

FRESNO COUNTY ZOO AUTHORITY

MEETING

9:00 am, Wednesday, June 25, 2014

Fresno County Employees' Retirement Association

1111 H Street, Fresno, CA 93721

(559) 457-0681

AGENDA

1. Call to Order
2. Public Comments

This time is made available to receive comments from the public on matters within the Board's jurisdiction that are not on the Agenda. Attention is called to the fact that the Board is prohibited from taking any action on matters that are not on the Agenda. Members of the public are limited to three minutes to speak during Public Comments as well as for each item on the agenda. In order to accurately record the minutes, members of the public are asked to speak only from the podium. Before beginning comments, please state for the record your name and affiliation, if any.

3. Consent Agenda

These matters are routine in nature and are usually approved by a single vote. Prior to action by the Board, the public will be given the opportunity to remove any item from the Consent Calendar. Items removed from the Consent Calendar may be heard immediately following approval of the Consent Calendar.

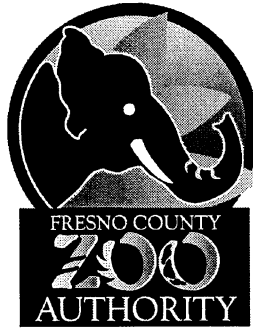
- a. Review and approve minutes of April 30, 2014
 - b. Review and approve payment of County of Fresno invoice for Professional and Specialized Services in the amount of \$31,985.54 for April and May 2014
 - c. Receive Treasurer's Reports for April and May 2014
4. Receive Fresno Chaffee Zoo audit report from Moore, Grider & Co.
5. Receive Fresno Chaffee Zoo Director's Report

6. Receive Fresno Chaffee Zoo Finance Director's report
7. Receive verbal report from Zoo Authority Coordinator regarding:
 - a. Board of Supervisor's adoption of resolution placing Zoo Authority Ordinance 2014-01 on November 2014 ballot; and
 - b. Board of Supervisors' request that Zoo Authority and Zoo Corporation consider certain amendments to Agreement Regarding Procedures For Distribution of Tax Revenue to the Chaffee Zoo; and
 - c. Board of Supervisors' request that Zoo Authority consider change in policy to require presentation of proposed amendments to agreements with Zoo Corporation and amendments to Zoo Authority bylaws to Board of Supervisors prior to approval.
8. Receive staff reports
 - a. Biennial review of Conflict of Interest Code
 - b. Direction for Annual report development
9. Adopt revised meeting calendar, or set next meeting date(s)
Adopted meeting dates include: July 30, 2014
 August 27, 2014
 September 24, 2014
 October 29, 2014
10. Chair's comments
11. Board Member comments
12. Adjourn

All supporting documentation is available for public review in the office of the Fresno County Zoo Authority, 2220 Tulare Street, 6th Floor, Fresno, 93721, during regular business hours.

For further information, please contact Catherine Crosby, Zoo Authority Coordinator, at 600-4305, email zooauthority@co.fresno.ca.us, or visit www.zooauthority.org.

Requests for disability-related modification or accommodation needed in order to participate in the meeting must be made to the Zoo Authority Coordinator no later than 9:00 a.m. on the day prior to the meeting.



FRESNO COUNTY ZOO AUTHORITY

SPECIAL MEETING

9:00 am, Wednesday, June 11, 2014

Fresno County Employees' Retirement Association

1111 H Street, Fresno, CA 93721

(559) 457-0681

ACTION SUMMARY MINUTES

1. Call to Order

CHAIRMAN HERZOG CALLED THE MEETING TO ORDER AT 9:05 AM. A QUORUM OF MEMBERS, JOHN GRAY, GERALD LYLES, KENT STRATFORD, ASHLEY SWEARENGIN, PAUL TOSTE, RALPH WATERHOUSE, AND THE CHAIRMAN WERE PRESENT.

2. Public Comments

This time is made available to receive comments from the public on matters within the Board's jurisdiction that are not on the Agenda. Attention is called to the fact that the Board is prohibited from taking any action on matters that are not on the Agenda. Members of the public are limited to three minutes to speak during Public Comments as well as for each item on the agenda. In order to accurately record the minutes, members of the public are asked to speak only from the podium. Before beginning comments, please state for the record your name and affiliation, if any.

HELD-NONE RECEIVED

3. Consent Agenda

These matters are routine in nature and are usually approved by a single vote. Prior to action by the Board, the public will be given the opportunity to remove any item from the Consent Calendar. Items removed from the Consent Calendar may be heard immediately following approval of the Consent Calendar.

A. Review and approve minutes of April 30, 2014
APPROVED – AS/GL

4. Authorize Chairman to execute agreement with Fresno's Chaffee Zoo Corporation to reimburse the Fresno County Zoo Authority with non-tax revenue for the cost to place the ordinance for the extension of Measure Z on the November 4, 2014 General Election ballot
APPROVED – AS/PT

COORDINATOR CATHY CROSBY INTRODUCED THE ITEM, DESCRIBING THE CONCERNS EXPRESSED BY THE BOARD OF SUPERVISORS, AND THE ORIGINAL BALLOT LANGUAGE. COUNSEL ART WILLE STATED THAT, DUE TO THE SHORT TIME BETWEEN THE BOARD OF SUPERVISORS MEETING JUNE 3RD AND TODAY, THE CONTRACT HAS YET TO BE WRITTEN, BUT STATED THAT WHEN SIGNED, IT WILL BE A PUBLIC DOCUMENT AND PLACED ON THE AUTHORITY'S WEBSITE. HE THEN READ INTO THE RECORD THE PROPOSED TERMS INCLUDING:

- **THE ZOO CORPORATION WOULD PAY THE ACTUAL COST OF THE ELECTION FOR THE EXTENSION OF MEASURE Z NOT TO EXCEED \$75,000.**
- **PAYMENT WOULD BE MADE WITHIN 45 DAYS OF THE SUBMISSION OF AN INVOICE FROM THE AUTHORITY TO THE CORPORATION.**
- **STANDARD CONTRACT TERMS, ALREADY IN THE EXISTING CONTRACT BETWEEN THE AUTHORITY AND THE CORPORATION.**

ADDRESSING MEMBERS' QUESTIONS, MR WILLE CLARIFIED THAT THE SOURCE OF THE FUNDS TO BE REIMBURSED WOULD BE CORPORATION NON- TAX REVENUE, AND THE COSTS WERE EXPECTED TO BE \$38-45,000, PER THE COUNTY CLERK/ REGISTRAR OF VOTERS' ESTIMATE. ADDRESSING MEMBERS' QUESTIONS, TREASURER JEFF BLANKS CONFIRMED THAT AUTHORITY ADMINISTRATIVE BUDGET COVERED THE STAFF COSTS OF PREPARING THE PUBLICATION OF THE ORDINANCE. MEMBER LYLES COMMENTED ON THE CLEAR ORIGINAL ORDINANCE LANGUAGE ALLOWING FOR THE COST OF THE BALLOT TO BE PAID BY MEASURE Z FUNDS. MEMBER TOSTE CONCURRED. THE CHAIRMAN STATED THAT HAVING ATTENDED THE JUNE 3RD BOARD OF SUPERVISORS MEETING, HE RECOGNIZED THE FUNDING ISSUE WAS A SIGNIFICANT ISSUE IN SPITE OF THE ORIGINAL ORDINANCE LANGUAGE, AND FURTHER STATED THAT IS WAS A GENEROUS ACT BY THE CORPORATION TO OFFER TO REIMBURSE THE COUNTY FOR THE EXPENSES.

PUBLIC COMMENT RECEIVED FROM CITIZENS LISA FLORES AND JOAN LEROUX.

5. Confirm June 25, 2014 as next meeting date
CONFIRMED

6. Chair's comments
HELD – NO COMMENTS OFFERED

7. Board Member comments
HELD – NO COMMENTS OFFERED

8. Adjourn
THERE BEING NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 9:27 AM.



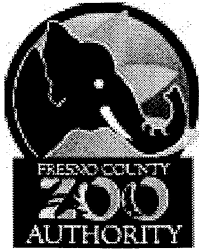
Invoice for Professional Services in Support of the Zoo Authority
Billing Hours and Expenses for April and May 2014

Invoice Number 0405-ZOO-062514

June 25, 2014

TO: Zoo Authority Board
c/o County of Fresno
2220 Tulare St, 6th Floor MS 214
Fresno, CA 93721

Department / Title	Hours	Rate	Cost	Fiscal Year 13-14
<i>Financial Reporting & Audits</i>				
<i>Division Chief</i>	1.00	\$79.11	\$79.11	
<i>Supervising Accountant</i>	75.50	\$80.06	\$6,044.53	
<i>Accountant I</i>	103.50	\$60.14	\$6,224.49	
<i>Public Works & Planning</i>				
<i>Analyst III</i>	273.50	\$63.10	\$17,257.85	
<i>Office Assistant II</i>	0.00	\$35.51	\$0.00	
<i>County Counsel</i>				
<i>Sr. Deputy County Counsel</i>	7.10	\$113.00	\$802.30	
Professional Services Total	460.60		\$30,408.28	\$114,819.42
<i>Postage</i>			\$38.95	
<i>Ordinance Notice Translation and Publication</i>			\$1,432.39	
<i>Copies FY 2013-14 Quarter 2 charges</i>			105.92	
Office Expense Total			\$1,577.26	\$5,210.99
			\$31,985.54	\$120,030.41
			Invoice Total	FY 13-14 Total



**Fresno County Zoo Authority
Treasurer's Report
Unaudited Cash Basis
For the Month Ended April 30, 2014**

Summary of Measure Z Proceeds			
Tax Proceeds Received:			
- Measure Z - Sales Tax Proceeds		\$	788,000.00
Total Proceeds Received:		\$	788,000.00
Tax Proceeds Allocated:			
- Allocation to Zoo Authority Fund (2%)			15,760.00
- Allocation to Trust Fund for Operations and Capital Projects (98%)			772,240.00
Total Proceed Allocations		\$	788,000.00
Zoo Authority Fund >> Administrative Fund 2%			
Beginning Cash Balance		\$	1,046,754.08
Receipts:	- Measure Z Sales Tax Proceeds		15,760.00
	- Interest Received		634.82
Disbursements:	- PeopleSoft Charges		(27.16)
	- Professional Services		(2,793.95)
	Net Increase/(Decrease) to Cash		13,573.71
	Ending Cash Balance - Zoo Authority Administrative Fund	\$	1,060,327.79
Trust Fund for FCZC Operations and Capital Projects 98%			
Beginning Cash Balance		\$	55,677,973.32
>> Operations Fund			
Beginning Cash Balance			5,890,089.72
Receipts:	- Measure Z Sales Tax Proceeds		257,413.33
	- Interest Received		3,397.70
Disbursements:	- FCZC Operations Claim # 2013-12 Dated 4/3/2014		(301,170.69)
	- FCZC Operations Claim # 2014-2 Dated 3/12/2014		(244,117.33)
	- Wire Fees		(20.00)
	Net Increase/(Decrease) to Cash		(284,496.99)
	Ending Cash Balance - Available for Operations	\$	5,605,592.73
>> Capital Facilities Project Fund			
Beginning Cash Balance		\$	49,787,883.60
Receipts:	- Measure Z Sales Tax Proceeds		514,826.67
	- Interest Received		30,919.99
Disbursements:	- FCZC Capital Projects Claim #2014-2C		(1,707,441.52)
	- FCZC Capital Projects Claim #2014-9C		(154,139.51)
	Net Increase/(Decrease) to Cash		(1,315,834.37)
	Ending Cash Balance - Available for Capital Projects		48,472,049.23
	Ending Balance Available for Operations and Capital Projects	\$	54,077,641.96
	Total Interest Received During the Month		34,952.51

By Staff _____

Date _____

Accepted _____

Date _____

* Interest receipts are recorded in the month received rather than in the month earned and were calculated on an annual percentage rate of 1.275 as of March 31, 2014.



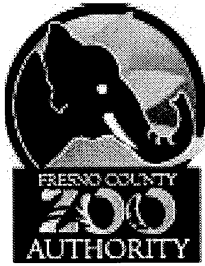
	PRIOR FISCAL YEARS						CURRENT FISCAL YEAR											
	2005-2006		2006-2007		2007-2008		2008-2009		2009-2010		2010-2011		2011-2012		2012-2013		2013-2014	
	ACTUAL RECEIPTS	TAX RECEIPTS	ACTUAL TAX RECEIPTS	TAX RECEIPTS	ACTUAL TAX RECEIPTS	TAX RECEIPTS	ACTUAL TAX RECEIPTS	TAX RECEIPTS	ACTUAL TAX RECEIPTS	TAX RECEIPTS	ACTUAL RECEIPTS	TAX RECEIPTS	BUDGETED TAX RECEIPTS	ACTUAL TAX RECEIPTS	BUDGETED TAX RECEIPTS	ACTUAL TAX RECEIPTS	BUDGET TO ACTUAL VARIANCE	
July	\$ 700,400	\$ 671,500	\$ 819,900	\$ 813,500	\$ 671,700	\$ 659,300	\$ 719,800	\$ 826,000	\$ 867,300	\$ 903,500	\$ 36,200	4.17%						
August	933,800	895,400	1,093,200	1,084,700	885,300	857,600	921,200	1,033,100	1,084,755	1,106,000	21,245	1.96%						
September	764,524	1,453,498	1,060,279	930,087	810,940	895,691	1,057,603	1,028,369	1,079,787	1,097,605	17,818	1.65%						
October	705,400	679,300	853,500	792,200	678,000	677,000	694,100	850,500	893,025	857,400	(35,625)	-3.99%						
November	940,500	1,471,000	1,138,000	1,056,300	743,300	879,500	878,500	1,056,800	1,109,640	1,143,200	33,560	3.02%						
December	1,324,459	1,047,118	827,112	872,815	971,061	932,350	1,240,028	1,083,021	1,137,172	1,076,977	(60,195)	-5.29%						
January	676,000	813,700	831,200	766,900	719,900	710,700	770,100	799,900	839,895	836,700	(3,195)	-0.38%						
February	901,300	1,081,800	1,108,200	841,000	944,000	919,900	978,600	1,086,700	1,141,035	1,101,200	(39,835)	-3.49%						
March	1,319,000	905,577	762,907	959,801	628,563	821,858	1,006,649	1,021,734	1,072,821	1,113,584	40,763	3.80%						
April	678,900	748,000	699,000	652,000	594,300	618,400	716,100	846,500	888,825	788,000	(100,825)	-11.34%						
May	905,200	997,300	932,000	860,800	847,200	876,500	897,100	1,493,700	916,595	-	-							
June	1,113,269	900,178	1,026,580	730,781	821,511	963,040	1,191,689	1,015,391	916,595	-	-							
Total	\$ 10,962,752	\$ 11,684,371	\$ 11,151,878	\$ 10,360,884	\$ 9,315,775	\$ 9,811,839	\$ 11,071,469	\$ 12,141,715	\$ 11,947,445	\$ 10,024,166	\$ (90,089)	-0.89%						

TOTAL MEASURE Z PROCEEDS FROM INCEPTION	\$ 97,206,702
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Fresno County Zoo Authority
Receipt of Interest
Unaudited Cash Basis
For the Month Ended
April 30, 2014

Summary of Quarter Four Interest Receipts				
Fund	Subclass	Description	1st Alloc. April	Interest Received
4845	10000	Zoo Authority	\$ 634.82	\$ 634.82
4850	10000	FCZC - Operations	3,397.70	3,397.70
4850	42700	FCZC - CP	30,919.99	30,919.99
Total			\$ 34,952.51	\$ 34,952.51



**Fresno County Zoo Authority
Capital Projects Fund Cash Flow
For the Month Ended April 30, 2014**

Cash Balance as of 4/30/2014 \$ 48,472,049

ADDITIONS:

*Estimated Revenues Through December 2014 \$ 5,666,797

DEDUCTIONS (earmarked projects, paid through claim 2014-3C):

2014 Graphics	33,599	
2014 Reptile Plaza	50,000	
2014 Entrance/Vault	85,000	
2014 Cobra Exhibit	171,830	
2014 Water Play Area	22,725	
2014 Animal Acquisition	20,000	
2014 Water Play Area - addition	1,400,000	
2014 Utility Design**	208,772	
2014 African Project Request	49,895,059	
2014 Komodo Dragon	1,200,000	
2013 Reptile House	82,064	
2012 Tropical Treasures	64,938	
2012 Africa Design	411,930	
2012 Exploration Station	100,000	
2012 Sea Lion Construction***	-	
Total Deductions:		<u>\$ (53,745,917)</u>

******TOTAL:**

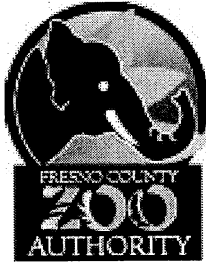
\$ 392,929

***Note:** actual revenues used for Jan and Feb 2014. Estimated revenues for Mar-Jun 2014 provided during budget process. For Jul-Dec 2014, used actuals/projections from Jul-Dec 2013. Estimated interest based on 2013 actual interest received

**** Per Brian Goldman, ZC will not utilize \$186,000 of this utility request**

***** Per Brian Goldman, ZC finished billing for SLC on claim 2013-4C**

******Conservatively, in December 2014 cash flows will slightly exceed total earmarked projects; however, this assumes that all amounts within each project are spent, and that all projects will be completed and paid for at this point. Revenue will continue under current measure through April 2015, and interest will continue to be apportioned quarterly**



**Fresno County Zoo Authority
Operations Fund Cash Flow
For the Month Ended April 30, 2014**

Cash Balance as of 4/30/2014		\$ 5,605,593
ADDITIONS:		
*Estimated Revenues Through December 2014		\$ 2,686,732
DEDUCTIONS (Remaining budgets, paid through claim 2014-3):		
2014 Visitor Services	557,196	
2014 Animal	1,621,872	
2014 Maintenance	585,732	
2014 Education	673,829	
2014 Interest/Bank Charges	350	
2013 **Visitor Services	21,611	
2013 **Animal	60,527	
2013 **Veterinary	4,028	
2013 **Maintenance	119,351	
2013 **Education	-	
2013 **Interest/Bank Charges	120	
2012 X-Ray Systems	125,000	
Total Deductions:		<u>\$ (3,769,616)</u>
TOTAL:		<u><u>\$ 4,522,709</u></u>

*Note: actual revenues used for Jan and Feb 2014. Estimated revenues for Mar-Jun 2014 provided during budget process. For Jul-Dec 2014, used actuals/projections from Jul-Dec 2013. Estimated interest based on 2013 actual interest received

**Zoo Operations will not use all of 2013 budgeted funds



**Fresno County Zoo Authority
Treasurer's Report
Unaudited Cash Basis
For the Month Ended May 31, 2014**

Summary of Measure Z Proceeds			
Tax Proceeds Received:			
- Measure Z - Sales Tax Proceeds		\$	1,050,600.00
Total Proceeds Received:		\$	1,050,600.00
Tax Proceeds Allocated:			
- Allocation to Zoo Authority Fund (2%)			21,012.00
- Allocation to Trust Fund for Operations and Capital Projects (98%)			1,029,588.00
Total Proceed Allocations		\$	1,050,600.00
Zoo Authority Fund >> Administrative Fund 2%			
Beginning Cash Balance		\$	1,060,327.79
Receipts:	- Measure Z Sales Tax Proceeds		21,012.00
Disbursements:	- PeopleSoft Charges		(60.14)
Net Increase/(Decrease) to Cash			20,951.86
Ending Cash Balance - Zoo Authority Administrative Fund		\$	1,081,279.65
Trust Fund for FCZC Operations and Capital Projects 98%			
Beginning Cash Balance		\$	54,077,641.96
>> Operations Fund			
Beginning Cash Balance			5,605,592.73
Receipts:	- Measure Z Sales Tax Proceeds		343,196.00
Disbursements:	- FCZC Operations Claim # 2014-3 Dated 4/16/2014		(243,432.61)
	- FCZC Operations Claim # 2014-4 Dated 5/14/2014		(276,966.49)
	- Wire Fees		(10.00)
Net Increase/(Decrease) to Cash			(177,213.10)
Ending Cash Balance - Available for Operations		\$	5,428,379.63
>> Capital Facilities Project Fund			
Beginning Cash Balance		\$	48,472,049.23
Receipts:	- Measure Z Sales Tax Proceeds		686,392.00
Disbursements:	- FCZC Capital Projects Claim #2014-3C		(1,714,873.85)
Net Increase/(Decrease) to Cash			(1,028,481.85)
Ending Cash Balance - Available for Capital Projects			47,443,567.38
Ending Balance Available for Operations and Capital Projects		\$	52,871,947.01
Total Interest Received During the Month			-

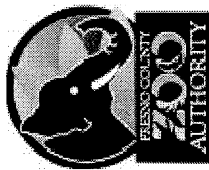
By Staff _____

Date _____

Accepted _____

Date _____

* Interest receipts are recorded in the month received rather than in the month earned and were calculated on an annual percentage rate of 1.275 as of March 31, 2014.



Fresno County Zoo Authority

SUMMARY OF MEASURE Z SALES TAX PROCEEDS

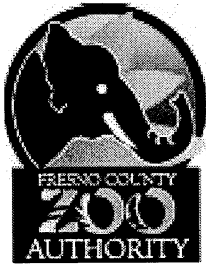
	PRIOR FISCAL YEARS										CURRENT FISCAL YEAR												
	2005-2006		2006-2007		2007-2008		2008-2009		2009-2010		2010-2011		2011-2012		2012-2013		2013-2014						
	ACTUAL	RECEIPTS	ACTUAL	TAX RECEIPTS	ACTUAL	TAX RECEIPTS	ACTUAL	TAX RECEIPTS	ACTUAL	TAX RECEIPTS	ACTUAL	RECEIPTS	ACTUAL	TAX RECEIPTS	ACTUAL	TAX RECEIPTS	BUDGETED	TAX RECEIPTS	ACTUAL	TAX RECEIPTS	BUDGET TO ACTUAL	VARIANCE	
July	\$	700,400	\$	671,500	\$	819,900	\$	813,500	\$	671,700	\$	659,300	\$	719,800	\$	826,000	\$	867,300	\$	903,500	\$	36,200	4.17%
August		933,800		895,400		1,093,200		1,084,700		885,300		857,600		921,200		1,033,100		1,084,755		1,106,000		21,245	1.96%
September		764,524		1,453,498		1,060,279		930,087		810,940		895,691		1,057,603		1,028,369		1,079,787		1,097,605		17,818	1.65%
October		705,400		679,300		853,500		792,200		678,000		677,000		694,100		850,500		893,025		857,400		(35,625)	-3.99%
November		940,500		1,471,000		1,138,000		1,056,300		743,300		879,500		878,500		1,056,800		1,109,640		1,143,200		33,560	3.02%
December		1,324,459		1,047,118		827,112		872,815		971,061		932,350		1,240,028		1,083,021		1,137,172		1,076,977		(60,195)	-5.29%
January		676,000		813,700		831,200		766,900		719,900		710,700		770,100		799,900		839,895		836,700		(3,195)	-0.38%
February		901,300		1,081,800		1,108,200		841,000		944,000		919,900		978,600		1,086,700		1,141,035		1,101,200		(39,835)	-3.49%
March		1,319,000		905,577		762,907		959,801		628,563		821,858		1,006,649		1,021,734		1,072,821		1,113,584		40,763	3.80%
April		678,900		748,000		699,000		652,000		594,300		618,400		716,100		846,500		888,825		788,000		(100,825)	-11.34%
May		905,200		997,300		932,000		860,800		847,200		876,500		897,100		1,493,700		916,595		1,050,600		134,005	14.62%
June		1,113,269		900,178		1,026,580		730,781		821,511		963,040		1,191,689		1,015,391		916,595		-		-	-
Total	\$	10,962,752	\$	11,664,371	\$	11,151,878	\$	10,360,884	\$	9,315,775	\$	9,811,839	\$	11,071,469	\$	12,141,715	\$	11,947,445	\$	11,074,766	\$	43,916	-0.89%

TOTAL MEASURE Z PROCEEDS FROM INCEPTION \$ 98,257,302



Fresno County Zoo Authority
Receipt of Interest
Unaudited Cash Basis
For the Month Ended
May 31, 2014

Summary of Quarter Four Interest Receipts				
Fund	Subclass	Description	1st Alloc. April	Interest Received
4845	10000	Zoo Authority	\$ 634.82	\$ 634.82
4850	10000	FCZC - Operations	3,397.70	3,397.70
4850	42700	FCZC - CP	30,919.99	30,919.99
Total			\$ 34,952.51	\$ 34,952.51



**Fresno County Zoo Authority
Capital Projects Fund Cash Flow
For the Month Ended May 31, 2014**

Cash Balance as of 5/31/2014 \$ 47,443,567

ADDITIONS:

*Estimated Revenues Through December 2014 \$ 5,620,131

DEDUCTIONS (earmarked projects, paid through claim 2014-3C):

2014 Graphics	33,599	
2014 Reptile Plaza	50,000	
2014 Entrance/Vault	85,000	
2014 Cobra Exhibit	171,830	
2014 Water Play Area	22,725	
2014 Animal Acquisition	20,000	
2014 Water Play Area - addition	1,400,000	
2014 Utility Design**	208,772	
2014 African Project Request	48,180,185	
2014 Komodo Dragon	1,200,000	
2013 Reptile House	82,064	
2012 Tropical Treasures	64,938	
2012 Africa Design	411,930	
2012 Exploration Station	100,000	
2012 Sea Lion Construction***	-	
Total Deductions:		<u>\$ (52,031,043)</u>

******TOTAL:**

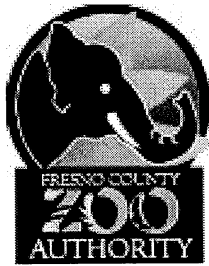
\$ 1,032,655

***Note:** actual revenues used for Jan and Feb 2014. Estimated revenues for Mar-Jun 2014 provided during budget process. For Jul-Dec 2014, used actuals/projections from Jul-Dec 2013. Estimated interest based on 2013 actual interest received

**** Per Brian Goldman, ZC will not utilize \$186,000 of this utility request**

***** Per Brian Goldman, ZC finished billing for SLC on claim 2013-4C**

******Conservatively, in December 2014 cash flows will slightly exceed total earmarked projects; however, this assumes that all amounts within each project are spent, and that all projects will be completed and paid for at this point. Revenue will continue under current measure through April 2015, and interest will continue to be apportioned quarterly**



**Fresno County Zoo Authority
Operations Fund Cash Flow
For the Month Ended May 31, 2014**

Cash Balance as of 5/31/2014		\$ 5,428,380
ADDITIONS:		
*Estimated Revenues Through December 2014		\$ 2,681,732
DEDUCTIONS (Remaining budgets, paid through claim 2014-4):		
2014 Visitor Services	464,441	
2014 Animal	1,341,239	
2014 Maintenance	523,570	
2014 Education	588,999	
2014 Interest/Bank Charges	320	
2013 **Visitor Services	21,611	
2013 **Animal	60,527	
2013 **Veterinary	4,028	
2013 **Maintenance	119,351	
2013 **Education	-	
2013 **Interest/Bank Charges	120	
2012 X-Ray Systems	125,000	
Total Deductions:		<u>\$ (3,249,206)</u>
TOTAL:		<u><u>\$ 4,860,906</u></u>

***Note:** actual revenues used for Jan and Feb 2014. Estimated revenues for Mar-Jun 2014 provided during budget process. For Jul-Dec 2014, used actuals/projections from Jul-Dec 2013. Estimated interest based on 2013 actual interest received

****Zoo Operations will not use all of 2013 budgeted funds**



**Fresno County Zoo Authority
Administration Fund Cash Flow
For the Month Ended May 31, 2014**

Cash Balance as of 5/31/14 \$ 1,081,280

ADDITIONS:

*Estimated Revenues Through December 2014 \$ 169,045

DEDUCTIONS (Remaining budgets, paid through claim 0203-ZOO-43014):

2014 Telephone Charges	500	
2014 Memberships	1,000	
2014 Office Expense	2,521	
2014 Postage	1,358	
2014 PeopleSoft Financials Charges	171	
2014 Professional Services	73,286	
2014 Data Processing Services	3,000	
2014 Publications & Legal Notices	1,000	
2014 Trans, Travel & Education	5,000	
2014 Approp For Contingencies	95,306	
2015 **Estimated Professional Services	68,697	
Total Deductions:		<u>\$ (251,839)</u>

TOTAL: \$ 998,486

***Note: actual revenues used for Jan and Feb 2014. Estimated revenues for Mar-Jul 2014 provided during budget process. For Jul-Dec 2014, used actuals/projections from Jul-Dec 2013. Estimated interest based on 2013 actual interest received**

****Estimated 50% of FYE 14 budget for Professional Services**

*****Zoo Authority will not use all of its 2014 budget**

FRESNO'S CHAFFEE ZOO CORPORATION

FINANCIAL STATEMENTS

**YEAR ENDED DECEMBER 31, 2013,
WITH COMPARATIVE TOTALS FOR 2012**

FRESNO'S CHAFFEE ZOO CORPORATION

FINANCIAL STATEMENTS

**YEAR ENDED DECEMBER 31, 2013,
WITH COMPARATIVE TOTALS FOR 2012**

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Moore Grider & Company

Certified Public Accountants

*A Partnership Including
Accountancy Corporations*

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Robert E. Grider, C.P.A.
Retired

INDEPENDENT AUDITORS' REPORT

Board of Directors
Fresno's Chaffee Zoo Corporation
Fresno, California

We have audited the accompanying financial statements of Fresno's Chaffee Zoo Corporation, which comprise the statement of financial position as of December 31, 2013, and the related statements of activities, functional expenses, and cash flows for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Fresno's Chaffee Zoo Corporation as of December 31, 2013, and the changes in its net assets and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Report on Summarized Comparative Information

We have previously audited the organization's 2012 financial statements, and we expressed an unmodified audit opinion on those audited financial statements in our report dated June 25, 2013. In our opinion, the summarized comparative information presented herein as of and for the year ended December 31, 2012, is consistent, in all material respects, with the audited financial statements from which it has been derived.

Moore Ghider & Company

June 17, 2014

FRESNO'S CHAFFEE ZOO CORPORATION
STATEMENT OF FINANCIAL POSITION
DECEMBER 31, 2013, WITH COMPARATIVE TOTALS FOR 2012

	UNRESTRICTED		TEMPORARILY	PERMANENTLY	TOTALS	
	FCZC	MEASURE Z	RESTRICTED	RESTRICTED	2013	2012
ASSETS						
CURRENT ASSETS						
Cash	\$ 771,539	\$ 0	\$ 341,522	\$ 0	\$ 1,113,061	\$ 437,256
Accounts receivable (Note 2)	1,382,795	0	10,012	0	1,392,807	2,151,707
Pledges receivable, current portion (Note 3)	0	0	12,500	0	12,500	10,800
Prepaid expenses	63,572	0	0	0	63,572	266,723
TOTAL CURRENT ASSETS	2,217,906	0	364,034	0	2,581,940	2,866,486
PLEDGES RECEIVABLE , net of current portion reflected above (Note 3)	0	0	35,000	0	35,000	7,500
CONSTRUCTION IN PROGRESS	4,788,109	0	0	0	4,788,109	2,891,505
EQUIPMENT AND FACILITIES , net of accumulated depreciation of \$1,612,663 in 2013 and \$853,320 in 2012	12,578,167	0	0	0	12,578,167	11,678,518
INVESTMENT IN SECURITIES (Note 4)	8,991,205	0	0	47,952	9,039,157	7,915,754
TOTAL ASSETS	28,575,387	0	399,034	47,952	29,022,373	25,359,763
LIABILITIES AND NET ASSETS						
CURRENT LIABILITIES						
Accounts payable	1,027,531	0	0	0	1,027,531	1,057,068
Accrued expenses	257,694	0	0	0	257,694	307,734
Deferred revenue	0	0	0	0	0	950
TOTAL CURRENT LIABILITIES	1,285,225	0	0	0	1,285,225	1,365,752
COMMITMENTS AND CONTINGENCIES (Note 6)	0	0	0	0	0	0
NET ASSETS						
Permanently restricted (Note 5)	0	0	0	47,952	47,952	40,851
Temporarily restricted (Note 7)	0	0	399,034	0	399,034	379,376
Unrestricted (Note 8)	27,290,162	0	0	0	27,290,162	23,573,784
TOTAL NET ASSETS	27,290,162	0	399,034	47,952	27,737,148	23,994,011
TOTAL LIABILITIES AND NET ASSETS	\$ 28,575,387	\$ 0	\$ 399,034	\$ 47,952	\$ 29,022,373	\$ 25,359,763

FRESNO'S CHAFFEE ZOO CORPORATION
STATEMENT OF ACTIVITIES
YEAR ENDED DECEMBER 31, 2013, WITH COMPARATIVE TOTALS FOR 2012

	UNRESTRICTED		TEMPORARILY	PERMANENTLY	TOTALS	
	FCZC	MEASURE Z	RESTRICTED	RESTRICTED	2013	2012
REVENUE AND SUPPORT						
Measure Z operating funds (Note 9)	\$ 0	\$ 3,560,746	\$ 0	\$ 0	\$ 3,560,746	\$ 3,129,944
Measure Z capital funds (Note 10)	0	2,821,588	0	0	2,821,588	8,941,678
Admissions income	2,180,254	0	0	0	2,180,254	1,816,543
Gift shop sales	350,319	0	0	0	350,319	280,566
Donations	155,303	0	190,188	0	345,491	222,734
Concessions commission	274,610	0	0	0	274,610	230,324
Membership income	779,897	0	0	0	779,897	691,189
Donated materials and services (Note 12)	134,071	0	0	0	134,071	140,401
Stingray Bay Exhibit income	272,757	0	0	0	272,757	219,535
Education income	241,687	0	13,900	0	255,587	204,901
Event income	458,738	0	20,000	0	478,738	419,160
Investment income, net of expenses of \$55,105 in 2013 and \$51,175 in 2012 (Note 4)	209,517	0	0	1,598	211,115	206,124
Unrealized gain (Note 4) on securities	870,551	0	0	5,503	876,054	633,395
Facility rental income	240,221	0	0	0	240,221	191,324
Giraffe feeding income	167,450	0	0	0	167,450	125,276
Adopt-an-Animal income	36,582	0	0	0	36,582	25,290
Interest income	373	0	0	0	373	573
Other income	51,451	0	4,279	0	55,730	31,722
Net assets released from restrictions:						
Satisfaction of program restrictions (Note 7)	208,709	0	(208,709)	0	0	0
TOTAL REVENUE AND SUPPORT	6,632,490	6,382,334	19,658	7,101	13,041,583	17,510,679
EXPENSES						
Program services	4,157,156	6,382,334	0	0	10,539,490	15,454,856
Management and general	607,387	0	0	0	607,387	647,543
Fundraising	379,617	0	0	0	379,617	298,867
TOTAL EXPENSES	5,144,160	6,382,334	0	0	11,526,494	16,401,266
INCREASE IN NET ASSETS BEFORE GAAP ADJUSTMENTS	1,488,330	0	19,658	7,101	1,515,089	1,109,413
GAAP ADJUSTMENTS (NOTE 1)						
Capitalized construction in progress purchased with Measure Z funds	1,896,604	0	0	0	1,896,604	2,795,601
Capitalized facilities purchased with Measure Z funds	924,904	0	0	0	924,904	6,136,715
Depreciation on capitalized facilities purchased with Measure Z funds	(593,460)	0	0	0	(593,460)	(304,503)
INCREASE IN NET ASSETS	3,716,378	0	19,658	7,101	3,743,137	9,737,226
NET ASSETS, beginning of year	23,573,784	0	379,376	40,851	23,994,011	14,256,785
NET ASSETS, end of year	\$ 27,290,162	\$ 0	\$ 399,034	\$ 47,952	\$ 27,737,148	\$ 23,994,011

FRESNO'S CHAFFEE ZOO CORPORATION

STATEMENT OF FUNCTIONAL EXPENSES

YEAR ENDED DECEMBER 31, 2013, WITH COMPARATIVE TOTALS FOR 2012

	PROGRAM SERVICES	SUPPORTING SERVICES		TOTALS	
		MANAGEMENT AND GENERAL	FUNDRAISING	2013	2012
Advertising (Note 1)	\$ 310,400	\$ 0	\$ 0	\$ 310,400	\$ 290,679
Animal services	325,589	0	0	325,589	271,293
Bank and credit card fees	53,979	4,964	3,102	62,045	51,857
Business expense	26,403	2,428	1,517	30,348	24,059
Computer/software expense	40,897	3,761	2,350	47,008	43,934
Conservation	57,986	5,332	3,333	66,650	25,891
Consultant fees	169,816	0	0	169,816	39,284
Depreciation	144,317	13,271	8,294	165,882	110,557
Dues	29,255	2,690	1,681	33,627	35,619
Equipment	123,945	11,397	7,123	142,466	113,433
Fleet	25,968	2,388	1,492	29,848	36,410
Food/catering expense	198,632	18,265	11,416	228,313	194,356
Insurance - liability	120,901	11,117	6,948	138,967	123,804
Legal and accounting	121,974	11,216	7,010	140,200	159,525
Miscellaneous	46,403	3,689	2,306	52,397	30,224
Office supplies	24,074	2,214	1,384	27,671	33,597
Postage	43,757	4,024	2,515	50,295	34,850
Printing	147,399	13,554	8,471	169,424	131,122
Repairs and replacements	277,219	0	0	277,219	189,228
Salaries and benefits	482,601	371,790	232,369	1,086,760	1,137,785
Specialized services	589,748	52,103	32,564	674,415	466,388
Staff development	62,609	5,757	3,598	71,964	39,224
Supplies	278,643	25,622	16,014	320,279	290,505
Telephone	33,449	3,076	1,922	38,447	38,245
Uniforms	27,241	2,505	1,566	31,311	33,978
Utilities	393,953	36,226	22,641	452,819	383,797
	<u>4,157,156</u>	<u>607,387</u>	<u>379,617</u>	<u>5,144,160</u>	<u>4,329,644</u>
Measure Z operating funds (Note 9)	3,560,746	0	0	3,560,746	3,129,944
Measure Z capital funds (Note 10)	<u>2,821,588</u>	<u>0</u>	<u>0</u>	<u>2,821,588</u>	<u>8,941,678</u>
SUBTOTAL BEFORE GAAP ADJUSTMENTS	10,539,490	607,387	379,617	11,526,494	16,401,266
GAAP ADJUSTMENTS (NOTE 1)					
Capitalized construction in progress purchased with Measure Z funds	(1,896,604)	0	0	(1,896,604)	(2,795,601)
Capitalized facilities purchased with Measure Z funds	(924,904)	0	0	(924,904)	(6,136,715)
Depreciation on facilities purchased with Measure Z funds	<u>593,460</u>	<u>0</u>	<u>0</u>	<u>593,460</u>	<u>304,503</u>
	<u>\$ 8,311,442</u>	<u>\$ 607,387</u>	<u>\$ 379,617</u>	<u>\$ 9,298,446</u>	<u>\$ 7,773,453</u>

FRESNO'S CHAFFEE ZOO CORPORATION
STATEMENTS OF CASH FLOWS
YEARS ENDED DECEMBER 31, 2013 AND 2012

	2013	2012
CASH FLOWS FROM OPERATING ACTIVITIES		
Increase in net assets	\$ 3,743,137	\$ 9,737,226
Adjustments to reconcile increase in net assets to net cash provided from operating activities:		
Depreciation	759,342	415,060
Unrealized gain on securities	(876,054)	(633,395)
Changes in:		
Accounts receivable	758,900	190,423
Pledges receivable	(29,200)	12,875
Prepaid expenses	203,151	(160,972)
Accounts payable	(29,537)	(791,204)
Accrued expenses	(50,040)	64,063
Deferred revenue	(950)	(500)
NET CASH PROVIDED FROM OPERATING ACTIVITIES	<u>4,478,749</u>	<u>8,833,576</u>
CASH FLOWS FROM INVESTING ACTIVITIES		
Decrease in short-term investment	0	201,469
Purchase of equipment and facilities	(1,658,991)	(687,071)
Increase in construction in progress	(1,896,604)	(9,010,580)
Acquisition of securities	(247,349)	(273,887)
NET CASH USED BY INVESTING ACTIVITIES	<u>(3,802,944)</u>	<u>(9,770,069)</u>
CASH FLOWS FROM FINANCING ACTIVITIES	<u>0</u>	<u>0</u>
NET INCREASE (DECREASE) IN CASH	675,805	(936,493)
CASH, beginning of year	<u>437,256</u>	<u>1,373,749</u>
CASH, end of year	<u><u>\$ 1,113,061</u></u>	<u><u>\$ 437,256</u></u>
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION		
Non-cash transactions:		
Donated materials and services	<u>\$ 134,071</u>	<u>\$ 140,401</u>
Transfer of construction in progress to equipment and facilities	<u>\$ 0</u>	<u>\$ 10,729,102</u>

FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 1: ORGANIZATION/SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Fresno's Chaffee Zoo Corporation is a non-profit organization incorporated under the laws of the State of California. The organization was formed to operate, maintain and control zoological gardens, and collections and specimens of animals for the education, recreation and pleasure of the general public. The organization is supported primarily through Measure Z operating funds.

The following are the significant accounting policies of the organization:

Method of accounting – The financial statements are prepared using the accrual basis of accounting, in which support and revenue are recognized when earned or due and expenses are recognized when incurred.

Recognition of donor restrictions – Support that is restricted by the donor is reported as an increase in temporarily restricted net assets. When a restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, temporarily restricted net assets are reclassified to unrestricted net assets.

Restrictions on assets – Restricted funds are reported as follow:

Permanently restricted net assets – consist of endowment fund investments to be held indefinitely. The investment income may be used for operations.

Temporarily restricted net assets – represent resources that have been designated by donors for specific projects and programs.

Accounts receivable – Accounts receivable are stated at the amount management expects to collect from outstanding balances. Management provides for probable uncollectible amounts through provisions for bad debt expense based on its assessment of the current status of individual accounts. Balances that are still outstanding after management has used reasonable collection efforts are written off through a charge to the valuation allowance and a credit to accounts receivable. At December 31, 2013 and 2012 the organization considers all amounts to be fully collectible; therefore, no allowance for doubtful accounts is reflected.

Pledges receivable – Unconditional promises to give that are expected to be collected within one year are recorded at net realizable value. Unconditional promises to give that are expected to be collected in future years are normally recorded at the present value of the expected future cash flows. Management has determined the discount rate and present value calculation reflect a nominal amount, therefore, long-term pledges receivable are recorded at net realizable value. Conditional promises to give are not included as support until the conditions are substantially met. At December 31, 2013 and 2012, the organization considers all amounts to be fully collectible; therefore, no allowance for doubtful accounts is reflected.

FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 1: ORGANIZATION/SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES
(Continued)

Equipment and facilities – Equipment and facilities acquired by the organization are recorded at cost. Assets donated to the organization are recorded at their fair market value at the date of the donation. The organization's policy is to capitalize all expenditures for equipment and facilities in excess of \$1,500 and \$30,000, respectively. Depreciation is computed by the straight-line method over the estimated useful lives of the assets.

Donated materials and services – The organization receives various donated materials and services. The estimated fair value of the donation is recorded as support and expense in the period received.

Unpaid volunteers make significant contributions of their time to assist the organization in its programs and special events. The value of volunteer time is not reflected in these statements because it is not susceptible to objective measurement or valuation.

Accounting estimates – The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Expense allocation – The costs of providing various programs and other activities have been summarized on a functional basis in the statement of activities and in the statement of functional expenses. Accordingly, certain costs have been allocated among the programs and supporting services benefited.

Income taxes – Fresno's Chaffee Zoo Corporation is incorporated as a nonprofit California corporation and is exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code and California Revenue and Taxation Code Section 23701d.

Tax returns are filed in U.S. federal and state of California jurisdictions. Tax returns remain subject to examination by the U.S. federal jurisdiction for three years after the return is filed and for four years by the California jurisdiction. There are currently no tax years under examination. The organization classifies interest and penalties on tax assessments as an expense when incurred. For the years ended December 31, 2013 and 2012, interest and penalties totaled \$0.

Generally accepted accounting principles provides accounting and disclosure guidance about positions taken by an entity in its tax returns that might be uncertain. Management has considered its tax positions and believes that all of the positions taken in its federal and state tax returns are more likely than not to be sustained upon examination.

FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 1: ORGANIZATION/SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES
(Continued)

Advertising costs – Advertising costs are expensed as incurred and totaled \$310,400 and \$290,679 in 2013 and 2012, respectively.

Comparative financial information – The financial statements include certain prior-year summarized comparative information in total, but not by asset class. Such information does not include sufficient detail to constitute a presentation in conformity with generally accepted accounting principles. Accordingly, such information should be read in conjunction with the organization's financial statements for the year ended December 31, 2012, from which the summarized information was derived.

GAAP Adjustments – The Statement of Activities presents financial data in conformity with generally accepted accounting principles (GAAP). The Measure Z column on the Statement of Activities presents expenditures according to Measure Z reporting requirements for which expenditures for construction in progress and facilities are expensed when incurred. However, for GAAP, such expenditures are capitalized and depreciated over the life of the asset. To address such reporting differences, the Statement of Activities includes GAAP adjustments.

The Statement of Functional Expenses presents financial data in conformity with GAAP. The Measure Z capital funds line includes \$2,821,508 and \$8,932,316 expended for construction in progress and facilities for 2013 and 2012, respectively. For GAAP reporting purposes, these expenditures are capitalized and depreciated over the life of the asset.

Reclassification – Certain accounts in the prior-year financial statements have been reclassified for comparative purposes to conform with the presentation in the current-year financial statements. The reclassification had no impact on previously-reported increase in net assets or cash flow information.

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See next page for continuation of notes.

FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 2: ACCOUNTS RECEIVABLE

Accounts receivable at December 31, 2013 and 2012, consist of the following:

	2013				2012 TOTAL
	UNRESTRICTED	TEMPORARILY RESTRICTED	PERMANENTLY RESTRICTED	TOTAL	
Measure Z Operating	\$ 301,161	\$ 0	\$ 0	\$ 301,161	\$ 592,380
Measure Z Capital	827,091	0	0	827,091	1,241,123
City of Fresno	204,905	0	0	204,905	217,724
Various	49,638	10,012	0	59,650	100,480
Total	\$ 1,382,795	\$ 10,012	\$ 0	\$ 1,392,807	\$ 2,151,707

NOTE 3: PLEDGES RECEIVABLE

Pledges receivable at December 31, 2013 and 2012 are as follows:

	2013				2012 TOTAL
	UNRESTRICTED	TEMPORARILY RESTRICTED	PERMANENTLY RESTRICTED	TOTAL	
Less than one year	\$ 0	\$ 12,500	\$ 0	\$ 12,500	\$ 10,800
One to four years	0	35,000	0	35,000	7,500
Total	\$ 0	\$ 47,500	\$ 0	\$ 47,500	\$ 18,300

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See next page for continuation of notes.

FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 4: INVESTMENT IN SECURITIES

Investment in securities as of December 31, 2013 and 2012, is summarized below:

	2013	
	Quoted Market Value	Unrealized Gain
Unrestricted:		
Money market funds	\$ 3,370,801	\$ 642,144
Equity mutual funds	4,297,920	264,710
Corporate securities	1,196,248	241,399
Real estate investment trusts	15,383	2,340
Money market funds	<u>110,853</u>	<u>0</u>
	<u>8,991,205</u>	<u>1,150,593</u>
Permanently Restricted:		
Bond mutual funds	11,760	2,237
Equity mutual funds	35,988	2,548
Money market funds	<u>204</u>	<u>0</u>
	<u>47,952</u>	<u>4,785</u>
	<u>\$ 9,039,157</u>	<u>\$ 1,155,378</u>

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FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 4: INVESTMENT IN SECURITIES (Continued)

	2012	
	Quoted Market Value	Unrealized Gain (Loss)
Unrestricted:		
Money market funds	\$ 3,350,290	\$ 329,725
Equity mutual funds	3,194,093	(193,786)
Corporate securities	1,192,663	143,028
Real estate investment trusts	13,317	1,074
Money market funds	<u>124,540</u>	<u>0</u>
	<u>7,874,903</u>	<u>280,041</u>
 Permanently Restricted:		
Bond mutual funds	11,835	882
Equity mutual funds	28,597	(1,600)
Money market funds	<u>419</u>	<u>0</u>
	<u>40,851</u>	<u>(718)</u>
	<u>\$ 7,915,754</u>	<u>\$ 279,323</u>

The following schedule summarizes the investment return and its classification in the statement of activities for the year ended December 31, 2013, with comparable totals for 2012:

	2013				2012
	UNRESTRICTED	TEMPORARILY RESTRICTED	PERMANENTLY RESTRICTED	TOTAL	TOTAL
Investment return:					
Investment income,					
net of expenses	\$ 209,517	\$ 0	\$ 1,598	\$ 211,115	\$ 206,124
Unrealized gain	<u>870,551</u>	<u>0</u>	<u>5,503</u>	<u>876,054</u>	<u>633,395</u>
	<u>\$ 1,080,068</u>	<u>\$ 0</u>	<u>\$ 7,101</u>	<u>\$ 1,087,169</u>	<u>\$ 839,519</u>

NOTE 5: ENDOWMENTS

Effective January 1, 2009 the organization adopted the provisions established by accounting literature for Endowments of Not-for-Profit Foundations: Net Asset Classification of Funds Subject to an Enacted Version of the Uniform Prudent Management of Institutional Funds Act, and Enhanced Disclosures for All Endowment Funds. The accounting literature provides guidance for a not-for-profit organization that is subject to an enacted version of the Uniform Prudent Management of Institutional Funds Act of 2009 (UPMIFA) and also required disclosures about endowment funds, both donor-restricted endowment funds and board-designated endowment funds.

FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 5: ENDOWMENTS (Continued)

The organization's endowment assets consist of individual funds established to provide financial support to the organization. The endowment assets include both donor-restricted endowment funds and funds designated by the board of directors to function as endowments. As required by GAAP, net assets associated with endowment funds, including funds designated by the board of directors to function as endowments, are classified and reported on the existence or absence of donor-imposed restrictions.

Interpretation of Relevant Law

The organization has interpreted the California Uniform Prudent Management of Institutional Funds Act (UPMIFA) as requiring the preservation of the fair value of the original gift as of the gift date of the donor-restricted endowment funds absent explicit donor stipulations to the contrary. As a result of this interpretation, the organization classifies as permanently restricted net assets (a) the original value of gifts donated to the permanent endowment, (b) the original value of subsequent gifts to the permanent endowment and (c) accumulations to the permanent endowment in accordance with the direction of the applicable donor gift instrument at the time the accumulation is added to the fund.

The remaining portion of the donor-restricted endowment fund that is not classified in permanently restricted net assets is classified as temporarily restricted net assets until those amounts are appropriated for expenditure by the organization in a manner consistent with the standard of prudence prescribed by UPMIFA. In accordance with UPMIFA, the organization considers the following factors in making a determination to appropriate or accumulate the donor-restricted endowment funds:

1. The duration and preservation of the fund.
2. The purposes of the organization and the donor-restricted endowment fund.
3. General economic conditions.
4. The possible effect of inflation and deflation.
5. The expected total return from income and the appreciation of investments.
6. Other resources of the organization.
7. The investment policies of the organization.

Return Objectives and Risk Parameters

The organization has adopted investment and spending policies for endowment assets that attempt to provide a predictable stream of funding to programs supported by its endowment while seeking to maintain the purchasing power of the endowment assets. Endowment assets include funds restricted by donors that the organization must retain permanently as well as board-designated funds. Under this policy, as approved by the Board of Directors, the endowment assets are invested in a manner that is intended to meet or exceed the Policy Index, as defined as 65% S&P 500, 30% Lehman Aggregate Bonds, and 5% Cash while assuming a moderate level of investment risk. The organization expects its endowment

FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 5: ENDOWMENTS (Continued)

Return Objectives and Risk Parameters (Continued)

funds, over time, to provide an average nominal rate of return of approximately 8.5% annually. Additionally, the organization expects its endowment funds, over time, to provide an average real rate of return (after inflation) of approximately 5% annually. Actual returns in any given year may vary from this amount; therefore compliance with performance expectations is evaluated over a three to five-year time horizon.

Strategies Employed for Achieving Objectives

To satisfy its long-term rate-of-return objectives, the organization seeks investment returns through both capital appreciation (realized and unrealized) and current yield (interest and dividends). The organization targets a diversified asset allocation that includes equity and debt investments to achieve its long-term return objectives within prudent risk constraints.

Spending Policy and How the Investment Objectives Relate to Spending Policy

The organization uses a method based upon the total return on assets to determine the amounts appropriated for expenditure for endowments under which the organization is the income beneficiary in conformity with the "Uniform Prudent Management of Institutional Funds Act" (UPMIFA).

The Board of Directors has a spending policy on all endowments, such that distribution amounts will be determined prior to the new fiscal year based on the previous twelve (12) quarters-end average market value, whenever possible. In any given year, the distribution of an individual endowment or endowments may be less than 5% if the total return is not enough to preserve the purchasing power of the fund.

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FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 5: ENDOWMENTS (Continued)

Endowment Net Asset Composition by Type of Fund

Endowment net assets consist of the following at December 31, 2013 and 2012:

	2013		
	Unrestricted	Permanently Restricted	Total
Donor-restricted endowment funds	\$ 0	\$ 47,952	\$ 47,952
Board-designated endowment funds	<u>3,887,689</u>	<u>0</u>	<u>3,887,689</u>
Total endowment net assets	<u><u>\$ 3,887,689</u></u>	<u><u>\$ 47,952</u></u>	<u><u>\$ 3,935,641</u></u>
2012			
	Unrestricted	Permanently Restricted	Total
Donor-restricted endowment funds	\$ 0	\$ 40,851	\$ 40,851
Board-designated endowment funds	<u>3,287,798</u>	<u>0</u>	<u>3,287,798</u>
Total endowment net assets	<u><u>\$ 3,287,798</u></u>	<u><u>\$ 40,851</u></u>	<u><u>\$ 3,328,649</u></u>

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FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 5: ENDOWMENTS (Continued)

Changes in Endowment Net Assets

The following schedules shows changes in endowment net assets for the years ended December 31, 2013 and 2012:

	2013		
	Unrestricted	Permanently Restricted	Total
Endowment net assets, January 1, 2013	<u>\$ 3,287,798</u>	<u>\$ 40,851</u>	<u>\$ 3,328,649</u>
Investment return			
Investment income,			
net of expenses	110,960	1,598	112,558
Unrealized gain	<u>457,633</u>	<u>5,503</u>	<u>463,136</u>
Net investment return	568,593	7,101	575,694
Contributions	<u>31,298</u>	<u>0</u>	<u>31,298</u>
Endowment net assets, December 31, 2013	<u>\$ 3,887,689</u>	<u>\$ 47,952</u>	<u>\$ 3,935,641</u>
	2012		
	Unrestricted	Permanently Restricted	Total
Endowment net assets, January 1, 2012	<u>\$ 2,828,149</u>	<u>\$ 36,012</u>	<u>\$ 2,864,161</u>
Investment return			
Investment income,			
net of expenses	101,276	1,500	102,776
Unrealized gain	<u>294,389</u>	<u>3,339</u>	<u>297,728</u>
Net investment return	395,665	4,839	400,504
Contributions	<u>63,984</u>	<u>0</u>	<u>63,984</u>
Endowment net assets, December 31, 2012	<u>\$ 3,287,798</u>	<u>\$ 40,851</u>	<u>\$ 3,328,649</u>

FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 5: ENDOWMENTS (Continued)

Funds with Deficiencies

From time to time, the fair value of assets associated with individual donor-restricted endowment funds may fall below the level that the donor or UPMIFA requires the organization to retain as a fund of perpetual duration. In accordance with GAAP, deficiencies of this nature that are reported in unrestricted net assets were \$0, as of both December 31, 2013 and 2012.

NOTE 6: COMMITMENTS AND CONTINGENCIES

Operating Leases

The organization leases the following equipment under operating leases that have the following expiration dates:

Postage machine	January 31, 2018
Copier Lanier LD540C	March 11, 2014
Copier Lanier LD525SPF	October 4, 2015
Copiers Ricoh RI MPC2551 (2)	August 9, 2017
Zoo land and facilities	December 31, 2036

Future minimum lease payments are as follow:

YEAR ENDING DECEMBER 31,	Postage Machine	Copiers	Zoo Land and Facilities	Total
2014	\$ 1,848	\$ 4,933	\$ 1	\$ 6,782
2015	1,848	4,146	1	5,995
2016	1,848	2,686	1	4,535
2017	1,848	1,791	1	3,640
2018	154	0	1	155
Thereafter	0	0	18	18
	<u>\$ 7,546</u>	<u>\$ 13,556</u>	<u>\$ 23</u>	<u>\$ 21,125</u>

Lease expense for the years ended December 31, 2013 and 2012, was \$8,375 and \$9,182, respectively and is included in equipment expense.

FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 7: TEMPORARILY RESTRICTED NET ASSETS

Temporarily restricted net assets at December 31, 2013 and 2012, are available for the following purposes:

	2013	2012
Africa	\$ 128,511	\$ 21,358
Australian bird purchase	12,221	12,221
Australian exhibit	65,257	65,257
Bat exhibit	562	562
Benches	4,238	4,238
Change for Cheetahs	1,978	0
Grant - amphitheater	0	4,608
Education	0	11,300
Haron Jaguar zoo fund	1,080	1,080
Keeper Lounge Restoration	50,000	50,000
Kids Zone	6,000	6,000
Lorikeet exhibit	1,850	1,850
Orangutan/tiger exhibit	73,412	75,912
Radin Scholarship Fund	1,000	1,000
Sea Lion	34,755	105,137
Valley Dental - Small Wonders	3,586	7,186
Wells Fargo Wednesdays	14,584	11,667
	<u>\$ 399,034</u>	<u>\$ 379,376</u>

Net assets released from donor restrictions by incurring expenses satisfying the restricted purposes:

Amphitheater	\$ 4,608
Benches	4,000
Cobra	2,000
Education	25,200
Orangutan/tiger exhibit	2,500
Safari Night	20,000
Sea Lion	74,690
Valley Dental - Small Wonders	3,600
Valley Farms	50,028
Wells Fargo Wednesdays	22,083
	<u>\$ 208,709</u>

FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 8: UNRESTRICTED NET ASSETS

Unrestricted net assets at December 31, 2013 and 2012, consist of the following:

	2013	2012
Board-designated endowment	\$ 3,887,689	\$ 3,287,798
Undesignated net assets	<u>23,402,473</u>	<u>20,285,986</u>
	<u>\$ 27,290,162</u>	<u>\$ 23,573,784</u>

NOTE 9: MEASURE Z OPERATING FUNDS

In November 2004, the voters of Fresno County approved Measure Z, a transactions and use tax (sales tax) at the rate of 0.1%, proposed by the Fresno County Zoo Authority, to support the Fresno Chaffee Zoo.

The Fresno County tax ordinance allows up to one-third of the tax revenues to be used for operations and maintenance of the Fresno Chaffee Zoo.

For the years ended December 31, 2013 and 2012, Measure Z operating funds were used as follows:

	2013	2012
Bank charges	\$ 130	\$ 110
Salaries and wages	<u>3,560,616</u>	<u>3,129,834</u>
	<u>\$ 3,560,746</u>	<u>\$ 3,129,944</u>

NOTE 10: MEASURE Z CAPITAL FUNDS

In November 2004, the voters of Fresno County approved Measure Z, a transactions and use tax (sales tax) at the rate of 0.1%, proposed by the Fresno County Zoo Authority, to support the Fresno Chaffee Zoo.

The Fresno County tax ordinance requires a minimum of two-thirds of the funds to be used for capital improvement projects at the Fresno Chaffee Zoo.

FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 10: MEASURE Z CAPITAL FUNDS (Continued)

For the years ended December 31, 2013 and 2012, Measure Z capital funds were used as follows:

	2013	2012
Animal transport and care	\$ 0	\$ 9,162
Architectural services	893,633	2,865,040
Bank charges	80	200
Capital projects	849,712	214,046
Construction in progress	142,625	5,805,525
Utility improvements	935,538	47,705
	<u>\$ 2,821,588</u>	<u>\$ 8,941,678</u>

NOTE 11: MANAGEMENT TRANSITION

The City of Fresno transferred management for the Fresno Chaffee Zoo to the organization during the year ended December 31, 2006. The agreement was effective January 1, 2006 and expires December 31, 2036 with a conditional option to extend the agreement for an additional 25-year period. In the event the conditions for this extension are not met, the organization has an option to extend the initial agreement for ten years with an additional ten-year extension available. The ten year extensions shall be granted at the sole discretion of the Fresno City Council based upon the same terms and conditions of the initial agreement.

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FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 12: DONATED MATERIALS AND SERVICES

Donated materials and services for the years ended December 31, 2013 and 2012, were received for the following purposes:

	2013	2012
Breakfast with the Animals	\$ 4,500	\$ 3,808
Dream Night	2,616	3,581
Frogs and Fairytales	5,040	0
Ice Cream Zoofari	42,108	40,000
Miscellaneous	4,466	1,944
Mother's Day Picnic	5,375	1,450
Safari Night	48,756	66,075
Zoobilation	750	1,631
Zoo Boo	20,460	21,362
Zoolights	0	550
	<u>\$ 134,071</u>	<u>\$ 140,401</u>

NOTE 13: PENSION PLAN

The organization has a 401(k) defined contribution plan that covers all employees who have attained age 21 and have completed a year of service. The plan allows eligible employees to defer compensation up to the maximum annual deferral limit. The plan provides an employer match of 100% for the first 3% of the employee contribution and a 50% match for the next 2% of the employee contribution, up to a maximum employer match of 4% of pay.

The organization may make an additional, discretionary contribution to the plan. The Board of Directors determines each year if such a contribution will be made and, if so, the amount to be contributed. This contribution will be allocated among eligible participants, who have completed 1,000 hours of service, based upon compensation received during the plan year. There were no discretionary contributions to the plan during the years ended December 31, 2013 and 2012.

The total contribution expense related to the plan, for the years ended December 31, 2013 and 2012, was \$58,843 and \$60,682, respectively. The expense is included in salaries and benefits.

FRESNO'S CHAFFEE ZOO CORPORATION

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2013 AND 2012

NOTE 14: CONCENTRATION OF CREDIT RISK

The organization maintains its cash balances in one financial institution located in Fresno, California. At times during the year, the organization maintained balances that exceeded the federally insured limit of \$250,000. The organization believes that there is no significant risk with respect to these deposits.

NOTE 15: LITIGATION

The organization is a defendant in a lawsuit filed by a former employee. The organization believes that the suit is without merit and intends to vigorously defend its position. The ultimate outcome of the litigation cannot presently be determined.

The organization is also a defendant in a lawsuit filed against the City of Fresno challenging the proposed amendments to the Fresno Chaffee Zoo Master Plan. The organization believes the suit is without merit and intends to vigorously defend its position. The ultimate outcome of the litigation cannot presently be determined. However, in management's opinion, the likelihood of a material adverse outcome is remote.

NOTE 16: SUBSEQUENT EVENTS

Management has evaluated subsequent events through June 17, 2014 (date financial statements available to be issued) and determined no events have occurred subsequent to December 31, 2013 that would require adjustment to, or disclosure in the financial statements.



Moore Grider & Company
Certified Public Accountants

*A Partnership Including
Accountancy Corporations*

Richard L. Holland, C.P.A.

Thomas L. Bell, C.P.A.,
Accountancy Corporation

Denise S. Hurst, C.P.A.

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Oscar Espinoza, C.P.A.

Lisa Brown, C.P.A., C.F.E.

L. Jerome Moore, C.P.A.
Retired

Robert E. Grider, C.P.A.
Retired

**INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER
MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS**

To the Board of Directors
Fresno's Chaffee Zoo Corporation
Fresno, California

We have audited, in accordance with the auditing standards generally accepted in the United States of America, the financial statements of Fresno's Chaffee Zoo Corporation, which comprise the statement of financial position as of December 31, 2013, and the related statements of activities, functional expenses and cash flows for the year then ended, and the related notes to the financial statements, and have issued our report thereon dated June 17, 2014.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered Fresno's Chaffee Zoo Corporation's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of Fresno's Chaffee Zoo Corporation's internal control. Accordingly, we do not express an opinion on the effectiveness of the Organization's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether Fresno's Chaffee Zoo Corporation's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the organization's internal control or on compliance. Accordingly, this communication is not suitable for any other purpose.

Moore Greider & Company

June 17, 2014

DRAFT



FY14 April Financial Report

Board of Directors

May 21, 2014

Agenda Item 6a

Discussion of Financial Results

As of April 30, 2014

- **Key Facts & Figures*:**

- YTD operating surplus of \$620,784 compared to a projected surplus of \$200,949.
- Self generated revenue is 7% ahead of the YTD budget.
- Personnel expenses are 9% under YTD budget.
- Operating expenses are 12% under YTD budget.
- YTD attendance of 267,570 compared to 264,123 for the same period last year.
- 2014 YTD attendance is 12% ahead of budget.

* Excludes investment income (unrealized gain/loss on investments), capital fundraising, depreciation and capital expenditures.

Discussion of Financial Results

Liquid Assets:

	4/30/2014	3/31/2014	2013 Unaudited
Cash	\$757,520	\$521,625	\$651,296
Short-term Investments	\$701,817	\$1,788	\$461,765
Long-term Investments	\$4,299,168	\$4,293,393	\$5,103,516
Endowment/Board Designated	<u>\$3,976,114</u>	<u>\$3,978,455</u>	<u>\$3,935,641</u>
	\$9,734,619	\$8,795,261	\$10,152,218

Accounts Receivable:

	\$3,092,620	\$4,884,823	\$1,440,307
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Accounts Payable/Accrued Liabilities:

Accounts Payable	\$1,976,271	\$3,092,899	\$1,032,479
Accrued Liabilities	<u>\$38,382</u>	<u>\$22,502</u>	<u>\$252,745</u>
	\$2,014,653	\$3,115,401	\$1,285,224

Net Assets:

Unrestricted	\$32,505,502	\$31,876,921	\$27,290,162
Temporarily Restricted	\$435,892	\$417,732	\$399,034
Permanently Restricted	<u>\$48,823</u>	<u>\$48,742</u>	<u>\$47,952</u>
	\$32,990,217	\$32,343,395	\$27,737,148

Measure Z Balance @ 3/31/2014

Operating	\$5,890,090
Capital Funds	<u>\$49,787,883</u>
	\$55,677,973

April 2014

MTD Attendance				Increase/ Decrease
	2014	2013		
Attendance	103,417	98,869		5%
Paid	58,468	55,371		6%
Members	19,774	15,833		25%
Group	17,519	19,001		-8%
Other	7,656	8,664		-12%
Giraffe Feeding	12,228	9,178		33%
Capture Rate	12%	9%		27%
Stingray Bay	33,320	30,520		9%
Capture Rate	32%	31%		4%
Winged Wonders	27,567	24,730		11%
MTD Revenue				Increase/ Decrease
	2014	2013		
Admissions	\$366,097	\$359,682		2%
Per Cap	\$3.54	\$3.64		-3%
Giraffe Feeding	\$27,161	\$21,268		28%
Per Cap	\$0.26	\$0.22		22%
Stingray Bay	\$46,885	\$43,571		8%
Per Cap	\$0.45	\$0.44		3%
Membership	\$101,154	\$85,367		18%
MTD Revenue				Increase/ Decrease
	2014	2013		
Contracted Service	\$41,507	\$40,569		2%
Food Services	\$0.40	\$0.41		-2%
Per Cap	\$33,583	\$53,277		1%
Gift Shop	\$0.52	\$0.54		-4%
Per Cap				

Key:

Equal to or ahead of 2013
2% or less behind 2013
More than 2% behind 2013

YTD Attendance				Increase/ Decrease
	2014	2013		
Attendance	267,570	264,123		1%
Paid	157,940	156,930		1%
Members	64,290	62,294		3%
Group	25,923	24,201		7%
Other	19,417	20,698		-6%
Giraffe Feeding	30,688	28,577		7%
Capture Rate	11%	11%		6%
Stingray Bay	81,381	79,316		3%
Capture Rate	30%	30%		1%
Winged Wonders	38,245	41,771		-8%
YTD Revenue				Increase/ Decrease
	2014	2013		
Admissions	\$917,786	\$917,462		0%
Per Cap	\$3.43	\$3.47		-1%
Giraffe Feeding	\$67,480	\$65,273		3%
Per Cap	\$0.25	\$0.25		2%
Stingray Bay	\$110,774	\$105,316		5%
Per Cap	\$0.41	\$0.40		4%
Membership	\$334,960	\$292,849		14%
# of Members	14,942	14,709		2%
YTD Revenue				Increase/ Decrease
	2014	2013		
Contracted Service	\$108,336	\$105,697		2%
Food Services	\$0.40	\$0.40		1%
Per Cap	\$137,067	\$135,473		1%
Gift Shop	\$0.51	\$0.51		0%
Per Cap				

2013 Unaudited
691,320
374,580
154,892
66,013
95,835
76,964
11%
204,765
30%
120,851
\$2,180,254
\$3.15
\$167,430
\$0.24
\$272,757
\$0.39
\$779,902
13,713
\$274,610
\$0.40
\$350,319
\$0.51

2013 spring break was in March contributing to higher month and year-to-date figures.

Fresno's Chaffee Zoo Corporation
Balance Sheet
 April 2014

	FY14 @ 4/30/14	FY14 @ 3/31/14	FY13 Unaudited
ASSETS			
Cash	\$757,520	\$521,625	\$651,296
Short Term Investments	\$701,817	\$1,788	\$461,765
Long Term Investments	\$8,275,282	\$8,271,848	\$9,039,157
Accounts Receivable	\$3,092,620	\$4,884,823	\$1,440,307
Prepaid Expenses	\$135,988	\$90,899	\$63,572
Inventory	\$0	\$0	\$0
Building, Equipment, Vehicle and Furniture (net)	\$2,493,393	\$2,478,865	\$2,504,200
Construction in Progress	\$9,472,020	\$9,132,719	\$4,788,109
Exhibits	\$10,076,229	\$10,076,229	\$10,073,967
TOTAL ASSETS	\$35,004,870	\$35,458,796	\$29,022,372
LIABILITIES AND NET ASSETS			
Liabilities			
Accounts Payable/Accrued Liabilities	\$2,014,653	\$3,115,401	\$1,285,224
Total Liabilities	\$2,014,653	\$3,115,401	\$1,285,224
Net Assets			
Fund Balance-Unrestricted	\$32,505,502	\$31,876,921	\$27,290,162
Fund Balance-Temporarily Restricted	\$435,892	\$417,732	\$399,034
Fund Balance-Permanently Restricted	\$48,823	\$48,743	\$47,952
Total Net Assets	\$32,990,217	\$32,343,395	\$27,737,148
TOTAL LIABILITIES AND NET ASSETS	\$35,004,870	\$35,458,796	\$29,022,372

Fresno's Chaffee Zoo Corporation
Income Statement
April 30, 2014

	Current Month		Year-to-Date		FY13 Unaudited
	FY14 Budget	Budget	Actual @ 4/30/14	Variance	
REVENUE					
Self Generated Revenue					
Admissions	\$2,140,785	\$352,465	\$366,097	\$13,632	\$2,180,254
Adopt an Animal	\$35,000	\$1,500	\$1,666	\$166	\$36,582
Board Designated for Endow	\$50,000	\$7,500	\$8,609	\$1,109	\$83,224
Education	\$238,600	\$16,383	\$26,100	\$9,717	\$255,487
Food Services	\$266,000	\$38,400	\$41,507	\$3,107	\$274,610
Gift Shop	\$332,500	\$48,000	\$53,583	\$5,583	\$350,319
Giraffe Feeding	\$159,600	\$23,040	\$27,161	\$4,121	\$167,450
Grants/Fundraising	\$1,239,000	\$117,792	\$20,620	(\$97,172)	\$232,581
Group Event/Facility Rental	\$240,000	\$13,000	\$29,585	\$16,585	\$240,221
Interest Income	\$275,000	\$11,000	\$10,076	(\$924)	\$266,594
Investment Income	\$0	\$0	(\$5,744)	(\$5,744)	\$876,055
Membership	\$725,000	\$87,000	\$101,154	\$14,154	\$779,897
Special Events	\$493,100	\$25,000	\$16,380	(\$8,621)	\$478,738
Stingray Exhibit	\$272,650	\$37,500	\$46,885	\$9,385	\$272,757
Other	\$55,500	\$3,950	\$3,123	(\$827)	\$51,216
Total Self Generated Revenue	\$6,522,735	\$782,530	\$746,804	(\$35,726)	\$6,545,985
City of Fresno	\$0	\$0	\$0	\$0	\$0
Measure Z-Capital Funds	\$20,250	\$1,688	\$333,438	\$331,751	\$2,821,588
Measure Z Operating Funds	\$3,928,683	\$307,718	\$276,976	(\$30,742)	\$3,560,746
Transfer to/from Related Org	\$0	\$0	\$0	\$0	\$34,300
TOTAL REVENUE	\$10,471,668	\$1,091,935	\$1,357,218	\$265,282	\$12,962,619

Fresno's Chaffee Zoo Corporation

Income Statement

April 30, 2014

	FY 14 Budget	Current Month		Year-to-Date		FY13 Unaudited		
		Budget	Actual @ 4/30/14	Variance	Budget		Actual @ 4/30/14	Variance
EXPENSES								
OPERATING EXPENSES								
Personnel Expenses								
Administration	\$723,477	\$54,327	\$51,932	\$2,395	\$196,651	\$201,006	(\$4,355)	\$610,929
Animal	\$1,878,286	\$153,081	\$145,367	\$7,714	\$543,440	\$515,750	\$27,690	\$1,559,921
Education	\$758,654	\$52,316	\$44,112	\$8,203	\$193,316	\$157,422	\$35,894	\$797,931
Maintenance/Horticulture	\$656,458	\$47,681	\$36,259	\$11,423	\$166,704	\$123,572	\$43,133	\$457,162
Mem/Dev/Marketing	\$552,625	\$43,765	\$38,479	\$5,286	\$162,357	\$149,379	\$12,978	\$444,600
Veterinary	\$259,529	\$19,568	\$17,463	\$2,105	\$67,070	\$60,256	\$6,814	\$218,294
Visitor Services	\$635,165	\$49,706	\$51,218	(\$1,513)	\$170,507	\$159,500	\$11,007	\$558,539
Total Personnel Expenses	\$5,464,194	\$420,444	\$384,830	\$35,614	\$1,500,046	\$1,366,885	\$133,161	\$4,647,376
Other Expenses								
Advertising	\$212,500	\$16,917	\$18,974	(\$2,058)	\$71,167	\$51,094	\$20,073	\$309,678
Animal Services	\$305,400	\$24,867	\$31,567	(\$6,701)	\$106,467	\$91,304	\$15,162	\$331,455
Computer/Software	\$53,000	\$13,058	\$18,107	(\$5,049)	\$34,883	\$26,668	\$8,215	\$47,008
Conservation	\$65,000	\$5,417	\$0	\$5,417	\$21,667	\$0	\$21,667	\$66,650
Contracted Services	\$454,500	\$44,204	\$55,980	(\$11,776)	\$159,658	\$158,509	\$1,149	\$480,210
Depreciation Expense	\$285,720	\$23,935	\$23,344	\$591	\$95,740	\$93,376	\$2,364	\$759,342
Dues	\$40,630	\$8,427	\$534	\$7,893	\$18,585	\$15,879	\$2,706	\$33,627
Equipment	\$155,100	\$16,092	\$6,933	\$9,159	\$47,116	\$34,427	\$12,690	\$133,274
Fleet	\$31,900	\$2,658	\$1,070	\$1,589	\$10,633	\$4,301	\$6,332	\$29,848
Food/Catering	\$127,050	\$9,267	\$2,378	\$6,888	\$22,866	\$6,880	\$15,986	\$119,838
Insurance	\$142,000	\$10,500	\$180	\$10,320	\$79,000	\$89,096	(\$10,096)	\$138,967
Miscellaneous Business	\$51,345	\$3,846	\$1,417	\$2,429	\$15,333	\$5,148	\$10,185	\$30,348
Office Rental	\$20,000	\$1,667	\$1,476	\$191	\$6,667	\$5,905	\$762	\$6,471
Office Supplies	\$25,650	\$2,129	\$1,389	\$740	\$8,516	\$8,010	\$506	\$27,671
Postage	\$52,845	\$5,143	\$5,653	(\$510)	\$19,573	\$20,782	(\$1,209)	\$50,295
Printing	\$139,595	\$6,871	\$4,358	\$2,513	\$43,587	\$30,750	\$12,837	\$128,511
Professional Services	\$144,000	\$12,000	\$17,355	(\$5,355)	\$48,000	\$41,624	\$6,375	\$185,853
Repairs and Replacements	\$198,000	\$16,833	\$49,894	(\$33,061)	\$82,333	\$112,194	(\$29,861)	\$272,784
Service/Bank/Credit Card Fees	\$119,360	\$6,780	\$6,682	\$98	\$36,620	\$33,781	\$2,838	\$117,360

Fresno's Chaffee Zoo Corporation

Income Statement

April 30, 2014

	Current Month			Year-to-Date			FY13 Unaudited
	FY14 Budget	Budget	Actual @ 4/30/14	Variance	Budget	Actual @ 4/30/14	
Signage	\$25,000	\$2,083	\$3,256	(\$1,173)	\$8,333	\$4,468	\$40,913
Specialized Services	\$35,350	\$2,946	\$2,000	\$946	\$11,783	\$7,153	\$49,478
Staff Development	\$71,250	\$5,062	\$6,043	(\$980)	\$25,750	\$24,689	\$71,964
Supplies	\$312,400	\$25,083	\$21,759	\$3,324	\$95,333	\$68,842	\$308,529
Telephone	\$36,800	\$3,067	\$2,363	\$704	\$12,267	\$9,084	\$38,447
Uniforms	\$25,650	\$2,429	\$2,881	(\$452)	\$13,175	\$12,223	\$31,311
Utilities	\$458,000	\$38,167	\$28,110	\$10,057	\$152,667	\$88,931	\$452,819
Other	\$29,550	\$5,975	\$4,686	\$1,289	\$10,450	\$6,577	\$46,110
Total Other Expenses	\$3,617,595	\$315,422	\$318,389	(\$2,967)	\$1,258,167	\$1,051,694	\$4,308,763
TOTAL OPERATING EXPENSES	\$9,081,789	\$735,866	\$703,219	\$32,647	\$2,758,213	\$2,418,579	\$8,956,139
Expansion/Nonoperating Exp.							
Expansion/Nonoperating Exp. \$665,000		\$38,750	\$7,176	\$31,574	\$80,000	\$31,670	\$263,343
Total Expansion/Nonoperating Exp. \$665,000		\$38,750	\$7,176	\$31,574	\$80,000	\$31,670	\$263,343
TOTAL EXPENSES	\$9,746,789	\$774,616	\$710,396	\$64,220	\$2,838,213	\$2,450,249	\$9,219,482
BEGINNING FUND BALANCE	\$27,737,148	\$32,343,395	\$32,343,395	\$0	\$27,737,148	\$27,737,148	\$23,994,011
NET SURPLUS/(DEFICIT)	\$724,879	\$317,319	\$646,822	\$329,502	\$170,042	\$5,253,069	\$3,743,137
ENDING FUND BALANCE	\$28,462,027	\$32,660,715	\$32,990,217	\$329,502	\$27,907,190	\$32,990,217	\$27,737,148

Measure Z Revenue Summary of Tax Proceeds

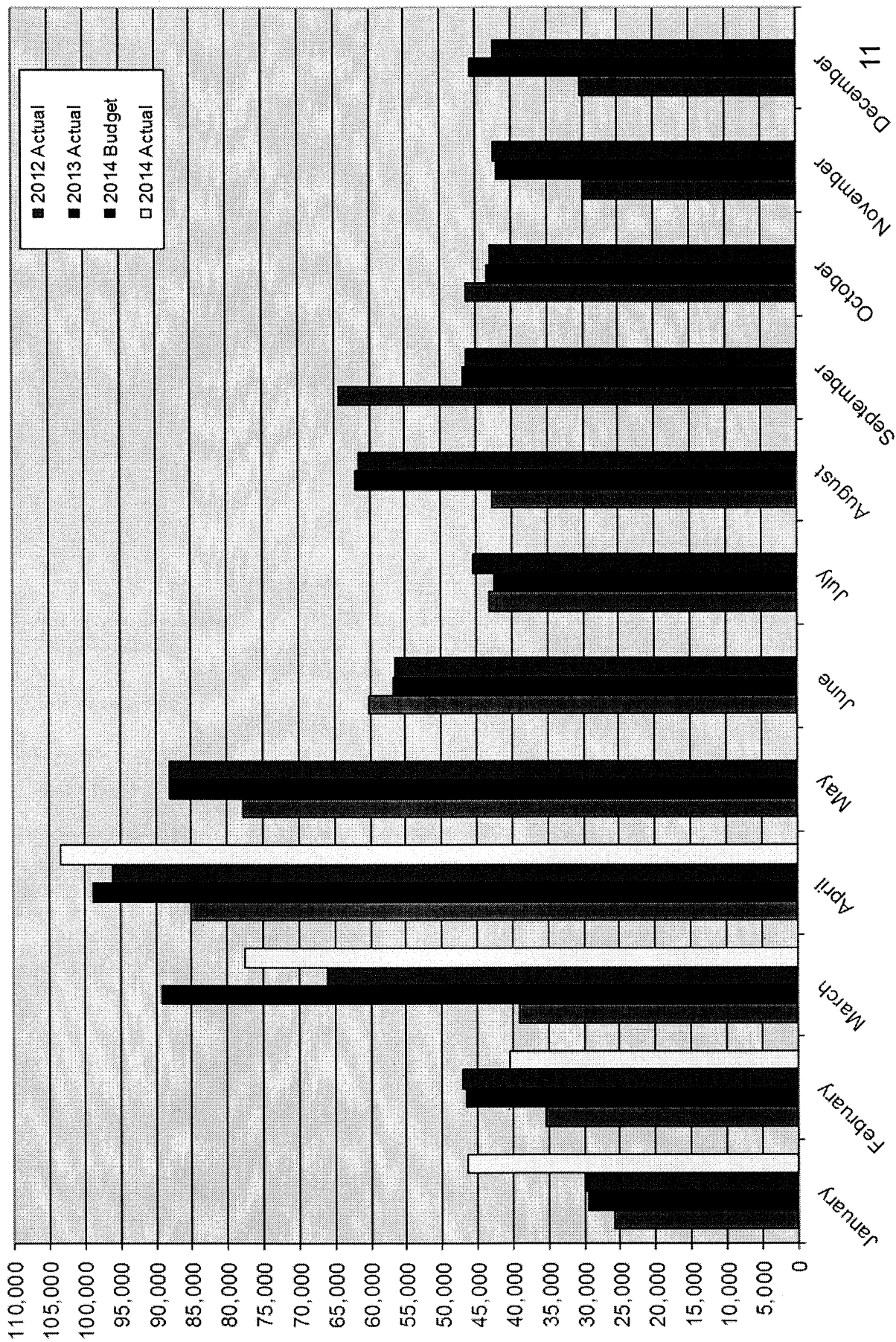
	2004-2005 ACTUAL	2005-2006 ACTUAL	2006-2007 ACTUAL	2007-2008 ACTUAL	2008-2009 ACTUAL	2009-2010 ACTUAL	2010-2011 ACTUAL	2011-2012 ACTUAL	2012-2013 ACTUAL	2013-2014 ACTUAL
July		\$700,400	\$671,500	\$819,900	\$813,500	\$671,700	\$659,300	\$719,800	\$826,000	\$903,500
August		933,800	895,400	1,093,200	1,084,700	885,300	857,600	921,200	1,033,100	\$1,106,000
September		764,524	1,453,498	1,060,279	930,087	810,940	895,691	1,057,603	1,028,369	\$1,097,605
October		705,400	679,300	853,500	792,200	678,000	677,000	694,100	850,500	\$857,400
November		940,500	1,471,000	1,138,000	1,056,300	743,300	879,500	878,500	1,056,800	\$1,143,200
December		1,324,459	1,047,118	827,112	872,815	971,061	932,350	1,240,028	1,083,021	\$1,076,977
January		676,000	813,700	831,200	766,900	719,900	710,700	770,100	799,900	\$836,700
February		901,300	1,081,800	1,108,200	841,000	944,000	919,900	978,600	1,086,700	\$1,101,200
March		1,319,000	905,577	762,907	959,801	628,563	821,858	1,006,649	1,021,734	\$1,113,584
April		678,900	748,000	699,000	652,000	594,300	618,400	716,100	846,500	
May		905,200	997,300	932,000	860,800	847,200	876,500	897,100	1,493,700	
June	701,853	1,113,269	900,178	1,026,580	730,781	821,511	963,040	1,191,689	1,015,391	
Total	\$701,853	\$10,962,752	\$11,664,370	\$11,151,879	\$10,360,883	\$9,315,775	\$9,811,839	\$11,071,469	\$12,141,715	\$9,236,166

Total received from inception \$96,418,702

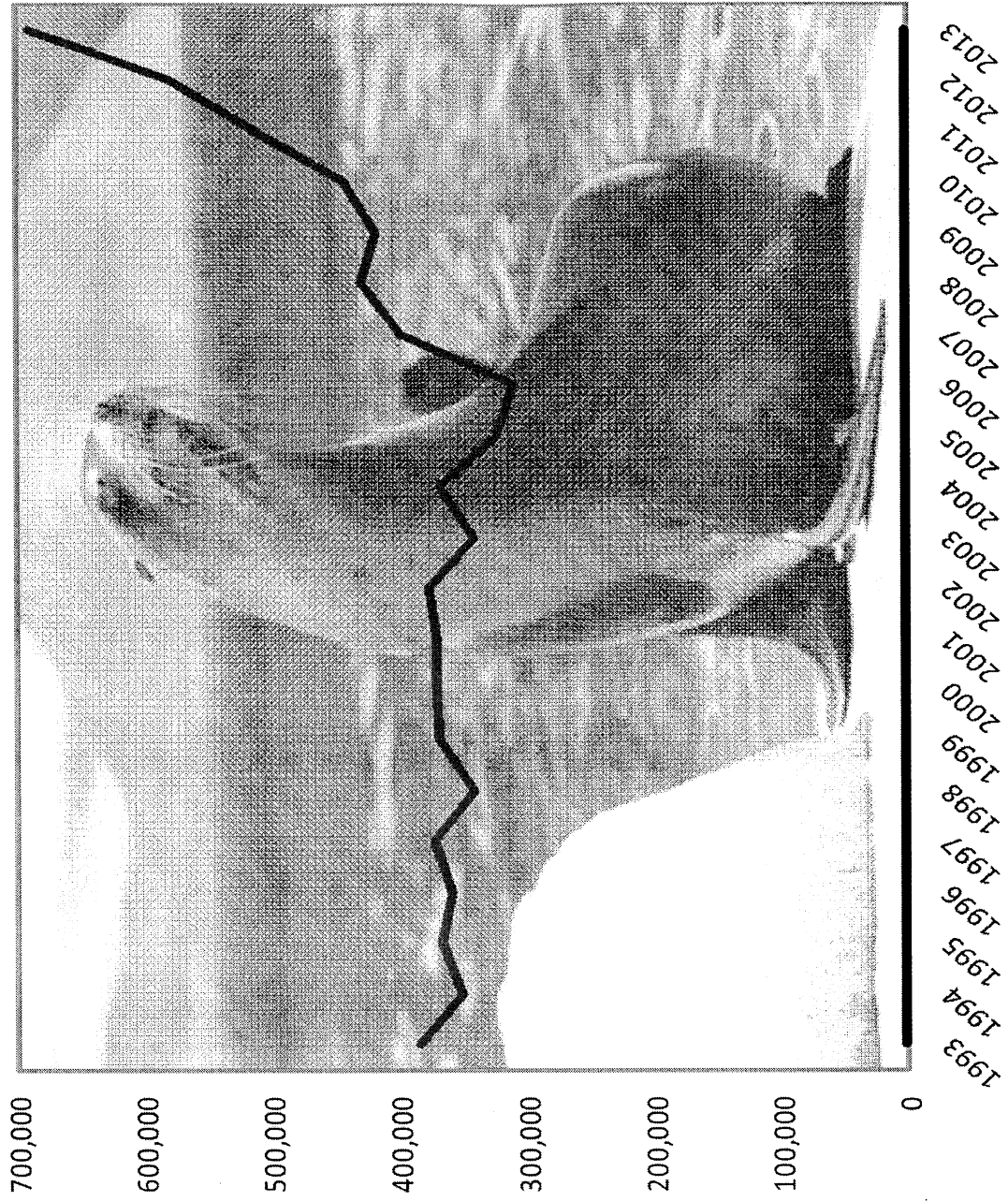
Accounts Receivable as of April 30, 2014

• Fresno County Zoo Authority	\$ 2,733,797
• City of Fresno	\$ 189,905
• 3 rd party concessionaire	\$ 95,109
• Sponsorships/Donations	\$ 60,512

Fresno Chaffee Zoo Attendance Comparison 2012 - 2014



Fresno Chaffee Zoo Attendance Totals



* FCZC assumed management responsibility 2/2006

DRAFT



FY14 May Financial Report

Board of Directors

Agenda Item 6b

Discussion of Financial Results

As of May 31, 2014

- **Key Facts & Figures*:**

- YTD operating surplus of \$833,441 compared to a projected surplus of \$410,297.
- Self generated revenue is 4% ahead of the YTD budget.
- Personnel expenses are 8% under YTD budget.
- Operating expenses are 10% under YTD budget.
- YTD attendance of 357,182 compared to 352,192 for the same period last year.
- 2014 YTD attendance is 9% ahead of budget.

* Excludes investment income (unrealized gain/loss on investments), capital fundraising, depreciation and capital expenditures.

Discussion of Financial Results

Liquid Assets:

	05/31/2014	04/30/2014	2013 Unaudited
Cash	\$398,637	\$749,040	\$651,296
Short-term Investments	\$1,201,817	\$701,817	\$461,765
Long-term Investments	\$4,360,895	\$4,299,168	\$5,103,516
Endowment/Board Designated	<u>\$4,037,071</u>	<u>\$3,976,114</u>	<u>\$3,935,641</u>
	\$9,998,420	\$9,726,139	\$10,152,218

Accounts Receivable:

	\$3,268,325	\$2,969,770	\$1,440,307
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Accounts Payable/Accrued Liabilities:

Accounts Payable	\$2,435,484	\$1,976,271	\$1,032,479
Accrued Liabilities	<u>\$79,323</u>	<u>\$35,581</u>	<u>\$252,745</u>
	\$2,514,807	\$2,011,852	\$1,285,224

Net Assets:

Unrestricted	\$34,819,563	\$32,402,058	\$27,290,162
Temporarily Restricted	\$441,870	\$430,205	\$399,034
Permanently Restricted	<u>\$49,616</u>	<u>\$48,823</u>	<u>\$47,952</u>
	\$35,311,049	\$32,881,086	\$27,737,148

Measure Z Balance @ 5/31/2014

Operating	\$5,428,380
Capital Funds	<u>\$47,443,567</u>
	\$52,871,947

May 2014

MTD Attendance				Increase/ Decrease
	2014	2013		
Attendance	89,612	88,069		2%
Paid	39,810	40,707		-2%
Members	14,324	14,532		-1%
Group	30,454	27,883		9%
Other	5,024	4,947		2%
Giraffe Feeding	10,659	8,534		25%
Capture Rate	12%	10%		23%
Stingray Bay	36,005	31,121		16%
Capture Rate	40%	35%		14%
Winged Wonders	29,165	32,250		-10%
MTD Revenue				Increase/ Decrease
	2014	2013		
Admissions	\$299,529	\$299,923		0%
Per Cap	\$3.34	\$3.41		-2%
Giraffe Feeding	\$23,387	\$19,943		17%
Per Cap	\$0.26	\$0.23		15%
Stingray Bay	\$49,839	\$43,622		14%
Per Cap	\$0.56	\$0.50		12%
Membership	\$65,240	\$63,450		3%
Contracted Service				Increase/ Decrease
	2014	2013		
Food Services	\$33,122	\$29,385		13%
Per Cap	\$0.37	\$0.33		11%
Gift Shop	\$44,521	\$41,929		6%
Per Cap	\$0.50	\$0.48		4%

Key:

Equal to or ahead of 2013
2% or less behind 2013
More than 2% behind 2013

YTD Attendance				Increase/ Decrease
	2014	2013		
Attendance	357,182	352,192		1%
Paid	197,750	197,637		0%
Members	78,614	76,826		2%
Group	56,377	52,084		8%
Other	24,441	25,645		-5%
Giraffe Feeding	41,347	37,111		11%
Capture Rate	12%	11%		10%
Stingray Bay	117,366	110,437		6%
Capture Rate	33%	31%		5%
Winged Wonders	67,410	74,021		-9%
YTD Revenue				Increase/ Decrease
	2014	2013		
Admissions	\$1,217,498	\$1,217,385		0%
Per Cap	\$3.41	\$3.46		-1%
Giraffe Feeding	\$90,867	\$85,216		7%
Per Cap	\$0.25	\$0.24		5%
Stingray Bay	\$160,613	\$148,938		8%
Per Cap	\$0.45	\$0.42		6%
Membership	\$400,199	\$356,299		12%
Contracted Service				Increase/ Decrease
	2014	2013		
Food Services	\$141,458	\$135,082		5%
Per Cap	\$0.40	\$0.38		3%
Gift Shop	\$181,588	\$177,402		2%
Per Cap	\$0.51	\$0.50		1%

2013 Unaudited
691,320
374,580
154,892
66,013
93,835
76,964
11%
204,765
30%
120,851
\$2,180,254
\$3.15
\$167,450
\$0.24
\$272,757
\$0.39
\$779,902
\$274,610
\$0.40
\$350,319
\$0.51

Fresno's Chaffee Zoo Corporation
Balance Sheet
 May 2014

	FY14 @ 5/31/14	FY14 @ 4/30/14	FY13 Unaudited
ASSETS			
Cash	\$398,637	\$749,040	\$651,296
Short Term Investments	\$1,201,817	\$701,817	\$461,765
Long Term Investments	\$8,397,966	\$8,275,282	\$9,039,157
Accounts Receivable	\$3,268,325	\$2,969,770	\$1,440,307
Prepaid Expenses	\$28,576	\$111,082	\$63,572
Inventory	\$0	\$0	\$0
Building, Equipment, Vehicle and Furniture (net)	\$2,574,098	\$2,537,698	\$2,504,200
Construction in Progress	\$11,879,872	\$9,472,020	\$4,788,109
Exhibits	\$10,076,565	\$10,076,229	\$10,073,967
TOTAL ASSETS	\$37,825,857	\$34,892,938	\$29,022,372

LIABILITIES AND NET ASSETS			
Liabilities			
Accounts Payable/Accrued Liabilities	\$2,514,807	\$2,011,852	\$1,285,224
Total Liabilities	\$2,514,807	\$2,011,852	\$1,285,224

Net Assets			
Fund Balance-Unrestricted	\$34,819,563	\$32,402,058	\$27,290,162
Fund Balance-Temporarily Restricted	\$441,870	\$430,205	\$399,034
Fund Balance-Permanently Restricted	\$49,616	\$48,823	\$47,952
Total Net Assets	\$35,311,049	\$32,881,087	\$27,737,148

TOTAL LIABILITIES AND NET ASSETS	\$37,825,857	\$34,892,938	\$29,022,372
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Fresno's Chaffee Zoo Corporation
Income Statement
May 31, 2014

	FY14 Budget	Current Month		Year-to-Date			FY13 Unaudited
		Budget	Actual @ 5/31/14	Variance	Budget	Actual @ 5/31/14	
REVENUE							
Self-Generated Revenue							
Admissions	\$2,140,785	\$302,905	\$299,529	(\$3,377)	\$1,143,655	\$1,217,498	\$73,843
Adopt an Animal	\$35,000	\$1,500	\$2,700	\$1,200	\$21,500	\$23,099	\$1,599
Board Designated for Endow	\$50,000	\$0	\$125	\$125	\$7,500	\$9,334	\$1,834
Education	\$238,600	\$51,883	\$77,328	\$25,444	\$99,167	\$132,669	\$33,503
Food Services	\$266,000	\$35,200	\$33,122	(\$2,078)	\$130,800	\$141,458	\$10,658
Gift Shop	\$332,500	\$44,000	\$44,521	\$521	\$163,500	\$181,588	\$18,088
Giraffe Feeding	\$159,600	\$21,120	\$23,387	\$2,267	\$78,480	\$90,867	\$12,387
Grants/Fundraising	\$1,239,000	\$70,292	\$25,449	(\$44,843)	\$301,458	\$62,807	(\$238,651)
Group Event/Facility Rental	\$240,000	\$43,000	\$39,987	(\$3,013)	\$76,000	\$99,192	\$23,192
Interest Income	\$275,000	\$11,000	\$9,502	(\$1,498)	\$52,000	\$44,732	(\$7,268)
Investment Income	\$0	\$0	\$124,277	\$124,277	\$0	\$189,677	\$189,677
Membership	\$725,000	\$67,000	\$65,240	(\$1,761)	\$362,000	\$400,199	\$38,199
Special Events	\$493,100	\$9,100	\$541	(\$8,559)	\$51,600	\$33,713	(\$17,888)
Stingray Exhibit	\$272,650	\$37,600	\$49,839	\$12,239	\$132,500	\$160,613	\$28,113
Other	\$55,500	\$2,450	\$8,244	\$5,794	\$12,800	\$18,922	\$6,122
Total Self-Generated Revenue	\$6,522,735	\$697,050	\$803,790	\$106,740	\$2,632,960	\$2,806,369	\$173,409
City of Fresno	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Measure Z-Capital Funds	\$20,250	\$1,688	\$2,124,082	\$2,122,395	\$8,438	\$6,677,178	\$6,668,741
Measure Z Operating Funds	\$3,928,683	\$413,066	\$399,349	(\$13,716)	\$1,478,661	\$1,418,782	(\$59,880)
Transfer to/from Related Org	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL REVENUE	\$10,471,668	\$1,111,803	\$3,327,222	\$2,215,418	\$4,120,059	\$10,902,329	\$6,782,270

May 31, 2014

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Fresno's Chaffee Zoo Corporation
Income Statement
May 31, 2014

	Current Month		Year-to-Date			FY13 Unaudited
	Budget	Actual @ 5/31/14	Variance	Budget	Actual @ 5/31/14	
FY14 Budget						
Specialized Services	\$30,350	\$2,529	\$1,256	\$12,646	\$6,608	\$36,939
Staff Development	\$71,250	\$5,063	\$434	\$30,812	\$29,318	\$71,964
Supplies	\$312,400	\$24,583	(\$1,939)	\$119,916	\$107,370	\$308,529
Telephone	\$36,800	\$3,067	(\$1,388)	\$15,333	\$13,538	\$38,447
Uniforms	\$25,650	\$1,429	(\$695)	\$14,605	\$14,347	\$31,311
Utilities	\$458,000	\$38,167	\$21,950	\$190,833	\$105,148	\$452,819
Other	\$29,550	\$1,475	\$449	\$11,925	\$7,603	\$46,110
Total Other Expenses	\$3,617,595	\$323,357	(\$20,464)	\$1,579,108	\$1,376,435	\$4,308,763
TOTAL OPERATING EXPENSES	\$9,081,789	\$911,228	\$19,329	\$3,659,123	\$3,291,398	\$8,956,139
Expansion/Nonoperating Exp.						
Expansion/Nonoperating Exp. \$665,000		\$5,360	\$33,390	\$118,750	\$37,029	\$263,343
Total Expansion/Nonoperating Exp. \$665,000		\$5,360	\$33,390	\$118,750	\$37,029	\$263,343
TOTAL EXPENSES	\$9,746,789	\$949,978	\$52,719	\$3,777,873	\$3,328,427	\$9,219,482
BEGINNING FUND BALANCE	\$27,737,148	\$32,881,087	\$0	\$27,737,148	\$27,737,148	\$23,994,011
NET SURPLUS/(DEFICIT)	\$724,879	\$161,825	\$2,268,137	\$342,185	\$7,573,901	\$3,743,137
ENDING FUND BALANCE	\$28,462,027	\$33,042,912	\$2,268,137	\$28,079,333	\$35,311,049	\$27,737,148

Measure Z Revenue Summary of Tax Proceeds

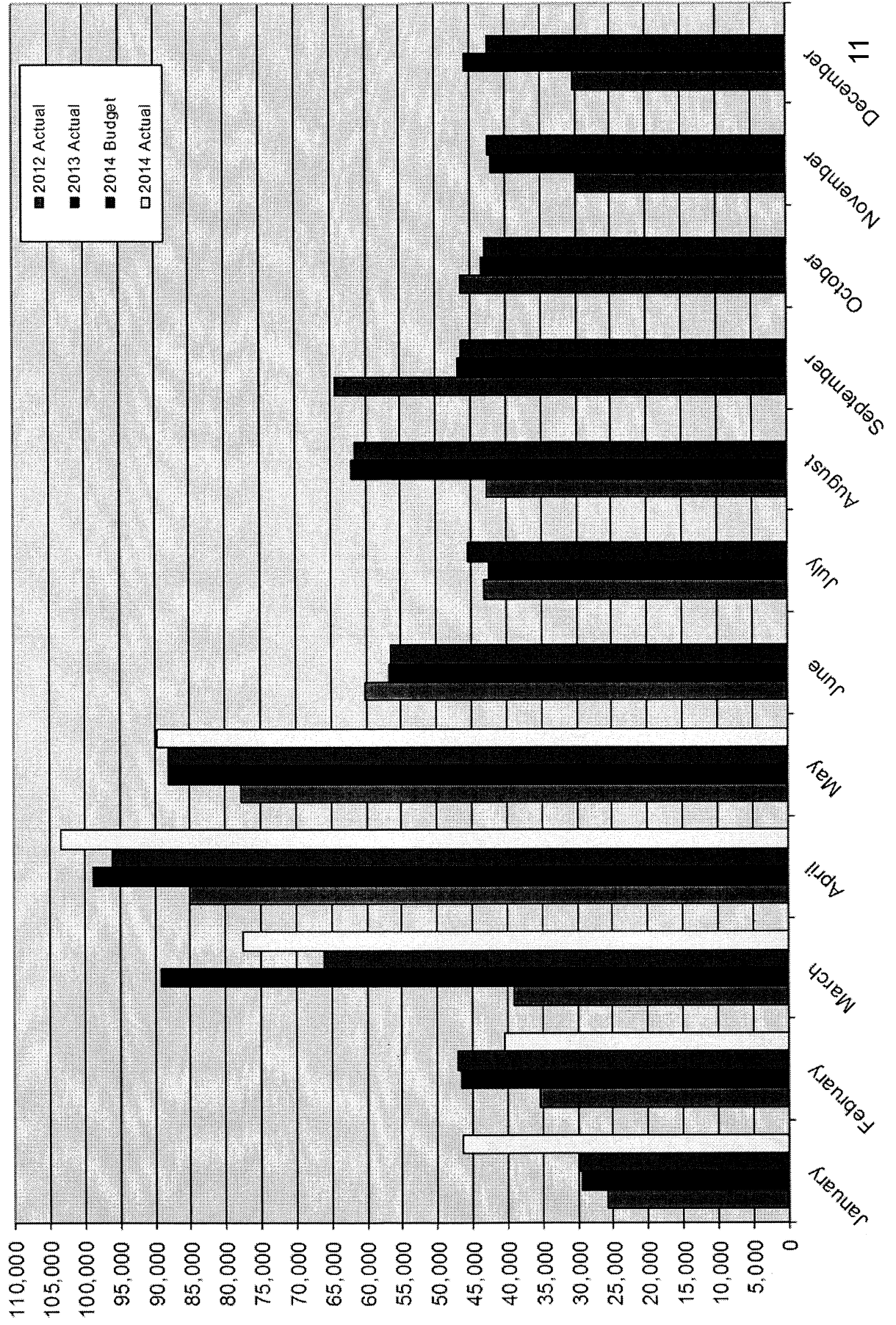
	2004-2005 ACTUAL	2005-2006 ACTUAL	2006-2007 ACTUAL	2007-2008 ACTUAL	2008-2009 ACTUAL	2009-2010 ACTUAL	2010-2011 ACTUAL	2011-2012 ACTUAL	2012-2013 ACTUAL	2013-2014 ACTUAL
July		\$700,400	\$671,500	\$819,900	\$813,500	\$671,700	\$659,300	\$719,800	\$826,000	\$903,500
August		933,800	895,400	1,093,200	1,084,700	885,300	857,600	921,200	1,033,100	\$1,106,000
September		764,524	1,453,498	1,060,279	930,087	810,940	895,691	1,057,603	1,028,369	\$1,097,605
October		705,400	679,300	853,500	792,200	678,000	677,000	694,100	850,500	\$857,400
November		940,500	1,471,000	1,138,000	1,056,300	743,300	879,500	878,500	1,056,800	\$1,143,200
December		1,324,459	1,047,118	827,112	872,815	971,061	932,350	1,240,028	1,083,021	\$1,076,977
January		676,000	813,700	831,200	766,900	719,900	710,700	770,100	799,900	\$836,700
February		901,300	1,081,800	1,108,200	841,000	944,000	919,900	978,600	1,086,700	\$1,101,200
March		1,319,000	905,577	762,907	959,801	628,563	821,858	1,006,649	1,021,734	\$1,113,584
April		678,900	748,000	699,000	652,000	594,300	618,400	716,100	846,500	\$788,000
May		905,200	997,300	932,000	860,800	847,200	876,500	897,100	1,493,700	\$1,050,600
June	701,853	1,113,269	900,178	1,026,580	730,781	821,511	963,040	1,191,689	1,015,391	
Total	\$701,853	\$10,962,752	\$11,664,370	\$11,151,879	\$10,360,883	\$9,315,775	\$9,811,839	\$11,071,469	\$12,141,715	\$11,074,766

Total received from inception \$98,257,302

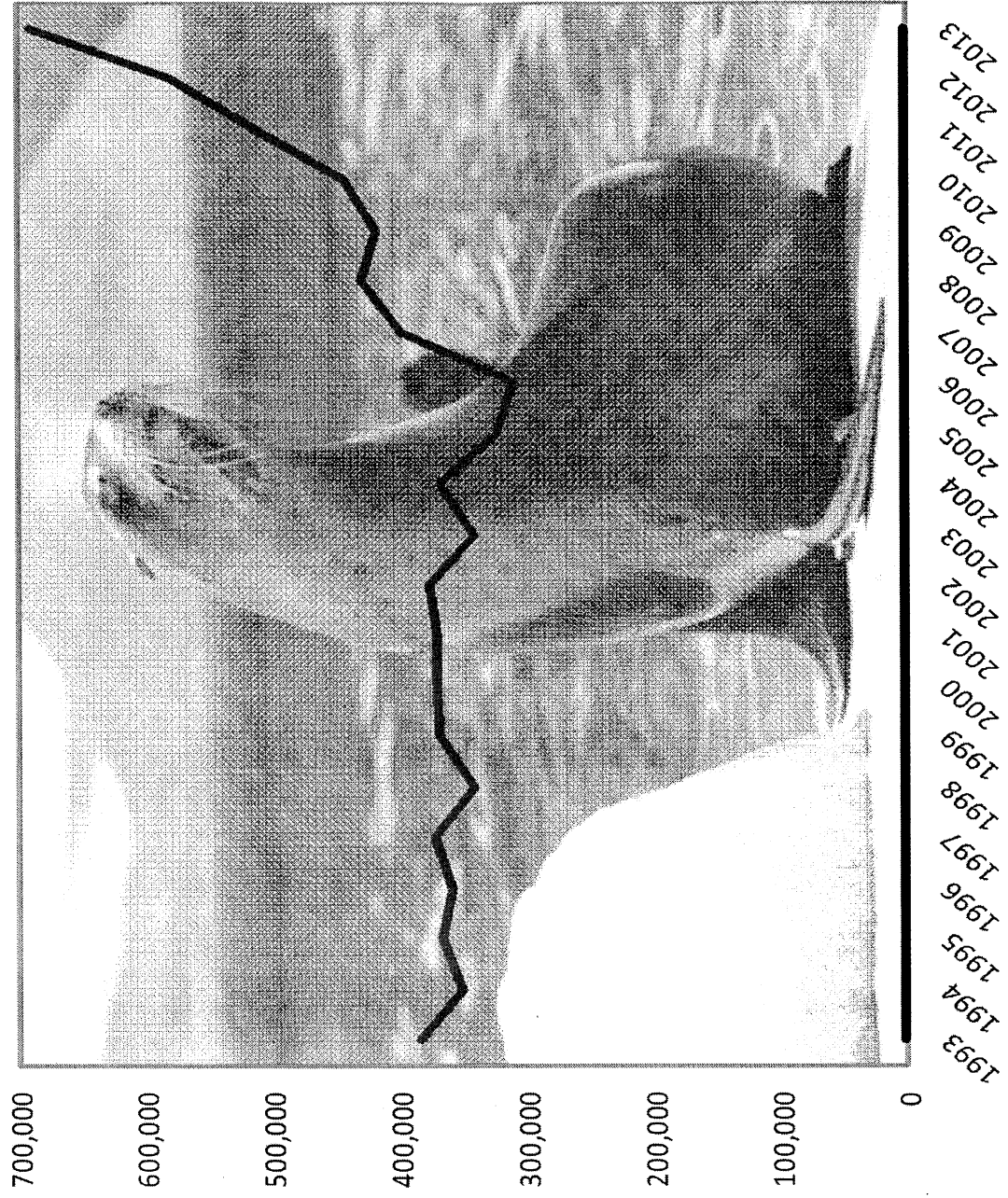
Accounts Receivable as of May 31, 2014

• Fresno County Zoo Authority	\$ 2,898,980
• City of Fresno	\$ 189,905
• 3 rd party concessionaire	\$ 77,766
• Sponsorships/Donations	\$ 50,512
• Camp Registration	\$ 17,538
• School Groups	\$ 17,151

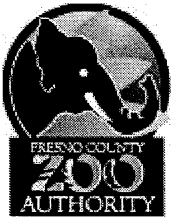
Fresno Chaffee Zoo Attendance Comparison 2012 - 2014



Fresno Chaffee Zoo Attendance Totals



* FCZC assumed management responsibility 2/2006



DATE: June 25, 2014

TO: Fresno County Zoo Authority Board

FROM: Catherine Crosby
Zoo Authority Coordinator

RE: **Subcontractor's Retention Funds**

RECOMMENDED ACTION:

Discuss current status and possible options for management of subcontractor's retention funds for Africa Adventure and for future projects' retention and payments; and,

1. Direct staff to pay retention funds withheld to date for African Adventure and for each future African Adventure claim, and/or,
2. Direct staff to return with additions for possible adoption that address retention to the Authority's *Procedures for Approving and Administering Measure Z Funds*.

DISCUSSION:

The term "retention" refers to a percentage withheld from a construction contract until the job is finished as a (sub-)contractor has agreed to do. This matter is before your Board because retention funds have been requested for payment with claims received to date, but none have been released to the Fresno's Chaffee Zoo Corporation (ZooCorp), pending the Authority's action. Direction to staff is needed to resolve the payment for the current withheld retention and for future projects with retention.

In the contract between the ZooCorp and Harris Construction Company, Inc. (Harris), as amended January 2, 2014 (Attachment A), the General Conditions, Section 8.02 (p 31) states: *"Partial payment requests shall be processed with a minimum of 5% retention."* for subcontractors hired for the African Adventure project. (As per California Public Contract Code Section 10261(a), Attachment B) However, it is Fresno County's practice to hold retention until the end of the project.

Note: For the Sea Lion Cove project, Construction Manager at Risk Matt Construction, requested retention at the time of the project's final claim.

BOARD ACTION: DATE _____ APPROVED AS RECOMMENDED _____ OTHER _____

MOTION _____ SECOND _____ UNANIMOUS _____
HERZOG _____ LYLES _____ GRAY _____ STRATFORD _____ SWEARENGIN _____ TOSTE _____ WATERHOUSE _____

The ZooCorp and Harris have an *Escrow Agreement for Security Deposit in Lieu of Retention* (See Attachment C), and an escrow account has been set up and is maintained by Harris. As per the Agreement, Paragraph 7, Harris cannot withdraw funds without the written authorization of the ZooCorp, and, as per California Public Contract Code Section 22300(b), "...the contractor shall receive the interest earned on the investments..." (See Attachment D.)

Possible options for managing the payment of retention include:

1. As currently set up, but not yet implemented: Release retention funds to the ZooCorp with each approved claim, with funds held in the escrow account. Harris pays retention to the subcontractors upon satisfactory completion of their portion of the project. The ZooCorp controls release of escrow funds; Harris receives interest.
2. When Harris provides documentation with each claim that subcontractor(s) have satisfactorily completed of their portion of the project, retention funds are released to ZooCorp. County holds funds in Measure Z account where interest accrues.
3. As was done with the Sea Lion Cove project: Release all retention from the County's Measure Z Fund upon final project claim by ZooCorp. County holds funds in Measure Z account where interest accrues.

FISCAL IMPACT:

Option 1. Withdrawal of retention funds from the escrow account by Harris is only the by the consent of the Corporation.

Option 2 & 3. The retention portion of the Measure Z funds remain in the Measure Z fund until requested by Harris and then paid to the subcontractors.

Contract General Conditions for Construction Manager at Risk

Africa Exhibit

Fresno Chaffee Zoo

August 24, 2011
(revised January 2, 2014)

**Contract General Conditions
Africa Exhibit
Fresno Chaffee Zoo**

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Article 1.00 DEFINITIONS

Addendum - A document that modifies or supersedes portions of the Contract Documents, which is produced by the Architect, approved by the Owner, and issued to the Construction Manager at Risk, prior to the agreement on the Guaranteed Maximum Price.

Agreement - The Contract Documents which collectively represent the entire agreement between the Owner and the Construction Manager at Risk, including Guaranteed Maximum Price, and which supersede any prior negotiations, representations, or agreements, either written or oral. See Contract Documents.

Architect - The person or organization, including the authorized representatives thereof, commissioned by the Owner for the project. For projects on which an engineer or landscape architect is commissioned instead of an architect, the term "Architect" shall mean the design professional so commissioned for the project.

Bid Date - The date fixed for submission of technical and cost proposals.

Bidder - Any person or business entity acting directly or through an authorized representative who submits a technical and cost proposal for the work, in response to a Request for Proposal. See Proposer.

Change Order - A written agreement entered into after the award of the Contract that alters or amends the executed Contract.

Construction Manager at Risk (CM) - The Contractor who is selected to review and participate in the production of the construction documents and who agrees upon a Guaranteed Maximum Price to perform the work identified in the Contract Documents. See Contractor. The CM shall solicit trade bids from the trade contractors on a competitive basis and enter into contracts with these trade contractors to perform their trade work.

Construction Schedule - The CM's time use plan for completing the Work within the Contract Time.

Contract - The Contract Documents which collectively represent the entire agreement between the Owner and the Contractor, and which supersede any prior negotiations, representations, or agreements either written or oral.

Contract Documents - The Request for Proposals, technical and cost proposals, bonds, insurance certificates, Plans, Specifications, Addenda, Agreement, Contract General Conditions, and Change Orders.

Contractor - The person or business entity that has entered into this contract with the Owner. See Construction Manager at Risk.

Contract Time - The period of time, set out in calendar days, established in the Contract Documents within which the Work must be completed. The Contract Time may be adjusted by time extensions through Change Orders.

Field Instruction - A written communication to the CM from the Owner. The field instruction is issued by the Project Manager and may reject work, issue directives and/or coordination communications to the CM.

Guaranteed Maximum Price (GMAX) - The maximum price that the Owner and Construction Manager at Risk agree upon as payment for managing, supplying and installing all the work.

Plans - The drawings prepared by the Architect and approved by the Owner which include elevations, sections, details, material and equipment schedules, diagrams, information, notes, or reproductions or any of these, and which show the location, character, dimension, or details of the work.

Prevailing Wages - The general prevailing rate of wages identified by the Director of the Department of Industrial Relations of the State of California pursuant to section 1770 of the Labor Code.

Progress Schedule - The periodically updated Construction Schedule that reflects the actual progress of the work and impacts on the work thereby maintaining a current projected date of completion. Impacts on the work include, but are not limited to, anticipated delays, re-sequencing of tasks, and Change Orders.

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Project - The total work required by the Contract.

Project Manager - The on-site representative of the Owner.

Project Schedule - The time used to complete the entire project from date of Notice to Proceed of the Preconstruction Services phase through the date of final completion of construction. Major tasks included in the Project Schedule shall include but not be limited to consultant selection and award, design phases, code approvals, bid and award, construction, move-in, and closeout.

Proposer - Any person or business entity acting directly or through an authorized representative who submits a technical and cost proposal for the work, in response to a Request for Proposal. See Bidder.

Site - The area specified in the Contract for the project and the area made available for the CM's operation.

Specifications - The instructions and requirements prepared by the Architect which complement the plans and describe the manner of performing the work or the quantities, qualities and types of materials to be furnished.

Subcontractor - Any person or business entity that contracts with the CM to furnish either labor and materials or equipment, or labor only. See Trade Contractors.

Superintendent - The representative of the CM at the construction site, who is authorized to receive instructions from the Architect and the Project Manager, and who is authorized to direct the performance of the work on behalf of the CM.

Supplier or Vendor - Any person or business entity that contracts with the CM or trade contractor to provide materials or equipment.

Trade Contractors - Appropriately licensed specialty contractors hired by the CM to perform portions of the work.

Owner - The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a Project Manager who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization.

Work - That which is proposed to be constructed or done under the Contract, including the furnishing of all design services, labor, materials, and equipment.

Article 2.00 NEGOTIATION OF GUARANTEED MAXIMUM PRICE

2.01 Duty to Carefully Examine These Instructions

The Construction Manager at Risk (CM) and the trade contractors for this project shall carefully examine the instructions contained herein and be cognizant of the conditions that must be satisfied prior to submitting a proposal, and the conditions that affect the award of the Contract.

2.02 Competence of CM and Trade Contractors

- a) **License.** No contractor shall participate in any work for which it is not properly licensed. A contract shall not be awarded to a CM or a trade contractor who does not possess the appropriate contractor's license, which is that specified in the Request for Proposal. Joint venture bidders must individually possess a current license when submitting the bid and the joint venture must possess a joint venture license at the time of award.
- b) If two or more prospective firms desire to submit a proposal as a joint venture on a single project, they must file an affidavit of joint venture with the Owner at least five days prior to the date and time set for opening proposals. The affidavit of joint venture will be valid only for the specific project for which it is filed.

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2.03 Necessity for Careful Examination of Site, Plans, and Specifications

The CM and trade contractors shall carefully examine the Site, the plans, and specifications for the project, and shall investigate and be satisfied as to the conditions to be encountered, the character and quantity of surface and subsurface materials or obstacles to be encountered, rights of way and easements at or near the Site, the work to be performed, and materials to be furnished and as to the requirements of the proposal, plans, and specifications for the project. See Article 4.09, Responsibility to Secure and Pay for Permits, Licenses, Utility Connections, Etc. Bidder certifies that Bidder has complied with the requirements of this provision by the submission of its bid.

Any failure by the CM and trade contractors to acquaint themselves with information that is available or with reasonable investigation may be available will not relieve them from responsibility to properly estimate the difficulty or cost to perform the work. Such examination does not require independent underground soil borings unless required elsewhere in the Contract Documents.

- a) Subsurface Investigations. Where the Owner has made investigations of subsurface conditions, and that information is made available to the CM, such information is limited in scope to that which has been actually encountered in the investigations, and is included only for the convenience of the CM. There is no guarantee or warranty, either expressed or implied, that the conditions indicated are representative of those existing throughout the site or that unforeseen conditions or developments may not occur.
- b) Differing Site Condition. During the progress of the work, if the CM encounters a subsurface or latent condition at the Site that is substantially different from those indicated in the Contract Documents or made available for examination, a differing Site condition may exist. The CM shall immediately notify the Architect and the Project Manager in writing of the error, conflict, inconsistency, omission or any variance on the project as required herein and as required by laws, ordinances, codes, rules or regulations. The CM shall immediately report such condition to the Project Manager and the Architect in writing. The Architect shall investigate the assertion of a differing Site condition by collecting the facts and applying the facts as expressed by the Architect to the appropriate provisions of the Contract Documents. If the Architect in the exercise of reasonable discretion determines that a differing Site condition exists and that the differing site condition directly results in extra work, and if the Owner concur, the CM shall be entitled to a change order that shall compensate the CM for the extra work.

2.04 Clarification Prior to Guaranteeing the Maximum Price

The CM shall examine the plans and specifications in preparing the GMAX and shall report to the Architect any omissions, discrepancies, or apparent errors found in the plans and specifications. Before the date of agreeing to the GMAX, the CM shall submit a written request for clarification to the Architect who may give such clarification in the form of an addendum. Otherwise, in obtaining the cost of the project, the CM shall consider that any conflicts shall be governed by Article 5.01, Interpretation of Contract Requirements.

The CM is advised that the time period for submitting a proposed product as "an equal" is limited to the period prior to the date of agreeing to a GMAX. Refer to Article 5.04-c, Alternatives or Equals.

Only the Architect is authorized to answer questions or prepare addenda relative to the project. Information obtained verbally from any source has no contractual authority, may not be relied upon, and shall have no standing in any event that may occur.

2.05 Soliciting and Executing Trade Bid Packages

The CM shall develop the most logical, competitive, seamless and distinct trade contractor bid packages with all scopes of work included in the packages. Include bid alternatives (deductive or additive) in each trade contractor bid package to enable full utilization of the project budget. Include these General Conditions for Construction Manager at Risk in each trade contractor bid packages. The CM shall not cause the trade contractors to include any construction contingency or allowances in their bids unless authorized by the Owner. CM shall obtain the review and approval of the Owner's Representative of the proposed trade contractor bid documents and trade contractor agreements prior to bidding work. The Owner may require

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the CM to include language in the trade bid solicitation giving preferential treatment to Local Contractors, Disabled Veterans and/or Certified Small Businesses.

2.06 Assignment of Trade Contractors

The CM shall include in all trade contracts an assignment clause stating that the Owner has the right to require that the CM assign the trade contract(s) to the Owner. Upon direction from the Owner, the CM shall assign to the Owner for fully vesting in the Owner all rights and benefits of the CM under such trade contracts or purchase orders.

2.07 Listing of Trade Contractors

Upon receipt of bids from trade contractors for the GMAX, the CM shall submit to the Project Manager the List of Proposed Trade Contractors to be used on the project, identifying those trade contractors performing work in excess of one-half of one percent of the GMAX. The list of proposed trade contractors shall state the portion of work or labor or rendition of services that each such trade contractor will do and provide addresses, telephone numbers, and license numbers.

2.08 Substitution of Trade Contracts

The CM shall not substitute any trade contractor in place of a trade contractor identified and agreed upon at the time of agreeing to the Guaranteed Maximum Price except as authorized by the Owner

Article 3.00 AWARD AND EXECUTION OF CONSTRUCTION CONTRACT

3.01 Award of Construction Contract

At the completion of the Preconstruction Phase the CM shall submit to the Owner their GMAX proposal. The GMAX proposal will include:

- a) A list of the Drawings and Specifications, including all Addenda thereto.
- b) A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal.
- c) A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's Fee;
- d) The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based.
- e) A date by which the Owner must accept the Guaranteed Maximum Price.
- f) A written statement warranting the construction documents are free of omissions, ambiguities and conflicts and that the trade contractor bid packages include all of the scope of work identified in the construction documents.

If the Owner and the CM agree to a Guaranteed Maximum Price, the Owner shall award a Contract to the CM to construct the project for the aggregate of direct cost of the work, as defined in Article 8.03, Direct Cost of the Work, plus the CM's fee for construction phase services, as defined in Article 8.04, Construction Phase Services, CM's contingency, and overhead and profit included in the response to the Request for Proposal. If there is no concurrence on the Guaranteed Maximum Price, the Owner shall not award a Contract to the CM and may procure the construction of the Project by other means.

3.02 Contract Bonds

The CM shall furnish in quadruplicate counterparts, two surety bonds. Each bond shall be in an amount equal to 100 percent of the awarded Contract price and executed by an admitted surety insurer licensed in the State of California and listed in the latest published United States Treasury Department list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies." One of the surety bonds shall guarantee faithful performance of the Contract by the CM and the other shall secure payment of laborers, mechanics, or materialmen employed on the project. Such bonds are subject to the approval of the Owner. Contract bonds shall remain in full force and effect during the term of the Contract including the one-year guarantee period.

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All alterations, extensions of time, extra and additional work, and other changes authorized by the Contract, including determinations made under Article 7.01, Claims, shall be made without securing the consent of the surety or sureties on the Contract bonds.

Whenever the Owner has cause to believe that the surety has become insufficient, the Owner may demand in writing that the CM provide such further bonds or additional surety, not exceeding that originally required, as in the Owner's opinion is necessary, considering the extent of the work remaining to be done. Thereafter no payment shall be made to the CM or any assignee of the CM until the further bonds or additional surety has been furnished.

3.03 Execution of Contract

The Contract shall be signed by the successful CM in the requisite number of counterparts and returned to the Owner together with the Contract bonds and certificates evidencing the required insurance coverage (see Article 4.03, CM's Insurance) within ten days of receipt from the Owner, not including Saturdays, Sundays, or legal holidays. The CM and the Owner shall each sign two sets of plans, specifications, and addenda (usually at the preconstruction conference) one set for each party to be filed with the Contract. No contract shall be binding upon the Owner until it has been executed by the CM and the Owner and approved by the attorney appointed according to law and authorized to represent the Owner.

When the Contract has been fully executed, the Owner will issue a Notice to Proceed to the CM. The CM may not begin work before receiving the Owner's written Notice to Proceed. Any work performed by the CM before receipt of the Notice to Proceed shall be considered as having been done at the CM's own risk.

3.04 Failure or Refusal to Execute Contract

Failure or refusal by the CM to execute the Contract within the time set in Article 3.03, Execution of Contract, shall be cause for the rescission of the award. Failure or refusal to file acceptable bonds and insurance within the time set in Article 3.03, Execution of Contract, constitutes a failure or refusal to execute the Contract.

Article 4.00 CONDUCT OF THE WORK

4.01 Laws to be Observed - General

- a) The CM shall observe all state and federal laws that affect the work under this Contract. The CM shall hold harmless, defend and indemnify the Owner against any claim arising from the violation of any law, whether by itself or its agents, employees or trade contractors. If a conflict arises between the provisions of this Contract and a law, the CM shall immediately notify the Architect and the Project Manager in writing. "Law" as used in this paragraph includes statutes and regulations adopted pursuant to statute, as well as executive orders, authoritative interpretations, and other rules and directives issued by legally constituted authority.
- b) The CM's work under this Contract shall comply with all applicable building codes identified in the Contract Documents. The CM is responsible to have general knowledge (see California Business and Professional Code section 7068) of applicable building codes. Any fines or damages resulting from the violation of these codes will be sole responsibility of the CM.

4.02 Laws to be Observed - Regarding Labor

- a) Prevailing Wage. CM represents and warrants that the Contract Amount includes sufficient funds to allow CM and all trade contractors and subcontractors to comply with applicable laws and contractual agreements. CM shall defend, indemnify and hold the Owner, its officers, employees and agents harmless from and against any and all claims, demands, losses, liabilities, and damages arising out of or relating to the failure of CM or any trade contractor or any subcontractor to comply with any applicable law in this regard, including, but not limited to, Labor Code section 2810. CM agrees to pay any and all assessments, including wages, penalties and liquidated damages (those liquidated damages pursuant to Labor Code section 1742.1) made against the Owner in relation to such failure.

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- b) The Work under this Contract is a public works project (see definition of public works, Labor Code section 1720) and must be performed in accordance with the requirements of Labor Code sections 1720 to 1815 and Title 8, California Code of Regulations, sections 16000 to 17270, which govern the payment of prevailing wage rates on public works projects. The prevailing wage rates set forth are the minimum that must be paid by the CM on a public works contract. Nothing herein contained shall be construed as preventing the CM from paying more than the minimum rates set forth. No extra compensation whatsoever will be allowed by the Owner due to the inability of the CM to hire labor at minimum rates, nor for the necessity for payment by the CM of subsistence, travel time, overtime, or other added compensations, all of which possibilities are elements to be considered and ascertained to the CM's own satisfaction in preparing the bid.
- c) Pursuant to Labor Code section 1770, the Director of the Department of Industrial Relations has ascertained the general prevailing rate of per diem wages and the general prevailing rate for legal holiday and overtime work for each craft needed in execution of the Contract as set forth in the Contract Documents. It shall be the CM's responsibility to obtain the most current rates as provided by the Department of Industrial Relations.
- d) The CM and any trade contractor under the CM shall comply with Labor Code section 1775. The CM shall include provisions in its contract with its trade contractors that will require compliance with Labor Code section 1775. As required by section 1775(b) the CM shall include a copy of the provisions of sections 1771, 1775, 1776, 1777.5, 1813, and 1815 in the contract between the CM and the trade contractor. The CM shall monitor its trade contractors' compliance with the prevailing wage law as required by section 1775(b). In accordance with section 1775, the CM and any trade contractor under the CM shall forfeit as a penalty \$50 for each calendar day or portion thereof, for each worker paid less than the prevailing wage rates for the work or craft in which the worker is employed for any public work done under the Contract by it or, except as provided in 1775(b), by any trade contractor under it. In addition to this penalty, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CM or trade contractor. If a worker employed by a trade contractor on a public works project is not paid the general prevailing per diem wages by the trade contractor, the CM is not liable for any penalties under 1775(a), unless the CM had knowledge of that failure of the trade contractor to pay the specified prevailing rate of wages to those workers, or unless the CM fails to comply with the requirements of 1775(b).
- e) In accordance with Labor Code section 1776, the CM and trade contractors shall keep an accurate payroll record, on forms provided by the Division of Labor Standards Enforcement (or shall contain the same information as the forms provided by the division). The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division, and the printouts are verified in the manner specified herein. Each payroll record shall contain verification by written declaration under penalty of perjury that the information contained in the payroll record is true and correct and that the CM and trade contractors have complied with the requirements of Labor Code sections 1771, 1811 and 1815 for any work performed by its employees on the project. The CM's and trade contractor's payroll records shall be available for inspection at all reasonable hours, and a certified copy shall be made available upon request to the employee or his or her authorized representative, the Owner, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards. Upon receipt of written notice from the Owner, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, and within ten days of that receipt, the CM shall file with the requesting entity a certified copy of the payroll records. Should the CM or trade contractor fail to comply within the ten-day period, the CM or trade contractor shall forfeit \$25 for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these

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penalties shall be withheld from progress payments then due. The CM is not subject to a penalty assessment due to the failure of a trade contractor to comply with this section.

- f) If the Contractor or any subcontractor employs workers on the Project in any apprenticeable craft, it shall apply to the joint apprenticeship committee administering the apprenticeship standards for the craft in the area of the Work for a certificate approving the Contractor or subcontractor for the employment and training of apprentices. The Contractor or subcontractor shall employ the number of apprentices or the ratio of apprentices to journeymen specified in the certificate unless the conditions set out in Labor Code section 1777.5 excuse it from this requirement.

Every apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which they are employed and shall be employed only in the Work of the craft or trade to which they are indentured. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship agreements under which a person is training.

The Contractor or subcontractor employing journeymen or apprentices in any apprenticeable craft or trade shall contribute to the fund or funds set up in the area of Work to administer the apprenticeship program in each trade in which it employs such journeymen or apprentices in the same amount and manner as the contributing contractors.

Special attention is directed to Labor Code sections 1777.5, 1777.6 and 1777.7, and California Code of Regulations, Title 8, section 200 et seq. Each Contractor and subcontractor must, before commencement of Work under this Contract, contact the Division of Apprenticeship Standards, 455 Golden Gate, 8th Floor, San Francisco, California, 94102, or one of its branch offices to ensure compliance and understanding of the law regarding apprentices and specifically the required ratio thereunder. Responsibility for compliance with this section lies with the prime Contractor.

4.03 Environmental Requirements

- a) A regular watering program shall be initiated to adequately control the amount of fugitive dust in accordance with applicable AQMD rules. Exposed soil surfaces shall be sprayed with water at least daily and as needed to mitigate dust (see also Article 4.05-c, Protection of Facilities).
1. Trucks hauling dirt from the site shall be covered in accordance with applicable state and local requirements. To reduce exhaust emissions, unnecessary idling of construction vehicles and equipment shall be avoided.
- b) Sound Control Requirements. The CM shall comply with all sound control and noise level rules, regulations and ordinances that apply to the work. In the absence of any such rules, regulations and ordinances, the CM shall conduct its work to minimize disruption to others due to sound and noise from the workers, and shall be responsive to the Owner's requests to reduce noise levels.
1. Each internal combustion engine, used for any purpose on the project or related to the project, shall be equipped with a muffler of a type recommended by the manufacturer. No internal combustion engine shall be operated on the project without a muffler. Construction equipment shall be fitted with modern emission control devices and shall be kept in proper tune.
- c) Archaeological Finds. If the CM discovers any artifacts during excavation and/or construction, the CM shall stop all affected work and notify the Owner, who will call in a qualified archaeologist designated by the California Archaeological Inventory to assess the discovery and suggest further mitigation, as necessary. If the CM discovers human remains, the CM shall notify the Owner who will be responsible for contacting the county coroner and a qualified archaeologist.

4.04 CM's Insurance

- a) The CM shall not commence work until it has obtained all the insurance required in this Article, and such insurance has been approved by the Owner.
- 1) Policies and Coverage

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- i) The CM shall obtain and maintain for the term of the Contract the following policies and coverage:
 - 1. Comprehensive or Commercial Form General Liability Insurance on an occurrence basis, covering work done or to be done by or on behalf of the CM and providing insurance for bodily injury, personal injury, property damage and contractual liability. The aggregate limit shall apply separately to the work.
 - 2. Business Automobile Liability Insurance on an occurrence basis, covering owned, hired and non-owned automobiles used by or on behalf of the CM and providing insurance for bodily injury, property damage and contractual liability. Such insurance shall include coverage for uninsured and underinsured motorists.
 - 3. Workers' Compensation including Employer's Liability Insurance as required by law.
- 2) Verification of Coverage. The CM shall submit original certificates of insurance and endorsements to the policies of insurance required by the Contract to the Owner as evidence of the insurance coverage. The scope of coverage and endorsements shall provide for no cancellation or modification of coverage without thirty (30) days written notice to the Owner. Renewal certifications and endorsements shall be timely filed by the CM for all coverage until the work is accepted as completed pursuant to Article 8.01, Acceptance. The Owner reserve the right to require the CM to furnish the Owner complete, certified copies of all required insurance policies.
- 3) Insurance Provisions. Nothing in these insurance provisions shall be deemed to alter the indemnification provisions in Article 4.04. The insurance policies shall contain, or be endorsed to contain, the following provisions:
 - i) For the general and automobile liability policies the Owner their officers, employees, representatives, volunteers and agents are to be covered as additional insured.
 - ii) For any claims related to the work, the CM's insurance coverage shall be primary insurance as respects the Owner their officers, employees, representatives, volunteers and agents. Any insurance or self-insurance maintained by the Owner their officers, employees, representatives, volunteers and agents shall be in excess of the CM's insurance and shall not contribute with it.
 - iii) Each insurance policy required by this Article shall state that coverage shall not be canceled by either the CM or the insurance carrier, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Owner.
 - iv) The Owner their officers, employees, representatives, volunteers and agents shall not by reason of their inclusion as additional insured incur liability to the insurance carriers for payment of premiums for such insurance.
- 4) Amount of Insurance.
 - i) For all projects the insurance furnished by CM under this Article shall provide coverage in amounts not less than the following:
 - 1. Comprehensive or Commercial Form General Liability Insurance – Limits of Liability
 - a. \$10,000,000 General Aggregate
 - b. \$5,000,000 Each Occurrence – combined single limit for bodily injury and property damage
 - 2. Business Automobile Liability Insurance – Limits of Liability
 - a. \$5,000,000 Each Accident – combined single limit of bodily injury and property damage to include uninsured and underinsured motorist coverage.

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3. Workers' Compensation limits as required by law.
- 5) Acceptability of Insurers. Insurers shall be licensed by the State of California to transact insurance and shall hold a current A.M. Best's rating of no less than A:VII, or shall be a carrier otherwise acceptable to Owner.
 - 6) Trade Contractor's Insurance. CM shall ensure that its trade contractors are covered by insurance of the types required by this Article, and that the amount of insurance for each trade contractor is appropriate for that trade contractor's work. CM shall not allow any trade contractor to commence work on its trade contract until the insurance has been obtained.
 - 7) Miscellaneous.
 - i) Any deductible under any policy of insurance required in this Article, shall be the CM's liability.
 - ii) Acceptance of certificates of insurance by the Owner shall not limit the CM's liability under the Contract.
 - iii) In the event the CM does not comply with these insurance requirements, the Owner may, at its option, provide insurance coverage to protect the Owner. The cost of the insurance shall be paid by the CM and, if prompt payment is not received, may be deducted from Contract sums otherwise due to the CM.
 - iv) If the Owner are damaged by the failure of the CM to provide or maintain the required insurance, the CM shall pay the Owner for all such damages.
 - v) The CM's obligations to obtain and maintain all required insurance are non-delegable duties under this Contract.
 - b) The Owner shall insure or self-insure all work while in the course of construction, including materials incorporated in the work, against physical loss or damage resulting from the perils normally insured under a "Standard All Risk Course of Construction" policy, including, but not limited to theft, fire, flood, vandalism, or Acts of God. The Owner shall issue to the CM a "Summary of Coverage" upon request of the CM.
 - c) Where permitted by law, CM hereby waives all rights of recovery by subrogation because of deductible clauses, inadequacy of limits of any insurance policy, limitations or exclusions of coverage, or any other reason against the Owner, their officers, agents, or employees, and any other contractor or subcontractor performing Work or rendering services on behalf of the Owner in connection with the planning, development and construction of the Project. The Owner shall also require that all CM maintained insurance coverage related to the Work, include clauses providing that each insurer shall waive all of its rights of recovery by subrogation against CM together with the same parties referenced immediately above. Where permitted by law, CM shall require similar written express waivers and insurance clauses from each of its subcontractors. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

4.05 Indemnification

Nothing in these insurance provisions shall be deemed to alter the indemnification provisions in this Article.

- a) The CM shall hold harmless, defend, and indemnify the Owner, their officers, employees, representatives and agents of each of them, from and against all claims, damages and losses arising out of, resulting from, or relating to (1) the failure of the CM to perform its obligations under the Contract or the performance of its obligation in a willful or negligent manner; (2) the inaccuracy of any representation or warranty by the CM given in accordance with or contained in the Contract Documents; and (3) any claim of damage or loss by any trade contractor, or supplier, or laborer against the Owner arising out of any alleged act or omission of the CM or any other trade contractor, or anyone directly or indirectly employed by the CM or any trade contractor.

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- b) The indemnification obligations under this Article shall not be limited by any assertion or finding that the person or entity indemnified is liable due to a non-delegable duty.
- c) The CM shall hold harmless, defend, and indemnify the Owner their officers, employees, representatives and agents of each of them from and against all claims, damages and losses resulting from any claim of damage made by any separate contractor of the Owner against the Owner arising out of any alleged acts or omissions of the CM, a trade contractor, anyone directly or indirectly employed by either the CM or trade contractor, or anyone for whose acts either the CM or trade contractor may be liable.
- d) The CM shall hold harmless, defend, and indemnify all separate contractors of the Owner their officers, employees, representatives and agents of each of them from and against all claims, damages and losses arising out of the negligent acts or omissions or willful misconduct of the CM, a trade contractor, anyone directly or indirectly employed by the CM or trade contractor, or anyone for whose acts the CM or trade contractor may be liable. The Owner shall cause a reciprocal indemnification provision in favor of the CM to be included in its contracts with separate contractors of the Owner. Liability for any negligent act or omission or willful misconduct shall be apportioned pursuant to the applicable law of the State of California.

4.06 CM's Responsibility for the Work

The CM shall be responsible for all work performed under this Contract, and no trade contractor will be recognized by the Owner as being responsible for the work. For purposes of assessing responsibility to the CM, all persons engaged in the work shall be considered employees of the CM. The CM shall give its personal attention to the fulfillment of the Contract and keep all phases of the work under its control.

The Owner will not arbitrate disputes among trade contractors nor between the CM and one or more trade contractors concerning responsibility for performing any part of the project.

- a) **Quality Control.** The CM shall be fully responsible for the quality of materials and workers' skill in the project. The CM shall not rely upon the inspection and testing provided by the Owner or jurisdictions having authority other than those special inspections and tests performed by the Owner's selected laboratories for which there are written reports.
- b) **Burden for Damage.** From the issuance of the official Notice to Proceed until the formal acceptance of the Project by the Owner, the CM shall have the charge and care of and shall bear the risk of damage to the Project, and materials and equipment for the project.

The CM, at its own expense, subject to proceeds payable in accordance with Article 4.04(b), shall promptly rebuild, repair, restore, and make good all such damage to any portion or to all of the Project and materials thereof before the acceptance of the Project by the Owner except for such damage as is proximately caused by acts of the federal government or public enemy. In case of suspension of work from any cause whatever, the CM shall be responsible for all materials, and shall properly store them, if necessary, and shall provide suitable drainage and erect temporary structures where necessary.

If the CM damages any property belonging to the Owner, the Owner may, in addition to other remedies available to the Owner, retain from the money due to the CM an amount sufficient to ensure repair of the damage or an amount to contribute toward repair of the damage.

Neither the Owner their officers, employees, representatives, nor agents of each of them shall be responsible for any damage to the project and materials and equipment for the project.

- c) **Protection of Facilities.** From the issuance of the official Notice to Proceed until the formal acceptance of the project by the Owner, CM shall protect the Site and Work from theft, acts of malicious mischief, vandalism and unauthorized entry. During all hours that Work is not prosecuted, CM shall furnish such watchman's services as necessary to safeguard materials and equipment in storage on the Project site, including Work in place or in process of fabrication, against theft, acts of malicious

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mischief, vandalism and other losses or damages. The CM shall be liable for any loss or damage that result from its failure to protect the Site and the Work.

The CM shall protect adjoining property and nearby buildings, roads, and other facilities and improvements from dust, dirt, debris and other nuisances arising out of CM's operations or storing practices. Dust shall be controlled by sprinkling or other effective methods acceptable to Owner. An erosion and sedimentation control program shall be initiated, which includes measures addressing erosion caused by wind and water and sediment in runoff from site. A regular watering program shall be initiated to adequately control the amount of fugitive dust in accordance with applicable Air Quality Management District (AQMD) rules.

- d) Safety. The CM shall exercise precaution at all times for the protection of persons and their property. The CM shall install adequate safety guards and protective devices for all equipment and machinery, whether used in the work or permanently installed as part of the project. The CM shall also provide and adequately maintain all proper temporary walks, roads, guards, railings, lights, and warning signs. The CM shall comply with all applicable laws relating to safety precautions, including the safety regulations of the California Division of Industrial Safety. Unless the CM designates other employees, its superintendent shall have the duty of prevention of accidents. The CM shall institute a safety program that includes all trades on the site.

Renovation, expansion, or remodel work of any existing building may expose workers to lead-containing materials such as paint, flashings, and pipe joints. The CM shall comply with all applicable laws addressing such exposure, including the Cal/OSHA Lead in Construction Standards (Title 8, California Code of Regulations, section 1532.1).

The Owner and the Architect may bring to the attention of the CM a possible hazardous situation in the field regarding the safety of personnel on the site. The CM shall be responsible for verifying the compliance with all local, state, and federal workplace safety guidelines. In no case shall this right to notify the CM absolve the CM of its responsibility for monitoring safety conditions. Such notification shall not imply that anyone other than the CM has assumed any responsibility for field safety operations.

Explosives shall not be used without first obtaining written permission from the Owner and then shall be used only with the utmost care and within the limitations set in the written permission and in accordance with prudence and safety standards required by law. Storage of explosives on the project site is prohibited. Powder activated tools are not explosive for purposes of this Article; however, such tools shall only be used in conformance with State safety regulations.

In the event of an accident, the CM shall make available to the Owner copies of its accident report to its insurance carrier. The CM shall determine the cause of the accident and immediately correct any equipment, procedure, or condition contributing to the accident.

e) Utilities

- 1) If the CM discovers utility facilities not identified in the Contract Documents, the CM shall immediately notify the Owner and the utility involved of such discovery. When the CM is required by the plans and specifications to locate, remove or relocate utility facilities not identified in the Contract Documents with reasonable accuracy, the CM shall be compensated for any reasonable actual added cost incurred. The CM shall also be compensated for the cost of repairing any damage resulting from the discovery of such unidentified utility facility when such damage does not result from the failure of the CM to exercise reasonable care. All such compensation to the CM shall be based on an actual cost plus CM and trade contractor mark-up, as identified in Article 6.01-b, Allowable Costs Upon Change Orders, subdivisions (4), (5) and (6), except that both the CM's and the trade contractor's shall not receive any mark-up when the damage results from the failure of the CM or trade contractor to exercise reasonable care. The Owner or the public utility, where it is the owner of the utility facilities, shall have the sole discretion to perform repairs or

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relocation work, or permit the CM to do such repairs or relocation work at a reasonable price, where such work is required to facilitate the project. The CM shall not be assessed liquidated damages for delay in the completion of the project which is caused by the failure of the Owner or the owner of the utility to provide for removal or relocation of such unidentified utility facilities.

- 2) With the exception of the identification of main or trunk line utility facilities in the Contract Documents, the provisions of subdivision (1) shall not apply to, and Owner shall have no obligation to indicate, the presence of existing service laterals or appurtenances whenever the presence of such utilities on the site of the project can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site of the construction.
 - 3) Except as expressly provided in subdivisions (1) and (2) above, the CM shall be responsible at its own cost for all work, expense, or special precautions caused by the existence or proximity of utilities encountered at the site or in the performance of the project work including, without limitation, repair of any damage that may result including any damage resulting from hand or exploratory excavation. The CM is cautioned that the utilities encountered at the site may include communication cables or electrical cables conducting high voltage. When excavating in the vicinity of the ducts enclosing such cables, special precautions are to be observed by the CM at his own cost and shall include the following: all cables and their enclosure ducts shall be exposed by careful hand excavation so as not to damage the ducts or cables nor cause injury to persons, and appropriate warning signs, barricades, and safety devices shall be erected.
 - 4) The CM shall provide as-built drawings of all utilities encountered and constructed during the course of the work, indicating the size, horizontal location, and vertical location based on the project benchmark or a stable datum.
- f) The CM, by warranting the completeness of the Construction Documents, agrees that, if the CM uses design-build delivery on certain building elements such as fire protection systems, store front assemblies, etc., then the CM accepts responsibility for any impact which results from the design-build process such as deferred submittals, plan check approval and procurement.

4.07 Occupancy by Owner Prior to Acceptance

The Owner reserve the right to occupy all or any part of the project before completion of the entire Contract, upon issuance of a Field Instruction. In such event, the CM shall be relieved of responsibility for any injury or damage to such occupied part as results from the Owner's occupancy and use. If the CM carries insurance against damage to such premises or against liability to third persons covering the premises so used and occupied by the Owner, and if such occupancy results in increased premiums for such insurance, the Owner may pay to the CM the added premium costs for such insurance during the period of occupancy.

The Owner's occupancy shall not constitute acceptance by the Owner (see Article 8.01, Acceptance) either of the project as completed or of any portion thereof, nor will it relieve the CM of full responsibility for correcting defective work or materials found at any time before the formal written acceptance of the project as completed by the Owner and during the full guarantee period after such acceptance, nor does it stop the assessment of liquidated damages. However, when the project includes several separate facilities, and one or more of such facilities is entirely occupied by the Owner, then upon written request of the CM, the guarantee period for the occupied facility may commence from the date of occupancy subject to written consent thereto by the Owner.

4.08 Payments by CM

In accordance with section 7108.5 of the Business and Professions Code, the CM agrees to promptly pay all trade contractors within ten (10) days of receipt of each progress payment, unless otherwise agreed in writing by the parties, the respective amounts allowed CM on account of the work performed by its trade contractors, to the extent of each such trade contractor's interest therein.

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4.09 Responsibility to Secure and Pay for Permits, Licenses, Utility Connections, Etc.

With the exception of plan check and permit fees to the local jurisdiction the CM shall secure all permits and licenses required for any operations required under this Contract and shall pay all costs relating thereto as well as all other fees and charges that are required by the United States, the State, the county, the city, a public utility, telephone company, special district, or quasi-governmental entity. It is the CM's responsibility to ascertain the necessity of such permits and licenses in preparing its Guaranteed Maximum Price and include in its Guaranteed Maximum Price the cost thereof as well as adjustments for any delays that may be caused by securing permits and licenses.

4.10 Patented or Copyrighted Materials

The CM shall assume all costs arising from the use of patented or copyrighted materials, equipment, devices, or processes used on or incorporated in the project, and agrees to save harmless, defend, and indemnify the Owner their officers, agents and employees of each of them from all suits, actions, or claims for, or on account of, the use of any patented or copyrighted materials, equipment, devices, or processes.

4.11 Property Rights in Materials and Equipment

Nothing in the Contract shall be construed as vesting in the CM any property right in the materials or equipment after they have been attached to or permanently placed in or upon the work or the soil or after payment has been made for fifty percent or more of the value of the materials or equipment delivered to the Site of the work whether or not they have been so attached or placed. All such materials or equipment shall become the property of Owner upon being so attached or placed or upon payment of fifty percent or more of the value of the materials or equipment delivered on the Site but not yet installed and the CM warrants that all such property shall pass to the Owner free and clear of all liens, claims, security interests, or encumbrances.

4.12 Taxes

The CM shall pay all taxes imposed by law which are levied or become payable as a result of the CM's performance under this Contract.

4.13 Contract Time

- a) Time of the Essence. All time limits specified in this Contract are of the essence of the Contract.
- b) Starting and Completion Date. The Owner shall designate in the Notice to Proceed the starting date of the Contract on which the CM shall immediately begin and thereafter diligently prosecute the work to completion. The CM agrees to complete the work on the date specified for completion of the CM's performance in the Contract unless such time is adjusted, in writing, by change order by the Owner. The CM may complete the work before the completion date if it will not interfere with the Owner or their other contractors engaged in related or adjacent work. The work shall be regarded as completed when project is agreed to be Substantially Complete by CM and Owner. This date shall be used as the date the guarantee period begins as defined in Article 8.12, Guarantee.
- c) Adjustment of Contract Time Due to Acts of God, etc. The CM shall not be assessed with liquidated damages, nor the cost of engineering and inspection during any delay in the completion of the Project caused by acts of God, the public enemy, fire, flood, epidemic, quarantine restriction, strike, freight embargo, discovery of archaeological or paleontological artifacts, and unusual action of the elements; provided that the CM shall notify the Architect and the Owner in writing of the causes of delay within 24 hours from the beginning of any such delay. The Architect, in conjunction with the Owner, shall determine the facts with regard to the delay and the reasonable period of time by which the date of completion should be extended by reason thereof, if any, and advise the Owner. The Owner's findings thereon shall be final and conclusive.

There shall be no compensation to the CM for costs associated with this kind of delay.

The term "unusual action of the elements" is limited to extraordinary, adverse weather conditions and conditions immediately resulting there from which cause a cessation in the progress of the work which will delay the time of completion of the Contract.

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The CM shall have no right to an adjustment in the time of completion due to weather conditions or industrial conditions which are normal for the locality of the site. The time for completion of the Contract has been calculated with consideration given to the average climatic range and usual industrial conditions prevailing in the locality of the site.

- d) Adjustment of Contract Time Due to Acts of the Owner or the Architect. If the CM is delayed in completing the Contract by reason of any act of the Architect or the Owner not provided by the Contract, or by reason of changes made pursuant to Article 6.01, Change Orders, without reaching agreement as to any time adjustments, the time for completion of the Contract may be extended for a period commensurate with the delay. The CM shall notify the Architect and the Owner in writing of the causes of the delay within 30 days from the beginning of the delay. The causes of delay shall be subject to the same determinations as stated in Article 4.13-c, Adjustment of Time Due to Acts of God, above.
- e) CM to Fully Prosecute Work. No extension of time will be granted for any of the causes for which extensions are granted unless the CM demonstrates to the satisfaction of the Owner that the CM has made every reasonable effort to fully prosecute the work and complete the work within the Contract Time.
- f) Owner's Adjustment of Contract Time. Even though the CM has no right to an extension of time for completion, the Owner may extend the time at the request of the CM if they determine it to be in the best interest of the State. If the time is extended, the Owner may, in lieu of assessing liquidated damages, charge the CM, its successors, heirs, assigns, or sureties, and deduct from the final payment for the work all or any part, as they may deem proper, of the value of the lost use of the completed project, and of the actual cost to the Owner of engineering, inspection, superintendence, and other overhead expenses which are directly chargeable to the Contract, and which accrue during the period of such extension. Damages charged in lieu of liquidated damages shall not exceed the stated liquidated damages.
- g) Adjustment of Contract Time Due to Reasons Beyond Owner's Control. Should the Owner be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond their control, the CM may be entitled to make or assert a claim for damage if said delay causes an undue hardship to the CM; time for completion of the work will be extended to such reasonable time as the Owner may determine will compensate the CM for time lost by such delay. Any such determinations will be set forth in writing.
- h) Liquidated Damages. Attention is directed to Article 7.02, Delay in Completion--Liquidated Damages.

4.14 Schedule

- a) Time is of the essence of this Contract, including the time of beginning, the rate of progress, and the time of completion of the work. The work shall be prosecuted at such time, in such manner, and on such part or parts of the Project as may be required to complete the Project as contemplated in the Contract Documents and the CM's Construction Schedule.
- b) The CM shall prepare and submit to the Owner, with copy to the Architect and the Project Manager, a detailed update to the Project Schedule, as utilized during the bid period, within thirty (30) calendar days after the starting date on the construction Notice to Proceed. The CM's updated Project Schedule shall include progress to date on preconstruction activities and be comprised of a Critical Path Method network. The portion of the Project Schedule from construction Notice to Proceed to final completion is the Construction Schedule. The CM shall input the critical path Construction Schedule electronically using Owner-approved software.

The CM's initial Construction Schedule shall show the dates on which each part or division of the work is expected to be started and completed. The initial Construction Schedule shall also show all submittals associated with each work activity, required by the Contract with activities for the submittal development, its review, and the fabrication/ procurement for each procurement, allowing 21 calendar days for the Architect's review of each submittal unless a longer period of time is

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specified. The work activities making up the Construction Schedule shall be of sufficient detail to assure that adequate planning has been done for proper execution of the work and such that, in the sole judgment of the Owner, it provides an appropriate basis for monitoring and evaluating the progress of the work. The Construction Schedule shall show the interdependence of each activity and a critical path. The CM shall also submit a separate listing of all submittals required under the Contract and noting the anticipated date that each submittal will be submitted.

CM shall submit a monthly cash flow schedule with the initial Construction Schedule and shall revise the cash flow schedule with each Construction Schedule revision. The cash flow schedule is the CM's estimate of the dollar value of Contract Work completed and billable each month of the project.

- c) The CM's initial Construction Schedule shall show the sequence, duration in calendar or working days, and interdependence of activities required for the complete performance of all work. The Construction Schedule shall show milestones, including milestones for Owner-furnished information, and shall include activities for Owner-furnished equipment and furniture when those activities are interrelated with the CM's activities. The CM's initial Construction Schedule shall begin with the effective date of the Notice to Proceed and conclude with the date of final completion. No more than twenty percent of the activities will have less than five workdays of float unless approved by the Owner. The Construction Schedule shall include a critical path activity that reflects anticipated rain delay during the performance of the Contract. The duration shall reflect the average climatic range prevailing in the locality of the Site. Weather data shall be based on information provided by the National Weather Service or other approved source. The Construction Schedule shall be developed using an appropriate work breakdown structure. The transmittal provided with the initial Construction Schedule shall state whether the durations are in work days or calendar days.
- d) The CM may submit an initial Construction Schedule that shows the work completed in less time than the specified Contract Time. However, the acceptance of such a Construction Schedule will not change the Contract Time. The Contract Time shall control in any determination of liquidated damages or extension of the Contract Time. Total float, slack time or contingency is the unused time within the Construction Schedule and the difference in time between the project's early completion date and the required Contract completion date. Total float is not for the exclusive use of either the Owner or the CM, but is jointly owned by both and is a resource available to and shared by both parties as needed to meet Contract milestones and the Contract completion date.
- e) The CM shall not sequester shared float through such strategies as extending activity duration estimates to consume available float, using preferential logic, or using extensive crew/resource sequencing, constraints, unnecessary milestones, leads or lags on logic ties, and hammock type activities. Since float within the Construction Schedule is jointly owned, no time extensions will be granted nor delay damages paid until a delay occurs which extends the work beyond the Contract completion date. Since float within the Construction Schedule is jointly owned, it is acknowledged that Owner-caused delays on the project may be offset by Owner-caused time savings (i.e., critical path submittals returned in less time than allowed by the Contract, approval of substitution requests and credit changes which result in a savings of time to the Contractor, etc.). In such an event, the CM shall not be entitled to receive a time extension or delay damages until all Owner-caused time savings are exceeded and the Contract completion date is also exceeded.
- f) Comments made by the Owner on the CM's initial Construction Schedule during review will not relieve the CM from compliance with the requirements of the Contract Documents. The review is only for general conformance with the scheduling requirements of the Contract Documents. Upon the Owner's request, the CM shall participate in the review of the CM's initial Construction Schedule submissions (including the original submittal, all update submittals, and any re-submittals). The Owner may request the participation of trade contractors in these reviews, as determined necessary by the Owner. All revisions shall be resubmitted within fifteen (15) calendar days after the Owner's review.

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- g) The submittal of a fully revised and acceptable CM's initial Construction Schedule shall be a condition precedent to the processing of the second monthly payment application, unless the Owner grants a time extension due to unusual circumstances
- h) The CM's Construction Schedule shall provide a workable plan for monitoring the progress of all the elements of the work, establish and clearly display the critical elements of the work, forecast completion of the construction, and match the Contract duration in time. Exclusive of those activities for submittal review and material fabrication and delivery, activity duration shall not be less than one (1) nor more than thirty (30) calendar days, unless otherwise approved by the Owner. In addition to the detailed network diagram, the Contractor shall submit the following reports with the original submittal and all updates and revisions:
- 1) Predecessor/Successor Report or a list showing the predecessor activities and successor activities for each activity in the Construction Schedule.
 - 2) Activity Report sorted by early start or a list showing each activity in the Construction Schedule, arranged by early start dates.

Electronic data files shall be provided.

- i) The CM shall submit an updated Construction Schedule to the Project Manager with a copy to the Architect five (5) days prior to the submittal of the CM's monthly payment request in both an electronic and printed (11"x17" minimum size) format. The submittal of the Progress Schedule that satisfies the requirements of this Article, accurately reflects the status of the work, revises the cash flow schedule, and incorporates all changes into the Construction Schedule, shall be a condition precedent to the processing of the monthly payment application. Progress Schedules shall also be submitted at such other times as the Owner may direct.

The CM's monthly Progress Schedule update shall include a report containing a narrative that includes the following:

- CM's transmittal letter
- Description of problem tasks, referenced to Field Instructions, Requests for Information (RFIs), change orders or claim numbers, as appropriate.
- Current and anticipated delays not resolved by approved change order, including:
 - Cause of the delay
 - Corrective action and schedule adjustments to correct the delay
 - Known or potential impact of the delay on other activities, milestones, and project completion date
- Changes in construction sequence
- Pending items and status thereof including but not limited to:
 - Pending change orders
 - Time extension requests
 - Other items
- Contract completion date status:
 - If ahead of Construction Schedule, the number of calendar days ahead
 - If behind Construction Schedule, the number of calendar days behind
- Other project or scheduling concerns
- Updated network diagram with target bars shown.
- Tabular report as specified in subdivision (h) above, including a listing of completed activities and activities in progress.
- Diskette or compact disc with the latest data files as specified in subdivision (h) above.

The CM shall not make unilateral revisions to the monthly updates. Should the CM desire to revise the schedule logic or durations, it shall first submit the monthly update based upon the previous monthly update with just actual start dates, actual finish dates, and/or percentages of completion. The CM shall not make any additional changes other than actual status data. Following this updating

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and submittal task, the CM can then submit a copy of this update with its proposed changes. The CM shall clearly identify this proposed revised update as a proposed revision in the Title, Number/Version and File Name, and CM shall submit a narrative with the proposed revision.

The CM shall set the schedule calculation setting for the monthly updates to retained logic, and may only utilize the progress override setting to identify the differential in the calculated finish date due to out of sequence progress. Should the differential in the project completion exceed ten days utilizing the retained logic setting vs. the progress override setting, the CM shall revise the successor logic of the out of sequence activities to eliminate the differential.

- j) If completion of any part of the work, delivery of equipment or materials, or submission of the CM submittals is behind the approved Construction Schedule and will impact the end date of the work past the Contract completion date (create negative float), the CM shall submit in writing, a revised Construction Schedule acceptable to the Owner for completing the work on or before the current Contract completion date. The revised Construction Schedule shall take some or all of the following actions:

- 1) Increase construction manpower in such quantities and crafts as shall substantially eliminate the backlog of work and meet the current Contract completion date.
- 2) Increase the number of working hours per shift, the number of shifts per day, the number of work days per week, or the amount of construction equipment, or any combination of the foregoing sufficient to substantially eliminate the backlog of work.
- 3) Reschedule work items to achieve concurrent accomplishment of work activities.

Under no circumstances will adding equipment or construction forces, increasing the working hours, or employing any other method, manner, or procedure to return to the contractually required completion date be justification for a change order or justification for a compensable acceleration, unless prior written approval is received from the Owner.

- k) Adjustment of Contract Times for Completion. In addition to the provisions in the Contract General Conditions, the Contract Time for completion of the work will be adjusted in accordance with these procedures.

- 1) Time Impact Analysis. Whenever the CM submits a request for an adjustment of the Contract Time for completion for changes or alleged delays, the CM shall also submit a complete Time Impact Analysis (TIA). The CM shall submit the TIA for review within seven (7) calendar days after the request. The Owner will not grant time extensions unless substantiated by the TIA, and then not until the project float becomes zero. If the CM fails to submit a TIA within the time specified, then the CM shall be deemed by the Owner to have agreed that there is no time impact and that the CM has irrevocably waived its rights to any additional Contract Time.

The CM shall ensure that each TIA provides information justifying the request and stating the extent of the adjustment requested for each specific change or alleged delay. Each TIA shall be in the form and content acceptable to the Project Manager, and shall include, but not be limited to, the following:

- i) A fragmentary critical path method type network (Fragnet) illustrating how the CM proposed to incorporate the change or alleged delay into the current Monthly Baseline Schedule.
- ii) Identification of activities in the current Monthly Baseline Schedule which are proposed to be amended due to the change or alleged delay, together with estimates and other appropriate data justifying the proposal.

The CM shall determine the TIA based on the date or dates when the change or changes were issued or the date or dates when the alleged delay or delays began. The status of the construction project and TIA shall include event time computations for all affected activities

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including, but not limited to, work around sequencing or recovery options to maintain the original Contract completion date.

The Project Manager may require that the TIA be provided in order to demonstrate the time impact upon the overall project and the time for completion, at no additional cost to the Owner.

If the Project Manager finds, after review of the TIA, that the CM is entitled to any extension of time for completion, the Contract Time for completion will be adjusted accordingly by the Project Manager, and the CM shall then revise the Monthly Baseline Schedule accordingly.

- 2) No time extensions shall be granted nor indirect costs paid unless the CM can clearly demonstrate the delay on the basis of the Progress Schedule current as of the month the change is issued or the delay occurred and which delay cannot be mitigated, offset, or eliminated through such actions as revising the intended sequence of work or other means. The CM shall include field instructions and change orders in the revised Construction Schedule. Failure to include field instructions or change orders shall waive rights to a Contract Time extension or delay damages.
- l) Once each week, or as approved in writing by the Owner, the CM shall submit a Progress Schedule listing the activities begun, completed, and in progress in the past week, and the activities scheduled to begin, be completed or be in progress for the succeeding three (3) weeks. This schedule shall cover all work activities listed on the Progress Schedule for the reporting period.
- m) As a condition precedent to the release of retained funds, the CM shall, after completion of the work has been achieved, submit a final CM's Progress Schedule which accurately reflects the manner in which the project was constructed and includes actual start and completion dates for all work activities.

4.15 Labor Force and Superintendent

At all times the CM shall provide sufficient labor to properly prosecute the work and to ensure completion of each part in accordance with the schedule and within the Contract time. The CM shall employ competent workers who are skilled in the type of work required and whose workmanship is of the best, regardless of the quality of material. If, in the judgment of the Owner, any person is incompetent or disorderly, the CM shall promptly remove the person from the project and shall not re-employ such person thereon.

The CM shall retain the staffing in accordance with their Statement of Qualifications submitted in response to the Request for Qualifications. This project staffing shall include a competent, full-time, on-site superintendent to represent the CM and to direct the project at all times while any work under this Contract is underway. The CM shall not replace a Superintendent without advanced written approval from the Owner. If, in the judgment of the Owner, the Superintendent is incompetent, unqualified, poorly performing or disorderly, the CM shall promptly remove such person from the project and shall not re-employ such person thereon. In this event the Owner shall approve the replacement Superintendent.

The Superintendent shall prepare a daily report that includes worker count, work in progress, etc., and shall provide it to the Project Manager weekly. If the CM does not supply the staffing in accordance with their Request for Proposal, the Owner shall either demand that the prescribed staffing be supplied and/or credit back the value of the staffing not supplied.

The CM shall make certain that all subcontractors employed are properly licensed and are in good standing with the California Department of Industrial Relations.

4.16 Limitation of Construction Operations

The CM shall limit the area and nature of the construction operations to that which is authorized in the plans and specifications or approved by the Owner.

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4.17 Coordination with Other Work

The Owner reserve the right to do other work in connection with the Project or adjacent thereto by contract or otherwise, and the CM shall at all times conduct the work so as to impose no hardship on the Owner or others engaged in the Owner's work nor to cause any unreasonable delay or hindrance thereto. Where two or more contractors are employed on related or adjacent work, each shall conduct its operation in such a manner as not to cause delay or additional expense to the other.

The CM shall be responsible to others engaged in the related or adjacent work for all damage to work, to persons and to property, and for loss caused by failure to complete the work within the specified time for completion. The CM shall coordinate its work with the work of others so that no discrepancies shall result in the project.

4.18 Drawings Reflecting Actual Construction

During the course of construction, the CM shall maintain drawings daily to show the Project as it is actually constructed. Every sheet of the plans and specifications that differs from the actual construction shall be marked, and sheets so changed shall be noted on the title sheets of the plans and specifications. All change orders shall be shown by reference to sketch drawings, and any supplementary drawings or change order drawings shall be included. The CM shall review the "as-built" drawings with the Architect and the Project Manager at least once a month to demonstrate that the CM is fully and accurately recording all changes that have occurred. The altered Contract drawings shall be sufficiently detailed so that future work on the Project or in adjacent areas may be conducted with a minimum of difficulty. Before the completion of the project, and before release of the final retention payments, the "as-built" drawings and specifications shall be transmitted to the Architect for further handling, with a copy of the transmittal to the Owner.

4.19 Access for Inspection

The CM shall be responsible for obtaining all approvals and inspection for the local jurisdiction having authority for such inspections. Work requiring testing, inspection or verification shall not be covered up without such test, inspection, or approval.

The CM shall at all times permit the Owner, the Architect, and the Project Manager to visit and inspect the work both at the site and at the shops where work is in preparation and shall maintain proper facilities and provide safe access for such inspection.

The CM shall notify the Project Manager at least 24 hours in advance when special inspections or material testing is required of the Owner's testing and inspection laboratories.

Additional Inspections. If a fabricator or manufacturer of a material or equipment requiring inspection is inefficiently performing or performing at multiple locations, then the Owner may charge the Contractor for the extraordinary costs incurred.

4.20 Cleanup of Project and Site

The CM shall clean up its work at frequent intervals and at other times when directed by the Architect, the Inspector, or the Owner. At all times while finish work is being done, floors shall be kept broom clean. Upon completion of the work, the CM shall promptly remove from the premises construction equipment and any waste materials not previously disposed of, leaving the premises thoroughly clean and ready for occupancy.

When two or more contractors are engaged in work at or near the site, each shall be responsible for cleanup and removal of its own rubbish, equipment, and any waste materials not previously disposed.

In the event the CM does not maintain the Project or the Site clear of debris and rubbish in a manner acceptable to the Architect, the Owner may, at their option, cause the Project or Site to be properly cleaned and may withhold the expense incurred therefore from payments due the CM.

4.21 Project Sign, Advertising

The CM shall furnish and install a Project sign designed by the Architect required as part of the work under the Contract. As a minimum, the sign shall be four feet by eight feet, made from three-quarter inch plywood. The sign shall identify the Project name, the Owner, the Architect, and the CM. No advertising is permitted on the Project or Site without written permission from the Owner.

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**Article 5.00 INTERPRETATION OF AND ADHERENCE TO CONTRACT
REQUIREMENTS**

5.01 Interpretation of Contract Requirements

- a) Correlation. Contract Documents shall be interpreted as being complementary, requiring a complete project. Any requirement occurring in any one of the Contract Documents is as binding as though occurring in all Contract Documents. Generally, the specifications address quality, types of materials and Contract conditions while the Plans show placement, sizes, and fabrication details of materials.
- b) Conflicts. In the event of conflict in the Contract Documents, the priorities stated below shall govern:
 - 1) Addenda shall govern over all other Contract Documents, and subsequent Addenda shall govern over prior Addenda only to the extent modified.
 - 2) Contract General Conditions shall govern over all sections of the specifications and any notation on the Plans. No other section of the specifications shall modify the Contract General Conditions.
 - 3) In case of conflict between Plans and Specifications, the Specifications shall govern.
 - 4) Conflicts within the Plans:
 - i) Material and equipment schedules, when identified as such, shall govern over all other portions of the plans.
 - ii) Specific notes shall govern over all other notes and all other portions of the Plans except the material and equipment schedules described in paragraph (i) above.
 - iii) Larger scale drawings shall govern over smaller scale drawings.
 - iv) Figured or numerical dimensions shall govern over dimensions obtained by scaling.
 - 5) In the event that provisions of codes, safety orders, Contract Documents, referenced manufacturers' specifications or industry standards are in conflict, the more restrictive or higher quality shall govern.
- c) Omissions. In the event of omissions in the Contract Documents, the following shall apply:
 - 1) If the Contract Documents are not complete as to any minor detail of a required construction system or with regard to the manner of combining or installing of parts, materials, or equipment, but there exists an accepted trade standard for good and skillful construction, such detail shall be deemed to be an implied requirement of the Contract Documents in accordance with such standard. "Minor Detail" shall include the concept of substantially identical components, where the price of each such component is small even though the aggregate cost or importance is substantial, and shall include a single component that is incidental, even though its cost or importance may be substantial.
 - 2) The quality and quantity of the parts or material so supplied shall conform to trade standards and be compatible with the type, composition, strength, size, and profile of the parts of materials otherwise set forth in the Contract Documents.
- d) Quality. The quality of the work by the CM shall be equal to or better than that required in the specifications, and if it is found that the work is of lesser quality, the specifications shall prevail.

5.02 Issuance of Interpretations, Clarifications, Additional Instructions

By reaching agreement on the Guaranteed Maximum Price, the CM agrees that it has reviewed the Construction Documents and verified their adequacy and completeness for constructing the project. CM agrees to supply and install all of the Work as identified or inferred in the Construction Documents necessary to provide a complete and operating facility. Some detailing, clarification, and coordination may be required, and this work is included in the Guaranteed Maximum Price.

Should the CM discover design errors or design deficiencies in the Construction Documents or have any question concerning interpretation or clarification of the Construction Documents, the CM shall request in writing an interpretation, clarification, or additional detailed instructions, before proceeding with the work

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affected. The written request shall be given to the Architect with copies to the Project Manager/Project Manager and the Owner.

The Architect, with review as required by the Owner, shall, within seven calendar days, issue in writing the interpretation, clarification, or additional detailed instructions requested.

Should the CM proceed with the work affected before receipt of the interpretation, clarification, or instructions from the Architect, the CM shall replace or adjust any work not acceptable to the Architect and Owner, and shall be responsible for any resultant damage or added cost.

Should the CM consider that it has been given direction to perform Work that it considers is significantly different from the work shown on the approved Construction Documents, the CM must submit written notice thereof to the Architect within seven calendar days following receipt of such direction, and in any event prior to commencement of work thereon. The CM shall send copies of such correspondence to the Project Manager within this same seven calendar days. Within seven calendar days after the CM issues its written notice, the CM shall submit an explanation of how this direction constitutes work significantly beyond the scope of the Contract, along with a detailed cost breakdown and an explanation of any delay impacts.

The Architect shall consider such notice and make a recommendation to the Owner. If, in the judgment of the Owner, the notice is justified, the direction shall be revised or the extra work authorized by Contract change order or by field instruction with a change order to follow. If the Owner decide that the claim is not justified, the Owner shall give the CM a written order that the claim is not justified and direct the CM to perform such work.

The CM must proceed with the work upon receipt from the Owner of a written order to do so, in accordance with the Architect's interpretation of the Contract requirements. If the CM objects to the order, the CM must notify the Architect and the Owner, in writing of its objection and the reasons therefore within seven days of receipt of the order. The CM shall have the right to have this claim later determined by a Claims Review Board pursuant to this Contract (see Article 7.01, Claims). When performing disputed work, the CM shall prepare time and materials records for each day, and the Project Manager shall verify these records at the conclusion of each day. The CM shall have no claim for additional compensation because of such direction, unless it gives written notices required to the Architect within seven calendar days as specified above.

5.03 Product and Reference Standards

- a) Product Designation. When descriptive catalog designations, including the manufacturer's name, product brand name, or model number are referred to in the Contract, such designations shall be considered as being those found in industry publications of current issue at the date specified in the Request for Proposal.
- b) Reference Standards. When standards of the federal government, trade societies, or trade associations are referenced in the Contract by specific date of issue, these shall be considered a part of this Contract. When such references do not bear a date of issue, the current and most recently published edition at the date specified in the Request for Proposal shall be considered a part of this Contract.

5.04 Shop Drawings, Samples, Alternatives or Equals, Substitutions

- a) Submittal Procedure. The CM shall review and approve all shop drawings. "Shop drawings" include drawings, diagrams, illustrations, material and equipment schedules, performance charts, brochures and catalogs and other data prepared by the CM or any trade contractor, manufacturer, supplier or distributor, and which illustrate some portion of the work. The CM shall promptly review and mark the shop drawing approved and submit to the Architect, so as to cause no delay in the work, together with samples as required by the Contract and shall also submit any offers of alternatives or substitutions. At least six copies of shop drawings shall be submitted as well as additional copies as required by Architect. All such submittals shall be sent to the Architect at the address given in the instructions to the CM at the job start meeting. A letter shall accompany the submitted items which shall contain a list of all matters submitted and shall identify all deviations in the shop drawings and samples from the requirements of the Contract. Failure by the CM to identify all deviations may

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render any action taken by the Architect on the materials submitted to be void. Whether to void such action shall be in the discretion of the Architect. By submitting the approved shop drawings and samples, the CM represents that the data contained therein have been verified with conditions as they actually exist and that the shop drawings and samples have been checked and coordinated with the Contract.

- b) **Samples.** Samples are physical examples furnished by the CM to illustrate materials, equipment, color, texture, or workmanship, and to establish standards by which the work will be judged.

The work shall be in accordance with the samples, submitted as required by the contract and reviewed by Architect. Samples shall be removed by the CM from the Site when directed by the Owner. Samples not removed by the CM, at the Owner's option, will become the property of the Owner or will be removed or disposed of by the Owner at the CM's expense.

- c) **Alternatives or Equals.** For convenience in designation on the plans or in the specifications, certain materials or equipment may be designated by a brand or trade name or the name of the manufacturer together with catalog designation or other identifying information, hereinafter referred to generically as "designated by brand name." Alternative material or equipment which is of equal quality and of the required characteristics for the purpose intended may be proposed for use provided the CM complies with the following requirements:

- 1) The CM shall submit its proposal to the Architect for an alternative as "an equal" in writing prior to the date of agreeing to a GMAX. In exceptional cases where the best interests of the Owner so require, the Project Manager may give written consent to a submittal or re-submittal received after the expiration of the time limit designated. The CM is responsible for timely submittal of its proposed "or equal."
- 2) No proposal will be considered unless accompanied by complete information necessary to permit determination of the equality of the offered materials or equipment. Samples shall be provided when requested by the Architect or the Owner.
- 3) The burden of proof as to the comparative quality and suitability of the offered materials or equipment shall be upon the CM. Where the material is specified by capacity or performance, the burden of proof shall be on the CM to show that any particular equipment or materials meet the minimum capacities or the performance requirements specified. The CM shall furnish at its own expense all information necessary for a determination as to whether the minimum capacities or performance requirements will be met.

The Architect shall be the judge of such matters. If the Architect rejects the use of any alternative materials or equipment, then one of the products designated by brand name shall be furnished.

If changes or delays are required for proper installation or fit of alternative materials, Articles, or equipment, or because of deviations from Contract Documents, such changes or delays shall be made at the CM's expense without recourse for reimbursement from the Owner.

- d) **Substitutions.** If the CM proposes a product that is of lesser or greater quality or performance than the specified material or equipment, it must comply with the provisions of Article 5.04, but, in addition, the CM must submit any cost impact, and must pay the Architect's fees associated with the review of this substitution. By submitting a substitute, the CM waives any rights to claim a delay due to the processing of this substitution. The time for submittal of a substitution of an unequal product shall be restricted to the period prior to the issuance of the construction Contract. The Owner is not obligated to review or accept substitutions.

5.05 Quality of Materials, Articles and Equipment

Materials, Articles and equipment furnished by the CM for incorporation into the work shall be new. When the Contract requires that materials, Articles or equipment be furnished, but the quality or kind thereof is not specified, the CM shall furnish materials, Articles or equipment at least equal to the kind or quality or both of specified materials, Articles or equipment.

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5.06 Testing Materials, Articles, Equipment and Work

- a) Materials, Articles, equipment or other work requiring tests are specified in the Contract. Materials, Articles and equipment requiring tests shall be delivered to the Site in ample time before intended use to allow for testing and shall not be used prior to testing and receipt of written approval. The CM shall be solely responsible for notifying the Project Manager where and when materials, Articles, equipment and Work are ready for testing. Should any such materials, Articles, equipment or work be covered without testing and approval, if required, they shall be uncovered at the CM's expense. The Owner has the right to order the testing of any other materials, Articles, equipment or Work at any time during the progress of the Work. Unless otherwise directed, all samples for testing shall be taken by the Owner from materials, Articles or equipment to be used on the project or from Work performed. All tests will be under the supervision of, and at locations convenient to, the Owner. The Owner shall select the laboratories for all tests. Decisions regarding the adequacy of materials, Articles, equipment or Work shall be issued to the Owner in writing.
- b) All costs of the initial required tests shall be borne by the Owner. The Owner may decide to take further samples and tests, and if the results show that the Work was not defective, the Owner shall bear the costs of such samples and tests.
- c) In the event the results of such additional samples and tests show that the Work was defective, the CM shall bear the cost of such samples and tests. Samples that are of value after testing shall remain the property of the CM. All retesting costs may be back-charged to the CM by the Owner.

5.07 Rejection

Should any portion of the work done or any materials, Articles or equipment delivered fail to comply with the requirements of the Contract, such work, materials, Articles or equipment shall be rejected in writing and shall immediately be made satisfactory to the Architect and the Owner, by the CM, at no additional expense to the Owner. Any materials, Articles or equipment which are rejected shall immediately be removed from the premises at the CM's expense. The Owner may retain 1.25% of the cost of the rejected materials, Articles, equipment, and work from any payments due the CM until it is made acceptable to the Architect and the Owner. The Owner may back charge the CM for design costs incurred in the correction of CM's rejected work.

5.08 Off-Site Testing

The Owner shall bear the cost of off-site testing up to a distance of fifty (50) miles from the project site and up to one fabrication yard or manufacturing plant per manufactured item, for example, structural steel. The increased cost of testing due to the fabrication yard or manufacturing plant being beyond this fifty-mile radius shall be borne by the CM. The increased cost due to the use of multiple fabrication yards or manufacturing plants for similar materials shall be borne by the CM.

5.09 Responsibility of Quality

The testing and inspection provided by the Owner shall not relieve the CM of its responsibility for the quality of materials and workmanship provided by the CM, and the CM shall make good all defective work discovered during or after completion of the project.

Article 6.00 CHANGES IN THE WORK

6.01 Change Orders

The Owner reserves the right to issue written change orders directing changes in the Contract at any time prior to the acceptance of the Project without voiding the Contract, and CM shall promptly comply with such order. By signing the construction Contract for the Guaranteed Maximum Price, the CM agrees that it has reviewed and accepted the Construction Documents as complete and that it has no right for change orders or extra work due to conflicts, ambiguities or omissions not addressed in the Clarifications and Assumptions in the CM's GMP proposal. The Owner further agrees that unforeseen site conditions may be a basis for the issuance of a change order. The CM may request changes in the work, but shall not act on the changes until approved in writing by the Owner. Any change made without the Owner's written authorization shall be the

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responsibility of the CM. The Owner will not increase compensation or extend time for a change involving greater expense to the CM, and the Owner may reject changes involving greater or lesser expense, but with the consequent responsibility on the CM to replace at its own expense the changed work with that originally specified.

On the basis set forth herein, the Guaranteed Maximum Price shall be adjusted for any change order requiring a different quantity or quality of labor, materials or equipment from that originally required, and the partial payments to the CM, set forth in Article 8.02, Partial Payments, shall be adjusted to reflect the change. Whenever the necessity for a change arises, and when so ordered by the Owner in writing, the CM shall take all necessary steps to halt such other work in the area of the change that might be affected by the ultimate change. Changed work shall be performed in accordance with the original Contract requirements except as modified by the change order. Except as herein provided, the CM shall have no claim for any other compensation due to changes in the work.

- a) Proposed Change Orders. The Owner shall issue a Cost Request Bulletin (CRB) via the Architect to the CM, or a Field Instruction via the Project Manager for a proposed change order describing the intended change, and shall require the CM to respond with a proposed amount to be added to or subtracted from the Contract price due to the change supported by a detailed estimate of cost (hereinafter called a change order request). Upon request by the Owner, the CM shall permit inspection of the original Contract estimate, trade contract agreements, or purchase orders relating to the change. Any request for adjustment in time of final completion of the Project that is directly attributable to the changed work shall also be included, with substantiating detailed explanation, by the CM in its response to the cost request bulletin. Failure to request adjustment of time prior to execution of the on the Change Order shall waive any right to subsequently claim and adjustment of the time for final completion based on the changed work. The CM shall submit the change order request with detailed estimates and any time extension request thereon to the Architect, the Project Manager, and the Owner within fifteen calendar days after issuance of the cost request bulletin. If the change order request is not submitted within the required fifteen calendar days, and the CM has not obtained the Architect's and the Owner's permission for a delay in submission, the Owner may order the CM, in writing, to begin the work immediately, in accordance with Article 6.01(d), Allowable Time Extensions, or Article 6.02, Emergency Changes, and the Contract price shall be adjusted in accordance with the Owner's estimate of cost, unless the CM, within fifteen days following completion of the changed work, presents proof convincing to the Owner that the Owner's estimate was in error. The CM must keep and submit time and materials records verified daily by the Project Manager to substantiate its costs and to furnish such proof.

When the Owner and the CM agree, in writing, on the amount to be added to or deducted from the Contract price and the time to be added to or deducted from the completion date the CM shall proceed with the changed work immediately. When the Owner and the CM agree to the adjustment in the CM's compensation for the performance of changed work, but fail to agree to the time adjustment for such work, the CM shall proceed with the work at the agreed price, reserving the right to further pursue its claim for a time adjustment. Any costs incurred to acquire information relative to a proposed change order shall not be borne by the Owner.

- b) Allowable Costs Upon Change Orders. The only estimated or actual costs which will be allowed because of changed work, and the manner in which such costs shall be computed, shall be in accordance with the following eight provisions. In submitting a change order request, the CM affirms that the cost is submitted in good faith, that the cost is accurate and is in accordance with the provisions of the Contract requirements. Direct cost is defined as the actual cost of work before the application of any mark-ups for overhead and profit. In addition to items identified in the following provisions, direct cost items may include: hoisting, clean-up (both periodic and final), trash removal, traffic control, and dust control.
 - 1) Labor. Costs are allowed for the actual payroll cost to the CM for labor, field supervision of changed work, (but not field office supervision nor indirect supervision) and engineering or

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technical services directly required for the performance of the changed work, (but not site management such as field office estimating, clerical, purchasing, as-builts, change order coordination, or warranty). Costs include payments, assessments, or benefits required by lawful labor union collective bargaining agreements, compensation insurance payments, liability insurance premium on labor only, contributions made to the State pursuant to the Unemployment Insurance Code, and for taxes paid to the federal government required by the Social Security Act.

No labor cost will be recognized at a rate in excess of the prevailing wages that are being paid by the CM for similar work on the Project at the time the work is performed, nor will the use of a classification that would increase the labor cost be permitted unless the CM established to the satisfaction of the Owner the necessity for use of such higher classifications of workers. The CM and trade contractors shall submit a fully detailed breakdown of the cost of every labor classification to be utilized on a proposed change. The Owner may verify wage and burden by requesting certified payroll documents prepared in accordance with section 1776 of the California Labor Code. The unit cost of labor shall be an accurate accounting of actual costs being paid in accordance with the allowances herein, and it shall be submitted under penalty of perjury.

- 2) Materials. CM's costs are allowed for the cost of the materials directly required for the performance of the changed work. Such cost of materials may include the costs of transportation, sales tax, and delivery if necessarily incurred. If a trade discount by the actual supplier is available to the CM, it shall be credited to the Owner. If the materials are obtained from a supply or source owned wholly or in part by the CM, payment therefore will not exceed the current wholesale price for such materials. Cost for consumed materials may be charged on a reasonably estimated basis, but may not be a percentage of labor.

If, in the opinion of the Owner, the cost of materials is excessive, or if the CM fails to furnish satisfactory evidence of the cost from the actual suppliers thereof, then in either case the cost of the materials shall be deemed to be the lowest wholesale price at which similar materials are available in the quantities required at the time they were needed. The Owner reserve the right to furnish such materials as they deem advisable, and the CM shall have no claim for costs or profits on material furnished by the Owner.

- 3) Equipment. CM's costs are allowed for the actual cost of the use of equipment directly required in the performance of the changed work except that no payment will be made for time while equipment is inoperative due to breakdowns or for non-working days. The rental time shall include the time required to move the equipment to the project site from the nearest available source for rental of such equipment, and to return it to the source. If such equipment is not moved by its own power, then loading and transportation costs will be paid. However, neither moving time nor loading and transportation costs will be paid if the equipment is used on the project in any other way than upon the changed work. Individual pieces of equipment having a replacement value of \$200.00 or less shall be considered to be small tools or small equipment, and no payment therefore will be made unless it has been rented specifically for the changed work. Consumed equipment or tools, such as paint brushes, rollers, drill bits, etc. may be charged on an actual or reasonably estimated cost basis and are not to be charged as a percentage.

For equipment owned, furnished, or rented by the CM, no cost therefore shall be recognized in excess of the rental rates established by distributors or equipment rental agencies in the locality where the work is performed.

The amount to be paid to the CM including mark-up for the use of equipment as set forth above shall constitute full compensation to the CM for the cost of fuel (unless the CM has demonstrated that mark-up does not cover consumed fuel cost), power, oil, lubrication, supplies, small tools, small equipment, necessary attachments, repairs and maintenance of

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any kind, depreciation, storage, insurance, and any and all costs to the CM incidental to the use of such equipment. Equipment operators shall be paid for as provided in Article 6.01(b) (1), above.

- 4) Mark-ups on Change Orders. The mark-ups allowed on the direct cost of changed work include all incidental overhead support costs and profit. Such incidental overhead support costs include: estimating and purchasing; indirect supervision and project management; home office overhead; site overhead including facilities and utilities; change order coordination; as-built drawings; warranties; bonds; liability insurance (however, per Article 6.01-b(1), cost of liability insurance premium for labor only is allowed as a cost for labor); and small tools. Any incidental overhead support cost not expressly identified herein shall be included in the CM's mark-up. No mark-up on mark-up is permitted. If the trade contractor is owned, partially owned, or has a shared profits arrangement with the CM, any mark-up otherwise applicable to a change shall be reduced in proportion with the shared profits
- 5) Work by Trade Contractors and Vendors. For any portion of the changed work which is to be performed by a subcontractor (any tier), the CM shall furnish to the Owner a detailed estimate prepared and signed by trade contractor of the cost to trade contractor for performing the changed work. At the option of the Owner, a lump sum estimate of such cost to trade contractor may be accepted in lieu of the detailed estimate. The combined costs for trade contractor's overhead, profit, taxes, indirect supervision, insurance, bonds, warranty and any other costs not specifically allowed by Article 6.01-b (1), (2) and (3), shall not exceed fifteen (15) percent on the first \$50,000 of the direct cost; thereafter, ten (10) percent on the balance beyond \$50,000. The maximum allowable mark-up of trade contractor on any subcontractor tiers shall be seven (7) percent. The aggregate mark-ups allowed by trade contractors and multiple-tiered subcontractors shall not exceed twenty-six (26) percent of the direct cost on the first \$50,000, thereafter, twenty-one (21) percent on the balance beyond \$50,000. Estimates of the amount to be deleted from trade contractor's portion of the work shall be gross value of the deducted work plus at least six percent for overhead, bonds, insurance, and related savings added to the direct value of the deleted work.

For changed work to be furnished by a vendor, the CM shall furnish upon demand of the Owner, a lump sum estimate of the cost of the items including taxes and cartage to the CM prepared by the vendor. No vendor mark-up for overhead, profit, layout, supervision or bonds will be allowed for changed work furnished by a vendor.

- 6) CM Mark-up for Added Work. When changed/added work is performed by a trade contractor or the CM's own forces, the CM may add no more than the percentage shown in their Fee Proposal for Profit and Overhead plus any added Construction Phase Services that can be directly attributed to the changed/added work.
- 7) Market Values. Cost for added work shall be no more than market values prevailing at the time of the change, unless the CM can establish to the satisfaction of the Owner that it investigated all possible means of obtaining work at prevailing market values and that the excess cost could not be avoided.

When a change order deletes work from the Contract, the computation of the amount thereof shall be the values which prevailed at the time bids for the work were opened, if the work is contained in a subcontract agreement or purchase order executed at or near the time bids were opened.

c) Failure to Agree as to Cost

- 1) For Added Work. Notwithstanding the failure of the Owner and the CM to agree as to the cost of the proposed change order, the CM, upon written order from the Owner, shall proceed immediately with the changed work. A Field Instruction or letter signed by the Owner shall

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be used for this written order. At the start of each day's work on the change, the CM shall notify the Owner in writing as to the size of the labor force to be used for the changed work and its location. Failure to so notify may result in the non-acceptance of the costs for that day. At the completion of each day's work, the CM shall furnish to the Project Manager a detailed summary of all labor, materials, and equipment employed in the changed work. The Project Manager will compare his/her records with CM's daily summary and may make any necessary adjustments to the summary. After the Project Manager and the CM agree upon and sign the daily summary, the summary shall become the basis for determining costs for the additional work. The sum of these costs when added to an appropriate mark-up will constitute the payment for the changed work. The Owner, however, may make subsequent adjustments, based on later audits. When changed work is performed at locations away from the job site, the CM shall furnish in lieu of the daily summary, a summary submitted at the completion of the work containing a detailed statement of labor, material, and equipment used in the work. This latter summary shall be signed by the CM who shall certify thereon under penalty of perjury that the information is true, and the costs are as allowed in Article 6.01-b (1), (2) and (3). If changed work is to be paid based on time and materials, a credit for deleted Contract work shall be included. Mark-up shall be as provided in Article 6.01-b (4), (5), (6) and (7).

The CM shall maintain and furnish on demand of the Owner itemized statements of cost from all vendors and trade contractors who perform changed work or furnish materials and equipment for such work. All statements must be signed by the vendors and the trade contractors.

- 2) For Deleted Work. When a proposed change order contains a deletion of any work, and the Owner and the CM are unable to agree upon the value thereof, the Owner's estimate may be deducted from the Contract price and may be withheld from any payment due the CM until the CM presents proof convincing to the Owner that the Owner's estimate was in error. The amount to be deducted, other than deletion of an entire item as addressed in Article 6.01-b (7), shall be the costs to the CM for labor, materials, and equipment which would have been used on the deleted work together with the credit mark-up. The provisions of Article 6.01-b shall be followed in computing the amounts involved for changes other than deletion of an entire item.
- d) Allowable Time Extensions. For any change in the work, the CM shall be entitled only to such adjustments in time by which completion of the entire work is delayed due to performance of the changed work. However, no extension of time shall be granted for a change in the work unless the CM demonstrates to the satisfaction of the Owner that the work is on the critical path and submits an updated CPM schedule showing that an extension of time is required and that the CM is making, or has made, every reasonable effort to guarantee completion of the additional work called for by the change within the time originally allotted in the Contract.

Adjustment in Contract time shall be on a calendar day basis, except that if the new Contract completion date falls on a Saturday, Sunday, or legal holiday, it shall be extended through the next full working day. Such adjustment is applicable only once in the course of a Contract, and should occur only at the end of the Contract. Attention is directed to Article 4.13, Contract Time, and Article 4.14, Schedule.

- e) CM's Contingency
The use of the CM's contingency shall cover conflicts, ambiguities, and any problems arising from a lack of coordination among and within the trade contractors' bid packages, and for any other problems arising from trade contractors. The use of the CM's contingency shall be approved by the Owner, but no reasonable use shall be disallowed. For changes necessitated by omissions or corrections to the Construction Documents, that should have been identified by a reasonable constructability check and coordination review, the Owner shall not pay overhead, profit or any

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other costs to the CM. The CM shall itemize and account for its contingency on a separate accounting below the project's Schedule of Values as included in the monthly payment request. The CM shall return any unused portion of its contingency to the Owner at 100%, and the unused contingency shall not become part of the shared savings agreement proposed in the response to the RFQ. Costs incurred due to conflicts, ambiguities, or lack of coordination in the trade contractors' bid packages, or due to any other problems arising from trade contractors, in excess of the contingency shall be borne by the CM

f) **Use of Allowances**

The Owner discourages the use of allowances, however, the Owner shall approve the use of any allowance, on a case by case basis. If the Owner so approves, allowances may only be used for work items that are indeterminate at the time of producing the GMAX. The CM shall maintain a detailed cost accounting, including allowances, and submit it with the monthly payment application for the Owner's approval. Overhead and profit mark-up on allowance items shall be in accordance with Article 6 for trade contractors work, but for the CM, shall be in accordance with the CM's Overhead and Profit fees as submitted in the CM's Fee Proposal.

6.02 Emergency Changes

Changes in the work made necessary by to unforeseen site conditions, discovery of errors in plans or specifications requiring immediate clarification in order to avoid a serious work stoppage, changes of a kind where the extent cannot be determined until completed, or under any circumstances whatsoever when deemed necessary by the Owner are kinds of emergency changes which may be authorized by the Owner in writing to the CM. The CM shall commence performance of the emergency change immediately upon receipt of written direction from the Owner.

If agreement is reached as to compensation and/or time adjustment for the purpose of any emergency change, then compensation and/or time extension, as appropriate, will be as provided in Article 6.01 relating to ordinary changes. If agreement is not reached as to compensation and/or time adjustment at the time of commencing the emergency change, then compensation and/or time extension, as appropriate, will be as provided in Article 6.01-d, that is, time and materials records and summaries shall be witnessed and maintained until either a lump sum payment and/or a time extension, as appropriate, are agreed upon, or the changed work is completed.

Article 7.00 CLAIMS AND DAMAGES

7.01 Claims

a) **CM's Claim(s) – Notice of Claim**

In accordance with Article 5.02 (Issuance of Interpretations, Clarifications, Additional Instructions), should the CM disagree with the determination of the Owner on a matter that substantially affects the CM's costs, compensation or extent of work, the CM shall file a preliminary claim with the Owner and request a review of the decision. The CM must proceed with the work upon receipt from the Owner of a written order to do so. However, within seven days of receipt of the written order, the CM must notify the Architect and the Owner, by letter, that it protests the decision.

b) **CM Submission of Unresolved Claims to Claims Review Board**

All unresolved claims arising from this Contract, for which the CM seeks resolution by a Claims Review Board, shall be submitted in writing to the Owner no later than 30 calendar days after the County Recorder's recordation date on the Owner's Notice of Completion. The CM's failure to submit its claims to the Owner within this 30-day period shall constitute a waiver by the CM of such claims. Once the claims have been submitted, and the 30 calendar days after the County Recorder's recordation date on the Notice of Completion have expired, CM may not submit any additional claims. The CM shall have 30 additional calendar days in which to submit six copies of a total and detailed claims package. Failure to submit the full detailed package within this second 30-day period shall constitute a waiver by the CM of such claims.

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Before the CM files a claim with the Owner, the CM shall make a reasonable effort to analyze the claim to determine the truth of the information comprising the claim. The CM shall not present a trade contractor claim without making a reasonable effort to determine the truth of the facts comprising the claim. Only claims reasonably determined by the CM to be true may be filed with the Owner. By submitting a claim, CM affirms that its claim is submitted in good faith, that the facts supporting the claim are true and accurate, and that the claim, in the reasonable opinion of the CM, constitutes a basis under the Contract for additional compensation.

c) **Owner's Claim(s) Submittal**

The Owner shall submit a rebuttal to the CM's claim, along with any Owner's claims to the Claims Review Board within 30 calendar days after the submission by the CM of a total and detailed claims package.

d) **CM Rebuttal to Owner's Claims**

Upon submission of any Owner claims, the CM shall have an additional 30 day period to submit to the Claims Review Board the CM's rebuttal to the Owner's claims.

e) **Claims Review Board**

The Claims Review Board will include one designee from the Owner, one designee from the CM and one additional designee to be agreed upon by both the Owner and the CM. The Claims Review Board will hear the submitted claims at the completion of the project. Each Claims Review Board shall continue to function until all pertinent facts are reviewed, and it arrives at a recommendation. The Claims Review Board process shall be administered by the a designee of the Owner. These administrative responsibilities include, but are not limited to, determination of the time and location of the hearing, and application of the Review Board procedures. The Claims Review Board is a lay board; attorneys and third party claims specialists may not participate in the hearings, with the exception of scheduling consultants. The Board's recommendation will be made as soon as possible after the conclusion of the hearing. The decision of the Claims Review Board exhausts the CM's contractual and administrative remedies with the Owner.

7.02 Delay in Completion--Liquidated Damages

If the work is not completed within the time required, damage will be sustained by the Owner. It is, and will be, impractical and extremely difficult to determine the actual damage that the Owner will sustain by reason of the delay. It is therefore agreed that the CM will pay to the Owner a total of \$200 per day increasing \$200 per day until a total of \$2500 per day is reached for each day the project is not substantially complete. If the CM fails to pay such liquidated damages, the Owner may deduct the amount thereof from any money due or that may become due the CM under the Contract. If the Owner occupies all or the majority of the Project and can use it for its intended purpose, including operation of fire and life safety systems, the Owner may reduce the amount of assessment of liquidated damages, if it is determined to be in the best interest of the Owner. The Owner's assessment of liquidated damages shall not commence on a Saturday, Sunday or legal holiday.

7.03 Termination for Cause

If the Owner deems that CM has failed to supply an adequate working force or material of proper quality, or the CM has failed in any other respect to prosecute the work with the diligence and force as required by the Contract, the Owner will give written notice to the CM and to the CM's sureties, that if the defaults are not remedied within 30 calendar days the contractor's control over the work will be terminated.

Upon such termination, the Owner may take possession of and use all or any part of the CM's materials, tools, equipment, and appliances upon the premises to complete the work. Thereupon, the Owner may take assignment of the trade contractors and purchase orders under Article 2.06, and complete the contract work themselves or may allow the surety to complete the contract work.

The CM's failure to complete a punch list with diligence is an example of a failure to prosecute the work with the diligence and force required by the Contract.

If the costs of finishing the work exceed the unpaid balance of the Contract sum, the CM shall pay the difference to the Owner.

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If it is subsequently determined that grounds for termination under this Article do not exist, then the CM shall be deemed to have been properly terminated for convenience under Article 7.04, Termination for Convenience.

7.04 Termination for Convenience

The Owner may terminate this Contract or any part thereof, for its sole convenience and without cause. Unless the Owner directs otherwise, upon written notice from the Owner of such termination, the CM shall:

- a) Stop all work under the Contract except that specifically directed to be completed before suspension of the work.
- b) Perform work the Owner deem necessary to secure the project for termination.
- c) Remove equipment and plant from the Site of the work.
- d) Take such action as is necessary to protect materials from damage.
- e) Notify all trade contractors, subcontractors and suppliers that the Contract has been terminated, and that their contracts or orders are not to be further performed unless otherwise authorized in writing by the Owner.
- f) Provide the Owner with an inventory list of all materials previously produced, purchased or ordered from suppliers for use in the work and not yet used in the work, including their storage locations, and such other information as the Owner may request.
- g) Handle materials not yet used in the work as directed by the Owner. The CM shall provide the Owner with good title to all materials purchased hereunder, including materials for which partial payment has been made.
- h) Subject to prior written approval of the Owner, settle all outstanding liabilities and all claims arising out of trade contracts, subcontracts or orders for materials terminated hereunder. To the extent directed by the Owner, the CM shall assign to the Owner all the right, title and interest of the CM under trade contracts or orders for materials terminated hereunder.
- i) Furnish the Owner with the documentation required to be furnished by the CM under the provisions of the Contract.
- j) Take such other actions pertinent to terminating the Contract as the Owner may direct.
- k) Remain liable for any defective construction completed before termination.

The CM shall be paid in accordance with the provisions of Article 8.02, Partial Payments, with the following exception. The amount due the CM shall be based upon the Owner's final estimate of the actual work completed, or acceptable materials furnished but not used, to the date of suspension of the work, less any amounts required to be withheld pursuant to Article 8, Payment and Completion, and less any prior payment(s) made to, or on account of the CM.

7.05 Assignment of Trade Contracts

Should the CM's control over the work be terminated under Article 7.03, Termination for Cause, or Article 7.04, Termination for Convenience, the Owner may elect to take legal assignment of trade contracts and purchase orders. In such an event, the CM shall, as a condition of receiving the payments referred to in these Articles, execute and deliver all papers and take all steps, including the legal assignment to the Owner of trade contracts, purchase orders and other contractual rights of the CM, as the Owner may require for the purpose of fully vesting in the Owner all rights and benefits of the CM under such trade contracts, purchase orders, or other contractual rights in order that the Owner may proceed to finish the project.

7.06 Third-Party Claims

The Owner has full authority to compromise or otherwise settle any claim relating to a Contract at any time. However, the Owner shall notify CM of the receipt of any third-party claim relating to the Contract.

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Article 8.00 PAYMENT AND COMPLETION

8.01 Acceptance

When the Project has been completed in all respects in accordance with the plans and specifications, to the full satisfaction of the Owner, the Owner will file a Notice of Completion with the County Recorder in the county in which the Project is located. Projects bid with a segregation of costs for separate, independent portions may, at the Owner's discretion, have each of the separate portions accepted individually. The date of acceptance of the Project as stated on the Notice of Completion shall be the official completion date relating to liquidated damages. The County Recorder's date of recording on the Notice of Completion, if filed timely (within ten days of acceptance), shall be the official completion date relating to stop notices. All stop notices must be filed with the Owner within 30 calendar days after the County Recorder's recordation date on the Owner's timely filed Notice of Completion. All claims arising from this Contract shall be submitted in writing to the Owner no later than 30 calendar days after the recordation date on the Owner's Notice of Completion. See Article 7.01, Claims.

8.02 Partial Payments

To assist in computing partial payments, the CM shall submit to the Architect and the Project Manager a "Schedule of Values" of the CM's actual and estimated costs for each item of work. The cost breakdowns shall be in sufficient detail for use in estimating the work to be completed each month and shall be submitted within 21 calendar days after the date of commencement of work given in the Notice to Proceed.

Once each month during the progress of the work, the CM shall submit to the Project Manager and the Architect a partial payment request. The CM shall base the partial payment request on the approved schedule of values for the cost of the work completed plus, where applicable, a maximum of 90% of the verified supplier-invoiced amount and CM-purchased acceptable materials delivered to the Site or stored subject to the control of the CM but identified as the property of the Owner and not yet installed. The CM must make any materials stored offsite accessible to the Owner to verify invoiced value and shall deliver these materials to the Owner upon request.

The partial payment request shall be submitted on the monthly anniversary of the day selected by the CM in the job start meeting. The amount requested shall be based on the Schedule of Values multiplied by the percentage of work completed including the CM's Fee, prorated based on the percentage of work completed. If requested by the Owner, the CM shall submit a detailed cost report including additional substantiation such as trade contractor payments, material invoices, payrolls for all labor, and other such data supporting the CM's right to payment. The detailed cost report shall be forwarded to the Project Manager no later than seven (7) calendar days following receipt of the request.

The Architect and Project Manager shall review and certify as to the validity of the request, which, if the request includes an invoice for materials, then it shall include an inspection by the Project Manager of materials invoiced. No partial payment shall be made without the certification of the Architect, unless the partial payment is strictly administrative, and is processed after the completion of the work (e.g. release of stop notice claims). Partial payment requests shall be processed with a minimum of five percent retention. The Owner will hold this retention in part as security for the fulfillment of the Contract by CM, and in part, as retainage for liquidated damages, stop notices, Labor Code wage and penalty assessments, and Owner's back-charges such as for retesting and re-inspection. If the Owner deem that five percent retention is inadequate, the Owner may increase the amount of retention.

Partial payments shall not be construed as acceptance of any work that is not in accordance with the requirements of the Contract. Once the Architect and the Project Manager have certified the partial payment request, it shall be submitted to the Owner approval and processing. The partial payment will then be processed and payment made within 30 calendar days, from the date of receipt by the Owner, prior to assessment of late payment interest.

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8.03 Direct Cost of the Work

The term "direct cost of the work" shall mean costs necessarily incurred by the CM in the proper performance of the work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior written consent of the Owner. The "direct cost of the work" shall include only the following items set forth in this Article.

- a) Labor Costs
 - 1) Wages of construction workers directly employed by the CM to perform the construction of the work at the Site or, with the Owner's agreement, at off-site workshops.
 - 2) Actual costs paid or incurred by the CM for taxes, insurance, contributions, assessments and benefits, associated with the construction workers directly employed by the CM, and as required by law.
- b) Trade Contractor Cost. Payments made by the CM to trade contractors in accordance with the requirements of the subcontracts.
- c) Cost of Materials and Equipment Incorporated in the Completed Construction
 - 1) Actual costs, including transportation of materials and equipment incorporated or to be incorporated in the completed construction.
 - 2) Costs of materials in excess of those actually installed but required to provide reasonable allowance for waste and for spoilage. Unused excess materials, if any, shall be handed over to the Owner at the completion of the work or, at the Owner's option, shall be sold by the CM. Amounts realized, if any, from such sales shall be credited to the Owner as deduction from the cost of the work.
- d) Cost of Other Materials and Equipment and Related Items
 - 1) Actual costs, including transportation, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by the CM at the Site and fully consumed in the performance of the work. Cost for items previously used by the CM shall mean fair market value. The Owner reserves the right to dispose of all temporary structures and small tools that have been purchased but no longer required for the work.
 - 2) Costs of removal of debris from the site.
- e) Miscellaneous Costs
 - 1) Sales, use or similar taxes imposed by a governmental authority which are related to the work and for which the CM or Owner is liable.
 - 2) Fees of testing laboratories for tests required by the Contract Documents, except those related to defective or nonconforming work for which reimbursement is excluded by Article 5.06, Testing Materials, Articles, Equipment and Work, or other provisions of the Contract Documents.
 - 3) Deposits lost for causes other than the CM's fault or negligence.
 - 4) Cost of surveys if required for the work.
 - 5) Costs of obtaining and using all utility services required for the work, if not paid directly by the Owner.
- f) Other Costs.
 - 1) This category includes other costs incurred in the performance of the work if and to the extent approved in advance in writing by the Owner.
- g) Costs for Emergencies; Repairs to Damaged, Defective or Nonconforming Work
 - 1) Costs in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.
 - 2) Costs in repairing or correcting work damaged or improperly executed by construction workers in the employment of the CM, provided such damage or improper execution did not result from the fault or negligence of the CM or the CM's employees, foremen, engineers or superintendents, or other supervisory, administrative or managerial personnel of the CM.

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- 3) Costs in repairing damaged work other than that described in Article 8.03-g (2), provided such damage did not result from the fault or negligence of the CM or the CM's personnel, and only to the extent that the cost of such repairs is not recoverable by the CM from others and the CM is not compensated therefore by insurance or otherwise.
- 4) Costs in correcting defective or nonconforming work performed or supplied by a trade contractor or material supplier and not corrected by them, provided such defective or nonconforming work did not result from the fault or neglect of the CM or the CM's personnel to adequately supervise and direct the work of the trade contractor or material supplier, and only to the extent that the cost of correcting the defective or nonconforming work is not recoverable by the CM from the trade contractor or material supplier.

8.04 Construction Phase Services

The term "construction phase services" shall mean those costs incurred by the CM in the field management, supervision, and administration of the work. The CM's fee percentage for construction phase services, as included in the cost proposal, shall include the following items:

- a) Labor Costs
 - 1) Wages or salaries of the CM's supervisory and administrative personnel when stationed at the Site with the Owner's agreement.
 - 2) Wages and salaries of the CM's supervisory or administrative personnel engaged at factories, workshops (not including CM's principal or branch offices) or on the road expediting the production or transportation of materials or equipment required for the work, but only for that portion of their time required for the work.
 - 3) Wages or salaries of the CM's project manager, whether stationed at the Site or in the CM's principal office or branch offices, but only for that portion of his/her time required for the work.
- b) Materials and Equipment and Temporary Facilities and Accommodations
 - 1) Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by the CM at the site, whether rented from the CM or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof.
 - 2) Costs of long-distance telephone calls, project specific cell phone calls, postage and parcel delivery charges, telephone service at the site, and reasonable petty cash expenses at the Site office.
 - 3) That portion of the reasonable travel and subsistence expenses of the CM's personnel incurred while traveling in discharge of duties connected with the work.
- c) Miscellaneous Costs
 - 1) That portion of premiums for insurance and bonds directly attributable to the Contract.
 - 2) Fees and assessments for the building permit and for other permits, licenses and inspections for which the CM is required by the Contract Documents to pay.

8.05 Costs Not Included in Construction Phase Services

The cost of the work shall not include:

- a) Any costs incurred by the CM in providing pre-construction services paid under a separate service agreement executed between the CM and the Owner.
- b) Salaries and other compensation of the CM's personnel stationed at the CM's principal office or offices other than the Site office, except as specifically provided in Articles 8.03 and 8.04.
- c) Payments to CM's employees over and above their regular pay (bonuses, incentive pay, profit sharing, severance pay, etc.).
- d) Expenses of the CM's principal office and offices other than the Site office.
- e) Overhead and general expenses, except as may be expressly included in Articles 8.03 and 8.04.
- f) The CM's capital expenses, including interest on the CM's capital employed for the work.
- g) Rental costs of machinery and equipment, except as specifically provided in Article 8.03-d.

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- h) Except as provided in Article 8.03, costs due to the fault or negligence of the CM, trade contractors, anyone directly or indirectly employed by the CM or trade contractors, or for whose acts the CM or trade contractors may be liable, including but not limited to costs for the correction of damaged, defective or nonconforming work, disposal and replacement of materials and equipment incorrectly ordered or supplied, and making good damage to property not forming part of the work.
- i) Electronic processing and personnel cost incurred by the CM in preparing the Project schedule and schedule updates, payroll, project cost reports or project status reports and any other reports necessary to the progress of the work.
- j) Any costs based on percentages, rather than actual costs paid by the CM, unless specific percentages are documented and approved by the Owner.
- k) Any fees paid to Contractor/CM organizations. (AGC, ABC, AIA etc.)
- l) Contractor's business license.
- m) Any cost not specifically and expressly described in Articles 8.03 and 8.04.
- n) Costs that would cause the Guaranteed Maximum Price to be exceeded.

8.06 Discounts, Rebates and Refunds

- a) Cash discounts obtained on payments made by the CM shall accrue to the Owner if (1) before making the payment, the CM included them in a payment request and received payment therefore from the Owner, or (2) the Owner has deposited funds with the CM with which to make payments; otherwise, cash discounts shall accrue to the CM. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the CM shall make provisions so that they can be secured. If a trade discount by the actual supplier is available to the CM, it shall be credited to the Owner.
- b) Amounts, which accrue to the Owner in accordance with the provisions of Article 8.06-a, shall be credited to the Owner as a deduction from the cost of the work.

8.07 Escrow in Lieu of Retention

The CM has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by Owner. When the CM deposits securities as a substitute for retained earnings, the Escrow Agent shall notify the Owner within 10 days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Agreement. Securities shall be held in the name of Owner, and shall designate the Contractor as the beneficial owner.

The Owner shall make progress payments to the Contractor for those funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.

Alternatively, on written request of the CM, the Owner shall make payments of the retention earnings directly to the Escrow Agent.

When the Owner makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the Contractor until the time that the escrow created under this contract is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the Owner pays the Escrow Agent directly.

Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the Owner. These expenses and payment terms shall be determined by the Owner, Contractor, and Escrow Agent.

8.08 Stop Notices

The Owner shall retain out of any money due or that may become due the CM, sums sufficient (125 percent of the claim) to cover claims filed pursuant to the stop notice provisions of the law (Civil Code, section 3082 *et seq.*).

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Preliminary notices and stop notices should be addressed to the Project Manager and sent to the Owner at the address identified in the letter transmitting the Contract and at the preconstruction conference. CM shall be responsible to communicate this information to all trade contractors.

8.09 Guaranteed Maximum Price and Cost Savings Split

The Contract amount for the Project is guaranteed by the CM not to exceed the GMAX, as set forth in the Agreement. The GMAX is supported by a line item cost breakdown for each trade contractor, including contingency on overall cost of the work, and based on multiple trade contractor bids for each trade contract obtained as provided in these General Conditions. The GMAX shall be subject to additions and deductions by change order as provided in Article 6, Change Orders.

If the cost of the work, together with the CM's fee, exceeds the GMAX, adjusted from time to time by change order, the CM shall pay the overrun without reimbursement by the Owner. If the actual cost of the work, plus the CM's fee, is less than the GMAX, adjusted from time to time by change order, then the CM shall pay the Owner the percentage of such cost savings as identified in the SOQ proposal, with the Owner benefiting by the remaining percentage thereof. CM agrees to use all reasonable efforts to maximize the cost savings for the mutual benefit of the parties.

8.10 Final Payment

After acceptance of the Project as complete, the CM shall submit to the Project Manager a payment request indicating the total due under the Contract less retention. This payment request shall be substantiated by a detailed cost report. At the option of the Owner, additional substantiation may be requested such as trade contractor payments, material invoices, payrolls for all labor, and other such data supporting the CM's right to payment. The detailed cost report shall be forwarded to the Project Manager no later than seven (7) calendar days following the submission of the final payment request. This payment request will be processed in the same manner as the partial payment requests. Refer to Article 8.02, Partial Payments.

The Owner shall notify the CM of the date of recordation of the Notice of Completion. The CM shall then submit a request for payment of the retention to the Project Manager, who will process the retention payment 30 calendar days after the date of recordation by the County Recorder.

The Owner shall continue to retain funds to cover liquidated damages, stop notices, state labor commissioner claims, back charges from the Owner, unexecuted credit change orders, and other such claims that may be received up to the end of the 30 days period following recordation. If any stop notice has been filed, payment shall be withheld in an amount of at least 125 percent of the total claims filed until either the rights under the stop notice have been settled or the CM has posted sufficient bond in an amount of at least 125 percent of the total claims filed to secure payment of such claims.

The amount of such final payment shall be calculated as follows:

- a) Take the sum of the cost of the work for the entire project substantiated by the CM's final accounting and the CM's fee calculated previously, subject to a Owner audit if so requested.
- b) Add any cost savings on the completion of the project to which the CM is entitled pursuant to Article 8.09, Guaranteed Maximum Price and Cost Savings Split.
- c) Subtract amounts, if any, which the Owner are entitled to withhold to cover liquidated damages, stop notices, construction defects or non-conforming work or other withholds authorized by the Contract Documents.
- d) Subtract the aggregate of previous payments made by the Owner to the CM hereunder.

8.11 Auditing Rights of the Owner

The CM shall be subject to examination and audit by the Owner (or designee) at any time during construction and for a period of three (3) years after final payment of the Contract. Such examination and audit shall include access to the CM and the trade contractor records as delineated in the following:

- a) The CM's records which shall include but not be limited to accounting records (hard copy, as well as computer readable data if it can be made available), written policies and procedures; trade contractor files (including proposals of successful and unsuccessful bidders, bid recaps, etc.), original

**Contract General Conditions
Africa Exhibit
Fresno Chaffee Zoo**

estimates; estimating work sheets; correspondence; change order files (including documentation covering negotiated settlements); back charge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends; and any other supporting evidence deemed necessary by the Owner to substantiate charges related to this Contract (all foregoing hereinafter referred to as "records") and shall be open to inspection and subject to audit and/or reproduction to adequately permit evaluation and verification of (a) the CM's compliance with Contract requirements and (b) compliance with provisions for pricing change orders, payments or claims submitted by the CM or any of his payees. The CM is required to have as part of the records the following reports: a detailed cost ledger reflecting total charges against the project which present an itemization by invoice and labor costs by cost codes; a summary report identifying total project costs by cost codes; and a trade contractor history report including each subcontract amount and change orders issued thereto.

- b) Inspection and copying from time to time and at reasonable times and places any and all information, materials and data of every kind and character, including but not limited to records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract Document. Such records subject to audit shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Contract.
- c) The Owner shall be allowed to interview any of the CM's employees, pursuant to the provisions of this Article throughout the term of this Contract and for a period of three years after final payment or longer if required by law.
- d) The CM shall require all trade contractors, insurance agents, and material suppliers (payees) to comply with the provisions of this Article by insertion of the requirements hereof in a written agreement between the CM and payee. Such requirements will also apply to trade contractors and subcontractors, etc. The CM will cooperate fully and will cause all related parties and all of the CM's trade contractors (including those entering into lump sum subcontracts) to cooperate fully in furnishing or in making available to Owner from time to time whenever requested in an expeditious manner any and all such information, materials and data.
- e) The Owner shall have access to the CM's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Contract, shall have access to all necessary records, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with this Article.
- f) If an audit inspection or examination in accordance with this Article, discloses overcharges (of any nature) by the CM to the Owner in excess of one-half of one percent (.5%) of the total Contract billings, the reasonable actual cost of the Owner's audit shall be reimbursed to the Owner by the CM. Any adjustments and/or payments which must be made as a result of any such audit or inspection of the CM's invoices and/or records shall be made within a reasonable amount of time (not to exceed 30 calendar days) from presentation of the Owner findings to CM.
- g) If an audit discloses overcharges on change orders, where a CM has submitted costs and has received payment of costs for a trade contractor's work, but has not passed on such payment to the trade contractor (including mark-up charged), and the CM's records do not reflect offsetting back charges, the CM shall reimburse the Owner for such overcharges upon receipt of a request from the Owner.

8.12 Guarantee

The CM hereby unconditionally guarantees the work under this Contract to be in conformance with the Contract requirements and to be and remain free of defects in workmanship and materials for a period of one year from the date of acceptance of the project pursuant to Article 4.13-b, Starting and Completion Date,

**Contract General Conditions
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Fresno Chaffee Zoo**

unless a longer guarantee period is stipulated in the Contract Documents. By this guarantee the CM agrees, within the guarantee period, to repair or replace any work, together with any adjacent work which may be displaced in so doing which is not in accordance with the requirements of the Contract or which is defective in its workmanship or material, all without any expense whatsoever to the Owner. Special guarantees that are required by the Contract shall be signed by the CM who is responsible for the entire work and countersigned by the trade contractor that performs the work.

Contract bonds shall remain in full force and effect during the one-year guarantee period, unless a longer bond period is stipulated in the Contract Documents.

The CM further agrees that within 5 days notice by the Owner of any work not in accordance with the requirements of the Contract or of any defects in the work, CM shall commence and prosecute with due diligence all work necessary to fulfill the terms of this guarantee and to complete the work in accordance with the requirements of the Contract within a reasonable period of time. The CM, in the event of failure to so comply, does hereby authorize the Owner to proceed to have the work done at the CM's expense, and it agrees to pay the cost thereof upon demand. The Owner shall be entitled to all costs necessarily incurred upon the CM's refusal to pay the above cost.

Notwithstanding the foregoing paragraph, in the event of an emergency constituting an immediate hazard to health or safety of the Owner's employees, property, or licenses, the Owner may undertake at the CM's expense, without prior notice, all work necessary to correct such hazardous conditions caused by the work of the CM that is not in accordance with the requirements of this Contract.

-End of Contract General Conditions for
Construction Manager at Risk with Guaranteed Maximum Price Projects-



PUBLIC CONTRACT CODE - PCC

DIVISION 2. GENERAL PROVISIONS [1100 - 22355] (*Division 2 enacted by Stats. 1981, Ch. 306.*)

PART 2. CONTRACTING BY STATE AGENCIES [10100 - 19102] (*Heading of Part 2 added by Stats. 1982, Ch. 1120, Sec. 6.*)

CHAPTER 1. State Contract Act [10100 - 10285.5] (*Chapter 1 enacted by Stats. 1981, Ch. 306.*)

ARTICLE 8. Modifications; Performance; Payment [10250 - 10265] (*Article 8 enacted by Stats. 1981, Ch. 306.*)

(a) Payments upon contracts shall be made as the department prescribes upon
10261. estimates made and approved by the department, but progress payments shall not be made in excess of 100 percent of the percentage of actual work completed plus a like percentage of the value of material delivered on the ground or stored subject to or under the control of the state, and unused, except as otherwise provided in this section. The department shall withhold not more than 5 percent of the contract price until final completion and acceptance of the project. However, at any time after 95 percent of the work has been completed, the department may reduce the funds withheld to an amount not less than 125 percent of the estimated value of the work yet to be completed, as determined by the department, if the reduction has been approved, in writing, by the surety on the performance bond and by the surety on the payment bond. The Controller shall draw his or her warrants upon estimates so made and approved by the department and the Treasurer shall pay them. The funds may be released by electronic transfer if that procedure is requested by the contractor, in writing, and if the public entity has, in place at the time of the request, the mechanism for the transfer.

(b) Notwithstanding this section, when the director of the department has made a finding prior to the bid that a specified project is substantially complex and therefore requires a higher **retention** amount than 5 percent, and the department includes both this finding and the actual **retention** amount in the bid documents, then payments upon contracts by the department shall be made as the department prescribes upon estimates made and approved by the department. However, progress payments shall

not be made in excess of 95 percent of the percentage of actual work completed, plus a like percentage of the value of material delivered on the ground or stored, subject to, or under the control of the state, and unused, except as otherwise provided in this section. At any time after 95 percent of the work has been completed, the department may reduce the funds withheld to an amount not less than 125 percent of the estimated value of the work yet to be completed, as determined by the department, if the reduction has been approved, in writing, by the surety on the performance bond and by the surety on the payment bond. The Controller shall draw his or her warrants upon estimates so made and approved by the department and the Treasurer shall pay them with funds appropriated therefor. The funds may be released by electronic transfer if that procedure is requested by the contractor, in writing, and if the public entity has, in place at the time of the request, the mechanism for the transfer.

(c) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

(Amended by Stats. 2011, Ch. 700, Sec. 6. Effective January 1, 2012. Repealed as of January 1, 2016, by its own provisions. See later operative version added by Sec. 7 of Ch. 700.)

COPY

ESCROW AGREEMENT FOR SECURITY DEPOSIT IN LIEU OF RETENTION

This Escrow Agreement is made and entered into by and between the FRESNO CHAFFEE ZOO CORPORATION (hereinafter called "Owner"), whose address is 894 W. Belmont, Fresno, California, HARRIS CONSTRUCTION CO., INC. (hereinafter called "Construction Manager"), whose address is 5286 E. Home Avenue, Fresno, California 93727 and UNITED SECURITY BANK, a state or federally chartered bank in California, (hereinafter called "Escrow Agent") whose address is 2151 W. Shaw Avenue, Fresno, California 93711.

For the consideration hereinafter set forth, the OWNER, CONSTRUCTION MANAGER (CM), and ESCROW AGENT agree as follows:

1. Pursuant to existing Agreement between the OWNER & CM, CM has the option to deposit securities with Escrow Agent as a substitute for retention earnings, required to be withheld by OWNER pursuant to the Agreement entered into between the OWNER and CM for, FRESNO CHAFFEE ZOO AFRICA EXHIBIT, in the amount of \$ 44,263,000.00 dated NOVEMBER 26, 2013 (hereinafter referred to as the "Contract"). Alternatively, on written request of the CM, the owner shall make payments of the retention earnings directly to the escrow agent. When CM deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the Owner within 10 days of the deposit. The market value of the securities at the time of the substitution, as valued by the Owner, shall be at least equal to the cumulative total cash amount then required to be withheld as retention under the terms of the contract between Owner and CM. If the Owner determines that the securities are not adequate it will notify CM and Escrow Agent, and CM shall deposit additional security as further determined by the Owner. Securities shall be held in the name of the Owner, and shall designate the CM as the beneficial owner.
2. Securities eligible for invest include bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, and standby letters of credit. Deposit of any other type of security may be permitted only by mutual agreement of the CM and the Owner, evidenced by any amendment to this agreement executed by all of the parties hereto.

3. Upon the deposit of adequate securities, Owner shall make progress payments to the CM for such funds which otherwise would be withheld from progress payments pursuant to the Contract provisions.
4. When the Owner, at CM's written request, makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the CM until such time as the escrow created under this contract is terminated. The CM may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the Owner pays the Escrow Agent directly.
5. CM shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the Owner. The Owner, CM and Escrow Agent shall determine these expenses and payment terms.
6. The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest, shall be for the sole account of CM and shall be subject to withdrawal by CM at any time and from time to time, without notice to the Owner.
7. CM shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from Owner to the Escrow Agent that Owner consents to the withdrawal of the amount sought to be withdrawn by CM.
8. The Owner shall have the right to draw upon the securities or any amount paid directly to Escrow Agent in the event of default by the CM. Upon seven (7) days written notice to the Escrow Agent from the Owner of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash, including any amounts paid directly to Escrow Agent, as instructed by the Owner. Escrow Agent shall not be concerned with the validity of any notice of default given by Owner pursuant to this paragraph, and shall promptly comply with Owner's instructions to pay over said escrowed assets. Escrow Agent further agrees not to interplead the escrowed assets in response to conflicting demands and hereby waives any present or future right of interpleader.

9. Upon receipt of written notification from the Owner certifying that the Contract is final and complete and that the CM has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to CM all securities, and or monies, and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all monies and securities on deposit and payment of fees and charges.
10. Escrow Agent shall rely on the written notifications from Owner and CM pursuant to Sections (6), (7) (8) and (9) of this Agreement and Owner and CM shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.
11. The venue of any litigation concerning the rights and obligations of the parties to this Agreement shall be the County of Fresno and each party hereto expressly waives the removal provisions of Code of Civil Procedure Section 394.
12. The names of the persons who are authorized to give written notice or to receive written notice on behalf of the Owner and on behalf of CM in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of OWNER:

FRESNO CHAFFEE ZOO CORPORATION

Executive Director

(Title)

Scott BARROW

(Name)

Scott Barrow

(Signature)

On behalf of CONSTRUCTION MANAGER

PRESIDENT

(Title)

DAVID P PARKES

(Name)

David P. Parkes

(Signature)

On behalf of ESCROW AGENT:

Vice President

(Title)

Paul Thaxter

(Name)

Paul Thaxter

(Signature)

At the time the Escrow Account is opened, the Owner and CM shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESSES WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

STATE OF CALIFORNIA
PUBLIC CONTRACT CODE
Division 2. General Provisions [1100-22355]
Part 5. Withheld Contract Funds [22300-22300.]
Section 22300

22300. (a) Provisions shall be included in any invitation for bid and in any contract documents to permit the substitution of securities for any moneys withheld by a public agency to ensure performance under a contract; however, substitution of securities provisions shall not be required in contracts in which there will be financing provided by the Farmers Home Administration of the United States Department of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. Sec. 1921 et seq.), and where federal regulations or policies, or both, do not allow the substitution of securities. At the request and expense of the contractor, securities equivalent to the amount withheld shall be deposited with the public agency, or with a state or federally chartered bank in this state as the escrow agent, who shall then pay those moneys to the contractor. Upon satisfactory completion of the contract, the securities shall be returned to the contractor.

(b) Alternatively, the contractor may request and the owner shall make payment of retentions earned directly to the escrow agent at the expense of the contractor. At the expense of the contractor, the contractor may direct the investment of the payments into securities and the contractor shall receive the interest earned on the investments upon the same terms provided for in this section for securities deposited by the contractor. Upon satisfactory completion of the contract, the contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the owner, pursuant to the terms of this section.

(c) Securities eligible for investment under this section shall include those listed in Section 16430 of the Government Code, bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the contractor and the public agency.

The contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

Failure to include these provisions in bid and contract documents shall void any provisions for performance retentions in a public agency contract.

For purposes of this section, the term "public agency" shall include, but shall not be limited to, chartered cities.

(d) (1) Any contractor who elects to receive interest on moneys withheld in retention by a public agency shall, at the request of any subcontractor, make that option available to the subcontractor

regarding any moneys withheld in retention by the contractor from the subcontractor. If the contractor elects to receive interest on any moneys withheld in retention by a public agency, then the subcontractor shall receive the identical rate of interest received by the contractor on any retention moneys withheld from the subcontractor by the contractor, less any actual pro rata costs associated with administering and calculating that interest. In the event that the interest rate is a fluctuating rate, the rate for the subcontractor shall be determined by calculating the interest rate paid during the time that retentions were withheld from the subcontractor. If the contractor elects to substitute securities in lieu of retention, then, by mutual consent of the contractor and subcontractor, the subcontractor may substitute securities in exchange for the release of moneys held in retention by the contractor.

(2) This subdivision shall apply only to those subcontractors performing more than five percent of the contractor's total bid.

(3) No contractor shall require any subcontractor to waive any provision of this section.

(e) The Legislature hereby declares that the provisions of this section are of statewide concern and are necessary to encourage full participation by contractors and subcontractors in public contract procedures.

(f) The escrow agreement used hereunder shall be null, void, and unenforceable unless it is substantially similar to the following form:

ESCROW AGREEMENT FOR

SECURITY DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into by
and between _____

_____ whose address is _____
_____ hereinafter called "Owner,"
_____ whose address is _____
_____ hereinafter called "Contractor" and
_____ whose address is _____
_____ hereinafter called "Escrow Agent."

For the consideration hereinafter set forth, the Owner, Contractor, and Escrow Agent agree as follows:

(1) Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by Owner pursuant to the Construction Contract entered into between the Owner and Contractor for _____ in the amount of _____ dated _____ (hereinafter referred to as the "Contract").

Alternatively, on written request of the Contractor, the Owner shall make payments of the retention earnings directly to the Escrow Agent. When the Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the Owner within 10

days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the Owner and Contractor. Securities shall be held in the name of _____, and shall designate the Contractor as the beneficial owner.

(2) The Owner shall make progress payments to the Contractor for those funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.

(3) When the Owner makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the Contractor until the time that the escrow created under this contract is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the Owner pays the Escrow Agent directly.

(4) Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the Owner. These expenses and payment terms shall be determined by the Owner, Contractor, and Escrow Agent.

(5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the Owner.

(6) Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from the Owner to the Escrow Agent that Owner consents to the withdrawal of the amount sought to be withdrawn by Contractor.

(7) The Owner shall have a right to draw upon the securities in the event of default by the Contractor. Upon seven days' written notice to the Escrow Agent from the owner of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the Owner.

(8) Upon receipt of written notification from the Owner certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.

(9) Escrow Agent shall rely on the written notifications from the Owner and the Contractor pursuant to Sections (5) to (8), inclusive, of this Agreement and the Owner and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

(10) The names of the persons who are authorized to give written

notice or to receive written notice on behalf of the Owner and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of Owner: On behalf of Contractor:

_____	_____
Title	Title
_____	_____
Name	Name
_____	_____
Signature	Signature
_____	_____
Address	Address
On behalf of Escrow Agent:	

Title	

Name	

Signature	

Address	

At the time the Escrow Account is opened, the Owner and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

Owner	Contractor
_____	_____
Title	Title
_____	_____
Name	Name
_____	_____
Signature	Signature

Fresno County Zoo Authority 2014 Meeting Calendar

Adopted February 26, 2014

January						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

February						
Su		Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

March						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

April						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

May						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

June						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

No meeting held May 28, 2014. Special meeting called June 11, 2014.

July						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

August						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

September						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

October						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

November						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

December						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Fresno County Holidays

January 1	New Year's Day	May 6	Memorial Day	November 11	Veterans Day
January 20	Martin Luther King Day	July 4	Independence Day	November 27	Thanksgiving Day
February 17	Presidents' Day	September 1	Labor Day	November 28	County Holiday
March 31	César Chávez Day, observed	November 4	Election Day	December 25	Christmas Day