

SPECIFICATIONS

Ballfields Rehabilitation Project



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City Engineer

**PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION
11333 VALLEY BOULEVARD,
EL MONTE, CA 91731
(626) 580-2058**

November 2016

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City of El Monte

Notice to Contractors Inviting Bids

Date: November 14, 2016

NOTICE IS HEREBY GIVEN that sealed proposals for performing the following described work will be received at the office of the City Clerk of the City of El Monte, 11133 Valley Boulevard, El Monte, California until 10:00 A. M. on Tuesday, November 29, 2016. Thereafter said bids will be publicly opened and read in the City Clerk's office of said City.

Ballfields Rehabilitation Project

The proposed work to be constructed is located on Lambert Park and Mountain View Park and shall include the following tasks:

For Lambert Park Little League and Tinny league Fields

- Grading of diamond
- Installation of sod on ballfield with Hybrid Bermuda 1" depth
- Construct field per Little League specifications
- Redesign irrigation system to provide complete turf coverage

For Mountain View Park Little League and Adult Softball league Fields

- Grading of diamond
- Installation of sod on ballfield with Hybrid Bermuda 1" depth
- Construct field per Little League specifications
- Redesign irrigation system to provide complete turf coverage

The contract will be awarded to the contractor who submits the lowest Bid Amount based on the summation of Schedule A and Schedule B and who's bid proposal is responsive and responsible. The estimated cost of the above described work is **\$377,654**. Bidders shall have a valid California Landscape Contractor's License **C-27** issued by the Contractor's State License Board at the time of submitting the bid. No bid will be accepted from a Contractor who has not been licensed in accordance with the Provisions of Chapter 9, Division III, of the Business and Professions Code of the State of California at the time the bid is submitted.

The project shall be made ready for service within **Forty (40) calendar days** after the Notice to Proceed is issued. The deductions for liquidated damages shall be **\$2,500/day** from date of required contract completion until actual contract completion date.

A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. It is not a violation for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

The project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. **In addition, the project is subject to the provisions in the “Continuity of Work Agreement by and Between the City of El Monte and the Los Angeles and Orange Counties Building and Construction Trades Council and the Signatory Crafts Councils and Unions”.**

Ten percent of the payments due to the successful Contractor shall be withheld by the City as retention for performance security, but the Contractor may substitute securities for said retention pursuant to Section 7.04 of the General Conditions.

If the Bidder is awarded the contract, the contract shall be terminated and the bid bond forfeited if the Bidder fails to provide the applicable insurance certificates and bonds within the time set forth in Section 25 of the Instructions to Bidders.

Proposals (bids) to perform the work shall be made on the forms provided by the City Engineer and shall be submitted complete, including bid bond and list of subcontractors, in accordance with the Instructions to Bidders and other requirements of the bid document. In order to qualify to bid this project, bidders must obtain and properly execute a hardcopy of the contract documents. Contract documents may be obtained from the City’s Engineering Division, 11133 Valley Boulevard, El Monte, California 91731, for a non-refundable fee. Contact project manager, Nadeem Syed, at (626) 285-8833 for questions regarding this project.

City of El Monte, California

City Clerk of the City of El Monte

Instructions to Bidders

1. Registration of Contractors and Subcontractors

Before submitting bids, contractors shall be licensed in accordance with the provisions of Division 3, Chapter 9 of the Business and Professions Code of the State of California and submit the number and classification of said licenses. All contractors and subcontractors who bid or work on a public works project must register and pay an annual fee to the Department of Industrial Relations (DIR).

2. Questions prior to Opening Bid

Questions regarding documents, discrepancies, omissions, or intent of specifications or drawings, shall be communicated to the project manager, in writing at nsvyed@elmonteca.gov, at least five (5) calendar days prior to opening of bids, to provide time for issuing and forwarding an addendum should the City consider an addendum necessary. The City will not be responsible for oral interpretation of the specifications and drawings.

3. Obtaining Drawings and Documents

The project drawings are available from the City Public Works Department, Engineering Division. In order to qualify to bid this project, bidders must obtain and properly execute a hardcopy of the contract documents. Contract documents may be obtained from the Public Works Department, Engineering Division, City Hall West, 11133 Valley Boulevard, El Monte, CA 91731, for a non-refundable fee.

4. Proposal Forms – Submittal

The proposal shall be made on the forms provided herein with the blank spaces properly filled in. The phraseology shall not be changed, and no additions shall be made to the items mentioned herein. Unauthorized conditions, limitations, or provisions attached to a proposal will render it informal and may cause its rejection. All forms (colored paper) requiring specific information shall be completed with all applicable information for a bid to be considered responsive. Special attention should be given to completing:

- A. Bid Bond;
- B. Bidder's Qualifications and References;
- C. Designation of Subcontractors;
- D. Contractor's Affidavit of Non-collusion;
- E. False Claims/False Claims Act certification;
- F. Debarments;
- G. Criminal Convictions/Criminal Conviction Certification;
- H. Contractor's Industrial Safety Record;
- I. Pre-Bid Site Inspection Certification; and
- J. Workers' Compensation Certificate
- K. Compliance Documents required for CDBG-funded Construction projects

Include all proposal forms (color paper). Enclose the proposal in a sealed envelope; type or print on the envelope "Proposal for" followed by the title and specification number and the date and time of bid opening as they appear on the cover of this Specification book, and the bidder's name and address. The envelope may be mailed, hand delivered, or delivered by courier or package delivery service.

Mailed proposals shall be addressed as follows:

City Clerk
City of El Monte
City Hall East
11333 Valley Boulevard
El Monte, CA 91731

Proposals that are hand delivered or delivered by courier or package delivery service shall be presented to:

City Clerk
City of El Monte
City Hall East
11333 Valley Boulevard
El Monte, CA 91731

Proposals received after bid opening time as stated in this Specifications or at any place other than the office of the City Clerk will not be considered. Prior to the stated bid opening time, a bidder may withdraw his proposal without prejudice to himself by submitting a written request for its withdrawal to the City Clerk.

5.

6. Proposal Form

The full name, business address, zip code, and business telephone number, with area code of the individual, partnership, joint venture, or corporation submitting the proposal shall be typewritten or legibly printed on the proposal. The bidder shall sign the proposal with his usual signature. An individual submitting a proposal or a partner signing for a partnership shall sign in the presence of a Notary public and the notarial acknowledgment shall be attached to the proposal. A partner shall sign for a partnership and the names and addresses of all partners shall be given. An officer shall sign for a corporation, the corporate name shall be attested by the corporate seal, and the names and titles of all officers of the corporation shall be given. A signature other than a corporate officer's will be accepted if an authenticated power of attorney is attached.

7. Proposal Forms – Prices

The bidder shall include in his bid price(s) any and all expense or costs that may be necessary to complete the project in accordance with the requirements of the contract. The bidder shall state for each item on the proposal form, in clearly legible figures, the unit price and item total or lump sum, as the case may be, for which he proposes to supply labor, materials, and equipment and to perform the work required by this Specification. Alteration of a price by erasure or interlineations must be explained or noted in the proposal over the signature of the bidder. In the case of a unit price item, the amount set forth, as the item total shall be the product of the estimated quantity times the unit price bid. In the event of a discrepancy between the unit price bid and the item total, the unit price shall prevail; however, if the unit price is ambiguous, unintelligible, or uncertain for any cause, or is omitted, or is the same amount as the entry for the item total, then the item total shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price. In the event of a discrepancy between the unit price extension and the total amount bid or summaries of totals, the unit price extension total shall prevail.

8. Bidder's Bond

Each bidder shall submit with his proposal a bidder's bond for not less than 10% of the total amount of the bid, using the form entitled "Bidder's Bond" contained in this Specification, and properly executed and acknowledged by the bidder and by a corporate surety authorized to transact such business in the State of California. Such bond shall be accompanied by a power of attorney from the surety company authorizing the person executing the bond to sign on behalf

of the company. If the bond is executed outside the State of California, all copies of the bond must be countersigned by a California representative of the surety. The signature of the person executing the bond shall be acknowledged by a notary public as the signature of the person designated in the power of attorney. The surety or sureties on the bond must be satisfactory to the City. The City will reject a surety bond obtained from any company not holding Certificate of Authority from the U.S. Secretary of the Treasury under the Act of Congress approved July 30, 1947, (6 U.S.C., Secs. 6-13) as acceptable sureties on federal bonds. Any alteration of said form of bidder's bond, or imperfection in the execution thereof, a herein required, will render it informal and may, at the option of the City, result in the rejection of the proposal under which the bidder's bond is submitted.

9. Bidder's Qualifications and References

The bidder must complete all information required, on both sides of the form, entitled "Bidder's Qualifications and References" and sign the form. If no information is to be filled in a blank space, then write "none"

10. Designation of Subcontractors

The bidder must complete the form entitled "Designation of Subcontractor" for all subcontracts in excess of one-half of one percent of the total bid. Subcontractors' names and city of business shall be complete and legible. Clearly state that portion of the work to be done by each subcontractor listed, by trade and by estimated dollar amount. Within 24 hours of the bid opening, the Contractor shall submit a typed listing of subcontractors, listing subcontractors' name, complete address, phone number, license, trade and estimated dollar amount.

11. Declaration of Non-collusion

Each bidder shall execute and submit with the proposal the Declaration of Non-collusion. The bidder signing the Declaration of Non-collusion shall meet all requirements for signing the proposal form.

12. False Claims Act Certification

Each proposer shall be required to complete and submit along with their proposal the certification forms relating to false claims.

13. Debarments

Each proposer shall be required to complete and submit along with their proposal the certification forms relating to debarments.

14. Criminal Conviction Certification

Each proposer shall be required to complete and submit along with their proposal the certification forms relating to criminal convictions history.

15. Contractor's Industrial Safety Record

Each proposer shall be required to complete and submit along with their proposal the forms relating to industrial safety.

16. Workers' Compensation Certificate

Each proposer shall be required to complete and submit along with their proposal the certification relating to workers' compensation.

17. Examination of Drawings, Specifications, and Site of Work

The bidder shall examine carefully the site of the work contemplated and the proposal, drawings, and specifications therefore. The submission of a bid will be conclusive evidence that the bidder has investigated and is satisfied as to the conditions to be encountered, as to the character, quality, and quantities of work to be performed and materials to be furnished, the difficulties to be encountered, and to the requirements of the proposal, drawings, specifications, and other contract documents. The bidder is required to ascertain the locations of the existing utility services, and other underground facilities, and to provide for carrying out his operations so as to cause the minimum possible inconvenience to the occupants of property along any streets affected. All work and costs involved in the safeguarding of the property of others shall be at the expense of the bidder to whom the contract may be awarded.

The bidder hereby certifies that he has examined the local conditions, has read each and every clause of the Specifications, and that he has included all costs necessary to complete the specified work in his bid prices, and the bidder agrees that if he is awarded the contract he will make no claim against the City based upon ignorance of local conditions or misunderstanding of any of the provisions of the contract. Should the conditions turn out otherwise than anticipated by him, the bidder agrees to assume all risks incident thereto.

18. Interpretation of Specifications

Should a bidder find discrepancies in, or omission from, the specifications or plans, or should the bidder be in doubt as to their meaning, the bidder shall at once notify the City Engineer, requesting interpretation or clarification. The person submitting such request will be responsible for its prompt delivery. Should the City Engineer find that the point in question is not clearly and fully set forth; the City Engineer may issue a written addendum which will be sent to all bidders of record. The City Engineer will not be responsible for any other explanation or interpretations of the plans or specifications, or for any oral instructions. If the bidder does not so notify the City Engineer, the bidder shall be conclusively deemed to have read, understood and agreed with all the information and materials contained in the bid documents.

19. Experience

Bidders, if required, shall present satisfactory evidence that they have been regularly engaged in furnishing such material and equipment and constructing such work as they propose to furnish or construct and that they are fully prepared with necessary capital, equipment, and material to begin work promptly and to conduct it as required by this Specification.

20. Prices and Payments

Approximate quantities listed in the Notice to Contractors and quantities listed for unit price items on the bidding form are rough estimates given for comparing bids, and no claim shall be made against the City for excess or deficiency therein, actual, or relative. Payment at the prices agreed upon will be in full for the completed work and will cover materials, supplies, labor, tools, equipment, and all other expenditures incident to a satisfactory compliance with the contract, unless otherwise specifically provided.

21. Substitutions

To obtain approval during bid period to use unspecified products, bidders shall submit written requests at least ten (10) working days before the bid date and hour. Requests received after this time will not be considered. Requests shall clearly describe the product for which approval is asked, including all data necessary to demonstrate acceptability. If the product is acceptable, an addendum will be issued covering it.

22. Modifying Bid

Any bidder may modify his bid by written communication, provided such communication is received by the City Clerk's Office prior to the bid opening time. The written communication should not reveal the bid price but should state the addition or subtraction or other modifications so that the final prices or terms will not be known by the City until the sealed bid is opened.

23. Bid Opening

All proposals will be opened and declared publicly at the time and place stated in the Notice to Contractors. Bidders, their representative, and other interested parties are invited to be present. After the bid opening, proposals may be inspected at the Department of Public Works, Engineering Division, until 3:00 p.m. on the working day following the bid opening.

24. Mistakes in the Bid

A bidder shall be relieved of a bid due to mistakes only if the bidder can establish to the satisfaction of the City Engineer that all of the following circumstances exist:

- A. A mistake was made.
- B. The bidder gave the public entity a written notice within five (5) calendar days after opening of the bids of the mistake, specifying in the notice in detail how the mistake occurred.
- C. The mistake made the bid materially different from what the bidder intended it to be.
- D. The mistake was made in filling out the bid and not due to error in judgment or to carelessness in inspecting the site of the work, or in reading the plans and specifications.

25. Award

The City reserves the right to reject any or all proposals and to waive technical defects, as the interest of the City may require. Award of contract or rejection of bid proposals will be made by the City within 90 calendar days following the bid opening.

26. Basis of Award

Contract will be awarded to the lowest responsible bidder meeting all requirements set forth in these specifications. The City will award the contract based on the lowest base bid.

27. Execution of Contract

No later than ten (10) working days after being notified by City that he/she has been awarded the contract, Contractor shall deliver to the City Engineer the following documents:

1. Three (3) copies of the Agreement in the form included herein, properly executed by Contractor and, if the Contractor is a corporation, evidence of its corporate existence and the persons signing the Agreement are authorized to do so.
2. Properly executed copies of the following:
 - a. Faithful Performance Bond,
 - b. Payment Bond, and
 - c. Maintenance Bond in accordance with the requirements set forth in Article 11 of the General Conditions and attached thereto.
3. Properly executed copies on the following City forms;
 - a. The General Liability Endorsement and Waiver of Subrogation,
 - b. The Automotive Liability Endorsement and Waiver of Subrogation, and
 - c. Waiver of Subrogation and Contribution.
4. Certificate of Insurance with 30-day notice in accordance with the requirements set forth in Article 11 of the General Conditions and attached thereto.
5. A Copy of DIR submittal forms.

In any event that the tenth working day falls on Friday, Saturday, Sunday or a legal holiday that is observed by the City for the State of California, the aforesaid documents shall be delivered by the following working day. After the receipt of said documents within said time period or any extension thereof granted by the City Engineer, the City shall execute the Agreement and return one of said three copies to Contractor for his files.

28. General Prevailing Wage Rates

In accordance with Labor Code Section 1770 et seq., this Project is a “public work,” and thus, the Contractor and any Subcontractors must pay wages in accordance with the determination of the Director of the Department of Industrial Relations (“DIR”) regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Director of Public Works, and are available to any interested party upon request. Contractor shall post a copy of the DIR’s determination of the prevailing rate of per diem wages at each job site.

29. Failure to Execute Contract

If the bidder to whom the award is made fails to enter into the contract as herein provided and furnish the said bonds and insurance, this shall be just cause for the annulment of the award and the forfeiture of the Bidder's Bond, and an award may, in the discretion of the City Engineer, be made to the bidder whose proposal is the next most acceptable to the City in the opinions of the City Council, and such bidder shall fulfill every term, covenant and condition herein as if he were the party whom the first award was made.

Part I: Bid Submission Forms

Proposal Acknowledgement

Date: _____,

Ballfields Rehabilitation Project

TO THE CITY OF EL MONTE, EL MONTE, CALIFORNIA

Pursuant to the foregoing Notice to Contractors Inviting Bids, the undersigned bidder herewith submits a proposal on the bidding form or forms attached hereto and made a part hereof, and binds himself on award by the City of El Monte under this proposal to execute in accordance with such award a contract, of which this proposal and the said Notice to Contractors Inviting Bids, Instructions to Bidders, Specifications, and drawings shall be a part, and to furnish the bond or bonds required by the Specifications. The attached Notice to Contractors Inviting Bids, Instructions to Bidders, Specifications, and drawings are made a part of this proposal and all provisions thereof are hereby accepted.

The bidder acknowledges that the Instructions to Bidders provides, among other things, that the Contract shall be terminated and the bid bond forfeited if the contractor fails to provide the applicable insurance certificates and bonds within the time set forth in Section 25 of the Instructions to Bidders.

The bidder further agrees that, in case of his default in executing the required contract and the required bond or bonds, or furnishing the required insurance, the money payable under the bid bond accompanying his proposal shall be applied by the City towards payment of the damage to the City on account of such default, as provided on the specifications.

Firm _____

By _____

(Signature)

Address _____

Zip _____

Phone _____

Fax _____

(CORPORATE SEAL OR NOTARIAL
ACKNOWLEDGEMENTS OF
SIGNATURE – IF PARTNERSHIP OR
PROPRIETORSHIP)

Nature of firm (corporation, partnership, etc.) and
names of individual members of the firm, or
names and titles of officers of the corporation.

Corporation organized under the laws of the State
of: _____

Bidder's Proposal

Name of Bidder: _____

The undersigned, having examined the proposed Contract Documents titled:

Ballfield Rehabilitation Project

and having visited the site and examined the conditions affecting the work, hereby proposes and agrees to furnish all labor, materials, equipment, and appliances, and to perform operations necessary to complete the work as required by said proposed Contract Documents as itemized below:

SCHEDULE "A" (BASE BID)

ITEM NO.	ITEMS DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
1A	Mobilization	1	LS		
2A	SWPPP	1	LS		
3A	Surveying and Construction Staking	1	LS		
4A	Rehab Little League Field <i>infield</i> of Lambert Park per part III technical specifications	1	LS		
5A	Rehab Tiny League Field <i>infield</i> of Lambert Park per part III technical specifications	1	LS		
6A	Rehab Little League Field <i>infield</i> of Mountain View Park per part III technical specifications	1	LS		
7A	Rehab Softball League Field <i>infield</i> of Mountain View Park per part III technical specifications	1	LS		
TOTAL - BID SCHEDULE "A"					

"Schedule "A" Bid Total in Words

SCHEDULE "B" (ALTERNATE BID)

ITEM NO.	ITEMS DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
1B	SWPPP	1	LS		
2B	Surveying and Construction Staking	1	LS		
3B	Rehab Little League Field <i>outfield</i> of Lambert Park per part III technical specifications	1	LS		
4B	Rehab Little League Field <i>outfield</i> of Mountain View Park per part III technical specifications	1	LS		
TOTAL - BID SCHEDULE "B"					

"Schedule B" Bid Total in Words

SCHEDULE "C" (ALTERNATE BID)

ITEM NO	ITEMS DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
1B	SWPPP	1	LS		
2B	Surveying and Construction Staking	1	LS		
3B	Rehab Tiny League Field outfield of Lambert Park per part III technical specifications	1	LS		
4B	Rehab Softball League Field outfield of Mountain View Park per part III technical specifications	1	LS		
TOTAL - BID SCHEDULE "C"					

"Schedule C" Bid Total in Words

(\$ _____)

Schedule "A" , "B" and "C" Bid Total in Words Schedule "A" , "B" and "C" Bid Total in Figures

Note: The contract will be awarded to the contractor who submits the lowest Bid Amount based on the summation of Schedule "A", Schedule "B" and Schedule "C", and whose bid proposal is responsive and responsible. The City reserves the right to award the contract amount based on available budget and priorities.

The City reserves the right to request the unit price of some or all contract items.

_____	_____
Name of Bidder	Amount of Certified Check/ Bidder's Bond
_____	_____
Address	Name of Bonding Company

The price shall include all State, Federal, and other taxes applicable to the project, and shall be a firm offer for a period of forty (40) days after the date of bid opening.

Bid Bond

Bond No. : _____

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of El Monte, California (“City”) has issued an invitation for bids for the work described as follows:

Ballfields Rehabilitation Project

WHEREAS _____

(Name and Address of bidder)

(“Principal”), desires to submit a bid to City or the work.

WHEREAS, bidders are required, under the terms of the Section 20170 of the California Public Contract Code, to furnish a form of bidder’s security with their bid.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and Address of Surety)

(“Surety”) a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the City in the penal sum of _____ Dollars (\$_____), being not less than ten percent (10%) of the total bid price, including alternate, in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal is awarded a contract for the work by the City and, within the time and in the manner required by the bidding specifications, enters into the written form of contract included with bidding specifications, furnishes the required bonds, one to guarantee faithful performance and

Bidder's Qualifications and References

NAME OF BIDDER: _____

THE BIDDER SHALL COMPLETE THE FOLLOWING STATEMENTS:

1. The bidder has been engaged in the contracting business, under the present business name, for _____ years.

2. Experience in work of a nature similar to that covered in the Proposal extends over a period of _____ years.

3. The bidder, as a contractor, has never failed to satisfactorily complete a contract awarded to him, except as follows (Name any and all exceptions and reasons therefore):

4. Contractor's License Number, State of California _____ Class _____

5. Contractor's License Expiration Date _____

6. Department of Industrial Relations (DIR) Registration Number _____

7. The following contracts have been satisfactorily completed in the last three years for the persons, firm, or authority indicated; and to whom reference is made. (Name five contracts and include the total contract amount as well as the original bid amount for each contract.)

	YEAR	TYPE OF WORK	FINAL CONTRACT AMOUNT	ORIGINAL BID AMOUNT	LOCATION AND FOR WHOM PERFORMED
1					
2					
3					
4					
5					

8. The following persons may be contacted for information concerning the contract work listed above (list a reference for each contract named)

	NAME	TITLE	ADDRESS	TELEPHONE
1				
2				
3				
4				
5				

9. Reference is hereby made to the following bank or banks as to the financial responsibility of the bidder:

Bank _____ Branch _____

Bank _____ Branch _____

Bank _____ Branch _____

10. Reference is hereby made to the following surety company or companies as to the financial responsibility and general reliability of the bidder:

Surety Company _____ Phone _____

Surety Company _____ Phone _____

11. Following is a list of plant and equipment that is owned by the bidder and is definitely available for use on the proposed project:

QUANTITY	NAME, TYPE AND CAPACITY	CONDITION	LOCATION

(Attach additional sheets as necessary)

12. All of the above statements as to experience, financial qualifications, and available plant and equipment are submitted in conjunction with the proposal, as a part thereof, and the truthfulness and accuracy of the information is guaranteed by the bidder.

Signature of Bidder _____

Designation of Subcontractors

NAME OF BIDDER: _____

In compliance with the provisions of the Subletting and Subcontracting Fair Practices Act (Division 2, Part 1), Chapter 4 of the Public Contract Code of the State of California, and any amendments thereof, each bidder shall set forth below:

1. The name and location of the place of business of each subcontractor who will perform work or labor or render service to the Contractor in or about the construction of the work or improvement, or a subcontractor licensed in the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of one percent of the Contractor's total bid.

2. The portion and estimated dollar amount of the work which will be done by each subcontractor. The Contractor shall list only one subcontractor for each portion as is defined by the Contractor in his bid.

Please type or legibly print (attach additional sheets as necessary).

NAME OF SUBCONTRACTOR	CITY	PORTION	ESTIMATED \$ AMOUNT
Name: License no.: License Class: DIR Registration No.:			
Name: License no.: License Class: DIR Registration No.:			
Name: License no.: License Class: DIR Registration No.:			

Circumvention by the Contractor of the requirements under Section 4104 of the Public Contract Code to list his subcontractors, by the device of listing another contractor who will in turn sublet portions constituting the majority of the work covered by this contract, shall be considered a violation of Division 2, Part 1, Chapter 4 of the Public Contract Code and shall subject the Contractor to the penalties set forth in Sections 4110 and 4111 of the Public Contract Code.

If the Contractor fails to specify a subcontractor or if the Contractor specifies more than one subcontractor for the same portion for work to be performed under the contract in excess of one-half of one percent of the Contractor's total bid, he agrees that he is fully qualified to perform that portion himself, and that he shall perform that portion himself. If after award of contract, the Contractor subcontracts, except as provided for in Sections 4107 or 4109 of the Public Contract Code, any such portion of the work, the Contractor shall be subject to the penalties named in Section 4111 of the Public Contract Code.

The Contractor shall not:

A. Substitute any person as subcontractor in place of the subcontractor listed in the original bid, except that the City may, except as otherwise provided in Section 4107.5 of the Public Contract Code, consent to the substitution of another person as subcontractor:

1. When the subcontractor listed in the bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract, based upon the general terms, conditions, plans and specifications for the project involved or the terms of such contractor's written bid, is presented to him by the Contractor, or
 2. When the listed subcontractor becomes bankrupt or insolvent, or
 3. When the listed subcontractor fails or refuses to perform his subcontract,
- or
4. When the listed subcontractor fails or refuses to meet the bond requirements of the Contractor as set forth in section 43108 of the Public Contract Code, or
 5. When the Contractor demonstrates to the City, subject to the further provisions set forth in Section 4107.5 of the Public Contract Code, that the name of the subcontractor was listed as the result of an inadvertent clerical error, or
 6. When the listed subcontractor is not licensed pursuant to the Contractor's License Law, or

7. When the City determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the subcontractor is substantially delaying or disrupting the progress of the work.

B. Permit any subcontract to be voluntarily assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in the original bid, without the consent of the City.

C. Other than in the performance of "change orders" causing changes or deviations from the original contract, sublet or subcontract any portion of the work in excess of one-half of one percent of the Contractor's total bid as to which his original bid did not designate a subcontractor.

Prior to approval of a Contractor's request for a subcontractor substitution, the City will give notice in writing to the listed subcontractor of the Contractor's request to substitute and of the reason for the request. The notice will be served by certified or registered mail to the last known address of the subcontractor. The listed subcontractor who has been so notified shall have five working days within which to transmit to the City written objections to the substitution. Failure to file these written objections shall constitute the listed subcontractor's consent to the substitution.

If written objections are filed, the City will give notice in writing of at least five working days to the listed subcontractor of a hearing by the City on the Contractor's request for substitution.

The Contractor, as a condition to asserting a claim of inadvertent clerical error in the listing of a subcontractor, shall within two working days after the time of the bid opening by the City, give written notice to the City and copies of such notice to both the subcontractor he claims to have listed in error and the intended subcontractor who had bid to the Contractor prior to the bid opening.

Subletting or subcontracting of any portion of the work in excess of one-half of one percent of the Contractor's total bid as to which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the City setting forth the facts constituting the emergency or necessity.

If the Contractor violates any of the provisions of Division 2, Part 1, Chapter 4 of the Public Contract Code or any amendments thereof, the Contractor violates his contract and the City may exercise the option, in its own discretion, of (1) cancelling its contract, or (2) assessing the Contractor a penalty in an amount not more than ten percent of the amount of the subcontract involved, and this penalty shall be deposited in the fund out of which the prime contract is awarded. In any proceedings under Section 4110 of the Public Contract Code the Contractor shall be entitled to a public hearing and to five days' notice of the time and place thereof.

Contractor's Affidavit of Non-collusion

STATE OF CALIFORNIA)

) SS

COUNTY OF LOS ANGELES)

_____ being first duly sworn, deposes and says:

1. That he is _____ (Title of office if a corporation: "sole owner," "Partner," or other proper title) of _____, hereinafter called "Contractor", who has submitted to the City of El Monte a proposal for the construction of **FY 2015-2016 Pavement Rehabilitation Program**

2. That said proposal is genuine; that the same is not sham; that all statements of fact therein are true;

3. That such proposal was not made in the interest or behalf of any person, partnership, company, association, organization, or corporation not named or disclosed.

4. That the Contractor did not, directly or indirectly induce, solicit or agree with anyone else to submit a false or sham bid, to refrain from bidding, or withdraw his bid, to raise or fix the bid price of the Contractor price or of anyone else, or to raise or fix any overhead profit, or cost element of the Contractor's price or the price of anyone else; and did not attempt to induce action prejudicial to the interest of the City of El Monte, or of any other bidder, or anyone else interested in the proposed contract;

5. That the Contractor has not in any manner sought by collusion to secure for himself an advantage over any other bidders or induce action prejudicial to the interests of the City of El Monte or of any other bidder, or anyone else interested in the proposed contract;

6. That the contractor has not accepted any bid from any subcontractor or material man through any bid depository, the bylaws, rules or regulations, of which prohibit or prevent the Contractor from considering any bid from any subcontractor or material man, which is not processed through said bid depository, or which prevent any subcontractor or material man from bidding to any Contractor who does not use facilities of or accept bids from or through such bid depository;

7. That the Contractor has not been debarred from participation in any state or federal public works project.

8. That the Contractor did not, directly or indirectly, submit the Contractor's bid price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any individual or group of individuals, except to the City of El Monte, or to any person or persons who have partnership or other financial interest with said Contractor in his business.

Dated this _____ day of _____

Contractor

Name

Title

SUBSCRIBED AND SWORN TO BEFORE ME

ON _____

Notary Public in and for the County of Los Angeles, State of California

Place Notary Seal Above

False Claims/ False Claims Act Certification

Bidder shall provide either the certification requested below or the information requested on the next page. **Failure to certify or provide the requested information may result in a determination that the Bidder is non-responsive. Failure to fully and accurately provide the requested certification or information may result in a determination that the Bidder is not responsible.** "False Claims Act", as used herein, is defined as either or both the Federal False Claims Act, 31 U.S.C. Sections 3729 et seq., and the California False Claims Act, Government Code Sections 12650 et seq.

FALSE CLAIMS ACT CERTIFICATION

If the Bidder has no False Claims Act violations as described above, complete the following:

I, _____, am the _____
(Print name of person responsible for submitting bid) (Title with bidding entity)

of _____ (hereinafter, "Bidder").
(Print Name of Bidding Entity)

In submitting a bid to the City of El Monte for the _____ ("Project"), I, hereby certify that neither Bidder nor any person who is an officer of, in a managing position with, or has an ownership interest in Bidder has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act as defined above.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of _____ at _____
(month and year) (city and state)

by _____
(Signature of Person Responsible for Submitting Bid on behalf of Bidder)

FALSE CLAIMS ACT VIOLATIONS INFORMATION

- (1) Date of Determination of Violation: _____
- (2) Identity of tribunal or court and case name or number, if any: _____
- (3) Government Contract or project involved: _____
- (4) Government agency involved: _____
- (5) Amount of fine imposed: _____
- (6) Exculpatory Information: _____

DECLARATION

I, _____, the _____
(Print name of person responsible for submitting bid) (Title with bidding entity)

of _____ (hereinafter, "Bidder")
(Print Name of Bidding Entity)

declare under penalty of perjury that the above information is true and correct.

Executed this _____ day of _____ at _____
(month and year) (city and state)

by _____
(Signature of Person Responsible for Submitting Bid on behalf of Bidder)

END OF DOCUMENT

Debarments

Bidder shall provide either the certification requested below or the information requested on the next page. **Failure to provide such certification or information may result in a determination that the Bidder is nonresponsive. Failure to fully and accurately provide the requested certification or information may result in a determination that the Bidder is not responsible.** For the ten (10) years preceding the date this Bid is due, identify on the following page any debarment by any Federal, State, or local public agency arising out of the performance of a construction contract (1) by the Bidder submitting this Bid, including any person who is an officer of, or in a management position with, or has an ownership interest in the contracting entity which is submitting this Bid, or (2) by the qualifying person licensed by the Contractors' State License Board to perform the work described in the Bid, including any debarment of any such person when they were an officer, manager, owner, or responsible managing employee of a construction contractor other than the Bidder submitting this Bid. Provide on the following page labeled "Debarment Information:" (i) the date of debarment and the duration of the debarment, (ii) the project name or contract from which the debarment arose, (iii) the identity of the debarring agency, (iv) stated reason for debarment, and (v) any exculpatory information of which the City of El Monte should be aware. In accordance with California Public Contract Code Section 6109, Contractors and subcontractors who are ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7 may neither bid on, be awarded or perform as a subcontractor on public works projects.

HISTORY OF DEBARMENT CERTIFICATION

If the Bidder has no debarments to report as described above, complete the following:

I, _____, hereby certify that neither
(Print name of owner, officer, manager, or licensee responsible for submission of Bid)

(Bidder name as shown on Bid)

nor _____
(Name of responsible managing person licensed by Contractors' State License Board)

is ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of _____ at _____
(month and year) (city and state)

by _____
(signature of owner, officer, manager, or licensee responsible for submission of Bid)

DEBARMENT INFORMATION

(1) Date and duration of debarment:

(2) Project name or contract involved:

(3) Debarring agency:

(4) Stated reason for debarment:

(5) Exculpatory information:

Declaration: I declare under penalty of perjury that the above information is true and correct.

Executed this _____ day of _____ at _____
(date) (month and year) (city and state)

by _____
(Signature of owner, officer, manager, or licensee responsible for submission of Bid)

Criminal Convictions/ Criminal Conviction Certification

Bidder shall provide either the certification requested below or information requested on the next page. **Failure to provide such certification or information may result in a determination that the Bidder is nonresponsive. Failure to fully and accurately provide the requested certification or information may result in a determination that the Bidder is not responsible.** For the five (5) years preceding the date of submittal of this Bid, identify on the following page any criminal conviction for any violation of law suffered by any of the following entities or persons in the performance of a procurement contract within the United States: the Bidder submitting the instant bid, including any person who is an officer of, or in a managing position with, or has an ownership interest in the entity submitting the Bid. Provide on the following page labeled "Criminal Convictions Information": (i) the date of conviction; (ii) the name and court case identification number; (iii) the identity of the law violated; (iv) the identity of the prosecuting agency; (v) the contract involved; (vi) the punishment imposed; and (vii) any exculpatory information of which the City of El Monte should be aware.

CRIMINAL CONVICTION CERTIFICATION

If the Bidder has no criminal convictions to report as described above, complete the following:

I, _____, am the _____
(Print name of person responsible for submitting bid) (Title with bidding entity)

of _____ (hereinafter, "Bidder").
(Print Name of Bidding Entity)

In submitting a bid to the City of El Monte for the _____ ("Project"), I hereby certify that neither Bidder nor any person who is an officer of, in a managing position with, or has an ownership interest in Bidder has suffered a criminal conviction as described, above.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of _____ at _____
(month and year) (city and state)

by _____
(Signature of Person Responsible for Submitting Bid on behalf of Bidder)

CRIMINAL CONVICTIONS INFORMATION

- (1) Date of Conviction: _____

- (2) Name of Case: _____
Court case identification number: _____

- (3) Identity of law violated: _____

- (4) Identify of the Prosecuting Agency: _____

- (5) Contract involved: _____

- (6) Punishment Imposed: _____

- (7) Exculpatory Information: _____

DECLARATION

I, _____, the _____
(Print name of person responsible for submitting bid) (Title with bidding entity)

of _____ (hereinafter, "Bidder")
(Print Name of Bidding Entity)

declare under penalty of perjury that the above information is true and correct.

Executed this _____ day of _____ at _____
(month and year) (city and state)

By _____
(Signature of Person Responsible for Submitting Bid on behalf of Bidder)

END OF DOCUMENT

Contractor's Industrial Safety Record

To be submitted with each Bid for a contract

Project Identification _____

Bid Date _____

This information must include all construction work undertaken in the State of California by the Bidder and any partnership, joint venture, or corporation that any principal of the Bidder participated in as a principal or owner for the last five calendar years and the current calendar year prior to the date of Bid submittal. Separate information shall be submitted for each particular partnership, joint venture, corporate, or individual Bidder. The Bidder may attach any additional information or explanation of data which he would like taken into consideration in evaluating the safety record. An explanation must be attached of the circumstances surrounding any and all fatalities.

CONTRACTOR'S INDUSTRIAL SAFETY RECORD

5-Calendar Years Prior to Current Year

	2011	2012	2013	2014	2015	TOTAL	CURRENT YEAR
1. No. of Contracts							
2. Total dollar amount of contracts (in thousands of dollars)							
*3. No. of fatalities							
*4. No. of lost workdays due to injuries							
*5. No. of days of restricted work activity due to injuries							
*6. Injuries without lost workdays							

*The information required for these items is the same as required for columns 1, 4, 5, and 6, Log and Summary of Occupational Injuries and Illnesses, CAL/OSHA Form 200.

The above information was compiled from the records that are available to me at this time and I declare under penalty of perjury that the information is true and accurate within the limitations of those records.

Name of Bidder (Print)

Signature

Address

Contractors' State License No. & Classification

City

Telephone

Pre-Bid Site Inspection Certification

Ballfields Rehabilitation Project

The bidder hereby certifies that he and his Subcontractors have inspected the work site of the above project, and have fully acquainted themselves with all conditions and matters which might in any way affect the work, time of completion or the cost thereof. The bidder also certifies he observed the designated Contractor Work Areas and access routes.

BIDDER:

Date: _____

BIDDER'S INSPECTORS:

Name: _____

Title: _____

Date of Inspection: _____

Name: _____

Title: _____

Date of Inspection: _____

Workers' Compensation Certificate

Ballfields Rehabilitation Project

The bidder hereby certifies that he is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and will comply with such provisions before commencing the performance of any work on the above project.

BIDDER:

Date: _____

Reference Standards

The standards referred to, except as modified, shall have full force and effect as though printed in this Specification, and shall be the latest edition or revision thereof in effect on the bid opening date, unless a particular edition or issue is indicated. Copies of these standards are not available from the City. Abbreviations and terms, or pronouns in place of them, shall be interpreted as follows:

AASHTO:	American Associated of State Highway and Transportation Officials, Standard Specifications
ACI:	American Concrete Institute, Standards
AISC:	American Institute of Steel Construction, Specification for the Design, Fabrications, and Erection of Structural Steel for Buildings, and the AISC Code of Standard Practice
AMCA:	Air Moving and Conditioning Associations, Standards
ANSI:	American National Standards Institute
APA:	American Plywood Association
API:	American Petroleum Institute
APWA:	American Public Works Association, Standard Specifications for Public Works Construction
ASHRAE:	American Society of Heating, Refrigeration and Air Conditioning Engineers
ASME:	American Society of Mechanical Engineers
ASTM:	American Society for Testing and Materials, Standards
AWPA:	American Wood-Preservers' Association, Standards
AWS:	American Welding Society
AWWA:	American Water Works Association, Standards
CISPI:	Cast Iron Soil Pipe Institute, Standards

CMAA:	Crane Manufacturers' Association of America
CRSI:	Concrete Reinforcing Steel Institute, Standards
CSS:	CalTrans Standard Specifications, State of California, Department of Transportation
DOSH:	Division of Occupational Safety and Health, State of California, Department of Industrial Relations
ICEA:	Insulated Cable Engineers Association
IEEE:	Institute of Electrical and Electronic Engineers
IESNA:	Illuminating Engineering Society of North America
MSS:	Manufacturers Standardization Society
NAAMM:	National Association of Architectural Metal Manufacturers
NACE:	National Association of Corrosion Engineers, Standards
NEC:	National Electric Code
NEMA:	National Electrical Manufacturers' Association, Standards
RIS:	Redwood Inspection Service, Standard Specifications
SDI:	Steel Door Institute
SMACNA:	Sheet Metal and Air Conditioning Contractors National Association
SSPC:	Steel Structures Painting Council, Specifications
SSPWC:	Standard Specifications for Public Works Construction (GREENBOOK)
CBC:	California Building Code of the California Building Standards Commission
UL:	Underwriters Laboratories
WCLIB:	West Coast Lumber Inspection Bureau, Standard Grading and Dressing Rules

Part II:
General
Conditions

Article 1

Preliminary Provisions

1.01 City's Representative

The City Engineer (sometimes herein called "Engineer") shall be the representative of the City and, except as otherwise expressly provided herein, shall make all decisions and interpretations to be made by the City under the provisions of the contract documents.

1.02 Contractor's Representative

The Contractor shall at all times be represented on the work in person or by a foreman or duly designated agent. Instructions and information given by the Engineer to the Contractor's foreman or agent on the work shall be considered as having been given to the Contractor.

1.03 Permits and Licenses

A. The Contractor and all subcontractors shall purchase or hold current and valid City of El Monte Business Licenses during the entire period of the contract. The Contractor shall obtain all permits required by other agencies of the State and County as well as the City of El Monte. All permits and licenses shall be obtained by and at the expense of the Contractor and/or the subcontractors. The Contractor shall enforce the permit requirements. Permit fees to the City of El Monte shall be waived.

B. Where requirements of the permits differ from those of the drawings and specifications, the more stringent requirements shall apply.

C. The Contractor shall be responsible for payment of all assessments, fees, or charges levied or imposed by any governmental or quasi-governmental authority, or public or private utility, in connection with the work during the entire period of the contract.

1.04 Waiver

Waiver by City of any breach of any term, covenant, or condition contained in the contract documents shall not be deemed to be a waiver of any subsequent breach of the

same or any other term, covenant, or condition contained therein, whether of the same or a different character.

1.05 Data Furnished by the Contractor

The Contractor shall furnish the Engineer reasonable facilities for obtaining such information as he may desire respecting the character of the materials and the progress and manner of the work, including all information necessary to determine its costs, such as the number of men employed, their pay, the time during which they worked on the various classes of construction, and other pertinent data.

1.06 Contract Drawings

A. The drawings which form a part of this specification are bound in a separate volume.

B. The City will accept no responsibility for errors resulting from misinterpretation or scaling of the drawings.

1.07 Specifications and Drawings

A. The Contractor shall keep on the job site a copy of all specifications, drawings, and change orders pertaining to the work and shall at all times give the Engineer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications shall be of like effect as though shown or mentioned or both. In case of difference between drawings and specifications, the specifications shall govern. City specifications shall govern over referenced standards. If neither is applicable, manufacturer's specifications and instructions shall apply. The Engineer will furnish from time to time such detail drawings, plans, profiles, and information as he may consider necessary for the Contractor's guidance, unless otherwise provided in the proposal, contract, or special requirements.

B. The Specifications for this project are the entire agreement between the Contractor and City, which consist of the aforesaid drawings, the Notice to Contractors, the Instructions to Bidders, the Proposal, Bidding Form, Bid Bond, the Bidder's Qualifications and Reference, the Designation of Subcontractors, the Affidavit of Non-collusion, the Pre-bid Site Inspection Certification, the Worker's Compensation Certificate, the Reference Standards, the General Conditions, the Exhibits and the

Special Conditions. If no special conditions are attached hereto, the Specifications are further deemed to incorporate by reference the latest edition of the Standard Specifications for Public Works Construction as an essential part of the contract documents. Copies of the "Green Book" are available for review at the City Engineer's office or for purchase at the following address: Building News, Inc., 10801 National Blvd., Suite 100, Los Angeles, CA 90064.

C. In the event of a conflict between the Agreement and the General Conditions, the former shall prevail.

D. All documents forming the complete contract are intended to integrate so that any condition or work called for in any one and not mentioned in another shall be executed as if mentioned in all documents and set forth in the drawings.

1.08 Lines, Grades, and Measurements

A. All lines and grades will be established by the Contractor. The Contractors shall carefully preserve all survey stakes and reference points as far as possible. Should any stakes or points be removed or destroyed unnecessarily by any act of the Contractor or his employees, they must be reset at the Contractor's expense.

B. The Contractor shall inform the Engineer a reasonable length of time in advance of the times and places at which he intends to work in order that inspection may be provided, and that necessary measurements for records and payments may be made with minimum inconvenience.

C. No direct payment will be made for the cost to the Contractor of any of the work or delay occasioned by giving lines and grades, by making other necessary measurements, or by inspection.

1.09 Right of Way

A. The site for the installation of equipment or the right of way for the works to be constructed under this contract will be provided by the City.

B. The City will provide the appropriate rights of way and property for pipelines and structures. Upon approval by the Engineer, the Contractor may, without cost, use portions of any of the City's rights of way or property which may be suitable for working space and for storage of equipment and materials. The Contractor will be held responsible for any damage to structures, streets, and roads, and for any damage that may result from his use of City property.

C. In case areas additional to those available on the City's rights of way or property are required by the Contractor for his operations, he shall make arrangements with the property owners for the use of such additional areas at his own expense.

1.10 Assignment of Antitrust Cause of Action

The Contractor assigns to the City all rights, title, and interest in and to all causes of action in may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), in connection with the Project, such assignment to be effective upon final payment to the Contractor without further acknowledgement by the parties.

Article 2

Performance of Work

2.01 General

Contractor will at its own cost and expense furnish all necessary material, labor, transportation, and equipment for doing and performing said work and the materials used shall comply with the requirements of the contract documents. All work shall be performed and completed as required in the contract documents under the direction and supervision, and subject to the approval of the City Engineer, or his designated representative.

2.02 No Assignment

Contractor shall not assign the contract or his interest therein in whole or in part without the prior written consent of the City Council, which may be withheld in the City's sole discretion.

2.03 Standard of Performance

Contractor agrees that all services performed hereunder shall be provided in a manner commensurate with the highest professional standards and shall be performed by qualified and experienced personnel; that any work performed by him under the contract will be performed in the best manner; that any material furnished by him will be the best of its class; and that both work and materials will meet fully the requirements of these plans and specifications.

2.04 Defective Work

The Contractor shall remove and rebuild at his own expense any part of the work that has been improperly executed, even though it has been included in the monthly estimates. If he refuses or neglects to replace such defective work, prior to acceptance of the work, it may be replaced by the City at the expense of the Contractor, plus 15% for overhead expenses, and his sureties shall be liable therefore.

2.05 Communications Regarding the Work

After award of the contract, all communications regarding the work covered by this Specification shall be addressed to the City Engineer and mailed or hand delivered to:

Engineering Division
City of El Monte
City Hall West
11333 Valley Boulevard
El Monte, CA 91731

2.06 Independent Contractor

The Contractor in the performance of the work hereunder will be acting in an independent capacity and not as an agent, employee, partner, or joint venture of the City.

2.07 Emergency Work

A. During Working Hours: In case of an emergency which threatens loss or injury of property, and/or safety of life during working hours, the Contractor shall act, without previous instructions from the City, as the situation may warrant. He shall notify the Engineer of the emergency and the action taken immediately thereafter. Any compensation claimed by the Contractor, together with substantiating documents in regard to expense, shall be submitted to the Engineer within 15 calendar days after the emergency. Compensation, if allowed, will be paid for as extra work.

B. Outside of Working Hours: Whenever in the opinion of the City there shall arise, outside of the regular working hours on the contract work, an emergency involving water service to the public or danger to the public safety, the City's forces or appropriate water purveyor will handle such emergency work. If such emergency arises out of or is the result of operations by the Contractor, the cost of the corrective measures will be billed to the Contractor and deducted from his payment as provided in the contract documents. The performance of emergency work by City forces will not relieve the Contractor of any of his responsibilities, obligations, or liabilities under the contract.

2.08 Subcontractors

A. Each subcontractor shall contain a reference to the contract between the City and the principal Contractor, and the terms of the contract and all parts thereof

shall be made part of each subcontract insofar as applicable to the work covered thereby. Each subcontract shall provide for its annulment at the order of the Engineer, if, in his opinion, the subcontractor fails to comply with the requirements of the principal contract insofar as the same may be applicable to his work.

B. Nothing contained in this Specification shall be construed as creating any contractual relationship between any subcontractor and the City. The sections of this Specification are not intended to control the Contractor in dividing the work among subcontractors or to limit the work performed by any trade.

C. The Contractor shall be considered the employer of and as fully responsible to the City for the acts and omissions of subcontractors and of persons employed by them, as he is for the acts and omissions of persons directly employed by him.

D. The Contractor shall be responsible for the coordination of the trades, subcontractors, and material men engaged upon his work. It shall be his duty to see that all of his subcontractors commence their work at the proper time and carry it on with due diligence so that they do not delay or injure either the work or materials; and that all damage caused by them or their workmen is made good by them or by himself at his expense.

E. The City will not undertake to settle differences between the Contractor and his subcontractors or between subcontractors.

F. The Contractor shall utilize the services of specialty subcontractors, without additional expense to the City, on those parts of the work which are specified to be performed by specialty contractors.

2.09 Use of Facilities Prior to Completion of Contract

A. Whenever in the opinion of the engineer any work under the contract, or any portion thereof, is in a condition suitable for use by the City, the City may, after written notice and designation from the Engineer to the Contractor, use (which includes, but is not limited to, taking over or placing into service) any portion or portions designated by the Engineer.

B. The use of any portion or portions by the City shall not be construed as, and will not constitute acceptance in any sense, of any portion of the work of the Contractor.

C. All necessary repairs, renewals, changes, or modifications in the work or any portion thereof so used, not due to ordinary wear and tear, but due to defective materials or workmanship, the operations of the Contractor, or any other cause, shall be made at the expense of the Contractor.

D. The use of any portion by the City shall not relieve the Contractor of any of his responsibilities or liabilities under the contract nor constitute a waiver by the City of any of the conditions thereof. Said use shall not cancel liquidated damages as of the first date of use, or any continuance thereof, not impair, reduce, or change the amount of liquidated damages.

2.10 Cooperation with other Work Forces

A. The City reserves the right to perform other work at or near the site at any time by the use of its own forces or other contractors.

B. Other contractors, other utilities and public agencies or their contractors, other City contractors, and City personnel may be working in the vicinity during the project construction period. There may be some interference between these activities and the work under this specification. The Contractor shall cooperate and coordinate his work with that of other work forces to assure timely contract completion.

2.11 Agreements with Property Owners

Agreements with property owners for storing excavated material, storing materials, or other purpose related to the work shall be made in writing and a copy submitted to the Engineer for his information.

2.12 Protection of Property

All public and private property, pavement or improvements shall be safely guarded from injury or loss in connection with this contract by the Contractor at all times. Should any facility, structure, or property be damaged during operations of the Contractor, he shall immediately notify the proper owners or authorities.

2.13 Contractor's Responsibilities for Losses or Liabilities

A. Risk of Loss: Except as otherwise provided in the contract documents and except as to the cost of repair or restoration of damage to the work caused by an act of God as that term is defined in Section 4151(b) of the Government Code of the State of California, the Contractor shall bear all losses resulting from him on account

of the amount or character of the work, or from any unforeseen obstructions or difficulties which may be encountered, or from any encumbrances on the line of the work, or because of the nature of the ground in or on which the work is done is different from what is assumed, or on account of the weather, or floods, or other causes.

B. Materials and Facilities: The Contractor shall be responsible for materials and facilities as hereinafter provided and in the event of his failure to carry out said responsibilities, the same may be carried out by the City at the expense of the Contractor:

1. The Contractor shall be responsible for any material furnished by him and for the care of all work until its completion and final acceptance, and he shall at his own expense replace damaged or lost material and repair damaged parts of the work.

2. The Contractor shall protect City facilities from damage resulting from his work. City facilities damaged by or as a result of the Contractor's work under this contract shall be repaired or replaced, as directed by the Engineer, at the Contractor's expense.

3. The Contractor shall remove from the vicinity of the completed work all buildings, rubbish, unused material, concrete forms, and other materials belonging to him or used under his direction during construction.

C. Laws and Regulations:

1. The Contractor shall keep himself fully informed of all laws, ordinances, and regulations in any manner affecting those engaged or employed on the work, or the materials used in the work, or in any way affecting the conduct of the work, and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. If any discrepancy or inconsistency should be discovered in this contract, or in the drawings or specifications herein referred to, in relation to any such law, ordinance, regulation, order, or decree, he shall forthwith report the same in writing to the Engineer.

2. He shall at all times himself observe and comply with, and shall cause all his agents and employees to observe and comply with all such applicable laws, ordinances, regulations, orders, and decrees in effect or which may become effective before completion of this contract.

3. Nothing in these drawings and/or specifications is to be construed to permit work not conforming to such laws, ordinances, and regulations. If the Contractor ascertains at any time that any requirement of this contract is at variance with such applicable law requirement, he shall promptly notify the Engineer.

4. If such applicable law requirement was not in effect on the date of submission of bids, any necessary adjustment of the contract price shall be made as provided in Article 5 of the General Conditions. If such applicable law requirement was in effect on said date of bid submission, no adjustment of contract price will be considered.

5. The Contractor, at his own expense, shall pay all taxes properly assessed against his equipment or property used or required in connection with the work.

2.14 Guarantee of Work

A. The Contractor guarantees all material and workmanship against defects for a period of one year, unless noted otherwise, from the date of final acceptance of all work performed under the contract. The date of final acceptance will be as stated on the Notice of Acceptance.

B. The Contractor assumes responsibility for a similar one-year guarantee, unless noted otherwise, for all work and materials provided or performed by subcontractors, manufacturers, or suppliers.

C. The Contractor hereby agrees that if, within a period of one year, unless noted otherwise, after final acceptance of the work done under the contract, any portion of the work installed, constructed, or performed by him fails to fulfill any of the requirements of the contract, he will, without delay and with the least practicable inconvenience and without further cost to the City, repair or replace defective or otherwise unsatisfactory work or materials. This agreement will not delay acceptance of the work or final payment.

D. Should the Contractor fail to act promptly in accordance with this requirement, or should the exigencies of the case require repairs or replacement to be made before the Contractor can be notified or can respond to notification, the City may at its option make the necessary repairs or replacements, or perform the

necessary work, and the Contractor shall pay to the City the actual cost of such repairs plus 15 percent.

E. The Contractor shall be responsible for the full expense incidental to making good any and all of the above guarantees and agreements. The above guarantees and agreements are covenants, the performance of which shall be binding upon the Contractor and his sureties.

2.15 Cleaning and Environmental Controls

A. Maintain areas free of waste materials, debris, and rubbish. Maintain site in a clean and orderly condition.

B. Remove waste materials, debris, and rubbish from site and dispose off-site legally. Recycling is encouraged. The Contractor should investigate opportunities for recycling.

C. Spoil sites shall not be located where spoil shall be washed back into a street gutter, storm drain, runoff conveyance.

D. Water containing mud, silt, or other pollutants from activities, shall not be allowed to enter the storm drain or placed in locations that may be subject to storm runoff.

E. Any equipment or vehicles driven and/or operated within or adjacent to a street gutter, storm drain, runoff conveyance shall be checked and maintained daily to prevent leaks of materials that if introduced to water could be deleterious to aquatic life.

F. No debris, soil, silt, sand, back, slash, sawdust, rubbish, cement or concrete or washings thereof, oil or petroleum products or other organic or earthen material from any construction, or associated activity or whatever nature shall be allowed to enter into or placed where it may be washed by rainfall or runoff into waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.

G. The Contractor shall comply with all litter and pollution laws. All Contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of the Contractor to insure compliance.

Article 3

Commencement, Prosecution, and Completion of Work

3.01 Commencement, Prosecution, and Completion of Work

A. Notice to Proceed: The Contractor is not authorized to perform any work under this specification until he has received from the City an official notification to commence work. The date on which the notification is received by the Contractor is herein referred to as the Notice to Proceed. The Contractor shall commence work within ten (10) calendar days after Notice to Proceed. A copy of the Notice to Proceed is included in these specifications. The notification to commence work will not be issued until the contract is properly executed, bonds are furnished and approved, and insurance has been submitted and approved.

B. Prosecution of the Work: Work shall be continued at all times with such force and equipment as will be sufficient to complete it within the specified time. The Contractor expressly proposes that he has taken into consideration and made allowances for all ordinary delays and hindrances to the work to be performed and that he will complete the work within the specified time.

C. Required Contract Completion: Facility shall be made ready for service within **ninety (90) calendar days** after the Notice to Proceed is issued.

3.02 City's Discretion to Extend Time

In the event the work required hereunder is not satisfactorily completed in all parts and in compliance with the Contract Documents, City shall have the sole right, in its discretion, to increase the number of working days or not, as may seem best to serve the interest of the City.

3.03 Delays and Extensions of Time for Contractor

A. The Contractor shall take reasonable precautions to foresee and prevent delays to work. In the event of any delay to the work, the Contractor shall revise his sequence of operations, to the extent possible under the terms of the contract, to offset the delay.

B. If any delay to the work is caused by circumstances within the Contractor's control, it is not excusable and not compensable, and the Contractor will

not be entitled to any extension of time or to any other compensation for damages resulting directly or indirectly there from.

C. If any delay having a direct effect on the work is caused by circumstances beyond the control of the Contractor except for causes of delay specified in Paragraph 3.03-D., such delay may be excusable and may entitle the Contractor to an equivalent extension of time, but not to any other compensation. Excusable but not compensable causes include, but are not limited, to labor disputes, weather conditions unfavorable for prosecution of the work, and acts of God.

D. If any delay having a direct effect on the work is caused by failure of the City to provide information as specified, or necessary instructions for carrying on the work, or to provide the necessary right of way or site for installation, or failure of a utility to remove or relocate an existing facility such delay may be compensable and may entitle the Contractor to an equivalent extension of time; and may entitle the Contractor to compensation for damages resulting directly from any of the causes of delay specified in this paragraph.

E. The Contractor shall notify the Engineer in writing of any delay having direct effect on the work and the causes thereof within seven (7) calendar days from the beginning of such delay.

F. Any claim for an extension of time or for compensation for damages resulting from delay shall be made in writing to the Engineer not more than 30 days after the ending of such delay. The Contractor shall provide data showing the effect of the delay on the specified completion of the work, that the delay was beyond the control of the Contractor, and that the Contractor has revised his construction schedule, to the extent possible, to offset the delay. No extension of time or compensation for damages resulting from delay will be granted unless the delay affects the timely completion of all work under the contract or the timely completion of a portion of the work for which a time of completion is specified.

G. The Engineer will investigate the facts and ascertain the extent of the delay, and his findings thereon shall be final and conclusive, except in the case of gross error. In the event of a gross error, the Engineer may consider his findings and thereafter his findings shall be final and conclusive.

H. Failure of the Contractor to give written notice of a delay, or to submit or document a claim for an extension of time or for damages resulting from delay in the

manner and within the times stated above shall constitute a waiver of all claims thereto.

I. When a Contractor experiences two concurrent delays, on compensable and the other excusable, no compensation other than an extension of time will be allowed.

J. An extension of time must be approved by the Engineer to be effective, but an extension of time whether with or without consent of the sureties, shall not release the sureties from their obligations, which shall remain in full force until the discharge of the contract.

3.04 Climatic Conditions

A. The Engineer may suspend the work whenever the weather conditions or conditions resulting from inclement weather are unfavorable for the prosecution of the work. The delay caused by such suspension may entitle the Contractor to an extension of time but not to any other compensation.

B. If the Contractor believes that work should be suspended under this Section 3.04, he may request such suspension. The delay caused by such suspension may entitle the Contractor to an extension of time but not to any other compensation.

C. No extension of time will be granted for suspension of work unless the suspension affects the timely completion of all work under the contract or the timely completion of a portion of the work for which a time of completion is specified. Determination that the suspension for inclement weather conditions or conditions resulting from inclement weather affects timely completion and entitles the Contractor to an extension of time shall be made and agreed to in writing by the Engineer and the Contractor on each day that work is suspended. In the event of failure to agree, the Contractor may protest under the provision of Section 7.07

D. If the work is suspended and an extension of time is granted under this Section 3.04 the Contractor will be entitled to a one day extension of time for each day that he is unable to work at least one-half of his current normal work day; and if the work is suspended at the regular starting time on any work day and the Contractor's workforce is dismissed as a result thereof, then he will be entitled to a one day extension of time whether or not conditions change thereafter and the major portion of the day is suitable for work.

3.05 Safety Hazards

The Engineer may suspend operations if he determines that an imminent safety hazard exists.

3.06 Liquidated Damages

A. The deductions for liquidated damages shall be \$5,000/day from date of required contract completion until actual contract completion date.

B. The above liquidated damages are necessary to ensure timely completion and to defray costs of additional construction, inspection, and contract administration. Timely completion is required to insure that the owner may occupy the building fully, all facilities operational and all construction activities completed in accordance with these specifications.

C. Should the Contractor fail to complete all or any portion of the work within the specified time therefore in Section 3.01, or within such extra time as may be allowed for delays by formal extensions granted by the City, deductions as set forth above will be made from the Contractor's earning for the time that the work remains incomplete after the time set for its completion.

D. It being impracticable or extremely difficult to fix the actual damage, the amount set forth above is hereby agreed upon as liquidated damages and will be deducted from any money due the Contractor under this contract. Should the amount of the damages exceed the amount due the Contractor, he and his sureties shall be liable for the excess.

Article 4

Construction Progress Schedules

4.01 Initial Schedule

A. Within 24 hours after the Notice to Proceed has been given, and prior to the start of any work, the Contractor shall submit to the City Engineer for approval six (6) copies of its proposed construction schedule with sub-schedules of related activity. If the Engineer notifies the Contractor that the schedule is unacceptable, the Contractor shall submit a revised schedule within five working days thereafter.

B. The construction schedule shall be in the form of bar charts with major activities of the project listed in chronological order showing the dates for beginning and completion of each activity.

C. The construction schedule shall also contain:

1. An economic component showing the cost of each activity, the anticipated monthly earnings and a cash flow diagram,
2. A products availability schedule, which shall show the availability dates for contractor furnished equipment affecting the progress of the work, indicate the required delivery dates for City furnished materials and equipment and indicate the required installation date for utility-furnished equipment.

4.02 Revised Schedules

A. After start of the work, the Contractor shall submit revised construction schedules not later than the 1st and 15th day of each month thereafter until completion of the contract.

B. The revised schedules should show any significant changes in activities since submission of the previous schedule with revised projections of progress and completion. It should also provide a narrative report of problem areas, anticipated delays and the impact on the schedule, corrective action recommended and its effect, and the effect of changes on schedules of other contractors involved with the work.

Article 5

Suspension or Termination of Contract

5.01 Suspension of Work-Default by Contractor

A. If the Contractor fails to begin the delivery of the material or to commence work as provided in the contract, or fails to make delivery of material promptly as ordered, or to maintain the rate of delivery of material or progress as ordered, or to maintain the rate of deliver of material or progress of the work in such a manner as in the opinion of the Engineer will ensure a full compliance with the contract within the time limit, or fails to timely pay subcontractors or suppliers, or if in the opinion of the Engineer the Contractor is not carrying out the provisions of the contract in their true intent and meaning, written notice will be served on him to provide within a specified time for a satisfactory compliance with the contract. If he neglects or refuses to comply with such notice, the City may suspend the operation of all or any part of the contract, or it may in its discretion after such notice perform any part of the work or purchase any or all of the material included in the contract or required for the completion thereof at the expense of the Contractor without suspending the contract.

B. Upon suspension of the contract, the Engineer, acting on behalf of the City, may in his discretion take possession of all or any part of the machinery, tools, appliances, materials, and supplies that have been delivered by or on account of the Contractor for use in connection therewith and the same may be used either directly by the City or by other parties for it in the completion of the work suspended; in which case the Contractor shall be credited with a reasonable rental therefor, to be determined by the Engineer; or the City may employ other machinery or materials, purchase the material contracted for in such a manner as it may deem proper, or hire such force and may be necessary for the proper conduct and completion of the work. The Contractor shall not make any disposition of the plant, machinery, tools, appliances, supplies or material used on or in connection with the work, either by sale or conveyance, inconsistent with these provisions. The Contractor shall comply with any written order of the Engineer to re-commence the work.

5.02 Suspension of Work-Contract without Fault

The work may be suspended in whole or in part when determined by the Engineer that such suspension is necessary in the best interest of the City, regardless of fault by the Contractor. In such event, the Contractors shall comply immediately with any written order of the Engineer suspending the work and shall comply with any written order of the Engineer re-commencing the work.

5.03 Decision of Engineer Final

The determination of the City Engineer to suspend the work under the provisions of either section 5.01 or 5.02 shall be final and binding upon both parties.

5.04 Remainder of Contract in Effect

Suspension of the contract, or any part thereof, shall operate only to terminate the right of the Contractor to proceed with the work covered by the contract or the suspended portion thereof. The provisions of the contract permitting the City to make changes and to make proper adjustments of accounts to cover any increase or decrease of cost on account of such changes and all other provision of the contract except those giving the Contractor the right to proceed with work on the items covered by the suspension, shall be and remain in full force and effect after such suspension and until the contract shall have been completed and final payment or final adjustment or accounts made.

5.05 Allocation of Cost

A. Contractor at fault: When the work is suspended in whole or in part in accordance with the provisions of Section 5.01 any cost to the City in excess of the contract price, arising from the suspension of the work, or from work performed or purchase made by the City, either before or after suspension, and required on account or failure of the Contractor to comply with his contract or the orders of the Engineer issued in pursuance thereof, will be charged to the Contractor and his sureties, who shall be liable therefor. If the net credits shall be in excess of the claims of the City against the Contractor, the balance will be paid to the Contractor or his legal representative.

B. Contractor without Fault:

1. Where the work is suspended in whole or in part in accordance with the provisions of Section 5.02, the Contractor will be compensated for

damages incurred due to delays for which the City is responsible if such delays are unreasonable in the circumstances involved and were not within the contemplation of the parties when the contract was awarded to the Contractor. Such actual costs will be determined by the Engineer. The City will not be liable for, and in making this determination the Engineer will exclude, all damages which the Engineer determines the Contractor could have avoided by and reasonable means including, without limitation, the judicious handling of forces, equipment, or plant.

2. If the Contractor desires payment for such delay it shall, within 30 days after the beginning of the delay, file with the City a written request and report as to the cause and extent of the delay. The request for payment or extension must be made at least 15 days before the specified completion date. Failure by the Contractor to file these items within the times specified will be considered grounds for refusal by the City to consider such request.

5.06 Termination of Contract-Default by Contractor

A. The City may terminate the Contractor's performance under the Contract and declare the Contractor in default for any breach of the Contract, which shall include, by way of example and not by limitation: (1) the Contractor fails to begin the delivery of the material or to commence work as provided in the Contract; (2) the Contractor fails to make or maintain the rate of delivery of material or progress of work promptly as ordered or required under the Contract, or to maintain the rate of delivery of material or progress of the work in such a manner as in the opinion of the Engineer will ensure full compliance with the contract within time limit; (3) the Contractor fails to make prompt payment to subcontractors, material men, laborers or suppliers; (4) the Contractor fails to execute or prosecute the work properly, or in the manner or location specified in the Contract, fails to complete the work entirely on or before any date established for partial or final completion, or fails to maintain a work program or schedule as to ensure the City's interest; (5) if there shall be filed by or against the Contractor in any court a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of the Contractor's property, and within thirty days there from the Contractor fails to secure a discharge thereof; (6) the Contractor makes an assignment for the benefit of creditors or petitions for or enters into an agreement or arrangement with its

creditors; (7) the Contractor fails to perform the work in accordance with the Contract documents (including without limitation, the failure to supply suitable materials and equipment, or sufficiently skilled workers and a sufficient number thereof, to perform the work in accordance with the Contract documents); (8) the Contractor disregards any applicable law, rule, regulations, order or directive; (9) if, in the reasonable opinion of the Engineer, the Contractor is not complying in good faith with any term or condition of the contract or any order from the City.

B. In the event of such termination, the Contractor will be paid the actual amount due based on unit prices or lump sums bid and the quantity of work completed at the time of cancellation, less damages caused to the City by acts of the Contractor causing the cancellation. The Contractor, in having tendered a Bid, shall be deemed to have waived any and all claims for damages because of cancellation of Contract for any such reason.

C. The procedures for declaring the Contractor in default are as follows. The City shall first serve written notice upon the Contractor, demanding full compliance with the Contract within 5 days after receipt of such notice. The surety on the faithful performance bond may be provided with a copy of such notice. If the Contractor does not comply with such notice within five (5) calendar days after receiving it, or if, after starting to comply, the Contractor fails to prosecute the work or otherwise comply with such notice promptly and in good faith, the City may declare Contractor in default, and such default shall be effective immediately upon Contractor's receipt of written notice of default from the City. A copy of such notice of default shall be provided to the Surety.

D. In the event that Contractor is served with notice of default, the City may, immediately upon Contractor's receipt of such notice, exclude it from the premises and take possession of all material and equipment, and complete the work by City forces, by letting the unfinished work to another Contractor, or by a combination of such methods. In any event, the cost of completing the work shall be charged against the Contractor and its Surety and may be deducted from any money due or becoming due from the City. If the sums under the Contract are insufficient for completion, the Contractor and Surety shall pay to the City within five (5) calendar days after the completion all costs in excess of the Contract Price.

E. If the Surety assumes any part of the work, it shall take the Contractor's place in all respects for that part and shall be paid by the City for all work performed

by it in accordance with the Contract. If the Surety assumes the entire Contract, all money due the Contractor at the time of its default shall be payable to the Surety as the work progresses, subject to the terms of the Contract.

F. The provisions of this section shall be in addition to all other rights and remedies available to the City under law.

5.07 Termination of Contract- Contractor without Fault

A. The City may terminate the Contract when conditions encountered during the work make it impossible or impracticable to proceed, or when the City is prevented from proceeding with the Contract by act of God, as defined in Section 4151 (b) of the State Government Code, by law, or by official action of a public authority.

B. When written notice by the Engineer to discontinue work is served upon the Contractor because the Contract has been terminated as provided in subsection A above; the Contractor shall comply immediately with the order of the Engineer.

C. The Contractor shall be paid for work performed to the time of termination at the unit prices named in the contract, or in the event no unit prices are named, a sum equal to that portion of the lump sum price which the work completed to the time of termination bears to the total work to be performed under the contract as determined by the Engineer. In no event will the City be liable to the Contractor for breach of contract, extra work, or damages because of said termination of contract.

Article 6

Changes In Work

6.01 Changes Initiated by City

The City reserves the right to make such alterations, deviations, addition to or deletions from the plans drawings and specifications, including the right to increase or decrease the quantity of any item or portion of work or to omit any item or portion of the work, and to require such changes in the work as are determined by the City Engineer to be necessary or advisable for proper completion or construction of the whole work contemplated.

6.02 Changes Initiated by Contractor

A. If the Contractor, on account of conditions developing during the progress of the work, finds it impracticable to comply strictly with the plans and specifications and applies in writing for a modification of requirements or of methods of work, such change may be authorized by the Engineer, if not detrimental to the work and if without additional cost to the City.

B. Any request for a change in the Base Bid Total must be submitted in writing to the Engineer within ten (10) calendar days of the date that Contractor first encounters the circumstances, information or conditions giving rise to the Change Order request, even if the total amount of the requested change in the Base Bid Total or impact on the timely completion of the Project is not yet known.

C. Any Change Order request or proposal submitted by Contractor must include a complete breakdown of actual or estimated costs and credits, and must itemize labor, materials, equipment, taxes, insurance, and subcontract amounts. Any estimated cost must be updated in writing as soon as the actual amount is known.

D. All claimed costs must be fully documented, and any related request for an extension of time or delay- related costs must be included at that time and in compliance with the requirements of Section 3.03 of Article 3 (Preliminary Provisions).

E. Contractor must use City's form(s) for submitting all Change Order requests or proposals, unless otherwise specified by City.

F. All Contractor-initiated Change Order requests must be signed by Contractor and must include the following certification:

“The undersigned Contractor certifies under penalty of perjury that its statements and representations in this Change Order request are true and correct. Contractor warrants that this Change Order request is comprehensive and complete, and agrees that any costs, expenses, or time extension request not included herein shall be deemed waived. Contractor understands that submission of claims which have no basis in fact or which Contractor knows to be false may violate the False Claims Act, as set forth in Government Code Sections 12650 et seq.”

6.03 Change Orders – Procedure

A. Engineer’s Adjustment of Contract Terms: Changes will be set forth in a contract change order. If the work to be done or change to be made causes an increase or decrease in the Contractor’s cost of performance of the Contract, an equitable adjustment may be made as determined by the Engineer. The contract change order will specify the payment to be made or credit to be taken and adjustment of the Contract time, if any. Payment in accordance with the terms and conditions set forth in contract change order shall constitute full compensation for all work included therein or required thereby.

B. Contractor’s Agreement: Contractor shall proceed with the ordered work, unless another starting date is specified. If the Contractor agrees with the terms and conditions of the contract change order, he shall indicate his acceptance by signing the original copy and returning it to the Engineer within three working days. If the Contractor disagrees with the terms and conditions of such contract change order, he shall proceed with the ordered work and shall submit a written protest in accordance with “E. Protest Procedure.”

C. Submittal of Contractor’s Proposal of Changes: Prior to issuing an approved contract change order, Contractor shall submit a proposal covering the Contractor’s requested changes. In addition to the materials and information required under Section 6.02 of this article. The request will include a description of the work or revised drawings or specifications reflecting changes proposed to be ordered. Within three working days after receiving the request the Contractor shall submit his

proposal to the Engineer, including any claim for extension of time and any and all compensation which may be necessary as a result of performing the changes. If the Engineer decides not to issue a contract change order after requesting a proposal from the Contractor, the Contractor will be notified of such decision in writing.

D. Issuance of Engineer's Order: The Engineer may, in writing, order the Contractor to proceed with the work prior to receipt of an approved contract change order therefor. In such case, the Engineer will as soon as practicable issue an approved contract change order for the work and the provisions "E. Protest Procedure" shall be fully applicable to such subsequently issued contract change order. The Contractor shall keep full and complete records of the cost of the ordered work until the method of compensation is determined and the approved change order is received, and shall permit the Engineer to have access to such records. An approved change order shall supersede any previously issued written order covering the same work.

E. Protest Procedure:

1. Should the Contractor disagree with any terms or conditions set forth in an approved change order which he has not executed, he shall submit a written protest to the Engineer within three working days after the receipt of such approved contract change order. The protest shall state the points of disagreement, contract references, quantities, and costs involved. The Engineer shall consider and investigate such protest within a reasonable time and his decision thereon shall be conclusive and binding against both parties to the Contract, except in the case of gross error. If a written protest is not submitted, adjustment of the contract time and payment will be made as set forth in the approved contract change order and shall constitute full compensation for all work included therein or required thereby. An unprotected approved change order will be considered as an executed contract change order.

2. When the protest concerning an approved contract change order relates to compensation, the Contractor shall keep full and complete records of the cost of such work and shall permit the Engineer to have such access thereto as may be necessary to assist in the determination of the compensation payable for such work.

3. When the protest concerning an approved contract change order relates to the adjustment of contract time for the completion of the work, the time to be allowed therefor will be determined as provided in Section 3.03.

F. Extra Work:

1. Work not covered by any of the items of the bidding form for which there are bid prices or by any combination of such items, as determined by the Engineer, and work specifically designated as extra work in the drawings or specifications is extra work. The Contractor shall furnish the required labor, material, and equipment and shall perform such extra work upon receipt of a contract change order therefor. All labor, material, and equipment shall be subject to approval of the Engineer.

2. Extra work will be paid for by an adjustment of the contract price or on a force-account basis as provided in Section 7.06, or a combination of both, as determined by the Engineer. The determination of the Engineer on all questions relating to extra work shall be conclusive and binding against both parties to the contract except in the case of gross error.

Article 7

Contract Payments and Claims

7.01 General

A. Payment will be made at the price for each item listed on the bidding form as extra work as provided in the General Conditions.

B. Initial progress payment will not be made prior to approval by the Engineer of the Schedule of Costs, the Construction Progress Schedule, and the Schedule of Submittals.

C. No subsequent progress payment will be made prior to receipt by the Engineer of the monthly revision of the Construction Progress Schedule.

7.02 Schedule of Costs for Payments

A. The Contractor shall submit to the Engineer, within ten (10) working days after Notice to Proceed, six (6) copies of a Schedule of Costs. The Schedule of Costs shall be a detailed breakdown of quantities and prices of work and materials required to perform and complete the contract.

B. The total of the price breakdown shall agree with the lump-sum price bid. The price breakdown shall, as a minimum, show the cost of each item of the Construction Progress Schedule, Article 4. Any additional breakdown of the Schedule of Costs, by quantities and prices of work and materials, considered necessary by the Engineer will be as determined by the Engineer. The price breakdown shall not be unbalanced, shall be subject to adjustment between the Engineer and the Contractor, and will be used as a basis for progress payments.

C. Acceptance of the Schedule of Costs by the Engineer shall not relieve the Contractor of the responsibility of performing all the work needed to complete the projects at the lump-sum price bid.

7.03 Progress Payment

A. Determination by Engineer: The Engineer will make an approximate measurement of all approved materials delivered to the job site and work performed by the Contractor through the last working day of each calendar month for the purpose of making a progress payment. No payment will be made for the fabrication

or production of materials off the job site, or for materials stored off the job site. The Engineer will classify the work according to items listed on the Bidding Form and will estimate the value thereof and the basis of prices shown, or as extra work. The classification of the work performed and the value thereof will be based on the Schedule of Costs submitted by the Contractor.

B. Ten Percent Retention: From the amount thus determined, ten percent thereof will be deducted as retention by the City for performance security. The amount of all payments previously made to the Contractor and any amounts due to the City for the Contractor for supplies, materials, services, damages, or otherwise deductible under the terms of the Contract will be deducted from the remainder. The remaining amount will be paid as a progress payment by the City to the Contractor thirty (30) calendar days from the date that the undisputed invoice is received.

C. Additional Retention: In addition to the retention under Paragraph B above, the whole or part of any payment of the estimated amount due the Contractor may be withheld as an additional retention if such course be deemed necessary to protect the City from loss due to the Contractor's failure to protect any of the following: (1) meet his obligations; (2) expedite the work; (3) correct rejected work; (4) settle damages as provided; or (5) produce substantial evidence that no claims will or have been filed, and/or if it has been determined that unpaid balance may be insufficient to complete the work.

D. Effect of Progress Payment: All material and work covered by progress payments thereupon become the sole property of the City, but this provision shall not be construed as relieving the Contractor from sole responsibility for all materials and work upon which payments have been made or the restoration of any damaged work as a waiver of the City's right to require fulfillment of all of the Contract terms.

E. Contractor Retention Escrow Accounts: Contractor may, at its own expense, elect to have said ten percent retention paid to a qualified escrow agent, pursuant Public Contracts Code 22300, and any escrow agreement shall conform to the requirements of that section and be approved by the City. City approval process includes approval by the City Attorney, the City Council, and the City Finance Department. Said City approval could take up to one hundred and twenty (120) calendar days.

7.04 Final Payment and Release of Claims

A. Notice of Acceptance and final payment: Upon completion of the work as determined by the Engineer, a Notice of Acceptance will be issued, and a Notice of Completion will be recorded with the County. The City will pay to the Contractor thirty- five (35) calendar days after issuing the Notice of Acceptance, or as soon thereafter as practicable, the remaining amount due the Contractor, less all prior payments and advances whatsoever to or for the account of the Contractor for supplies, material, services, damages, or otherwise deductible under the terms of the Contract. All prior estimates and payments including those relating to extra work shall be subject to correction by this payment, which throughout this Contract is called "final payment." A copy of the Notice of Acceptance is included in these specifications.

B. Release of Claims: Neither the final payment nor any part of the retained percentage shall become due until the Contractor shall have delivered to the City a complete release of all claims against the City arising under and by virtue of this Contract and related to undisputed amounts, including claims of subcontractors and suppliers of either materials or labor. If disputed Contract claims in stated amounts are unresolved 35 days after issuing the Notice of Acceptance, a progress payment of undisputed amounts and retained funds will be made by the City upon receipt of a release specifically excluding the disputed Contract claims. Upon resolution of disputed claims, the Contractor shall execute a supplemental release and upon deliver, the City will make final payment. A copy of the release form is included in these specifications.

C. Acceptance of final payment constitutes release: The acceptance of the final payment by the Contractor shall be and shall operate as a release to the City of all claims and of all liability to the Contractor for all things done or furnished in connection with the work and for every act and neglect of the City and others relating to or arising out of this work. No payments, however, final or otherwise, shall operate to release the Contractor or his sureties from any obligation under this Contract or the bonds for payment and for faithful performance.

7.05 Force-Account Payment

A. Computation of Payment: When work is to be paid for on a force-account basis, the Contractor will be paid the costs of labor, materials and equipment as provided in Paragraphs 7.05.B, 7.05.C and 7.05.D, except when agreement has been reached to pay in accordance with Paragraph 7.05.E. To the total of the costs computed as provided in Paragraphs 7.05.B, 7.05.C and 7.05.D, there will be added a markup of 20 percent to the cost of labor, 15 percent to the cost of materials, and 15 percent to the equipment rental. These markups shall constitute full compensation for profit and for all overhead costs which include superintendence, bond and insurance premiums, and all other items of expense not specifically designated as cost or equipment rental in Paragraphs 7.05.B, 7.05.C and 7.05.D. the total payment made as provided above shall constitute full compensation for work performed on a force-account basis.

It is understood that labor, materials and equipment may be furnished by the Contractor or by a subcontractor or by others on behalf of the Contractor. When work paid for on a force-account basis is performed by forces other than the Contractor's organization, the Contractor shall reach agreement with such other forces as to the distribution of the payment made by the City for such work and not additional payment therefor will be made by the City.

B. Labor: The cost of labor used in performing the work, whether the employer is the Contractor, subcontractor, or other forces, will be the sum of the following:

1. Actual Wages. Actual wages paid to other workers, including foremen devoting their exclusive attention to the work in question. The actual wages shall include payments to, or on behalf of, workers for health and welfare, pension, vacation, and similar purposes.

2. Labor Surcharge. To the actual wages, as defined in Paragraph 7.05.B.1 above, will be added 27 percent which percentage shall constitute full compensation for all payments imposed by State and Federal laws, and for all other payments made to, or on behalf of, the workers, other than actual wages as defined in Paragraph 7.05.B.1 above and the amount paid for travel and subsistence as specified in Paragraph 7.05.B.3 following.

3. Travel and Subsistence. The amount paid to the workers for travel and subsistence as defined in applicable collective bargaining

agreements filed with the Department of Industrial Relations under the provisions of Section 1773.8 of the Labor Code.

C. Materials: Only materials incorporated in the work will be paid for, the cost of which will be the cost to the purchaser, whether Contractor, subcontractor, or other forces, from the supplier thereof, except as the following are applicable:

1. If a cash or trade discount by the actual supplier is offered or available to the purchaser, it shall be credited to the City notwithstanding the fact that such discount may not have been taken.

2. If materials are procured by the purchaser by any method which is not a direct purchase from a direct billing by the actual supplier to such purchaser, the cost of such materials shall be deemed to be the price paid to the actual supplier as determined by the Engineer. No markup except for costs incurred in the handling of such materials will be permitted.

3. If the materials are obtained from a supply or source owned wholly or in part by the purchaser, payment therefor will not exceed the price paid by the purchaser for similar materials furnished from said source on Contract items or the current wholesale price for such materials delivered on the job site, whichever price is lower.

4. If the cost of such materials is excessive, in the opinion of the Engineer, then the cost of such materials shall be deemed to be the lowest current wholesale price at which such materials are available in the quantities concerned delivered to the job site, less any discounts as provided in Paragraph 7.05.C.1 above.

5. If the Contractor does not furnish satisfactory evidence of the cost of such materials from the actual supplier thereof, the cost shall then be determined as provided in Paragraph 7.05.C.4 above. The City reserves the right to furnish such materials as it deems advisable, and the Contractor shall have no claims for costs and profit on such materials.

D. Equipment: The Contractor will be paid for the use of equipment at the rental rates established as provided in Paragraph 7.05.D.1 and 7.05.D.2 below, which rates shall include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage,

insurance, and all incidentals. Operators of rented equipment shall, as determined by the Engineer, be in good working condition for the purpose for which it is to be used. Unless otherwise specified, manufacturers' ratings shall be used to classify equipment for the determination of applicable rental rates.

1. Equipment on the work: For the use of any equipment normally required for the Contract regardless of whether the equipment is already on the work or is to be delivered to the work and regardless of ownership and any rental or other agreement entered into by the Contractor for the use of such equipment, the Contractor will be paid as provided herein at the current local rental rates used for the State of California. (Copies of the Equipment Rental Rates used by the State will be furnished upon request.) Individual pieces of equipment not listed and having a replacement value of two hundred dollars (\$200) or less shall be considered to be tools or small equipment and no payment will be made for their use on the work. The hourly rates for equipment not listed under the schedules of rental rates set forth by the State of California shall be those agreed upon by the Contractor and the Engineer prior to the use of the equipment, except that in no case shall the rental rates exceed those of established distributors or equipment rental agencies. In computing the hourly rental of equipment, less than 30 minutes shall be considered $\frac{1}{2}$ hour, except that the minimum rental time to be paid per day shall be one hour. Rental time will not be allowed while equipment is inoperative due to breakdowns or non-working days. The rental time of equipment to be paid for shall be the time the equipment is in operation on the force-account work being performed. Loading and transporting costs will be allowed when the equipment is moved by means other than its own power, except that no payment will be made if the equipment is used at the site of the force-account work on other than the force-account work.

2. Equipment not on the work: For the use of equipment not required under the contract and moved in on the work and used exclusively for force-account work, the Contractor will be paid as provided herein and at the rates agreed upon by the Contractor and the Engineer, except that in no case shall the rental rates paid exceed those of established distributors or equipment rental agencies. The rental period

shall begin at the time the equipment is unloaded at the site of the force-account work and shall terminate at the end of the day on which the order to discontinue the force-account work is given to the Contractor by the Engineer, except that the minimum total rental time to be paid for shall be not less than eight hours. Except as provided in the last sentence of this paragraph, the Contractor will be paid the cost of transporting the equipment to the work and its return to its original location, provided the original location of the equipment has been agreed to in advance by the Engineer, and provided further that such costs shall not exceed the applicable minimum Public Utility Commission's established rates for transporting the equipment. Should the equipment be transported by low bed trailers, hourly rates charged by established haulers will be paid. Also, the City will pay for loading and unloading costs. Should the Contractor desire the return of the equipment to a location other than its original location, the City will pay the cost of transportation in accordance with the above provisions, provided such costs does not exceed the cost of moving the equipment to the work. Payment for transporting and loading and unloading the equipment as provided herein will not be made if the equipment is used on the work in any other way than upon the force-account work.

E. Work Performed by Special Forces or Other Special Services:

When the Engineer and the Contractor, by agreement, determine that a special service or an item of force-account work cannot be performed by the forces of the Contractor or those of any of his subcontractors, such services or item or force-account work on the basis of the current market prices thereof may be accepted without complete itemization of labor, material, and equipment rental costs when it is impracticable and not in accordance with the established practice of the special service industry to provide such complete itemization. In those instances wherein the Contractor is required to perform force-account work necessitating a fabrication or machining process in a fabrication or machine shop facility away from the job site, the charges for that portion of force-account work performed in such facility may, by agreement, be accepted as a specialist billing. To the specialist invoice price, less credit to the City for any cash or trade discount offered or available, whether or not

such discount may have been taken, will be added 15 percent in lieu of the percentages provided in Paragraph 7.05.A above.

F. Reporting and Invoicing: All force-account work shall be reported daily upon Daily Cost of Extra Work Sheets furnished by the Engineer to the Contractor and signed by both parties, which daily reports shall thereafter be considered the true record of force-account work done. Complete detailed invoices covering the force-account work shall be submitted for payment no later than 15 days after the completion of the work. Those not so detailed will not be processed for payment until details are furnished. The charges for work performed by the Contractor, by a subcontractor, and by an employee of a subcontractor shall be reported separately. Substantiating invoices from suppliers, vendors, and subcontractors shall be included with the Contractor's invoices. The Contractor shall permit examination of accounts, bills, and vouchers relating to the force-account work, then requested by the Engineer.

7.06 Claims and Protests-Contract Requirements

A. Written Protest: If work demanded of the Contractor is considered by him to be outside the requirements of the Contract, or if he considers any decision of the Engineer to be unfair, he shall, upon such work being demanded or such decision being made, proceed without delay to perform the work or conform to the decision, and shall give written notice of protest to the Engineer within 48 hours. The written notice shall include the date and circumstances of the order of decision and his objections thereto. The Engineer will consider and investigate the protest and his decision thereon shall be final and conclusive, except in the case of gross error. In the event of a gross error, the Engineer may reconsider his findings and thereafter his findings shall be final and conclusive. Except for such protests as are made of record in the manner specified, the Contractor waives all grounds for protest to such orders or decisions of the Engineer.

B. Written Claim: No more than 30 days after submitting a protest in accordance with 7.07.A. above or 30 days after completing the protested work, if that is later, the Contractor shall submit to the Engineer his claim concerning the matter so noticed. The claim shall set forth clearly concerning the matter so noticed. The claim shall set forth clearly in detail, for each item of additional compensation or time the specifications, the nature and amount of cost or time involved, or both, the

computations used in determining such cost or time, or both, and all other pertinent factual data. The Contractor shall furnish such clarification and further available information and data may be requested in writing by the Engineer within the time specified in such request. In addition, he shall maintain complete and accurate daily records of the costs of any portion of the work for which additional compensation is claimed, and shall give the Engineer access thereto or certified copies thereof as requested. Any order or decisions of the Engineer as to which the Contractor has submitted a protest shall be final and conclusive on the Contractor if he fails to submit or document a claim with respect thereto in the manner and within the times above stated, and such failure shall constitute a waiver of all claims in connection therewith, whether direct, indirect, or consequential in nature.

C. Written Decision: After reviewing the written claim submitted by the Contractor and any additional information furnished by the Contractor and after considering the facts of the matter, the Engineer will give the Contractor written notice of the Engineer's final determination regarding the claim.

Article 8

Materials

8.01 General

A. The Contractor shall furnish all materials needed to complete the work and installations required under the terms of the contract, except those materials specified to be furnished by the City.

B. The Contractor shall submit satisfactory evidence of compliance with the specifications of such materials to be furnished and used in the work as the Engineer may require. Materials incorporated in the work and not specifically covered in the specifications shall be the best of their kind. Unless otherwise specified, all materials and equipment incorporated in the work under the Contract shall be new.

8.02 Quality and Workmanship

All materials must be of the specified quality and equal to approved samples, if samples have been required. All work shall be done and completed in a thorough, workmanlike manner, notwithstanding any omission from the specifications or the drawings, and it shall be the duty of the Contractor to call attention to apparent errors or omissions and request instructions before proceeding with the work. The Engineer may, by appropriate instructions, correct errors and supply omissions, which instruction shall be binding upon the Contractor as though contained in the original specifications or drawings. All work performed under this Specification will be inspected by the Engineer as provided in Paragraph 8.04. All work performed within City or County street or State of California freeway rights of way shall meet the requirements of the agency having jurisdiction. All materials furnished and all work done must be satisfactory to the Engineer. Work, material, or equipment not in accordance with this Specification, in the opinion of the Engineer shall be made to conform thereto. Unsatisfactory material and equipment will be rejected, and if so ordered by the Engineer, shall, at the Contractor's expense, be immediately removed from the vicinity of the work.

8.03 Trade Names and “Or Approved Equal” Provisions

Whenever in the Specifications or in the drawings the name or brand of a manufactured article is used it is intended to indicate a measure of quality and utility or a standard. Except in those instances where the product is designated to match others in use on a particular improvement either completed or in the course of completion, the Contractor may substitute any other brand or manufacture of equal quality and utility on approval of the Engineer, provided the use of such brand or manufacture involves no additional cost to the City.

8.04 Approval of Materials

A. The Contractor shall furnish without additional cost to the City such quantities of construction materials as may be required by the Engineer for test purposes. He shall place at the Engineer’s disposal all available facilities for and cooperate with him in the sampling and testing of all materials and workmanship. The Contractor shall prepay all shipping charges on samples. No samples are to be submitted with the bids unless otherwise specified.

B. Each sample submitted shall be labeled. A letter, in duplicate, submitting each shipment of samples shall be mailed to the Engineer by the Contractor. Both the labels on the sample and the letter of transmittal shall indicate the material represented its place of origin, the names of the producer and the Contractor, the Specification number and title, and the reference to the applicable drawings and Specification paragraphs.

C. Materials or equipment of which samples are required shall not be used on the work until approval has been given by the Engineer in writing. Approval of any sample shall be only for the characteristics of for the uses named in such approval and no other. No approval of a sample shall be taken in itself to change or modify any Contract requirement.

D. Failure of any material to pass the specified tests will be sufficient cause for refusal to consider under this Contract any further sample of the same brand or make of that material.

8.05 Ordering Materials

One copy of each of the Contractor’s purchase orders for materials forming a portion of the work must be furnished to the Engineer, if requested. Each such

purchase order shall contain a statement that the materials included in the order are subject to inspection by the City. Materials purchased locally will be inspected at the point of manufacture or supply, and materials supplied from points outside the Los Angeles areas will be inspected upon arrival at the job, except when other inspection requirements are provided for specific materials in other sections of this Specification.

8.06 Authority of the Engineer

On all questions concerning the acceptability of material or machinery, the classification of material, the execution of the work, and conflicting interests of Contractors performing related work, the decision of the Engineer shall be final and binding on both parties, except in the case of gross error. The Engineer will make periodic observations of materials and completed work to observe their compliance with plans, specifications, and design and planning concepts, but he is not responsible for the superintendence of constructions processes, site conditions, operations, equipment, personnel, or the maintenance of a safe place to work or any safety in, on, or about the site of work.

8.07 Inspection

A. All materials furnished and work done under this Contract will be subject to rigid inspection. The Contractor shall furnish, without extra charge, the necessary test pieces and samples, including facilities and labor for obtaining them, as requested by the Engineer. The Engineer, or his authorized agent or agents, at all times shall have access to all parts of the shop and the works where such material under his inspection is being manufactured or the work performed. Work or material that does not conform to the specification, although accepted through oversight, may be rejected at any stage of the work. Whenever the Contractor of installation or construction is permitted or directed to do night work or to vary the period during which work is carried on each day, he shall give the Engineer due notice, so that inspection may be provided. Such work shall be done under regulations to be furnished in writing by the Engineer.

B. No improvement shall be accepted by the City unless and until it is free of all liens and encumbrances and free of all material defects and conditions which may create a hazard to the public health, safety, or welfare. In addition, all

properties, rights-of-way, easements, and other interests to be dedicated to the City shall be, before acceptance thereof by the City, free and clear of all liens and encumbrances of any kind or character whatsoever and free of any and all material defects and conditions creating a hazard to public health or public safety.

8.08 Infringement of Patents

The Contractor shall hold and save the City, its officers, agents, servants, and employees harmless from and against all and every demand or demands, of any nature or kind, for or on account of the use of any patented invention, process, equipment, article, or appliance employed in the execution of the work or included in the material or supplies agreed to be furnished under the Contract, and should the Contractor, his agents, servants, or employees, or any other, be enjoined from furnishing or using any invention, process, equipment, article, material, supplies or appliance supplied or required to be supplied or used under this Contract, the Contractor shall promptly substitute other inventions, processes, equipment, articles, materials, supplies, or appliance in lieu thereof, of equal efficiency, quality, finish, suitability, and market value, and satisfactory in all respects to the Engineer. Or in the event that the Engineer elects, in lieu of such substitution, to have, supplied, and to retain and use, any such invention, process, equipment, article, material, supplies, or appliances, as may by his contract be required to be supplied and used, in that event the Contractor shall at his expense pay such royalties and secure such valid licenses as may be requisite and necessary to enable the City, its officers, agents, servants, and employees, or any of them, to use such invention, process, equipment, article, material, supplies, or appliances without being disturbed or in any way interfered with by any proceeding in law or equity on account thereof. Should the Contractor neglect or refuse promptly to make the substitution herein before required, or to pay such royalties and secure such licenses as may be necessary and requisite for the purpose aforesaid, then in that event the Engineer shall have the right to make such substitution, or the City may pay such royalties and secure such licenses and charge the cost thereof against any money due the Contractor from the City, or recover the amount thereof from him and his surety, notwithstanding final payment under this contract may have been made.

Article 9

Submittals

9.01 General

A. The Contractor shall submit samples, drawings, and data for the Engineer's approval which demonstrate fully that the construction, and the materials and equipment to be furnished will comply with the provisions and intent of these plans and specifications.

B. Specific items to be covered by the submittals shall include, as a minimum, the following:

1. For structures, submit all shop, setting, equipment, miscellaneous iron and reinforcement drawings and schedules necessary.

2. For conduits, submit a detailed layout of the conduit with details of bends and fabricated specials and furnish any other details necessary. Show location of shop and field welds.

3. For equipment which requires electrical service, submit detailed information to show power supply requirements, wiring diagrams, control and protection schematics, shop test data, operation and maintenance procedures, outline drawings, and manufacturer's recommendation of the interface/interlock among the equipment

4. For mechanical equipment submit all data pertinent to the installation and maintenance of the equipment including shop drawings, manufacturer's recommended installation procedure, detailed installation drawings, test data and curves, maintenance manuals, and other details necessary.

5. Samples.

6. Colors.

7. Substitutions.

8. Manuals.

9. As-built drawings.

C. Submit a schedule of submittals

9.02 Product Handling

A. Submittals shall be accompanied by a letter of transmittal and shall be in strict accordance with the provisions of this section.

B. Submit priority of processing when appropriate.

9.03 Schedule of Submittals

Contractor shall provide the City with a schedule of submittals within ten (10) working days from the date of Notice of Award.

9.04 Shop Drawings

A. Scale required: Make all shop drawings accurately to a scale sufficiently large to show all pertinent features of the item and its method of connection to the work.

B. Type of prints required: Make all shop drawing prints in blue or black line on white background. Reproductions of City drawings are not acceptable.

C. Size of drawings required: The overall dimension of each drawing submitted to the Engineer shall be equal to one of the City’s standard sheet sizes as listed below:

Sheet Sizes

Height X Width

11” X 8 ½”

11” X 17”

24” X 36”

The title block shall be located in the lower right hand corner of each drawing and shall be clear of all lifework, dimensions, details, and notes.

9.05 Colors

Unless the precise color and pattern are specified elsewhere, submit accurate color charts and pattern charts to the Engineer for his review and selection whenever a choice of color or pattern is available in a specified product. Label each chart naming the source, the proposed location of use on the project, and the project.

9.06 Manufacturers' Literature

Where contents of submitted literature from manufacturers include data not pertinent to the submittal, clearly show which portions of the contents are being submitted to review.

9.07 Substitutions

A. Engineer's approval required:

1. The contract is based on the materials, equipment, and methods described in the Contract Documents. Any Contractor-proposed substitutions are subject to the Engineer's approval.

2. The Engineer will consider proposals for substitutions of materials, equipment, and methods only when such proposals are accompanied by full and complete technical data, and all other information required by the Engineer to evaluate the proposed substitution.

B. Trade names and "or approved equal" provision: See Article 8.03.

9.08 Manuals

A. Format: When manuals are required to be submitted covering items included in this work, prepare such manuals in approximately 8-1/2" X 11" format in durable plastic binders and with at least the following:

1. Identification on, or readable through, the front cover stating general nature of the manual.
2. Neatly typewritten index near the front of the manual, furnishing immediate information as to location in the manual of all emergency data regarding the installation.
3. Complete instructions regarding operation and maintenance of all equipment involved.
4. Complete nomenclature of all replaceable parts, their part numbers, current cost, and name and address of nearest vendor of parts.
5. Copy of all guarantees and warranties issued.
6. Copy of drawings with all data concerning changes made during construction.

B. Extraneous data: Where contents of manuals include manufacturers' catalog pages, clearly indicate the precise items included in this installation and delete, or otherwise clearly indicate, all manufacturers' data with which this installation is not concerned.

9.09 As- Built Drawings

A. When required to be submitted covering items included in this work, the Contractor shall deliver to the City one complete set of final As-Built reproducible drawings for City records before the contract will be accepted by the City.

B. The drawings shall be duplicates and at the same size and dimensional scale as the originals. They shall be on a polyester translucent base material with a minimum sheet thickness of .003 inch (.08mm).

C. The legibility and contrast of each drawing submitted to the City shall be such that every line, number, letter, and character is clearly readable.

9.10 Submittal Quantities

A. Submit six (6) copies of all data and drawings unless specified otherwise.

B. Submit all samples, unless specified otherwise, in the quantity to be returned, plus two, which will be retained by the Engineer.

9.11 Identification of Submittals

Completely identify each submittal and resubmittal by showing at least the following information:

1. Name and address of submitter, plus name and telephone number of the individual who may be contacted for further information.
2. Name of project as it appears in this specification and specification number.
3. Drawing number and specification section number other than this section to which the submittal applies.
4. Whether this is an original submittal or resubmittal.
5. For examples, indicate the source of the sample.

9.12 Schedule of Submittals

A. Submit initial schedule of submittals within ten (10) calendar days after Notice of Award.

B. Submit revised schedule of submittals within five (5) calendar days after date of request from the Engineer.

C. Engineer will review schedule of submittals and will notify Contractor that schedule is acceptable or not acceptable within five (5) calendar days after receipt.

9.13 Coordination of Submittals

A. Prior to submittal for Engineer's review, use all means necessary to fully coordinate all material, including the following procedures:

1. Determine and verify all field dimensions and conditions, materials, catalog numbers, and similar data.

2. Coordinate as required with all trades and with all public agencies involved.

3. Secure all necessary approvals from public agencies and others and signify by stamp, or other means, that they have been secured.

4. Clearly indicate all deviations from the Contract documents.

B. Unless otherwise specifically permitted by the Engineer, make all submittals in groups containing all associated items; the Engineer may reject partial submittals as not complying with the provisions of the contract documents.

9.14 Timing of Submittals

A. Make all submittals far enough in advance of scheduled dates of installation to provide all required time for reviews, for securing necessary approvals, for possible revision and resubmittal, and for placing orders and securing delivery.

B. In scheduling, allow at least fourteen (14) calendar days for the Engineer's review, plus the transit time to and from the City office.

C. Manuals shall be submitted prior to performing functional tests.

9.15 Approval by City

A. One copy of each submittal, except manuals, schedule of costs for progress payments, and as-built drawings will be returned to the Contractor marked "Approved," "Approved as Noted," or "Returned for Correction," Manuals, schedule of

costs and as-built drawings will be returned for resubmittal if incomplete or unacceptable.

B. Submittals marked "Approved as Noted" need not be resubmitted, but the notes shall be followed.

C. If submittal is returned for correction, it will be marked to indicate what is unsatisfactory.

D. Resubmit revised drawings or data as indicated, in seven (7) copies.

E. Approval of each submittal by the Engineer will be general only and shall not be construed as:

1. Permitting any departures from the Contract requirements.
2. Relieving the Contractor of the responsibility for any errors and omissions in details, dimensions, or of other nature that may exist.
3. Approving departures from additional details or instruction previously furnished by the Engineer.

9.16 Changes to Approved Submittals

A. Resubmittal is required for any proposed change to an approved submittal. Changes which require resubmittal include, but are not necessarily limited to, drawing revisions, changes in materials and equipment, installation procedures and test data. All resubmittals shall include an explanation of the necessity for the change.

B. Minor corrections to an approved submittal may be accomplished by submitting a "Corrected Copy."

Article 10

Safety

10.01 Protection of Persons and Property

Notwithstanding any other provision of these specifications, the Contractor shall be solely and completely responsible for conditions of the job site, including safety of all persons and property, during performance of the work. This requirement will apply continuously and will not be limited to normal working hours. Safety and sanitary provisions shall conform to applicable Federal, State, County, and local laws, regulations, ordinances, standards, and codes. Where any of these are in conflict, the more stringent requirement shall be followed.

10.02 Protection from Hazards

A. Trench Excavation Safety Plans: Attention is directed to the provisions of Section 6705 of the Labor Code. Excavation for any trench 5 feet or more in depth shall not begin until the Contractor has received approval from the Engineer of the Contractor's detailed plan for worker protection from the hazards of caving ground during excavation of such trench. Such plan shall show the details of the design of shoring, bracing, sloping or other provisions to be made for worker protection during such excavation. No such plan shall allow the use of shoring, sloping or protective system less effective than that required by the Construction Safety Orders, the plan shall be prepared and signed by an engineer who is registered as a Civil or Structural Engineer in the State of California.

B. Confined Spaces:

1. Tests for the presence of combustible or dangerous gases shall be made with an approved device immediately prior to a worker entering a confined space and at intervals frequent enough to ensure a safe atmosphere during the time a worker is in such a structure. A record of such tests shall be kept at the job site. Sources of ignition, including smoking, shall be prohibited in any confined space until after the atmosphere within the confined space has been tested and found safe.

Note: Confined spaces for the purpose of this Article shall mean the

interior or storm drains, sewers, vaults, utility pipelines, manholes, reservoirs, and any other such structure which is similarly surrounded by confining surfaces so as to permit the accumulation of dangerous gases or vapors.

2. No employees shall be permitted to enter or remain within a confined space until such confined space is free of concentrations of harmful gases, and lack of oxygen, unless the employee is wearing suitable and approved respiratory equipment. Confined spaces that contain or that have last been used as container of toxic gases, light oils, hydrogen sulfide, corrosives, or poisonous substances, shall, in every case, be tested by means of approved devices or chemical analysis before being entered without wearing approved devices or chemical analysis before being entered without wearing approved respiratory equipment. Reservoirs, vessels, or other confined spaces having openings or manholes in the side as well as in the top shall be entered from the side opening or manholes when practicable.

C. Material Safety Data Sheets: Attention is directed to the provisions of General Industry Safety Orders, Section 5194, Title 8, California Administrative Code. The Contractor shall submit to the Engineer a Material Safety Data Sheet (MSDS) for each hazardous substance proposed to be used, ten calendar days prior to the delivery of such material to the job site or use of such material at a manufacturing plant where the Engineer is to perform an inspection. For materials which are to be tested in City laboratories, the MSDS shall be submitted with the sample(s). Hazardous substance is defined as any substance included in the list (Director's List) of hazardous substances prepared by the Director, California Department of Industrial Relations, pursuant to Labor Code Section 6382. Failure to submit an MSDS for any hazardous substance may result in actions as provided in Article 5, "SUSPENSION OR TERMINATION OF CONTRACT", of these General Conditions.

10.03 Differing Site Conditions

- A. Attention is directed to Section 7104 of the Public Contract Code.
- B. The Contractor shall promptly, and before such conditions are disturbed, notify the Engineer in writing of:

1. Material that the Contractor believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required by law to be removed to a Class I, Class II, or Class III disposal site.

2. Subsurface or latent physical conditions at the site differing materially from those indicated in its contract.

3. Unknown physical conditions at their site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract.

C. The Engineer will promptly investigate the conditions. If he finds that such conditions do materially differ, or do involve hazardous waste, and do cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the work under this contract, an equitable adjustment will be made, as determined by the Engineer.

D. In the event of disagreement between the Contractor and the Engineer whether the conditions do materially differ or whether a hazardous waste is involved or whether the conditions cause and increase or decrease in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any completion date required by the Contract, but shall proceed with all work to be performed under the Contract.

E. The Contractor shall retain all rights provided by, and shall be subject to all requirements of, this Contract which pertain to the resolution of disputes and protests.

10.04 Traffic Regulation

A. Temporary Safeguards: During the performance of the work the Contractor shall erect and maintain necessary temporary fences, bridges, railings, lights, signals, barriers, or other safeguards as shall be appropriate under the circumstance in his judgment for the prevention of accidents; and he shall take other precautions as necessary for public safety including, but not limited to, traffic control. Traffic control shall be conducted in accordance with the latest edition of the WATCH handbook or the manual or traffic control, whichever is more stringent, and as approved by the City Engineer.

B. Submittals: Contractor shall submit at least 15 calendar days prior to work a detailed traffic control plan, that is approved by all agencies having jurisdiction and that conforms to all requirements of these specifications.

C. Quality Assurance:

1. No changes or deviations from the approved detailed traffic control plan shall be made, except temporary changes in emergency situations, without prior approval of the Engineer and all agencies having jurisdiction.

2. Contractor shall immediately notify the Engineer and the agencies having jurisdiction of occurrences that necessitate modification of the approved traffic control plan.

10.05 Traffic Control Devices

Traffic signs, flashing lights, barricades and other traffic safety devices used to control traffic shall conform to the requirements of the WATCH handbook or the manual of traffic control, whichever is more stringent, and as approved by the City Engineer.

A. Portable signals shall not be used unless permission is given in writing by the agency having jurisdiction.

B. Warning signs used for nighttime conditions shall be reflectorized or illuminated. "Reflectorized signs" shall have a reflectorized background and shall conform to the current State of California Department of Transportation specifications for reflective sheeting on highway signs.

10.06 Execution

A. Roads subject to interference from the work covered by this contract shall be kept open, and the fences subject to interference shall be kept up by the Contractor until the work is finished. Except where public roads have been approved for closure, traffic shall be permitted to pass through designated traffic lanes with as little inconvenience and delay as possible.

B. Where alternating one-way traffic has been authorized, the maximum time that traffic will be delayed shall be posted at each end of the one-

way traffic section. The maximum delay time shall be approved by the agency having jurisdiction.

C. Contractor shall install temporary traffic markings where required to direct the flow of traffic and shall maintain the traffic markings for the duration of need. Contractor shall remove the markings by abrasive blasting when no longer required.

D. Convenient access to driveways and buildings in the vicinity of work shall be maintained as much as possible. Temporary approaches to, and crossing of, intersecting traffic lanes shall be provided and kept in good condition.

E. When leaving a work area and entering a roadway carrying public traffic, the Contractor's equipment, whether empty or loaded, shall in all cases yield to public traffic.

10.07 Flagging

Contractor shall provide flaggers to control traffic where required by the approved traffic control plan.

A. Flaggers shall perform their duties and shall be provided with the necessary equipment in accordance with the current "Instructions to Flaggers" of the California Department of Transportation.

B. Flaggers shall be employed full time on traffic control and shall have no other duties.

Article 11

Indemnity, Insurance and Bonds

11.01 Indemnity Standard Specifications

The Indemnity provisions shall be as follows.

11.01-1 Contractor's Duty

7. To the maximum extent permitted by law, Contractor hereby agrees, at its sole cost and expense, to defend with competent defense counsel approved by the City Attorney, protect, indemnify, and hold harmless the City, its elected and appointed officials, officers, employees, volunteers, attorneys, agents (including those City agents serving as independent contractors in the role of City representative), successors, and assigns (collectively "Indemnities") from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, charges, obligations, damages, causes of action, proceedings, suits, losses, stop payment notices, judgments, fines, liens, penalties, liabilities, costs and expenses of every kind and nature whatsoever, in any manner arising out of, incident to, related to, in connection with or resulting from any act, failure to act, error or omission of Contractor or any of its officers, agents, attorneys, servants, employees, subcontractors, material suppliers or any their officers, agents servants or employees, arising out of, incident to, related to, in connection with or resulting from any term, provision, image, plan, covenant, or condition in the Contract Documents, including without limitation, the payment of all consequential damages, attorneys' fees, experts' fees, and other related costs and expenses (individually, a "Claim," or collectively, "Claims"). Contractor shall promptly pay and satisfy any judgment, award or decree that may be rendered against Indemnitees in any such Claim. Contractor shall reimburse Indemnitees for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, in any, received by Contractor or Indemnitees. This indemnity shall apply to all Claims regardless of

whether any insurance policies are applicable or whether the Claim was caused in part or contributed to by an Indemnitees.

11.01-2 Civil Code Exception

Nothing in this Section 11.01 shall be construed to encompass Indemnitees' sole negligence or willful misconduct to the limited extent that the underlying Contract is subject to Civil Code Section 2782 or the City's active negligence to the limited extent that the underlying Contract Documents are subject to Civil Code Section 2782, provided such sole negligence, willful misconduct or active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction.

11.01-3 Non-waiver of Rights

Indemnitees do not and shall not waive any rights that they may possess against Contractor because the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to these Contract Documents. This indemnity provision is effective regardless of any prior, concurrent, or subsequent active or passive negligence by Indemnitees and shall operate to fully indemnify Indemnitees against such negligence.

11.01-4 Waiver of Right of Subrogation

Contractor, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees, while acting within the scope of their duties, from all Claims arising out of or incident to the activities or operations performed by or on behalf of the Contractor regardless of any prior, concurrent or subsequent active or passive negligence by Indemnitees.

11.01-5 Survival

The provisions of this Section 11.01 shall survive the term and termination of the Contract, are intended to be as broad and inclusive as is permitted by the law of the State, and are in addition to any other rights or remedies that Indemnitees may have under the law. Payment is not required as a condition precedent to an Indemnitee's right to recover under this indemnity provision, and an entry of judgment against a Contractor shall be conclusive in favor of the Indemnitee's right to recover under this indemnity provision.

11.02 Minimum Scope of Insurance

Contractor shall maintain minimum insurance coverage, at least as broad as following:

A. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001)

B. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automotive Liability, code 1 (any auto).

C. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. California Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, the Contractor hereby certifies as follows:

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

D. Builder's Risk Insurance covering all real and personal property for "all risks" of loss or "comprehensive perils" coverage including but not limited to the perils of earth movement including earthquake and flood for all buildings, structures, fixtures, materials, supplies, machinery and equipment to be used in or incidental to the Project for the full replacement value of the same. Coverage shall be included for property of others in the care, custody or control of the insured for which any insured may be liable.

11.03 Minimum Limits of Insurance

Contractor shall maintain minimum insurance limits no less than the following:

A. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. The general aggregate limit shall apply separately to this project/location.

B. Automotive Liability: \$1,000,000 per accident for bodily injury and property damage.

C. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

D. Builder's Risk Insurance shall have limits equal to the completed value of the project and no coinsurance penalty provisions.

11.04 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers, or (2) the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

11.05 Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

A. Additional Insured Endorsements:

1. General Liability: The City, its officers, elected and appointed officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the contractor's insurance, or as a separate owner's policy.

2. Automobile Liability: The City, its officers, elected and appointed officials, employees, and volunteers are to be covered as insured with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor.

B. For any claims related to his project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, elected and appointed officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

C. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after (30) calendar days prior written notice by certified mail, return receipt requested, has been given to the City.

D. Each insurance policy shall be endorsed to state that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured.

E. Each insurance policy shall be in effect prior to awarding the contract and each insurance policy or a successor policy shall be in effect for the duration of the project. The maintenance of proper insurance coverage is a material element of the contract and failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract on the Contractor's part.

11.06 Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII All insurance must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California.

11.07 Verification of Coverage

Contractor shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on the City authorized forms provided with the contract specifications. Standard ISO forms which shall be subject to City approval and amended to conform to the City's requirements may be acceptable in lieu of City authorized forms. All certificates and endorsements are to be received and approved by the City before the contract is awarded. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

11.08 Subcontractors

Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

11.09 Risk Management

Contractor acknowledges that insurance underwriting standards and practices are subject to change, and the City reserves the right to make changes to these provisions in the reasonable discretion of its Risk Manager.

11.10 Endorsements and Certificate

A. Contractor shall have its insurance carrier(s) complete and execute the following documents, together with a copy of each insurance policy required under the contract, including all endorsements thereto, which shall be delivered to the City Engineer within ten (10) working days following issuance of the Notice of Award of Public Works Project:

1. Form entitled: General Liability Endorsement, attached hereto as Exhibit A.
2. Form entitled: Automotive Liability Endorsement, attached hereto as Exhibit B.
3. Proof of Worker's Compensation Insurance (Employer's Liability), or if Contractor is self-insured for worker's compensation, a self-insuring certificate therefor from the State of California.
4. Form entitled: Waiver of Subrogation Clause and Contribution, attached hereto as Exhibit C, for all coverage and policies.

B. The contract will not be executed by the City and the Notice to Proceed issued until the aforesaid insurance documents have been received and approved by the City. City's decision as to the acceptability of all insurance documents is final. No substitution of the form of the documents or the endorsements or amendments thereto will be permitted without the prior written consent of City.

11.11 Bonds

A. Contractor shall furnish the following bonds:

1. A Faithful Performance Bond in an amount equal to One Hundred percent (100%) of the contract price on City form, attached hereto as Exhibit D.
2. A Payment Bond (Labor and Material) in an amount equal to One Hundred percent (100%) of the total contract price on City form, attached hereto as Exhibit E.
3. A Maintenance Bond in an amount equal to Ten percent (10%) of the total contract price on City form, attached hereto as Exhibit F.

B. All such bonds shall be accompanied by a power of attorney from the surety company authorizing the person executing the bond to sign on behalf of the company. If the bonds are executed outside the State of California, all copies of the bonds must be countersigned by a California representative of the surety. The signature of the person executing the bond shall be acknowledged by a notary public as the signature of the person designated in the power of attorney.

C. The surety of sureties on all bonds furnished must be satisfactory to the City. City will reject surety bonds obtained from any company which is not an admitted surety insurer under the laws of the State of California and which does not hold a Certificate of Authority from the U.S. Secretary of the Treasury under 31 U.S.C. §§ 9304-9306 as an acceptable surety on federal bonds. The surety must also be listed in the latest edition of U.S. Department of Treasury Circular 570, and the bonds provided must not exceed the surety's bonding limitations as set forth in Circular 570. Bonds shall be in multiples of \$1,000 only; provided, however, that the amount of the bond shall otherwise be fixed at the lowest sum that will fulfill all conditions herein set forth.

D. If during the continuance of the Contract any of the sureties, in the opinion of the City, are or become non-responsible or otherwise unacceptable to City, City may require other new or additional sureties, which the Contractor shall furnish to the satisfaction of City within ten calendar days after notice, and in default thereof the contract may be suspended and the materials may be purchased or the work completed as provided in Article 5 herein.

E. No modifications or alterations made in the work to be performed under the contract or the time of performance shall operate to release any surety from liability on any bond or bonds required to be given herein. Notice of such events is waived by the surety.

F. The contract will not be executed by City nor the Notice to Proceed issued until the aforesaid bonds have been received and approved by City. City's decision as to the acceptability of all sureties and bonds is final. No substitution of the form of the documents will be permitted without the prior written consent of City.

Article 12

Labor Provisions

12.01 Working Hours

A. Work or activity of any kind shall be limited to the hours from 7 a.m. to 5 p.m. Monday through Friday except for night time work as shown on the Plans, which shall be 9 pm to 6 am Monday through Friday. City Hall is closed every Friday.

B. Work on Saturdays, Sundays, or City Holidays requires prior consent of the City Engineer and is subject to Cost of Overtime Construction Inspection.

C. City holidays are:

New Year's Day

Martin Luther King, Jr. Day

Presidents' Day

Memorial Day (last Monday in May)

Independence Day

Labor Day

Veterans Day

Thanksgiving Day

Friday after Thanksgiving Day

Christmas Day

12.02 Cost of Overtime Construction Inspection

A. Overtime construction work performed at the option of, or for the convenience of, the Contractor will be inspected by the City at the expense of the Contractor. For any such overtime beyond the regular 8-hour day and for any time worked on Friday, Saturday, Sunday, or holidays the charges will be as shown in the following schedule:

Class	Charge per Hour
Construction Inspector	\$108.30

Other equipment as identified in City Council Resolution, Fees for Public Works permits, inspections, reviews and services for sewer connection fees.

B. There will be no charges for the inspection of overtime work ordered by the City Engineer or required by the specifications.

12.03 Compliance with State Labor Code

A. Contractor acknowledges that this project is a “public work” as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code (“Chapter 1”), and that this Agreement is subject to (1) Chapter 1, including without limitation Labor Code Section 1771 and (2) the rules and regulations established by the Director of Industrial Relations (“DIR”) implementing such statutes. Contractor shall perform all work on the project as a public work. Contractor shall comply with and be bound by all the terms, rules and regulations described in (1) and (2) as though set forth in full herein.

B. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 12.03 A above.

C. Contractor acknowledges that eight (8) hours labor constitutes a legal day’s work. Contractor shall comply with and be bound by Labor Code Section 1810. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to the City, forfeit twenty-five dollars (\$25) for each worker employed in the performance of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one (1) calendar day and forty (40) hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor code. Pursuant to Labor Code Section 1815, work performed by employees of Contractor in excess of eight (8) hours per day, and forty (40) hours during any one week shall be permitted upon public work compensation for all hours worked in excess of eight (8) hours per day at not less than 1 ½ times the basic rate of pay.

D. For every subcontractor who will perform work on the project, Contractor shall be responsible for such subcontractor’s compliance with Chapter

1 and Labor Code Sections 1860 and 3700, and Contractor shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages (described in Section 12.04 below). Contractor shall diligently take corrective action to halt or rectify any failure.

E. Pursuant to Labor Code Section 1771.4, Contractor shall post job site notices, as prescribed by regulation.

F. Pursuant to Labor Code Section 1771.4(a)(1), project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

12.04 Wage Rates

A. State Prevailing Wages: The Contractor shall pay its workers on this City project, in accordance with the prevailing wage rate.

1. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.

2. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1774 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to the City, forfeit the maximum amount allowable by law for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by

Contractor or by any subcontractor. The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which such worker was paid less than the stipulated prevailing wage rate shall be paid to such worker by the Contractor.

3. The specified wage rates are minimum rates only and the City will not consider and shall not be liable for any claims for additional compensation made by the Contractor because of payment by him of any wage rate in excess of the general prevailing rates. All disputes in regard to the payment of wages in excess of those specified herein shall be adjusted by the Contractor at his own expense.

4. The holidays upon which such rates shall be paid shall be all holidays recognized in the collective bargaining agreement applicable to the particular craft, classification, or type of worker employed on the project.

5. Pursuant to Section 1773.8 of the Labor Code, travel and subsistence payments shall be made to each worker needed to execute the work, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed with the Director of Industrial Relations, State of California.

B. Federal Prevailing Wage: **This is a federally assisted construction contract, Contractor acknowledges that federal labor standards provisions, including prevailing wage requirements of the Davis-Bacon and Related Acts, will be enforced.** Contractor understands that in the event of a conflict between the Federal General Wage Decision as established by the United States Department of Labor and the State General Prevailing Wage Determination as established by the California Department of Industrial Relations, the higher of the two will prevail. The City will not consider and shall not be liable for any claims for additional compensation made by the Contractor because of payment by him of any wage rate in excess of the federal wage rates. All disputes in regard to the payment of wages in excess of those specified herein shall be adjusted by the Contractor at its own expense.

C. Payroll Records: Contractor shall comply with and be bound by the provisions of Labor code Section 1776, which requires Contractor and each subcontractor to (1) keep accurate payroll records and verify such records in writing

under penalty of perjury, as specified in Section 1776, (2) certify and make such payroll records available for inspection as provided by Section 1776, and (3) inform the City of the location of the records, including the street address, city and county, and shall, within five working days, provide a notice of a change in location and address. The Contractor and every subcontractor shall keep an accurate record showing the name of and the actual hours worked each calendar day and each calendar week by each worker employed by him in connection with the work. Upon request by the City Engineer, the Contractor shall provide a copy of the certified payroll records along with a statement of compliance.

12.05 Employment of Apprentices

A. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code title 8, section 200 et seq. concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within sixty (60) calendar days after concluding work pursuant to this Agreement, Contractor and each of its subcontractors shall submit to the City a verified statement of the journeyman and apprentice hours performed during this Agreement.

B. In the event the Contractor or any subcontractor willfully fails to comply with the aforesaid sections, such Contractor or subcontractor shall be subject to the penalties for noncompliance in Labor Code Section 1777.7.

12.06 Character of Workmen

The Contractor shall not allow its agents or employees, its subcontractors, or any agent or employee thereof, to trespass on premises or lands in the vicinity of the work. Only skilled foremen and workmen shall be employed on work requiring special qualifications, and when required by the City Engineer, the Contractor shall discharge any person who commits trespass or in the opinion of the City Engineer disorderly, dangerous, insubordinate, incompetent, or otherwise objectionable. Any employee being intoxicated or bringing or having intoxicating liquors on the work shall be

discharged. Such discharge shall not be the basis of any claim for compensation of damages against the City or any of its officers.

12.07 Continuity of Work Agreement

The performance of the Project shall also be subject to the terms and conditions of that certain agreement executed by and between the City of El Monte and the Los Angeles and Orange Counties Building and Construction Trades Council and the Signatory Craft Unions on or about June 27, 2013 entitled "Continuity of Work Agreement", Contract No. 13CG1.57 (hereinafter, the "Project Labor Agreement"). In the event of any conflict or inconsistency between the provisions of the Project Labor Agreement and the provisions of this Article, the provisions of the Project Labor Agreement shall govern and control to the fullest extent permitted by law.

Part III: Technical Provisions

Part III

Technical Provisions

GENERAL REQUIREMENTS

All Conditions of the Contract apply to work of this Section.

SCOPE OF WORK

This work includes furnishing labor, materials, tools, equipment, transportation and services required for complete and satisfactory construction of:

BALLFIELDS REHABILITATION PROJECT

in accordance with the plans and Specifications prepared therefore by the City of El Monte Engineering Division.

SPECIFICATIONS AND APPENDED DRAWINGS

Specifications which form a part of the Contract Documents consist of sections listed in the Table of Contents of these specifications.

Qualifications of Standards Specifications: Wherever references are made in the Specifications to Standard Specification or methods, reference shall be made to the Standard Specifications for Public Works Construction, Current Edition, and as amended hereon.

OTHER REFERENCE STANDARDS

- A. City of El Monte Standards and Details
- B. American Public Works Association (APWA) Standard Plans
- C. CALTRANS Standard Plans and Specifications
- D. California Vehicle Code
- E. Work Area Traffic Control Handbook (WATCH)
- F. Manual of Warning Signs, Lights, and Devices for Use in Performance of Work Upon Highways

COORDINATION

The Contractor shall coordinate the work of the various trades and crafts to avoid possible interferences, duplication of work, or unfinished gaps and conflicts between operations. The various trades and crafts shall agree that, due to field conditions, minor departures from the Roadway cross sections are bound to occur, and that such departures are self-compensation so far as cost of additions or deductions are concerned. No claims for extras or time extensions will be allowed in connection with such minor changes due solely to field conditions.

CONSTRUCTION FORCE

It shall be construed that each subcontract is an integral part of the General Contract and the Contractor shall provide and maintain, in full operation, at all times during the performance of the contract, a sufficient crew of laborers, mechanics, and foremen to execute the work with dispatch. All construction related efforts and operations shall be continuous and sustained.

By "Sufficient" is specifically meant a crew equal to the work of the various trades required by all parts of the project - whether simultaneously or in the successive sequence of construction as soon as each is ready to be performed so that no delays on any portion of the project shall occur.

LOCATIONS AND LIMITS OF WORK

The work for the **BALLFIELDS REHABILITATION PROJECT** is located on Lambert Park and Mountain View Park in the City of El Monte

WORK TO BE DONE

The work to be performed pursuant to these specifications consists primarily of the following:

Lambert Park Little League and Tinny league Fields

- Grading of diamond
- Sod infield, walkway, and 7 foot outside arch radius of infield with Hybrid Bermuda 1" depth
- Construct field per Little League specifications
- Construct Pitching mound per Little League Specifications
- Replace irrigation of turf for coverage
- Level of outfield
- Sod with Hybrid Bermuda 1" depth of outfield.
- Replace irrigation for turf

Mountain View Park Little League and Adult Softball league Fields

- Grading of diamond
- Sod infield, walkway, and 7 foot outside arch radius of infield with Hybrid Bermuda 1" depth
- Construct field per Little League specifications
- Construct Pitching mound per Little League Specifications
- Replace irrigation of turf for coverage
- Level of outfield
- Sod with Hybrid Bermuda 1" depth of outfield.
- Replace irrigation for turf

Items not mentioned above, which are required by Standard Specifications for Public Works Construction, Latest Edition (Standard Specifications) and/or these Technical Specifications, shall be constructed to assure the proper completion of the Project, and shall be included in the appropriate Unit Price Bid in the Bidder's Proposal.

TIME OF COMPLETION

Time is of the essence in the performance of the Work under this Contract. All work shall be completed in every detail to the satisfaction of the Agency within **Forty (40) CALLANDER DAYS** after the date of commencement specified in the Notice to Proceed.

Liquidated Damages shall conform to the latest edition of the Standard Specifications "Greenbook" subsection 6-9 except the specified amount shall be changed to **Two Thousand and five hundred dollar (\$2,500)** per calendar day that the work, including punch list, is not completed beyond the specified contract time.

SCHEDULE "A"

BID ITEM NO. 1A: MOBILIZATION

GENERAL

This contract bid item for MOBILIZATION shall conform to the provisions of Sections 9-3.4 of the Standard Specifications and these provisions. The maximum price for **this bid item shall not exceed 5 percent of the sub-total for each bid schedule in the contract price** at the time of award.

Mobilization shall consist of preparatory work and operations, including, but not limited to, those necessary for the move-on and move-off operations of personnel, equipment, supplies, and incidentals to the Project Site; for the establishment of all offices, storage yards, buildings, hook-up and disconnects for utility services, and other facilities necessary for work on the Project; cost of bonds, insurances, preparation of submittals and project schedule; miscellaneous site preparation including **two (2) project information signs** and any other miscellaneous work costs not classified under the other Bid Item numbers.

1.01 STORAGE STRUCTURE

Contractor shall provide and maintain on the premises, where directed, watertight storage structure for all materials which might be damaged by weather, including storage facilities for concrete test samples or other material samples required for work.

1.02 TOILETS

Contractor shall install and maintain in a sanitary condition, suitable chemical toilets for use of workmen. Toilets shall be in a location approved by the Department. There shall be a minimum of one (1) toilet for each multiple of twenty (20) Contractor's employees, or fractional part thereof, working at the job site. The temporary restroom facilities shall be serviced a minimum of three (3) times a week.

1.03 Utilities

The Contractor shall arrange for and provide all utility services necessary to the work, including electrical current for power and light, and water supplies; or at Contractor's option, he may use free of charge, available City utility services as may exist on the site. Motors connected to City electrical circuits shall not exceed 1/3 horsepower. Contractor shall provide, maintain and remove upon completion of work, all temporary connecting lines to sources of supplies, and temporary meters and accessories as needed.

The Contractor shall bear all expenses involved in the provisions of providing and connecting all temporary utility services. The City will assume payment for utility service charge at the time the various permanent meters are set. Refer to Project General Requirements' section for permanent utility services.

1.04 CONSTRUCTION SIGNBOARDS

Refer to article entitled "Advertising" of the General Conditions. Prior to any ground breaking operation or in the case ground breaking is not required, within ten (10) days after award of contract, the Contractor shall furnish and erect two (2) identification signboards 4'-0 x 8'-0 in size, constructed of 3/4" exterior grade plywood within a frame, supported on posts, and adequately braced to resist wind stresses. The sign background shall be painted with two (2) coats of exterior type green paint over a suitable primer and lettered with block letters professionally applied. The signboard shall set forth, in sequence, the following information with the layout as directed by the Department.

BALLFIELDS REHABILITATION PROJECT

City of El Monte
City Council

Andre Quintero Mayor
Bart Patel Mayor Pro Tem
Juventino "J" Gomez Councilman
Norma Macias Councilwoman
Victoria "Vicky" Martinez Councilwoman
Jesus M. Gomez, City Manager

Name of Contractor
City Seal in color

Signs shall be promptly removed by the Contractor or by the owner, if individually owned, upon completion of the work. The size, construction, subject matter and location of all signs shall be subject to the approval of the Department.

PAYMENT

Payment for **BID ITEM NO. 1A: MOBILIZATION** Mobilization shall be paid for at the Contract lump sum price bid. The lump sum price for Mobilization shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in mobilization as specified herein.

Payments for Mobilization will be made in accordance with the following schedule:

- a. Payment of up to 50 percent of the contract lump sum bid price for mobilization and securing the rider permit from Caltrans at the first progress payment.
- b. Payment to 75 percent of the contract lump sum bid price for mobilization when the monthly partial payment estimate of the total amount earned to date, not including the amount earned for mobilization, is 30 percent or more of the original contract amount.
- c. Payment to 100 percent of the contract lump sum bid price for mobilization when the monthly partial payment estimate of the total amount earned to date, not including the amount earned for mobilization, is 50 percent or more of the original contract.

BID ITEM NO. 2A: SWPPP

GENERAL

STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

Unless specifically prepared for the project and included in the Appendix, the Contractor shall be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) for this project, which shall be submitted to the Engineer for review and approval at the Pre-Construction Conference. The Contractor's attention is directed to the California Department of Transportation (Caltrans) website at:

www.dot.ca.gov/hq/construc/stormwater/manuals.htm

The Caltrans website contains SWPPP templates and other important information that may be useful in the preparation of a SWPPP for public works projects. The Contractor shall ensure that the SWPPP prepared for this project complies with the requirements of Regional Board Order No.

R4-2012-0175 and NPDES No. CAS004001.

Additionally the Contractor shall guarantee that the SWPPP complies with the following measures from the Regulatory Permits and Environmental Commitment Measures:

- Projects shall not discharge substances in concentrations toxic to human, plant, animal, or aquatic life or that produce detrimental physiological responses.
- Projects shall not discharge waste classified as "hazardous" as defined in Title 22 CCR section 66261 and the California Water Code section 19179;
- No oil, petroleum products, or rubbish shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the United States.
- No equipment maintenance will be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter waters of the United States.
- Equipment refueling shall not occur within waters of the United States.
- Any oil or grease leaks shall be immediately cleaned up.

Upon approval of the SWPPP by the Engineer, the City shall submit a Notice of Intent (NOI) to the Regional Water Quality Control Board (RWQCB).

The Contractor shall ensure that the SWPPP is developed and amended or revised by a Qualified SWPPP Developer (QSD). The Contractor shall ensure that Best Management Practices (BMPs) within the SWPPP are implemented by a Qualified SWPPP Practitioner (QSP). To demonstrate compliance with requirements of this General Permit, the QSD shall include information in the SWPPP that supports the conclusions, selections, use, and maintenance of BMPs.

The Contractor shall designate the QSD and QSP, as the case may be, as the individuals directly responsible for and implementing the SWPPP requirements, and maintenance of the documentation contained therein, during the course of construction until the project has been accepted as complete by the City. The Contractor shall keep the SWPPP at the project site and make it available for review upon request of a representative of the RWQCB or the Engineer.

The Construction Superintendent shall prepare a Construction Schedule and BMP Sequencing Schedule for the project and include it into the SWPPP at the designated location.

Special Note: The Contractor shall ensure it has prepared, *in advance*, the required SWPPP for submittal at the Pre-Construction Conference. Failure to have prepared an adequate SWPPP for submittal at the Pre-Construction Conference will delay Contractor's start of work, however, the Notice to Proceed shall be issued and working days shall commence, regardless of construction work occurring due to the Contractor's delay in preparing and submitting an adequate SWPPP for the Engineer's approval.

The Construction Superintendent shall prepare a Notice of Termination (NOT), included in the SWPPP, and submit it to the RWQCB following acceptance of the work by the City, but prior to final payment.

Throughout the duration of the work, the Construction Superintendent shall ensure the following construction storm water monitoring actions are performed:

- Conduct site inspections before and after storm events.
- Conduct inspections of construction sites prior to anticipated storm events and after actual storm events to identify areas contributing to a discharge of storm water associated with construction activity, and evaluate whether control practices to reduce pollutant loadings identified in the SWPPP are adequate and properly implemented or whether additional

control practices are needed. A record of the inspections must include the date of the inspection, the individual(s) who performed the inspection, and the observations.

- Any noncompliance or anticipated noncompliance shall be reported to the Engineer immediately, for reporting to the Regional Water Quality Control Board (RWQCB). The notifications shall identify the type(s) of noncompliance, describe the actions necessary to achieve compliance, and include a time schedule, subject to the modifications by the RWQCB, indicating when compliance will be achieved.

The Contractor shall maintain a copy of the General Stormwater Permit and the SWPPP at the construction site and shall make the General Stormwater Permit available to operating personnel and local, State, and Federal agencies' representatives during construction activities. Should the Contractor elect not to have a construction field office, the Engineer will, on request, reserve filing space within the facilities for City Inspection Personnel to assist in complying with this requirement.

Prior to commencing work, the Contractor shall make such amendments to the SWPPP as are required to make it coincide with the Contractor's planned operations and submit the amendments to the Engineer for approval and file. The amendments shall include an Erosion Control Plan (ECP), described in Section "Construction Project Diversion and Control of Water", along with any plan for water pollution control measures. The amended and approved SWPPP shall be kept at the project site.

The Contractor is notified that the SWPPP must be amended from time to time during construction to reflect actual construction practices and such amendments shall be submitted to the Engineer within five (5) working days of the Engineer's written request. If the Contractor plans to amend the SWPPP, due to field conditions or any other reason, he shall propose the necessary amendments to the Engineer for approval at least five (5) working days prior to implementation.

The SWPPP and amendments shall not be construed to be a waiver of the Contractor's obligation to review and understand the General Stormwater Permit before submitting a Bid. By submitting a Bid, the Contractor acknowledges satisfaction as to the requirements of the General Stormwater Permit.

PAYMENT

Payment for **BID ITEM NO. 2A: SWPPP** SWPPP shall be paid for at the Contract lump sum price bid. The lump sum price for SWPPP shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in preparation and implementation of SWPPP as specified herein.

BID ITEM NO. 3A: Surveying and Construction Staking

GENERAL

SURVEY SERVICE.

All work shall comply with the Standard Specifications and these special provisions.

The Contractor shall provide all construction surveying by a California registered Land Surveyor or Registered Civil Engineer appropriately licensed to practice land surveying. The Contractor's surveyor shall provide monument tie-out and corner record filing, as required by the Engineer or his representative.

The Contractor's surveyor shall set all stakes and hubs, furnish all lines, grades and measurements necessary for the proper prosecution and control of the work contracted for under these specifications. No direct payment will be made for this labor, materials, or other expenses

therewith.

The Contractor must give weekly copies of all survey notes to the Engineer so that the Engineer may check them as to accuracy and method of staking. All areas that are staked by the Contractor must be checked and approved by the Engineer prior to beginning any work in the area. The Engineer will make periodic checks of the grades and alignment set by the Contractor. In case of error on the part of the Contractor, his/her employees, or surveyor, resulting in establishing grades and/or alignment that are not in accordance with the plans or as established by the Engineer, all construction or staking not in accordance with the established grades and/or alignment shall be replaced without additional cost to the City.

PAYMENT

Payment for **BID ITEM NO. 3A: Surveying and Construction Staking** shall be per lump sum (LS) and include full compensation for all labor, materials, tools, equipment, transportation, and incidentals necessary to do all the work as specified therein.

BID ITEM NO. 4A: Rehab Little League Field infield of Lambert Park

GENERAL

Contractor shall remove and dispose infield turf edges; the section to be removed from infield, walkway, and 7 foot outside arch radius of infield including wings with minimum depth of one (1) inch; rough grade of diamond, infield edges and skinned area; survey and mark all infield boundaries and construct field per Little League Specifications; construct pitching mound per Little League specifications; trench and excavate along infield turf edges for new irrigation lateral lines and heads to provide complete coverage by using existing mainline and valves. The new lateral lines shall be designed and pipe sized for proper flow, and head to head coverage; backfill and compact for new irrigation lateral lines and rotors. Laser Grade all skinned infield turf areas and turf areas removed. Apply a starter type fertilizer such as *Simplot "Super Iron 9-9-9" minis* applied @ 11.1 lbs. per 1000 sq. ft., *Moisture Manager Granular QD* @ 2.7 lbs. per 1000 sq. ft., and *Tri-C Humate 40% Humic Acids* @ 10 lbs. per 1000 sq. ft. rates **OR EQUAL**. Install "**Over Seeded**" **Hybrid Bermuda** sod, one (1) inch thick, along infield, walkway and outside arch radius of infield.

All removals shall comply with the Standard Specifications and these special provisions.

During grading and other construction operation, soils residues shall not be permitted to flow or travel into gutters, onto adjacent street surfaces or parkways. All residues shall be completely removed by sweeping and properly disposed. No washing of residue into drainage structures will be allowed. All catch basins and curb inlets shall be covered, utilizing the BMP which most appropriately fits the situation, and as approved by the Engineer. The Contractor shall make every effort to control all dust created by his operations by utilizing the Best Management Practice approved by the State Water Resource Control Board.

PAYMENT

Payment for **Bid Item No. 4A: Rehab Little League Field infield of Lambert Park** shall be at the unit bid price per Lump Sum (LS) and including all work identified under this bid schedule. The contract unit price shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, furnishing all transportation, removal of sod, disposal of resulting material, clean up, ground preparation, in accordance with the Standard Specifications and these Special Provisions.

BID ITEM NO. 5A: REHAB TINY LEAGUE FIELD INFIELD OF LAMBERT PARK

GENERAL

Contractor shall remove and dispose infield turf edges; the section to be removed from infield, walkway, and 7 foot outside arch radius of infield including wings with minimum depth of one (1) inch; rough grade of diamond, infield edges and skinned area; survey and mark all infield boundaries and construct field per Little League Specifications; construct pitching mound per Little League specifications; trench and excavate along infield turf edges for new irrigation lateral lines and heads to provide complete coverage by using existing mainline and valves. The new lateral lines shall be designed and pipe sized for proper flow, and head to head coverage; backfill and compact for new irrigation lateral lines and rotors. Laser Grade all skinned infield turf areas and turf areas removed. Apply a starter type fertilizer such as *Simplot "Super Iron 9-9-9" minis* applied @ 11.1 lbs. per 1000 sq. ft., *Moisture Manager Granular QD* @ 2.7 lbs. per 1000 sq. ft., and *Tri-C Humate 40% Humic Acids* @ 10 lbs. per 1000 sq. ft. rates **OR EQUAL**. Install "**Over Seeded" Hybrid Bermuda** sod, one (1) inch thick, along infield, walkway and outside arch radius of infield.

All removals shall comply with the Standard Specifications and these special provisions.

During grading and other construction operation, soils residues shall not be permitted to flow or travel into gutters, onto adjacent street surfaces or parkways. All residues shall be completely removed by sweeping and properly disposed. No washing of residue into drainage structures will be allowed. All catch basins and curb inlets shall be covered, utilizing the BMP which most appropriately fits the situation, and as approved by the Engineer. The Contractor shall make every effort to control all dust created by his operations by utilizing the Best Management Practice approved by the State Water Resource Control Board.

PAYMENT

Payment for **Bid Item No. 5A: Rehab Tiny League Field infield of Lambert Park** shall be at the unit bid price per Lump Sum (LS) and including all work identified under this bid schedule. The contract unit price shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, furnishing all transportation, removal of sod, disposal of resulting material, clean up, ground preparation, in accordance with the Standard Specifications and these Special Provisions.

BID ITEM NO. 6A: Rehab Little League Field infield of Mountain View Park

GENERAL

Contractor shall remove and dispose infield turf edges; the section to be removed from infield, walkway, and 7 foot outside arch radius of infield including wings with minimum depth of one (1) inch; rough grade of diamond, infield edges and skinned area; survey and mark all infield boundaries and construct field per Little League Specifications; construct pitching mound per Little League specifications; trench and excavate along infield turf edges for new irrigation lateral lines and heads to provide complete coverage by using existing mainline and valves. The new lateral lines shall be designed and pipe sized for proper flow, and head to head coverage; backfill and compact for new irrigation lateral lines and rotors. Laser Grade all skinned infield turf areas and turf areas removed. Apply a starter type fertilizer such as *Simplot "Super Iron 9-9-9" minis* applied @ 11.1 lbs. per 1000 sq. ft., *Moisture Manager Granular QD* @ 2.7 lbs. per 1000 sq. ft., and *Tri-C Humate 40% Humic Acids* @ 10 lbs. per 1000 sq. ft. rates **OR EQUAL**. Install

“Over Seeded” Hybrid Bermuda sod, one (1) inch thick, along infield, walkway and outside arch radius of infield.

All removals shall comply with the Standard Specifications and these special provisions.

During grading and other construction operation, soils residues shall not be permitted to flow or travel into gutters, onto adjacent street surfaces or parkways. All residues shall be completely removed by sweeping and properly disposed. No washing of residue into drainage structures will be allowed. All catch basins and curb inlets shall be covered, utilizing the BMP which most appropriately fits the situation, and as approved by the Engineer. The Contractor shall make every effort to control all dust created by his operations by utilizing the Best Management Practice approved by the State Water Resource Control Board.

PAYMENT

Payment for **Bid Item No. 6A: Rehab Little League Field infield of Mountain View Park** shall be at the unit bid price per Lump Sum (LS) and including all work identified under this bid schedule. The contract unit price shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, furnishing all transportation, removal of sod, disposal of resulting material, clean up, ground preparation, in accordance with the Standard Specifications and these Special Provisions.

BID ITEM NO. 7A: Rehab Softball League Field infield of Mountain View Park

GENERAL

Contractor shall remove and dispose infield turf edges; the section to be removed from infield, walkway, and 7 foot outside arch radius of infield including wings with minimum depth of one (1) inch; rough grade of diamond, infield edges and skinned area; survey and mark all infield boundaries and construct field per Little League Specifications; construct pitching mound per Little League specifications; trench and excavate along infield turf edges for new irrigation lateral lines and heads to provide complete coverage by using existing mainline and valves. The new lateral lines shall be designed and pipe sized for proper flow, and head to head coverage; backfill and compact for new irrigation lateral lines and rotors. Laser Grade all skinned infield turf areas and turf areas removed. Apply a starter type fertilizer such as Simplot “Super Iron 9-9-9” minis applied @ 11.1 lbs. per 1000 sq. ft., Moisture Manager Granular QD @ 2.7 lbs. per 1000 sq. ft., and Tri-C Humate 40% Humic Acids @ 10 lbs. per 1000 sq. ft. rates OR EQUAL. Install “Over Seeded” Hybrid Bermuda sod, one (1) inch thick, along infield, walkway and outside arch radius of infield.

All removals shall comply with the Standard Specifications and these special provisions.

During grading and other construction operation, soils residues shall not be permitted to flow or travel into gutters, onto adjacent street surfaces or parkways. All residues shall be completely removed by sweeping and properly disposed. No washing of residue into drainage structures will be allowed. All catch basins and curb inlets shall be covered, utilizing the BMP which most appropriately fits the situation, and as approved by the Engineer. The Contractor shall make every effort to control all dust created by his operations by utilizing the Best Management Practice approved by the State Water Resource Control Board.

PAYMENT

Payment for **Bid Item No. 7A: Rehab Softball League Field infield of Mountain View Park** shall be at the unit bid price per Lump Sum (LS) and including all work identified under this bid schedule. The contract unit price shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, furnishing all transportation, removal of sod, disposal of

resulting material, clean up, ground preparation, in accordance with the Standard Specifications and these Special Provisions.

SCHEDULE "B"

BID ITEM NO. 1B: SWPPP

Same as Bid Items 2A

Bid Item No. 2B: Surveying and Construction Staking

Same as Bid Item 3A

Bid Item No. 3B: Rehab Little League Field outfield of Lambert Park

GENERAL

Contractor shall remove and dispose outfield turf with minimum depth of one (1) inch and rough grade all outfield for proper sheet flow away from infield; trench and excavate for new irrigation lateral lines and heads to provide complete coverage by using existing mainline and valves. The new lateral lines shall be designed and pipe sized for proper flow and head to head coverage; backfill and compact for new irrigation lateral lines and rotors. Laser Grade all skinned outfield turf area. Apply a starter type fertilizer such as *Simplot "Super Iron 9-9-9" minis* applied @ 11.1 lbs. per 1000 sq. ft., *Moisture Manager Granular QD* @ 2.7 lbs. per 1000 sq. ft., and *Tri-C Humate 40% Humic Acids* @ 10 lbs. per 1000 sq. ft. rates **OR EQUAL**. Install **"Over Seeded" Hybrid Bermuda** sod, one (1) inch thick in outfield area.

All removals shall comply with the Standard Specifications and these special provisions.

During grading and other construction operation, soils residues shall not be permitted to flow or travel into gutters, onto adjacent street surfaces or parkways. All residues shall be completely removed by sweeping and properly disposed. No washing of residue into drainage structures will be allowed. All catch basins and curb inlets shall be covered, utilizing the BMP which most appropriately fits the situation, and as approved by the Engineer. The Contractor shall make every effort to control all dust created by his operations by utilizing the Best Management Practice approved by the State Water Resource Control Board.

PAYMENT

Payment for **Bid Item No. 3B: Rehab Little League Field outfield of Lambert Park** shall be at the unit bid price per Lump Sum (LS) and including all work identified under this bid schedule. The contract unit price shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, furnishing all transportation, removal of sod, disposal of resulting material, clean up, ground preparation, in accordance with the Standard Specifications and these Special Provisions.

Bid Item No. 4B: Rehab Tiny League Field outfield of Lambert Park

GENERAL

Contractor shall remove and dispose outfield turf with minimum depth of one (1) inch and rough grade all outfield for proper sheet flow away from infield; trench and excavate for new irrigation lateral lines and heads to provide complete coverage by using existing mainline and valves. The new lateral lines shall be designed and pipe sized for proper flow and head to head coverage; backfill and compact for new irrigation lateral lines and rotors. Laser Grade all skinned outfield turf

area. Apply a starter type fertilizer such as *Simplot "Super Iron 9-9-9" minis* applied @ 11.1 lbs. per 1000 sq. ft., *Moisture Manager Granular QD* @ 2.7 lbs. per 1000 sq. ft., and *Tri-C Humate 40% Humic Acids* @ 10 lbs. per 1000 sq. ft. rates **OR EQUAL**. Install "**Over Seeded**" **Hybrid Bermuda** sod, one (1) inch thick in outfield area.

All removals shall comply with the Standard Specifications and these special provisions.

During grading and other construction operation, soils residues shall not be permitted to flow or travel into gutters, onto adjacent street surfaces or parkways. All residues shall be completely removed by sweeping and properly disposed. No washing of residue into drainage structures will be allowed. All catch basins and curb inlets shall be covered, utilizing the BMP which most appropriately fits the situation, and as approved by the Engineer. The Contractor shall make every effort to control all dust created by his operations by utilizing the Best Management Practice approved by the State Water Resource Control Board.

PAYMENT

Payment for **Bid Item No. 4B: Rehab Tiny League Field outfield of Lambert Park** shall be at the unit bid price per Lump Sum (LS) and including all work identified under this bid schedule. The contract unit price shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, furnishing all transportation, removal of sod, disposal of resulting material, clean up, ground preparation, in accordance with the Standard Specifications and these Special Provisions.

BID ITEM NO. 5B: Rehab Little League Field outfield of Mountain View Park

GENERAL

Contractor shall remove and dispose outfield turf with minimum depth of one (1) inch and rough grade all outfield for proper sheet flow away from infield; trench and excavate for new irrigation lateral lines and heads to provide complete coverage by using existing mainline and valves. The new lateral lines shall be designed and pipe sized for proper flow and head to head coverage; backfill and compact for new irrigation lateral lines and rotors. Laser Grade all skinned outfield turf area. Apply a starter type fertilizer such as *Simplot "Super Iron 9-9-9" minis* applied @ 11.1 lbs. per 1000 sq. ft., *Moisture Manager Granular QD* @ 2.7 lbs. per 1000 sq. ft., and *Tri-C Humate 40% Humic Acids* @ 10 lbs. per 1000 sq. ft. rates **OR EQUAL**. Install "**Over Seeded**" **Hybrid Bermuda** sod, one (1) inch thick in outfield area.

All removals shall comply with the Standard Specifications and these special provisions.

During grading and other construction operation, soils residues shall not be permitted to flow or travel into gutters, onto adjacent street surfaces or parkways. All residues shall be completely removed by sweeping and properly disposed. No washing of residue into drainage structures will be allowed. All catch basins and curb inlets shall be covered, utilizing the BMP which most appropriately fits the situation, and as approved by the Engineer. The Contractor shall make every effort to control all dust created by his operations by utilizing the Best Management Practice approved by the State Water Resource Control Board.

PAYMENT

Payment for **Bid Item No. 5B: Rehab Little League Field outfield of Mountain View Park** shall be at the unit bid price per Lump Sum (LS) and including all work identified under this bid schedule. The contract unit price shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, furnishing all transportation, removal of sod, disposal of resulting material, clean up, ground preparation, in accordance with the Standard Specifications and these Special Provisions.

BID ITEM NO. 6B: Rehab Softball League Field outfield of Mountain View Park

GENERAL

Contractor shall remove and dispose outfield turf with minimum depth of one (1) inch and rough grade all outfield for proper sheet flow away from infield; trench and excavate for new irrigation lateral lines and heads to provide complete coverage by using existing mainline and valves. The new lateral lines shall be designed and pipe sized for proper flow and head to head coverage; backfill and compact for new irrigation lateral lines and rotors. Laser Grade all skinned outfield turf area. Apply a starter type fertilizer such as *Simplot "Super Iron 9-9-9" minis* applied @ 11.1 lbs. per 1000 sq. ft., *Moisture Manager Granular QD* @ 2.7 lbs. per 1000 sq. ft., and *Tri-C Humate 40% Humic Acids* @ 10 lbs. per 1000 sq. ft. rates **OR EQUAL**. Install "**Over Seeded**" **Hybrid Bermuda** sod, one (1) inch thick in outfield area.

All removals shall comply with the Standard Specifications and these special provisions.

During grading and other construction operation, soils residues shall not be permitted to flow or travel into gutters, onto adjacent street surfaces or parkways. All residues shall be completely removed by sweeping and properly disposed. No washing of residue into drainage structures will be allowed. All catch basins and curb inlets shall be covered, utilizing the BMP which most appropriately fits the situation, and as approved by the Engineer. The Contractor shall make every effort to control all dust created by his operations by utilizing the Best Management Practice approved by the State Water Resource Control Board.

PAYMENT

Payment for **Bid Item No. 6B: Rehab Softball League Field outfield of Mountain View Park** shall be at the unit bid price per Lump Sum (LS) and including all work identified under this bid schedule. The contract unit price shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, furnishing all transportation, removal of sod, disposal of resulting material, clean up, ground preparation, in accordance with the Standard Specifications and these Special Provisions.

Part IV: Exhibits

General Liability Endorsement

City of El Monte
11333 Valley Boulevard
El Monte, CA 91731

POLICY INFORMATION

Insurance Company _____ Policy Number _____

Policy Term (From) _____ (To) _____ Endorsement Effective Date _____

Named Insured _____

Address of Named Insured _____

Limit of Liability any One Occurrence/ Aggregate \$ _____ / _____

General Liability Aggregate Applies Separately to this Project Location:

Yes No

Deductible or Self-Insured Retention (None unless otherwise specified): _____

Coverage is equivalent to Commercial General Liability occurrence form CG 0001:

Yes No

POLICY AMENDMENTS

1. WHO IS AN INSURED (Section II) is amended to include as an insured the City of El Monte, its officers, elected and appointed officials, employees, and volunteers, but only with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations.
2. This insurance shall be primary as respects the insured shown in the schedule above, or if excess, shall stand in an unbroken chain of coverage excess of the Named Insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the Insured scheduled above shall be in excess of this insurance and shall not be called upon to contribute with it.
3. The insurance afforded by this policy shall not be canceled except after thirty days prior written notice by certified mail return receipt requested has been given to the City.

INCIDENT AND CLAIM REPORTING PROCEDURE

Incidents and claims are to be reported to the insurer at:

Name/ Department

Company

Address

City/State/Zip

Phone

SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER

I, _____ (print/type name), warrant that I have authority to bind the below listed insurance company and by my signature hereon do so bind this company.

Signature – Authorized Representative / Title

Organization

Address/ Telephone

Date

Automotive Liability Endorsement

City of El Monte
11333 Valley Boulevard
El Monte, CA 91731

POLICY INFORMATION

Insurance Company _____ Policy Number _____

Policy Term (From) _____ (To) _____ Endorsement Effective Date _____

Named Insured _____

Address of Named Insured _____

Limit of Liability any One Occurrence/ Aggregate \$ _____ / _____

Deductible or Self-Insured Retention (None unless otherwise specified): _____

Coverage is equivalent to Commercial Auto Form CA 0001, Code 1 ("any auto") on
endorsement CA 0025:

Yes No

POLICY AMENDMENTS

1. WHO IS AN INSURED (Section II) is amended to include as an insured the City of El Monte, its officers, elected and appointed officials, employees, and volunteers, but only with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations.
2. This insurance shall be primary as respects the insured shown in the schedule above, or if excess, shall stand in an unbroken chain of coverage excess of the Named Insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the Insured scheduled above shall be in excess of this insurance and shall not be called upon to contribute with it.
3. The insurance afforded by this policy shall not be canceled except after thirty days prior written notice by certified mail return receipt requested has been given to the City.

INCIDENT AND CLAIM REPORTING PROCEDURE

Incidents and claims are to be reported to the insurer at:

Name/ Department

Company

Address

City/State/Zip

Phone

SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER

I, _____ (print/type name), warrant that I have authority to bind the below listed insurance company and by my signature hereon do so bind this company.

Signature – Authorized Representative / Title

Organization

Address/ Telephone

Date

Waiver of Subrogation and Contribution

City of El Monte
11333 Valley Boulevard
El Monte, CA 91731

The contractor and the insurer, jointly and severally, on behalf of themselves, and all parties claiming under or through them, hereby waive all rights of subrogation and contribution against the City of El Monte and its officers, employees, elected, officials, attorneys, members of boards and commissions, agents, and volunteers (hereinafter collectively referred to as "City"), while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to the perils insured against in connection with the performance of the work under the designated contract by the contractor, its subcontractors, and the respective officers, agents and employees thereof, regardless of any prior, concurrent, or subsequent active or passive negligence by city.

FY 2015-2016 Pavement Rehabilitation Program

Name of Contractor: _____

Name of Insurer: _____

Policy No(s): _____

Contractor

Insurer

By: _____ By: _____

Its

Its

(Name, Address and Phone No. of Contractor)

Date: _____

City of El Monte
11333 Valley Boulevard
El Monte, CA. 91731

FY 2015-2016 Pavement Rehabilitation Program

Dear Sir/ Madam:

_____ hereby assumes sole responsibility for any and all deductibles on all its Policies, and shall cover any and all claims that might arise out of working by/for _____ on the above subject project, that said deductibles might not cover.

Authorized Representative

**POLICY NUMBER:
GENERAL LIABILITY**

COMMERCIAL

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT
CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS (FORM B)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization:

**CITY OF EL MONTE
PUBLIC WORKS ENGINEERING DEPARTMENT
11333 VALLEY BOULEVARD
EL MONTE, CA 91731**

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

SAMPLE

Performance Bond

Bond No.: _____

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS, the City of El Monte, California ("City"), has awarded to

(Name and address of Contractor)

("Principal"), a contract ("Contract") for the work described as follows:

Ballfields Rehabilitation Project.

WHEREAS, Principal is required under the terms of the Contract to furnish a bond for the faithful performance of the Contract.

NOW, THEREFORE, we, the undersigned Principal, and

(Name and address of Surety)

("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the City in the penal sum of _____ Dollars (\$ _____), this amount being not less than one hundred percent (100%) of the total contract price, in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal, his, her or its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and will and truly keep and perform all the undertakings, terms, covenants, conditions and agreements in the Contract and any alteration thereof made as therein provided, on the Principal's part to be kept and performed, all within the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and hold harmless the City, its officers, agents, and others as therein provided, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect. In case suit is brought upon this bond, Surety further agrees to pay all court costs incurred by the City in the suit and reasonable attorneys' fees in an amount fixed by the court.

FURTHER, the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, addition, or modification of the terms of the Contract, or of the work to be performed thereunder, or the specifications for the same, shall in any way affect its obligations under this bond, and it does hereby waive notice of any such change, extension of

Payment Bond

Bond No.: _____

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS, the City of El Monte, California ("City"), has awarded to

(Name and address of Contractor)

("Principal"), a contract ("Contract") for the work described as follows:

Ballfields Rehabilitation Project

WHEREAS, Principal is required under the terms of the Contract and the California Civil Code secure the payment of claims of laborer, mechanics, material men, and other persons as provided by law.

NOW, THEREFORE, we, the undersigned Principal, and

(Name and address of Surety)

("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the City in the penal sum of _____ Dollars (\$_____), this amount being not less than one hundred percent (100%) of the total contract price, in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bound Principal, his, her or its heirs, executors, administrators, successors, or assigns, or subcontractors shall fail to pay any of the persons named in Section 3181 of the California Civil Code, or any amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Principal and subcontractors pursuant to Section 13030 of the Unemployment Insurance Code, with respect to work or labor performed under the Contract, the Surety will pay for the same in an amount not exceeding the penal sum specified in this bond; otherwise, this obligation shall become null and void. This bond shall inure to the benefit of any of the persons named in Section 3181 of the California Civil Code so as to give a right of action to such persons or their assigns in any suit brought upon the bond. In case suit is brought upon this bond, Surety further

Maintenance Bond

Bond No.: _____

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS, the City of El Monte, California ("City"), has awarded to

(Name and address of Contractor)

("Principal"), a contract ("Contract") for the work described as follows:

Ballfield Rehabilitation Project

WHEREAS, the Principal is required to furnish a bond in connection with said contract guaranteeing the maintenance thereof.

NOW, THEREFORE, we, the undersigned Contractor, and

(Name and address of Surety)

("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are held firmly bound unto the City in the penal sum of _____ Dollars (\$_____), this amount being not less than ten percent (10%) of the total contract price, be paid to the City, its successors and assigns, for which payment will and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if said Principal fails to make at its expense, in order to restore the work to full compliance with the requirements of the above-mentioned contract or any modifications or amendments thereto, any and all repairs and replacements made necessary by defects in materials or poor workmanship that become evident within one (1) year after the date of final payment to the Contractor, or if the Contractor fails to hold the City harmless from claims of any kind arising from damage due to said defects in materials or poor workmanship, then the Surety or sureties shall pay to the City and the City shall be entitled to retain and use the full amount of the Maintenance Bond set forth above, or any portion thereof sufficient to permit City or any contractors or subcontractors selected by the City to do the work in order to restore it to full compliance with the requirements of the contract or any modifications or amendments thereto, and sufficient to hold the City harmless from claims arising from defects in materials or poor workmanship; otherwise, the above obligations shall be void. If suit is brought to enforce the terms of this Maintenance Bond, the prevailing party shall be entitled to receive from the other party costs of suit, including reasonable attorneys' fees.

City of El Monte

Public Works Department – Engineering Division

NOTICE OF AWARD OF PUBLIC WORKS CONTRACT

Date: _____

(Name, Address and Phone No. of Contractor)

NOTICE IS HEREBY GIVEN that the aforesaid contractor is the successful bidder for the **Ballfields Rehabilitation Project** as more particularly described in the plans and specifications therefor, and incorporated herein by reference, and is awarded the contract for the projects. Prior to signature of the Mayor to the contract, all applicable insurance certificates and bonds shall be provided to the City. **The aforesaid contractor acknowledges that the Contract shall be terminated and the bid bond forfeited if the contractor fails to provide the applicable insurance certificates and bonds within the time set forth in Section 26 of the Instructions to Bidders.**

CITY OF EL MONTE

By: _____
City Engineer

Agreement

Ballfields Rehabilitation Project

THIS PROJECT CONTRACT (“Agreement”), is made and entered into this ____ day of _____, 20____, by and between the CITY OF EL MONTE, a municipal corporation and general laws city (referred to herein as the “OWNER” or the “CITY”) and _____ (“CONTRACTOR”). For purposes of this Agreement, the capitalized term “Parties” shall be a collective reference to both CITY and CONTRACTOR and the capitalized term “Party” shall refer to CITY or CONTRACTOR interchangeably as appropriate.

WHEREAS, the award of this Agreement was approved by the City Council of the City of El Monte (“City Council”) at its meeting of _____ 20____ under Agenda Item No. _____.

NOW THEREFORE, the Parties mutually agree as a follows:

1. CONTRACT DOCUMENTS For purposes of this Agreement the term “Bid Solicitation Packet” means and refers to that certain set of forms, template documents and other documents prepared by the City Engineer and entitled “Specifications - _____” which is dated _____ 20____. For purposes of this Agreement, the term “Contract Documents” shall be a collective reference to the following:

- A. This Agreement;
- B. The Notice to Contractors Inviting Bids and the Instructions to Bidders as set forth in the Bid Solicitation Packet;
- C. The provisions of Part II (General Conditions) of the Bid Solicitation Packet as well as the Reference Standards form immediately preceding Part II (General Conditions) of the Bid Solicitation Packet;
- D. The following forms of the Bid Solicitation Packet which have been completed and submitted by Contractor:
 - i. Contractor’s submitted Proposal Acknowledgement Form dated _____ 20____ (“Proposal”) and the corresponding Bidder’s Proposal dated _____, 20____ (“Bidder’s Proposal”);
 - ii. Bidder’s Qualifications and References dated _____ 20____;
 - iii. The Designation of Subcontractor’s form dated _____ 20____;
 - iv. Contractor’s Affidavit of Non-collusion dated _____ 20____;
 - v. Pre-Bid Inspection Certification dated _____ 20____;
 - vi. Worker’s Compensation certificate dated _____ 20____;

- vii. False Claims/False Claims Act Certification dated _____ 20____;
- viii. Debarments form dated _____ 20____; and
- ix. Criminal Convictions/Criminal Conviction Certification form dated _____ 20_____.

E. The following forms attached as Exhibits under Part III (Exhibits) of the Bid Solicitation Packet which have been completed and submitted by Contractor:

- i. General Liability Endorsement dated _____ 20____;
- ii. Automotive Liability Endorsement dated _____ 20____;
- iii. Waiver of Subrogation and Contribution dated _____ 20____;
- iv. Performance Bond No. _____ dated _____ 20____;
- v. Payment Bond No. _____ dated _____ 20____;
- vi. Maintenance Bond No. _____ dated _____ 20____;
- vii. The Notice of Award of Public Works Contract dated _____ 20____;
- viii. The Notice to Proceed dated _____ 20_____.

F. The Contractor's Waiver and Affidavit form which is to be executed subsequent to the execution of this Agreement and as a condition to City's final acceptance of the work contemplated under this Agreement in City's reasonable discretion (The form of the Contractor's Waiver of Affidavit is included among the Exhibits contained in the Bid Solicitation Packet);

G. The Notice of Acceptance form which is to be executed subsequent to the execution of this Agreement by City subject to City's determination that the work has been satisfactorily completed in the City's reasonable discretion. (The form of the Notice of Acceptance is included among the Exhibits contained in the Bid Solicitation Packet);

H. The Notice of Completion form to be executed and recorded subsequent to the execution of this Agreement by City subject to City's determination that the work has been satisfactorily completed in the City's reasonable discretion. (The form of the Notice of Completion is included among the Exhibits contained in the Bid Solicitation Packet);

I. All City-approved drawings, plans and/or technical specifications submitted Contractor as part of its proposal; and

J. All Addenda issued by City.

:

The Contract Documents are intended to cooperate so that any work called for in one and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all said documents. The Contract Documents constitute the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between City and Contractor prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied in the Contract Documents shall be valid or binding.

2. SCOPE OF WORK.A.For purposes of this Agreement, the capitalized term "Project" shall refer to the certain public project within the meaning of Public Contract Code Section 20161 which is commonly referred to as the _____ for the _____. By execution of this Agreement, Contractor agrees to perform all services and tasks and construct and install all improvements and/or equipment that comprise the Project in the manner specified in the Contract Documents.

B. Contractor agrees to furnish all tools, apparatus, facilities, equipment, labor and materials (except that specifically mentioned as being furnished by others) necessary to perform and complete the work in a good and workmanlike manner as called for, and in the manner designated in, and in strict conformity with the Contract Documents

3. CONTRACT PRICE.

The City agrees to pay and the Contractor agrees to accept, in full payment for the work above, the following compensation as set forth in the Contractor's Bidder's Proposal attached and incorporated hereto as **Exhibit "A"**): _____ **DOLLARS** (\$ _____)

4. PROGRESS PAYMENTS.

A. Progress payments shall be made in the manner set forth under Article 7 (Contract Payments and Claims) of Part II of the Bid Solicitation Packet.

B. The City shall make any partial payments provided for in this Agreement to the Contractor within thirty (30) calendar days of the City's receipt of an undisputed and properly executed invoice from the Contractor.

C. Upon receipt of a partial payment request from the Contractor, the City shall review the partial payment request for the purpose of determining whether or not the partial payment request is a proper partial payment request. Any partial payment request determined by the City not to be a proper partial payment request suitable for payment shall be returned to the Contractor by the City within ten (10) calendar days of the City's receipt of such invoice. An invoice returned to the Contractor by the City under the provisions of this section shall be

accompanied by a written document setting forth the reason(s) why the partial payment request is not proper.

5. TIME FOR COMPLETION.

Except as otherwise provided or allowed under the Contract Documents, all work under this Agreement shall be completed within a period of _____(_____) calendar days from the date of the Contractor's receipt of Notice to Proceed from the City ("Completion Deadline") Time is of the essence hereunder. The City will suffer damage if the work is not completed by or before the Completion Deadline, but those damages would be difficult or impractical to determine. Accordingly, in the event the Contractor fails to achieve complete the work by the Completion Deadline, or fails to complete work required under any time deadlines in the specifications for segments of the work, Contractor shall be liable to and shall pay to the CITY, as liquidated damages, the amount of two-thousand five-hundred dollars (\$2,500.00) for each calendar day beyond the Completion Deadline or beyond any deadline for any segment of the work until completed.

6. NONDISCRIMINATION.

Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

7. CIVIL RIGHTS.

The Contractor assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This Provision binds the Contractor from the bid solicitation period through the completion of the contract. This provision shall be inserted in all subcontracts, subleases and other agreements at all tiers.

8. CITY REPRESENTATIVES.

The City hereby designates the _____ (hereinafter, the "CITY Representatives") to act as its representatives for the performance of this Agreement. The _____ shall be the chief City Representative. The City Representatives or their designee shall act on behalf of the City for all purposes under this Agreement. Contractor shall not accept directions or orders from any person other than the City Representatives or their designee.

9. CONTRACTOR REPRESENTATIVES.

Contractor hereby designates [INSERT NAME AND TITLE OF PERSON WHO IS CONTRACTOR REPRESENTATIVE FOR PURPOSES OF CONTRACT ADMINISTRATION] to act as its representative for the performance of this Agreement (hereinafter, "Contractor Representative"). Contractor Representative shall have full authority to represent and act on behalf of the CONTRACTOR for all purposes under this Agreement. Contractor Representative

or his designee shall supervise and direct the performance of the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement. Notice to the Contractor Representative shall constitute notice to Contractor.

10. STANDARD OF CARE.

Contractor represents, acknowledges and agrees to the following:

- A. Contractor shall perform all work skillfully, competently and to the highest standards of Contractor's profession;
- B. Contractor shall perform all Services in a manner reasonably satisfactory to the City;
- C. Contractor shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 et seq.);
- D. Contractor understands the nature and scope of the Services to be performed under this Agreement as well as any and all schedules of performance;
- E. All of Contractor's employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by Contractor; and
- F. All of Contractor's employees and agents (including but not limited to subcontractors) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to City for copying and inspection.

11. INDEPENDENT CONTRACTOR STATUS.

The Parties acknowledge, understand and agree that Contractor and all persons retained or employed by Contractor are, and shall at all times remain, wholly independent contractors and are not officials, officers, employees, departments or subdivisions of City. Contractor shall be solely responsible for the negligent acts and/or omissions of its employees, agents, contractors, subcontractors and subconsultants. Contractor and all persons retained or employed by Contractor shall have no authority, express or implied, to bind City in any manner, nor to incur any obligation, debt or liability of any kind on behalf of, or against, City, whether by contract or otherwise, unless such authority is expressly conferred to Contractor under this Agreement or is otherwise expressly conferred by City in writing.

12. DOCUMENTS AND DATA.

All Documents and Data shall be and remain the property of City without restriction or limitation upon their use or dissemination by City. For purposes of this Agreement, the term “Documents and Data” means and includes all reports, analyses, correspondence, plans, drawings, designs, renderings, specifications, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of Contractor in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to City, a perpetual license for City to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. Contractor shall require all subcontractors and subconsultants working on behalf of Contractor in the performance of this Agreement to agree in writing that CITY shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subcontractor or subconsultant as applies to Documents and Data prepared by Contractor in the performance of this Agreement.

13. CONFIDENTIALITY.

All data, documents, discussion, or other information developed or received by Contractor or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Contractor without prior written consent by

14. NOTICES.

All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

CONTRACTOR:

CITY:

Name

Address

City, State Zip

Attn: [INSERT Name/Title of Consultant's
chief contact]

Phone:

Fax:

Email: [INSERT e-mail]

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after

deposit with the United States Postal Service, first class postage prepaid and addressed to the Party at its applicable address.

15. PROHIBITED INTERESTS.

Contractor warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

16. GOVERNING LAW; VENUE.

This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.

17. ATTORNEYS FEES.

If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and all other costs of such action.

18. SUCCESSORS AND ASSIGNS.

This Agreement shall be binding on the successors and assigns of the Parties.

19. NO THIRD PARTY BENEFIT.

There are no intended third party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.

20. CONSTRUCTION OF AGREEMENT.

This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.

21. SEVERABILITY.

If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

22. AMENDMENT; MODIFICATION.

No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to City approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.

23. CAPTIONS.

The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

24. CONFLICTS AND INCONSISTENCES.

In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto or incorporated hereto by reference, the provisions of this Agreement shall govern and control. In the event of an conflict or inconsistency between the provisions of this Agreement and the provisions of any of the other Contract Documents, the provisions of this Agreement shall govern and control. In the event of any conflict or inconsistency between the provisions of any City-approved drawings, plans and/or technical specifications submitted by Contractor as part of its proposal and the provisions of any other Contract Documents, the provisions of the other Contract Documents shall govern and control.

25. COUNTERPARTS.

This Agreement shall be executed in three (3) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterparts shall be valid or binding unless made to all three counterparts in conformity with Section 22, above. One fully executed original counterpart shall be delivered to Contractor and the remaining two original counterparts shall be retained by City.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the date and year first above written.

SAMPLE

By: _____

Title: _____

CITY OF EL MONTE

By: _____
Mayor

ATTEST:

City Clerk

Seal

APPROVED AS TO FORM:

City Attorney Office

City of El Monte
Public Works Department – Engineering Division

NOTICE TO PROCEED

Date

Contractor's name, address and phone number

Re: (project name)

At the City Council meeting of **month, date** the City Council awarded the above referenced project to your firm. Contracts have been executed and bonds/insurance has been filed for this project. This letter is your **NOTICE TO PROCEED** for the above referenced contract and starts the project calendar. Per the contract, liquidated damages for un-allowed days over the contract are set at \$----- per calendar day.

Per the contract, you are allowed XX working days to complete the contract.

Construction Start Date is:

Working Days Allowed:

Project Completion Date is:

Should you have any questions, please contact Nadeem Syed, at (626) 258-8833

Sincerely,

Nadeem Syed, P.E.

City Engineer

CONTRACTOR'S WAIVER AND AFFIDAVIT

(individual)

STATE OF CALIFORNIA)
)SS
COUNTY OF LOS ANGELES)

First being duly sworn, deposes and says:

That he, as general contractor on _____, entered into a written contract with the City of El Monte, as owner, for the construction of the **Ballfields Rehabilitation Project**, in the City of El Monte, California, County of Los Angeles, State of California.

That said improvement was fully completed on _____.

That all bills for labor and/or material furnished in connection with the construction of said buildings and works of improvements have been fully paid;

That said affiant further certifies and declares that he will testify or depose before any competent tribunal, officer, or person, in any case now pending or hereafter instituted, to the truth of the foregoing statements and each of them.

Contractor or Contractor's Authorized Agent

SUBSCRIBED AND SWORN TO BEFORE ME

ON _____

Notary Public in and for the County of Los Angeles, State of California

Place Notary Seal Above

City of El Monte

Public Works Department – Engineering Division

NOTICE OF ACCEPTANCE

Date: _____

(Name, Address and Phone No. of Contractor)

NOTICE IS HEREBY GIVEN that the aforesaid contractor has satisfactorily completed the **ballfields Rehabilitation Project**, in accordance with the project plans, specifications, and authorized changes, and that at its regular meeting held on _____, _____, El Monte City Council formally accepted said project as satisfactorily completed.

The release of retention will be 35 days from the date of the Notice of Acceptance.

CITY OF EL MONTE

By: _____
City Engineer

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO:

NAME

STREET ADDRESS

CITY, STATE & ZIP CODE

SPACE ABOVE THIS LINE FOR RECORDER'S USE

NOTICE OF COMPLETION

Notice pursuant to Civil Code Section 3093, must be filed within 10 days after completion. (See reverse side for Complete requirements.)

Notice is hereby given that:

1. The undersigned is owner or corporate officer of the owner of the interest or estate stated below in the property hereinafter described:
2. The full name of the owner is _____
3. The full address of the owner is _____
4. The nature of the interest or estate of the owner is: In fee.

(IF OTHER THAN FEE, STRIKE "IN FEE" AND INSERT, FOR EXAMPLE, "PURCHASER UNDER CONTRACT OF PURCHASE," OR "LESSEE")

5. The full names and full addresses of all persons, if any, who hold title with the undersigned as joint tenants or as tenants in common are:

NAMES

ADDRESSES

6. The full names and full addresses of the predecessors in interest of the undersigned, if the property was transferred subsequent to the commencement of the work or improvements herein referred to:

NAMES

ADDRESSES

7. A work of improvement on the property hereinafter described was completed on _____ . The work done was: _____

8. The name of the contractor, if any, for such work of improvement was _____

(IF NO CONTRACTOR FOR WORK OF IMPROVEMENT AS A WHOLE, INSERT "NONE")

(DATE OF CONTRACT)

9. The property on which said work of improvement was completed is in the City of _____ ,
County of _____ , State of _____ , and is described as follows: _____

10. The street address of said property is _____
(IF NO STREET ADDRESS HAS BEEN OFFICIALLY ASSIGNED, INSERT "NONE".)

Dated: _____
(SIGNATURE OF OWNER OR CORPORATE OFFICER OF OWNER NAMED IN PARAGRAPH 2 OR HIS AGENT)

VERIFICATION

I, the undersigned, say: I am the _____ the declarant of the foregoing notice of completion;
(*PRESIDENT OF*, *MANAGER OF*, *PARTNER OF*, *OWNER OF*, ETC.)

I have read said notice of completion and know the contents thereof; the same is true of my own knowledge. I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ , _____ , at _____ (CITY) _____ (STATE)

(PERSONAL SIGNATURE OF THE INDIVIDUAL WHO IS SWEARING THAT THE CONTENTS OF THE NOTICE OF COMPLETION ARE TRUE.)





DO NOT RECORD

REQUIREMENTS AS TO NOTICE OF COMPLETION:

Notice of completion must be filed for record WITHIN 10 DAYS after the completion of the work of improvement (to be computed exclusive of the day of completion) as provided in Civil Code Section 3093.

The "owner" who must file for record a notice of completion of a building or other work of improvement means the owner (or his successor in-interest at the date the notice is filed) on whose behalf the work was done, though his ownership is less than the fee title. For example, if A is the owner in fee, and B, lessee under a lease, causes a building to be constructed, then B, or whoever has succeeded to his interest at the date the notice is filed, must file the notice.

If the ownership is in two or more persons as joint tenants or tenants in common, the notice may be signed by any one of the co-owners (in fact, the foregoing form is designed for giving of the notice by only one cotenant), but the names and addresses of the other co-owners must be stated in paragraph 5 of the form.

Note that any Notice of Completion signed by a successor in interest shall recite the names and addresses of his transferor or transferors.

In paragraphs 3, 5 and 6, the full address called for should include street number, city, county and state.

As to paragraphs 7 and 8, this form should be used only where the notice of completion covers the work of improvement as a whole. If the notice is to be given only of completion of a particular contract, where the work of improvement is made pursuant to two or more original contracts, then this form must be modified as follows: (1) Strike the words "A work of improvement" from paragraph 7 and insert a general statement of the kind of work done or materials furnished pursuant to such contract (e.g., "The foundation for the improvements"); (2) Insert the name of the contractor under the particular contract in paragraph 8.

In paragraph 8 of the notice, insert the name of the contractor for the work of improvement as a whole. No contractor's name need be given if there is no general contractor, e.g. on so-called "owner-builder jobs."

In paragraph 9, insert the full, legal description, not merely a street address or tax description. Refer to deed or policy of title insurance. If the space provided for description is not sufficient, a rider may be attached.

In paragraph 10, show the street address, if any, assigned to the property by any competent public or governmental authority.

Before you use this form, fill in all blanks, and make whatever changes are appropriate and necessary to your particular transaction. Consult a lawyer if you doubt the form's fitness for your purpose and use. Wolcotts makes no representation or warranty, express or implied, with respect to the merchantability or fitness of this form for an intended use or purpose.

Continuity of Work Agreement

For Internal Purposes Only:

Contract No.13CG1.57

Agreement Expiration Date: March 19, 2018

CONTINUITY OF WORK AGREEMENT

BY AND BETWEEN

THE CITY OF EL MONTE

AND

LOS ANGELES AND ORANGE COUNTIES

BUILDING AND CONSTRUCTION TRADES COUNCIL

AND THE SIGNATORY CRAFT COUNCILS AND UNIONS

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**CITY OF EL MONTE
CONTINUITY OF WORK AGREEMENT
FOR NEW CONSTRUCTION AND MODERNIZATION**

This Continuity of Work Agreement (hereinafter, "Agreement") is entered into by and between the City of El Monte, and its successors or assigns (hereinafter the "City"), the Los Angeles/Orange Counties Building and Construction Trades Council (hereinafter the "Council"), and the signatory Craft Councils and Unions signing this Agreement (hereinafter together with the Council, collectively, the "Union" or "Unions"). This Agreement establishes the labor relations Policies and Procedures for the City and for the craft employees represented by the Unions engaged in any project designated by the City Council as part of the City's Capital Improvement Plan ("CIP"). The City, Council and Unions are hereinafter referred to herein, as the context may require, as "Party" or "Parties."

It is understood by the Parties to this Agreement that if this Agreement is acceptable to the City, it will become the policy of the City for the Project Work to be contracted exclusively to Contractors who agree to execute and be bound by the terms of this Agreement, directly or through the Letter of Assent (a form of which is attached as "Attachment A"), and to require each of its subcontractors, of whatever tier, to become bound. The City shall include, directly or by incorporation by reference, the requirements of this Agreement in the advertisement of and/or specifications for each and every contract for Project Work to be awarded by the City.

It is further understood that the City shall actively administer and enforce the obligations of this Agreement to ensure that the benefits envisioned from it flow to all signatory Parties, the Contractors and crafts persons working under it, and the residents and students of the City. The City shall therefore designate a "Project Labor Coordinator," either from its own staff or an independent contractor acting on behalf of the City, to monitor compliance with this Agreement; assist, as the authorized representative of the City, in developing and implementing the programs referenced herein, all of which are critical to fulfilling the intent and purposes of the Parties and this Agreement; and to otherwise implement and administer this Agreement. For such purposes, each Contractor recognizes and appoints the Project Labor Coordinator, its successors or assigns, as its agent; and together with City and the Unions, the Project Labor Coordinator shall be considered a "negotiating party" of this Agreement.

The El Monte City Council at its Regular Meeting of March 19, 2013 approved under agenda Item No. 15A1 the terms of this Agreement by a unanimous motion which specified the criteria by which the various public works construction projects listed in Attachment F of this Agreement are made subject to the terms of condition of this Agreement. The criteria set forth in the City Council's motion which is memorialized in the Minutes of the March 19, 2013 Regular Meeting of the City Council are incorporated herein by reference.

The term "Apprentice" as used in this Agreement shall mean those employees registered and participating in Joint Labor/Management Apprenticeship Programs approved by the Division of Apprenticeship Standards, Department of Industrial Relations of the State of California.

The term "Contractor" as used in this Agreement includes any individual, firm, partnership, or corporation, or combination thereof, including joint ventures, which as an independent contractor has entered into a contract with the City with respect to the Project Work, or with another Contractor as a subcontractor of whatever tier utilized by such Contractors for Project Work.

The term "Joint Labor/Management Apprenticeship Program" as used in this Agreement means a joint Union and Contractor administered apprenticeship program certified by the Division of Apprenticeship Standards, Department of Industrial Relations of the State of California.

The term "Letter of Assent" as used in this Agreement means the document that each Contractor (of any tier) must sign and submit to the Project Labor Coordinator and the Council before beginning any Project Work, which formally binds them to adherence to all the forms, requirements and conditions of this Agreement, in the form attached hereto as Attachment A.

The term "Project" or "Project Work" as used in this Agreement means those specific public works construction projects listed under Attachment "F" of this Agreement.

The term "Schedule A Agreements" as used in this Agreement means the local collective bargaining agreements of the signatory Unions having jurisdiction over the Project Work and which have signed this Agreement.

The term "Subscription Agreement" means the contract between a Contractor and a Union's Labor/Management Trust Fund(s) that allows the Contractor to make the appropriate fringe benefit contributions in accordance with the terms of Schedule A.

The Union and all Contractors agree to abide by the terms and conditions of this Agreement and agree that this Agreement represents the complete understanding of the Parties. No Contractor is or will be required to sign or otherwise become a party to any other collective bargaining agreement with a signatory Union as a condition of performing work within the scope of this Agreement.

The Parties agree that this Agreement will be made available to, and will fully apply to, any successful bidder for Project Work, without regard to whether that successful bidder performs work at other sites on either a union or non-union basis. This Agreement shall not apply to any work of any Contractor other than that on Project Work specifically covered by this Agreement.

The use of masculine or feminine gender or titles in this Agreement should be construed as including both genders and not as gender limitations unless the Agreement clearly requires a different construction. Further, the use of Article titles and/or Section headings are for information only, and carry no legal significance.

ARTICLE I INTENT AND PURPOSE

Section 1.1 Background. The City wishes to utilize the most modern, efficient and effective procedures for construction, including assurances of a sufficient supply of skilled craft persons,

and the elimination of disruptions or interference with Project Work, and therefore adopts this Agreement in the best interests of the taxpayers of the City to meet the City's goal that the Project Work be completed on time and within budget.

Section 1.2 Identification and Retention of Skilled Labor and Employment of City Residents. The Project Work scheduled to be performed will require large numbers of craft personnel and other supporting workers. It is therefore the explicit understanding and intention of the Parties to this Agreement to use the opportunities provided by the extensive amount of work to be covered by this Agreement to identify and promote, through cooperative efforts, programs and procedures (which may include, for example, programs to prepare persons for entrance into formal apprenticeship programs, or outreach programs to the community describing opportunities available as a result of the Project Work), the interest and involvement of City residents in the construction industry; assist them in entering the construction trades, and through utilization of the joint labor/management sponsored apprenticeship programs, provide training opportunities for those City residents and other individuals wishing to pursue a career in construction. Further, with assistance of the Project Labor Coordinator, the City, the Contractors, the Unions and their affiliated regional and national organizations, will work jointly to promptly develop and implement procedures for the identification of craft needs, the scheduling of work to facilitate the utilization of available craft workers, and the securing of services of craft workers in sufficient numbers to meet the high demands of the Project Work to be undertaken.

Section 1.3 Encouragement of Small Local Business. The Project Work will provide many opportunities for local small business enterprises to participate as Contractors or suppliers, and the Parties therefore agree that they will cooperate with all efforts of the City, the Project Labor Coordinator, and other organizations retained by the City for the purpose, to encourage and assist the participation of local small businesses in Project Work. Each Party agrees that it shall employ demonstrable efforts to encourage utilization in an effort to achieve such goals. This may include, for example, participation in outreach programs, education and assistance to businesses not familiar with working on City projects, and the encouragement of local residents to participate in Project Work through programs and procedures jointly developed to prepare and encourage such local residents for apprenticeship programs and formal employment on the Project Work through the referral programs sponsored and/or supported by the Parties to this Agreement. Further, the Parties shall ensure that the provisions of this Agreement do not inadvertently establish impediments to participation of such small local businesses and residents of the City.

Section 1.4 Project Cooperation. The Parties recognize that the construction to take place under this Agreement involves unique and special circumstances which dictate the need for the Parties to develop specific procedures to promote high quality, rapid and uninterrupted construction methods and practices. The smooth operation and successful and timely completion of the Project Work is vitally important to the City. The Parties therefore agree that maximum cooperation among all Parties involved is required; and that with construction work of this magnitude, with multiple Contractors and crafts performing work on multiple sites over an extended period of time, it is essential that all Parties work in a spirit of harmony and cooperation, and with an overriding commitment to maintain the continuity of Project Work.

Further, the Parties recognize that an Act of God or an Act of War could require the City to partially or fully suspend Project Work. The Parties shall fully cooperate with any request by the City to redirect their equipment, skills and expertise to support the City's efforts necessitated by such events.

Section 1.5 Workers' Compensation Carve-Out. Further, the Parties recognize the potential which the Project Work may provide for the implementation of a cost effective workers' compensation system, as permitted by revised California Labor Code section 3201.5, and it is understood that the City is in an ongoing review of the value of such a program. Should the City request, the Union parties agree to meet and negotiate in good faith with representatives of the City for the development, and subsequent implementation, of an effective program involving improved and revised dispute resolution and medical care procedures for the delivery of workers' compensation benefits and medical coverage as permitted by the California Labor Code.

Section 1.6 Peaceful Resolution of All Disputes. In recognition of the special needs of the Project Work and to maintain a spirit of harmony, labor-management peace and stability during the term of this Project Labor Agreement, the Parties agree to establish effective and binding methods for the settlement of all misunderstandings, disputes and grievances; and in recognition of such methods and procedures, the Unions agree not to engage in any strike, slowdowns or interruptions or disruption of Project Work, and the Contractors agree not to engage in any lockout.

Section 1.7 Binding Agreement on Parties and Inclusion of City Residents and Business. By executing this Agreement, the City, Council, Unions and Contractors agree to be bound by each and all of the provisions of this Agreement, and pledge that they will work together to adopt, develop and implement processes and procedures which are inclusive of the residents and businesses of the City.

ARTICLE 2 SCOPE OF THE AGREEMENT

Section 2.1 General. This Agreement shall apply and is limited to all of the public works construction projects listed in Attachment P of this Agreement or any other non-listed public works construction projects which the Parties may later designate as a "Project".

Section 2.2 Specific. The work covered by this Agreement is defined and limited to:

- (a) All construction and rehabilitation work pursuant to prime multi-trade contracts;
- and
- (b) All prime specialty contracts, and all subcontracts arising from these prime contracts; and

- (c) The work to be bid out is Project Work; and
- (d) The work is awarded during the effective date of this Agreement.

Section 2.3 Bundling of Contracts. The Parties understand that, to the maximum extent feasible, and consistent with goals of the City to (i) utilize this Agreement as the Labor Relations Policy for its construction and rehabilitation program under the Project Work and (ii) fully utilize the services of local small business enterprises for such construction and rehabilitation work:

- (a) The City, in its sole discretion, with the advice of the Project Labor Coordinator, will seek to group (or "bundle") for bidding, contracts not meeting the thresholds of Section 2.2 (a) or (b) above. (Small contracts for like types of work, scheduled to be undertaken in the City or on the same project site, and within the same timeframe, will be considered for such bundling, consistent with economies of scale, and the purposes of this Agreement); and
- (b) Project Work will not be split, divided or otherwise separated for contract award purposes to avoid application of this Agreement.

Section 2.4 Exclusions. Items specifically excluded from the Scope of this Agreement include the following:

- (a) Construction works project awarded by the City: (i) prior to the March 19, 2013 approval of this Agreement by the City Council or (ii) after the expiration or termination of this Agreement;
- (b) City public works projects or other contracted work which does not fall within the definition of the terms "Project" or "Project Work" as set forth above;
- (c) Work of non-manual employees, including but not limited to: city manager; city staff; supervisors; staff engineers; quality control and quality assurance personnel; time keepers, mail carriers, clerks, office workers, messengers; guards, safety personnel, emergency medical and first aid technicians; and other professional, engineering, administrative, supervisory and management employees;
- (d) Equipment and machinery owned or controlled and operated by the City;
- (e) All off-site manufacture and handling of materials, equipment or machinery; provided, however, that lay down or storage areas for equipment or material and manufacturing (prefabrication) sites, dedicated solely to the Project or Project Work, and the movement of materials or goods between locations on a Project site are within the scope of this Agreement;
- (f) All employees of the City, Project Labor Coordinator, design teams (including, but not limited to architects engineers and master planners), or any other consultants for the City (including, but not limited to, project managers and construction managers and their employees who were not engaged in Project Work) and their sub-consultants, and other employees of

professional service organizations, not performing manual labor within the scope of this Agreement; provided, however, that it is understood and agreed that Building/Construction Inspector and Field Soils and Materials Testers (Inspectors) are a covered craft under this Agreement. (This inclusion applies to the scope of work defined in the State of California Wage Determination for said Craft. This shall also specifically include such work where it is referred to by utilization of such terms as "quality control" or "quality assurance". Every Inspector performing under the Wage classification of Building/Construction Inspector and Field Soils and Material Testers under a professional services agreement of a construction contract shall be bound to all applicable requirements of this Agreement.) Covered Work as defined by this Agreement shall be performed pursuant to the terms and conditions of this Agreement regardless of the manner in which the work was awarded;

(g) Any work performed on or near or leading to or into a site of work covered by this Agreement and undertaken by state, county, city or other governmental bodies, or their Contractors; or by public utilities, or their Contractors; and/or by the City or its Contractors (for work for which is not within the scope of this Agreement);

(h) Off-site maintenance of leased equipment and on-site supervision of such work;

(i) Work by employees of a manufacturer or vendor necessary to maintain such manufacturer's or vendor's warranties or guaranty;

(j) Non-construction support services contracted by the City, Project Labor Coordinator, or Contractor in connection with this Project; and

(k) Laboratory work for testing.

Section 2.5 Awarding of Contracts.

(a) The City and/or the Contractors, as appropriate, have the absolute right to award contracts or subcontracts on this Project to any Contractor notwithstanding the existence or non-existence of any agreements between such Contractor and any Union parties, provided only that such Contractor is willing, ready and able to execute and comply with this Agreement should such Contractor be awarded work covered by this Agreement.

(b) It is agreed that all Contractors and subcontractors of whatever tier, who have been awarded contracts for work covered by this Agreement, shall be required to accept and be bound to the terms and conditions of this Agreement, and shall evidence their acceptance by the execution of the Letter of Assent as set forth in Attachment A hereto, prior to the commencement of work. At the time that any Contractor enters into a subcontract with any subcontractor of any tier providing for the performance on the construction contract, the Contractor shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor, as a part of accepting the award of a construction subcontract, to agree in writing in the form of a Letter of Assent to be bound by each and every provision of this Agreement prior to the commencement of work on the Project. No Contractor or subcontractor shall commence Project Work without having first provided a copy of the Letter of Assent as executed by it to the Project Labor

Coordinator and to the Council forty-eight (48) hours before the commencement of Project Work, or within forty-eight (48) hours after the award of Project Work to that Contractor (or subcontractor), whichever occurs later. Further, Contractors not signatory to the established Joint Labor/Management Trust Fund Agreements, as described in the Schedule A Agreement(s) for the craft workers in their employ, shall sign a "Subscription Agreement" with the appropriate Joint Labor/Management Trust Funds covering the work performed under this Agreement before work is commenced on the Project.

(c) The City agrees that to the extent permitted by law and consistent with the economy and efficiency of construction and operation, it will use its best efforts to purchase materials, equipment and supplies which will not create labor strife. Under all circumstances, however, the City shall retain the absolute right to select the lowest reliable and responsible bidder for the award of contracts on all Projects.

Section 2.6 Coverage Exception. This Agreement shall not apply if the City receives funding or assistance from any Federal, State, local or other public entity for Project Work if a requirement, condition or other term of receiving that funding or assistance, at the time of the awarding of the contract, is that the City not require bidders, contractors, subcontractors or other persons or entities to enter into an agreement with one or more labor organizations or enter into an agreement that contains any of the terms set forth herein. The City agrees that it will make every effort to establish the enforcement of this Agreement with any governmental agency or granting authority.

Section 2.7 Schedule A's.

(a) The provisions of this Agreement, including the Schedule A's (which are the local collective bargaining agreements of the signatory Unions having jurisdiction over the work on the Project, as such may be changed from time-to-time and which are incorporated herein by reference), shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreement which may conflict with or differ from the terms of this Agreement. However, such does not apply to work performed under the National Cooling Tower Agreement, the National Stack Agreement, the National Transit Division Agreement (NTD), or within the jurisdiction of the International Union of Elevator Constructors and all instrument calibration and loop checking work performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, except that Articles dealing with Work Stoppages and Lock-Outs, Work Assignments and Jurisdictional Disputes, and Settlement of Grievances and Disputes shall apply to such work. It is specifically agreed that no later agreement shall be deemed to have precedence over this Agreement unless signed by all Parties signatory hereto who are then currently employed or represented at a Project. Where a subject covered by the provisions of this Agreement is also covered by a Schedule A, the provisions of this Agreement shall apply. Where a subject is covered by a provision of a Schedule A and not covered by this Agreement, the provisions of the Schedule A shall prevail. Any dispute as to the applicable source between this Agreement and any Schedule A for determining the wages, hours of working conditions of employees on this Project shall be resolved under the procedures established in Article 10.

(b) It is understood that this Agreement, together with the referenced Schedule A's, constitutes a self-contained, stand-alone agreement and by virtue of having become bound to this

Agreement, the Contractor will not be obligated to sign any other local, area or national collective bargaining agreement as a condition of performing work within the scope of this Agreement (provided, however, that the Contractor may be required to sign a uniformly applied, non-discriminatory Participation Agreement at the request of the trustees or administrator of a trust fund established pursuant to section 302 of the Labor Management Relations Act, and to which such Contractor is bound to make contributions under this Agreement, provided that such Participation Agreement does not purport to bind the Contractor beyond the terms and conditions of this Agreement and/or expand its obligation to make contributions pursuant thereto). It shall be the responsibility of the prime Contractor to have each of its subcontractors sign the documents with the appropriate Craft Union prior to the subcontractor beginning Project Work.

Section 2.8 Binding Signatories Only. This Agreement shall only be binding on the signatory Parties hereto, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such Party.

Section 2.9 Other City Work. This Agreement shall be limited to the construction work within the Scope of this Agreement including, specifically, site preparation and related demolition work, and new construction and major rehabilitation work for new or existing facilities referenced in Section 2.2 above. Nothing contained herein shall be interpreted to prohibit, restrict, or interfere with the performance of any other operation, work or function not covered by this Agreement, which may be performed by City employees or contracted for by the City for its own account, on its property or in and around a Project site.

Section 2.10 Separate Liability. It is understood that the liability of the Contractor(s) and the liability of the separate Unions under this Agreement shall be several and not joint. The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the City or Project Labor Coordinator and/or any Contractor.

Section 2.11 Completed Project Work. As areas of covered work are accepted by the City, this Agreement shall have no further force or effect on such items or areas except where the Contractor is directed by the City or its representatives to engage in repairs, modification, check-out and/or warranties functions required by its contract(s) with the City.

ARTICLE 3 UNION RECOGNITION AND EMPLOYMENT

Section 3.1 Recognition. The Contractor recognizes the Council and the signatory local Unions as the exclusive bargaining representative for the employees engaged in Project Work.

Section 3.2 Contractor Selection of Employees. The Contractor shall have the right to determine the competency of all employees, the number of employees required, the duties of such employees within their craft jurisdiction, and shall have the sole responsibility for selecting employees to be laid off, consistent with Section 3.3 and Section 4.3, below. The Contractor shall also have the right to reject any applicant referred by a Union for any reason, subject to any reporting pay required by Section 6.6; provided, however, that such right is exercised in good

faith and not for the purpose of avoiding the Contractor's commitment to employ qualified workers through the procedures endorsed in this Agreement.

Section 3.3 Referral Procedures.

(a) For signatory Unions now having a job referral system contained in a Schedule A, the Contractor agrees to comply with such system and it shall be used exclusively by such Contractor, except as modified by this Agreement. Such job referral system will be operated in a nondiscriminatory manner and in full compliance with Federal, State, and local laws and regulations which require equal employment opportunities and non-discrimination. All of the foregoing hiring procedures, including related practices affecting apprenticeship, shall be operated so as to consider the goals of the City to encourage employment of City residents and utilization of small local businesses on the Project, and to facilitate the ability of all Contractors to meet their employment needs.

The local Unions will exert their best efforts to recruit and refer sufficient numbers of skilled craft workers to fulfill the labor requirements of the Contractor, including specific employment obligations to which the Contractor may be legally and/or contractually obligated; and to refer apprentices as requested to develop a larger, skilled workforce. The local Unions will work with their affiliated regional and national unions, and jointly with the Project Labor Coordinator and others designated by the City, to identify and refer competent craft persons as needed for Project Work, and to identify and hire individuals, particularly residents of the City, for entrance into joint labor/management apprenticeship programs, or participation in other identified programs and procedures to assist individuals in qualifying and becoming eligible for such apprenticeship programs, all maintained to increase the available supply of skilled craft personnel for Project Work and future construction of maintenance work to be undertaken by the City.

(b) The Union shall not knowingly refer an employee currently employed by a Contractor on Project Work to any other Contractor.

(c) The Parties are aware of the City's policy that Contractors and other employers shall not employ, on Project Work when minors may be present on or around the site of such Project Work during working hours, a person who would not be eligible for employment by the City. The Parties shall endeavor to employ persons under this Article in compliance with this policy, and the Contractors agree to remove such an individual in their employ from the particular Project site at the request of the City or the Project Labor Coordinator.

Section 3.4 Non-Discrimination in Referral, Employment, and Contracting. The Unions and Contractors agree that they will not discriminate against any employee or applicant for employment in hiring and dispatching on the basis of race, color, religion, sex, gender, national origin, age, membership in a labor organization, sexual orientation, political affiliation, marital status or disability. Further, it is recognized that the City may have certain policies, programs, and goals for the utilization of local small business enterprises. If so, the Parties shall jointly endeavor to assure that these commitments are fully met, and that any provisions of this Agreement which may appear to interfere within a local small business enterprises successfully bidding for work within the scope of this Agreement shall be carefully reviewed, and

adjustments made as may be appropriate and agreed upon among the Parties, to ensure full compliance with the spirit and letter of the City's policies and commitment to its goals for the significant utilization of local small businesses as direct Contractors or suppliers of Project Work.

Section 3.5 Employment of City Residents.

(a) In recognition of the City's mission to serve its residents residing in and around the City of El Monte ("Local Residents"), the Parties hereby establish a goal that thirty percent (30%) of all of the labor and craft positions (journeyman and apprentices) shall be from workers residing within a five (5) mile radius of the El Monte City Hall, as reflected on the list of U.S. Postal Service zip codes attached hereto as Attachment B. In the attainment of this goal, the Unions and Contractors will exert their best efforts, to the extent allowed by law, to refer and/or recruit sufficient numbers of skilled craft Local Residents to fulfill the requirements of the Employers performing Project Work. If the 30% local hire is not attained utilizing these Local Residents, the outreach shall expand to qualified employees who reside within an eight (8) mile radius of the El Monte City Hall, as reflected on the list of U.S. Postal Service zip codes attached hereto as Attachment B. If the 30% local hire is still not attained utilizing these Residents, the outreach shall expand to other qualified employees which reside in the County of Los Angeles. The purpose of this section is to provide employment opportunities for those residents which live in and around the City of El Monte, which have historically been economically depressed.

(b) A goal of 30% of all of the labor and craft positions shall be from workers residing within the City area described in (a) above.

(c) The Project Labor Coordinator shall work with the Unions and Contractors in the administration of this local residency preference; and the Contractors and Unions shall cooperate by maintaining adequate records to demonstrate to the Project Labor Coordinator that such preferences have been pursued. As part of this process, and in order to facilitate the contract administration procedures, as well as appropriate benefit fund coverage, all Contractors shall require their "core work force," and any other persons employed other than through the referral process, to register with the appropriate hiring hall, if any.

Section 3.6 Helmets to Hardhats. The Employers and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The employers and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the Parties. For purposes of this Agreement the term "Eligible Veteran" shall have the same meaning as the term "veteran" as defined under Title 5, Section 2108(1) of the United States Code as the same may be amended or re-codified from time to time. It shall be the responsibility of each qualified City resident to provide the Unions with proof of his/her status as an Eligible Veteran.

The Unions and Employers agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

Section 3.7 Core Employees.

(a) Except as otherwise provided in separate collective bargaining agreement(s) to which the Contractor is signatory, Contractors may employ, as needed, first, a member of his core workforce, then a journeyman through a referral from the appropriate Union hiring hall, then a second core employee, then a second employee through the referral system, and so on until a maximum of five (5) core employees are employed; thereafter, all additional employees in the affected trade or craft shall be requisitioned from the craft hiring hall in accordance with Section 3.3. In the laying off of employees, the number of core employees shall not exceed one-half plus one of the workforce for an employer with 10 or fewer employees, assuming the remaining employees are qualified to undertake the work available. This provision applies only to employees not currently working under a current Schedule A Agreement and is not intended to limit the transfer provisions of the Schedule A Agreement of any trade. As part of this process, and in order to facilitate the contract administration procedures, as well as appropriate fringe benefit fund coverage, all Contractors shall require their core employees and any other persons employed other than through the referral process, to register with the appropriate Union hiring hall, if any, prior to their first day of employment at a Project site.

(b) The core work force is comprised of those employees whose names appeared on the Contractor's active payroll for sixty (60) of the one hundred (100) working days immediately before award of Project Work to the Contractor; who possess any license required by state or federal law for the Project Work to be performed; who have the ability to safely perform the basic functions of the applicable trade; and who have been residing within the zip codes attached hereto as Attachment B for one hundred (100) working days immediately prior to the award of Project Work to the Contractor.

(c) Prior to each Contractor performing any work on the Project, each Contractor shall provide a list of his core employees to the Project Labor Coordinator and the Council. Failure to do so will prohibit the Contractor from using any core employees. Upon request by any Party to this Agreement, the Contractor hiring any core employee shall provide satisfactory proof (i.e., payroll records, quarterly tax records, driver's license, voter registration, postal address and such other documentation) evidencing the core employee's qualification as a core employee to the Project Labor Coordinator and the Council.

Section 3.8 Time for Referral. If any Union's registration and referral system does not fulfill the requirements for specific classifications of covered requested by any Contractor within forty-eight (48) hours (excluding Saturdays, Sundays and holidays), that Contractor may use employment sources other than the Union registration and referral services, and may employ applicants meeting such standards from any other available source. The Contractors shall inform the Union of any applicants hired from other sources within forty-eight (48) hours of such applicant being hired, and such applicants shall register with the appropriate hiring hall, if any.

Section 3.9 Lack of Referral Procedure. If a signatory local Union does not have a job referral system as set forth in Section 3.3 above, the Contractors shall give the Union equal opportunity to refer applicants. The Contractors shall notify the Union of employees so hired, as set forth in Section 3.5.

Section 3.10 Union Membership. No employee covered by this Agreement shall be required to join any Union as a condition of being employed, or remaining employed, for the completion of Project Work; provided, however, that any employee who is a member of the referring Union at the time of referral shall maintain that membership in good standing while employed under this Agreement. All employees shall, however, be required to comply with the Union security provisions of the applicable Schedule A for the period during which they are performing on-site Project Work to the extent, as permitted by law, of rendering payment of the applicable monthly and working dues only, as uniformly required of all craft employees while working on the Project and represented by the applicable signatory Union.

Section 3.11 Individual Seniority. Except as provided in Section 4.3, individual seniority shall not be recognized or applied to employees working on the Project; provided, however, that group and/or classification seniority in a Union's Schedule A as of the effective date of this Agreement shall be recognized for purposes of layoffs.

Section 3.12 Foremen. The selection and number of craft foremen and/or general foremen shall be the responsibility of the Contractor. All foremen shall take orders exclusively from the designated Contractor representatives. Craft foremen shall be designated as working foremen at the request of the Contractors.

Section 3.13 City Security Requirements. All persons working on Project Work, including all employees hired by a Contractor (or referred by a Signatory Union) to work on Project Work shall be required to comply with all criminal background check certification requirements and policies of City for those persons who may come in contact with, or work in close proximity to, minors in the course of performing work on a Project. Contractors may refuse to employ any person who declines to comply with City's background check requirements or who otherwise is determined to be disqualified from participating in Project Work because of a disqualifying conviction. Similarly, City may ban or order the immediate removal of any person disqualified from working in the presence of, or in close proximity to, minors.

ARTICLE 4 UNION ACCESS AND STEWARDS

Section 4.1 Access to Project Sites. Authorized representatives of the Union shall have access to Project Work, provided that they do not interfere with the work of employees and further provided that such representatives fully comply with posted visitor, security and safety rules.

Section 4.2 Section 4.2 Stewards.

(a) Each signatory local Union shall have the right to dispatch a working journeyperson as a steward for each shift, and shall notify the Contractor in writing of the identity of the designated steward or stewards prior to the assumption of such person's duties as steward. Such designated steward or stewards shall not exercise any supervisory functions. There will be no non-working stewards. Stewards will receive the regular rate of pay for their respective crafts.

(b) In addition to his/her work as an employee, the steward should have the right to receive, but not to solicit, complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor. Each steward should be concerned only with the employees of the steward's Contractor and, if applicable, subcontractor(s), and not with the employees of any other Contractor. A Contractor will not discriminate against the steward in the proper performance of his/her Union duties.

(c) When a Contractor has multiple, non-contiguous work locations at one site, the Contractor may request and the Union shall appoint such additional working stewards as the Contractor requests to provide independent coverage of one or more such locations. In such cases, a steward may not service more than one work location without the approval of the Contractor.

(d) The stewards shall not have the right to determine when overtime shall be worked or who shall work overtime.

Section 4.3 Steward Layoff/Discharge. The relevant Contractor agrees to notify the appropriate Union twenty-four (24) hours before the layoff of a steward, except in the case of disciplinary discharge for just cause. If the steward is protected against such layoff by the provisions of the applicable Schedule A, such provisions shall be recognized when the steward possesses the necessary qualifications to perform the remaining work. In any case in which the steward is discharged or disciplined for just cause, the appropriate Union will be notified immediately by the Contractor, and such discharge or discipline shall not become final (subject to any later filed grievance) until twenty-four (24) hours after such notice has been given.

Section 4.4 Employees on Non-Project Work. On work where the personnel of the City may be working in close proximity to the construction activities covered by this Agreement, the Union agrees that the Union representatives, stewards, and individual workers will not interfere with the City personnel, or with personnel employed by any other employer not a Party to this Agreement.

ARTICLE 5
WAGES AND BENEFITS

Section 5.1 Wages. All employees covered by this Agreement shall be classified in accordance with work performed and paid by the Contractors the hourly wage rates for those

classifications in compliance with the applicable prevailing wage rate determination established pursuant to applicable law. If a prevailing rate increases under law, the Contractor shall pay that rate as of its effective date under the law. This Agreement does not relieve Contractors from any independent contractual or other obligation they may have to pay wages in excess of the prevailing wage rate as required.

Section 5.2 Benefits.

(a) Contractors shall pay contributions to the established employee benefit funds in the amounts designated in the appropriate Schedule A and make all employee-authorized deductions in the amounts designated in the appropriate Schedule A; provided, however, that the Contractor and Union agree that only such bona fide employee benefits as accrue to the direct benefit of the employees (such as pension and annuity, health and welfare, vacation, apprenticeship, training funds, etc.) shall be included in this requirement and required to be paid by the Contractor on the Project; and provided further, however, that such contributions shall not exceed the contribution amounts set forth in the applicable prevailing wage determination. Notwithstanding Section 2.7(a), Contractors directly signatory to one or more of the Schedule A Agreements are required to make all contributions set forth in those Schedule A Agreements without reference to the forgoing. Bona fide jointly-trusted benefit plans or authorized employee deduction programs established or negotiated under the applicable Schedule A or by the Parties to this Agreement during the life of this Agreement may be added.

(b) The Contractor adopts and agrees to be bound by the written terms of the applicable, legally established, trust agreement(s) specifying the detailed basis on which payments are to be made into, and benefits paid out of, such trust funds for its employees. The Contractor authorizes the Parties to such trust funds to appoint trustees and successor trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor.

(c) Each Contractor and subcontractor is required to certify to the Project Labor Coordinator that it has paid all benefit contributions due and owing to the appropriate Trust(s) prior to the receipt of its final payment and/or retention. Further, upon timely notification by a Union to the Project Labor Coordinator, the Project Labor Coordinator shall work with any prime Contractor or subcontractor who is delinquent in payments to assure that proper benefit contributions are made, to the extent of requesting the City or the prime Contractor to withhold payments otherwise due such Contractor, until such contributions have been made or otherwise guaranteed.

Section 5.3 Wage Premiums. Wage premiums, including but not limited to pay based on height of work, hazard pay, scaffold pay and special skills shall not be applicable to work under this Agreement, except to the extent provided for in any applicable prevailing wage determination.

Section 5.4 Compliance with Prevailing Wage Laws. The Parties agree that the Project Labor Coordinator shall monitor the compliance by all Contractors and subcontractors with all applicable federal and state prevailing wage laws and regulations, and that such monitoring shall

include Contractors engaged in what would otherwise be Project Work but for the exceptions to Agreement coverage in Article 2, Section 2.2. All complaints regarding possible prevailing wage violations shall be referred to the Project Labor Coordinator for processing, investigation and resolution, and if not resolved within thirty calendar days, may be referred by any party to the state labor commissioner.

**ARTICLE 6
HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS**

Section 6.1 Hours of Work. Eight (8) hours per day between the hours of 6:00 a.m. and 5:30 p.m., plus one-half (½) hour unpaid lunch approximately mid-way through the shift, shall constitute the standard work day. Forty (40) hours per week shall constitute a regular week's work. The work week will start on Sunday and conclude on Saturday. The foregoing provisions of this Article are applicable unless otherwise provided in the applicable prevailing wage determination, or unless changes are permitted by law and such are agreed upon by the Parties. Nothing herein shall be construed as guaranteeing any employee eight (8) hours per day or forty (40) hours per week, or a Monday through Friday standard work schedule.

Section 6.2 Place of Work. Employees shall be at their place of work (as designated by the Contractor) at the starting time and shall remain at their place of work, performing their assigned functions, until quitting time. The place of work is defined as the gang or tool box or equipment at the employee's assigned work location or the place where the foreman gives instructions. The Parties reaffirm their policy of a fair day's work for a fair day's wage. There shall be no pay for time not worked unless the employee is otherwise engaged at the direction of the Contractor.

Section 6.3 Overtime. Overtime shall be paid in accordance with the requirements of the applicable prevailing wage determination. There shall be no restriction on the Contractor's scheduling of overtime or the nondiscriminatory designation of employees who will work overtime. There shall be no pyramiding of overtime (payment of more than one form of overtime compensation for the same hour) under any circumstances.

Section 6.4 Shifts and Alternate Work Schedules.

(a) Alternate starting and quitting time and/or shift work may be performed at the option of the Contractor upon three (3) days' prior notice to the affected Union(s), unless a shorter notice period is provided for in the applicable Schedule A, and shall continue for a period of not less than five (5) working days. Saturdays and Sundays, if worked, may be used for establishing the five (5) day minimum work shift. If two shifts are worked, each shall consist of eight (8) hours of continuous work exclusive of a one-half (½) hour non-paid lunch period, for eight (8) hours pay. The last shift shall start on or before 6:00 p.m. The first shift starting at or after 6:00 a.m. is designated as the first shift, with the second shift following.

(b) Contractors, the Council and the Union recognize the economic impact upon the City and City residents of the massive Project being undertaken by the City and agree that all Parties to this Agreement desire and intend Project Work to be undertaken in a cost efficient and effective manner to the highest standard of quality and craftsmanship. Recognizing the

economic conditions, the Parties agree that, except to the extent permitted by law, employees performing Project Work shall not be entitled to any differentials or additional pay based upon the shift or work schedule of the employees. Instead, all employees working on Project Work shall be paid at the same base rate regardless of shift or work schedule worked.

(c) Because of operational necessities, the second shift may, at the City's direction, be scheduled without the preceding shift having been worked. It is recognized that the City's operations and/or mitigation obligations may require restructuring of normal work schedules. Except in an emergency or when specified in the City's bid specification, the Contractor shall give affected Union(s) at least three (3) days' notice of such schedule changes.

Section 6.5 Holidays. Recognized holidays on this Project shall be those set forth and governed by the prevailing wage determination(s) applicable to this Project, unless or until such may be, and are, revised by mutual agreement of the Parties to this Agreement.

Section 6.6 Show-up Pay.

(a) Except as otherwise required by state law, Employees reporting for work and for whom no work is provided, except when given prior notification not to report to work, shall receive two (2) hours pay at the regular straight time hourly rate. Employees who are directed to start work shall receive four (4) hours of pay at the regular straight time hourly rate. Employees who work beyond four (4) hours shall be paid for actual hours worked. Whenever reporting pay is provided for employees, they will be required to remain at the Project Site and available for work for such time as they receive pay, unless released earlier by the principal supervisor of the Contractor(s) or his/her designated representative. Each employee shall furnish his/her Contractor with his/her current address and telephone number, and shall promptly report any changes to the Contractor.

(b) An employee called out to work outside of his/her shift shall receive a minimum of two (2) hours pay at the appropriate rate. This does not apply to time worked as an extension of (before or after) the employee's normal shift.

(c) When an employee leaves the job or work location of his/her own volition, or is discharged for cause or is not working as a result of the Contractor's invocation of Article XII, Section 12.3, the employee shall only be paid for actual time worked.

Section 6.7 Meal Periods. The Contractor will schedule a meal period of no more than one-half hour duration at the work location at approximately mid-point of the schedule shift; provided, however, that the Contractor may, for efficiency of the operation, establish a schedule which coordinates the meal periods of two or more crafts. An employee may be required to work through his meal period because of an emergency or a threat to life or property, or for such other reasons as are in the applicable Schedule A, and if he is so required, he shall be compensated in the manner established in the applicable Schedule A.

Section 6.8 Make-up Days. To the extent permitted by the applicable general wage determination, when an employee has been prevented from working for reasons beyond the

control of the employer, including, but not limited to inclement weather or other natural causes, during the regularly scheduled work week, a make-up day may be worked on a non-regularly scheduled work day for which an employee shall receive eight (8) hours pay at the straight time rate of pay or any premium rate required for such hours under the prevailing wage law.

ARTICLE 7 WORK STOPPAGES AND LOCK-OUTS

Section 7.1 No Work Stoppages or Disruptive Activity. The Council and the Unions' signatory hereto agree that neither they, and each of them, nor their respective officers or agents or representatives, shall incite or encourage, condone or participate in any strike, walk-out, slow-down, picketing, observance of picket lines or other activity of any nature or kind whatsoever, for any cause or dispute whatsoever with respect to or in any way related to Project Work, or which interferes with or otherwise disrupts Project Work, or with respect to or related to the City or Contractors or subcontractors, including, but not limited to, economic strikes, unfair labor practice strikes, safety strikes, sympathy strikes and jurisdictional strikes whether or not the underlying dispute is arbitrable. Any such actions by the Council, or Unions, or their members, agents, representatives or the employees they represent shall constitute a violation of this Agreement. The Council and the Union shall take all steps necessary to obtain compliance with this Article and neither should be held liable for conduct for which it is not responsible.

Section 7.2 Employee Violations. The Contractor may discharge any employee violating Section 7.1 above and any such employee will not be eligible for rehire under this Agreement.

Section 7.3 Standing to Enforce. The City, the Project Labor Coordinator, or any Contractor affected by an alleged violation of Section 7.1 shall have standing and the right to enforce the obligations established therein.

Section 7.4 Expiration of Schedule A's. If the Schedule A Agreement, or any local, regional, and other applicable collective bargaining agreements expire during the term of the Project, the Union(s) agree that there shall be no work disruption of any kind as described in Section 7.1 above as a result of the expiration of any such agreement(s) having application on this Project and/or failure of the involved Parties to that agreement to reach a new contract. Terms and conditions of employment established and set at the time of bid shall remain established and set. Otherwise, to the extent that such agreement does expire and the Parties to that agreement have failed to reach concurrence on a new contract, work will continue on the Project on one of the following two (2) options, both of which will be offered by the Unions involved to the Contractors affected:

(a) Each of the Unions with a contract expiring must offer to continue working on the Project under interim agreements that retain all the terms of the expiring contract, except that the Unions involved in such expiring contract may each propose wage rates and employer contribution rates to employee benefit funds under the prior contract different from what those wage rates and employer contributions rates were under the expiring contracts. The terms of the Union's interim agreement offered to Contractors will be no less favorable than the terms offered

by the Union to any other employer or group of employers covering the same type of construction work in Los Angeles County.

(b) Each of the Unions with a contract expiring must offer to continue working on the Project under all the terms of the expiring contract, including the wage rates and employer contribution rates to the employee benefit funds, if the Contractor affected by that expiring contract agrees to the following retroactive provisions: if a new Schedule A Agreement, local, regional or other applicable labor agreement for the industry having application at the Project is ratified and signed during the term of this Agreement and if such new labor agreement provides for retroactive wage increases, then each affected Contractor shall pay to its employees who performed work covered by this Agreement at the Project during the hiatus between the effective dates of such expired and new labor agreements, an amount equal to any such retroactive wage increase established by such new labor agreement, retroactive to whatever date is provided by the new labor agreement for such increase to go into effect, for each employee's hours worked on the Project during the retroactive period. All Parties agree that such affected Contractors shall be solely responsible for any retroactive payment to its employees.

(c) Some Contractors may elect to continue to work on the Project under the terms of the interim agreement option offered under paragraph (a) above and other Contractors may elect to continue to work on the Project under the retroactivity option offered under paragraph (b) above. To decide between the two options, Contractors will be given one week after the particular labor agreement has expired or one week after the Union has personally delivered to the Contractors in writing its specific offer of terms of the interim agreement pursuant to paragraph (a) above, whichever is the later date. If the Contractor fails to timely select one of the two options, the Contractor shall be deemed to have selected option (b).

Section 7.5 No Lockouts. Contractors shall not cause, incite, encourage, condone or participate in any lock-out of employees with respect to Project Work during the term of this Agreement. The term "lock-out" refers only to a Contractor's exclusion of employees in order to secure collective bargaining advantage, and does not refer to the discharge, termination or layoff of employees by the Contractor for any reason in the exercise of rights pursuant to any provision of this Agreement, or any other agreement, nor does "lock-out" include the City's decision to stop, suspend or discontinue any Project Work or any portion thereof for any reason.

Section 7.6 Best Efforts to End Violations.

(a) If a Contractor contends that there is any violation of this Article or Section 8.3, it shall notify, in writing, the Executive Secretary of the Council, the Senior Executive of the involved Union(s) and the Project Labor Coordinator. The Executive Secretary and the leadership of the involved Union(s) will immediately instruct, order and use their best efforts to cause the cessation of any violation of the relevant Article.

(b) If the Union contends that any Contractor has violated this Article, it will notify that Contractor and the Project Labor Coordinator, setting forth the facts which the Union contends violate the Agreement, at least twenty-four (24) hours prior to invoking the procedures

of Section 7.8. The Project Labor Coordinator shall promptly order the involved Contractor(s) to cease any violation of the Article.

Section 7.7 Withholding of Services for Failure to Pay Wages and Fringe Benefits.

Notwithstanding any provision of this Agreement to the contrary, it shall not be a violation of this Agreement for any Union to withhold the services of its members (but not the right to picket) from a particular Contractor who:

(a) fails to timely pay its weekly payroll; or

(b) fails to make timely payments to the Union's Joint Labor/Management Trust Funds in accordance with the provisions of the applicable Schedule A Agreements. Prior to withholding its members' services for the Contractor's failure to make timely payments to the Union's Joint Labor/Management Trust Funds, the Union shall give at least ten (10) days (unless a lesser period of time is provided in the Union's Schedule A Agreement, but in no event less than forty-eight (48) hours) written notice of such failure to pay by registered or certified mail, return receipt requested, and by facsimile transmission to the involved Contractor. Union will meet within the ten (10) day period to attempt to resolve the dispute.

(c) Upon the payment of the delinquent Contractor of all monies due and then owing for wages and/or fringe benefit contributions, the Union shall direct its members to return to work and the Contractor shall return all such members back to work.

Section 7.8 Expedited Enforcement Procedure. Any party, including the City, which the Parties agree is a Party to the Agreement for purposes of this Article and an intended beneficiary of this Article, or the Project Labor Coordinator, may institute the following procedures, in lieu of or in addition to any other action at law or equity, when a breach of Section 7.1 or 7.5, above, or Section 8.3 is alleged.

(a) The Party invoking this procedure shall notify the permanent arbitrator next in sequence from the list of neutral arbitrators mutually agreed to by the Parties under Attachment C (hereinafter, the "Permanent Neutral Arbitrators"). The Parties agree these shall be the permanent neutral arbitrators under this procedure. In the event that none of the Permanent Neutral Arbitrators are available for a hearing within twenty-four (24) hours, the Party invoking the procedure shall have the option of delaying the proceedings until one of the Permanent Neutral Arbitrators is available or the Parties shall make a joint request of the State Mediation and Conciliation Service of the California Department of Industrial Relations (hereinafter, "SMCS")¹ for a list of five (5) qualified neutral arbitrators with labor and employment expertise reasonably related to the nature of the dispute. The Parties shall select a neutral arbitrator from the SMCS list by striking one name from the list in succession until only one name remains. If any of the Permanent Neutral Arbitrators ask to be relieved from their

¹ As of the effective date of this Agreement, the offices of the SMCS can be contacted at the following address and/or by means of the following e-mail address and facsimile number: 1515 Clay Street, Suite 2206, Oakland, California 94612, E-mail: SMCSInfo@dair.ca.gov, Facsimile Number: (510) 873-6475.

status as a Permanent Neutral Arbitrator, the Parties shall mutually select a new Permanent Neutral Arbitrator by again submitting a joint request to the SMCS for a list of five (5) qualified arbitrators with the new arbitrator selected by striking names from the list until only one name remains. Expenses incurred in arbitration shall be borne equally by the Parties involved in the arbitration and the decision of the arbitrator shall be final and binding on the Parties, provided, however, that the arbitrator shall not have the authority to alter or amend or add to or delete from the provisions of this Agreement in any way. Notice to the arbitrator shall be by the most expeditious means available, with notices to the Parties alleged to be in violation, and to the Council if it is a Union alleged to be in violation. For purposes of this Article, written notice may be given by telegram, facsimile, hand delivery or overnight mail and will be deemed effective upon receipt.

(b) Upon receipt of said notice, the arbitrator named above or his/her alternate shall sit and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists, but not sooner than twenty-four (24) hours after notice has been dispatched to the Executive Secretary and the Senior Official(s) as required by Section 7.6, as above.

(c) The arbitrator shall notify the Parties of the place and time chosen for this hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed 24 hours unless otherwise agreed upon by all Parties. A failure of any Party or Parties to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.

(d) The sole issue at the hearing shall be whether or not a violation of Sections 7.1 or 7.5, above, or Section 8.3 has in fact occurred. The arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation or to award damages, (except for damages as set forth in 7.8 below) which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without an opinion. If any Party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of, the Award. The arbitrator may order cessation of the violation of the Article and other appropriate relief, and such award shall be served on all Parties by hand or registered mail upon issuance.

(e) Such award shall be final and binding on all Parties and may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to hereinabove in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other Party. In any judicial proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 7.8 (d) of this Article, all Parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any Party's right to participate in a hearing for a final order of enforcement. The court's order or orders enforcing the arbitrator's award shall be served on all Parties by hand or by delivery to their address as shown on this Agreement (for a Union), as shown on their business contract for work under this Agreement (for a Contractor) and to the representing Union (for an employee), by certified mail by the Party or Parties first alleging the violation.

(f) Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance hereto are hereby waived by the Parties to whom they accrue.

(g) The fees and expenses of the arbitrator shall be equally divided between the Party or Parties initiating this procedure and the respondent Party or Parties.

ARTICLE 8 WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

Section 8.1 Assignment of Work. The assignment of work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") currently in effect, or any successor plan.

Section 8.2 The Plan. All jurisdictional disputes between or among Building and Construction Trades Unions and Contractors shall be settled and adjusted according to the Plan, or any other plan or method of procedures that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractors and Union. For the convenience of the parties and in recognition of the expense of travel between Southern California and Washington D.C., at the request of any party to a jurisdictional dispute under this Agreement, an Arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsh, and Thomas Pagan, and the Arbitrator's hearing on the dispute shall be held at the offices of the applicable Building and Construction Trades Council. All other procedures shall be as specified in the Plan.

Section 8.3 No Work Disruption Over Jurisdiction. All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, disruption, or slowdown of any nature, and the Contractor's assignments shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

Section 8.4 Pre-Job Conferences. As provided in Article 16, each Contractor will conduct a pre-job conference with the appropriate affected Union(s) prior to commencing work. The Council and the Project Labor Coordinator shall be advised in advance of all such conferences and may participate if they wish.

Section 8.5 Resolution of Jurisdictional Disputes. If any actual or threatened strike, sympathy strike, work stoppage, slow down, picketing, hand-billing or otherwise advising the public that a labor dispute exists, or interference with the progress of Project Work by reason of a jurisdictional dispute or disputes occurs, the Parties shall exhaust the expedited procedures set forth in the Plan, if such procedures are in the plan then currently in effect, or otherwise as in Article 7 above.

ARTICLE 9 MANAGEMENT RIGHTS

Section 9.1 Contractor and City Rights. The Contractors and the City have the sole and exclusive right and authority to oversee and manage construction operations on Project Work without any limitations unless expressly limited by a specific provision of this Agreement. In addition to the following and other rights of the Contractors enumerated in this Agreement, the Contractors expressly reserve their management rights and all the rights conferred upon them by law. The Contractor's rights include, but are not limited to, the right to:

- (a) Plan, direct and control operations of all work;
- (b) Hire, promote, transfer and layoff their own employees, respectively, as deemed appropriate to satisfy work and/or skill requirements;
- (c) Promulgate and require all employees to observe reasonable job rules and security and safety regulations;
- (d) Discharge, suspend or discipline their own employees for just cause;
- (e) Utilize, in accordance with City approval, any work methods, procedures or techniques, and select, use and install any types or kinds of materials, apparatus or equipment, regardless of source of manufacture or construction; assign and schedule work at their discretion; and
- (f) Assign overtime, determine when it will be worked and the number and identity of employees engaged in such work, subject to such provisions in the applicable Schedule A(s) requiring such assignments be equalized or otherwise made in a nondiscriminatory manner.

Section 9.2 Specific City Rights. In addition to the following and other rights of the City enumerated in this Agreement, the City expressly reserves its management rights and all the rights conferred on it by law. The City's rights (and those of the Contractor Administrator on its behalf) include but are not limited to the right to:

- (a) Inspect any construction site or facility to ensure that the Contractor follows the applicable safety and other work requirements;
- (b) Require Contractors to establish a different work week or shift schedule for particular employees as required to meet the operational needs of the Project Work at particular locations or in order to accommodate the instructional programs and pupil control problems at various project sites where school may be in session during periods of construction activity;
- (c) At its sole option, terminate, delay and/or suspend any and all portions of the covered work at any time; prohibit some or all work on certain days or during certain hours of the day to accommodate the ongoing operations of the City's educational facilities and/or to mitigate the effect of ongoing Project Work on businesses and residents in the neighborhood of the Project site; and/or require such other operational or schedule changes it deems necessary, in its sole judgment, to effectively maintain its primary mission and remain a good neighbor to

those in the area of its facilities. (In order to permit the Contractors and Unions to make appropriate scheduling plans, the City will provide the Project Labor Coordinator, and the affected Contractor(s) and Union(s) with reasonable notice of any changes it requires pursuant to this section; provided, however, that if notice is not provided in time to advise employees not to report for work, show-up pay shall be due pursuant to the provision of Article 6, Section 6.6);

(d) Approve any work methods, procedures and techniques used by Contractors whether or not these methods, procedures or techniques are part of industry practices or customs; and

(e) Investigate and process complaints, through its Project Labor Coordinator, in the matter set forth in Articles 7 and 10.

Section 9.3 Use of Materials. There should be no limitations or restriction by Union upon a Contractor's choice of materials or design, nor, regardless of source or location, upon the full use and utilization, of equipment, machinery, packaging, precast, prefabricated, prefinished, or preassembled materials, tools or other labor saving devices, subject to the application of the State Public Contracts and Labor Codes as required by law in reference to offsite construction. Generally, the onsite installation or application of such items shall be performed by the craft having jurisdiction over such work. The City and its Project Labor Coordinator shall advise all Contractors of, and enforce as appropriate, the off-site application of the prevailing wage law as it affects Project Work.

Section 9.4 Special Equipment, Warranties and Guaranties.

(a) It is recognized that certain equipment of a highly technical and specialized nature may be installed at Project Work sites. The nature of the equipment, together with the requirements for manufacturer's warranties, may dictate that it be prefabricated pre-piped and/or pre-wired and that it be installed under the supervision and direction of the City's and/or manufacturer's personnel. The Unions agree that such equipment is to be installed without incident.

(b) The Parties recognize that the Contractor will initiate from time to time the use of new technology, equipment, machinery, tools, and other labor-savings devices and methods of performing Project Work. The Union agrees that they will not restrict the implementation of such devices or work methods. The Unions will accept and will not refuse to handle, install or work with any standardized and/or catalogue parts, assemblies, accessories, prefabricated items, preassembled items, partially assembled items, or materials whatever their source of manufacture or construction.

(c) If any disagreement between the Contractor and the Unions concerning the methods of implementation or installation of any equipment, or device or item, or method of work, arises, or whether a particular part or pre-assembled item is a standardized or catalog part or item, the work will proceed as directed by the Contractor and the Parties shall immediately consult over the matter. If the disagreement is not resolved, the affected Union(s) shall have the right to proceed through the procedures set forth in Article 10.

Section 9.5 No Less Favorable Treatment. The Parties expressly agree that Project Work will not receive less favorable treatment than that on any other project which the Unions, Contractors and employees work.

ARTICLE 10
SETTLEMENT OF GRIEVANCES AND DISPUTES

Section 10.1 Cooperation and Harmony on Site.

(a) This Agreement is intended to establish and foster continued close cooperation between management and labor. The Council shall assign a representative to this Project for the purpose of assisting the local Unions, and working with the Project Labor Coordinator, together with the Contractors, to complete the construction of the Project economically, efficiency, continuously and without any interruption, delays or work stoppages.

(b) The Project Labor Coordinator, the Contractors, Unions, and employees collectively and individually, realize the importance to all Parties of maintaining continuous and uninterrupted performance Project Work, and agree to resolve disputes in accordance with the grievance provisions set forth in this Article or, as appropriate, those of Article 7 or 8.

(c) The Project Labor Coordinator shall oversee the processing of grievances under this Article and Articles 7 and 8, including the scheduling and arrangements of facilities for meetings, selection of the arbitrator from the agreed-upon panel to hear the case, and any other administrative matters necessary to facilitate the timely resolution of any dispute; provided, however, it is the responsibility of the principal parties to any pending grievance to insure the time limits and deadlines are met.

Section 10.2 Processing Grievances. Any questions arising out of and during the term of this Agreement involving its interpretation and application, which includes applicable provisions of the Schedule A's, but not jurisdictional disputes or alleged violations of Section 7.1 and 7.4 and similar provisions, shall be considered a grievance and subject to resolution under the following procedures.

Step 1. Employee Grievances. When any employee subject to the provisions of this Agreement feels aggrieved by an alleged violation of this Agreement, the employee shall, through his local Union business representative or, job steward, within ten (10) working days after the occurrence of the violation, give notice to the work site representative of the involved Contractor stating the provision(s) alleged to have been violated. A business representative of the local Union or the job steward and the work site representative of the involved Contractor shall meet and endeavor to adjust the matter within ten (10) working days after timely notice has been given. If they fail to resolve the matter within the prescribed period, the grieving party may, within ten (10) working days thereafter, pursue Step 2 of this grievance procedure provided the grievance is reduced to writing, setting forth the relevant information, including a short description thereof, the date on which the alleged violation occurred, and the provision(s) of the Agreement alleged to

have been violated. Grievances and disputes settled at Step 1 shall be non-precedential except as to the parties directly involved.

Union or Contractor Grievances. Should the Union(s) or any Contractor have a dispute with the other Party(ies) and, if after conferring within ten (10) working days after the disputing Party knew or should have known of the facts or occurrence giving rise to the dispute, a settlement is not reached within five (5) working days, the dispute shall be reduced to writing and proceed to Step 2 in the same manner as outlined under Step 1 above for the disposition of an employee complaint.

Step 2. The business manager of the involved local Union or his designee, together with the site representative of the involved Contractor, and the labor relations representative of the Project Labor Coordinator, shall meet within seven (7) working days of the referral of the dispute to this second step to arrive at a satisfactory settlement thereof. If the Parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) calendar days after the initial meeting at Step 2.

Step 3. (a) If the grievance shall have been submitted but not resolved under Step 2, either the Union or Contractor Party may request in writing to the Project Labor Coordinator (with copy (ies) to the other Party (ies) within seven (7) calendar days after the initial Step 2 meeting, that the grievance be submitted to an arbitrator selected from the agreed upon list below, on a rotational basis in the order listed. Those arbitrators are: (1) Joseph Gentile; (2) Louis Zigman; (3) Fredric Horowitz; (4) Sara Adler; (5) William Ruiz; (6) Walt Daugherty; and (7) Michael Rappaport. The decision of the arbitrator shall be final and binding on all Parties and the fees and expenses of such arbitrations shall be borne equally by the involved Contractor(s) and the involved Union(s).

(b) Failure of the grieving Party to adhere to the time limits established herein shall render the grievance null and void. The time limits established herein may be extended only by written consent of the Parties involved at the particular step where the extension is agreed upon. The arbitrator shall have the authority to make decisions only on issues presented and shall not have the authority to change, amend, add to or detract from any of the provisions of this Agreement.

(c) The fees and expenses incurred by the arbitrator, as well as those jointly utilized by the Parties (i.e., conference room, court reporter, etc.) in arbitration, shall be divided equally by the Parties to the arbitration, including Union(s) and Contractor(s) involved.

Section 10.3 Limit on Use of Procedures. Procedures contained in this Article shall not be applicable to any alleged violation of Articles 7 or 8, with a single exception that any employee discharged for violation of Section 7.2, or Section 8.3, may resort to the procedures of this Article to determine only if he/she was, in fact, engaged in that violation.

Section 10.4 Notice. The Project Labor Coordinator (and the City, in the case of any grievance regarding the Scope of this Agreement), shall be notified by the involved Contractor of all

actions at Steps 2 and 3, and further, the Project Labor Coordinator shall, upon its own request, be permitted to participate fully as a party in all proceedings at such steps.

ARTICLE 11 REGULATORY COMPLIANCE

Section 11.1 Compliance with All Laws. The Council and all Unions, Contractors, subcontractors and their employed shall comply with all applicable federal and state laws, ordinances and regulations including, but not limited to, those relating to safety and health, employment and applications for employment. All employees shall comply with the safety regulations established by the City, the Project Labor Coordinator or the Contractor. Employees must promptly report any injuries or accidents to a supervisor.

Section 11.2 Monitoring Compliance. The Parties agree that the City shall require, and that the Project Labor Coordinator and Council shall monitor, compliance by all Contractors and subcontractors with all federal and state laws and regulations that, from time to time may apply to Project Work. It shall be the responsibility of both the Council and the Project Labor Coordinator (on behalf of the City) to investigate or monitor compliance with these various laws and regulations. The Council may recommend to the Project Labor Coordinator and/or the City procedures to encourage and enforce compliance with these laws and regulations.

Section 11.3 Prevailing Wage Compliance. The Council or Union shall refer all complaints regarding any potential prevailing wage violation to the Project Labor Coordinator who, on its own, or with the assistance of the City's labor compliance program, if any, shall process, investigate and resolve such complaints, consistent with Article 5, Section 5.4. The Council or Union, as appropriate, shall be advised in a timely manner with regard to the facts and resolution, if any, of any complaint. It is understood that this Section does not restrict any individual rights as established under the State Labor Code, including the rights of an individual to file a complaint with the State Labor Commissioner.

Section 11.4 Violations of Law. Based upon a finding of violation by the City of a federal and state law, and upon notice to the Contractor that it or its subcontractors is in such violation, the City, in the absence of the Contractor or subcontractor remedying such violation, shall take such action as it is permitted by law or contract to encourage that Contractor to come into compliance, including, but not limited to, assessing fines and penalties and/or removing the offending Contractor from Project Work. Additionally, in accordance with the Agreement between the City and the Contractor, the City may cause the Contractor to remove from Project Work any subcontractor who is in violation of federal or state law.

ARTICLE 12 SAFETY AND PROTECTION OF PERSON AND PROPERTY

Section 12.1 Safety.

(a) It shall be the responsibility of each Contractor to ensure safe working conditions and employee compliance with any safety rules contained herein or established by the City, the

Project Labor Coordinator or the Contractor. It is understood that employees have an individual obligation to use diligent care to perform their work in a safe manner and to protect themselves and the property of the Contractor and the City.

(b) Employees shall be bound by the safety, security and visitor rules established by the Contractor, the Project Labor Coordinator and/or the City. These rules will be published and posted. An employee's failure to satisfy his/her obligations under this section will subject him/her to discipline, up to and including discharge.

(c) The Parties agree that the Labor/Management Memorandum of Understanding (MOU) on Drug Abuse Prevention and Detection negotiated with the various General Contractor Associations and the Basic Trades' Unions (Titled Memorandum of Understanding Testing Policy for Drug Abuse; International Union of Operating Engineers Local Union No. 12; Revised June 2009 as shown in Attachment D) shall be utilized under this Agreement.

Section 12.2 Inspection. The inspection of incoming shipments of equipment, machinery, and construction materials of every kind shall be performed at the discretion of the Contractor by individuals of its choice.

Section 12.3 Suspension of Work for Safety. A Contractor may suspend all or a portion of the job to protect the life and safety of employees. In such cases, employees will be compensated only for the actual time worked; provided, however, that where the Contractor requests employees to remain at the site and be available for work, the employees will be compensated for stand-by time at their basic hourly rate of pay.

Section 12.4 Water and Sanitary Facilities. The Contractor shall provide adequate supplies of drinking water and sanitary facilities for all employees as required by state law or regulation.

ARTICLE 13 TRAVEL AND SUBSISTENCE

Travel expenses, travel time, subsistence allowances, zone rates and parking reimbursements shall be paid in accordance with the applicable Schedule A Agreement unless superseded by the applicable prevailing wage determination.

ARTICLE 14 APPRENTICES

Section 14.1 Importance of Training. The Parties recognize the need to maintain continuing support of the programs designed to develop adequate numbers of competent workers in the construction industry, the obligation to capitalize on the availability of the local work force in the area served by the City, and the opportunities to provide continuing work under the construction program. To these ends, the Parties will facilitate, encourage, and assist local residents to commence and progress in Labor/Management Apprenticeship and/or training Programs in the construction industry leading to participation in such apprenticeship programs. The City, the Project Labor Coordinator, other City consultants, and the Council, will work cooperatively to

identify, or establish and maintain, effective programs and procedures for persons interested in entering the construction industry and which will help prepare them for the formal joint labor/management apprenticeship programs maintained by the signatory Unions.

Section 14.2 Use of Apprentices.

(a) Apprentices used on Projects under this Agreement shall be registered in Joint Labor Management Apprenticeship Programs approved by the State of California. Apprentices may comprise up to thirty percent (30%) of each craft's work force at any time, unless the standards of the applicable joint apprenticeship committee, confirmed by the Division of Apprenticeship Standards ("DAS"), establish a lower maximum percentage, and where such is the case, the applicable Union should use its best efforts with the Joint Labor Management apprenticeship committee and, if necessary, the DAS to permit up to thirty percent (30%) apprentices on the Project.

(b) The Unions agree to cooperate with the Contractor in furnishing apprentices as requested up to the maximum percentage. The apprentice ratio for each craft shall be in compliance, at a minimum, with the applicable provisions of the Labor Code relating to utilization of apprentices. The City shall encourage such utilization, and, both as to apprentices and the overall supply of experienced workers, the Project Labor Coordinator will work with the Council to assure appropriate and maximum utilization of apprentices and the continuing availability of both apprentices and journey persons.

(c) The Parties agree that apprentices will not be dispatched to Contractors working under this Agreement unless there is a journeyman working on the project where the apprentice is to be employed who is qualified to assist and oversee the apprentice's progress through the program in which he is participating.

(d) All apprentices shall work under the direct supervision of a journeyman from the trade in which the apprentice is indentured. A journeyman shall be defined as set forth in the California Code of Regulations, Title 8 [apprenticeship] section 205, which defines a journeyman as a person who has either completed an accredited apprenticeship in his or her craft, or has completed the equivalent of an apprenticeship in length and content of work experience and all other requirements in the craft which has workers classified as journeymen in the apprenticeable occupation. Should a question arise as to a journeyman's qualification under this subsection, the Contractor shall provide adequate proof evidencing the worker's qualification as a journeyman to the Construction Manager and the Council.

Section 14.3 Joint Subcommittee on Training and Apprenticeship. To carry out the intent and purposes of this Article, a subcommittee of the Labor Management Committee established pursuant to Article 17 shall be established, jointly chaired by a designee of the City and a designee of the Council, to oversee the identification and/or effective development of procedures and programs leading to the full utilization of apprenticeship programs, and to work with representatives of each signatory craft's joint apprenticeship committee ("JAC") and representatives of the City's technical schools, if any, to establish appropriate criteria for recognition by such JAC's of the educational and work experience possessed by City students

and graduates toward qualifying for entry or advanced level in the apprenticeship programs under the direction of such JAC's. The Subcommittee will meet as necessary at the call of the joint chairs to promptly facilitate its purposes in an expeditious manner as soon as this Agreement becomes effective. In addition to the joint chairs, the membership of the committee will consist of at least three representatives of the signatory local Unions and three representatives of Contractor's signatory to this Agreement and who are experienced in overseeing and participating in joint labor management apprenticeship programs (or organizations to which the Contractors belong).

ARTICLE 15 WORKING CONDITIONS

Section 15.1 Meal and Rest Periods. There will be no non-working times established during working hours except as may be required by applicable state law or regulations. Meal periods and Rest periods shall be as provided for in Wage Order 16. Individual coffee containers will be permitted at the employees' work location; however, there will be no organized coffee breaks.

Section 15.2 Work Rules. The City, the Project Labor Coordinator, and/or relevant Contractor shall establish such reasonable work rules as they deem appropriate and not inconsistent with this Agreement. These rules will be posted at the work sites by the Contractor and may be amended thereafter as necessary. Failure to observe these rules and regulations by employees may be grounds for discipline up to and including discharge.

Section 15.3 Emergency Use of Tools and Equipment. There should be no restrictions on the emergency use of any tools by any qualified employee or supervisor, or on the use of any tools or equipment for the performance of work within the jurisdiction, provided the employee can safely use the tools and/or equipment involved and is in compliance with applicable governmental rules and regulations.

Section 15.4 Access Restrictions for Cars. Recognizing the nature of the work being conducted on the site, employee access by a private automobile may be limited to certain roads and/or parking areas.

ARTICLE 16 PRE-JOB CONFERENCES

Each Contractor will conduct a pre-job conference with the appropriate affected Union(s) prior to commencing work. The Council and the Construction Manager shall be advised in advance of all such conferences and may participate if they wish. All work assignments should be disclosed by the Contractor at a pre-job conference held in accordance with industry practice. Should there be any formal jurisdictional dispute raised under Article VIII, the Construction Manager shall be promptly notified.

ARTICLE 17 LABOR/MANAGEMENT COOPERATION

Section 17.1 Joint Committee. The Parties to this Agreement shall establish a six (6) person Joint Administrative Committee (JAC). This JAC shall be comprised of three (3) representatives selected by the City and three (3) representatives selected by the Council to monitor compliance with the terms and conditions of this Agreement. Each representative shall designate an alternate who shall serve in his or her absence for any purpose contemplated by this Agreement.

Section 17.2 Functions of Joint Committee. The Committee shall meet on a schedule to be determined by the Committee or at the call of the joint chairs, to discuss the administration of the Agreement, the progress of the Project, general labor management problems that may arise, and any other matters consistent with this Agreement. Substantive grievances or disputes arising under Articles 7, 8 or 10 shall not be reviewed or discussed by this Committee, but shall be processed pursuant to the provisions of the appropriate Article. The Project Labor Coordinator shall be responsible for the scheduling of the meetings, the preparation of the agenda topics for the meetings, with input from the Unions the Contractors and the City. Notice of the date, time and place of meetings, shall be given to the Committee members at least three (3) days prior to the meeting. The City should be notified of the meetings and invited to send a representative(s) to participate. The Project Labor Coordinator shall prepare quarterly reports on apprentice utilization and the training and employment of City residents, and a schedule of Project Work and estimated number of craft workers needed. The Committee or an appropriate subcommittee, may review such reports and make any recommendations for improvement, if necessary, including increasing the availability of skilled trades, and the employment of local residents or other individuals who should be assisted with appropriate training to qualify for apprenticeship programs.

Section 17.3 Subcommittees. The Committee may form subcommittees to consider and advise the full Committee with regard to safety and health issues affecting the Project and other similar issues affecting the overall Project, including any workers' compensation program initiated under this Agreement.

Section 17.4 Job Fair/Career Day Participation. The Parties to this Agreement shall also comply with the provisions spelled out in Attachment E, which relate to participation with City-based job fairs and career days.

ARTICLE 18 SAVINGS AND SEPARABILITY

Section 18.1 Savings Clause. It is not the intention of the City, the Project Labor Coordinator, Contractor or the Union parties to violate any laws governing the subject matter of this Agreement. The Parties hereto agree that in the event any provision of this Agreement is finally held or determined to be illegal or void as being in contravention of any applicable law or regulation, the remainder of the Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this Agreement. Further, the Parties agree that if and when any provision(s) of this Agreement is finally held or determined to be illegal or void by a court of competent jurisdiction, the Parties will promptly enter into negotiations concerning the substantive effect of such decision for the purposes of achieving conformity with the requirements of any applicable laws and the intent of the Parties

hereto. If the legality of this Agreement is challenged and any form of injunctive relief is granted by any court, suspending temporarily or permanently the implementation of this Agreement, then the Parties agree that all Project Work that would otherwise be covered by this Agreement should be continued to be bid and constructed without application of this Agreement so that there is no delay or interference with the ongoing planning, bidding and construction of any Project Work.

Section 18.2 Effect of Injunctions or Other Court Orders. The Parties recognize the right of the City to withdraw, at its absolute discretion, the utilization of the Agreement as part of any bid specification should a court of competent jurisdiction issue any order, or any applicable statute which could result, temporarily or permanently, in delay of the bidding, awarding and/or construction on the Project. Notwithstanding such an action by the City, or such court order or statutory provision, the Parties agree that the Agreement shall remain in full force and the fact on covered Project Work to the maximum extent legally possible.

ARTICLE 19 WAIVER

A waiver of or a failure to assert any provision of this Agreement by any or all of the Parties hereto shall not constitute a waiver of such provision for the future. Any such waiver shall not constitute a modification of the Agreement or change in the terms and conditions of the Agreement and shall not relieve, excuse or release any of the Parties from any of their rights, duties or obligations hereunder.

ARTICLE 20 AMENDMENTS

The provisions of this Agreement can be renegotiated, supplemented, rescinded or otherwise altered only by mutual agreement in writing, hereafter signed by the negotiating Parties hereto.

ARTICLE 21 DURATION OF THE AGREEMENT

Section 21.1 Duration.

(a) This Agreement shall be deemed to have taken effect on March 19, 2013 when approved by the City Council and shall remain in effect for a period of five (5) years thereafter. Any covered Project awarded during the term of this Agreement shall continue to be covered hereunder, until completion of the Project, notwithstanding the expiration date of this Agreement.

(b) This Agreement may be extended by mutual consent of the City and the signatory Unions for such further periods as the Parties shall agree to.

Section 21.2 Turnover and Final Acceptance of Completed Work.

March 19
2013

(a) Construction of any phase, portion, section, or segment of Project Work shall be deemed complete when such phase, portion, section or segment has been turned over to the City by the Contractor and the City has accepted such phase, portion, section, or segment. As areas and systems of the Project are inspected and construction-tested and/or approved and accepted by the City or third parties with the approval of the City, the Agreement shall have no further force or effect on such items or areas, except when the Contractor is directed by the City to engage in repairs or modifications required by its contract(s) with the City.

(b) Notice of each final acceptance received by the Contractor will be provided to the Council with the description of what portion, segment, etc. has been accepted. Final acceptance may be subject to a "punch list," and in such case, the Agreement will continue to apply to each such item on the list until it is completed to the satisfaction of the City and a Notice of Acceptance is given by the City or its representative to the Contractor. At the request of the Union, complete information describing any "punch list" work, as well as any additional work required of a Contractor at the direction of the City pursuant to (a) above, involving otherwise turned-over and completed facilities which have been accepted by the City, will be available from the Project Labor Coordinator.

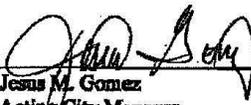
IN WITNESS whereof the Parties have caused this Continuity of Work Agreement to be executed as of the date and year above stated.

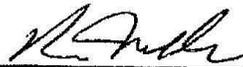
DATED: 6-17-2013

DATED: 6-27-13

CITY OF EL MONTE

LOS ANGELES/ORANGE COUNTIES
BUILDING & CONSTRUCTION
TRADES COUNCIL

By:  6-17-2013
Jesus M. Gomez
Acting City Manager

By: 
Title: EXEC SECRETARY

APPROVED AS TO FORM

By: 
Ricardo Olivarez
City Attorney

**ATTACHMENT A
LETTER OF ASSENT**

[Contractor's Letterhead]

To be signed by all Contractors awarded work covered by the Continuity of Work Agreement prior to commencing work.

[Date]

Project Labor Coordinator
c/o City of El Monte
1234 address
City, State, Zip Code
Attn: _____

Re: Continuity of Work Agreement – El Monte Capital Improvement Plan Projects- Letter of Assent

Dear Sir:

This is to confirm that [name of company] agrees to be party to and bound by the City of El Monte Continuity of Work Agreement effective _____, 20____, ("Agreement") as such Agreement may, from time to time, be amended by the negotiating parties or interpreted pursuant to its terms. Such obligation to be a party and bound by this Agreement shall extend to all work covered by the Agreement undertaken by this Company on the Project and this Company shall require all of its contractors and subcontractors of whatever tier to be similarly bound for all work within the scope of the Agreement by signing and furnishing to you an identical letter of assent prior to their commencement of work.

Sincerely,

[Name of Construction Company]

By: [_____] Name and Title of Authorized Executive

[Copies of this letter must be submitted to the Project Labor Coordinator and to the Council Consist with Article II, Section 2.5(b).]

**ATTACHMENT B
LOCAL RESIDENT ZIP CODES
(Page 1 of 2 to Attachment B)**

Tier 1: 5 miles radius

91006 Arcadia, CA
91007 Arcadia, CA
91706 Baldwin Park, CA
91731 El Monte, CA
91732 El Monte, CA
91733 South El Monte, CA
91746 La Puente, CA

91770 Rosemead, CA
91775 San Gabriel, CA
91776 San Gabriel, CA
91780 Temple City, CA
91066 Arcadia, CA
91077 Arcadia, CA
91734 El Monte, CA

91735 El Monte, CA
91771 Rosemead, CA
91772 Rosemead, CA
91778 San Gabriel, CA
91797 Pomona, CA

ATTACHMENT B
LOCAL RESIDENT ZIP CODES
(Page 2 of 2 to Attachment B)
Tier 2: 8 Mile Radius

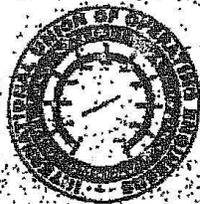
90601 Whittier, CA	91770 Rosemead, CA	91182 Pasadena, CA
90606 Whittier, CA	91775 San Gabriel, CA	91184 Pasadena, CA
90640 Montebello, CA	91776 San Gabriel, CA	91185 Pasadena, CA
90660 Pico Rivera, CA	91780 Temple City, CA	91189 Pasadena, CA
91006 Arcadia, CA	91790 West Covina, CA	91199 Pasadena, CA
91007 Arcadia, CA	91801 Alhambra, CA	91714 City Of Industry, CA
91008 Duarte, CA	91803 Alhambra, CA	91716 City Of Industry, CA
91010 Duarte, CA	90607 Whittier, CA	91734 El Monte, CA
91016 Monrovia, CA	90608 Whittier, CA	91735 El Monte, CA
91030 South Pasadena, CA	90609 Whittier, CA	91747 La Puente, CA
91101 Pasadena, CA	90661 Pico Rivera, CA	91749 La Puente, CA
91104 Pasadena, CA	90662 Pico Rivera, CA	91756 Monterey Park, CA
91106 Pasadena, CA	91009 Duarte, CA	91771 Rosemead, CA
91107 Pasadena, CA	91017 Monrovia, CA	91772 Rosemead, CA
91108 San Marino, CA	91025 Sierra Madre, CA	91778 San Gabriel, CA
91121 Pasadena, CA	91031 South Pasadena, CA	91793 West Covina, CA
91123 Pasadena, CA	91066 Arcadia, CA	91797 Pomona, CA
91125 Pasadena, CA	91077 Arcadia, CA	91802 Alhambra, CA
91188 Pasadena, CA	91102 Pasadena, CA	91804 Alhambra, CA
91706 Baldwin Park, CA	91109 Pasadena, CA	91896 Alhambra, CA
91715 City Of Industry, CA	91110 Pasadena, CA	91899 Alhambra, CA
91731 El Monte, CA	91114 Pasadena, CA	
91732 El Monte, CA	91115 Pasadena, CA	
91733 South El Monte, CA	91116 Pasadena, CA	
91744 La Puente, CA	91117 Pasadena, CA	
91745 Hacienda Heights, CA	91118 San Marino, CA	
91746 La Puente, CA	91124 Pasadena, CA	
91754 Monterey Park, CA	91126 Pasadena, CA	
91755 Monterey Park, CA	91129 Pasadena, CA	

**ATTACHMENT C
LIST OF MUTUAL ARBITRATORS**

- (1) Joseph Gentile;**
- (2) Louis Zigman;**
- (3) Fredric Horowitz;**
- (4) Sara Adler;**
- (5) William Rule;**
- (6) Walt Daugherty; and**
- (7) Michael Rappaport.**

**ATTACHMENT D
MEMORANDUM OF UNDERSTANDING
DRUG TESTING POLICY**

**MEMORANDUM
OF
UNDERSTANDING**



**TESTING POLICY FOR
DRUG ABUSE**

Revised June 2009

**International Union of
Operating Engineers
Local Union No. 12**

-INTRODUCTION-

At the June 1991 General Membership Meeting, the members in attendance acknowledged the need of some form of drug testing that would keep the jobsite safe while at the same time protect each member's individual rights under the constitution.

When signatory contractors were not being allowed to bid on projects because they had no official drug testing policy, it became obvious that we were going to have to develop a test to remedy that problem. We feel that within the confines of this addendum the best and fairest for all has been accomplished.

This Memorandum of Understanding is actually an addendum to Local 12's Master Labor Agreement. All the provisions in this shall be adhered to and enforced by Local 12. No member shall be subjected to any provision outside of this memorandum. If any employer asks a member to test for substance abuse and asks for any procedures outside of what is outlined here or in the Side Letter of Understanding on page 11 - that employer is in violation of the Master Labor Agreement and you are not required to comply.

Substance abuse has become a national problem. While jobsite safety has always been a priority in Local 12, it is not the intent of this policy to subject any member to a test that all members on a project are not subjected to.

You, as a member working under these conditions have rights as well as obligations. If you have any questions please contact this office or your business representative.

Sincerely,



Wm. C. Waggoner, Business Manager &
General Vice President

This Memorandum of Understanding shall be considered as an addendum to the Master Labor Agreement currently in effect between the parties. It shall be effective as of the date it is signed and shall thereafter run concurrently with the Master Labor Agreement.

The parties recognize the problems which drug abuse has created in the construction industry and the need to develop drug abuse prevention programs. Accordingly, the parties agree that in order to enhance the safety of the workplace and to maintain a drug free work environment, individual Employers may require applicants or employees to undergo drug testing. The parties agree that if a testing program is implemented by an individual Employer, the following items have been agreed upon by the Labor and Management and will apply.

1. It is understood that the use, possession, transfer or sale of illegal drugs, narcotics, or other unlawful substances is absolutely prohibited while employees are on the Employer's job premises or while working on any jobsite in connection with work performed under the Master Labor Agreement.

2. No Employer may implement a drug testing program which does not conform in all respects to the provisions of this Agreement.

3. No Employer may implement drug testing at any jobsite unless written notice is

given to the Union setting forth the location of the jobsite, a description of the project under construction, and the name and telephone number of the Project Supervisor. Said notice shall be addressed to the International Union of Operating Engineers, 150 East Corson Street, Pasadena, California 91103. Said notice shall be delivered in person or by registered mail before the implementation of drug testing. Failure to give such notice shall make any drug testing engaged in by the Employer a violation of the Master Labor Agreement, and the Employer may not implement any form of drug testing at such jobsite for the following six months.

4. An Employer who elects to implement drug testing pursuant to this Agreement shall require all employees on the project to be tested. With respect to individuals who become employed on the project subsequent to the proper implementation of a valid drug testing program, such test shall be administered upon the commencement of employment on the project, whether by referral from a Union Dispatch Office, transfer from another project, or another method. Individuals who were employed on the project prior to the proper implementation of a valid drug testing program may only be subjected to testing for the reasons set forth in paragraph 5(f)(1) through 5(f)(3) of this Agreement. Refusal to undergo such testing shall be considered sufficient grounds to deny employment on the project.

5. The following procedure shall apply to all drug testing:

a. The Employer may request urine samples only. The applicant or employee shall not be observed when the urine specimen is given. An applicant or employee, at his or her sole option, shall, upon request, receive a blood test in lieu of a urine test. No employee of the Employer shall draw blood from a bargaining unit employee, touch or handle urine specimens, or in any way become involved in the chain of custody of urine or blood specimens. A Union Business Representative, subject to the approval of the individual applicant or employee, shall be permitted to accompany the applicant or employee to the collection facility to observe the collection, bottling, and sealing of the specimen.

b. The testing shall be done by a laboratory approved by the Substance Abuse & Mental Health Services Administration (SAMHSA), which is chosen by the Employer and the Union.

c. An initial test shall be performed using the Enzyme Multiplies Immunoassay Technique (EMIT). In the event a question or positive result arises from the initial test, a confirmation test must be utilized before action can be taken against the applicant or employee. The confirmation test will be by Gas Chromatography/Mass Spectrometry (GC/MS). Cutoff levels for both the initial test and confirmation test will be those established by the SAMHSA. Should these

SAMHSA levels be changed during the course of this agreement or new testing procedures are approved, then these new regulations will be deemed as part of this existing agreement. Confirmed positive samples will be retained by the testing laboratory in secured long-term frozen storage for a minimum of one year. Handling and transportation of each sample must be documented through strict chain of custody procedures.

d. In the event of a confirmed positive test result the applicant or employee may request, within forty-eight (48) hours, a sample of his/her specimen from the testing laboratory for purposes of a second test to be performed at a second laboratory, designated by the Union and approved by SAMHSA. The retest must be performed within ten (10) days of the request. Chain of custody for this sample shall be maintained by the Employer between the original testing laboratory and the Union's designated laboratory. Retesting shall be performed at the applicant's or employee's expense. In the event of conflicting test results the Employer may require a third test.

e. If, as a result of the above testing procedure, it is determined that an applicant or employee has tested positive, this shall be considered sufficient grounds to deny the applicant or employee his/her employment on the project.

f. No individual who tests negative for drugs pursuant to the above procedure and becomes employed on the project shall

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again be subjected to drug testing with the following exceptions:

1. Employees who are involved in industrial accidents resulting in damage to plant, property or equipment or injury to him/herself or others may be tested pursuant to the procedures stated hereinabove.

2. The Employer may test employees following thirty (30) days advance written notice to the employee(s) to be tested and to the Union. Notice to the Union shall be as set forth in Paragraph 3 above and such testing shall be pursuant to the procedures stated hereinabove.

3. The Employer may test an employee where the Employer has reasonable cause to believe that the employee is impaired from performing his/her job. Reasonable cause shall be defined as being aberrant or unusual behavior, the type of which is a recognized and accepted symptom of impairment (i.e., slurred speech, unusual lack of muscular coordination, etc.). Such behavior must be actually observed by at least two persons, one of whom shall be a supervisor who has been trained to recognize the symptoms of drug abuse or impairment and the other of whom shall be the job steward. If the job steward is unavailable or there is no job steward on the project the other person shall be a member of the Operating Engineers bargaining unit. Testing shall be pursuant to the procedures stated hereinabove. Employees who are tested pursuant to the exceptions set forth in this paragraph and who test positive will be

removed from the Employer's payroll.

a. Applicants or employees who do not test positive shall be paid for all time lost while undergoing drug testing. Payment shall be at the applicable wage and benefit rates set forth in the Master Labor Agreement. Applicants who have been dispatched from the Union and who are not put to work pending the results of a test will be paid waiting time until such time as they are put to work. It is understood that an applicant must pass the test as a condition of employment. Applicants who are put to work pending the results of a test will be considered probationary employees.

6. The Employers will be allowed to conduct periodic jobsite drug testing on construction projects under the following conditions:

a. The entire jobsite must be tested, including any employee or subcontractor's employee who worked on that project three (3) working days before or after the date of the test;

b. Jobsite testing cannot commence sooner than thirty (30) days after start of the work on the project;

c. Prior to start of periodic testing, a Business Representative will be allowed to conduct an educational period on company time to explain periodic jobsite testing program to affected employees;

d. Testing shall be conducted by a SAMHSA certified laboratory, pursuant to the provisions set forth in Paragraph 5 hereinabove.

e. Only two periodic tests may be performed in a twelve month period.

7. It is understood that the unsafe use of prescribed medication, or where the use of prescribed medication impairs the employee's ability to perform work, is a basis for the Employer to remove the employee from the jobsite.

8. Any grievance or dispute which may arise out of the application of this Agreement shall be subject to the grievance and arbitration procedures set forth in the applicable Master Labor Agreement.

9. The establishment or operation of this Agreement shall not curtail any right of any employee found in any law, rule or regulation. Should any part of this Agreement be found unlawful by a court of competent jurisdiction of a public agency having jurisdiction over the parties, the remaining portions of the Agreement shall be unaffected and the parties shall enter negotiations to replace the affected provision.

10. Present employees, if tested positive, shall have the prerogative for rehabilitation program at the employee's expense. When such program has been successfully completed the Employer shall not discriminate in any way against the employee. If

work for which the employee is qualified exists he/she shall be reinstated.

11. The Employer agrees that results of urine and blood tests performed hereunder will be considered medical records held confidential to the extent permitted or required by law. Such records shall not be released to any persons or entities other than designated Employer representatives and the Union. Such release to the Union shall only be allowed upon the signing of a written release and the information contained therein shall not be used to discourage the employment of the individual applicant or employee on any subsequent occasion.

12. The Employer shall indemnify and hold the Union harmless against any and all claims, demands, suits, or liabilities that may arise out of the application of this Agreement and/or any program permitted hereunder.

13. Employees who seek voluntary assistance for substance abuse may not be disciplined for seeking such assistance. Requests from employees for such assistance shall remain confidential and shall not be revealed to other employees or management personnel without the employee's consent. Employees enrolled in substance abuse programs will be subject to all Employer rules, regulations and job performance standards with the understanding that an employee enrolled in such a program is receiving treatment for an illness.

14. The parties agree to develop and implement a drug abuse prevention and testing program for all apprentices entering the industry.

15. This Memorandum of Understanding shall constitute the only Agreement in effect between the parties concerning drug abuse, prevention and testing. Any modifications thereto must be accomplished pursuant to collective bargaining negotiations between the parties.

DRUG	DRUG ABUSE PREVENTION AND DETECTION APPENDIX A - CUTOFF LEVELS			CONFIRMATION LEVEL
	SCREENING METHOD	SCREENING LEVEL**	CONFIRMATION METHOD	
Amphetamines	EMIT	1000 ng/ml*	GC/MS	500 ng/ml*
Barbiturates	EMIT	300 ng/ml	GC/MS	200 ng/ml
Benzodiazepines	EMIT	300 ng/ml	GC/MS	300 ng/ml
Cocaine	EMIT	300 ng/ml*	GC/MS	150 ng/ml*
Methadone	EMIT	300 ng/ml	GC/MS	100 ng/ml
Methaqualone	EMIT	300 ng/ml	GC/MS	300 ng/ml
Opiates	EMIT	2000 ng/ml*	GC/MS	300 ng/ml
PCP (Phencyclidine)	EMIT	25 ng/ml*	GC/MS	2000 ng/ml*
THC (Marijuana)	EMIT	50 ng/ml*	GC/MS	25 ng/ml*
Propoxyphene	EMIT	300 ng/ml	GC/MS	15 ng/ml*

* SAMHSA specified threshold

** A sample reported positive contains the indicated drug at or above the cutoff level for that drug.
A negative sample either contains no drug or contains a drug below the cutoff level.

EMIT - Enzyme Immunoassay

GC/MS - Gas Chromatography/Mass Spectrometry

**SIDE LETTER
OF
UNDERSTANDING**

In regard to the Memorandum of Understanding on Drug Abuse Prevention and Detection agreed to by the parties, it is agreed that if, as a condition of contract award or due to Federal, State or Governmental Agency requirements, an individual Employer is required to abide by or implement more stringent requirements than set forth in the Memorandum of Understanding, the individual Employer will notify the Union in writing of those requirements. The Union reserves the right, upon receiving notification, to require the individual Employer to meet to negotiate any changes.

Agreed to this 18th day of June, 1991.

**ASSOCIATED GENERAL
CONTRACTORS OF CALIFORNIA, INC.**

**INTERNATIONAL UNION OF
OPERATING ENGINEERS,
LOCAL UNION NO. 12**

Wm. C. Waggoner
Business Manager

Mickey J. Adams
President

Ronald J. Sikorski
Vice President

**SIDE LETTER
OF
AGREEMENT
TESTING POLICY
FOR DRUG ABUSE**

It is hereby agreed between the parties hereto that an Employer who has otherwise properly implemented drug testing, as set forth in the Testing Policy for Drug Abuse, shall have the right to offer an applicant or employee a "quick" drug screening test. This "quick" screen test shall consist either of the "ICUP" urine screen or similar test or an oral screen test. The applicant or employee shall have the absolute right to select either of the two "quick" screen tests, or to reject both and request a full drug test.

An applicant or employee who selects one of the "quick" screen tests, and who passes the test, shall be put to work immediately. An applicant or employee who fails the "quick" screen test, or who rejects the "quick" screen tests, shall be tested pursuant to the procedures set forth in the Testing Policy for Drug Abuse. The sample used for the "quick" screen test shall be discarded immediately upon conclusion of the test. An applicant or employee shall not be deprived of any rights granted to them by the Testing Policy for Drug Abuse as a result of any occurrence related to the "quick" screen test.

Agreed to this 5th day of November, 2004.

**ASSOCIATED GENERAL
CONTRACTORS OF CALIFORNIA, INC.**

**INTERNATIONAL UNION OF
OPERATING ENGINEERS,
LOCAL UNION NO. 12**

**Wm. C. Waggoner
Business Manager**

**Mickey J. Adams
President**

**Ronald J. Sikorski
Vice President**

ATTACHMENT E
ACKNOWLEDGEMENT OF JOB FAIR AND CAREER DAY PARTICIPATION

In furtherance of the objectives under this Agreement, the Parties recognize the need to support local events and programs designed to recruit and develop adequate numbers of competent workers in the construction industry, the obligation to capitalize on the availability of the local work force in the area served by the City, and the opportunities to provide continuing work under the construction program. To these ends, the Parties will facilitate, encourage, and assist local residents to achieve these goals by participating in City-based job fairs and career days. The City, the Project Labor Coordinator, other City consultants, and the Council will work cooperatively to identify, or establish and maintain, effective programs, events and procedures for persons interested in entering the construction industry by participating in local job fairs and career fairs within the City. Upon request of the City, the Council and its member entities will actively participate in City-based job fairs and employment opportunity and outreach events and job fairs hosted by the City or in which the City will otherwise participate.

Project Location Map

