

Solicitation RQ10356
Manhole Raising Services



City of San Jose

Bid RQ10356 Manhole Raising Services

Bid Number	RQ10356
Bid Title	Manhole Raising Services
Bid Start Date	May 29, 2009 10:55:38 AM PDT
Bid End Date	Jun 9, 2009 3:30:00 PM PDT
Bid Contact	Mike Pfister michael.pfister@sanjoseca.gov
Contract Duration	1 year
Contract Renewal	2 annual renewals
Prices Good for	Not Applicable
Bid Comments	<p>The City of San Jose (City) is seeking quotations from qualified Contractors to provide all labor, material, and equipment necessary to provide manhoe raising services throughout the City of San Jose. Estimated Annual Value: \$50,000</p> <p>Minimum Requirements: Contractor must have a Class A (General Engineering) California Contractor License in good standing.</p> <p>The purchase order has the potential of a three (3) year duration. The initial period will be one year from the purchase order award date with pricing to remain firm for the initial period, and will have two (2), one (1) year options to renew at the City of San Jose's discretion. Pricing for any renewal terms, is not automatic, and shall be considered by the City of San Jose. Any adjustment shall be adjusted on the anniversary of the initial term not to exceed the Consumer Price Index (CPI-U) established by the U.S. Department of Labor, Bureau of Statistics for the San Francisco-Oakland-San Jose (Code 9240, CPI-U). The factor used is the most recently published annual average. The maximum annual percentage increase/decrease may not exceed 5% .</p> <p>RFQ RQ10356 is subject to the City of San Jose wage requirements.</p> <p>Please reference attached scope of services with diagram for more details.</p> <p>Upon award of purchase order, contractor must have verified insurance requirements as defined in this quotation, and must be verified within within 10-days from the final date in the protest period, and offically awarded. The City of San Jose reserves the right to withdraw the award and award to the next lowest bidder should the contractor not comply.</p> <p>Award will be based on the lowest quotation.</p> <p>For all questions, please use the questions tool reference. Added on Jun 2, 2009: Addendum 1: Scope of Services Updated</p>

Changes made on Jun 2, 2009 7:12:36 AM PDT

New Documents RQ10356 Updated Scope of Service with Diagram.pdf

Removed Documents RQ10356 Scope of Service with Diagram.pdf

REQUEST FOR QUOTATION (RFQ) – INSTRUCTIONS AND GENERAL PROVISIONS

1. SUBMITTING THE QUOTATION:

Your response to this Request may be submitted electronically on-line or in hard copy by mail or fax. Please follow the instructions below.

(a) **Electronic Submission.** The City of San José "CITY" prefers that quotes be submitted electronically. Suppliers must register with RFP Depot and complete the required supplier registration and the supplemental supplier qualifications that are specific to the CITY. The link to RFP Depot may be located through the City's Bidline web site at www.sanjoseca.gov. Electronic quotes may be submitted through a secure mailbox until the date and time as indicated in this RFQ. It is the sole responsibility of the supplier to ensure their quote reaches RFP Depot, LLC before the closing date and time. **There is no cost to the supplier to receive or submit electronic quotes using RFP Depot.**

(b) **Hard Copy Submission.** If the supplier chooses to submit the quote directly in writing: This form must be signed in ink and delivered to CITY, 200 East Santa Clara Street, 13th floor, San José, CA 95113 or faxed to (408) 292-6480 by the due date and time. The "Request for Quotation Number" and "Due Date" must appear on the outside of the envelope or on the fax cover page. All prices and notations must be in ink or typewritten. Each item must be priced separately. Unit price shall be shown and a total price shall be entered for each item quoted. Errors may be crossed out and corrections printed in ink or typewritten adjacent to the error and must be initialed in ink by person signing quotation. Unit price will govern, if there is an error in the extension. Faxed quotes are submitted at the sole option and risk of the supplier. Access to the Purchasing fax machine is on a "first come first served" basis and CITY does not guarantee the supplier's access to the machine at any particular time.

2. QUOTATION PREPARATION:

(a) The time stated as the deadline for response submittal is critical and must be adhered to as specified.

(b) Unless specifically stated as "no substitutions allowed", whenever an item is defined by using a trade name of a manufacturer and/or model number, it is intended that the words, "or equivalent" apply. "Or equivalent" means any other brand that is equal in use, quality, economy and performance to the brand listed as determined by CITY. All quotes must include complete manufacturer's descriptive literature if quoting an equivalent product. The CITY reserves the right to test and evaluate the product. At supplier's expense, Supplier bears sole responsibility for providing any information, test data or document required by the CITY to fully evaluate the acceptability of the "or equal." At Supplier's expense, this full evaluation may require independent testing, including destructive testing, at qualified test facilities. If the supplier lists a trade name and/or catalog number in the quote, CITY will assume the item meets the specifications unless the quote clearly states otherwise, and describes specifically how it differs from the item specified. All products are to be of new, unused condition, unless otherwise requested in this solicitation.

(c) By submitting the quotation the supplier certifies that all of the information provided is accurate, that they are willing and able to furnish the item(s) specified, that prices quoted are correct, and the supplier agrees to comply with the terms, conditions and specifications in this document.

(d) The City may designate incomplete quotes as non-responsive.

3. **LABOR COMPLIANCE:** If Living and/or Prevailing Wage is required for this procurement, supplier shall be required to sign and submit a hardcopy of the Labor Compliance Addendum within ten days after notification of award. The addendum and all wage requirements will be included with each RFQ as applicable.
4. **INSURANCE REQUIREMENTS:** CITY's insurance requirements are included with this document. The supplier recommended for award must provide proof of insurance within ten calendar days after notice of award.

5. LOCAL AND SMALL BUSINESS PREFERENCE

It is the policy of the City of San José to encourage local and small business activity in accordance with Municipal Code Section 4.12.320.

(a) Suppliers responding electronically to this solicitation must register with RFP Depot and complete the "Qualifications for this Agency" under the "Steps for Placing a Bid" section of the on-line solicitation. In order to request the Preference in an on line submission, Suppliers must complete the required on-line form and submit to the City for consideration.

(b) Suppliers submitting written quotes must complete and sign the Local and Small Business Preference form attached. If this form is not properly completed and submitted with the quote, suppliers will not be granted the preference, even if the supplier would otherwise qualify.

(c) If the basis of award is price determinative (awarded to the low supplier) then the amount of the preference shall be 2.5% of cost for Local and an additional 2.5% of cost for Small.

(d) If the basis of award is points determinative ("best value") then the amount of the preference shall be 5% of total points for Local and an additional 5% of total points for Small.

6. **RFQ AMENDMENTS:** Answers to questions submitted through RFP Depot shall be considered addenda to the RFQ. All addenda and notices related to this procurement will be posted by CITY on RFP Depot. In the event this RFQ is obtained through any means other than RFP Depot, CITY will not be responsible for the completeness, accuracy, or timeliness of the final RFQ, as received by Supplier.

7. AWARD OF CONTRACT

(a) The results of the RFQ process may be publicly reviewed after award on RFP Depot.

(b) Suppliers will receive a notification of award via RFP Depot. At such time, suppliers may protest the award recommendation by following the protest procedure described in Section 8 of this document.

(c) The recommended winning supplier shall have ten calendar days from the notification of award to provide verification of insurance and complete and submit the Labor Compliance Addendum, if required for the RFQ. If required documentation is not received within ten calendar days after notification of award, CITY may declare the recommended winning supplier's quote non-responsive and award the purchase order to the second low or second most advantageous supplier.

(d) After receipt of all required documentation, CITY will issue a Purchase Order or Agreement for the required products and/or services. Supplier shall not provide any service.

ship product, or invoice CITY until such time that a properly executed Purchase Order or Contract has been issued by CITY. Failure to do so may result in returning product at the supplier's expense or non-payment of services provided.

(e) For price determinative solicitations, CITY may accept any item or group of items, or the overall low quote.

(f) CITY reserves the right to cancel part or the entire RFQ at any time prior to issuance of a purchase order or execution of an agreement.

(g) CITY reserves the right to reject any or all quotes or waive any informality or technicality in any quote received.

(h) Before or after the award of a contract CITY has the right to inspect the supplier's premises and all business records to determine the supplier's ability to meet contract requirements.

(i) Estimated quantities are for quoting purposes only, and not to be interpreted as a guarantee to purchase any amount.

(j) Multiple purchase orders or agreement may be awarded if CITY determines it would be in its best interest.

(k) For quotations with renewals, all renewals shall be considered as options to renew and will be exercised at the sole discretion of the City.

8. OBJECTIONS AND PROTESTS

(a) Suppliers objecting to the specifications contained in the RFQ must contact the procurement officer listed in the RFQ in writing (e-mail or fax are acceptable) as soon as possible. Objections must be as specific as possible and identify the item number as well as a description and rationale for the objection.

(b) If an unsuccessful supplier wants to dispute the award recommendation, the Protest must be submitted in writing to the Chief Purchasing Officer no later than ten calendar days after announcement of the successful supplier. Protest must detail the grounds, factual basis and provide all supporting information. Protests will not be considered for disputes of quote requirements and specifications, which must be addressed in accordance with Section 8.(a) above. The Chief Purchasing Officer's decision regarding the protest is final.

(c) The address for submitting protests is:

CITY of San Jose
200 East Santa Clara Street, 13th Floor
San Jose, CA 95113
Attn: Chief Purchasing Officer

9. PROTECTED INFORMATION: All material becomes the property of CITY. Quotes submitted may be reviewed and evaluated by any persons at the discretion of CITY.

10. ENERGY CONSERVATION AND RECYCLED PRODUCTS: The contractor is encouraged to offer Energy Star certified products or products that meet FEMP (Federal Energy Management Program) standards for energy consumption. CITY also encourages

contractors to offer products that are produced with recycled materials, where appropriate, unless otherwise requested in this RFQ.

- 11. ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES:** Suppliers are encouraged to offer Energy Star, Green Seal, EcoLogo, or EPEAT certified products. CITY also encourages contractors to offer products and services that are produced or delivered with minimal use of virgin materials and maximum use of recycled materials and reduce waste, energy usage, water utilization, and toxicity in the manufacture and use of products.
- 12. CITY BUSINESS TAX:** If the Supplier is not currently doing business in San José, the supplier shall have to pay a CITY Business License Tax prior to any commencement of work. For more information, you may contact the Business Tax Office at (408) 535-7055 to determine costs, or Web Site: <http://www.csjfinance.org/>

Supplier Acknowledgement Page

RFQ Number: RQ10356

RFQ Name: Manhole Raising Services

Electronic Submission: If you are submitting an on-line quotation, you must complete the required information in this form, and electronically sign the document.

Hard Copy Submission: If you are submitting a paper quotation, you must print this form, and complete and sign the required information.

The undersigned supplier hereby certifies that he/she understands the specifications, has read the document in its entirety and that the prices submitted in this quotation have been carefully reviewed and are submitted as correct and final. Supplier further certifies that it is authorized to make this response and agrees that it can and will furnish all products/services meeting the specifications of this Request for Quotation upon which prices are extended at the unit price offered, and upon the City's Standard Terms and Conditions.

Supplier Name:

Name (signature):

Name (print):

Title:

Executed at: City, State

Date:

City of San José
Request for Contracting Preference for Local and Small Businesses

Suppliers Note: You do not need to complete this form if you are submitting an electronic response to a City solicitation (Request for Quotation, Request for Bid, Request for Proposal) on the RFPDepot system, completed the City of San José Supplemental Qualifications, and checked the appropriate LBE/SBE check-boxes on the Supplemental Qualifications. Contact RFPDepot directly at 1-800-990-9339, if you have any questions in completing this information.

You do need to print and complete this form, if you are submitting a paper response to a City solicitation and want to be considered for the preference.

Chapter 4.12 of the San José Municipal Code provides for a preference for Local and Small Businesses in the procurement of contracts for supplies, materials, equipment, services. The amount of the preference depends on whether the vendor qualifies as a Local Business Enterprise* or Small Business Enterprise** and whether price has been chosen as the determinative factor in the selection of the vendor.

In order to be a Local Business Enterprise (LBE) you must have a current San José Business Tax Certificate License and have an office in Santa Clara County with at least one employee.

If you qualify as an LBE you may also qualify as a Small Business Enterprise (SBE) if the total number of employees (*regardless of where they are located*) of your firm is 35 or fewer. With respect to quotes, bids, or proposals submitted by partnerships or joint ventures, the number of employees for purposes of qualifying as a SBE shall be determined by the total number of employees of each of the members of the partnership or joint venture combined.

There are two ways in which the preference can be applied:

- 1) In solicitations where price is the determinative factor (*i.e. there are no other factors being considered in the selection process*) the preference is in the form of a credit applied to the **dollar value** of the response submitted. For example, a non-local vendor submits a response to a City solicitation of \$200 per item and a LBE submits a response of \$204 per item. The LBE receives a 2.5% credit on the response, which equals approximately \$5 and thus the LBE will win the award because the response is evaluated as if it had been submitted as \$199.
- 2) In solicitations where there are a variety of factors evaluated to determine which response best meets the City's needs, a qualified LBE will be given 5% and a qualified SBE will be given an additional 5% of the total points in the scoring.

***LOCAL BUSINESS ENTERPRISE (LBE) PREFERENCE**
In order to qualify as an LBE you must provide the following information:

Current San José Business Tax License Number	
Address of Principal Business Office or Regional, Branch or Satellite Office with at least one employee located in Santa Clara County:	

***SMALL BUSINESS ENTERPRISE (SBE) PREFERENCE**
 In order to qualify as an SBE you must qualify as an LBE and have 35 or fewer employees. This number is for your **entire** business --NOT just local employees, or employees working in the office address given above.

Please state the number of employees that your Business has:

Based upon the forgoing information I am requesting that the Business named above be given the following preferences (*please check*):

Local Business Enterprise Small Business Enterprise

I declare under penalty of perjury that the information supplied by me in this form is true and correct.

Executed at: _____, California

Date: _____

Signature _____

Print name _____

Environmentally Preferable Procurement Program (EP³)

Please complete the following information regarding the product and/or service offered. The City is interested in understanding positive environmental attributes as outlined below.

Product or Service Environmental Profile:	Yes	No	Detailed Product/Service Information
1. Are the Products offered certified by independent certification programs such as Energy Star, Green Seal, EcoLogo, or EPEAT?	€	€	<input type="text"/>
2. Do the Products contain recycled material content?	€	€	<input type="text"/>
3. Do the Products offered reduce energy consumption?	€	€	<input type="text"/>
4. Do the Products offered reduce toxicity, including emissions?	€	€	<input type="text"/>
5. Do the Products offered reduce water consumption?	€	€	<input type="text"/>
6. Do the Products offered reduce waste?	€	€	<input type="text"/>

Background

The City of San José has adopted an Environmentally Preferable Procurement (“EPP”) Policy. The goal is to encourage the procurement of products and services that help to minimize the environmental impact resulting from the use and disposal of these products. These products include, but are not limited to, those that contain recycled content, conserve energy or water, minimize waste or reduce the amount of toxic material used and disposed.

The City’s Finance Department encourages the use of products that minimize adverse environmental and health effects and take into consideration both the costs associated with the full product life cycles.

What Is Environmentally Preferable Procurement (EPP)?

Environmentally Preferable Procurement (EPP) is a process for selecting products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. In the simplest terms, EPP means adding environmental considerations to purchasing decisions along with such traditional factors as performance, price, health, and safety. EPP considerations include:

- Ø durability
- Ø energy and water efficiency
- Ø remanufactured parts and recycled content
- Ø ability to reuse or recycle
- Ø existence of harmful or dangerous chemicals.

The EPP process builds on these single attributes and encourages purchasers to examine multiple attributes such as energy efficiency *and* recycled content *and* toxicity *and* the use of renewable resources *and* other environmental attributes. The mix of attributes will depend on the specific product or service being evaluated.

INSURANCE REQUIREMENTS FOR CONTRACTORS
(Standard for Contractors)

CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the work hereunder by the CONTRACTOR, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the CONTRACTOR's bid.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001), including products and completed operations, and X, C, U where applicable; and
2. Insurance Services Office form number CA 0001 covering Automobile Liability, code 1 "any auto," or code 2 "owned autos" and endorsement CA 0025. Coverage also to include code 8 "hired autos" and code 9 "non-owned" autos; and
3. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

B. Minimum Limits of Insurance

CONTRACTOR shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by, the CITY. At the option of the CITY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the CITY, its officials, employees, agents and contractors; or the CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the CITY.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages

- a. The CITY, its officials, employees, agents and contractors are to be covered as an additional insured as respects: liability arising out of activities performed by, or on behalf of, the CONTRACTOR; products and completed operations of the CONTRACTOR; premises owned, leased or used by the CONTRACTOR; or automobiles owned, leased, hired or borrowed by the CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its officials, employees, agents and contractors.
- b. The CONTRACTOR's insurance coverage shall be primary insurance as respects the CITY, its officials, employees, agents and contractors. Any insurance or self-insurance maintained by the CITY, its officials, employees, agents or contractors shall be in excess of the CONTRACTOR's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the CITY, its officials, employees, agents, or contractors.
- d. Coverage shall state that the CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in limits except after thirty (30) days' prior written notice has been given to the CITY.

E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to the CITY's Risk Manager.

F. Verification of Coverage

CONTRACTOR shall furnish the CITY with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the Risk Manager:

City of San Jose – Human Resources
Risk Management
200 East Santa Clara St. 2nd Floor Wing
San Jose, CA 95113-1905

Phone: 408-535-7063
Fax: 408-286-6492

G. Subcontractors

CONTRACTOR shall include all subcontractors as insured under its policies or shall obtain separate certificates and endorsements for each subcontractor.

**CITY OF SAN JOSE
SERVICE ORDER TERMS and CONDITIONS**

1. **DEFINITIONS:** CITY shall mean the City of San Jose or any department thereof. SERVICE ORDER means that certain contract for services, which includes these Terms and conditions as well as the information, contained on the completed form appearing on the reverse of these Terms and Conditions. References in quotes refer to the designation on the reverse. CONTRACTOR shall mean the business as designated under "VENDOR".
2. **SCOPE OF SERVICES:** CONTRACTOR shall perform those services specified in detail in "DESCRIPTION OF SERVICES." CONTRACTOR will supply all tools and instrumentality's required to perform this SERVICE ORDER
3. **DATA AND FACILITIES:** CONTRACTOR acknowledges that it has in its possession all applicable specifications and drawings and all other documents to which reference is made herein and/or which are matched hereto, and that such data are adequate to enable CONTRACTOR fairly to determine its ability to perform the work called for herein at the price and in accordance with the schedule set forth. CONTRACTOR represents that it now has or can readily procure without assistance of CITY all personnel, facilities, machinery and equipment necessary for the performance of this SERVICE ORDER.
4. **CONTRACT:** This SERVICE ORDER constitutes CITY's offer to CONTRACTOR and shall become a binding contract upon the terms and conditions set forth herein upon acceptance by CONTRACTOR either by acknowledgement or commencement of performance. Any terms or conditions by CONTRACTOR is accepting CITY's offer, which are inconsistent with or in addition to the terms and conditions herein set forth, shall be void and of no effect unless and to the extent expressly accepted by CITY in writing.
5. **SCHEDULE OF PERFORMANCE:** CONTRACTOR's services shall be completed according to the schedule set forth in "DESCRIPTON OF SERVICES." Time is of the essence in this SERVICE ORDER
6. **TERM:** the term of this SERVICE ORDER shall be as set forth in "DESCRIPTION OF SERVICES."
7. **COMPENSATION:** The compensation to be paid and the method of payment for CONTRACTOR for services provided shall be as set forth in the "DESCRIPTION OF SERVICES." Unless otherwise provided for under "DESCRIPTION OF SERVICES." CONTRACTOR shall be responsible for all costs and expenses incident to the performance of this SERVICE ORDER, including all costs of equipment provided by CONTRACTOR, all fees, fines, licenses, bonds or taxes required of or imposed against CONTRACTOR, and all other of CONTRACTOR's costs of doing business.
8. **INDEPENDENT CONTRACTOR:** It is understood and agreed that CONTRACTOR shall act as and be an independent contractor and not an employee, agent, joint venturer, or partner of CITY. As an independent contractor, CONTRACTOR shall obtain no rights to retirement benefits or other benefits which accrue to CITY's employees, and CONTRACTOR hereby expressly waives any claim it may have to any such rights. Both parties acknowledge that CONTRACTOR is not an employee for state or federal tax purposes. CONTRACTOR shall retain the right to perform services for others during the term of this SERVICE ORDER.
9. **INSURANCE REQUIREMENTS:** CONTRACTOR agrees to have and maintain the policies set forth in Exhibit A, entitled "INSURANCE", which is attached hereto and incorporated herein. All policies, endorsements, certificates and/or binders shall be subject to approval by the Risk

Manager of the City of San Jose as to form and content. These Requirements are subject to Amendment or waiver if so approved in writing by the Risk Manager. CONTRACTOR agrees to provide CITY with a copy of said policies, certificates and/or endorsements before work commences under this SERVICE ORDER.

- 10. CONTRACTOR'S DEFAULT:** CITY's Director of Finance or the Director's authorized designee may, by written notice to CONTRACTOR, cancel this SERVICE ORDER, in whole or in part: (i) if the CONTRACTOR fails to perform the services strictly within the time specified herein, or if no time is specified, within a reasonable time;(ii) if the Services performed do not conform to contractual requirements or if CONTRACTOR fails to perform any of the other provisions of this SERVICE ORDER, or fails to make progress so as to endanger performance of this SERVICE ORDER, in accordance with its terms; or (iii) if the CONTRACTOR becomes insolvent or commits an act of bankruptcy. If this SERVICE ORDER is canceled, CITY, in addition to all other rights afforded by law for CONTRACTOR's breach of contract, shall have the right to charge CONTRACTOR the amount by which the costs of obtaining the services canceled from another source exceed the prices specified herein, and CITY may set off any such charge against any amounts which may become payable to CONTRACTOR under this SERVICE ORDER or otherwise. Notwithstanding CITY'S right to cancel this SERVICE ORDER for delay, CONTRACTOR shall not be liable to CITY for any damages therefore if (i) CONTRACTOR's delay is due to causes beyond its control, and without its fault or negligence, provided CONTRACTOR promptly notifies CITY of the conditions causing the delay, (ii) CONTRACTOR's delay is caused by the default of a subcontractor or supplier, but only if such default arises out of causes beyond the control of both CONTRACTOR and subcontractor of supplier and without the fault of negligence of either of them, and the articles or services to be furnished by them were not obtainable from other sources insufficient time to permit CONTRACTOR to meet the required schedule.
- 11. NON-FUNDING:** Each payment obligation of CITY is conditioned upon the availability of state or local government funds which are apportioned or allocated for the payment of such an obligation. If the funds are not allocated and available for the continuance of the function performed by CONTRACTOR, the product or service directly or indirectly involved in the performance of that function may be terminated by CITY at the end of the period for which funds are available. CITY shall notify CONTRACTOR at the earliest possible time of any products or services which will or may be affected by a shortage of funds. No penalty shall accrue for CITY in the event this provision is exercised, and CITY shall not be liable for any future payments due or for any damages as a result of termination under this Section. This provision shall be construed so as to permit CITY to terminate this SERVICE ORDER or any products or services in order to acquire similar equipment or service from another party. CONTRACTOR agrees to render any assistance which CITY may seek in effecting a transfer of any right of CITY in this SERVICE ORDER, or any part hereof, that is required of CITY pursuant to the securing of financing hereunder.
- 12. COMPLIANCE WITH LAW:** CONTRACTOR shall in the performance of this SERVICE ORDER comply with all applicable Federal, State and local laws and regulations.
- 13. GOVERNING LAW:** CITY and CONTRACTOR agree that the law governing this Contract shall be that of the State of California.
- 14. VENUE:** In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or where otherwise appropriate, exclusively in the United States district Court. Northern District of California, San Jose, California
- 15. ASSIGNMENT OF CONTRACT:** CONTRACTOR shall not assign any of the work to be performed under this SERVICE ORDER nor shall CONTRACTOR subcontract for work without CITY's prior written consent.

- 16. WAIVERS:** Failure by CITY to insist in any one or more instances, upon the performance of any of the terms, covenants or conditions of this SERVICE ORDER, or to exercise any right hereunder, shall not be construed as a waiver of relinquishment of the future performance of any such term, covenant or condition or the future exercise of such right, but obligation of CONTRACTOR with respect to such future performance shall continue in full force and effect.
- 17. CONFIDENTIAL INFORMATION:** All data, documents, discussions or other information developed or received by or for CONTRACTOR in performance of this SERVICE ORDER are confidential and not to be disclosed to any person except as authorized by CITY, or as required by law.
- 18. OWNERSHIP OF MATERIALS:** All reports, documents or other materials developed or discovered by CONTRACTOR or any other person engaged directly or indirectly by CONTRACTOR to perform the services required hereunder shall be and remain the property of CITY without restriction or limitation upon their use.
- 19. CHANGES:** Buyer shall have the right by written notice to change the extent of the work covered by this service order, the time or place of delivery, the method of shipment or packaging, or to suspend work. The only valid change is a change order signed by the Director of Finance or Director's authorized designee. Upon receipt of any such notice CONTRACTOR shall promptly make the changes in accordance with the terms of the notice. If any such changes cause an increase or decrease in the cost or performance or in the time required for performance, an equitable adjustment shall be negotiated promptly and the service order modified in writing accordingly. CONTRACTOR shall promptly deliver to CITY, and any event within thirty (30) days after receipt of such notice, a statement showing the effect of any such changes in the delivery dates and prices, such statement to be supplemented within thirty (30) days from the date thereof by detailed specification of the amount of the price adjustment and supporting cost figures. Failure of CONTRACTOR to submit the statements within the above time limits shall constitute its consent to perform the change without increase in price, without claim for material rendered obsolete and without change in delivery schedule.
- 20. TERMINATION:** The performance of work under this Service Order may be terminated in whole or from time to time in part by CITY. CITY's Director of Finance is empowered to terminate this service order on behalf of CITY.
- 21. CONTRACTOR'S BOOKS AND RECORDS:** CONTRACTOR shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to CITY for a minimum period of three (3) years, or for any longer period required by law, for the date of final payment to CONTRACTOR pursuant to this SERVICE ORDER. CONTRACTOR shall maintain all documents and records which demonstrate performance under this SERVICE ORDER for a minimum of three (3) years, or for any period longer required by law, from the date of termination or completion of this SERVICE ORDER. Any records or documents required to be maintained pursuant to this SERVICE ORDER shall be made available for inspection or audit, at any time during regular business hours, upon written request by City Attorney, City Auditor, City Manager or a designated representative of any of these officers. Copies of such documents shall be provided to CITY for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at CONTRACTOR's business CITY may, by written request by any of the above-named officers, require that custody of the records be given to CITY and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any part authorized by CONTRACTOR, CONTRACTOR's representatives, or CONTRACTOR's successor-in-interest.
- 22. NON-DISCRIMINATION:**
- a. Prohibition on Discrimination and Preferential Treatment,

CONTRACTOR shall not discriminate against or grant preferential treatment to any person on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity or national origin. This provision is applicable to recruiting, hiring, demotion, layoff, termination, compensation, fringe benefits, advancement, training, apprenticeship and other terms, conditions, or privileges of employment, subcontracting and purchasing. Nothing herein shall be interpreted as precluding any reasonable accommodation provided to any person with a disability.

b. Compliance Reports.

If directed by the Director of Office of Equality Assurance of the City, CONTRACTOR shall file, and cause any subcontractor to file, compliance reports with the Director of Office of Equality Assurance. Compliance reports shall be in the form and filed at such times as may be designated by the Director of Office Equality Assurance. Compliance reports shall contain such information and be supported by such data or records as may be requested by the Director of Office Equality Assurance to determine whether CONTRACTOR or its subcontractor is complying with the nondiscrimination and nonpreference provisions of this Contract and Chapter 4.08 of the Municipal Code.

c. Failure to comply With Nondiscrimination Provisions.

If the Director of Office of Equality Assurance determines that the CONTRACTOR has not complied with the nondiscrimination or nonpreference provisions of this Contract, CITY may terminate or suspend this Contract, in whole or in part. Failure to comply with these provisions may also subject CONTRACTOR and/or subcontractor to debarment proceedings pursuant to provisions of the San Jose Municipal Code. Failure to comply with these provisions is a violation of Chapter 4.08 of the San Jose Municipal Code and is a misdemeanor.

d. Subcontractors.

CONTRACTOR shall include provisions 1 through 3, inclusive, in each subcontract entered into in furtherance of this Contract so that such provisions are binding upon each of its subcontractors.

e. Waiver of Nondiscrimination Provisions.

The nondiscrimination provisions of this Contract may be waived by the Director of Office of Equality Assurance, if the Director of Office of Equality Assurance determines that the CONTRACTOR has its own nondiscrimination requirements or is bound in the performance of this Contract by the nondiscrimination requirements of another governmental agency, and the nondiscrimination provisions of the CONTRACTOR or other governmental agency are substantially the same as those imposed by CITY.

23. GIFTS: CONTRACTOR represents that it is familiar with the CITY's prohibition against the acceptance for any gift by a CITY officer or designated employee, which prohibition is found in Chapter 12.08 of the San Jose Municipal Code. CONTRACTOR agrees not to offer any CITY officer or designated employee any gift prohibited by said Chapter. The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this SERVICE ORDER by CONTRACTOR. In addition to any other remedies CITY may have in law or equity. CITY may terminate this SERVICE ORDER for such breach.

24. CONFLICT OF INTEREST: CONTRACTOR shall avoid all conflict of interest or appearance of conflict of interest in performance of this SERVICE ORDER

25. DISQUALIFICATION OF FORMER EMPLOYEES: CONTRACTOR is familiar with the provisions relating to the disqualification of former officers and employees of CITY in matters which are connected with former duties or official responsibilities as set forth in Chapter 12.10 of the San Jose Municipal Code ("Revolving Door Ordinance"). CONTRACTOR shall not utilize either directly or indirectly any officer, employee, or agent who would be in violation of the Revolving Door

Ordinance

- 26. WARRANTY AGAINST INFRINGEMENT:** If any article or service provided to CITY hereunder is covered, or is purported to be covered, by any patent or copyright, CONTRACTOR agrees to defend, indemnify and hold harmless CITY, its officers, agents and employees, from and against any and all suits, claims judgments and costs instituted or recovered against it by any person or persons whomsoever, on account of the purchase, use or resale of such article by CITY in violation or claimed violation of any rights under patent or copyright.
- 27. INDEMNITY: CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM ANY AND ALL CLAIMS AND LIABILITY, INCLUDING EXPENSES, FOR INJURIES OR DEATH TO PERSONS OR DAMAGE TO OR DESTRUCTION OF PROPERTY CAUSED BY OR RESULTING FROM THE ACTS OR OMISSIONS OF CONTRACTOR, ITS AGENTS, SUPPLIERS OR EMPLOYEES, IN THE PERFORMANCE OF THIS SERVICE ORDER.**

**LABOR COMPLIANCE ADDENDUM
SAN JOSÉ LIVING WAGE AND PREVAILING WAGE POLICIES**

AGREEMENT TITLE:	<i>INSERT EITHER: "Name of Agreement" or "Service Order No. ____"</i>
CONTRACTOR Name and Address:	

By executing this Addendum, Contractor acknowledges and agrees that the work performed pursuant to the above referenced Agreement or Service Order, including all renewals and extensions, is subject to all applicable provisions.

Payment of Minimum Compensation to Employees. Contractor shall be obligated to pay not less than the General Prevailing Wage Rate and/or Living Wage Rate as indicated in the attached Exhibit(s) titled **Work Classification and/or Living Wage Determination**.

- A. **Prevailing Wage Requirements.** California Labor Code and/ or Resolutions of the San Jose City Council require the payment of not less than the general prevailing rate of per diem wages and rates for holiday and overtime and adherence to all labor standards and regulations. The General Prevailing Wage Rates may be adjusted throughout the term of this Agreement. Notwithstanding any other provision of this Agreement, Contractor shall not be entitled to any adjustment in compensation rates in the event there are adjustments to the General Prevailing Wage Rates.
- B. **Living Wage Requirements.** Any person employed by Contractor or subcontractor or City financial recipient or any subrecipient whose compensation is attributable to the City’s financial assistance, who meets the following requirements is considered a covered employee. The employee: 1) is not a person who provides volunteer services, that are uncompensated except for reimbursement of expenses such as meals, parking or transportation; 2) spends at least half of his or her time on work for the City [4 hours a day or 20 hours a week]; 3) is at least eighteen (18) years of age; and 4) is not in training for the period of training specified under training standards approved by the City.
- C. **Reports.** Contractor shall file a completed and executed copy of this Addendum with the Department of General Services. Upon award the Department of General Services shall provide the contractor with compliance documents to be completed and returned (with supporting documentation) to the Office of Equality Assurance. **These documents must be returned within 10 days of receipt.** Contractor shall not perform on site work on this contract until labor compliance documents are filed. Contractor shall also report additional information, including certified payrolls, as requested by Director of Equality Assurance to assure adherence to the Policy.
- D. **Coexistence with Any Other Employee Rights.** These provisions shall not be construed to limit an employee’s ability to bring any legal action for violation of any rights of the employee.

E. Audit Rights. All records or documents required to be kept pursuant to this Agreement to verify compliance with the Wage Requirement shall be made available for audit at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to City for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be available at Contractor's address indicated for receipt of notices in this Contract.

F. Enforcement.

1. **General.** Contractor acknowledges it has read and understands that, pursuant to the terms and conditions of this Agreement, it is required to comply with the Wage Requirement and to submit certain documentation to the City establishing its compliance with such requirement. ("Documentation Provision.") Contractor further acknowledges the City has determined that the Wage Requirement promotes each of the following (collectively "Goals"):
 - a. It protects City job opportunities and stimulates the City's economy by reducing the incentive to recruit and pay a substandard wage to labor from distant, cheap-labor areas.
 - b. It benefits the public through the superior efficiency of well-paid employees, whereas the payment of inadequate compensation tends to negatively affect the quality of services to the City by fostering high turnover and instability in the workplace.
 - c. Paying workers a wage that enables them not to live in poverty is beneficial to the health and welfare of all citizens of San Jose because it increases the ability of such workers to attain sustenance, decreases the amount of poverty and reduces the amount of taxpayer funded social services in San Jose.
 - d. It increases competition by promoting a more level playing field among contractors with regard to the wages paid to workers.
2. **Remedies for Contractor's Breach of Prevailing Wage/Living Wage Provisions.**
 - a. **WITHHOLDING OF PAYMENT:** Contractor agrees that the Documentation Provision is critical to the City's ability to monitor Contractor's compliance with the Wage Requirement and to ultimately achieve the Goals. Contractor further agrees its breach of the Documentation Provision results in the need for additional enforcement action to verify compliance with the Wage Requirement. In light of the critical importance of the Documentation Provision, the City and Contractor agree that Contractor's compliance with this Provision, as well as the Wage Requirement, is an express condition of City's obligation to make each payment due to the Contractor pursuant to this Agreement. **THE CITY IS NOT OBLIGATED TO MAKE ANY PAYMENT DUE THE CONTRACTOR UNTIL CONTRACTOR HAS PERFORMED ALL OF ITS OBLIGATIONS UNDER THESE PROVISIONS. THIS PROVISION MEANS THAT CITY CAN WITHHOLD ALL OR PART OF A PAYMENT TO CONTRACTOR UNTIL ALL REQUIRED DOCUMENTATION IS SUBMITTED.** Any payment by the City despite Contractor's failure to fully perform its obligations under these provisions shall not be deemed to be a waiver of any other term or condition contained in this Agreement or a waiver of the right to withhold payment for any subsequent breach of the Wage Requirement or the Documentation Provision.

- b. **RESTITUTION:** Contractor agrees that in the event of a breach of its obligations it will pay any amounts underpaid in violation of the required payments and City’s administrative costs and liquidated damages and, in the case of financial assistance, to refund any sums disbursed by the City.

- c. **LIQUIDATED DAMAGES FOR BREACH OF WAGE PROVISION:** Contractor agrees its breach of the Wage Requirement would cause the City damage by undermining the Goals, and City’s damage would not be remedied by Contractor’s payment of restitution to the workers who were paid a substandard wage. Contractor further agrees that such damage would increase the greater the number of employees not paid the applicable prevailing wage and the longer the amount of time over which such wages were not paid. The City and Contractor mutually agree that making a precise determination of the amount of City’s damages as a result of Contractor’s breach of the Wage Requirement would be impracticable and/or extremely difficult. **THEREFORE, THE PARTIES AGREE THAT, IN THE EVENT OF SUCH A BREACH, CONTRACTOR SHALL PAY TO THE CITY AS LIQUIDATED DAMAGES THE SUM OF THREE (3) TIMES THE DIFFERENCE BETWEEN THE ACTUAL AMOUNT OF WAGES PAID AND THE AMOUNT OF WAGES THAT SHOULD HAVE BEEN PAID.**

- d. **ADDITIONAL REMEDIES:** Contractor agrees that in addition to the remedies set forth above City retains the right to suspend or terminate the Agreement for cause and to debar Contractor or subcontractors from future City contracts and/or deem the recipient ineligible for future financial assistance.

CITY

CONTRACTOR

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



Department of Public Works

EQUALITY ASSURANCE

Work Classification Determination

The following classification(s) are applicable to this contract. The prevailing wage rates for this contract are contained in the General Prevailing Wage Determination issued by the Director of Industrial Relations. More information about the General Wage Determination is provided on the next page. If you have any questions regarding the classifications listed for this contract, please contact the Office of Equality Assurance and reference the OEA# at the bottom of this page.

Work Description

Classification(s)

Cast in Place Manhole Form Setting	Craft: Laborer, Construction Specialist [Pgs. 49-50]
Jackhammer & Pre-Cast Manhole Setters	Craft: Laborer, Group 1 [Pgs. 49-50]
Concrete Work	Craft: Laborer, Group 2 [Pgs. 49-50]
Equipment Operation	Craft: Operating Engineers* [Pgs.39-40]
Trucking (Use only if surface product is applied directly by truck)	Craft: Teamster* [Pgs. 55]
Cleanup	Craft: Laborer, Group 4 [Pgs. 49-50]
Traffic Control	Craft: Laborer, Traffic Control/ Lane Closure [Pg. 44]*

*Specific rates must be determined by conforming the scope of work, vehicle, or type of equipment used to the appropriate craft classification (i.e., Traffic Control Person I).

OEA Reference # 10997
Raise Manholes



Department of Public Works

EQUALITY ASSURANCE

PREVAILING WAGE REQUIREMENT ATTACHMENT

Instructions to Obtain Prevailing Wage Determination

A copy of the current General Prevailing Wage Determination made by the Director of Industrial Relations may be obtained from the Office of Equality Assurance at:

City of San Jose – Public Works
 Equality Assurance
 200 E. Santa Clara St., 5th Floor Tower
 San Jose, CA 95113-1905
 Phone: 408.535.8430 Fax: 408.292.6270

For Internet access to current wage rates and benefit information, you may contact the California Department of Industrial Relations web site at <http://www.dir.ca.gov/>. Click on **Statistics & Research**. Scroll down to Current Prevailing Wage Determinations and click on the corresponding **General Prevailing Wage Determinations Menu (Journeyman)**. Scroll down and follow the directions until you locate the trade applicable to your contract. Prevailing wages for City of San Jose contracts will be found under:

- Step One **Statewide**,
- Step Two (A) **Northern California**, or
- Step Four for **Santa Clara County**

Effective Dates of Determination and of Rates within Determination

Contractors are advised that rates determined by the Department of Industrial Relations are subject to change during the term of this contract as described below.

Effective date of determination. All determinations issued by the Director of the Department of Industrial Relations will be effective ten (10) days after issuance. Determinations issued by the Director will show an issue date and will ordinarily show an expiration date. All determinations will remain in effect until their expiration date or until modified, corrected, rescinded or superseded by the Director. Contractors are advised to note the expiration date on the prevailing wage classification identified for this solicitation and the asterisk (*) as explained in the paragraph below.

Meaning of single and double asterisks. Prevailing wage determinations with a single asterisk (*) after the expiration date (which are in effect on the date of advertisement for bids) remain in effect for the life of the project. Prevailing Wage determinations with double asterisks (**) after the expiration date indicate that the basic hourly wage rate, overtime and holiday pay rates, and employer payment to be paid for work performed *after* this date have been predetermined. If work is to be extended past the rate expiration date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Division of Labor Statistics and Research for specific rates (415) 703-4774.

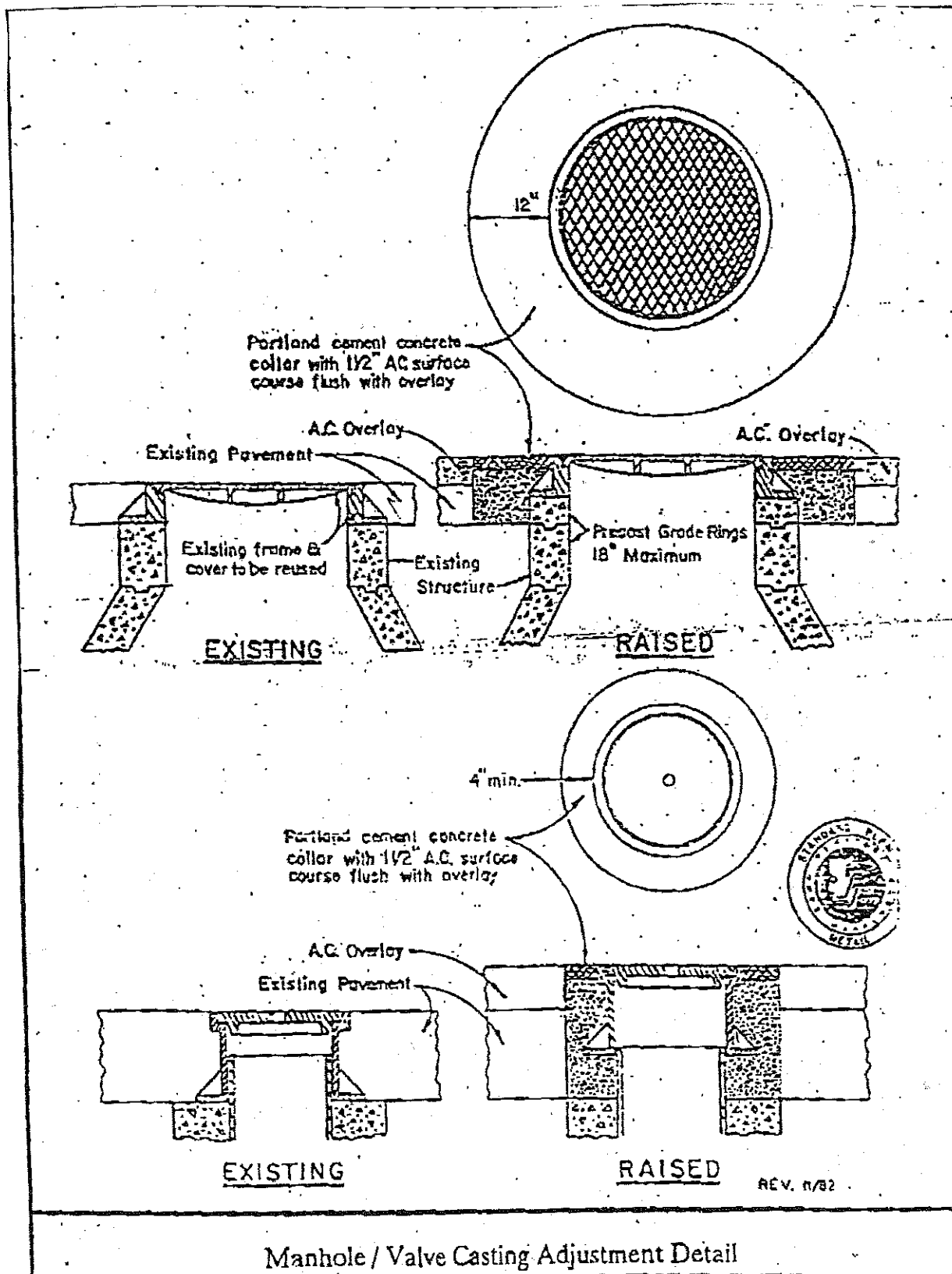
All determinations that do not have the double asterisks (**) after the expiration date remain in effect for the life of the contract.

RQ10356

Scope of Services

Contractor shall provide all labor, material, and equipment necessary to raise manholes throughout various City of San Jose locations:

1. Services shall be on an as-needed basis.
2. Portland Cement shall be used.
3. Contractor shall jackhammer a minimum of 12" of existing AC pavement that is directly around manhole.
4. Contractor shall utilize grade rings 18" (maximum) or brick spacers to raise existing manhole frame and cover. Backfill void and seal inside joints to a smooth finish using Portland concrete to 1 and ½" of grade.
5. Contractor shall replace ring and cover, compact and seal AC pavement up to grade, with ½" AC surface course, to provide a smooth driving surface.
6. Contractor is responsible for clean up of any debris, waste, dirt, and related materials that are associated with services performed.
7. Please reference the attached for manhole diagram.
8. Contractor shall provide all traffic control, minimizing inconvenience to motorists and neighborhoods.
 - a. Traffic control procedures stated herein and traffic control standard plans shall be the minimum accepted by the City. Any variations shall be approved by the City of San José Project Manager prior to use. In no way shall compliance with these requirements and standards relieve the Contractor of any liability for claims or damages arising from Contractor's work.
 - b. Adequate traffic warning and control devices (appropriate size arrow board, cones, etc.) shall be provided and maintained by the Contractor during maintenance activities in accordance with the "U.S Department of Transportation's Manual on Uniform Traffic Control Devices (MUTCD)" latest edition which can be viewed at the following link: <http://www.dot.ca.gov/hq/traffops/signtech/signdel/trafficmanual-current.html>
 - c. A lighted arrow board will be required for all lane closures. When inadequate traffic warning and control devices have been installed, the City shall either provide whatever facilities are deemed necessary as provided in Chapter 11.16, Traffic Control Services, of the City of San José Municipal Code or stop work until adequate devices are installed. Costs for the provision of such facilities will be charged to the Contractor.
 - d. Flag persons are mandatory at locations where equipment is intermittently blocking a traffic lane or where only one lane is available for two-direction traffic.
 - e. All the work specified herein shall be considered to be the Contractor's expense.



Manhole / Valve Casting Adjustment Detail

Question and Answers for Bid #RQ10356 - Manhole Raising Services

OVERALL BID QUESTIONS

Question 1

Who was the previous contractor and what was the base price? (Submitted: Jun 2, 2009 3:22:29 PM PDT)

Answer

- Union City Construction, \$495.72 per manhole. (Answered: Jun 3, 2009 7:40:56 AM PDT)