investigation was performed prior to the project site being filled. The 1965 boring shows approximately 16 feet of fill overlying bay deposits.

### **3.03 Surface Conditions**

The site is basically level. The Revised Concept Layout by TranSystems dated October 9, 2012, shows that surface grades slope very gently down toward the south-southeast. The high point (Elevation +16 feet) is located at the northwest corner of the site. The low point (Elevation +10 feet) is located along the southern edge of the site near the West and Middle Docks. The elevation at the southeast corner of the site is at +12.0 feet. During our reconnaissance, there were numerous low areas with ponded water within the gravel parking lot areas.

The majority of the site is covered with gravel, with the exception of the small trapezoidal area between the sailing club and the West and Middle Docks. The existing asphalt concrete in this area was observed to be distressed, cracking, and contained low areas with ponding water. There are two small boat hoists near the West and Middle docks adjacent to the sheet-pile wall. At the time of our reconnaissance, the water level in the bay was about 6 feet below the top of the sheet pile wall. A buried electrical vault was observed on the site in the vicinity of the new restroom facility. No significant surface drainage features were observed on site.

### **3.04 Subsurface Conditions**

The borings encountered highly variable fill materials extending to the full depths explored. In general, the fill consisted of very loose to medium dense gravels and soft to stiff, lean to fat clays. The gravels contained varying amounts of clay and sand, and the clays contained varying amounts of sand and gravel. Atterberg Limits tests were performed on clay samples taken at a depth of 2.5 feet in Boring B-3 and at a depth of 2.0 feet in Boring B-4. Both samples produced Plasticity Indexes (PI) of 20 which are indicative of soil with a moderate expansion potential (expansive soils are prone to shrinking/swelling with changes in moisture content).

Groundwater was encountered between 4.5 and 8.0 feet below the ground surface at the time of drilling. These water levels relate specifically to the dates/times shown on the boring logs and are not necessarily indicative of stabilized groundwater levels at the time that the borings were drilled (the borings may not have remained open long enough to establish equilibrium groundwater conditions). In addition, it should be anticipated that groundwater levels at the site may fluctuate significantly due to variations in rainfall and other factors.

## **4.00 EVALUATIONS AND CONCLUSIONS**

### **4.01 General**

We conclude that the proposed project is generally feasible from a geotechnical standpoint. Geotechnical evaluations and conclusions relating to the design and construction of the project follow; geotechnical recommendations are presented in Section 5.00.

As previously noted, the site is mapped in a State of California Seismic Hazard Zone for potential earthquake-induced liquefaction. State regulations and guidelines pertaining to these official Seismic Hazard Zones apply to "projects" that include structures intended for human occupancy (which is defined as occupancy at a rate of at least 2,000 person-hours per year). Therefore, from a regulatory perspective, we understand that the official State guidelines do not apply to the South Cove Public Dock and Parking Lot Renovation project, as it does not include structures intended for human occupancy. Investigations, evaluations, conclusions and/or recommendations pertaining to earthquake-induced liquefaction and/or lateral spreading were *not* included in our scope.

### **4.02 Seismic Design**

The subject site is located in the highly seismic San Francisco Bay Region, and the site is likely to experience one or more episodes of strong ground shaking during the life of the project. The California Building Code (CBC) has adopted provisions for incorporation of strong ground shaking into the design of all structures.

Our recommendations for geotechnical parameters to be used in the seismic design of the restroom facility are presented in Section 5.01, Building Code Seismic Design Parameters.

### **4.03 Poorly-Compacted Fill, Expansive Near-Surface Soils and Compressible Bay Deposits**

The site is underlain by fill which extended to the maximum depths explored (i.e., 18 feet). The fill was found to be highly variable, poorly compacted and moderately to highly expansive. Expansive soils tend to shrink and swell with changes in moisture content and have the potential to damage overlying improvements, unless appropriately mitigated. The damaging effects of expansive soils can be mitigated in a variety of ways, the most common of which include removal and replacement with a layer of non-expansive material and/or extending foundations to depths below the zone of seasonal moisture fluctuations.

Bay mud underlies the fill materials at the site and has the potential to consolidate when additional loads are imposed on the ground surface. Although the consolidation of bay mud occurs very slowly, it can result in settlement at the ground surface. Unfortunately, the evaluation of the potential consolidation of the bay mud underlying the site was beyond the scope of this study, and our borings did not extend into or through the bay mud. Published maps show the thickness of young bay mud to be about 20 feet at the project site. Considering the relatively light loads which will be imposed by the proposed restroom facility (dead plus live loads equal to about 435 pounds per square foot) and the depth of the bay mud, we estimate that the long-term static settlement due to consolidation would be less than about 2 inches.

This report provides the following recommendations to mitigate the existing fill, expansive soils and compressible bay mud:

- Supporting the new restroom facility on a mat foundation underlain by a layer of compacted, non-expansive fill;
- Supporting the new gangway footing on a layer of compacted, non-expansive fill; and
- Using an R-value of 5 for flexible pavement design. An R-value of 5 is representative of the poor subgrade soils.

#### 4.04 Construction Considerations

It is likely that some site excavations will encounter wet (i.e., over optimum) and/or soft subgrade soils that may be difficult to compact. If excessively wet and/or soft subgrade soils are encountered, additional mitigation may be required such as local over-excavation and/or placement of geotextile fabric. Seepage zones or locally perched groundwater conditions could also be encountered, particularly if the work is performed during or shortly after the winter rainy season. The control of groundwater during construction is the responsibility of the contractor. Possible groundwater control methods include pumping from sumps at low points within excavations, horizontal drains and dewatering wells. The design, permitting, installation, monitoring, and abandonment of site dewatering and discharge systems are the contractor's responsibility. These responsibilities also include any special regulatory or health and safety requirements that may be associated with the disposal and/or discharge of construction water.

Although it is possible for construction to proceed during or immediately following the wet winter months, a number of geotechnical problems may occur which may increase costs and cause project delays. The water content of onsite soils may increase during the winter and rise significantly above optimum moisture content for compaction of subgrade or backfill materials. If this occurs, the contractor may be unable to achieve the specified levels of compaction. Dewatering requirements will potentially increase due to rainfall, surface runoff, seepage and rises in groundwater level. The stability of temporary slopes will decrease, potentially increasing the lateral extent of excavation required. If excavation trenches are open during winter rains, caving of the trench walls may occur. In general, we note that it has also been our experience that increased clean-up costs may be incurred, and greater safety hazards may exist, if the work proceeds during the wet winter months.

#### 5.00 RECOMMENDATIONS

##### 5.01 California Building Code Seismic Design Parameters

Structures at the site should be designed to resist strong ground shaking in accordance with the applicable building codes and local design practice. This section provides seismic design parameters for use with the 2010 California Building Code.

###### ***Site Class E = Soft Soil Profile***

###### ***Site Location***

Latitude = 37.8633 degrees

Longitude = -122.3128 degrees

###### ***Mapped Spectral Accelerations***

Short Period ( $S_s$ , Site Class B) = 1.532g

1-Second Period ( $S_1$ , Site Class B) = 0.600g

###### ***Maximum Considered Earthquake Spectral Response Accelerations***

Short Period ( $SM_s$ , Site Class E) = 1.379g

1-Second Period ( $SM_1$ , Site Class E) = 1.440g

###### ***Design Spectral Response Accelerations***

Short Period ( $SD_s$ , Site Class E) = 0.919g

1-Second Period ( $SD_1$ , Site Class E) = 0.960g

The acceleration parameters presented above were obtained using the United States Geological Survey's Java-based website application (<http://earthquake.usgs.gov/research/hazmaps/design/>), which we accessed on December 13, 2012. The Maximum Considered Earthquake Spectral Response Accelerations are associated with 2 percent probability of exceedence in 50 years level-of-hazard. The Design Spectral Response Accelerations are two-thirds of the Maximum Considered Earthquake values.

**5.02 Foundations**

**5.02.1 Restroom Foundations**

The proposed bathroom facility can be supported on a mat foundation underlain by an 18-inch thick layer of compacted, non-expansive fill placed in accordance with Section 5.03, Earthwork. The mat foundation should be at least 12 inches thick and the bottom of the mat should extend at least 12 inches below the lowest adjacent ground surface. The mat can be designed using the following allowable bearing pressures:

**Allowable Bearing Pressures**

Load Case	Allowable Bearing Pressure in pounds per square foot (psf)	Factor of Safety
Dead Loads	500 psf	3.0
Dead plus Live Loads	750 psf	2.0
Total Loads (including wind or seismic)	1,000 psf	1.5

These allowable bearing pressures are net values; therefore, the weight of the mat can be neglected for design purposes. The mat should be integrally connected to all portions of the structure so that the entire foundation system acts as a unit. The mat should be reinforced with sufficient top and bottom steel (in both directions). For structural mat design purposes, a modulus of subgrade reaction of 50 kips per cubic foot can be used for the existing ground.

In areas where floor wetness would be undesirable, a vapor barrier (Stego 15 mil Class A, or equivalent) should be placed under the mat. Any tears in the retarder and all plumbing penetrations should be sealed with an approved mastic material. We also recommend that the specifications for the mat require moisture emission tests to be performed on the mat prior to the installation of any flooring.

Resistance to lateral loads can be provided by friction along the base of the mat foundation. If the mat is underlain by an impermeable membrane, a friction coefficient of 0.25 can be used to evaluate frictional resistance along the bottom of the mat. If the mat is directly supported on non-expansive fill, a friction coefficient of 0.35 can be used to evaluate frictional resistance along the bottom of the mat. The above frictional resistance values includes a factor of safety of at least 1.5.

**5.02.2 Gangway Foundations**

The proposed gangway can be supported on a single square spread footing foundation. The footing should be at least 30 inches square and should bear at least 12 inches below the top of the sheet-pile wall. The footing can be designed using the allowable bearing capacities presented above. The gangway should be pinned to the footing and free to rotate. The gangway should be able to slide freely along the dock. We have assumed no significant lateral loads will be applied to the footing. The gangway footing should be underlain by 18 inches of compacted non-expansive fill placed in accordance with Section 5.03, Earthwork.

**5.02.3 Light Pole Foundations**

The light poles can be supported on drilled, cast-in-place, straight-shaft piers at least 24 inches in diameter. Piers should be located at least 5 feet horizontally from the top of any adjacent slope. All piers should be designed to gain support through skin friction; any contribution from end bearing should be ignored. The axial capacity of drilled piers can be evaluated starting at a depth of 3 feet using the following skin friction values:

### Drilled Pier Skin Friction

Load Case	Skin Friction (starting at a depth of 3 feet) (psf)	Factor of Safety
DL+LL Allowable	300	2.0
Total Allowable	400	1.5
Ultimate	600	1.0

Lateral load resistance can be provided by passive pressures acting on the sides of the piers. An allowable passive pressure equal to an equivalent fluid weighing 100 pounds per square foot (psf) per foot of depth, up to a maximum value of 1,000 psf may be used to evaluate passive resistance. Passive resistance may be assumed to start at a depth of one foot below the ground surface for level ground conditions. This passive pressure can be assumed to act over two pier diameters. The preceding passive resistance values have a factor of safety of at least 2.0.

It is the drilled pier contractor's responsibility to verify that no utilities or other subsurface elements to be protected are present at planned foundation pier locations prior to the start of pier drilling. Holes for drilled piers should be drilled straight and plumb (within 1 percent of vertical) and should be cleaned of loose soil. The contractor should be prepared to case pier holes or drill using slurry, as appropriate. The contractor should also be prepared to break up and remove subsurface obstructions from the hole, if encountered. Groundwater will likely be encountered in the drilled piers. If water accumulates in the holes, it should be removed by pumping or bailing prior to concrete placement or the concrete should be placed utilizing the tremie method. Concrete placement should start as soon as possible after the drilling and cleanout is complete. In all cases, holes for drilled piers should be concreted on the day they are drilled. Following placement of the reinforcing steel, holes should be concreted from the bottom up in a single operation. If water is present in the hole, the tremie pipe should be constantly maintained several feet below the surface of the concrete during casting of the pier. As the concrete is placed, any casing used to stabilize the hole should be withdrawn with the bottom of the casing embedded at least one foot but no more than 5 feet below the surface of the concrete as it is withdrawn.

## 5.03 Earthwork

### 5.03.1 Fill Materials

General fill can be used as engineered fill, except where non-expansive fill is specifically required. An 18-inch thick layer of non-expansive fill is required beneath the mat foundation. The non-expansive layer should extend at least three feet beyond the perimeter of the mat. Fill material should conform to the requirements presented below:

**General Fill** - General fill material should have an organic content of less than 3 percent by volume and should not contain environmental contaminants or rocks or lumps larger than 6 inches in greatest dimension. From a geotechnical standpoint, onsite materials can be reused as General Fill if they meet or can be processed (e.g. by sorting and/or crushing) to meet the above requirements. General fill can be used anywhere except where non-expansive fill is required.

**Non-Expansive Fill** - Non-expansive fill should conform to the requirements for General Fill, have a Plasticity Index no greater than 15 and a Liquid Limit no greater than 40.

**Imported Fill** – Imported fill should conform to the requirements for Non-Expansive Fill and should be evaluated by our firm and the project environmental consultant prior to its importation to the site.

All proposed fill materials should be approved by A3GEO prior to their use. The materials cleared or excavated from the site may be suitable for re-use as fill, from a geotechnical standpoint, if they meet or can be processed (i.e., by crushing and/or blending) to meet the above requirements. Material that cannot be mixed or processed to meet specification requirements should be disposed of offsite or stockpiled for other uses at the discretion of the owner. If the re-use of aggregate base, gravel, or crushed asphalt is to be considered, it must first be approved by the owner in consultation with our firm.

**5.03.2 Subgrade Preparation and Fill Placement**

The subgrade surface in those areas to receive engineered fill should be firm, unyielding, and compacted to the requirements provided below. Soft or yielding subgrade soils should be excavated to a depth adequate to expose firm, non-yielding materials. The exposed soils in those areas receiving fill should be scarified to a depth of 6 inches or the full depth of any existing shrinkage cracks (whichever is deeper). The scarified soils should then be moisture conditioned to slightly above optimum water content and compacted to at least 90 percent relative compaction based on the ASTM D-1557 test method (latest version).

All fill should be placed on surfaces that are firm, non-yielding and approximately horizontal. Preliminary geotechnical requirements for fill compaction are presented below (per ASTM D-1557 Test Methods):

- Fill that is predominantly cohesive (>20 percent passing #200 sieve) should be moisture conditioned, as necessary, to between 3 and 5 percent over optimum moisture content and compacted to at least 90 percent relative compaction.
- Fill that is predominantly granular (<20 percent passing #200 sieve) should be moisture conditioned, as necessary, to slightly over optimum moisture content and compacted to at least 95 percent relative compaction. This includes AB.

All fill should be spread in lifts not exceeding 8 inches in un-compacted thickness. It is possible that fill and/or subgrade soils may be excessively wet or dry depending on the moisture content at the time of construction. If the fill soils are too wet, they may be dried by aeration or by mixing with drier materials.

**5.04 Asphalt Concrete (AC) Pavements**

We developed the following recommended pavement sections for various traffic indices using the Caltrans R-value design method for flexible pavements. In general, a minimum recommended traffic index of 4 is generally considered appropriate for pedestrian pathways that may be accessed by light vehicles (traffic indices of 4.0 and 5.0 are considered to be reasonable values for automobile and light truck parking areas and access driveways, respectively). A traffic index of 6.0 is applicable for moderate truck access and parking areas. The suggested traffic indices below are not based on a traffic study; the project civil engineer should review the traffic indices to confirm that they are appropriate and select the areas where the sections will be used.

The design pavement sections that follow are based on an estimated subgrade R-value of 5 which is considered appropriate for the site based on visual classification of the near surface fill soils.

**Flexible Pavement Thickness Design for Subgrade R-Value = 5**

Traffic Index	Asphalt Concrete (inches)	Caltrans Class 2 Aggregate Base (inches)	Total Thickness (inches)
4	2.5	8.5	11
5	3	11	14
6	3	13.5	16.5

The subgrade beneath planned pavements should be compacted to at least 95 percent relative compaction per ASTM D-1557. Pavement subgrades should be proofrolled and confirmed to be uniformly firm and non-yielding prior to the placement of aggregate base. Aggregate base for use in pavements should conform to Caltrans Standard Specifications for Class 2 Aggregate Base. The aggregate base used in pavement sections should be compacted to at least 95 percent relative compaction as determined by ASTM D-1557.

#### **5.05 Trench Backfill**

Utility trenches should be backfilled with fill placed in lifts not exceeding 8 inches in uncompacted thickness. Trenches should be filled by placing a granular shading layer beneath and around the pipe, and then 6 to 12 inches of shading should be carefully placed and tamped above the pipe. The remaining portion of the trench should be backfilled with onsite or import soil. The backfill (above shading layers) should be placed and compacted to a minimum relative degree of compaction of 90 percent based on ASTM D1557. For trenches beneath AC pavement, backfill material should consist of AB compacted to 95 percent relative compaction. The compaction requirements given above should be considered minimum recommended requirements. If City and/or utility company specifications require more stringent backfill requirements, those specifications should be followed.

If imported granular soil is used, sufficient water should be added during the trench backfilling operations to prevent the soil from "bulking" during compaction. All compaction operations should be performed by mechanical means only. We recommend against jetting.

#### **5.06 Surface and Subsurface Drainage**

Positive surface drainage should be provided to direct surface water away from foundations. Finished grades should be sloped to drain to appropriate discharge facilities. Ponding of surface water should not be allowed.

#### **6.00 FUTURE GEOTECHNICAL SERVICES**

A3GEO should review the geotechnical aspects of the project plans and specifications as they are being developed to check conformance with the intent of our recommendations and provide geotechnical services during construction to check whether geotechnical conditions are as anticipated, provide supplemental recommendations where necessary, and document that the geotechnical aspects of the work substantially conform to the approved Contract Documents and the intent of our geotechnical recommendations. If our firm is not accorded the privilege of providing these services, we can assume no responsibility for misinterpretation of our recommendations or whether the geotechnical conditions were as anticipated.

Critical aspects of construction that we should observe and/or test include: over-excavation and removal of existing fill, preparation of subgrades to receive new fill, fill placement, restroom foundation excavations, and drilled pier installations for the light poles.

**7.00 LIMITATIONS**

This report has been prepared for the exclusive use of you and your consultants in accordance with generally accepted geotechnical engineering practices for specific application to the construction of the proposed South Cove Public Dock and Parking Lot Renovation Project. No other warranty, either expressed or implied, is made. In the event the nature, design, or location of the proposed improvements differs significantly from what has been noted above, the conclusions and recommendations contained in this report should not be considered valid unless the changes are reviewed and the conclusions of this report are modified or verified in writing. Our scope did not include an assessment of chemical constituents in the soil or groundwater or an assessment of geologic stability.

The findings of this report are valid as of the present date. However, the passing of time will likely change the conditions of the existing property due to natural processes or the works of man. In addition, due to legislation or the broadening of knowledge, changes in applicable or appropriate standards may occur. Accordingly, the findings of this report may be invalidated, wholly or partly, by changes beyond our control. Therefore, this report should not be relied upon after three years without being reviewed by this office.

If you have any questions concerning this report, please do not hesitate to call us.

Sincerely,

  
Dona K. Mann, P.E., G.E.  
Principal Engineer  
Cell: (415) 425-0247

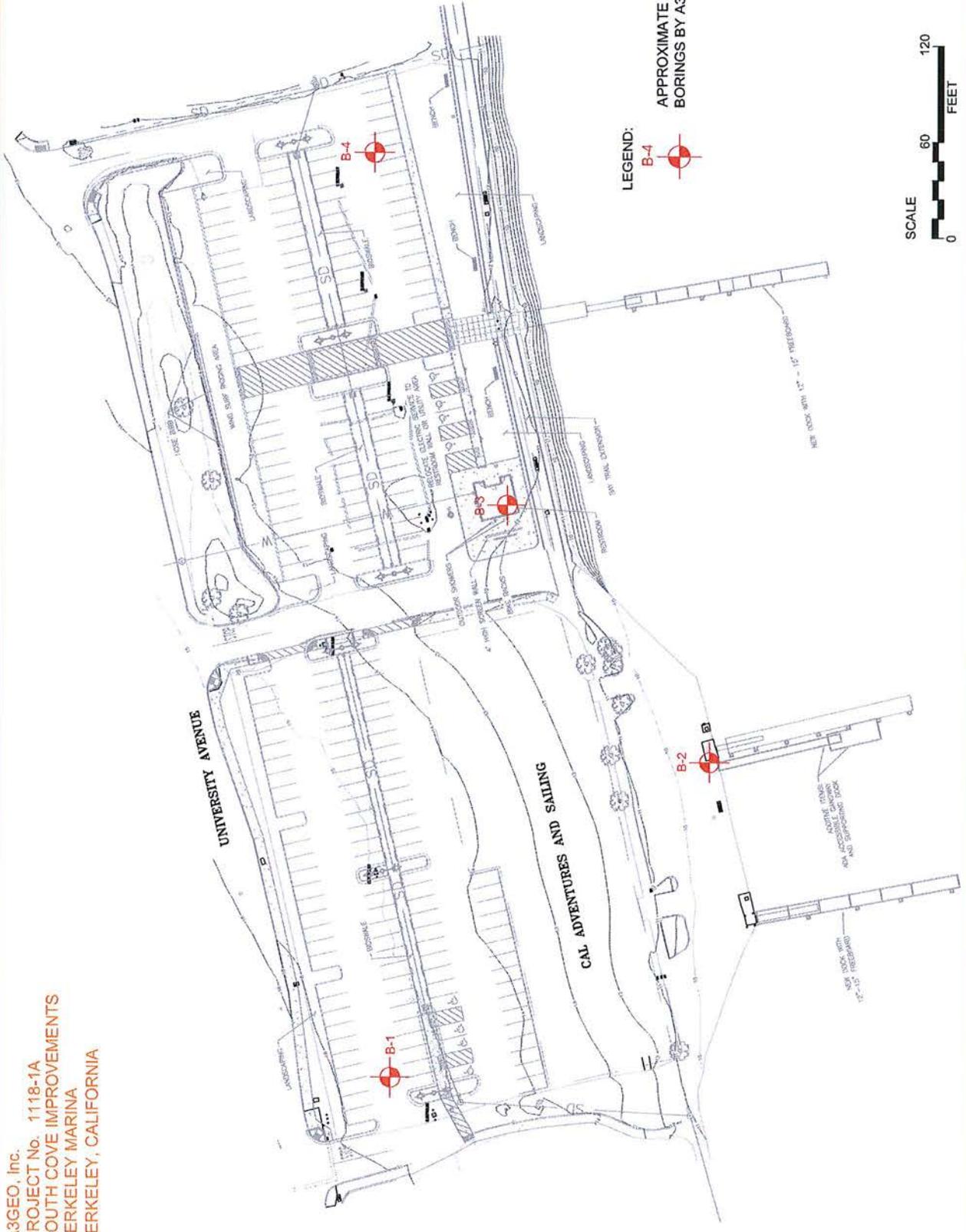
Copies: Addressee (1 via email)

Attachments: Figure 1, Site Plan  
Boring Logs  
Laboratory Tests

**REFERENCES**

- California Building Standards Commission, 2010, "California Building Code," Sacramento, California.
- California Division of Mines and Geology, 1982, Special Studies Zone Map, Oakland West Quadrangle.
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A3GEO, Inc.  
 PROJECT No. 1118-1A  
 SOUTH COVE IMPROVEMENTS  
 BERKELEY MARINA  
 BERKELEY, CALIFORNIA



LEGEND:  
 B-4

APPROXIMATE LOCATION OF EXPLORATORY BORINGS BY A3GEO, Inc. (Dec. 2012)

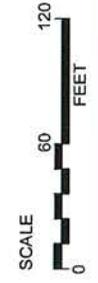


FIGURE 1  
 SITE PLAN

UNIFIED SOIL CLASSIFICATION CHART				
MAJOR DIVISIONS			SYM	TYPICAL NAMES
<b>COARSE GRAINED SOILS:</b> more than 50% retained on No. 200 sieve	<b>GRAVELS:</b> 50% or more of coarse fraction retained on No. 4 sieve	CLEAN GRAVELS	GW	Well graded gravels and gravel-sand mixtures, little or no fines
			GP	Poorly graded gravels and gravel-sand mixtures, little or no fines
		GRAVELS WITH FINES	GM	Silty gravels and gravel-sand-silt mixtures
			GC	Clayey gravels and gravel-sand-clay mixtures
	<b>SANDS:</b> more than 50% of coarse fraction passes through No. 4 sieve	CLEAN SANDS	SW	Well graded sands and gravelly sand, little or no fines
			SP	Poorly graded sands and gravelly sand, little or no fines
		SANDS WITH FINES	SM	Silty sands, sand-silt mixtures
			SC	Clayey sands, sand-silt mixtures
<b>FINE-GRAINED SOILS:</b> 50% or more passes No. 200 sieve	<b>SILTS AND CLAYS:</b> Liquid Limit 50% or less		ML	Inorganic silts, very fine sands, rock flour, silty or clayey fine sands
			CL	Inorganic clays of low to medium plasticity, gravelly clays, sandy clays, silty clays, lean clays
			OL	Organic silts and organic silty clays of low plasticity
	<b>SILTS AND CLAYS:</b> Liquid Limit greater than 50%		MH	Inorganic silts, micaceous or diatomaceous fine sands or silts, elastic clays
			CH	Inorganic clays of high plasticity, fat clays
			OH	Organic clays of medium to high plasticity
			PT	Peat, muck and other highly organic soils

BOUNDARY CLASSIFICATION AND GRAIN SIZES							
SILT OR CLAY	SAND			GRAVEL		COBBLES	BOULDERS
	FINE	MEDIUM	COARSE	FINE	COARSE		
U.S. STANDARD SIEVE SIZES	No. 200	No. 40	No. 10	No. 4	3/4"	3"	12"

KEY TO LOGS	
SAMPLE TYPE	DESCRIPTION
	<b>Modified California Sampler (3" O.D.):</b> blowcount is equivalent SPT N value (converted by multiplying field blowcounts by 0.63)
	<b>Standard Penetration Test (2" O.D.)</b>
	<b>Thin-walled tube using Pitcher Barrel</b>
	<b>Shelby Tube, pushed or used Osterberg Sampler</b>
	<b>Disturbed Sample</b>

\*NOTE: RECORDED BLOW COUNTS HAVE NOT BEEN ADJUSTED FOR HAMMER ENERGY



A3GEO, Inc  
1331 Seventh Street, Unit E  
Berkeley, CA 94710

# BORING NUMBER B1

PAGE 1 OF 1

CLIENT TranSystems Corporation PROJECT NAME South Cove Public Dock and Parking Lot Renovation Project  
 PROJECT NUMBER 1118-1A PROJECT LOCATION Berkeley Marina, Berkeley, CA  
 DATE STARTED 12/4/12 COMPLETED 12/4/12 GROUND ELEVATION 15.5 ft HOLE SIZE 4.5"  
 DRILLING CONTRACTOR Northstar Drilling, Inc. GROUND WATER LEVELS:  
 DRILLING METHOD Solid Stem Auger AT TIME OF DRILLING --  
 LOGGED BY DKM CHECKED BY DI AT END OF DRILLING --  
 NOTES No ground water encountered AFTER DRILLING --

GEO TECH BH COLUMN TERM NOTE LEFT ALIGNED - A3GEO DATA TEMPLATE.GDT - 1/7/13 22:27 - A3GEO PROJECTS\1118 - TRANSYSTEMS\1118-1A SOUTH COVE BORING LOGS\BORING\_LOGS\_SOUTH\_COVE.GPJ

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE NUMBER	ADJUSTED BLOW COUNTS (N VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ROCK RECOVERY % (RQD)	OTHER LAB TESTS / NOTES
0		CLAYEY GRAVEL (GC) - Gray, medium dense, angular gravel up to 1" in size, with sand and clay, moist - (FILL)							
		SANDY/GRAVELLY LEAN CLAY (CL) - Reddish brown and gray, very stiff, angular gravel, medium to coarse grained sand, moist - (FILL)	MC	22					
		POORLY GRADED GRAVEL (GP) - Gray, loose to medium dense, concrete debris, some sand, trace clay, moist. (FILL)	SPT	11					
5									

Bottom of borehole at 5.0 feet.



A3GEO, Inc  
1331 Seventh Street, Unit E  
Berkeley, CA 94710

**BORING NUMBER B2**

PAGE 1 OF 1

CLIENT TranSystems Corporation PROJECT NAME South Cove Public Dock and Parking Lot Renovation Project  
 PROJECT NUMBER 1118-1A PROJECT LOCATION Berkeley Marina, Berkeley, CA  
 DATE STARTED 12/4/12 COMPLETED 12/4/12 GROUND ELEVATION 10 ft HOLE SIZE 4.5"  
 DRILLING CONTRACTOR Northstar Drilling, Inc. GROUND WATER LEVELS:  
 DRILLING METHOD Solid Stem Auger ▽ AT TIME OF DRILLING 5.50 ft / Elev 4.50 ft  
 LOGGED BY DKM CHECKED BY DI AT END OF DRILLING --  
 NOTES AFTER DRILLING --

GEO TECH BH COLUMN TERM NOTE LEFT ALIGNED - A3GEO DATA TEMPLATE.GDT - 1/7/13 22:27 - A:\A3GEO PROJECTS\1118 - TRANSYSTEMS\1118-1A SOUTH COVE BORING LOGS\SOUTH COVE.GPJ

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE NUMBER	ADJUSTED BLOW COUNTS (N VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ROCK RECOVERY % (RQD)	OTHER LAB TESTS / NOTES
0		3.5" Asphalt Concrete Pavement							
		CLAYEY GRAVEL (GC) - Brown and gray, loose to medium dense, angular to sub-rounded well-graded gravel, some fines, with medium to coarse-grained sand, moist - (FILL)	SPT	10					
		- at 3.5': loose, well-graded, clean, angular gravel, trace fines, with coarse-grained sand	SPT	5					
5		▽ - at 6': very loose, wet	SPT	3					- at 5' : Hole caving in, adding bentonite to progress drilling
		SANDY FAT CLAY (CH) - Reddish brown and dark gray, soft, trace angular gravel, fine to coarse grained sand, wet - (FILL)	MC	3					
		- at 12.5': reddish brown and green, 2" angular sandstone fragment							
15		- at 15': dark gray, with organics, trace tiny white shells, 2" long twig, angular sandstone fragments	SPT	3					

Bottom of borehole at 16.5 feet.



A3GEO, Inc  
1331 Seventh Street, Unit E  
Berkeley, CA 94710

**BORING NUMBER B3**

PAGE 1 OF 1

CLIENT TranSystems Corporation PROJECT NAME South Cove Public Dock and Parking Lot Renovation Project  
 PROJECT NUMBER 1118-1A PROJECT LOCATION Berkeley Marina, Berkeley, CA  
 DATE STARTED 12/4/12 COMPLETED 12/4/12 GROUND ELEVATION 12 ft HOLE SIZE 4.5"  
 DRILLING CONTRACTOR Northstar Drilling, Inc. GROUND WATER LEVELS:  
 DRILLING METHOD Solid Stem Auger  $\nabla$  AT TIME OF DRILLING 8.00 ft / Elev 4.00 ft  
 LOGGED BY DKM CHECKED BY DI AT END OF DRILLING --  
 NOTES AFTER DRILLING --

GEO TECH BH COLUMN TERM NOTE LEFT ALIGNED - A3GEO DATA TEMPLATE.GDT - 1/7/13 22:27 - A:\A3GEO PROJECTS\1118 - TRANSYSTEMS\1118-1A SOUTH COVE\BORING LOGS\_SOUTH\_COVE.GPJ

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE NUMBER	ADJUSTED BLOW COUNTS (N VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ROCK RECOVERY % (RQD)	OTHER LAB TESTS / NOTES
0		CLAYEY GRAVEL (GC) - Brown, gray, white, black, medium dense, angular, moist - (FILL)	SPT	12					
		SANDY LEAN CLAY (CL) - Mottled reddish brown, yellowish brown, stiff, some gravel, pockets of fat clay, moist - (FILL)							
		LEAN CLAY (CL) - Mottled grayish brown and yellowish brown, firm, some coarse grained sand, trace angular gravel, moderately plastic, moist - (FILL)	MC	6		113	12		LL: 38 PI: 20
5		FAT CLAY (CH) - Greenish brown, soft to firm, with sand, trace angular gravel, moist - (FILL)	MC	4					
		- at 7': sandy (fine-grained), firm, wet	MC	7					
		$\nabla$ - at 8': gravelly							
10		CLAYEY GRAVEL (GC) - Dark gray, medium dense, angular fine to coarse gravel from 1/8" to 1.5" in size, pieces of concrete, fragments of greenstone, wet - (FILL)	SPT	12					
15		- at 15': no sample recovery	MC	13					
		FAT CLAY WITH GRAVEL (CH) - Dark gray and light brown, stiff, angular gravel - (FILL)	SPT	11					

Bottom of borehole at 18.0 feet.



A3GEO, Inc  
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**BORING NUMBER B4**

PAGE 1 OF 1

CLIENT TranSystems Corporation PROJECT NAME South Cove Public Dock and Parking Lot Renovation Project  
 PROJECT NUMBER 1118-1A PROJECT LOCATION Berkeley Marina, Berkeley, CA  
 DATE STARTED 12/4/12 COMPLETED 12/4/12 GROUND ELEVATION 12.5 ft HOLE SIZE 4.5"  
 DRILLING CONTRACTOR Northstar Drilling, Inc. GROUND WATER LEVELS:  
 DRILLING METHOD Solid Stem Auger ∇ AT TIME OF DRILLING 4.50 ft / Elev 8.00 ft  
 LOGGED BY DKM CHECKED BY DI AT END OF DRILLING --  
 NOTES AFTER DRILLING --

GEO TECH BH COLUMN TERM NOTE LEFT ALIGNED - A3GEO DATA TEMPLATE.GDT - 17/13 22:27 - A:\A3GEO PROJECTS\1118 - TRANSYSTEMS\1118-1A SOUTH COVE BORING LOGS\_SOUTH\_COVE.GPJ

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE NUMBER	ADJUSTED BLOW COUNTS (N VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ROCK RECOVERY % (RQD)	OTHER LAB TESTS / NOTES
0		CLAYEY GRAVEL (GC) - Brown and gray, medium dense, angular, moist - (FILL)							
		SANDY/GRAVELLY LEAN CLAY (CL) - Reddish brown and gray, stiff, pockets of fat clay, rock fragment 2.5" in size, with foreign debris, moist - (FILL)	MC	11		111	17		LL: 37 PI: 20
		- at 3.5': soft	MC	3					
5		FAT CLAY (CH) - Dark gray, soft, wet							

Bottom of borehole at 5.0 feet.



# B. HILLEBRANDT SOILS TESTING, INC.

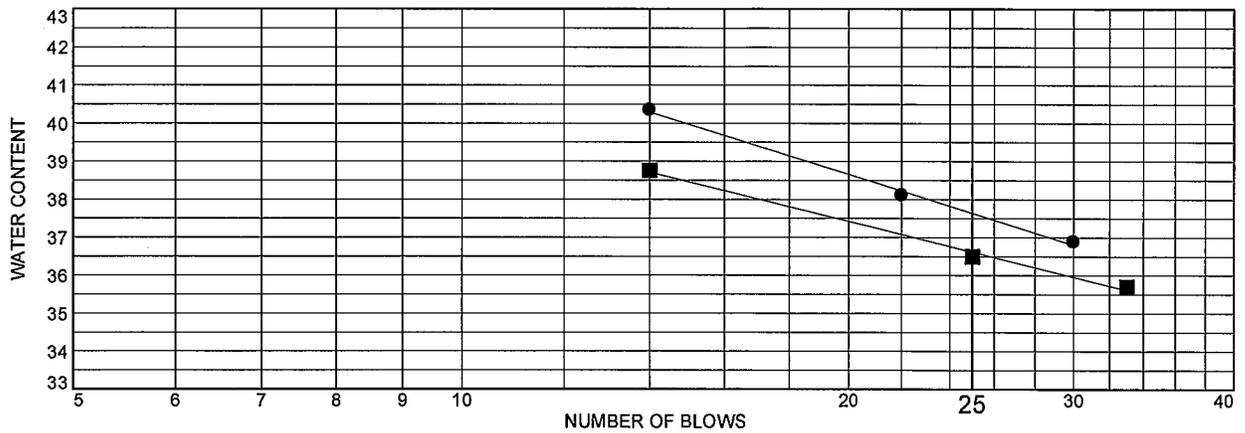
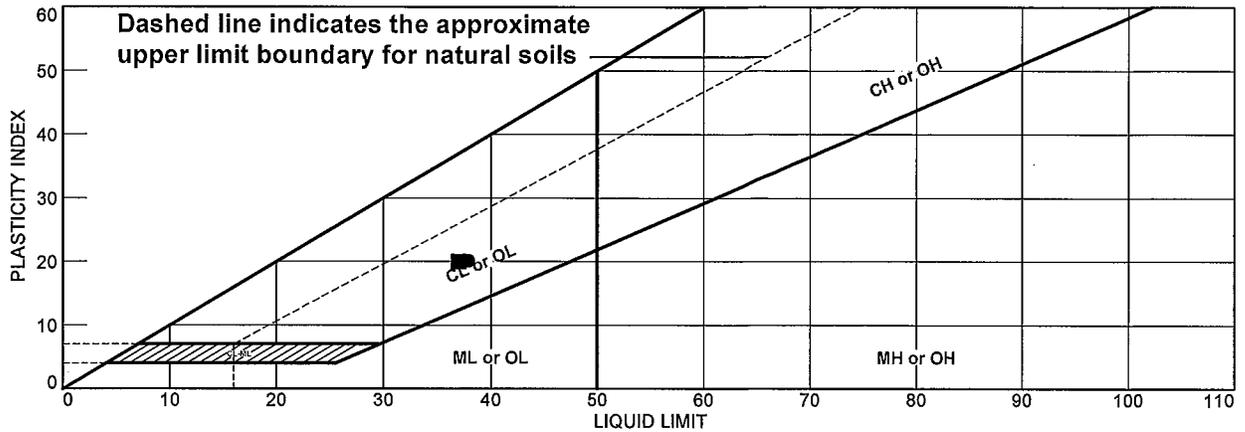
29 Sugarloaf Terrace, Alamo, CA 94507 - Tel: (510) 409-2916 - Fax: (925) 891-9267 - Email: soiltesting@aol.com

## MOISTURE CONTENT/DRY DENSITY

Job #: 1118-1A  
 Job Name: South Cove  
 Date: 12/8/12  
 Tested by: Brad Hillebrandt

Additional Tests:	PI	PI				
Boring #:	3	4				
Depth (feet):	2.5	2.0				
Sample Description:	Dark brown gravelly CLAY with sand	Dark yellowish brown gravelly CLAY with sand				
Can #:	335	336				
Wet Sample + can	385.5	388.0				
Dry Sample + can	348.1	337.6				
Weight can	38.4	38.6				
Weight water	37.4	50.4				
Weight Dry Sample	309.7	299				
<b>WATER CONTENT (%)</b>	<b>12.1%</b>	<b>16.9%</b>				
Weight Sample + Liner	938	1193				
Weight Liner	263	258				
Sample Length (Lo)	4.4	6.0				
Multiplication Factor	1.21	1.21				
<b>DRY DENSITY (pcf)</b>	<b>113.4</b>	<b>110.5</b>				

# LIQUID AND PLASTIC LIMITS TEST REPORT



	MATERIAL DESCRIPTION	LL	PL	PI	%<#40	%<#200	USCS
●	Dark brown gravelly CLAY with sand	38	18	20			
■	Dark yellowish brown gravelly CLAY with sand	37	17	20			

**Project No.** 1118-1A      **Client:** A3Geo  
**Project:** South Cove  
  
**● Source of Sample:** B3      **Depth:** 2.5'  
**■ Source of Sample:** B4      **Depth:** 2.0'  
  
**B. HILLEBRANDT SOILS TESTING, INC.**  
 +1 510-409-2816  
 SoilTesting@aol.com

**Remarks:**

Figure

Tested By: BH

Appendix C –  
Community Workforce Agreement

**CITY OF BERKELEY**  
**COMMUNITY WORKFORCE AGREEMENT**

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**Agreement to be Bound**

**COMMUNITY WORKFORCE AGREEMENT**  
**For the**  
**City of Berkeley**

This Agreement is made and entered into retroactively from July 1, 2023 by and between the City of Berkeley (“City”) together with other contractors and/or sub-contractors, who shall become parties to this Agreement by signing the “Agreement to be Bound” (Attachment A), and the Local Unions signatory hereto and the Alameda County Building & Construction Trades Council (“Council”) and its affiliated local unions who have executed this Agreement.

**PURPOSE**

The purpose of this Agreement is to support the efforts of the City to increase employment opportunities for workers who reside in Berkeley, to help increase training and employment opportunities for Berkeley residents in the construction trades through apprenticeship and pre-apprentice programs as the students graduate from the City's schools, to promote efficiency of construction operations performed for and within the City of Berkeley and to provide for peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the projects.

**RECITALS**

WHEREAS, the successful completion of the City's construction projects is of the utmost importance to the City of Berkeley; and

WHEREAS, the interests of the general public, the City, the Unions and Contractor(s) would be best served if the construction work proceeded in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractor(s) and the Unions desire to mutually establish and stabilize wages, hours and calendar conditions for the workers employed on construction work for and within the City of Berkeley by the Contractor(s), and further, to encourage close cooperation among the Contractor(s) and the Union(s) to the end that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement; and

WHEREAS, contracts for construction work within the City of Berkeley will be awarded in accordance with the applicable provisions of the Charter of the City of Berkeley, the California State Public Contract Code and the Labor Code, including but not limited to requiring competitive bidding and prevailing wages; and

WHEREAS, the City of Berkeley has the absolute right to select the lowest responsive and responsible bidder for the award of the construction contracts on the Projects; and

WHEREAS, the parties signatory to this Agreement pledge their full good faith and trust to work towards a mutually satisfactory completion of the Projects;

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES HERETO, AS FOLLOWS:

## **ARTICLE 1** **DEFINITIONS**

1.1 "Agreement" means this Community Workforce Agreement.

1.2 "Berkeley Resident" means any individual who is a current resident of Berkeley can certify through a utility bill, or other similar means acceptable to the parties to this Agreement that the individual resides within the boundaries of the Berkeley City Limits.

1.4 "City" means the City of Berkeley.

1.5 "Completion" means that point at which the City accepts a project at issue by filing a Notice of Completion, or as otherwise provided by applicable state law. "Punch list" items and any other work within the scope of this Agreement not completed prior to commencement of revenue service shall nonetheless be included within the scope of this Agreement. It is understood by the parties that portions of the Projects may be completed in phases and Completion of any such phase may occur prior to Completion of the Projects.

1.6 "Contractor(s)" and/or "Subcontractor(s)" means any individual, firm, partnership or corporation, or combination thereof, including joint ventures, which is an independent business enterprise and has entered into a contract with the City or any of its contractors or subcontractors of any tier, with respect to the construction work necessary for any part of the Projects. This shall include subcontractors not required to be listed in the bid documents. As applicable depending on its context, "Contractor" shall refer to Contractor or Contractor and Subcontractor.

1.7 "Construction Contract(s)" means all of the contract(s) for construction of any of the Projects.

1.8 "Council" means the Alameda County Building and Construction Trades Council, AFL-CIO.

1.9 "New Apprentice" is a Berkeley Resident who is enrolled in a State of California approved apprenticeship program that is a joint labor management apprentice program for no more than twenty-four months

1.11 "Projects" mean any construction project of the City whose value as estimated by the City meets or exceeds \$500,000 (Five hundred thousand) dollars.

1.12 "Union" or "Unions" means the Council and any other labor organization signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

1.13 "Project Manager" means the person or persons or business entity designated by the City to oversee all phases of construction on the Projects.

1.14 "Master Labor Agreement" or "MLA" shall mean the collective bargaining agreement of each craft Union that is Signatory to this Agreement

1.15 "Calendar Day" shall mean any day, relating to any day of the week including Saturday, Sunday and public holidays.

1.16 "Apprenticeship Program" -Recognizing the need to develop adequate numbers of competent workers in the construction industry, the Contractor(s)/Employer(s) shall employ apprentices of a California State-approved Joint Apprenticeship Program in the respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured.

The apprentice ratios will be in compliance with the applicable provisions of the applicable "Master Labor Agreement".

## **ARTICLE 2**

### **SCOPE OF AGREEMENT**

21 Parties: This Agreement shall apply and is limited to all Contractors and subcontractors performing Construction Contracts necessary for the Projects, the City, the Council and any other labor organization signatory to this Agreement, acting in their own behalf and behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

22 Project Description: This Agreement shall govern the award of all of the Construction Contracts identified by the City as part of the Projects. The City has the absolute right to combine, change, consolidate, suspend or cancel Construction Contract(s) or portions of Construction Contract(s) identified as part of the Projects. Should the City suspend or remove any contract from the Projects and thereafter authorize that construction work be commenced on such contract, then such contract shall be performed under the terms of this Agreement. Once a Construction Contract is completed it is no longer covered by this Agreement except when a Contractor is directed to engage in repairs, warranty work or modifications required by its

Construction Contract with the City. For the purposes of this Agreement, a Construction Contract shall be considered Completed as set forth in Section 1.5 of this Agreement.

### 23 Covered work:

2.3.1 This Agreement covers, without limitation, all on-site construction, demolition, alteration, painting or repair of buildings, structures, landscaping, temporary fencing and other works and related activities for the Projects that is within the craft jurisdiction of one of the Unions and that is part of the Projects, including, without limitation, pipelines, site preparation, survey work, demolition of existing structures and all construction, demolition or improvements required to be performed as a condition of approval by any public agency. This scope of work includes all soils and materials testing and inspection where such testing and inspection is a classification in which a prevailing wage determination has been published.

2.3.2 The Projects include work necessary for the Projects and/or in temporary yards or areas adjacent to and dedicated to the Projects, and at any on-site batch plant(s) constructed solely to supply materials to the Projects, when those sites are dedicated exclusively to the Projects. This Agreement covers all on-site fabrication work over which the City, Contractor(s) or subcontractor(s) possess the right of control (including work done for the Projects in any temporary yard or area established for the Projects.)

2.3.3 The furnishing of supplies, equipment or materials which are stockpiled for later use shall in no case be considered subcontracting. Construction trucking work, such as the delivery of ready-mix, asphalt, aggregate, sand or other fill material which are directly incorporated into the construction process as well as the off-hauling of debris and excess fill material and/or mud, shall be covered by the terms and conditions of this Agreement, to the fullest extent provided by law and by prevailing wage determinations of the California Department of Industrial Relations. Employers, including brokers, of persons providing construction trucking work shall provide certified payroll records to the City within ten (10) calendar days of written request or as required by bid specifications.

### 24 Exclusions: The following shall be excluded from the scope of this Agreement:

2.4.1 This Agreement is not intended to, and shall not affect or govern the award of public works contracts by the City which are outside the identified scope of work of the Projects.

2.4.2 This Agreement is not intended to, and shall not affect the current or anticipated operation, maintenance, access or use of any of the City's buildings or facilities, whether or not such facilities are identified in Section 1.7 above.

2.4.3 This Agreement shall not apply to a Contractor or subcontractor's executives, managerial employees, engineering employees, design employees, supervisors (except

those covered by existing building and construction trades collective bargaining agreements), office and clerical employees.

2.4.4 This Agreement shall not apply to any work performed on or near or leading to the site of work covered by this Agreement that is undertaken by state, county or other governmental bodies or their contractors; or by public or private utilities or their contractors; or by the City or its contractors for work not part of the scope of the Projects. Parties performing work shall notify in writing, The Council and The District of any work being performed near or leading to the site work that is not covered by this agreement. Further, this Agreement shall not be construed to prohibit or restrict the City or its employees from performing work on or around the Project construction sites or from entering the sites for any purposes deemed necessary or appropriate by the City.

2.4.5 This Agreement shall not apply to the off-site maintenance of leased equipment or the on-site supervision of such work.

2.4.6 This Agreement shall not apply to any start-up, calibration, performance testing, repair, maintenance, operational revisions to systems and/or subsystems performed after Completion.

2.5 Termination, Suspension and/or Delay of Work: It is understood and agreed that the City, at its sole option, may change, terminate, delay and/or suspend any and all portions of the covered work at any time. Further, the City may prohibit some or all work on certain days or during certain hours of the day to comply with applicable codes, laws or regulations, permits or to accommodate the ongoing operations of the City's facilities and/or to mitigate the effect of the ongoing Projects' work on the businesses and residents in the neighborhood of the Project sites; and/or require such other operational or schedule changes that it may be deemed necessary, in its sole judgment, to effectively maintain the primary purpose of the City's facilities and to remain a good neighbor to the residents and businesses in the area of any Projects. In order to permit the Contractors and Unions to make appropriate scheduling plans, the City will provide the affected Contractor and Union(s) with reasonable notice of any changes it requires pursuant to this Section.

2.6 Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the NTL Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, and the National Agreement of Elevator Constructors, and any instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Technicians, with the exception that Articles 4, 8, 12 and 13 of this Agreement shall apply to such work.

**ARTICLE 3**  
**EFFECT OF AGREEMENT/SUBCONTRACTORS**

3.1 By executing this Agreement, the Unions and the City agree to be bound by each and every provision of this Agreement.

3.2 By accepting the award of a Construction Contract for the Projects, whether as contractor or subcontractor at any tier, the Contractor/Subcontractor agrees to be bound by each and every provision of this Agreement.

3.3 This Agreement shall only be binding on the signatory parties hereto and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any other party.

3.4 It is understood that this Agreement, together with the referenced MLA , constitute an integrated, self-contained, stand-alone agreement, and that by virtue of having become bound to this Agreement, the Contractor will not be obligated to sign any other local, area, or national agreement as a condition of performing work within the scope of this Agreement. In addition, it is understood and agreed that all grievances and disputes involving the interpretation or application of this Agreement, including the MLA, shall be resolved according to the procedures set forth in Article 12 of this Agreement; provided, however, that should a dispute involve a single MLA and a Contractor signatory thereto, and not involve interpretation or application of this Agreement, then such dispute shall be processed and resolved pursuant to the grievance provisions of that MLA. Should there be a dispute in the first instance as to whether the provisions of Article 12 of this Agreement or the grievance procedures of a MLA apply, the dispute shall be presented initially to arbitrator Judge William Cahill or, if unavailable, arbitrator Earnest Brown, for resolution as to the applicable procedure. Such referral of a dispute as to the applicable procedures shall be done by an immediate conference call among the parties and the arbitrator, and heard and decided within three (3) calendar days. Should the arbitrator hold that Article 12 applies, the parties may, by mutual agreement, submit the issue to the same arbitrator pursuant to the provisions of Article 12, or, absent mutual agreement, commence processing the dispute at Step 1 of that Article.

3.5 Subcontractors. At the time that any Contractor enters into a subcontract with any subcontractor of any tier for the performance of construction or construction trucking work within the scope of this Agreement, the Contractor shall provide a copy of this Agreement, as it may from time to time be modified by the negotiating parties, to said subcontractor and shall require the subcontractor as a part of accepting an award of a construction subcontract to agree to be bound by each and every provision of the Agreement prior to the commencement of work.

3.5.1 Each Contractor and Subcontractor shall evidence their agreement to be bound to this Agreement by executing the Agreement To Be Bound form attached hereto as Appendix A. A copy of the Agreement To Be Bound executed by the Contractors and Subcontractors shall be submitted to the Union(s) prior to both the commencement of work and the Pre-Job Conference and will be a required submittal within the City's bid packages. If the Contractor or Subcontractor refuses to execute the Agreement To Be

Bound, then such Contractor or Subcontractor shall not be awarded a Construction Contract to perform work on the Projects. A Contractor or Subcontractor who executes the Agreement to Be Bound shall be considered a signatory party to this Agreement.

36 It is understood that the liability of each Contractor and Subcontractor and the liability of each Union under this Agreement shall be several and not joint. The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the City and/or any Contractor or Subcontractor.

37 With regard to any Contractor or subcontractor that is independently signed to any MLA, this Agreement shall in no way supersede or prevent the enforcement of any subcontracting clause contained in such MLA, except as specifically set forth in section 3.7.1 of this Agreement. Any such subcontracting clause in a MLA shall remain and be fully enforceable between each craft union and its signatory employers and no provision of this Agreement shall be interpreted and/or applied in any manner that would give this Agreement precedence over subcontracting obligations and restrictions that exist between craft Unions and their respective signatory employers under a MLA, except as specifically set forth in section 3.7.1 in this Agreement. To the extent that the provisions of this Agreement are inconsistent with any other provisions contained in a MLA, the provisions of this Agreement shall prevail

3.7.1 If a craft Union (“Aggrieved Union”) believes that an assignment of work on this Project has been made improperly by a Contractor or subcontractor, even if that assignment was as a result of another craft Union’s successful enforcement of the subcontracting clause in its MLA, as permitted by section 3.7 of this Agreement, the Aggrieved Union may submit a claim under the jurisdictional dispute resolution procedure contained in Article 13 of this Agreement and the decision rendered as part of that process shall be enforceable to require the Contractor or subcontractor that made the work assignment to assign that work prospectively to the Aggrieved Union. An award made to a craft Union under the subcontracting clause of its MLA, as permitted under section 3.7 of this Agreement, shall be valid and fully enforceable by that craft Union unless it conflicts with a jurisdictional award made pursuant to Article 12 of this Agreement. If the award made under MLA conflicts with the jurisdictional award, the award of any damages under the former shall be null and void *ab initio*.

#### **ARTICLE 4**

#### **WORK STOPPAGES, STRIKES, SYMPATHY STRIKES, JURISDICTIONAL DISPUTES AND LOCKOUTS**

4.1 The Unions, City and Contractor agree that for the duration of the Projects:

4.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, hand-billing or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or construction persons employed on the Projects, at a job site of the Projects or at any other facility of the City because of a dispute on the Projects. Nor shall the Unions or construction persons employed on the Projects participate in any strikes, sympathy strikes, work stoppages, picketing, hand billing,

slowdowns, or otherwise advising the public that a labor dispute exists at a Project jobsite because of a dispute between Unions and Contractor(s) on any other project.

4.1.2 As to construction persons employed on the Projects, there shall be no lockout of any kind by a Contractor covered by this Agreement. It shall not be a violation of this Article if a Contractor or Subcontractor (1) suspends or terminates a portion of the Project work or (2) discharges an employee for just cause.

4.1.3 If a MLA between a Contractor and the Union expires before the Contractor completes the performance of a Construction Contract and the Union or Contractor gives notice of demand for a new or modified MLA, the Union agrees that it will not strike, picket, hand-bill, slowdown or engage in any other disruptive activity against the Contractor and the Contractor will not lockout construction persons of the Union on said Construction Contract for work covered under this Agreement and the Union and the Contractor agree that the expired MLA shall continue in full force and effect for work covered under this Agreement until a new or modified MLA is reached between the Union and Contractor. If the new or modified MLA reached between the Union and Contractor provides that any terms of the new MLA shall be retroactive, the Contractor agrees to comply with any retroactive terms of the new or modified MLA which are applicable to construction persons employed on the Projects within seven (7) calendar days.

4.2 A party to this Agreement shall institute the following procedure, prior to invoking any other action at law or equity when a breach of this Article 4 is alleged to have occurred:

4.2.1 A party invoking this procedure shall notify, by the most expeditious means available, with notice by facsimile, electronic mail or telephone to the City, to the party alleged to be in violation, to the Council and to the involved local Union if a Union is alleged to be in violation.

4.2.2 Upon receipt of said notice, the City will contact the designated permanent arbitrator, Judge William Cahill, or if unavailable, his alternate Ernest Brown, who shall attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

4.2.3 The Arbitrator shall notify the parties by facsimile, electronic mail or telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.

4.2.4 The sole issue at the hearing shall be whether or not a violation of Article 4, Section 4.1 of this Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to

award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) calendar days, but its issuance shall not delay compliance with or enforcement of the award. The arbitrator may order cessation of the violation of this Article 4 and other appropriate relief and such award shall be served on all parties by hand or registered mail upon issuance.

4.2.5 Such award may be enforced by any Court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 4.2.4 of this Article 4, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order or enforcement. The Court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

4.2.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance are waived by the parties.

4.2.7 The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this Article and the party alleged to be in breach of its obligations under this article.

4.3 Liquidated Damages. If the arbitrator determines that a violation of Section 4.1 has occurred, the breaching party shall, within eight (8) hours of the issuance of the decision take all steps necessary to immediately cease such activities and return to work. If the breaching party involved does not cease such activities by the beginning of the next regularly scheduled shift following the expiration of the eight (8) hour period after the arbitrator's issuance of the decision, then the breaching party shall pay the sum of ten thousand dollars (\$10,000) as liquidated damages to the City per shift until the breach is remedied. The arbitrator shall retain jurisdiction for the sole purpose of determining compliance with this obligation and determining the amount of liquidated damages, if any; but such retention shall not prevent the moving party from seeking judicial enforcement of the initial decision.

## **ARTICLE 5**

### **PRE-JOB CONFERENCE**

5.1 A mandatory pre-job conference shall be held prior to the commencement of each Construction Contract. Such conference shall be attended by a representative each from the participating Contractor(s) and Union(s) and the Project Manager. All efforts will be made to hold the pre-job conference in sufficient time to ensure all parties the ability to properly raise and resolve any issue that may arise out of such meeting, with a

goal that such conferences will be held at least 21 work days before the work commences.

**ARTICLE 6**  
**NO DISCRIMINATION**

6.1 The Contractors and Unions agree not to engage in any form of discrimination on the ground of or because of race, color, creed, national origin, ancestry, age, religious or political affiliation, gender, sexual orientation or disability against any person, or applicant for employment on the Projects.

**ARTICLE 7**  
**UNION SECURITY**

7.1 The Contractors recognize the Union(s) as the sole bargaining representative of all construction persons working within the scope of this Agreement.

7.2 All construction persons who are employed by the Contractor(s) shall, as a condition of employment, on or before the eighth (8th) day of consecutive or cumulative employment on the Projects, be responsible for the payment of the applicable monthly working dues and any associated fees uniformly required for union membership in the applicable local union which is signatory to this Agreement. Further, there is nothing in this Agreement that would prevent non-union construction persons from joining the local union.

**ARTICLE 8**  
**REFERRAL AND LOCAL HIRE PROGRAM**

8.1 Referral

8.1.1 Contractor (s) performing construction work on the Projects described in the Agreement shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto ("Job Referral System"). Such Job Referral System will be operated in a non-discriminatory manner and in full compliance with all federal, state, and local laws and regulations, including those which require equal employment opportunities and nondiscrimination.

8.1.2 The Contractor(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement.

8.1.3 The Contractor(s) shall have the unqualified right to select and hire directly all supervisors above general foreman it considers necessary and desirable, without such persons being referred by the Unions(s).

8.1.4 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor(s) for employees within a seventy-two (72) hour period after

such requisition is made by the Contractor(s), the Contractor(s) shall be free to obtain employees from any source. Contractor(s) shall promptly notify the Union(s) of any applicants hired from other sources. This provision does NOT affect core employees as defined below.

8.15 Unions shall exert their utmost efforts to recruit sufficient numbers of skilled craft persons to fulfill the requirements of the Contractor(s).

#### 8.16 Core Employees

All parties agree to make a good faith effort to refer on a priority basis, consistent with the non-discriminatory referral procedures of the hall, qualified and available, and bona-fide Berkeley Residents for Project work.

8.17 The parties also recognize and support the City's commitment to provide opportunities for participation on the Projects to Berkeley Residents who are regular, experienced employees ("Core" employees) of contractors and subcontractors awarded work on the Projects and who do not traditionally work under a local collective bargaining agreement(s). In furtherance of this commitment, the parties agree that such contractors and subcontractors awarded work on the Projects may request by name, and the local will honor, referral of persons who have applied to the local union for Project work and who demonstrate the following qualifications:

- (1) Possess any license required by state or federal law for the Project work to be performed;
- (2) Have worked a total of at least one thousand (1,000) hours in the construction craft during the prior three (3) years;
- (3) Were on the Contractor's active payroll for at least sixty (60) out of the one hundred and eighty (180) calendar days prior to the contract award;
- (4) Have the ability to perform safely the basic functions of the applicable trade, and
- (5) Are Berkeley residents.

The Union will refer to such Contractor one journeyman employee from the hiring hall out-of-work list for the affected trade or craft, and will then refer one of such Contractor's "core" employees as a journeyman and shall repeat the process, one and one, until such Contractor's crew requirements are met or until such Contractor has hired five (5) "core" employees, whichever occurs first. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the hiring hall out-of-work list(s). For the duration of the Contractor's work the ratio shall be maintained and when the Contractor's workforce is reduced, employees shall be reduced in the same ratio of core employees to hiring hall referrals as was applied in the initial hiring.

8.1.8 The Contractor shall notify the appropriate Union of the name and social security number of each direct hire and each direct hire shall register with the Union's hiring hall before commencing Project work. If there is any question regarding an employee's eligibility under this Subsection 8.2.1, the City Representative, at a Union's request, shall obtain satisfactory proof of such from the Contractor.

8.2 Local Hire

8.2.1 To the extent allowed by law and consistent with the non-discriminatory referral procedures of the Union hiring halls, the Parties agree to a goal that Berkeley Residents will perform a minimum of 20% of the hours worked, on a craft by craft basis for the Projects. The Contractor(s) shall make good faith efforts to reach this goal through the utilization of the Unions' hiring hall procedures. The Unions shall exercise their best efforts in their recruiting and training of Berkeley Resident workers and in their hiring hall procedures to facilitate this 20% goal on the Projects. In the event that referral facilities maintained by the Union(s) are unable to fulfill the 20% local hire requirement, paragraph 8.2.2 of this Article shall not apply. Contractors shall document all efforts to hire locally and provide such documents to the City of Berkeley. The Council will provide an annual census of Berkeley residents, in each of the crafts party to this agreement, to the City of Berkeley. This report will be provided by August 1 of each year of this agreement.

8.2.2 Should any of the contractors performing work on the Projects fail to meet this 20% goal and fail to demonstrate efforts to do so, through a specific submittal process to be included in their contractual requirements and enforced by the grievance procedure. The contract's 10% retention will be held until such time that this failure is remedied, but not longer than sixty (60) calendar days after the date of substantial completion of the Projects or as required by law, in addition to the breach of contract remedies available to the parties for non-performance under this Agreement.

8.2.3 Apprenticeship & Workforce Development

A) Consistent with the requirements of California Labor Code §§ 1776, 1777.5 and 1777.6, Contractor(s) will be required to hire 1 New Apprentice Berkeley resident as for every \$500,000 dollars or more of total construction bid amount. The New Apprentice(s) must work a minimum of 10% of the projects work hours. The contractor may deploy the apprentice to work on another concurrent project in order to meet the minimum hours, and those hours will be counted towards the total hours of the craft on the Berkeley project. Certified Payroll must reflect the hours worked.

Contractor must fully document efforts to hire a New Apprentice, through the following steps: 1) requesting New Apprentices through the Union dispatch procedure, 2) contacting a minimum of three MC3-approved pre-apprenticeship training programs for referral of Berkeley residents. Unions shall provide written documentation to the contractor in response to dispatch requests to fulfill the New Apprentice requirement, the next tier of residents will come from the Green Corridor.

B) There can be no more than 1 entry-level New Apprentices for each craft, provided said crafts have apprenticeship openings and the general contractor will be able to include New Apprentices hired by their subcontractor to meet this requirement. Unions will agree to cooperate with Contractor(s) in furnishing apprentices as requested and the hiring of the apprentices will be in accordance to the Apprenticeship provisions listed in the Master Agreements and or the union agreements with the division of apprenticeship standards, and the apprentices shall be properly supervised and paid in accordance with provisions contained within the MLA'S. The Unions and Contractors will agree to cooperate with local pre-apprenticeship programs to ensure Berkeley residents have the opportunity to apply for and enter the into the apprenticeship programs.

C) The intent of this provision is to utilize Berkeley Resident New Apprentices to the fullest extent permissible by state law and the MLA. Failure of Contractor(s) and their subcontractors to maintain qualified apprentices on the job will be subject to further penalties as determined by the Grievance Committee as identified in Article 12.

8.11 Enforcement, Compliance & Reporting.

Contractors will be required to submit Certified Weekly Payrolls to the City along with monthly workforce utilization reports documenting the Contractor's compliance with the requirements described in this article. At a minimum the monthly reports must include 1) data on Berkeley Resident's work hour utilization on a craft by craft basis, 2) number of New Apprentices hired and the hours they have worked, 3) documentation showing any requests made to the union dispatchers for Berkeley Residents and the Union's response to the request. Enforcement of this article shall be according to the Grievance and Arbitration procedure outlined in Article 12.

**ARTICLE 9**  
**HELMETS TO HARDHATS**

9.1 The parties recognize a desire to facilitate the entry into the Building and Construction Trade Union(s) of Veterans who are interested in careers in the building and construction industry. The parties agree to utilize the services of the Center for Military Recruitment, Assessment and Veteran's Employment ("Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

9.2 The Union(s) and Contractor(s) agree to coordinate with the Center to participate in an integrated database of Veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Union(s) will give credit to such Veterans for bona fide, provable past experience.

**ARTICLE 10**  
**GRIEVANCE PROCEDURE**

10.1 Any Contractor which is not otherwise bound through an agreement with a Union to a grievance procedure which confers jurisdiction to consider and resolve disputes over the imposition of discipline or dismissal of its construction persons working on this Project shall be bound to the arbitration procedure contained in the MLA of the craft representing the employee(s) involved in the dispute. For the purposes of this Article, such grievance procedure shall be limited to disputes regarding the imposition of discipline or dismissal arising from work covered by the Agreement. Such Contractor shall not impose discipline or dismissal on its construction persons covered by this Agreement without just cause.

**ARTICLE 11**  
**JOINT ADMINISTRATIVE COMMITTEE**

11.1 The parties to this Agreement shall establish a five (5) person Joint Administrative Committee comprised of at least one and up to two (2) representatives representing the City; two (2) representatives of the signatory Unions and The Council; and one industry representative, mutually selected by the City and The Council. Each representative shall designate an alternate who shall serve in his or her absence for any purpose contemplated by this Agreement.

11.2 The Joint Administrative Committee shall meet at the request of either party, but not less than once each quarter, to review the implementation of the Agreement and the progress of the Projects including, but not limited to, compliance with Article 8, prevailing wage, safety, Workforce development and Industry trends. Requests for certified payroll made by a Joint Labor/Management Committee to which the Union(s) signatory to this Agreement are a party shall be provided as allowed by law.

**ARTICLE 12**  
**GRIEVANCE ARBITRATION PROCEDURE**

12.1 The parties understand and agree that in the event any dispute arises out of the meaning, interpretation or application of the provisions of this Agreement, the same shall be settled by means of the procedures set out herein. No grievance shall be recognized unless the grieving party provides notice in writing to the signatory party with whom it has a dispute within seven (7) calendar days after becoming aware of the dispute, but in no event more than thirty (30) calendar days after it reasonably should have become aware of the event giving to the dispute. The time limits in this Article 12 may be extended by mutual written agreement of the parties.

12.2 Grievances shall be settled according to the following procedures:

**Step 1:** Within seven (7) calendar days after the receipt of the written notice of grievance, the Business Representative of the involved Local Union, the City's authorized representative, representative of the construction person, and the representative of the involved Contractor shall confer and attempt to resolve the grievance.

**Step 2:** In the event that the representatives are unable to resolve the dispute within seven (7) calendar days after its referral to Step 1, either involved party may submit it within three (3) calendar days to Grievance Committee. The Grievance Committee shall consist of one (1) person selected by the City and one (1) person selected by the Council, which shall meet within seven (7) calendar days after such referral (or such longer time as mutually agreed upon by all representatives of the subcommittee), to confer in an attempt to resolve the grievance. The decision of the Grievance Committee shall be legal, final and binding. If the dispute is not resolved within such time seven (7) calendar days after its referral or such longer time as mutually agreed upon) it may be referred within seven (7) calendar days by either party to Step 3.

**Step 3:** Within seven (7) seven calendar days after referral of a dispute to Step 3, the representatives shall submit the matter to the designated permanent Arbitrator, Judge William Cahill.

12.3 In the event that Judge Cahill is unavailable, the arbitrator shall be Earnest Brown.

12.4 The Arbitrator shall arrange for a hearing no later than fourteen days (14) calendar days after the matter has been submitted to arbitration. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the Arbitrator. The time limits specified in any step of the Grievance Procedure set forth in Section 12.1 may be extended by mutual agreement of the parties initiated by the written request of one party to the other, at the appropriate step of the Grievance Procedure. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without the request for an extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes.

12.5 The decision of the Arbitrator shall be binding by all parties. The Arbitrator shall not have authority to change, amend, add, or detract from any of the provisions of the Agreement. The expense of the Arbitrator shall be borne equally by both parties.

12.6 In order to encourage the resolution of disputes and grievances at Step 1 and 2 of this Grievance Procedure, the parties agree that such settlements shall not be precedent-setting.

### **ARTICLE 13** **JURISDICTIONAL DISPUTES**

131 The assignment of Covered Work will be solely the responsibility of the Contractor/Employer(s) performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

132 All jurisdictional disputes on this Project between or among the Union(s) and the Contractor/Employer(s), parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department, or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractor/Employer(s) and Union(s) parties to this Agreement.

13.2.1 If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an Arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch and Thomas Pagan and the Arbitrator's hearing on the dispute shall be held at the offices of the California State Building and Construction Trades Council in Sacramento, California, within fourteen (14) calendar days of the selection of the Arbitrator. All other procedures shall be as specified in the Plan.

133 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor/Employer(s)' assignment shall be adhered to until the dispute is resolved. Individuals violating this Section shall be subject to immediate discharge.

134 Each Contractor/Employer(s) shall conduct a Pre-Job Conference with the Council prior to commencing Covered Work. The Primary Employer, Coordinator and the District will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Contractor(s) may be held together.

### **ARTICLE 14** **APPRENTICES**

14.1 Recognizing the need to maintain continuing support of programs designed to develop adequate numbers of competent workers in the construction industry, the Contractor (s) shall employ apprentices in the respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured.

14.2 The apprentice ratios will be in compliance with the applicable provisions of the California Labor Code and Prevailing Wage Rate Determination.

14.3 There shall be no restrictions on the utilization of apprentices in performing the work of their craft provided they are properly supervised.

14.4 All Apprentices will come from a State approved Labor Management Apprenticeship program.

## **ARTICLE 15** **MANAGEMENT RIGHTS**

15.1 The Contractor shall retain full and exclusive authority for the management of their operations, including the right to direct their work force in their sole discretion with regard to the following: the hiring, promotion, transfer, layoff, corrective action or discharge for just cause of its employees (in accordance with Article 9); the determination of the number of employees needed for the Project work; the selection/hiring of foremen and supervisors; the assignment and schedule of work; the requirement of overtime work, the determination of when it will be worked, and the number of employees engaged in such work, except as otherwise limited by the terms of this Agreement and/or the MLA. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of construction persons except that the lawful manning provisions of the MLA shall be recognized.

## **ARTICLE 16** **WAGES/BENEFITS**

16.1 **Wages.** All construction persons covered by this Agreement shall be classified in accordance with work performed and paid the hourly wage rates for those classifications in the applicable MLA for such craft work and in compliance with the applicable prevailing wage rate determination.

16.2 **Benefits.** Contractor agrees to pay contributions into established construction person benefit funds in the amounts designated in the appropriate MLA; provided, however, that each Contractor and Union agree that only such bona fide construction person benefits as included in the prevailing wage determination shall be included in this requirement and required to be paid by the Contractor under this Agreement; provided further, however, that this provision does not relieve Contractors signatory to a local collective bargaining agreement with a signatory Union which would be applicable to the Projects from making

any other fund contributions (including, but not limited to, those for contract administration), required by such local agreement. Contractor shall not be required to pay contributions to any other trust funds to satisfy their obligation under this Article. By signing this Agreement, the Contractors adopt and agree to be bound by the written terms of the legally established Trust Agreements, specifying the detailed basis on which the payments are to be made into, and the benefits paid out of, such Trust Funds.

**16.3 Compliance.** It shall be the responsibility of the Contractor(s) and Unions to investigate and monitor compliance with the provisions of the agreement contained in Article 15. Nothing in this agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent Trust Fund contributions from Contractors on the Project.

## **ARTICLE 17** **MODIFIED MASTER LABOR AGREEMENTS**

17.1 Certain Provisions Shall Not Apply. Provisions negotiated into the new or modified MLA which are less favorable to the Contractor than those uniformly required of employers for construction work normally covered by those agreements or which may be construed to apply exclusively or predominately to work covered by this Agreement shall not apply to work covered by this Agreement. Any disagreement between the parties regarding the application of the provisions of any new or modified collective bargaining agreement to work covered by this Agreement shall be resolved under the dispute and grievance arbitration procedures set forth in Article 12 hereof.

## **ARTICLE 18** **DRUG and ALCOHOL TESTING**

18.1 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited.

18.2 Employer shall be allowed to utilize employment drug screens. All personnel are subject to random alcohol and drug/alcohol testing at any time, except, the following changes will apply. Employer shall follow said Unions Master Labor Agreement drug polices, regulations and limits. Body fluid tests will utilize urine and saliva specimens. Employer may also selectively require an employee to undergo alcohol or drug/alcohol testing if Employer has reasonable cause to believe that an employee's ability to work safely may be impaired. All requirements and activities of the Employer with regard to drug/alcohol testing shall comply with the provisions of State law.

**ARTICLE 19**  
**SAVINGS CLAUSE**

19.1 The parties agree that in the event any article, provision, clause, sentence or word of this Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction the remainder of the Agreement shall remain in full force and effect. The parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by the court of competent jurisdiction, the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or word which will meet the objections to its validity and which will be in accordance with the intent and purpose of the article, provision, clause, sentence or word in question.

19.2 The parties also agree that in the event that a decision of a court of competent jurisdiction materially alters the terms of this Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void.

**ARTICLE 20**  
**ENTIRE AGREEMENT**

20.1 This Agreement represents the complete understanding of the parties. The provisions of this Agreement, including the MLA, shall apply to the work covered by this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a MLA, the provisions of this Agreement shall prevail. Where a subject is covered by the provisions of a MLA and is not covered by this Agreement, the provisions of the MLA shall prevail. Nothing contained in a MLA, working rule, by-laws, constitution or other similar document of the Unions shall in any way affect, modify or add to this Agreement unless otherwise specifically set forth in this Agreement or mutually agreed to in writing executed by the parties.

20.2 The parties agree that this Agreement covers all matters affecting wages, hours, and other terms and conditions of employment and that during the term of this Agreement the parties will not be required to negotiate on any further matters affecting these or any other subject not specifically set forth in this Agreement except by mutual agreement of the parties.

20.3 This Agreement may be executed in counterparts, such that original signatures may appear on separate pages and when bound together all necessary signatures shall constitute an original. Facsimile signature pages transmitted to other parties to this Agreement shall be deemed the equivalent to original signatures.

**ARTICLE 21**  
**TERM**

21.1 The Agreement shall be included as a condition of the award of the Construction Contracts.

21.2 The Agreement shall continue in full force and effect for a term of three years from the Effective Date of July 1, 2023 through June 30, 2026 and shall be applicable to all Projects until completion that are advertised for bidding during the term.

21.3 This Agreement shall continue in full force and effect until Completion of the Project. The parties may mutually agree to extend and/or amend this Agreement.

## SIGNATURES

### City of Berkeley

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

**Dee Williams-Ridley, City of Berkeley City Manager**

Date: \_\_\_\_\_

### Alameda County Building & Construction Trades Council, AFL-CIO

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

**Andreas Cluver, Secretary-Treasurer for the Building Trades Council of Alameda County on behalf of the Signatory Unions**

Date: \_\_\_\_\_

### Signatory Unions

**Asbestos Workers, Local 16 Boilermakers, Local 549**

**Bricklayers & Allied Craftsmen**

**Local 3 Cement Masons, Local 300**

**Electrical Workers, Local 595**

**Elevator Constructors, Local 8**

**Hod Carriers, Local 166**

**Iron Workers, Local 378**

**Laborers, Local 67**

**Laborers, Local 304**

**Operating Engineers,**

**Local 3 Plasterers, Local 66**

**Roofers, Local 81**

**Sheet Metal Workers, Local 104**

**Sign Display, Local 510**

**Sprinkler Fitters, Local 483**

**Teamsters, Local 853**

**United Association of Journeymen and Apprentices Fitting Industry,  
Underground Utility & Landscape, Local 355**

**United Association of Steamfitters, Ironworkers City and the RDA Council  
of Pipefitters, Plumbers, & Gas California Fitters, Local 342**

**Council No. 16 Northern California**

**International Union of Laborers**

**Painters & Allied Trades** (On behalf  
of Painters, Local 3; Carpet & Linoleum  
Layers, Local 12; Glass Workers, Local  
169; Auto & Marine Painters, Local 1176)

**Northern California Carpenters**

**Regional Council** (on behalf of Carpenters,  
Local 713; Carpenters, Local 2236; Lathers,  
Local 68L; Millwrights, Local 102; Pile  
Drivers, Local 34)

## AGREEMENT TO BE BOUND

The undersigned, as a Contractor or Subcontractor ("Contractor") on a City Project ("Project"), for and in consideration of the award to it of a contract to perform work on said Project, and in further consideration of the mutual promises made in the Project's Community Workforce Agreement ("Agreement"), a copy of which was received and is acknowledged, hereby:

1. Accepts and agrees to be bound by the terms and conditions of the Agreement, together with any and all amendments and supplements now existing or which are later made to said Agreement.
2. Certifies that it has no commitments or agreements which would preclude its full and complete compliance with the terms and conditions of said Agreement;
3. Agrees to secure from any Contractor (as defined in said Agreement) which is or becomes a subcontractor (of any tier) to it, and from any successors, a duly executed Agreement to be bound in form identical to this document.
4. Contractor agrees that it shall be bound by all applicable trust agreements and plans for the provision of such fringe benefits as accrue to the direct benefit of the construction persons, including Health and Welfare, Pension, Training, Vacation, and/or other direct benefits provided pursuant to the appropriate craft agreement contained in Schedule "A" of Agreement.

Date: \_\_\_\_\_

Company Name: \_\_\_\_\_

Name of Prime Contractor or Higher Level Subcontractor:  
\_\_\_\_\_

Name of Project: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

Contractor's License #: \_\_\_\_\_

Motor Carrier Permit (CA) #: \_\_\_\_\_