



2022 VARIOUS STREET PAVEMENT APPLICATION OF REJUVENATING SEAL PROJECT

**Notice Inviting Sealed Proposals (Bids), Bid Form, Contract Forms, General Provisions,
Special Provisions, Technical Specifications and State Requirements**



Advertised: July 11, 2022

Non-Mandatory Pre-Bid Job Walk: July 26, 2022 @ 10:00 am Bid

Due/Opening: Thursday, August 11, 2022 @ 2:00 pm

**CITY OF DELANO
1015 ELEVENTH AVENUE
DELANO, CALIFORNIA 93215**

JULY 2022

**MASTER
TABLE OF CONTENTS**

NOTICE INVITING SEALED PROPOSALS (BIDS)

BID FORM

BID BOND

AGREEMENT

PERFORMANCE BOND

PAYMENT BOND

CONTRACTOR'S CERTIFICATE REGARDING

WORKERS' COMPENSATION

CERTIFICATES OF INSURANCE/INSURANCE ENDORSEMENTS

GENERAL PROVISIONS

SPECIAL PROVISIONS

PART I – SUPPLEMENT TO GENERAL PROVISIONS

PART II – TECHNICAL SPECIFICATIONS

CONTRACT PLANS

NOTICE INVITING SEALED PROPOSALS (BIDS)

FOR THE CONSTRUCTION OF

**2022 VARIOUS STREET PAVEMENT APPLICATION OF REJUVENATING AGENT
(RECLAMITE) PROJECT**

FOR THE CITY OF DELANO

NOTICE IS HEREBY GIVEN that the City Council of said City invites and will receive sealed proposals (bids) up to the hour of **2:00 p.m.** on **Thursday, August 11, 2022** for the furnishing to said City of all transportation, labor, materials, tools, equipment, services, permits, utilities, and other items necessary to construct said work. At said time, said proposals will be publicly opened and read aloud at the City Hall, Council Chambers,

1015 Eleventh Avenue
Delano, CA 93215

Bids shall conform to and be responsive to the Contract Documents for the work. Copies of the Contract Documents are on file and may be examined in the office of the City Engineer located at the address above. Copies may be via email request to Ed Galero at egalero@cityofdelano.org or Pattie Castellanos at pcastellanos@cityofdelano.org .

Non-mandatory Pre-bid job walk will be held on Tuesday July 26, 2022, at 10:00 a.m. at 1015 Eleventh Ave., Delano CA, 93215.

General Description of Work:

The work involves application of rejuvenating seal (Reclamite) as described in the project plans and specifications at various streets in the City of Delano.

Engineer's Estimate Range: \$175,000 to \$200,000

Each bid shall be submitted on a form furnished as part of the Contract Documents and must be accompanied by cash, a cashier's check, a certified check, or a bidder's bond executed by an admitted surety insurer, or substitute pursuant to Section 995.710 of the Code of Civil Procedure, in an amount not less than 10% of the amount of the bid, made payable to the order of or for the benefit of the City. The security of unsuccessful bidders will be returned by the City no later than 60 days following the date of award. Each bid shall be sealed and delivered to the City at the location designated in this notice for the opening of proposals at or before the time in this notice provided. The check or bond or substitute shall be given as security that the bidder will enter into a contract with the City and furnish the required payment and performance bonds, or substitutes in lieu thereof, and certificates of insurance and endorsements if awarded the work, and will be declared forfeited if the bidder refuses to timely enter into said contract or furnish the required bonds or substitutes, or certificates of insurance and endorsements if his bid is accepted.

The City Council has obtained from the Director of the California Department of Industrial Relations a determination of the general prevailing rate of per diem wages and the general prevailing rate for legal holiday and overtime work in the locality in which said work is to be performed for each craft, classification, or type of worker needed. Not less than the determined rates shall be paid to all workers employed in the performance of the contract. Such rates of wages

are on the file with the Department of Industrial Relations and in the office of the City and are available to any interested party upon request.

Pursuant to Public Contract Code Section 22300, equivalent securities may be substituted for monies withheld to ensure performance of the contract. The City reserves the right to solely determine the adequacy of the securities being proposed by the Contractor and the value of those securities. The City shall also be entitled to charge an administrative fee, as determined by City in its sole discretion, for substituting equivalent securities for retention amounts. The City's decisions with respect to the administration of the provisions of Section 22300 shall be final and shall include, but not be limited to, determinations of what securities are equivalent, the value of the securities, the negotiability of the securities, the costs of administration and the determination of whether or not the administration should be accomplished by an independent agency or by the City. The City shall be entitled, at any time, to request the deposit of additional securities of a value designated by City, in City's sole discretion, to satisfy this requirement. If the City does not receive satisfactory securities within twelve (12) consecutive days of the date of the written request, City shall be entitled to withhold amounts due Contractor until securities of satisfactory value to City have been received.

The Contractor's license classification(s) required for this project are as follows:

General Contractor, Class A

These classifications are provided for information purposes only. The Engineer does not warrant that all classifications required for the project are listed.

It is the City's intent that "plans," as used in Public Contract Code Section 3300, is defined as the construction contract documents, which include both the drawings and the specifications.

The City Council of the City reserves the right to select the schedule(s) under which the bids are to be compared and contract(s) awarded, to reject any and all bids, and to waive any and all irregularities in any bid.

Each bidder is required to sign the attached Non-collusion Affidavit and submit it with his bid.

Ricardo G. Chavez, City Clerk
July 11, 2022

BID FORM
PROPOSAL TO
City of Delano
For The Construction of

2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

NAME OF BIDDER _____

BUSINESS P.O. BOX _____

CITY, STATE, ZIP _____

BUSINESS STREET ADDRESS _____

(Please include even if P.O. Box used)

CITY, STATE, ZIP _____

TELEPHONE NO: AREA CODE () _____

FAX NO: AREA CODE () _____

CONTRACTOR LICENSE NO. _____

TO THE GOVERNING BODY OF THE
City of Delano

Pursuant to and in compliance with your Notice Inviting Sealed Proposals (Bids) and the other documents relating thereto, the undersigned bidder, being fully familiar with the terms of the Contract Documents, local conditions affecting the performance of the contract, the character, quality, quantities, and scope of the work, and the cost of the work at the place where the work is to be done, hereby proposes and agrees to perform within the time stipulated in the contract, including all of its component parts and everything required to be performed, and to furnish any and all of the labor, material, tools, equipment, transportation, services, permits, utilities, and all other items necessary to perform the contract and complete in a workmanlike manner, all of the work required in connection with the construction of said work all in strict conformity with the plans and specifications and other contract documents, including Addenda Nos.____, ____, ____, and ____, for the prices hereinafter set forth.

The City Council of the City of Delano reserves the right to reject any and all bids, and to waive any and all irregularities in any bid.

The work for which this proposal is submitted is for construction in conformance with the special provisions (including the payment of not less than the State general prevailing wage rates), the project plans described below, including any addenda thereto and the contract annexed hereto.

The bidder shall set forth for each unit basis item of work a unit price and a total for the item, and for each lump sum item a total for the item, all in clearly legible figures in the respective spaces provided for that purpose. In the case of unit basis items, the amount set forth under the "Item Total" column shall be the product of the unit price bid and the estimated quantity for the item.

City of Delano

Subject: 2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

In case of discrepancy between the unit price and the total set forth for a unit basis item, the unit price shall prevail, except as provided in (a) or (b), as follows:

- (a) If the amount set forth as a unit price is unreadable or otherwise unclear, or is omitted, or is the same as the amount as the entry in the item total column, then the amount set forth in the item total column for the item shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price;
- (b) (Decimal Errors) If the product of the entered unit price and the estimated quantity is exactly off by a factor of ten, one hundred, etc., or one-tenth, or one-hundredth, etc. from the entered total, the discrepancy will be resolved by using the entered unit price or item total, whichever most closely approximates percentage wise the unit price or item total in the CITY OF DELANO's Final Estimate of cost.

If both the unit price and the item total are unreadable or otherwise unclear, or are omitted, the bid may be deemed irregular. Likewise if the item total for a lump sum item is unreadable or otherwise unclear, or is omitted, the bid may be deemed irregular unless the project being bid has only a single item and a clear, readable total bid is provided.

Symbols such as commas and dollar signs will be ignored and have no mathematical significance in establishing any unit price or item total or lump sums. Written unit prices, item totals and lump sums will be interpreted according to the number of digits and, if applicable, decimal placement. Cents symbols also have no significance in establishing any unit price or item total since all figures are assumed to be expressed in dollars and/or decimal fractions of a dollar. Bids on lump sum items shall be item totals only; if any unit price for a lump sum item is included in a bid and it differs from the item total, the items total shall prevail.

The foregoing provisions for the resolution of specific irregularities cannot be so comprehensive as to cover every omission, inconsistency, error or other irregularity which may occur in a bid. Any situation not specifically provided for will be determined in the discretion of the CITY OF DELANO, and that discretion will be exercised in the manner deemed by the CITY OF DELANO to best protect the public interest in the prompt and economical completion of the work. The decision of the CITY OF DELANO respecting the amount of a bid, or the existence or treatment of an irregularity in a bid, shall be final.

If this proposal shall be accepted and the undersigned shall fail to enter into the contract and furnish the 2 bonds in the sums required by the State Contract Act, with surety satisfactory to the CITY OF DELANO, within 8 days, not including Saturdays, Sundays and legal holidays, after the bidder has received notice from the CITY OF DELANO that the contract has been awarded, the CITY OF DELANO may, at its option, determine that the bidder has abandoned the contract, and thereupon this proposal and the acceptance thereof shall be null and void and the forfeiture of the security accompanying this proposal shall operate and the same shall be the property of the CITY OF DELANO.

The undersigned, as bidder, declares that the only persons or parties interested in this proposal as principals are those named herein; that this proposal is made without collusion with any other person, firm, or corporation; that he has carefully examined the location of the proposed work, the annexed proposed form of contract, and the plans therein referred to; and he proposes, and agrees if this proposal is accepted, that he will contract with the CITY OF DELANO, in the form of the copy of the contract annexed hereto, to provide all necessary machinery, tools, apparatus and other

City of Delano

Subject: 2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

means of construction, and to do all the work and furnish all the materials specified in the contract, in the manner and time therein prescribed, and according to the requirements of the Engineer as therein set forth, and that he will take in full payment therefore the following prices, to wit:

SCHEDULE OF WORK ITEMS
City of Delano

2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

Item No.	Quantity	Unit	Item Description	Unit Price	Total Price
1	1	LS	Mobilization, permits license	\$ _____/ LS	\$ _____
2	1	LS	Maintenance of Traffic Control & Signing	\$ _____/ LS	\$ _____
3	52,012	SY	Furnish all labor, materials, and equipment necessary for the application of an asphalt rejuvenating agent "Reclamite" to asphalt concrete surface on various streets specified in Area 1 including sanding and sand removal per contract plans and specifications.	\$ _____/ LS	\$ _____
4	27,188	SY	Furnish all labor, materials, and equipment necessary for the application of an asphalt rejuvenating agent "Reclamite" to asphalt concrete surface on various streets a specified in Area 2 including sanding and sand removal per contract plans and specifications.	\$ _____/ LS	\$ _____
5	71,024	SY	Furnish all labor, materials, and equipment necessary for the application of an asphalt rejuvenating agent "Reclamite" to asphalt concrete surface on various streets specified in Area 3 including sanding and sand removal per contract plans and specifications.	\$ _____/ LS	\$ _____
			Total Base Bid		\$ _____

Total Base Bid Amount of Schedules A, B & C (written in words) _____

_____ Dollars and _____ cents.

***Mobilization shall not exceed 5% of the total Bid Schedule.**

City of Delano

Subject: 2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

ACCOMPANYING THIS PROPOSAL IS _____ (insert the words "bidder's bond," "cashier's check," "certified check," or appropriate description of substitute security, as the case may be) in an amount equal to at least 10% of the total amount of the bid, payable to the City of Delano

The undersigned deposits the above-named security as a proposal guarantee and agrees that it shall be forfeited to the City in case this proposal is accepted by the City and the undersigned fails to execute a contract with the City as specified in the Contract Documents or fails to furnish the required payment and performance bonds, or substitute, and insurance certificates and endorsements. Should the City be required to engage the services of an attorney in connection with the enforcement of this bid, bidder promises to pay City's reasonable attorneys' fees, incurred with or without suit.

The bidder's execution on the signature portion of this proposal shall also constitute an endorsement and execution of those certifications which are a part of this proposal.

The names of all persons interested in the foregoing proposals as principals are as follows: (NOTICE - If bidder or other interested person is a corporation, state legal name of corporation, also names of the president, secretary, treasurer, and manager thereof; if a general partnership, state true name of firm, also names of all individual partners composing firm; if a limited partnership, the names of all general partners and limited partners; if bidder or other interested person is an individual, state first and last names in full; if the bidder is a joint venture, state the complete name of each venturer).

Bidder hereby confirms that it has all licenses and permits required by federal, state and local statutes, regulations, and ordinances. The following are the contractor's applicable license numbers (add pages if needed):

<u>Contractor's License No.</u>	<u>Expiration Date</u>	<u>Classifications</u>
_____	_____	_____
_____	_____	_____

Pursuant to the requirements of California Business and Professions Code Section 7028.15(e), a bid submitted to the City by a contractor who is not licensed pursuant to Chapter 9 of Division 3 of the Business and Professions Code shall be considered nonresponsive and shall be rejected as provided for by law.

Signature and Title of Bidder: _____

Dated: _____, 20__.

NOTE: If bidder is a corporation, the legal name of the corporation shall be set forth above, together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation and the corporate seal; if bidder is a partnership, the true name of the firm shall be set forth above, together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership; if the bidder is an individual, his signature shall be placed above; if the bidder is a joint venture, the name of the joint venture shall be set forth above with the signature of an authorized representative of each venturer.

City of Delano

Subject: 2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

PUBLIC CONTRACT CODE

Public Contract Code Section 10285.1 Statement

In conformance with Public Contract Code Section 10285.1 (Chapter 376, Stats. 1985), the bidder hereby declares under penalty of perjury under the laws of the State of California that the bidder has ____ , has not ____been convicted within the preceding three years of any offenses referred to in that section, including any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or Federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Public Contract Code Section 1101, with any public entity, as defined in Public Contract Code Section 1100, including the Regents of the University of California or the Trustees of the California State University. The term "bidder" is understood to include any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, as referred to in Section 10285.1.

Note: The bidder must place a check mark after "has" or "has not" in one of the blank spaces provided. The above Statement is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

City of Delano

Subject: 2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

Public Contract Code Section 10162 Questionnaire

In conformance with Public Contract Code Section 10162, the Bidder shall complete, under penalty of perjury, the following questionnaire:

Has the bidder, any officer of the bidder, or any employee of the bidder who has a proprietary interest in the bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation?

Yes _____ No _____

If the answer is yes, explain the circumstances in the following space.

Public Contract Code 10232 Statement

In conformance with Public Contract Code Section 10232, the Contractor, hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board.

Note: The above Statement and Questionnaire are part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement and Questionnaire.
Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

Non-collusion Affidavit

(Title 23 United States Code Section 112 and Public Contract Code Section 7106)

To the CITY / COUNTY of _____
Department of Public Works.

In conformance with Title 23 United States Code Section 112 and Public Contract Code 7106 the bidder declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Note: The above Non-collusion Affidavit is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Non-collusion Affidavit.

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

Date

(Contractor's Signature)

Notary Public

City of Delano
Subject: 2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

BIDDER'S BOND

We, _____ as Principal,

and _____ as Surety, jointly and severally, bind

ourselves, our heirs, representatives, successors and assigns, as set forth herein, to the

City of Delano

(herein called City) for payment of the penal sum of _____

_____ Dollars (\$ _____), lawful money of the United States. Principal has submitted the accompanying bid for the construction of

2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

If the Principal is awarded the contract and enters into a written contract, in the form prescribed by the City, at the price designated by his bid, and files two bonds with the City, or substitute security in lieu thereof, one to guarantee payment for labor and materials and the other to guarantee faithful performance, in the time and manner specified by the City, and carries all insurance in type and amount which conforms to the Contract Documents and furnishes required certificates and endorsements thereof, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Forfeiture of this bond, or any deposit made in lieu thereof, shall not preclude the City from seeking all other remedies provided by law to cover losses sustained as a result of the Principal's failure to do any of the foregoing.

Principal and Surety agree that if the City is required to engage the services of an attorney in connection with the enforcement of this bond, each shall pay City's reasonable attorney's fees incurred with or without suit.

Executed on _____, 20____

PRINCIPAL

(Seal if Corporation)

By _____

Title _____

(Attach Acknowledgment of Authorized Representative of Principal)

Any claims under this bond may be addressed to:

_____ (name and address of Surety)

(name and address of Surety's agent for service of process in California, if different from above)

_____ (telephone number of Surety's agent in California)

(Attach Acknowledgment)

SURETY

By _____
(Attorney-in-Fact)

NOTICE:

No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service of process in California. Certified copy of Power of Attorney must be attached.

AGREEMENT

THIS AGREEMENT, made and entered into by and between the

City of Delano

hereinafter referred to as "CITY" and

_____;

a corporation under the laws of the state of _____

a partnership composed of _____

_____;

a joint venture composed of _____

_____;

an individual doing business as _____;

hereinafter referred to as "CONTRACTOR."

CITY and CONTRACTOR agree as follows:

- (1) SCOPE OF WORK: CONTRACTOR will furnish all materials, equipment and will perform all of the work for the construction of

2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

in accordance with the plans and specifications and other contract documents, therefore.

- (2) TIME FOR COMPLETION: The work shall be completed within the times set forth in the Special Provisions. Time is of the essence, and forfeiture due to delay will be assessed as provided for in the General Provisions.
- (3) CONTRACT SUM: CITY will pay CONTRACTOR in accordance with the prices shown in the Bid Form.
- (4) PAYMENTS: Monthly progress payments and the final payment will be made in accordance with the General Provisions as modified by the Special Provisions. The filing of the notice of completion by CITY shall be preceded by acceptance of the work made only by an action of the Governing Body of CITY in session.
- (5) COMPLIANCE WITH PUBLIC CONTRACTS LAW: CITY is a public agency in the State of California and is subject to the provisions of law relating to public contracts. It is agreed that all provisions of law applicable to public contracts are a part of this contract to the same extent as though set forth herein and will be complied with by CONTRACTOR.

- (6) CONTRACT DOCUMENTS: The complete contract includes all the Contract Documents set forth herein, to wit: Notice Inviting Sealed Proposals (Bids), Bid Form, Agreement, Performance Bond, Payment Bond, Contractor's Certificate Regarding Workers' Compensation, Certificate of Insurance (Workers' Compensation and Employer's Liability), Insurance Endorsement (Workers' Compensation and Employer's Liability), Certificate of Insurance (Liability), Insurance Endorsement (Liability), Certificate of Insurance (Builders' Risk "All Risk"), Insurance Endorsement (Builders' Risk "All Risk"), General Provisions, Special Provisions, Standard Specifications, Drawings, Plans, and also addenda thereto and supplemental agreements.

This Agreement is executed by the CITY pursuant to an action of its Governing Body in session on _____, 20__, authorizing the same, and CONTRACTOR has caused this Agreement to be duly executed.

Dated: _____, 2022 By _____
(Authorized Representative of City)

Title: _____

Dated: _____, 2022 _____
(Contractor)

By _____
(Authorized Representative of Contractor)

(Seal if Corporation) Title _____

(Attach Acknowledgment for Authorized Representative of Contractor)

CERTIFICATE OF CONTRACTOR

I, _____, certify that I am a/the
_____ [designate sole proprietor, partner in partnership, or
specify corporate office, e.g., secretary] in the entity named as CONTRACTOR in the foregoing
contract.

I hereby expressly certify that the name of the entity to which I am associated is
_____; that this entity is in good standing and
has complied with all applicable laws and regulations, and that I have been expressly authorized
by the proper parties in this entity to execute this contract on behalf of the above-named entity.

ATTEST:

Name _____
(Please Type)

Title _____

NOTARY PUBLIC

PERFORMANCE BOND

We, _____ as Principal,
and _____ as Surety, jointly and severally,
bind ourselves, our heirs, representatives, successors and assigns, as set forth herein, to the

City of Delano

(herein called City) for payment of the penal sum of _____

_____ Dollars (\$_____), lawful money of the
United States. City has awarded Principal a contract for the construction of

2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal shall in all things abide by and well and truly keep and perform the covenants, and agreements in the said contract, and any alteration thereof made as therein provided, on his part to be kept and performed at the time and in the manner therein specified, and shall faithfully fulfill the one-year guarantee of all materials and workmanship, and shall indemnify and save harmless the City, the Engineer/Architect, the City's Representative, and their consultants, and each of their directors, officers, employees and agents, as therein stipulated, this obligation shall become null and void, otherwise, it shall be and remain in full force and effect.

Surety agrees that no change, extension of time, alteration, or addition to the terms of the contract, or the work to be performed thereunder, or the plans and specifications shall in any way affect its obligation on this bond, and it does hereby waive notice thereof.

Principal and Surety agree that if the City is required to engage the services of an attorney in connection with the enforcement of this bond, each shall pay City's reasonable attorney's fees incurred, with or without suit, in addition to the above sum.

Executed in four original counterparts on

_____20__.

PRINCIPAL

(Seal if Corporation)

By_____

Title_____

(Attach Acknowledgment of Authorized Representative of Principal)

Any claims under this bond may be addressed to:

_____ (name and address of Surety)

_____ (name and address of Surety's agent for service of process in California, if different from above)

_____ (telephone number of Surety's agent in California)

(Attach Acknowledgment)

SURETY

By_____
(Attorney-in-Fact)

APPROVED:

(Attorney for CITY)

NOTICE:

No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service of process in California. Certified copy of Power of Attorney must be attached.

PAYMENT BOND

We, _____ as Principal,

and _____ as Surety, jointly and severally, bind ourselves, our heirs, representatives, successors and assigns, as set forth herein, to the

City of Delano

(herein called Owner) for payment of the penal sum of _____

_____ Dollars (\$ _____), lawful money of the United States. City has awarded Principal a contract for the construction of

2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

If Principal or any of his subcontractors fails to pay any of the persons named in Section 3181 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract or during the one-year guarantee period, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code, with respect to such work and labor, then Surety will pay the same in an amount not exceeding the sum specified above, and also will pay, in case suit is brought upon this bond, such reasonable attorney's fees as shall be fixed by the court.

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 them or their assigns in any suit brought upon this bond.

Surety agrees that no change, extension of time, alteration, or addition to the terms of the contract, or the work to be performed thereunder, or the plans and specifications shall in any way affect its obligation on this bond, and it does hereby waive notice thereof.

Principal and Surety agree that should City become a party to any action on this bond that, each will also pay City's reasonable attorney's fees incurred therein in addition to the sum above set forth.

Executed in four original counterparts on

_____, 20__.

PRINCIPAL

(Seal if Corporation)

By _____

Title _____

(Attach Acknowledgment of Authorized Representative of Principal)

Any claims under this bond may be addressed to:

_____ (name and address of Surety)

_____ (name and address of Surety's agent for service of process in California, if different from above)

_____ (telephone number of Surety's agent in California)

(Attach Acknowledgment)

SURETY

By _____
(Attorney-in-Fact)

APPROVED:

(Attorney for CITY)

NOTICE:

No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service of process in California. Certified copy of Power of Attorney must be attached.

CONTRACTOR'S CERTIFICATE
REGARDING WORKERS' COMPENSATION

Description of Contract: City of Delano

2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

Labor Code Section 3700 Provides (in part):

"Every employer except the State shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees."

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.

Dated: _____, 20____ (Contractor)

By _____

(Official Title)

(SEAL)

(Labor Code Section 1861 provides that the above certificate must be signed and filed by the Contractor with the City prior to performing any work under this contract.)

CERTIFICATE OF INSURANCE

Description of Contract: City of Delano

2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

Type of Insurance: Workers' Compensation and
Employers' Liability Insurance

THIS IS TO CERTIFY that the following policy has been issued by the below-stated company in conformance with the requirements of Articles 8-1 and 8-2 of the General Provisions and is in force at this time, and is in a form approved by the Insurance Commissioner.

The Company will give at least 30 days' written notice to the City and Engineer/Architect prior to any cancellation of said policy.

POLICY NUMBER EXPIRATION DATE LIMITS OF LIABILITY

Workers' Compensation:
Statutory Limits Under the Laws
of the State of California

Employers' Liability:

\$ _____ Each Accident

\$ _____ Disease -
Policy Limit

\$ _____ Disease -
Each Employee

Named Insured (Contractor)

Insurance Company

Street Number

Street Number

City and State

City and State

By _____
(Company Representative)

(SEE NOTICE ON PAGE 2)

Insurance Company Agent for Service
of Process in California:

Name

Agency

Street Number

City and State

Telephone Number

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the policy listed herein.

This is to certify that the policy has been issued to the named insured for the policy period indicated, notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policy described herein is subject to all the terms, exclusions, and conditions of such policy.

NOTICE:

No substitution or revision to the above certificate form will be accepted. If the insurance called for is provided by more than one insurance company, a separate certificate in the exact above form shall be provided for each insurance company.

INSURANCE ENDORSEMENT

Description of Contract: City of Delano

2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

Type of Insurance: Workers' Compensation and Employers' Liability Insurance

This endorsement forms a part of Policy No. _____.

ENDORSEMENT

It is agreed that with respect to such insurance as is afforded by the policy, the Company waives any right of subrogation it may acquire against the City, the Engineer/Architect, the City's Representative, and their consultants, and each of their directors, officers, and employees by reason of any payment made on account of injury, including death resulting therefrom, sustained by any employee of the insured, arising out of the performance of the above-referenced contract.

The additional premium for this endorsement shall be _____%* of the California Workers' Compensation premium otherwise due on such remuneration.

This endorsement does not increase the Company's total limits of liability.

Named Insured (Contractor) Insurance Company

Street Number Street Number

City and State City and State

By _____
(Company Representative)

(SEE NOTICE ON PAGE 2)

* - Contractor's insurance company to fill in this percentage.

NOTICE:

No substitution or revision to the above endorsement form will be accepted. If the insurance called for is provided by more than one policy, a separate endorsement in the exact above form shall be provided for each policy.

CERTIFICATE OF INSURANCE

Description of Contract: City of Delano

2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

Type of Insurance: Liability Insurance

THIS IS TO CERTIFY that the following policies have been issued by the below-stated company in conformance with the requirements of Articles 8-1 and 8-3 of the General Provisions and are in force at this time:

<u>POLICY NUMBER</u>	<u>EXPIRATION DATE</u>	<u>LIMITS OF LIABILITY</u>	<u>In Thousands (000)</u>	
A.		GENERAL LIABILITY		
		General Aggregate Products-Comp Ops Aggregate	\$ _____	
		Personal and Advertising <u>Injury</u>	\$ _____	
		<u>Each Occurrence</u> Fire Damage (any one fire) Medical Expense (any one person)	\$ _____	
			\$ _____	
B.		EXCESS GENERAL LIABILITY	<u>Each Occurrence</u> \$ _____	<u>Aggregate</u> \$ _____
C.		AUTOMOBILE LIABILITY		
		Bodily Injury (Each Person)	\$ _____	
		Bodily Injury (Each Accident	\$ _____	
		Property Damage	\$ _____	
		Or Bodily Injury and Property Damage Combined Single Limit	\$ _____	
D.		EXCESS AUTOMOBILE LIABILITY	<u>Each Occurrence</u> \$ _____	<u>Aggregate</u> \$ _____

The following types of coverage are included in said policies (indicate by "X" in space):

A. GENERAL LIABILITY

- Commercial Form..... YES___ NO___
- Premises-Operations..... YES___ NO___
- Explosion and Collapse Hazard..... YES___ NO___
- Underground..... YES___ NO___
- Products/Completed Operations..... YES___ NO___
- Contractual Insurance..... YES___ NO___
- Broad Form Property Damage..... YES___ NO___
- Independent Contractors..... YES___ NO___
- Personal Injury and Advertising Injury..... YES___ NO___

B. EXCESS GENERAL LIABILITY

- Following Form..... YES___ NO___

C. AUTOMOBILE LIABILITY

- Business Auto Form Including Loading and Unloading..... YES___ NO___
- Owned..... YES___ NO___
- Hired..... YES___ NO___
- Non-Owned..... YES___ NO___

D. EXCESS AUTOMOBILE LIABILITY

- Following Form..... YES___ NO___

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the policies listed herein.

This is to certify that the policy has been issued to the named insured for the policy period indicated, notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of such policies.

The Company will give at least 30 days' written notice to the City and the Engineer/Architect prior to any cancellation of said policies.

Named Insured (Contractor)

Insurance Company

Street Number

Street Number

City and State

City and State

By _____
(Company Representative)

(SEE NOTICE ON PAGE 4)

Insurance Company Agent for Service
of Process in California:

Name

Agency

Street Number

City and State

Telephone Number

NOTICE:

No substitution or revision to the above certificate form will be accepted. If the insurance called for is provided by more than one insurance company, a separate certificate in the exact above form shall be provided for each insurance company.

Insurers must be authorized to do business and have an agent for service of process in California and have a "B+" policyholder's rating and a financial rating of at least Class VIII in accordance with the most current Best's Rating.

INSURANCE ENDORSEMENT

Description of Contract: City of Delano

2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

Type of Insurance: Liability Insurance

This endorsement forms a part of Policy No. _____.

ENDORSEMENT

The City, the Engineer/Architect, the City's Representative, and their consultants, and each of their directors, officers, and employees are included as additional insureds under said policy but only while acting in their capacity as such and only as respects operations of the named insured. This insurance shall not apply to an additional insured to the degree that the loss or damage is ultimately determined to be the result of the additional insured's negligence (including any connected with the preparation or approval of maps, drawings, opinions, reports, surveys, designs, or specifications). The insurance afforded to these additional insureds is primary insurance. If the additional insureds have other insurance which might be applicable to any loss, the amount of this insurance shall not be reduced or prorated by the existence of such other insurance.

This endorsement does not increase the Company's total limits of liability.

Named Insured (Contractor) Insurance Company

Street Number Street Number

City and State City and State

By _____
(Company Representative)

NOTICE:

No substitution or revision to the above endorsement form will be accepted. If the insurance called for is provided by more than one policy, a separate endorsement in the exact above form shall be provided for each policy.

CERTIFICATE OF INSURANCE

Description of Contract: City of Delano

2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

Type of Insurance: Builders' Risk "All Risk"
or Installation Floater Insurance

THIS IS TO CERTIFY that the following policy has been issued by the below-stated company in conformance with the requirements of Articles 8-1 and 8-4 of the General Provisions and is in force at this time:

<u>POLICY NUMBER</u>	<u>EXPIRATION DATE</u>	<u>LIMITS OF LIABILITY</u>
		\$
		Deductible:
		\$

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the policy listed herein.

This is to certify that the policy has been issued to the named insured for the policy period indicated, notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policy described herein is subject to all the terms, exclusions, and conditions of such policy.

The Company will give at least 30 days' written notice to the City and the Engineer/Architect prior to any cancellation of said policy.

Named Insured Insurance Company

Street Number Street Number

City and State City and State

By _____
(Company Representative)

Insurance Company Agent for Service
of Process in California:

Name

Agency

Street Number

City and State

Telephone Number

NOTICE:

No substitution or revision to the above certificate form will be accepted. If the insurance called for is provided by more than one insurance company, a separate certificate in the exact above form shall be provided for each insurance company.

Insurers must be authorized to do business and have an agent for service of process in California and have an "B+" policyholder's rating and a financial rating of at least Class VIII in accordance with the most current Best's Rating.

INSURANCE ENDORSEMENT

Description of Contract: City of Delano

2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

Type of Insurance: Builders' Risk "All Risk"
or Installation Floater Insurance

This endorsement forms a part of Policy No. _____.

ENDORSEMENT

The City, the Engineer/Architect, the City's Representative, and their consultants, and each of their directors, officers, and employees are included as additional insureds, as their interest may appear, under said policy but only while acting in their capacity as such with respect to the above-referenced contract.

The insurance afforded to these additional insureds is primary insurance. If the additional insureds have other insurance which might be applicable to any loss, the amount of this insurance shall not be reduced or prorated by the existence of such other insurance.

This endorsement does not increase the Company's total limits of liability.

Named Insured

Insurance Company

Street Number

Street Number

City and State

City and State

By _____
(Company Representative)

NOTICE:

No substitution or revision to the above endorsement form will be accepted. If the insurance called for is provided by more than one policy, a separate endorsement in the exact above form shall be provided for each policy.

TABLE OF CONTENTS
GENERAL PROVISIONS

SECTION		PAGE
1	DEFINITIONS, TERMS, AND ABBREVIATIONS	5
	1-1 DEFINITIONS	5
	1-2 TERMS	6
	1-3 ABBREVIATIONS	6
2	PROPOSAL REQUIREMENTS AND CONDITIONS	7
	2-1 CONTRACT DOCUMENTS	7
	2-2 LICENSE	7
	2-3 PROPOSALS	7
	2-4 WITHDRAWAL OF BID	8
	2-5 BIDDERS INTERESTED IN MORE THAN ONE BID	8
	2-6 INTERPRETATION OF PLANS AND OTHER CONTRACT DOCUMENTS	8
	2-7 ADDENDA	8
	2-8 EXISTING CONDITIONS AND EXAMINATION OF CONTRACT DOCUMENTS	8
3	AWARD AND EXECUTION OF CONTRACT	9
	3-1 AWARD OF CONTRACT OR REJECTION OF BIDS	9
	3-2 EXECUTION OF CONTRACT	10
	3-3 BONDS	10
	3-4 INSURANCE REQUIREMENTS	10
	3-5 FAILURE TO EXECUTE CONTRACT	10
4	SCOPE OF WORK	11
	4-1 WORK TO BE DONE	11
	4-2 CHANGES IN THE WORK	11
	4-3 OBSTRUCTIONS	11
	4-4 UTILITIES	11
	4-5 PLANS AND SPECIFICATIONS FURNISHED BY THE CITY	12
	4-6 FINAL CLEANUP	13
5	QUALITY OF THE WORK	13
	5-1 AUTHORITY OF THE CITY'S REPRESENTATIVE	13
	5-2 SUPPLEMENTAL DRAWINGS	13
	5-3 CONFORMITY WITH CONTRACT DOCUMENTS AND ALLOWABLE DEVIATIONS	13
	5-4 MANUFACTURER'S INSTRUCTIONS	13
	5-5 COORDINATION OF PLANS AND SPECIFICATIONS	13
	5-6 INTERPRETATION OF PLANS AND SPECIFICATIONS	14
	5-7 ERRORS OR DISCREPANCIES NOTED BY CONTRACTOR	14
	5-8 SUPERVISION AND SUPERINTENDENCE	14
	5-9 SHOP DRAWINGS	15
	5-10 QUALITY AND SAFETY OF MATERIALS AND EQUIPMENT	16
	5-11 STANDARDS, CODES, SAMPLES, AND TESTS	16

	5-12 OBSERVATION OF WORK BY CITY'S REPRESENTATIVE	17
	5-13 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK	17
	5-14 ONE-YEAR GUARANTEE	17
6	PROSECUTION AND PROGRESS	19
	6-1 SUBCONTRACTING	19
	6-2 ASSIGNMENT	19
	6-3 CONTRACTOR'S CONSTRUCTION SCHEDULE AND COST BREAKDOWN	19
	6-4 TIME FOR COMPLETION AND FORFEITURE DUE TO DELAY	19
	6-5 EXTENSION OF TIME	20
	6-6 USE OF COMPLETED PORTIONS	21
7	LEGAL RELATIONS AND RESPONSIBILITIES	21
	7-1 OBSERVING LAWS AND ORDINANCES	21
	7-2 PERMITS AND LICENSES	22
	7-3 INVENTIONS, PATENTS, AND COPYRIGHTS	22
	7-4 PUBLIC CONVENIENCE AND SAFETY	22
	7-5 RESPONSIBILITY FOR LOSS, DAMAGE, OR INJURIES	22
	7-6 CONTRACTOR'S RESPONSIBILITY FOR THE WORK	23
	7-7 PRESERVATION OF PROPERTY	23
	7-8 REGIONAL NOTIFICATION CENTER CONTACT	24
	7-9 EXCAVATION	24
	7-10 SAFETY	25
	7-11 PERSONAL LIABILITY	26
	7-12 INDEMNITY	26
	7-13 HOURS OF LABOR	26
	7-14 PREVAILING WAGE	27
	7-15 TRAVEL AND SUBSISTENCE PAYMENTS	27
	7-16 APPRENTICES	28
	7-17 WARRANTY OF TITLE	28
	7-18 PROPERTY RIGHTS IN MATERIALS	28
	7-19 MUTUAL RESPONSIBILITY OF CONTRACTORS	29
	7-20 TERMINATION FOR BREACH	29
	7-21 NOTICE AND SERVICE THEREOF	30
	7-22 PARTIAL INVALIDITY	31
	7-23 ATTORNEYS' FEES	31
	7-24 LANDS AND RIGHTS-OF-WAY	31
	7-25 WAIVER OF RIGHTS	31
	7-26 TAXES	31
	7-27 ASSIGNMENT OF ANTI-TRUST ACTIONS	31
	7-28 PAYROLL RECORDS	32
	7-29 RESOLUTION OF CLAIMS	33
8	CONTRACTOR'S INSURANCE	33
	8-1 GENERAL	33

	8-2 WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE	33
	8-3 LIABILITY INSURANCE	33
	8-4 BUILDERS' RISK "ALL RISK" OR INSTALLATION FLOATER INSURANCE	34
	8-5 EARTHQUAKE AND TIDAL WAVE INSURANCE	35
	8-6 CONTRACTOR'S LIABILITY NOT LIMITED BY INSURANCE	35
9	ESTIMATES AND PAYMENTS	35
	9-1 PAYMENT FOR CHANGES IN THE WORK	35
	9-2 PROGRESS PAYMENTS	36
	9-3 FINAL ESTIMATE AND PAYMENT	36
	9-4 CITY'S RIGHT TO WITHHOLD CERTAIN MOUNTS AND MAKE APPLICATION THEREOF	36
	9-5 WITHHELD CONTRACT FUNDS	37
	9-6 REQUIRED RELEASES	38
	RELEASE FORM	39

GENERAL PROVISIONS

SECTION 1 DEFINITIONS, TERMS, AND ABBREVIATIONS

1-1 DEFINITIONS

Whenever the following terms occur in the Contract Documents, the meaning shall be interpreted as follows:

ACCEPTANCE, FINAL ACCEPTANCE - The formal action by the City accepting the work as being complete.

ACCEPTED BID - The bid (proposal) accepted by the City.

BIDDER - Any individual, partnership, corporation, joint venture, or other combination thereof submitting a proposal for the work contemplated, acting directly or through an authorized representative.

CITY - The City of Delano. The term "City" means the City or its authorized representative.

CITY'S REPRESENTATIVE - The person or firm authorized in writing by the City to represent it during the performance of the work by the Contractor. The City's Representative means the City Engineer or his/her designee.

CONTRACT - The written agreement executed between the City and the Contractor covering the performance of the work.

CONTRACTOR - The individual, partnership, corporation, joint venture, or other combination thereof who has entered into the contract with the City for the performance of the work. The term "Contractor" means the Contractor or his authorized representative.

CONTRACT DOCUMENTS - The contract documents set forth in the Agreement; also any and all supplemental agreements amending or extending the work contemplated. Supplemental agreements are written agreements covering alterations, amendments, or extensions to the contract and include contract change orders.

DAYS - Unless otherwise specified, days shall mean calendar days.

ENGINEER/ARCHITECT - The term "Engineer/Architect" or "Engineer" means the City Engineer for the City of Delano or his authorized representative.

PLANS, DRAWINGS - The plans (drawings), or reproductions thereof, which show the location, character, dimensions, and details of the work to be done.

SPECIAL PROVISIONS - Additions, deletions, and changes to the General Provisions and Standard Specifications.

SPECIFICATIONS - The directions, provisions, and requirements contained in the General Provisions and Standard Specifications as supplemented by the Special Provisions.

STANDARD SPECIFICATIONS - The contract documents identified or referenced as such.

SUBCONTRACTOR - An individual, partnership, corporation, joint venture, or other combination thereof who has a contract with the Contractor to perform any of the work at the site. Subcontractor also means an individual, partnership, corporation, joint venture, or other combination thereof who has a contract with another subcontractor to perform any of the work at the site.

STANDARD DRAWINGS, STANDARD PLANS - That portion of the plans identified or referenced as such.

UTILITY - Public or private fixed works for the transportation of fluids, gases, power, signals, or communications.

WORK - Any and all obligations, duties, and responsibilities necessary to complete the construction assigned to, or undertaken by, the Contractor pursuant to the Contract Documents including all labor necessary to produce such construction and all materials, equipment, and supplies incorporated or to be incorporated in the construction. Also, the completed construction or parts thereof required to be provided under the Contract Documents.

1-2 TERMS

Wherever the terms "required," "permitted," "ordered," "designated," "directed," "prescribed," or terms of like import are used, it shall be understood that the requirements, permission, order, designation, prescription, or direction of the City's Representative is intended. Similarly, the terms "acceptable," "satisfactory," "or equal," or terms of like import shall mean acceptable to or satisfactory to the City's Representative, unless otherwise expressly stated. The word "provide" shall be understood to mean furnish and install. Whenever the context so requires, the singular shall include the plural, and the masculine and neuter genders shall each include the other.

1-3 ABBREVIATIONS

Wherever the following abbreviations are used, they shall have the meanings indicated:

AASHTO	American Association of State Highway and Transportation Officials
AC	American Concrete Institute
AGA	American Gas Association
A	The Asphalt Institute
AIA	American Institute of Architects
AIEE	American Institute of Electrical Engineers
AISC	American Institute of Steel Construction
AISI	American Iron & Steel Institute
ANSI	American National Standards Institute (formerly USASI, USAS, ASA)
API	American Petroleum Institute
APWA	American Public Works Association
AREA	American Railway Engineering Association
ASA	American Standards Association (Now ANSI)
ASCE	American Society of Civil Engineers
ASHRAE	American Society of Heating, Refrigerating, and Air-Conditioning Engineers
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWS	American Welding Society

AWWA	American Water Works Association
COD	City of Delano
CRSI	Concrete Reinforcing Steel Institute
IEEE	Institute of Electrical and Electronics Engineers
BFU	National Board of Fire Underwriters
NEMA	National Electrical Manufacturers Association
PCA	Portland Cement Association
State Specifications	California Standard Specifications, State of California, Department of Transportation, Division of Highways
SSPC	Steel Structures Painting Council
UBC	Uniform Building Code, Pacific Coast Building Officials Conference of the International Conference of Building Officials
U/L or UL	Underwriters' Laboratories, Inc.
USASI or USAS	United States of American Standards Institute (Now ANSI)

SECTION 2 PROPOSAL REQUIREMENTS AND CONDITIONS

2-1 CONTRACT DOCUMENTS

The contract documents are set forth in the agreement form and the definition of "Contract Documents" in the section on DEFINITIONS, TERMS, AND ABBREVIATIONS.

2-2 LICENSE

No bid will be accepted from a bidder who is not licensed to conduct business in the state of California and licensed to perform the class of work defined by the Contract Documents.

2-3 PROPOSALS

Bids shall be made upon the bid form furnished by the City and a part of the Contract Documents. All bids shall be properly executed and with all items filled in; the signatures of all persons signing shall be in longhand. Erasures, interlineations, or other corrections shall be authenticated by affixing in the margin immediately opposite the correction the initials of a person signing the bid. If the unit price and the total amount named by a bidder for any item are not in agreement, the unit price alone shall be considered as representing the bidder's intention, and the totals shall be corrected to conform thereto.

Bids shall not contain any recapitulation of the work to be done. Alternative proposals will not be considered, except as called for. No oral, telegraphic, or telephonic proposals or modifications will be considered.

Bids shall be accompanied by a "Proposal Guarantee" in the form of a cashier's or a certified check, or bidder's bond or substitute security, in an amount not less than 10 percent of the amount of bid, made payable to or for the benefit of the City. Said check or bond or substitute shall be given as a guarantee that the bidder will enter into a contract and furnish the required bonds or substitutes and insurance certificates and endorsements if awarded the contract, and in case of refusal or failure to enter into said contract and furnish the required bonds or substitutes and insurance certificates and endorsements within 15 calendar days after notice of award by the City in writing, the check and the money represented by said check shall be forfeited to the City, or in the event that a bond or other security is deposited, said security shall be forfeited. Forfeiture does not preclude the City from seeking all other remedies provided by law to recover losses sustained as a

result of the Contractor's failure to enter into the contract or to furnish the required bonds or substitutes, or insurance certificates and endorsements.

Bids shall be sealed in an envelope marked and addressed as set forth in the Special Provisions. Bids shall be delivered to the addressee at the location designated in the Notice Inviting Sealed Proposals on or before the day and hour set for the opening of bids in the Notice Inviting Sealed Proposals, and shall bear the name of the bidder. A bid will not be accepted after the date and time designated in the Notice Inviting Sealed Proposals. It is the sole responsibility of the bidder to see that his bid is delivered and received in proper time. Any bid received after said designated date and time shall be returned to the bidder unopened.

2-4 WITHDRAWAL OF BID

A bidder may withdraw his bid by a signed written request any time prior to the date and time for receiving bids designated in the Notice Inviting Sealed Proposals.

The withdrawal of a bid does not prejudice the right of a bidder to file a new bid so long as the new bid is delivered as set forth in the article on PROPOSALS prior to the closing time specified for all bids.

2-5 BIDDERS INTERESTED IN MORE THAN ONE BID

No person, partnership, or corporation shall be allowed to make or file, or be interested in more than one bid for the work, unless alternative bids are called for. A person, partnership, or corporation submitting a sub proposal to a bidder, or who has quoted prices on material to a bidder, is not thereby disqualified from submitting a sub proposal or quoting prices to other bidders.

2-6 INTERPRETATION OF PLANS AND OTHER CONTRACT DOCUMENTS

If any person or entity contemplating submitting a bid for the proposed contract is in doubt as to the true meaning of any part of the plans, specifications, or other contract documents, or finds discrepancies in, or omissions from the plans and specifications or other contract documents, he may submit to the Engineer/Architect a written request for an interpretation or correction thereof. The person submitting the request will be responsible for its prompt delivery. An interpretation or correction of the Contract Documents will be made only by Addendum duly issued by the Engineer/Architect. A copy of such Addendum will be mailed or delivered to each person or entity that has received a set of such documents. The City and the Engineer/Architect will not be responsible for any other explanation or interpretation of the documents.

2-7 ADDENDA

Addenda issued before the time in which to submit bids expires shall be included in the bid and shall be made a part of the contract.

2-8 EXISTING CONDITIONS AND EXAMINATION OF CONTRACT DOCUMENTS

The bidder represents that he has carefully examined the Contract Documents and the site where the work is to be performed and that he has familiarized himself with all local conditions and federal, state and local laws, ordinances, rules, and regulations that may affect in any manner the performance of the work. The bidder further represents that he has studied all surveys and investigation reports about subsurface and latent physical conditions pertaining to the jobsite, that he has performed such additional surveys and investigations as he deems necessary to complete

the work at his bid price, and that he has correlated the results of all such data with the requirements of the Contract Documents. The submittal of a bid shall be conclusive evidence that the bidder has investigated and is satisfied as to the conditions to be encountered, including locality, uncertainty of weather and all other contingencies, and as to the character, quality, quantities, and scope of the work.

The plans and specifications for the work show subsurface conditions or otherwise hidden conditions as they are supposed or believed by the Engineer/Architect to exist; but it is not intended or to be inferred that the conditions as shown thereon constitute a representation that such conditions are actually existent. Except as otherwise specifically provided in the Contract Documents, the City, the Engineer/Architect, and their consultants shall not be liable for any loss sustained by the Contractor as a result of any variance of such conditions as shown on the plans and the actual conditions revealed during the progress of the work or otherwise.

Where the City or the Engineer/Architect or their consultants have made investigations of subsurface conditions in areas where the work is to be performed, such investigations were made only for the purpose of study and design. The conditions indicated by such investigations apply only at the specific location of each boring or excavation at the time the borings or excavations were made. Where such investigations have been made, bidders or Contractors may inspect the records as to such investigations subject to and upon the conditions hereinafter set forth. The inspection of the records shall be made at the office of the Engineer/Architect.

The records of such investigations are not a part of the contract and are shown solely for the convenience of the bidder or Contractor. It is expressly understood and agreed that the City, the Engineer/Architect, and their consultants assume no responsibility whatsoever in respect to the sufficiency or accuracy of the investigations; the records thereof; or of the interpretations set forth therein or made by the City's consultants, the Engineer/Architect or his consultants in the use thereof by the Engineer/Architect, and there is no warranty or guarantee, either express or implied, that the conditions indicated by such investigations or records thereof are representative of those existing throughout such areas, or any part thereof, or that unlooked-for developments may not occur, or that materials other than, or in proportions, densities, or other characteristics different from, those indicated may not be encountered.

When a log of test borings showing a record of the data obtained by the investigation of subsurface conditions by the City, the Engineer/Architect, or their consultants is included with the plans or other documents, it is expressly understood and agreed that said log of test borings does not constitute a part of the contract, represents only the opinion of the City or the Engineer/Architect or their consultants as to the character of the materials encountered by them in the test borings, is included in the plans or other documents only for the convenience of bidders, and its use is subject to all of the conditions and limitations set forth in this article.

The availability or use of information described in this article is not to be construed in any way as a waiver of the provisions of the first paragraph in this article and a bidder or Contractor is cautioned to make such independent investigations and examination as he deems necessary to satisfy himself as to conditions to be encountered in the performance of the work.

No information derived from such inspection of records of investigations or compilation thereof made by the City, the Engineer/Architect, or their consultants will in any way relieve the bidder or Contractor from any risk or from properly fulfilling the terms of the contract nor entitle the Contractor to any additional compensation.

SECTION 3 AWARD AND EXECUTION OF CONTRACT

3-1 AWARD OF CONTRACT OR REJECTION OF BIDS

The award of the contract, if it be awarded, will be to the lowest responsible responsive bidder complying with the instructions contained in the Contract Documents. The City, however, reserves the right to select the schedules under which the bids are to be compared, to reject any and all bids, and to waive any irregularity in bids received. Award of contract will be based upon all work contemplated in the Base bid. After awarded by the City selection of alternate bids maybe added. If, in the judgment of the City, a bid is unbalanced or if the bidder is not responsible, it shall be considered sufficient grounds for rejection of the entire bid.

The City shall have the period of time set forth in the Special Provisions after the opening of bids within which to accept or reject the bids. No bidder may withdraw his bid during said period. The City will return the proposal guarantees, except any guarantees which have been forfeited, and except bidders' bonds, to the respective bidders whose proposals they accompanied within ten days after the execution of the contract by the successful bidder or rejection of all bids or upon receipt of a written request therefore received after said period of time set forth in the Special Provisions.

Before award of the contract, any bidder shall furnish upon request a recent statement of his financial condition and previous construction experience or such other evidence of his qualifications as may be requested by the City. If a bidder fails to furnish in a timely manner the information requested, it shall be considered sufficient grounds for rejection of such bidder's entire bid.

3-2 EXECUTION OF CONTRACT

The form of agreement, bonds, and other documents which the successful bidder, as Contractor, will be required to execute are included as a part of the Contract Documents.

The contract shall be signed by the successful bidder and returned to the City, together with the bonds and certificates of insurance and endorsements, within 15 calendar days or such additional time as may be allowed by the City from the date of the mailing of notice from the City to the bidder or from the date of personal delivery of notice from the City to the bidder that the agreement is ready for signature. The agreement, bonds, certificates of insurance and endorsements, and other documents to be executed by the Contractor shall be executed in original-quadruplicate, one each of which shall be filed with the City and one each with the Attorney for the City and the Engineer/Architect for the City.

3-3 BONDS

The successful bidder, simultaneously with the execution of the Agreement, shall furnish a payment bond and a performance bond each in an amount equal to 100 percent of the contract amount, or equivalent cash or security in lieu of bonds pursuant to Section 995.710 of the Code of Civil Procedure. Bonds shall be furnished by surety companies satisfactory to the City on the forms furnished as part of the Contract Documents. Surety companies, to be acceptable to the City, must be authorized to do business and have an agent for service of process in California.

3-4 INSURANCE REQUIREMENTS

The successful bidder will be required to furnish the City proof of full compliance with all insurance requirements as specified in the section on CONTRACTOR'S INSURANCE. The forms

of certificate of insurance and endorsement which the successful bidder, as Contractor, will be required to furnish are included as a part of the Contract Documents.

3-5 FAILURE TO EXECUTE CONTRACT

Failure by a bidder to whom the contract is awarded to execute the contract or to furnish the required bonds or insurance certificates and endorsements shall be just cause for the annulment of the award and the forfeiture of the proposal guarantee.

A bidder who is awarded the contract and fails to execute the contract or furnish the required bonds or insurance certificates and endorsements shall be liable to the City for all damages resulting therefrom including reasonable attorneys' fees. The proposal guarantee forfeited shall not be a limitation thereon.

SECTION 4 SCOPE OF WORK

4-1 WORK TO BE DONE

The work to be done consists of furnishing all transportation, labor, materials, tools, equipment, services, permits, utilities and all other items which are necessary or appurtenant to construct and complete the entire project and construct the project designated in the Contract Documents, and to leave the grounds in a neat and presentable condition.

4-2 CHANGES IN THE WORK

The City may require changes in, additions to, or deductions from the work, including complete termination thereof. Adjustment, if any, in the amounts to be paid to the Contractor by reason of any such change, addition, or deduction shall be determined as set forth in the section on ESTIMATES AND PAYMENTS.

The City's Representative may order minor changes in the work not involving an increase or decrease in the contract amount, not involving a change in the time for completion, and not inconsistent with the purposes for which the work is being constructed. If the Contractor believes that any order for minor changes in the work involves changes in the contract amount or time for completion, he shall not proceed with the minor changes so ordered and shall within seven days of the receipt of such order notify the City's Representative in writing of his estimate of the changes in the contract amount and time for completion he believes to be appropriate.

No payment for changes in the work will be made, and no changes in the time for completion by reason of changes in the work will be made, unless the changes are covered by a written change order approved by the City in advance of the Contractor's proceeding with the changed work.

4-3 OBSTRUCTIONS

The Contractor shall remove and dispose of all structures, debris, or other obstructions of any character necessary to accommodate the work. Where such obstructions consist of improvements not required by law to be removed by the owner thereof, all such improvements shall be removed, maintained, and permanently replaced by the Contractor at his expense except as otherwise specifically provided in the Contract Documents.

4-4 UTILITIES

The Engineer/Architect has endeavored to determine the existence of utilities at the site of the work from the records of the owners of known utilities in the vicinity of the work. The positions of these utilities as derived from such records are shown on the plans. The service connections to these utilities may not be shown on the plans.

The Contractor shall make his own investigations, including exploratory excavations, to determine the locations and type of existing service laterals or appurtenances when their presence can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site of the work. If the Contractor discovers utility facilities not identified in the plans or specifications or in a position different from that shown in the plans and specifications, he shall immediately notify in writing the City's Representative and the owner of the utility facility.

The City shall have the responsibility for the timely removal, relocation, protection, and temporary maintenance of existing main or trunk line utility facilities which are not indicated in the plans and specifications with reasonable accuracy.

In case it should be necessary to remove, relocate, protect, or temporarily maintain a utility because of interference with the work, the work on such utility shall be performed and paid for as follows:

When it is necessary to remove, relocate, protect, or temporarily maintain an existing main or trunk line utility facility not indicated in the plans and specifications with reasonable accuracy, the City will compensate the Contractor for the costs of locating, for the costs of repairing damage not due to the failure of the Contractor to exercise reasonable care, for the costs of removing, relocating, protecting, or temporarily maintaining such utility facilities, and for the costs for equipment on the site necessarily idled during such work. These costs, the work to be done by the Contractor in locating, removing, relocating, protecting, or temporarily maintaining such utility facilities shall be covered by a written change order conforming to the provisions of the article on CHANGES IN THE WORK and the article on PAYMENT FOR CHANGES IN THE WORK. The City may make changes in the alignment and grade of the work to obviate the necessity to remove, relocate, protect, or temporarily maintain such utility facilities or to reduce the costs of the work involved in removing, relocating, protecting, or temporarily maintaining such utility facilities. Changes in alignment and grade will be ordered in accordance with the article on CHANGES IN THE WORK.

When it is necessary to remove, relocate, protect, or temporarily maintain a utility (other than [1] existing main or trunk line utility facilities not indicated in the plans and specifications with reasonable accuracy, or [2] existing service laterals or appurtenances when their presence cannot be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site of the work) the cost of which is not required to be borne by the owner thereof, the Contractor shall bear all expenses incidental to the work on the utility or damage thereto. The work on the utility shall be done in a manner satisfactory to the owner thereof; it being understood that the owner of the utility has the option of doing such work with his own forces, or permitting the work to be done by the Contractor. No representations are made that the obligations to remove, relocate, protect, or temporarily maintain any utility and to pay the cost thereof is or is not required to be borne by the owner of such utility, and it shall be the responsibility of the Contractor to investigate to find out whether or not said cost is required to be borne by the owner of the utility.

The right is reserved to governmental agencies and to owners of utilities to enter at any time upon any street, alley, right-of-way, or easement for the purpose of making changes in their property made necessary by the work and for the purpose of maintaining and making repairs to their property.

4-5 PLANS AND SPECIFICATIONS FURNISHED BY THE CITY

The City will furnish to the Contractor free of charge all copies of plans and specifications reasonably necessary for the execution of the work. The Contractor shall keep one set of plans and specifications in good order available to the City's Representative at the site of the work.

4-6 FINAL CLEANUP

Upon completion and before making application for acceptance of the work, the Contractor shall clean all rights-of-way, streets, borrow pits, and all other grounds occupied by him in connection with the work of all rubbish, excess materials, temporary structures, and equipment, and all parts of the work and grounds occupied by him shall be left in a neat and presentable condition.

SECTION 5 QUALITY OF THE WORK

5-1 AUTHORITY OF THE CITY'S REPRESENTATIVE

The City's Representative shall decide any and all questions which may arise as to the interpretation of the plans and specifications and shall have authority to disapprove or reject materials and equipment furnished and work performed which, in his opinion, is not in accordance with the Contract Documents.

5-2 SUPPLEMENTAL DRAWINGS

The plans may be supplemented by such drawings as are necessary to better define the work. All such drawings delivered to the Contractor by the City's Representative shall be deemed written instructions to the Contractor. If the Contractor believes that any supplemental drawings call for changes in the work for which the contract amount or time for completion should be changed, he shall not proceed with the changes in the work so called for and shall within seven days of the receipt of the supplemental drawings notify the City's Representative in writing of his estimate of the changes in the contract amount and time for completion he believes to be appropriate.

No payment for changes in the work will be made and no change in the time for completion by reason of changes in the work will be made, unless the changes are covered by a written change order approved by the City in advance of the Contractor's proceeding with the changed work.

5-3 CONFORMITY WITH CONTRACT DOCUMENTS AND ALLOWABLE DEVIATIONS

The work shall conform to the lines, grades, dimensions, tolerances, and material and equipment requirements shown on the plans or set forth in the specifications. Although measurement, sampling, and testing may be considered evidence as to such conformity, the City's Representative shall be the sole judge as to whether the work or materials deviate from the plans and specifications, and his decision as to any allowable deviations therefrom shall be final.

If specific lines, grades, and dimensions are not shown on plans, those furnished by the City's Representative shall govern.

5-4 MANUFACTURER'S INSTRUCTIONS

All materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the instructions of the applicable manufacturer, fabricator, supplier, or distributor, except as otherwise specifically provided in the Contract Documents.

5-5 COORDINATION OF PLANS AND SPECIFICATIONS

The specifications, plans, and other contract documents are essential parts of the contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for the complete work. In the event of an apparent difference between plans and specifications, reference shall be made to the City's Representative whose decision thereon shall be final.

Special Provisions shall govern over General Provisions and Standard Specifications.

5-6 INTERPRETATION OF PLANS AND SPECIFICATIONS

Figured dimensions on drawings shall govern, but work not dimensioned shall be as directed. Work not particularly shown or specified shall be the same as similar parts that are shown or specified. Large-scale details shall take precedence over smaller scale drawings as to shape and details of construction. Specifications shall govern as to materials and workmanship. Drawings and specifications are intended to be fully complementary and to agree. The specification calling for the higher quality material or workmanship shall prevail. Materials or work described in words which so applied have a well-known technical or trade meaning shall be deemed to refer to such recognized standards. In the event of any discrepancy between any drawings and the figures thereon, the figures shall be taken as correct. In the event of any doubt or question arising respecting the true meaning of the plans or specifications, reference shall be made to the City's Representative whose decision thereon shall be final.

5-7 ERRORS OR DISCREPANCIES NOTED BY CONTRACTOR

It is the duty of the Contractor to promptly notify the City's Representative in writing of any design, materials, or specified method that the Contractor believes may prove defective or insufficient. If the Contractor believes that a defect or insufficiency exists in design, materials, or specified method and fails to promptly notify the City's Representative in writing of this belief, the Contractor waives any right to assert that defect or insufficiency in design, materials, or specified method at any later date in any legal or equitable proceeding against City, or in any subsequent arbitration or settlement conference between the City and the Contractor. The City's Representative, on receipt of any such notice, will promptly investigate the circumstances and give appropriate instructions to the Contractor. Until such instructions are given, any work done by the Contractor after he comes to the belief that a defect or insufficiency exists in design, materials, or specified method which is directly or indirectly affected by such alleged defect or insufficiency in design, materials, or specified method will be at his own risk and he shall bear all cost arising therefrom.

If the Contractor, either before commencing work or in the course of the work, finds any discrepancy between the specifications and the plans or between either of them and the physical conditions at the site of the work or finds any error or omission in any of the plans or in any survey,

he shall promptly notify the City's Representative of such discrepancy, error, or omission. If the Contractor observes that any plans or specifications are at variance with any applicable law, ordinance, regulation, order, or decree, he shall promptly notify the City's Representative in writing of such conflict. The City's Representative, on receipt of any such notice, will promptly investigate the circumstances and give appropriate instructions to the Contractor. Until such instructions are given, any work done by the Contractor after his discovery of such error, discrepancy, or conflict which is directly or indirectly affected by such error, discrepancy, or conflict will be at his own risk and he shall bear all cost arising therefrom.

5-8 SUPERVISION AND SUPERINTENDENCE

The Contractor shall supervise and direct the work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the work in accordance with the Contract Documents. The Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction, but the Contractor shall not be solely responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence, or procedure of construction which is indicated in and required by the Contract Documents except as otherwise provided in the article on ERRORS OR DISCREPANCIES NOTED BY CONTRACTOR.

The Contractor shall be responsible to see that the completed work complies with the Contract Documents.

The Contractor shall designate and keep on the work at all times during its progress a competent superintendent who shall not be replaced without written notice to the City's Representative. The superintendent will be the Contractor's representative at the site and shall have authority to act on behalf of the Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor. During periods when the work is suspended, the Contractor shall make appropriate arrangements for any emergency work which may be required.

Whenever the superintendent is not present on any particular part of the work where the City's Representative may desire to inform the Contractor relative to interpretation of the plans and specifications or to disapproval or rejection of materials or work performed, the City's Representative may so inform the foreman or other worker in charge of the particular part of the work in reference to which the information is given. Information so given shall be as binding as if given to the superintendent.

5-9 SHOP DRAWINGS

Shop Drawings are drawings, diagrams, illustrations, schedules, performance charts, brochures, and other data which are prepared by the Contractor or any subcontractor, manufacturer, supplier, or distributor and which illustrate some portion of the work.

The Contractor shall review, mark with his approval, and submit for review by the City's Representative Shop Drawings as called for in the Special Provisions and Standard Specifications or requested by the City's Representative. Drawings shall be submitted in sextuplet to the City's Representative and be accompanied by a letter of transmittal listing the drawings submitted. Drawings shall show the name of the project, the name of the Contractor, and, if any, the names of suppliers, manufacturers, and subcontractors. If the Shop Drawings incorporate any documents prepared by the Engineer/Architect, such Shop Drawings shall not reproduce the registration stamp or company logo of the Engineer/Architect. Shop Drawings shall be submitted with promptness and in orderly sequence so as to cause no delay in prosecution of the work.

Shop Drawings shall be complete in all respects. If the Shop Drawings show any deviations from the requirements of the plans and specifications because of standard shop practices or other reasons, the deviations and the reasons therefor shall be set forth in the letter of transmittal.

By submitting Shop Drawings, the Contractor represents that material, equipment, and other work shown thereon conforms to the plans and specifications, except for any deviations set forth in the letter of transmittal.

Within 30 calendar days after receipt of said drawings, the City's Representative will return two of the copies of the drawings to the Contractor with any comments noted thereon. If so noted by the City's Representative, the Contractor shall correct the drawings and resubmit them in the same manner as specified for the original submittal. The Contractor in the letter of transmittal accompanying resubmitted Shop Drawings shall direct specific attention to revisions other than the corrections requested by the City's Representative on previous submittals.

The review by the City's Representative is only of general conformance with the design concept of the project and general compliance with the plans and specifications and shall not be construed as relieving the Contractor of the full responsibility for: providing materials, equipment, and work required by the contract; the proper fitting and construction of the work; the accuracy and completeness of the Shop Drawings; selecting fabrication processes and techniques of construction; and performing the work in a safe manner.

No portion of the work requiring a Shop Drawing submittal shall be commenced until the submittal has been reviewed by the City's Representative and returned to the Contractor with a notation indicating that resubmittal is not required.

If the Contractor believes that any Shop Drawing or communication relative thereto calls for changes in the work for which the contract amount or time for completion should be changed, he shall not proceed with the changes in the work so called for and shall promptly notify the City's Representative in writing of his estimate of the changes in the contract amount and time for completion he believes to be appropriate. No payment for changes in the work will be made and no change in the time for completion by reason of changes in the work will be made, unless the changes are covered by a written change order approved by the City in advance of the Contractor's proceeding with the changed work.

5-10 QUALITY AND SAFETY OF MATERIALS AND EQUIPMENT

All equipment, materials, and supplies to be incorporated in the work shall be new, unless otherwise specified. All equipment, materials, and supplies shall be produced in a good and workmanlike manner. When the quality of a material, process, or article is not specifically set forth in the plans and specifications, the best available quality of the material, process, or article shall be provided.

Whenever any material, process, or article is indicated or specified by grade, patent or proprietary name, or by name of manufacturer, such specification shall be deemed to be used for the purpose of facilitating description of the materials, process, or articles desired and shall be deemed to be followed by the words "or (approved) equal," and the Contractor may offer any material, process, or article which shall be substantially equal or better in every respect to that so indicated or specified; provided, however, that if the material, process, or article offered by the Contractor is not, in the opinion of the City's Representative, equal or better in every respect to that specified, then the Contractor must furnish the material, process, or article specified or one that in the opinion

of the City's Representative is the substantial equal or better in every respect. In the event that the Contractor furnishes material, process, or article more expensive than specified, the difference in cost of such material, process, or article so furnished shall be borne by the Contractor.

In accordance with Section 3400 of the Public Contract Code, the Contractor shall submit data substantiating requests for substitution of "equal" items within 35 days after award of the contract. This 35-day period of time is included in the number of days allowed for the completion of the work.

All materials, equipment, and supplies provided shall, without additional charge to City, fully conform with all applicable state and federal safety laws, rules, regulations, and orders, and it shall be Contractor's responsibility to provide only such materials, equipment, and supplies notwithstanding any omission in the Contract Documents therefor or that a particular material, equipment, or supply was specified.

5-11 STANDARDS, CODES, SAMPLES, AND TESTS

Whenever reference is made to a standard, code, specification, or test and the designation representing the date of adoption or latest revision thereof is omitted, it shall mean the latest revision of such standard, code, specification, or test in effect on the day the Notice Inviting Sealed Proposals (Bids) is dated.

Tests shall be made in accordance with commonly recognized procedures of technical organizations and such special procedures as may be prescribed elsewhere in the plans and specifications. The Contractor shall furnish without charge such samples for testing as may be required by the City's Representative.

5-12 OBSERVATION OF WORK BY CITY'S REPRESENTATIVE

The City's Representative shall at all times have access to the work during construction and shall be furnished with every reasonable facility for ascertaining full knowledge respecting the progress, workmanship, and character of materials and equipment used and employed in the work.

Whenever the Contractor varies the normal period during which work or any portion of it is carried on each day, he shall give timely notice to the City's Representative so that the City's Representative may, if he wishes, be present to observe the work in progress. If the Contractor fails to give such timely notice, any work done in the absence of the City's Representative will be subject to rejection.

The Contractor shall give timely notice to the City's Representative in advance of backfilling or otherwise covering any part of the work so that the City's Representative may, if he wishes, observe such part of the work before it is concealed.

The observation, if any, by the City's Representative of the work shall not relieve the Contractor of any of his obligations to fulfill the contract as prescribed. Defective work shall be made good, and materials and equipment furnished and work performed which is not in accordance with the Contract Documents may be rejected notwithstanding the fact that such materials, equipment, and work have been previously observed by the City's Representative or that payment therefor has been included in an estimate for payment.

5-13 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK

Any work which does not conform to the requirements of the Contract Documents shall be remedied or removed and replaced by the Contractor, together with any other work which may be displaced in so doing, and no compensation will be allowed him for such removal, replacement, or remedial work. All nonconforming materials shall be immediately removed from the site.

Any work done beyond the lines and grades shown on the plans or established by the City's Representative or any changes in, additions to, or deductions from the work done without written authority will be considered as unauthorized and will not be paid for. Work so done may be ordered remedied, removed, or replaced at the Contractor's expense.

Upon failure on the part of the Contractor to comply promptly with any order of the City's Representative made under the provisions of this article, the City's Representative shall have authority to cause nonconforming materials, rejected work, or unauthorized work to be remedied, removed, or replaced at the Contractor's expense and to deduct the costs from any moneys due or to become due the Contractor.

5-14 ONE-YEAR GUARANTEE

Besides guarantees required elsewhere, the Contractor shall and hereby does guarantee the work for a period of one year after the date of acceptance of the work by the City, except for any portion of the work that is utilized or placed into service by the City in accordance with the provisions of the article on USE OF COMPLETED PORTIONS. The guarantee period for portions of the work so utilized or placed into service shall be one year commencing on the date of the written notification to the Contractor described in the article on USE OF COMPLETED PORTIONS. The Contractor shall repair or remove and replace any and all work, together with any other work which may be displaced in so doing, that is found to be defective in workmanship and/or materials within said one-year periods, without expense whatsoever to the City, ordinary wear and tear and unusual abuse or neglect excepted. In the event of failure to comply with the above-mentioned conditions within one week after being notified in writing, the City is hereby authorized to proceed to have the defects remedied and made good at the expense of the Contractor, who hereby agrees to pay the cost and charges therefor immediately on demand. Such action by the City will not relieve the Contractor of the guarantees required by this article or elsewhere in the Contract Documents.

The performance bond and the payment bond shall continue in full force and effect for the guarantee period.

If, in the opinion of the City, defective work creates a dangerous condition or requires immediate correction or attention to prevent further loss to the City or to prevent interruption of operation of the City, the City will attempt to give the notice required by this article. If the Contractor cannot be contacted or does not comply with the City's request for correction within a reasonable time as determined by the City, the City may, notwithstanding the provisions of this article, proceed to make such correction or provide such attention; and the costs of such correction or attention shall be charged against the Contractor. Such action by the City will not relieve the Contractor of the guarantees required by this article or elsewhere in the Contract Documents.

This article does not in any way limit the guarantee on any items for which a longer guarantee is specified or on any items for which a manufacturer or supplier gives a guarantee for a longer period. The Contractor agrees to act as a co-guarantor with such manufacturer or supplier and shall furnish the City all appropriate guarantee or warranty certificates upon completion of the project. No guarantee period, whether provided for in this article or elsewhere, shall in any way

limit the liability of Contractor or his sureties or insurers under the indemnity or insurance provisions of these General Provisions.

SECTION 6 PROSECUTION AND PROGRESS

6-1 SUBCONTRACTING

If the Contractor shall subcontract any part of this contract, the Contractor shall be as fully responsible to the City for the acts and omissions of his subcontractor and of the persons either directly or indirectly employed by his subcontractor as he is for the acts and omissions of persons directly employed by himself. Nothing contained in the Contract Documents shall create any contractual relationship between any subcontractor and the City. The Contractor shall cause every subcontractor to be bound by the terms of the Contract Documents.

The divisions and sections of the specifications and the identifications of any drawings shall not control the Contractor in dividing the work among subcontractors.

6-2 ASSIGNMENT

The performance of the contract may not be assigned, except upon the written consent of the City. Consent will not be given to any proposed assignment which would relieve the original Contractor or his surety of their responsibilities under the contract, nor will the City consent to any assignment of a part of the work under the contract.

Upon obtaining a prior written consent of the City, the Contractor may assign moneys due or to become due him under the contract, to the extent permitted by law, but any assignment of moneys shall be subject to all proper setoffs in favor of the City and to all deductions provided for in the contract, and particularly all money withheld, whether assigned or not, shall be subject to being used by the City for the completion of the work in the event that the Contractor should be in default therein.

No assignment of this contract will be approved unless it shall contain a provision that the funds to be paid to the assignee under the assignment are subject to a prior lien for services rendered or materials supplied for performance of the work called for under the contract in favor of all persons, firms, or corporations rendering such services or supplying such materials and that the City may withhold funds due until all work required by the Contract Documents is completed to the City's satisfaction.

6-3 CONTRACTOR'S CONSTRUCTION SCHEDULE AND COST BREAKDOWN

Within ten days after execution of the contract, the Contractor shall deliver to the City's Representative a construction progress schedule and cost breakdown in bar chart form showing the proposed dates of commencement and completion and cost of each of the various parts of the work and the anticipated amount of each monthly payment that will become due the Contractor in accordance therewith.

6-4 TIME FOR COMPLETION AND FORFEITURE DUE TO DELAY

The Contractor shall complete all or any designated portion of the work called for under the contract within the time set forth in the Special Provisions. Time is of the essence in this contract.

Failure of the Contractor to perform any covenant or condition contained in the Contract Documents within the time period specified shall constitute a material breach of this contract entitling the City to terminate the contract unless the Contractor applies for, and receives, an extension of time in accordance with the procedures set forth in this article and the article on EXTENSION OF TIME.

Failure of the City to insist upon the performance of any covenant or condition within the time period specified in the Contract Documents shall not constitute a waiver of the Contractor's duty to complete performance within the designated periods unless the waiver is in writing.

The City's agreement to waive a specific time provision or to extend the time for performance shall not constitute a waiver of any other time provisions contained in the Contract Documents. Failure of the Contractor to complete performance promptly within the additional time authorized in the waiver or extension of time agreement shall constitute a material breach of this contract entitling the City to terminate.

In accordance with Government Code 53069.85, Contractor agrees to forfeit and pay City the amount per day set forth in the Special Provisions for each and every day of delay which shall be deducted from any payments due or to become due the Contractor.

The Contractor shall not be deemed in breach of this contract and no forfeiture due to delay shall be made because of any delays in the completion of the work due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, provided the Contractor requests an extension of time in accordance with the procedures set forth in this article and the article on EXTENSION OF TIME. Unforeseeable causes of delay beyond the control of Contractor shall include acts of God, acts of a public enemy, acts of the government, acts of the City, or acts of another contractor in the performance of a contract with the City, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and weather, or delays of subcontractors due to such causes, or delays caused by failure of the City or the owner of a utility to provide for removal or relocation of existing utility facilities. Delays caused by actions or neglect of Contractor or his agents, servants, employees, officers, subcontractors, directors, or of any party contracting to perform part or all of the work or to supply any equipment or materials shall not be excusable delays. Excusable delays (those beyond Contractor's control) shall not entitle the Contractor to any additional compensation except as noted below. The sole remedy of the Contractor shall be to seek an extension of time.

The Contractor will be compensated for damages incurred due to delays for which the Agency 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 Agency 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 any reasonable means including, without limitation, the judicious handling of forces, equipment, or plant.

6-5 EXTENSION OF TIME

The time specified for completion of all of the work or any part of the work may be extended only by a written change order executed by the City or other written form executed by the City.

Requests for an extension of time must be delivered to the City's Representative within ten consecutive calendar days following the date of the occurrence which caused the delay. The request must be submitted in writing and must state the cause of the delay, the date of the

occurrence causing the delay, and the amount of additional time requested. Requests for extensions of time shall be supported by all evidence reasonably available or known to the Contractor which would support the extension of time requested. Requests for extensions of time failing to include the information specified in this article and requests for extensions of time which are not received within the time specified above shall result in the forfeiture of the Contractor's right to receive any extension of time requested.

If the Contractor is requesting an extension of time because of weather, he shall supply daily written reports to the City's Representative describing such weather and the work which could not be performed that day because of such weather or conditions resulting therefrom and which he otherwise would have performed.

The City's acceptance of the daily reports shall not be deemed an admission of the Contractor's right to receive an extension of time or a waiver of the City's right to strictly enforce the time provisions contained in the Contract Documents.

When the Contractor has submitted a request for an extension of time in accordance with the procedures of this article and the article on TIME FOR COMPLETION AND FORFEITURE DUE TO DELAY, the Governing Body of the City will ascertain the facts and extent of the delay and extend the time for completing the work if, in its judgment, the findings of fact justify such an extension, and its findings of facts thereon shall be final and conclusive. An extension of time may be granted by the Governing Body of the City after the expiration of the time originally fixed in the contract or as previously extended, and the extension so granted shall be deemed to commence and be effective from the date of such expiration.

Any extension of time shall not release the sureties upon any bond required under the contract.

6-6 USE OF COMPLETED PORTIONS

When the work or any portion of it is sufficiently complete to be utilized or placed into service, the City shall have the right upon written notification to the Contractor to utilize such portions of the work and to place the operable portions into service and to operate same.

Upon said notice and commencement of utilization or operation by the City, the Contractor shall be relieved of the duty of maintaining the portions so utilized or placed into operation; provided, however, that nothing in this article shall be construed as relieving the Contractor of the full responsibility for completing the work in its entirety, for making good defective work and materials, for protecting the work from damage, and for being responsible for damage and for the work as set forth in the General Provisions and other contract documents nor shall such action by the City be deemed completion and acceptance, and such action shall not relieve the Contractor, his sureties, or insurers of the provisions of the section on CONTRACTOR'S INSURANCE, the article on INDEMNITY, and the article on GUARANTEES.

SECTION 7 LEGAL RELATIONS AND RESPONSIBILITIES

7-1 OBSERVING LAWS AND ORDINANCES

The Contractor shall keep himself fully informed of all laws, ordinances, and regulations which in any manner affect those engaged or employed in the work or the materials used in the work or which in any way affect the conduct of the work and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency is discovered in the plans, specifications, or contract for the work in relation to any such law,

ordinance, regulation, order, or decree, he shall forthwith report the same to the City's Representative in writing and cease operations on that part of the work until the City's Representative has given him appropriate instructions as provided for in the article on ERRORS OR DISCREPANCIES NOTED BY CONTRACTOR.

The Contractor shall at all times observe and comply with and shall cause all his agents, employees, subcontractors, and suppliers to observe and comply with all laws, ordinances, regulations, orders, and decrees, and shall hold harmless, indemnify, and defend the City, the Engineer/Architect, the City's Representative, and their consultants, and each of their directors, officers, employees, and agents from and against all claims, damages, losses, expenses, and other costs, including costs of defense and attorneys' fees, arising out of or resulting from the violation of any such law, ordinance, regulation, order, or decree by the Contractor, his employees, agents, subcontractors, or suppliers.

7-2 PERMITS AND LICENSES

The Contractor shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

7-3 INVENTIONS, PATENTS, AND COPYRIGHTS

The Contractor shall pay all royalties and assume all costs arising from the use of any invention, design, process, materials, equipment, product, or device which is the subject of patent rights or copyrights.

The Contractor shall hold harmless, indemnify, and defend the City, the Engineer/Architect, the City's Representative, and their consultants, and each of their directors, officers, employees, and agents from and against all claims, damages, losses, expenses, and other costs, including costs of defense and attorneys' fees, arising out of any infringement of patent rights or copyrights incident to the use in the performance of the work or resulting from the incorporation in the work of any invention, design, process, materials, equipment, product or device, and shall defend all such claims in connection with any alleged infringement of such rights.

7-4 PUBLIC CONVENIENCE AND SAFETY

The Contractor shall so conduct his operations as to offer the least possible obstruction and inconvenience to the public, and he shall have under construction no greater length or amount of work than he can prosecute properly with due regard to the rights of the public.

Convenient access to driveways, houses, and buildings along the line of work shall be maintained and temporary crossings shall be provided and maintained in good condition. Not more than one crossing or intersecting street or road shall be closed at any one time.

The Contractor shall provide and maintain such fences, barriers, directional signs, lights, and flagmen as are necessary to give adequate warning to the public at all times of any dangerous conditions to be encountered as a result of the construction work and to give directions to the public.

7-5 RESPONSIBILITY FOR LOSS, DAMAGE, OR INJURIES

The Contractor shall be responsible for all claims, demands, or liability from any cause arising out of or resulting from or in connection with the performance of the work, excepting only those as

may be caused solely and exclusively by the fault or negligence of the City, the Engineer/Architect, the City's Representative, or their consultants, or their directors, officers, employees, and agents. Such responsibility shall extend to claims, demands, or liability for loss, damage, or injuries occurring after completion of the work as well as during the progress of the work.

In the event any hazardous materials, including but not limited to asbestos, are utilized in construction or hazardous materials are otherwise encountered during construction, the Contractor shall take all appropriate precautions to protect persons and property and shall comply with all applicable regulations for the installation and handling of such hazardous materials. The Contractor is solely responsible for protection of persons and property that could be affected by construction and the Contractor's handling of such materials.

7-6 CONTRACTOR'S RESPONSIBILITY FOR THE WORK

Until the acceptance of the work, the Contractor shall have the responsible charge and care of the work and of the materials to be used therein (including materials for which he has received partial payment or materials which have been furnished by the City) and shall bear the risk of injury, loss, or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the no execution of the work.

The Contractor shall rebuild, repair, restore, and make good all injuries, losses, or damages to any portion of the work or the materials occasioned by any cause before its completion and acceptance and shall bear the expense thereof. Where necessary to protect the work or materials from damage, the Contractor shall at his expense provide suitable drainage and erect such temporary structures as are necessary to protect the work or materials from damage. The suspension of the work or the granting of an extension of time from any cause whatever shall not relieve the Contractor of his responsibility for the work and materials as herein specified.

In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorizations, shall act at his discretion to prevent such threatened loss or injury.

Notwithstanding the foregoing provisions of this article, the Contractor shall not be responsible for the cost of repairing or restoring damage to the work, which damage is determined to have been proximately caused by an Act of God, in excess of 5 percent of the contracted amount, provided that the work damaged is built in accordance with accepted and applicable building standards and the plans and specifications. For the purposes of this paragraph, "Acts of God" shall include only the following occurrences or conditions and effect: earthquakes in excess of a magnitude of 3.5 on the Richter Scale and tidal waves.

7-7 PRESERVATION OF PROPERTY

The Contractor shall exercise due care to avoid injury to existing improvements or facilities, utility facilities, adjacent property, and trees and shrubbery that are not to be removed.

All trees, shrubbery, and landscaping that are not to be removed, and pole lines, fences, signs, survey markers and monuments, buildings and structures, conduits, pipelines under or above ground, sewer and waterlines, all highway or street facilities, and any other improvements or facilities within or adjacent to the work shall be protected from injury or damage, and the Contractor shall provide and install suitable safeguards to protect such objects from injury or damage. If such objects are injured or damaged by reason of the Contractor's operation, they shall be replaced or restored at the Contractor's expense to a condition as good as when the Contractor

entered upon the work or as good as required by the plans and specifications if any such objects are a part of the work being performed.

The fact that any such pipe or other underground facility is not shown on the plans shall not relieve the Contractor of his responsibility under this article.

In addition to any requirements imposed by law, the Contractor shall shore up, brace, underpin, and protect as may be necessary, all foundations and other parts of all existing structures adjacent to and adjoining the site of the work which are in any way affected by the excavations or other operations connected with the performance of the work. Whenever any notice is required to be given by the City or the Contractor to any adjacent or adjoining landowner or other party before commencement of any work, such notice shall be given by the Contractor.

In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorizations, shall act at his discretion to prevent such threatened loss or injury.

7-8 REGIONAL NOTIFICATION CENTER CONTACT

Contractor, except in an emergency, shall contact the appropriate regional notification center at least two working days prior to commencing any excavation if the excavation will be conducted in an area or in a private easement which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the City, and obtain an inquiry identification number from that notification center. No excavation shall be commenced and carried out by the Contractor unless such an inquiry identification number has been assigned to the Contractor or any subcontractor of the Contractor and the City has been given the identification number by the Contractor.

Emergency shall be defined as a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage (Government Code Section 4216).

Subsurface installation means any underground pipeline, conduit, duct, wire, or other structure operated or maintained in or across a public street or public right-of-way (Government Code Section 4216).

7-9 EXCAVATION

A. Excavation Plans for Worker Protection Required by Labor Code Section 6705

If the total amount of the contract is in excess of \$25,000, the Contractor shall submit to the City for acceptance, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches five (5) feet or more in depth. The plan shall be prepared by a registered civil or structural engineer. As a part of the plan, a note shall be included stating that the registered civil or structural engineer certifies that the plan complies with the CAL/OSHA Construction Safety Orders, or that the registered civil or structural engineer certifies that the plan is not less effective than the shoring, bracing, sloping, or other provisions of the Safety Orders.

The City or the Engineer/Architect or their consultants may have made investigations of subsurface conditions in areas where the work is to be performed. If so, these investigations are identified in the Special Provisions and the records of such investigations are available for inspection at the office of the Engineer/Architect. The detailed plan showing the design of shoring, etc., which the Contractor is required to submit to the City for acceptance in advance of excavation will not be accepted by the City if the plan is based on subsurface conditions which are more favorable than those revealed by the investigations made by the City or the Engineer/Architect or their consultants; nor will the plan be accepted if it is based on soils-related design criteria which is less restrictive than the criteria set forth in the report on the aforesaid investigations of subsurface conditions.

The detailed plan showing the design of shoring, etc., shall include surcharge loads for nearby embankments and structures, for spoil banks, and for construction equipment and other construction loadings. The plan shall indicate for all trench conditions the minimum horizontal distances from the side of the trench at its top to the near side of the surcharge loads.

Nothing contained in this article shall be construed as relieving the Contractor of the full responsibility for providing shoring, bracing, sloping, or other provisions which are adequate for worker protection.

B. Excavations Below Four (4) Feet

If any work required by this contract includes digging trenches or other excavations that extend deeper than four (4) feet below the surface, the Contractor shall promptly, and before the following conditions are disturbed, notify the City in writing of any:

1. Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing law;
2. Subsurface or latent physical conditions at the site differing from those indicated;
3. Unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

Nothing in this section is intended to relieve the Contractor of his responsibility to carefully examine the Contract Documents and the site where the work is to be performed in accordance with Section 2-8 of the General Conditions; to familiarize himself with all local conditions and federal, state, and local laws, ordinances, rules, and regulations that may affect the performance of any work; to study all surveys and investigation reports about subsurface and latent physical conditions pertaining to the jobsite; to perform such additional surveys and investigations as the Contractor deems necessary to complete the work at his bid price; and to correlate the results of all such data with the requirements of the Contract Documents.

If the City determines that hazardous waste exists and that conditions exist which Contractor could not discover through the investigations required by the preceding paragraph, the City shall notify the Contractor and the Contractor may request a change order in accordance with the Contract Documents. Nothing in this section shall relieve the Contractor of the obligation to pay all fees and costs associated with removal and cleanup of any hazardous waste used at, or brought to, the jobsite by the Contractor. Nor shall this section relieve the Contractor of responsibility for site conditions discoverable by any investigation required by the preceding paragraph.

In the event that a dispute arises between the City and the Contractor involving hazardous waste and whether site conditions differ materially from those the Contractor could or should have discovered by the investigations required by this contract, the Contractor shall not be excused from the scheduled completion date provided in the Contract Documents and shall proceed with all work in the manner and in the time required by the Contract Documents.

7-10 SAFETY

In accordance with generally accepted construction practices, the Contractor shall be solely and completely responsible for conditions of the jobsite, including safety of all persons and property during performance of the work, and the Contractor shall fully comply with all state, federal and other laws, rules, regulations, and orders relating to safety of workers and all others.

The right of the Engineer/Architect or the City's Representative to conduct construction review or observation of the Contractor's performance will not include review or observation of the adequacy of the Contractor's safety measures in, on, or near the construction site.

7-11 PERSONAL LIABILITY

No director, officer, employee, or agent of the City, the Engineer/Architect, the City's Representative, or their consultants shall be personally responsible for any liability arising under or by virtue of the contract.

7-12 INDEMNITY

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the City, the Engineer/Architect, the City's Representative, and their consultants, and each of their directors, officers, agents, and employees from and against all claims, damages, losses, expenses, and other costs, including costs of defense and attorneys' fees, arising out of or resulting from or in connection with the performance of the work, both on and off the jobsite, provided that any of the foregoing (1) is attributable to personal injury, bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), including the loss of use resulting therefrom, and (2) is caused in whole or in part by any act or omission of the Contractor, any subcontractor, any supplier, anyone directly or indirectly employed by any of them or anyone for whose acts or omissions any of them may be liable, regardless of whether or not caused in part by

any act or omission (active, passive, or comparative negligence included, excepting the active negligence of the City), of a party indemnified hereunder.

In any and all claims against the indemnified parties by any employee of the Contractor, any subcontractor, any supplier, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under the first and fourth paragraphs in this article on INDEMNITY shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable, by or for the Contractor, or any subcontractor, or any supplier, or other persons under workers' compensation acts, disability benefit acts, or other employee acts.

The obligations of the Contractor under the first and fourth paragraphs in this article on INDEMNITY shall not extend to the liability of the Engineer/Architect, the City's Representative, and their consultants, and each of their directors, officers, employees, and agents, arising out of or resulting from or in connection with the preparation or approval of maps, drawings, opinions, reports, surveys, designs or specifications, providing that the foregoing was the sole and exclusive cause of the loss, damage, or injury.

The Contractor shall also indemnify and hold harmless the City, the Engineer/Architect, the City's Representative, and their consultants, and each of their directors, officers, employees, and agents from and against all losses, expenses, damages (including damages to the work itself), attorneys' fees, and other costs, including all costs of defense, which any of them may incur with respect to the failure, neglect, or refusal of Contractor to faithfully perform the work and all of the Contractor's obligations under the contract. Such costs, expenses, and damages shall include all cost, including attorneys' fees, incurred by the indemnified parties in any lawsuit to which they are a party.

7-13 HOURS OF LABOR

The Contractor shall forfeit as a penalty to the City \$25 for each worker employed in the execution of the contract by the Contractor or any subcontractor under him for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of the Labor Code and, in particular, Section 1810 to Section 1815 thereof, inclusive, except that work performed by employees of Contractors in excess of 8 hours per day and 40 hours during any one week shall be permitted upon compensation for all hours worked in excess of 8 hours per day at not less than one and one-half times the basic rate of pay as provided in said Section 1815.

7-14 PREVAILING WAGE

The Contractor shall comply with Labor Code Section 1775. In accordance with said Section 1775, the Contractor shall forfeit as a penalty to the City up to \$50 for each calendar day or portion thereof for each worker paid less than the stipulated prevailing rates for such work or craft in which such worker is employed for any work done under the contract by him or by any subcontractor under him in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 to 1780, inclusive. The amount of the forfeiture will be determined by the Labor Commissioner based on the considerations specified in Labor Code Section 1775. In addition to said penalty and pursuant to said Section 1775, the difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor. Pursuant to Labor Code Section 1775, to the extent there is insufficient money due a Contractor to cover all penalties forfeited and amounts due, the Division of Labor Standards Enforcement shall be notified of the violation and the Division of Labor Standards Enforcement

City of Delano

2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

may maintain an action in any court of competent jurisdiction to recover the penalties and amounts due pursuant to Labor Code Section 1775.

Section 1776 of the Labor Code requires each contractor and its subcontractors to keep accurate payroll records and make such available for inspection by persons and entities identified in that section, in the manner stated therein. Section 1776(g), places the responsibility for compliance with Section 1776 on the prime contractor.

Pursuant to Labor Code Section 1777.1, whenever any contractor or subcontractor performing a public works project is found by the Labor Commissioner to be in violation of Labor Code Section 1770, et seq. with the intent to defraud, except Section 1775, the contractor or subcontractor or any firm, corporation, partnership or association in which the contractor or subcontractor has a substantial interest shall be ineligible to bid on or to receive any public works contract for a period of not less than one year or more than three years. The period of debarment shall run from the date the determination of the violation is made by the Labor Commissioner.

Whenever any contractor or subcontractor performing a public works project pursuant to this chapter is found by the Labor Commission to be in willful violation of this chapter, except Section 1777.5, the contractor or subcontractor or any firm, corporation, partnership, or association in which the contractor or subcontractor has a substantial interest shall be ineligible to bid on or to receive any public works contract for a period up to three years for each second and subsequent violation occurring within three of a separate and previous willful violation of this chapter. These periods of debarment shall run from the date the determination of the violation is made by the Labor Commissioner.

A willful violation occurs when the contractor or subcontractor knew or reasonably should have known of his or her obligations under the public works law and deliberately fails or refuses to comply with its provisions.

7-15 TRAVEL AND SUBSISTENCE PAYMENTS

Each worker needed to execute the work must be paid travel and subsistence payments as defined in the applicable collective bargaining agreements filed in accordance with Labor Code Section 1773.8.

7-16 APPRENTICES

Attention is directed to the provisions in Sections 1777.5, 1777.6 and 1777.7 of the Labor Code concerning the employment of apprentices by the Contractor or any subcontractor under him.

The Contractor and any subcontractor under him shall comply with the requirements of Sections 1777.5 and 1777.6 of the Labor Code in the employment of apprentices.

Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

Willful violations of Section 1777.5 will result in the Contractor, and the business entity under which the Contractor is doing business, being denied the right to bid on, or to receive, any public works contract for a period of up to one year for the first violation and for a period of up to three years for the second and subsequent violations commencing from the date the determination of noncompliance by the Administrator of Apprenticeship becomes an order of the California

Apprenticeship Council. In addition, if the Contractor violates Section 1777.5, he will forfeit as a civil penalty the sum of Fifty Dollars (\$50.00) for each calendar day of noncompliance which shall be withheld from progress payments by City upon notice from the Department of Industrial Relations. (Labor Code Section 1777.7.)

In lieu of the penalty provided for above, the director may for a first time violation and with the concurrence of the joint apprenticeship committee, order the contractor or subcontractor to provide apprentice employment equivalent to the work hours that would have been provided for apprentices during the period of noncompliance.

7-17 WARRANTY OF TITLE

No materials, supplies, or equipment for the work under this contract shall be purchased subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest therein or any part thereof is retained by the seller or supplier. The Contractor warrants clear and good title to all materials, supplies, and equipment installed and incorporated in the work and agrees upon completion of all work to deliver the premises, together with all improvements and appurtenances constructed or placed thereon by him, to the City free from any claims, liens, encumbrances, or charges and further agrees that neither he nor any person, firm, or corporation furnishing any material or labor for any work covered by the contract shall have any right to a lien upon the premises or any improvement or appurtenance thereon, provided that this shall not preclude the Contractor from installing metering devices or other equipment of utility companies or of municipalities, the title of which is commonly retained by the utility company or the municipality. Nothing contained in this article, however, shall defeat or impair the right of such persons furnishing materials or labor under any bond given by the Contractor for their protection or any right under any law permitting such persons to look to funds due the Contractor in the hands of the City. The provisions of this article shall be inserted in all subcontracts and material contracts, and notices of its provision shall be given to all persons furnishing materials for the work when no formal contract is entered into for such materials.

7-18 PROPERTY RIGHTS IN MATERIALS

Nothing in the contract shall be construed as vesting in the Contractor any right of property in the materials used after they have been attached or affixed to the work or the soil, or after payment has been made for materials delivered to the site of the work, or stored subject to or under the control of the City. All such materials shall become the property of the City upon being so attached or affixed or upon payment for materials delivered to the site of the work or stored subject to or under the control of the City.

Soil, stone, gravel, and other materials found at the site of the work and which conform to the plans and specifications for incorporation into the work may be used in the work. No other use shall be made of such materials except as may be otherwise described in the plans and specifications.

7-19 MUTUAL RESPONSIBILITY OF CONTRACTORS

Nothing in the contract shall be interpreted as granting to the Contractor exclusive occupancy of the site of the project. The Contractor must ascertain to his own satisfaction the scope of the project and the nature of any other contracts that have been or may be awarded by the City in the construction of the project, to the end that the Contractor may perform this contract in the light of such other contracts, if any.

The Contractor shall not cause any unnecessary hindrance or delay to any other contractor working on the project. If the performance of any contract for the project is likely to be interfered with by the simultaneous performance of some other contract or contracts, the City's Representative shall decide which contractor shall cease work temporarily and which contractor shall continue or whether the work under the contracts can be coordinated so that the contractors may proceed simultaneously. On all questions concerning conflicting interest of contractors performing related work, the decision of the City's Representative shall be binding upon all contractors concerned and the City, the Engineer/Architect, the City's Representative, and their consultants shall not be responsible for any damages suffered or extra costs incurred by the Contractor resulting directly or indirectly from the award or performance or attempted performance of any other contract or contracts on the project or caused by a decision or omission of the City's Representative respecting the order of precedence in the performance of the contracts.

If through acts of neglect on the part of the Contractor, any other contractor or any subcontractor shall suffer loss or damage on the work, the Contractor agrees to settle with such other contractor or subcontractor by agreement or arbitration, if such other contractor or subcontractor will so settle. If such other contractor or subcontractor shall assert any claim against the City, the Engineer/Architect, the City's Representative, or their consultants or any of their directors, officers, employees, or agents on account of any damage alleged to have been so sustained, the City shall notify the Contractor who shall hold harmless, indemnify, and defend the City, the Engineer/Architect, the City's Representative, and their consultants, and each of their directors, officers, employees, and agents against any such claim, including all attorneys' fees and any other costs incurred by the indemnified parties relative to any such claim.

7-20 TERMINATION FOR BREACH

If the Contractor refuses or fails to prosecute the work or any separable part thereof with such diligence as will ensure its completion within the time specified herein, or any extension thereof, or fails to complete such work within such time, or if the Contractor should be adjudged a bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he files a petition to take advantage of any debtor's act, or if he or any of his subcontractors should violate any of the provisions of the contract, or if he should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper materials to complete the work in the time specified, or if he should fail to make prompt payment to subcontractors or for material or labor, or if he should persistently disregard laws, ordinances, or instructions given by the City or City's Representative, the City may, without prejudice to any other right or remedy, serve written notice upon the Contractor and his surety of his intention to terminate the contract, said notice to contain the reasons for such intention to terminate the contract, and unless within ten days after the service of such notice such violations shall cease and satisfactory arrangements for the corrections thereof be made, the contract shall upon the expiration of said ten days cease and terminate. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished.

In the event of any such termination, the City shall immediately serve written notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and perform the contract; provided, however, that if the surety within 15 days after the serving upon it of a notice of termination does not give the City written notice of its intention to take over and perform the contract or does not commence performance thereof within 30 days from the date of serving said notice, the City may take over the work and prosecute the same to completion, by contract or by any other method it may deem advisable, for the account and at the expense of the Contractor, and his surety shall be liable to the City for any excess cost or other damage occasioned the City thereby, and in such event the City may, without liability for so doing, take possession of and

utilize in completing the work such materials, appliances, plants, and other property belonging to the Contractor that may be on the site of the work and be necessary therefor. For any portion of such work that the City elects to complete by furnishing its own employees, materials, tools, and equipment, the City shall be compensated for such in accordance with the schedule of compensation for force account work in the article on PAYMENT FOR CHANGES IN THE WORK.

If the unpaid balance of the contract price exceeds the direct and indirect costs of completing the work, including, but not limited to, all costs to City arising from professional services and attorneys' fees and all costs generated to insure or bond the work of substituted contractors or subcontractors utilized to complete the work, such excess shall be paid to Contractor. If such costs exceed the unpaid balance, Contractor shall pay the difference to City promptly upon demand; on failure of Contractor to pay, the Surety shall pay on demand by City. Any portion of such difference not paid by Contractor or surety within 30 days following the mailing of a demand for such costs by City shall earn interest at the rate of 10 percent per annum or the maximum rate authorized by California law, whichever is lower.

The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to the City.

In the event a national emergency occurs, and public work being performed by contract is stopped, directly or indirectly, because of the freezing or diversion of materials, equipment or labor, as the result of an order or a proclamation of the President of the United States, or of an order of any federal authority, and the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work, then the City and the Contractor may, by written agreement, terminate said contract.

7-21 NOTICE AND SERVICE THEREOF

Any notice required or given under the contract shall be in writing, be dated, and signed by the party giving such notice or his duly authorized representative, and be served as follows:

If to the City, by personal delivery or by deposit in the United States mail.

If to the Contractor, by personal delivery to the Contractor or to his authorized representative at the site of the project or by deposit in the United States mail.

If to the surety or any other person, by personal delivery to said surety or other person or by deposit in the United States mail.

All mailed notices shall be in sealed envelopes, shall be sent by certified mail with postage prepaid, and shall be addressed to the addresses in the Contract Documents or such substitute addresses which a party designates in writing and serves as set forth herein.

7-22 PARTIAL INVALIDITY

If any provision of this contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

7-23 ATTORNEYS' FEES

Should either party to the contract bring an arbitration or mediation proceeding or other action to enforce any provision of the contract, including an action pursuant to Public Contract Code Section 20104.4, the prevailing party shall be entitled to recover his reasonable attorneys' fees and costs in connection therewith. The term "prevail" as used in this section shall include any action at law, in equity, or pursuant to arbitration in which either party has been successful.

7-24 LANDS AND RIGHTS-OF-WAY

The lands and rights-of-way for the facility to be constructed will be provided by the City. The Contractor shall make his own arrangements and pay all expenses for additional area required by him outside the limits of the City's lands and rights-of-way.

Work in public right-of-way shall be done in accordance with the requirements of the permit issued by the public agency in whose right-of-way the work is located in addition to conforming to the plans and specifications. If a permit is not required, the work shall conform to the standards of the public agency involved in addition to conforming to the plans and specifications.

7-25 WAIVER OF RIGHTS

Except as otherwise specifically provided in the Contract Documents, no action or failure to act by the City, Engineer/Architect City's Representative, or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract Documents, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder.

7-26 TAXES

The Contractor shall pay all sales, consumer, use, and other taxes.

NOTICE OF TAXABLE POSSESSORY INTEREST - The terms of this document may result in the creation of a possessory interest. If such a possessory interest is vested in a private party to this document, the private party may be subjected to the payment of personal property taxes levied on such interest.

7-27 ASSIGNMENT OF ANTI-TRUST ACTIONS

In entering into a public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgment by the parties.

In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the

bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.

7-28 PAYROLL RECORDS

It shall be the responsibility of the Contractor to maintain an accurate payroll record showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each employee in accordance with Labor Code Section 1776, and to ensure that each subcontractor also complies with all provisions of Labor Code Section 1776 and this contract provision.

All payroll records shall be certified as accurate by the applicable contractor or subcontractor or its agent having authority over such matters.

The Contractor shall ensure that all payroll records are available for inspection at the Contractor's principal office during normal business hours and shall notify the City, in writing, of the place where all payroll records are located from time to time.

The Contractor shall furnish a copy of all payroll records, upon request, to employees or their authorized agents, to the City, to the Division of Labor Standards Enforcement, and to the Division of Apprenticeship Standards of the Department of Industrial Relations. The Contractor shall also furnish a copy of payroll records to the general public upon request provided the public request is made through the City, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement of the Department of Industrial Relations. In no event shall members of the general public be given access to payroll records at the Contractor's principal office.

Records made available to the general public in accordance with the prior paragraph shall be marked or obliterated in such a manner that the name and address of the Contractor and/or subcontractor and the name, address, and telephone number of all employees does not appear on the modified record.

The Contractor shall file a certified copy of any requested payroll records with the entity that requested such records within ten days of the date a written request for payroll records has been received.

Failure of the Contractor to comply with any provision of this article or Labor Code Section 1776 within ten days of the date a written request for compliance is received shall result in a forfeiture of \$25 per calendar day or portion thereof, for each worker, until strict compliance is obtained. Upon notification by the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement of the Department of Industrial Relations, the City shall withhold penalties under this article or Labor Code Section 1776 from the Contractor's payments then due.

7-29 RESOLUTION OF CLAIMS

All public works claims between the Contractor and City relating to this contract where the total claims of both parties are equal to or less than \$375,000 shall be resolved in accordance with Public Contract Code Sections 20104 et seq., which are incorporated herein by reference. Where the total claim of the Contractor and City exceeds a total of \$375,000, this section shall not apply.

SECTION 8 CONTRACTOR'S INSURANCE

8-1 GENERAL

City of Delano
2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

The Contractor shall not commence or continue to perform any work unless he, at his own expense, has in full force and effect all required insurance. The Contractor shall not permit any subcontractor to perform work on this project unless all of the required insurance has been complied with by such subcontractor.

The types of insurance the Contractor shall obtain and maintain are Workers' Compensation and Employers' Liability Insurance, General and Automobile Liability Insurance, Builders' Risk "All Risk" or Installation Floater Insurance, and, if so determined by the City at the time of award of the contract, Earthquake and Tidal Wave Insurance, all as set forth herein.

Workers' Compensation and Employers' Liability Insurance and Liability Insurance shall be maintained in effect for the full guarantee period.

Insurers must be authorized to do business and have an agent for service of process in California and must have at least a "B+ VIII" rating in accordance with the most current Best's Rating Guide.

As evidence of specified insurance coverage, the Contractor shall provide certificates of insurance and endorsements on the forms provided as a part of the Contract Documents. No alteration or substitution of said forms will be allowed.

8-2 WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE

Upon execution of the Agreement, the Contractor shall provide a certificate(s) of insurance certifying that he has obtained full Workers' Compensation Insurance coverage for no less than the statutory limits and Employers' Liability Insurance coverage in limits not less than the amounts set forth in the Special Provisions, for all persons whom he employs or may employ in carrying out the work under the contract. At the same time, the Contractor shall provide the insurance endorsement(s) on the forms provided as part of the Contract Documents. This insurance shall be in strict accordance with the requirements of the most current and applicable state Workers' Compensation Insurance laws.

8-3 GENERAL AND AUTOMOBILE LIABILITY INSURANCE

Upon execution of the Agreement, the Contractor shall provide a certificate(s) of insurance showing that he has Liability Insurance coverage in limits not less than the amounts set forth in the Special Provisions. At the same time, the Contractor shall provide the insurance endorsement(s) on the forms provided as a part of the Contract Documents.

Included in such insurance shall be a "Cross Liability" or "Severability of Interest" clause.

The Liability Insurance coverage shall include each of the following types of insurance or coverage for exposures, as applicable:

- A. General Liability
 - (1) Commercial Form.
 - (2) Premises-Operations.
 - (3) Explosion and Collapse Hazard.
 - (4) Underground Hazard.
 - (5) Products/Completed Operations.
 - (6) Blanket Contractual Insurance.

- (7) Broad Form Property Damage
- (8) Independent Contractors.
- (9) Personal Injury and Advertising Injury

B. Automobile Liability

- (1) Business Auto Form Including Loading and Unloading.
- (2) Owned.
- (3) Hired.
- (4) Non-Owned.

Included with the Certificate(s) of Insurance shall be endorsements which name as additional insureds the City, the Engineer/Architect, the City's Representative, and their consultants, and each of their directors, officers, and employees and state that the insurance afforded to these additional insureds shall be primary insurance and if the additional insureds have other insurance which might be applicable to any loss, the amount of the insurance provided under this article on GENERAL AND AUTOMOBILE LIABILITY INSURANCE shall not be reduced or prorated by the existence of such other insurance.

8-4 BUILDERS' RISK "ALL RISK" OR INSTALLATION FLOATER INSURANCE

Upon execution of the Agreement, the Contractor shall provide a certificate(s) of insurance showing that he has obtained for the period of the contract Builders' Risk "All Risk" completed value insurance coverage (including flood but excluding earthquake and tidal wave) upon the entire project which is the subject of the contract and including completed work and work in progress or an Installation Floater to cover machinery and equipment of all kinds during transit, installation, and testing at the City's premises. At the same time, the Contractor shall provide the insurance endorsement(s) on the forms provided as a part of the Contract Documents. Such insurance shall include as additional insureds: the City, the Engineer/Architect, the City's Representative, and their consultants, and each of their directors, officers, and employees, as their interest may appear.

8-5 EARTHQUAKE AND TIDAL WAVE INSURANCE

The City may or may not require insurance to indemnify the City for any damage to the work caused by earthquake or tidal wave. Such determination will be made prior to award of the contract.

If the City determines to require such insurance, the bids will be compared and the contract awarded based on a total amount of bid which includes bid items for such insurance. If the City determines not to require such insurance, the bids will be compared and the contract awarded based on a total amount of bid which is adjusted to exclude the bid items for such insurance.

If the City determines to require the insurance, the Contractor shall provide upon execution of the Agreement a certificate(s) of insurance showing that he has obtained for the period of the contract completed value insurance coverage to indemnify the City for any damage to the work caused by earthquake or tidal wave. At the same time, the Contractor shall provide the insurance endorsement(s) on the forms provided as a part of the Contract Documents. Such insurance shall include as additional insureds: the Engineer/Architect the City's Representative, and their consultants, and each of their directors, officers, and employees, as their interest may appear.

8-6 CONTRACTOR'S LIABILITY NOT LIMITED BY INSURANCE

Nothing contained in these insurance requirements is to be construed as limiting the liability of the Contractor or the Contractor's insurers.

SECTION 9 ESTIMATES AND PAYMENTS

9-1 PAYMENT FOR CHANGES IN THE WORK

Changes in, additions to, or deductions from the work, including increases or decreases in the quantity of any item or portion of the work, shall be set forth in a written change order executed by the City and by the Contractor which shall specify:

The changes, additions, and deductions to be made.

The increase or decrease in compensation due the Contractor, if any.

Adjustment in the time of completion, if any.

Adjustment in the compensation due the Contractor shall be determined by one or more of the following methods in the order of precedence listed below:

Unit prices contained in the contract.

Mutually agreeable lump-sum or unit prices. If requested by the City's Representative, the Contractor shall furnish an itemized breakdown of the quantities and prices used in computing proposed lump-sum and unit prices.

Force account whereby the Contractor is compensated for furnishing labor, materials, tools, and equipment as follows:

Cost of labor plus 15 percent for workers directly engaged in the performance of the work. Cost of labor shall include actual wages paid including employer payments to or on behalf of the workers for health and welfare, pension, vacation, and similar purposes plus payments imposed on payroll amounts by state and federal laws plus subsistence and travel allowance payments to workers.

Cost of material plus 15 percent. Cost of material shall include sales tax, freight, and delivery charges. The City reserves the right to furnish such materials as he deems advisable and the Contractor shall not be paid the 15 percent markup on such materials.

For tools and equipment actually engaged in the performance of the work, rental rates plus 15 percent. The rental rates shall be those prevailing in the area where the work is performed. No rental charge shall be made for the use of tools or equipment having a replacement value of \$500 or less.

Subcontractor invoices to the Contractor plus 5 percent. Subcontractor invoices shall be based on the above-described cost of labor plus 15 percent, cost of material plus 15 percent, and tool and equipment rental rates plus 15 percent.

No payment shall be made for any item not set forth above, including without limitation, Contractor's overhead, general administrative expense, supervision, or damages claimed for delay in prosecuting the remainder of the work.

For force account work, the Contractor shall submit to the City's Representative for his verification daily work sheets showing an itemized breakdown of labor, materials, tools, and equipment used in performing the work. No payment will be made for work not verified by the City's Representative.

9-2 PROGRESS PAYMENTS

The City shall, on or before the tenth day of each calendar month after actual construction work is started, cause an estimate in writing to be made by the City's Representative of the value of the work completed by the Contractor and of materials delivered on the ground at the site of the work or stored subject to or under the control of the City to the first of the month in which the estimate is made. In estimating such value, the City's Representative may take into consideration, along with other facts and conditions deemed by him to be proper, the ratio of the difficulty or cost of the work done to the probable difficulty or cost of the work remaining to be done. The City shall retain 10 percent of such estimated value as part security for the fulfillment of the contract by the Contractor, unless the Contractor has substituted equivalent securities as defined by Section 9-5 of these General Provisions, and shall by the end of each month in which the estimate is made pay to the Contractor the balance of such estimated value after deducting therefrom all previous payments and all sums to be kept or retained under the terms of the contract.

9-3 FINAL ESTIMATE AND PAYMENT

When the work has been substantially completed, the City's Representative will make a final estimate of the total amount of work done thereunder and the amount to be paid therefor under the terms of the contract. If the City finds the work has been substantially completed according to the contract, he shall accept the work, shall file a notice of completion, and shall pay the entire sum so found to be due after deducting therefrom all previous payments and all amounts to be retained under the provisions of the contract. All prior progress estimates and payments shall be subject to correction in the final estimate and payment. The final payment shall not be due and payable until the expiration of 40 days from the date of filing a notice of completion of the work by the City.

It is mutually agreed between the parties to the contract that no certificate given or payment made under the contract shall be conclusive evidence of performance of the contract and no payment shall be construed to be an acceptance of any defective work or improper materials.

9-4 CITY'S RIGHT TO WITHHOLD CERTAIN AMOUNTS AND MAKE APPLICATION THEREOF

In addition to the amount which the City may retain under the above article on PROGRESS PAYMENTS, the City may withhold a sufficient amount or amounts from any payment otherwise due to the Contractor as in his judgment may be necessary to cover:

Payments which may be past due and payable for properly filed claims against the Contractor or any subcontractors for labor or materials furnished in or about the performance of the work under this contract.
Estimated or actual costs for correcting defective work not remedied.

Amounts claimed by the City as forfeiture due to delay or other offsets.

The City may apply such withheld amount or amounts to the payment of such claims in his discretion. In so doing, the City shall be deemed the agent of the Contractor and any payments so made by the City shall be considered as a payment made under the contract by the City to the Contractor, and the City shall not be liable to the Contractor for such payment made in good faith. Such payments may be made without prior judicial determination of the claim or claims. The City will render to the Contractor a proper account of such funds disbursed in behalf of the Contractor.

9-5 WITHHELD CONTRACT FUNDS

Pursuant to Public Contract Code Section 22300, equivalent securities may be substituted for monies withheld to ensure performance of the contract, except contracts for which there will be financing provided by the Farmers Home Administration of the United States Department of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. Sec. 1921 et seq.), or where federal regulations and/or policies do not allow such substitution. The City reserves the right to solely determine the adequacy of the securities being proposed by the Contractor and the value of those securities. The City shall also be entitled to charge an administrative fee, as determined by City in its sole discretion, for substituting equivalent securities for retention amounts. The City's decisions with respect to the administration of the provisions of Section 22300 shall be final and shall include, but not be limited to, determinations of what securities are equivalent, the value of the securities, the negotiability of the securities, the costs of administration and the determination of whether or not the administration should be accomplished by an independent agency or by the City. The City shall be entitled, at any time, to request the deposit of additional securities of a value designated by City, in City's sole discretion, to satisfy this requirement. If the City does not receive satisfactory securities within twelve (12) consecutive days of the date of the written request, City shall be entitled to withhold amounts due Contractor until securities of satisfactory value to City have been received.

9-6 REQUIRED RELEASES

The Contractor shall not be entitled to any payment specified in his Contract which is undisputed until such time as the Contractor has executed a release, in the following form, releasing the City from all claims relating to the work for which the Contractor is being paid. The release form contains space for the Contractor to claim any disputed amount and to designate the retention amount for each period associated with the release. Contractor hereby expressly agrees that failure on his part to designate any disputed amount or to designate the correct retention amount for each release period on the release form shall constitute an express waiver of the right of the Contractor to claim any disputed amount or any retention amount at any later date. The City shall have no obligation to pay the Contractor for any work done until the release form attached to these contract documents has been executed by the Contractor and submitted to the City.

RELEASE FORM

TO: THE CITY OF DELANO

NAME OF CONTRACTOR: _____

PROJECT DESCRIPTION: _____

PERIOD WORK PERFORMED: _____

The above-named Contractor hereby acknowledges payment in full for all compensation of whatever nature due the Contractor for all labor and materials furnished and for all work performed on the above-referenced project for the period specified above with the exception of contract retention amounts and disputed claims specifically shown below.

RETENTION AMOUNT FOR THIS PERIOD:
\$ _____

DISPUTED CLAIMS

DESCRIPTION OF CLAIM

AMOUNT CLAIMED

The Contractor further expressly waives and releases any claim the Contractor may have, of whatever type or nature, for the period specified which is not shown as a retention amount or a disputed claim on this form. This release and waiver has been made voluntarily by Contractor without any fraud, duress, or undue influence by any person or entity.

Contractor further certifies, warrants, and represents that all bills for labor, materials and work due subcontractors for the specified period have been paid in full and that the parties signing below on behalf of Contractor have express authority to execute this release.

DATED:

PRINT NAME OF CONTRACTOR

DESCRIBE ENTITY (Partnership,
Corporate, etc.)

By _____

By _____

SPECIAL PROVISIONS

PART I - SUPPLEMENT TO GENERAL PROVISIONS

A. Definitions

Whenever the following terms occur in the contract documents, their meaning is as follows:

CITY	City Of Delano 1015 Eleventh Avenue Post Office Box 3010 Delano, CA 93216-3010
GOVERNING BODY	City Council of the City of Delano
ENGINEER/ARCHITECT	City of Delano Engineering Department 1015 Eleventh Avenue Delano, CA 93215 (661) 721-3380
The Special Provisions - Part I,	Special Conditions. Modifications to general requirements of the specifications.
The Special Provisions - Part II,	Technical Specifications. Numbered section subjects are selected for indexing convenience only and do not indicate division of work among trades or subcontractors.

B. Terms

Command type sentences used in the contract documents refer to and are directed to the Contractor.

C. Authority for the Work

The drawings, specifications, and other contract documents for the work were approved on June 29, 2022.

D. Marking and Addressing Bid Envelope

Seal the bid in an envelope addressed to the City and marked:

**City of Delano
Attn: City Clerk
1015 Eleventh Avenue
Delano, Ca 93215**

Bid for Construction of

City of Delano
2022 Various Street Pavement Application of Rejuvenating Agent (Reclamite) Project

E. Award of Contract or Rejection of Bids

Within a period of 30 calendar days after the opening of bids, the City will accept or reject the bids.

F. Time for Completion and Forfeiture Due to Delay

Work will be substantially completed within 60 CONSECUTIVE CALENDAR DAYS, from and after the date of award of the contract.

Forfeiture for each day completion is delayed beyond the time allowed will be at the rate of 250 per day.

G. Amount of Liability Insurance

General Liability:	Bodily Injury and Property Damage coverage shall be for not less than	
	\$2,000,000	General Aggregate.
	\$1,000,000	Products/Completed Operations Aggregate.
	\$1,000,000	Personal and Advertising Injury.
	\$2,000,000	Each Occurrence.
	OR	
	Bodily Injury and Property Damage coverage shall be in a Combined Single Limit of not less than	
	\$2,000,000	Each Occurrence and Aggregate.
Automobile Liability:	Bodily Injury coverage shall be for not less than	
	\$1,000,000	Each Person.
	\$2,000,000	Each Accident.
	\$2,000,000	Property Damage coverage shall be for not less than
	OR	
	\$2,000,000	Bodily Injury and Property Damage coverage shall be in a Combined Single Limit of not less than
Employers' Liability:	Bodily Injury coverage shall be for not less than	
	\$1,000,000	Each Accident.
	\$1,000,000	Each Disease-Policy Limit.
	\$1,000,000	Each Disease-Each Employee.

END OF SECTION

**SPECIAL PROVISIONS
PART II - TECHNICAL SPECIFICATIONS**

ASPHALT REJUVENATING AGENT RECLAMITE (CALIFORNIA)

PART 1 – GENERAL

A. Description

1. This work shall consist of furnishing all labor, material, and equipment necessary to perform all operations for the application of an asphalt rejuvenating agent to asphalt concrete surface courses. The rejuvenation of surface courses shall be by spray application of a cationic rejuvenating agent composed of petroleum oils and resins emulsified with water. All work shall be in accordance with the specifications, the applicable drawings, and subject to the terms and conditions of this contract.

B. Submittals

1. Submit shop drawings in accordance with the General Provisions.
2. Submit Independent Testing Laboratory Reports indicating material compliance with specified requirements of this specification.

C. Quality Assurance

1. Comply with Cal-Trans Standard Plans and Specifications and the California Manual on Uniform Traffic Control Devices.
2. Use workmen who are thoroughly trained and experienced in the work and who are completely familiar with the specified requirements and methods needed for proper performance of the work of this section.
3. Comply with applicable codes and regulations of governmental agencies having jurisdiction.
4. Rework any work not meeting the specified requirements, as determined by the City Engineer, at no additional cost to the City.
5. Pay for any testing required to show compliance with the specifications. The City will arrange for all tests.

PART 2 - MATERIAL

- A. 1. Asphalt Rejuvenating Agent - The asphalt rejuvenating agent shall be composed of a petroleum resin oil base uniformly emulsified with water and shall conform to the following requirements:

<u>Test</u>	<u>Test Method</u>	<u>Requirements</u>
Viscosity, 77 degrees F	AASHTO T 59	15-40 SFS
Residue	Calif. Test 351	60% Min.
Tests on Residue		
Viscosity, 140 deg. F	AASHTO T 201	100-200 cSt
Asphaltenes	Calif. Test 352	0.75% Max.
Miscibility Test ¹	AASHTO T 59	No Coagulation
Sieve Test ²	AASHTO T 59	0.10% Max.
Particle Charge Test	AASHTO T 59	Positive

¹ Test procedure: AASHTO T 59 to be modified by 0.02 normal calcium chloride solution in place of distilled water.

² Test procedure: AASHTO T 59 to be modified by using distilled water in place of 2 percent sodium oleate solution.

2. If the asphalt rejuvenating agent is used prior to the sampling and testing, as provided in Section 6-1.07, "Certificates of Compliance," of the Standard Specifications, a Certificate of Compliance shall accompany each copy of the test report for each shipment to each job. In addition to the required signature of the vendor or his/her representative certifying compliance with job requirements, the certificate shall show the shipment number, type of material, refinery, consignee, destination, quantity, contract number or purchase order number and date of shipment. Asphalt rejuvenating agent furnished without a Certificate of Compliance shall not be used in the work.
 3. Application of asphalt rejuvenating agent shall be on one-half width of the pavement at a time. When the second half of the surface is treated, the distributor nozzle nearest the center of the road shall overlap the previous application by at least one-half the width of the nozzle spray.
 4. Before spreading, the asphalt rejuvenating agent shall be blended with water at the rate of two(2) parts rejuvenating agent to one(1) part water, by volume or as specified by the manufacturer. The combined mixture of asphalt rejuvenating agent and water shall be spread at the rate of 0.05 to 0.10 gallons per square yard, or as approved by the City Engineer.
 5. Where more than one application is to be made, succeeding applications shall made as soon as penetration of the preceding application has been completed and approval is granted for additional applications by the Engineer.
- B. 1. Sand - Sand shall be free of clay or organic material and shall be of such size that from 90% to 100% will pass a No. 4 sieve and not more than five percent will pass a No. 200 sieve.

PART 3 – EXECUTION

A. Surface Condition

1. Examine the areas and conditions under which work of this section will be performed. Sweep and remove any dried mud or heavy deposits of dirt and debris. Correct conditions detrimental to timely and proper completion of the work. Do not proceed until unsatisfactory conditions are corrected.

B. Traffic Control

1. Provide the City Engineer with a Traffic Control Plan at the pre-construction conference. Modify the plan, if necessary, and obtain his/her approval. When, in the opinion of the City Engineer, traffic must be maintained at all times on a particular street, then the Contractor shall apply asphalt rejuvenating agent to one lane at a time. Traffic shall be maintained in the untreated lane until traffic may be switched to the completed lane.
2. The contractor shall be responsible for all traffic control and signs required to permit safe travel. The contractor shall notify the police, ambulance and fire departments as to the streets that are to be treated each day
3. Deliver written notices to each affected occupant of adjacent property not less than 48 hours prior to start of work. Post “No Parking, Tow Away Zone” signs on barricades 24 hours prior to start of work. Be responsible for maintaining traffic control, as shown on drawings, as the work progresses. Exercise care to maintain the asphalt rejuvenating agent on the asphalt concrete and out of existing gutters, drive approaches, etc. Take care to avoid applying any asphalt rejuvenating agent beyond the limits of work.
4. If, in the opinion of the Engineer, proper signing is not being used, the Contractor shall stop all operations until safe signing and barricading is achieved.
5. Bring all discrepancies to the immediate attention of the City Engineer.

C. Placement

1. Application of Rejuvenating Agent:

Apply the rejuvenating agent to asphalt concrete pavement at the rate of 0.05 to 0.10 gallons per square yard, in accordance with the provisions for fog seal coat in Section 37, “Bituminous Seals,” of the Cal-Trans Standard Specifications and this Section. The City Engineer shall determine the final application rate. Provide the City Engineer with a satisfactory test kit designed for field testing to accurately determine the optimum application rate. In most

cases, the newer the pavement, the higher the application rate will be. The asphalt rejuvenating agent shall not be applied unless the pavement temperature is at least 50° F and rising. The mixture shall not be applied during unsuitable weather.

2. Sand Cover:

- a. After the rejuvenating agent is applied, wait for the rejuvenating agent to “break” to a dark black color (usually 20 to 60 minutes, depending on the temperature.)
- b. Apply sand to any rejuvenating agent that has failed to penetrate the surface with a truck mounted mechanical spreader that uniformly applies from 1 to 3 pounds of sand per square yard. The exact rate will be determined by the Field Services Superintendent.
- c. Remove traffic control signs, barricades, etc., after all sand has been spread.
- d. The contract price per ton for sand cover shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all work involved in applying and removing the sand when no longer needed. No adjustment in the unit price will be made for any increase or decrease. The provisions in Section 4-1.03 B, “Increased or Decreased Quantities,” shall not apply to the item of sand cover.

3. Sand Removal:

- a. Three to seven days after sand is applied, as determined by the City Engineer completely broom off all sand, pick it up and dispose of it.
- d. Remove all traffic control signs, barricades, etc.

D. Method of Measurement

Asphalt rejuvenating agent will be measured by the square yard as provided for in the Contract Documents. The accepted quantities, measured as provided for above, will be paid for at the contract unit price for asphalt rejuvenating agent.

E. Basis of Payment

Asphalt rejuvenating agent shall be paid for per square yard for furnishing all materials, equipment, labor, rejuvenating agent, cleaning, curing, sanding, sand removal, and incidentals necessary to complete the work as specified.

END OF SECTION