

## CONSTRUCTION AGREEMENT

### CALTRANS FENCING IMPROVEMENT PROJECT

PROJECT NO. 1222000046/EA#0T410

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**THIS AGREEMENT** is made this 12<sup>th</sup> day of **December, 2023**, by the **CITY OF GARDEN GROVE** (“**CITY**”), and **QUALITY FENCE COMPANY**, hereinafter referred to as (“**CONTRACTOR**”)

#### RECITALS:

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to City of Garden Grove Council Authorization dated **December 12, 2023**.
2. CITY desires to utilize the services of CONTRACTOR to furnish material, equipment, and labor for the **CALTRANS FENCING IMPROVEMENT PROJECT; PROJECT NO. 1222000046/EA#0T410**, consisting of the installation of fencing and decorative paving and gravel on unpaved slopes and narrow areas in the Cit of Garden Grove, County of Orange, on State Route 22 from Springdale Street to Garden grove Blvd.
3. CONTRACTOR is qualified by virtue of experience, training, education, and expertise to accomplish services.

#### AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 5.1 General Conditions.** CONTRACTOR certifies and agrees that all the terms, conditions and obligations of the Contract Documents as hereinafter defined, the location of the job site, and the conditions under which the work is to be performed have been thoroughly reviewed, and enters into this Contract based upon CONTRACTOR's investigation of all such matters and is in no way relying upon any opinions or representations of CITY. It is agreed that this Contract represents the entire agreement. It is further agreed that the Contract Documents including the Notice Inviting Bids, Special Instructions to Bidders, if any, Plans, Specifications and CONTRACTOR's Proposal, are incorporated in this Contract by reference, with the same force and effect as if the same were set forth at length herein, and that CONTRACTOR and its subcontractors, if any, will be and are bound by any and all of said Contract Documents insofar as they relate in any part or in any way, directly or indirectly, to the work covered by this Contract.

*"Project"* as used herein defines the entire scope of the work covered by all the Contract Documents. Anything mentioned in the Specifications and not indicated in the Plans, or indicated in the Plans and not mentioned in the Specifications, shall be of like effect as if indicated and mentioned in both. In case of discrepancy in the Plans or Specifications, the matter shall be immediately submitted to CITY's Economic Development Director, without whose decision CONTRACTOR shall not adjust said discrepancy save only at CONTRACTOR's own risk and expense. The decision of the Director shall be final.

5.2 **Materials and Labor.** CONTRACTOR shall furnish, under the conditions expressed in the Plans and Specifications, at CONTRACTOR'S own expense, all labor and materials necessary, except such as are mentioned in the Specifications to be furnished by the CITY, to construct and complete the project, in good workmanlike and substantial order. If CONTRACTOR fails to pay for labor or materials when due, CITY may settle such claims by making demand upon the surety to this Agreement. In the event of the failure or refusal of the surety to satisfy said claims, CITY may settle them directly and deduct the amount of payments from the Contract price and any amounts due to CONTRACTOR. In the event CITY receives a stop notice from any laborer or material supplier alleging non-payment by CONTRACTOR, CITY shall be entitled to deduct all of its costs and expenses incurred relating thereto, including but not limited to administrative and legal fees.

5.3 **Project.** The PROJECT is described as: **CALTRANS FENCING IMPROVEMENT PROJECT; PROJECT NO. 1222000046/EA#0T410.**

5.4 **Plans and Specifications.** The work to be done is shown in a set of detailed Plans and Specifications entitled: **CALTRANS FENCING IMPROVEMENT PROJECT; PROJECT NO. 1222000046/EA#0T410.**

Said Plans and Specifications and any revision, amendments or addenda thereto are attached hereto and incorporated herein as part of this Contract and referred to by reference. The work to be done must also be in accordance with the General Provisions, Standard Specifications and Standard Plans of CalTrans, which are also incorporated herein and referred to by, reference.

5.5 **Time of Commencement and Completion.** CONTRACTOR shall have **twenty-one (21) calendar days from the award of the Contract** to execute the Contract and supply CITY with all of the documents and information required by the Contract Documents, including but not limited to, the necessary bonds and insurance certificates and endorsements. Once the CITY receives the executed Contract and all of the other properly drafted and executed documents and information, it may issue a Notice to Proceed to the CONTRACTOR. If CONTRACTOR refuses or fails to execute the Contract or refuses or fails to provide the required documents and information within the twenty-one (21) calendar days, the CITY may then rescind the award of the Contract.

Upon receipt of the Notice to Proceed, CONTRACTOR agrees to submit **shop drawings** and **proof of payment for materials from supplier within fourteen (14) calendar days.** Further, upon receipt of the Notice to Proceed the CONTRACTOR shall diligently prosecute the work to completion within **one hundred twenty (120) total working days** excluding delays caused or authorized by the CITY as set forth in Sections 5.7, 5.8 and 5.9 hereof.

5.6 **Time is of the Essence.** Time is of the essence of this Contract. As required by the Contract Documents, CONTRACTOR shall prepare and obtain approval of all shop drawings, details and samples, and do all other things necessary and incidental to the prosecution of CONTRACTOR'S work in conformance with an approved construction progress schedule. CONTRACTOR shall coordinate the work covered by this Contract with that of all other contractors and subcontractors of the CITY, in a manner that will facilitate the efficient completion of the entire work in accordance with Section 5.5 herein. CITY shall have complete control of the premises on which the work is to be performed and shall have the right to decide the time or order in which the various portions of the work shall be installed or the priority of the work of other subcontractors, and, in general, all matters representing the timely and orderly conduct of the work of CONTRACTOR on the premises.

5.7 **Excusable Delays.** CONTRACTOR shall be excused for any delay in the prosecution or completion of the Project caused by acts of God; inclement weather; damages caused by fire or other casualty for which CONTRACTOR is not responsible; any act of negligence or default of

CITY; failure of CITY to make timely payments to CONTRACTOR; late delivery of materials required by this CONTRACT to be furnished by CITY; combined action of the workers in no way caused by or resulting from default or collusion on the part of CONTRACTOR; a lockout by CITY; or any other delays unforeseen by CONTRACTOR and beyond CONTRACTOR's reasonable control.

CITY shall extend the time fixed in Section 5.5 herein for completion of the Project by the number of days CONTRACTOR has thus been delayed, provided that CONTRACTOR presents a written request to CITY for such time extension within fifteen (15) days of the commencement of such delay and CITY finds that the delay is justified. CITY'S decision will be conclusive on the parties to this Contract. Failure to file such request within the time allowed shall be deemed a waiver of the claim by CONTRACTOR.

No claims by CONTRACTOR for additional compensation or damages for delays will be allowed unless CONTRACTOR satisfies CITY that such delays were unavoidable and not the result of any action or inaction of CONTRACTOR and that CONTRACTOR took all available measures to mitigate such damages. Extensions of time and extra compensation as a result of incurring undisclosed utilities would be determined in accordance with SPECIAL PROVISIONS and Section 3-3 of the Standard Specifications for Public Works Construction 2009 Edition (GREEN BOOK). The CITY'S decision will be conclusive on all parties to this Contract.

**5.8 Extra Work.** The Contract price includes compensation for all work performed by CONTRACTOR, unless CONTRACTOR obtains a written change order signed by a designated representative of CITY specifying the exact nature of the extra work and the amount of extra compensation to be paid all as more particularly set forth in Section 5.9 hereof.

CITY shall extend the time fixed in Section 5.5 for completion of the Project by the number of days reasonably required for CONTRACTOR to perform the extra work, as determined by CITY'S Engineer. The decision of the Engineer shall be final.

**5.9 Changes in Project.**

5.9.1 CITY may at any time, without notice to any surety, by written order designated or indicated to be a change order, make any change in the work within the general scope of the Contract, including but not limited to changes:

- a. In the Specifications (including drawings and designs);
- b. In the time, method or manner of performance of the work;
- c. In the CITY -furnished facilities, equipment, materials, services or site; or
- d. Directing acceleration in the performance of the work.

If CONTRACTOR believes that the written order issued as part of this Section 5.9.1 has caused an increase in costs or time, the CONTRACTOR shall submit a written request for equitable adjustment to the CITY that includes a detailed cost breakdown and time impact analysis in sufficient detail to allow the CITY to analyze the request. Said notice shall be submitted via certified mail within twenty (20) days of the CONTRACTOR'S receipt of the written order. CONTRACTOR'S failure to submit the written request for equitable adjustment within the required twenty (20) days shall constitute a waiver of any potential change order or claim for said alleged change. The CITY shall review CONTRACTOR'S request and shall provide a written response within thirty (30) days of receipt of the request either approving or denying the request.

5.9.2 A change may also be any other conflict, difficulty or issue which the CONTRACTOR believes caused any change to the CONTRACTOR's costs or project schedule, provided CONTRACTOR gives the CITY written notice and a request for equitable

adjustment that includes a detailed cost breakdown and time impact analysis in sufficient detail to allow the CITY to analyze the request. The notice shall also state the date the CONTRACTOR became aware of the issue, circumstances and source of the issue and that CONTRACTOR regards the issue as a change order. Said written notice shall be delivered to the CITY via certified mail within twenty (20) days of CONTRACTOR's first notice of the issue. CONTRACTOR's failure to submit the notice, which includes the written request for equitable adjustment within the required twenty (20) days shall constitute a waiver of any potential change order or claim for said alleged change. The CITY shall review CONTRACTOR's request and shall provide a written response within thirty (30) days of receipt of the request either approving or denying the request.

- 5.9.3 Except as provided in this Section 5.9, no order, statement or conduct of the CITY or its representatives shall be treated as a change under this Section 5.9 or entitle CONTRACTOR to an equitable adjustment.
  - 5.9.4 Except for claims based on defective specifications, no claim for any change under paragraph 5.9.1 or 5.9.2 above shall be allowed for any work performed more than 20 days before the CONTRACTOR gives written notice as required in paragraphs 5.9.1 and 5.9.2. In the case of defective specifications for which the CITY is responsible, the equitable adjustment shall include any increased direct cost CONTRACTOR reasonably incurred in attempting to comply with those defective specifications.
  - 5.9.5 If CONTRACTOR intends to assert a claim for an equitable adjustment under this Section 5.9, it must, within thirty (30) days after receipt of a denial of a request for equitable adjustment under paragraphs 5.9.1 and 5.9.2, submit a written statement to the CITY setting forth the general nature and monetary extent of such claim. The CITY may extend the 30-day period. CONTRACTOR's failure to submit the notice of a claim, within the required thirty (30) days shall constitute a waiver of the claim by the CONTRACTOR.
  - 5.9.6 No claim by CONTRACTOR for an equitable adjustment shall be allowed if made after final payment under this Agreement.
  - 5.9.7 CONTRACTOR hereby agrees to make any and all changes, furnish the materials and perform the work that CITY may require without nullifying this Contract. CONTRACTOR shall adhere strictly to the Plans and Specifications unless a change therefrom is authorized in writing by the CITY. Under no condition shall CONTRACTOR make any changes to the Project, either in additions or deductions, without the written order of the CITY and the CITY shall not pay for any extra charges made by CONTRACTOR that have not been agreed upon in advance in writing by the CITY. CONTRACTOR shall submit immediately to the CITY written copies of its firm's cost or credit proposal for change in the work. Disputed work shall be performed as ordered in writing by the CITY and the proper cost or credit breakdowns for disputed work shall be submitted without delay by CONTRACTOR to CITY.
- 5.10 Liquidated Damages for Delay.** The parties agree that if the total work called for under this Contract, in all parts and requirements, is not completed within the time specified in Section 5.5 herein, plus the allowance made for delays or extensions authorized under Sections 5.7, 5.8 and 5.9 herein, the CITY will sustain damage which would be extremely difficult and impractical to ascertain. The parties therefore agree that CONTRACTOR will pay to CITY the sum of **Three Thousand Six Hundred dollars (\$3,600.00) per day** for each and every calendar day during which completion of the Project is so delayed. CONTRACTOR agrees to pay such liquidated

damages and further agrees that CITY may offset the amount of liquidated damages from any monies due or that may become due CONTRACTOR under the Contract.

- 5.11 Contract Price and Method of Payment.** CITY agrees to pay and the CONTRACTOR agrees to accept as full consideration for the faithful performance of this Contract, subject to any subsequent additions or deductions as provided in approved change orders, the sum of **Seven Hundred Eighty-Nine Thousand, Eight Hundred Eighty-Eight Dollars and 00/100 (\$789,888.00)** as itemized in the Contract Documents.

Progress payments shall be made to the CONTRACTOR on a monthly basis for each successive month as the work progresses. The CONTRACTOR shall be paid such sum as will bring the total payments received since the commencement of the work up to ninety-five percent (95%) of the value of the work completed, less all previous payments, provided that the CONTRACTOR submits the request for payment prior to the end of the day required to meet the payment schedule. **The CITY will retain five percent (5%) of the amount of each such progress estimate and material cost until 35 days after the recordation of the Notice of Completion.**

Payments shall be made on demands drawn in the manner required by law, accompanied by a certificate signed by the CITY'S Engineer, stating that the work for which payment is demanded has been performed in accordance with the terms of the Contract. Partial payments of the Contract price shall not be considered as an acceptance of any part of the work.

- 5.12 Substitution of Securities in Lieu of Retention of Funds.** Pursuant to Public Contract Code § 22300, the CONTRACTOR will be entitled to post approved securities with the CITY or an approved financial institution in order to have the CITY release funds retained by the CITY to ensure performance of the Contract. CONTRACTOR shall be required to execute an addendum to this Contract together with escrow instructions and any other documents in order to effect this substitution.

- 5.13 Completion.** **Within 10 days after the contract completion date of the Project,** CONTRACTOR shall file with the CITY'S Economic Development Director its affidavit stating that all workers and persons employed, all firms supplying materials, and all subcontractors upon the Project have been paid in full, and that there are no claims outstanding against the Project for either labor or material, except those certain items, if any, to be set forth in an affidavit covering disputed claims, or items in connection with Stop Notices which have been filed under the provisions of the statutes of the State of California. **CITY may require affidavits or certificates of payment and/or releases from any SUBCONTRACTOR, laborer or material supplier.**

**5.14 CONTRACTOR'S Employees Compensation**

**5.14.1 General Prevailing Rate.** CITY has ascertained that State prevailing wage requirements of the California Labor Code including Sections 1770, 1771.5, 1773, 1777.5, and 1776 are required to execute this Contract. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the general prevailing wage rates determined by the Director of the California Department of Industrial Relations for similar classifications of labor, the CONTRACTOR and the subcontractors shall pay not less than the higher wage rate. The CITY will not accept the lower State wage rates. This includes "helper" (or other classifications based on hours of experience) or any other classification. A copy of the prevailing rate of per diem wages shall be posted at the job site.

**5.14.2 Forfeiture for Violation.** CONTRACTOR shall, as a penalty to the CITY, forfeit **one hundred dollars (\$100.00) for each calendar day** or portion thereof for each worker paid (either by the CONTRACTOR or any SUBCONTRACTOR under it) less than the

greater of State minimum wage rate associated with the duties of the employee in question, in accordance with the State prevailing wage requirements of the California Labor Code, including Sections 1770, 1771.5, 1773, 1777.5, and 1776.

- 5.14.3 Apprentices.** The greater of Section 1777.5, 1777.6 and 1777.7 of the Labor Code of the State of California, regarding the employment of apprentices is applicable to this Contract and the CONTRACTOR shall comply therewith if the prime contract involves thirty thousand dollars (\$30,000.00) or more or twenty (20) working days, or more; or if contracts of specialty CONTRACTORS not bidding for work through the general or prime CONTRACTOR are two thousand dollars (\$2,000.00) or more for five (5) working days or more.
- 5.14.4 Workday.** In the performance of this Contract, not more than eight (8) hours shall constitute a day's work, and CONTRACTOR shall not require more than eight (8) hours of labor in a day from any person employed by him hereunder except as provided in paragraph (5.14.2) above. CONTRACTOR shall conform to Article 3, Chapter 1, Part 7 (Sections 1810 et seq.) of the Labor Code of the State of California, and shall forfeit to the CITY as a penalty, the sum of twenty-five Dollars (\$25.00) for each worker employed in the execution of this Contract by CONTRACTOR or any SUBCONTRACTOR for each calendar day during which any worker is required or permitted to labor more than eight (8) hours in any one calendar day and forty (40) hours in any one week in violation of said Article. CONTRACTOR shall keep an accurate record showing the name and actual hours worked each calendar day and each calendar week by each worker employed by CONTRACTOR in connection with the Project.
- 5.14.5 Record of Wages: Inspection.** CONTRACTOR agrees to maintain accurate payroll records showing the name, address, social security number, work classification, straight-time and overtime hours worked each day and week, and the actual State prevailing wage paid to each journeyman, apprentice, worker or other employee employed by it in connection with the Project and agrees to require that each of its subcontractors does the same. The applicable CONTRACTOR or subcontractor or its agent having authority over such matters shall certify all payroll records as accurate. CONTRACTOR further agrees that its payroll records and those of its subcontractors shall be available to the employee or employee's representative, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards and shall comply with all of the provisions of Labor Code Section 1776, in general. CONTRACTOR shall comply with all the provisions of Labor Code Section 1776, and shall submit payroll records to the Labor Commissioner pursuant to Labor Code Section 1771.4(a)(3). The CONTRACTOR shall submit copies of certified payroll reports **and cancelled checks** for laborers, every week to the CITY. Certified payroll and cancelled checks submittals are due one month after start of construction and every week thereafter. *If the certified payroll and cancelled checks are not submitted, the CONTRACTOR will be notified that compliance is required within five (5) working days or contract work must cease. The CITY will not be responsible for any delay or acceleration charges or any incurred costs or damages as a result of the work stoppage due to CONTRACTOR's failure to comply.* Work shall be ceased in an orderly, safe fashion. Should this not occur, CITY will correct the deficiencies and deduct the cost from funds due to the CONTRACTOR. In addition, no progress payment shall be made until the copies of certified payroll reports and cancelled checks are submitted.
- 5.14.6 Contractor Registration.** CONTRACTOR and its subcontractors must be registered with the California Department of Industrial Relations pursuant to Labor Code Section

1725.5. This Agreement shall not be effective until CONTRACTOR provides proof of registration to the CITY.

- 5.14.7 Posting of Job Site Notices.** CONTRACTOR shall comply with the job site notices posting requirements established by the Labor Commissioner pursuant to Title 8, California Code of Regulations Section 16461(e) or other regulation promulgated pursuant to Labor Code Section 1771.4(a)(2).
- 5.14.8 Notice of DIR Compliance Monitoring and Enforcement.** Pursuant to Labor Code Section 1771.4, this Project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.
- 5.15 Surety Bonds.** CONTRACTOR shall, upon entering into performance of this Agreement, furnish bonds in the amount of one hundred percent (100%) of the Contract price bid, to guarantee the faithful performance of the work, and the other in the amount of one hundred percent (100%) of the Contract price bid to guarantee payment of all claims for labor and materials furnished. This Contract shall not become effective until such bonds are supplied to and approved by the CITY.
- 5.16 Insurance.**

  - 5.16.1** CONTRACTOR is also aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for Workers' Compensation or undertake self-insurance in accordance with the provisions of that Code, and will comply with such provisions before commencing the performance of the work of this Contract.
  - 5.16.2** CONTRACTOR and all SUBCONTRACTORS shall carry workers' compensation insurance for the protection of its employees during the progress of the work. The insurer shall waive its rights of subrogation against the CITY, its Officers, Officials, Agents, Employees, Engineers, and Consultants for this Contract, and all public agencies from whom permits will be obtained and their Directors, Officers, Agents and Employees, as determined by the City and shall issue an insurance certificate and waiver of subrogation to the policy evidencing same.
  - 5.16.3** CONTRACTOR shall at all times carry, on all operations hereunder, bodily injury, including death, and property damage liability insurance, including automotive operations bodily injury and property damage coverage; and builders' all risk insurance. Follows Form excess liability insurance shall be provided for any underlying policy that does not meet the policy limits required by this contract. All insurance coverage shall be in amounts specified by the CITY in the Insurance Requirements and shall be evidenced by the issuance of a certificate and additional insured endorsement in forms prescribed by the CITY and shall be underwritten by insurance companies satisfactory to the CITY for all operations, subcontract work, contractual obligations, product or completed operations, all owned vehicles and non-owned vehicles. Claims made and modified occurrence policies shall not be accepted. Said insurance coverage obtained by the CONTRACTOR, excepting workers' compensation coverage, shall name the CITY, its Officers, Officials, Agents, Employees, Engineers, and Consultants for this Contract, and all public agencies from whom permits will be obtained and their Directors, Officers, Agents and Employees, as determined by the CITY, as additional insured on said policies. Additional insured status shall be evidenced in the form of an Additional insured Endorsement (CG 20 10 1185).

For any claims related to this Project, the Contractor's insurance coverage shall be primary insurance as respects the CITY, its Officers, Officials, Agents, Employees,

Engineers, and Consultants for this Contract, and all public agencies from whom permits will be obtained and their Directors, Officers, Agents, and Employees, as determined by the CITY. Any insurance or self-insurance maintained by the CITY, its Officers, Officials, Agents, Employees, Engineers, and Consultants for this Contract, and all public agencies from whom permits will be obtained and their Directors, Officers, Agents, and Employees, as determined by the CITY shall be excess of the CONTRACTOR's insurance and not contribute with it.

- 5.16.4** Before CONTRACTOR performs any work at, or prepares or delivers materials to, the site of construction, CONTRACTOR shall furnish:

**COMMENCEMENT OF WORK.** CONTRACTOR shall not commence work under this Agreement until all certificates and endorsements have been received and approved by CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify CITY of any material change, cancellation, or termination at least thirty (30) days in advance. Contractor shall also provide a **waiver of subrogation for each policy.**

**INSURANCE AMOUNTS.** CONTRACTOR shall maintain all of the foregoing insurance coverage in force until the work under this Contract is fully completed. The requirement for carrying the foregoing insurance shall not derogate from the provisions for indemnification of CITY by CONTRACTOR under Section 5.17 of this Contract. Notwithstanding nor diminishing the obligations of CONTRACTOR with respect to the foregoing, CONTRACTOR shall subscribe for and maintain in full force and effect during the life of this Contract, the following insurance in amounts not less than the amounts specified and issued by a company admitted and licensed in California and having a Best's Guide Rating of A-Class VII or better (**Claims made and modified occurrence policies are not acceptable**):

Workers' Compensation	As required by the State of California.
Employer's Liability	\$1,000,000 per accident for bodily injury or disease.
Commercial General Liability (including operations, products and completed operations, and not excluding XCU)	\$5,000,000 per occurrence for bodily injury, personal injury and property damage. Coverage shall include mobile equipment.
Automobile Liability, including non-owned and hired vehicles	\$2,000,000 combined single limit for bodily injury and property damage.
Contractors' Pollution Legal Liability	\$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

Excess liability, follows form coverage, shall be provided for any underlying policy that does not meet the policy limits required and set forth herein. Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-, Class VII or better, as approved by CITY.

An Additional Insured Endorsement, **ongoing and products-completed operations**, and including mobile equipment, for the Commercial General Liability policy shall designate CITY, its Officers, Officials, Agents, Employees, Engineers, and Consultants for this Contract, and all public agencies from whom permits will be obtained and their Directors, Officers, Agents and Employees, as determined by the CITY as additional insureds for liability arising out of work or operations performed by or on behalf of the



CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to City's requirements, as approved by the CITY.

An Additional Insured Endorsement for Automobile Liability policy shall designate CITY, its Officers, Officials, Agents, Employees, Engineers, and Consultants for this Contract, and all public agencies from whom permits will be obtained and their Directors, Officers, Agents and Employees, as determined by the CITY as additional insureds for automobiles owned, leased, hired, or borrowed by the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to City's requirements, as approved by CITY.

An Additional Insured Endorsement for Contractors' Pollution Legal Liability policy shall designate CITY, its Officers, Officials, Agents, Employees, Engineers, and Consultants for this Contract, and all public agencies from whom permits will be obtained and their Directors, Officers, Agents and Employees, as determined by the CITY as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to City's requirements, as approved by the CITY.

In the event any of CONTRACTOR'S underlying policies do not meet policy limits within the insurance requirements, CONTRACTOR shall provide coverage under an excess liability policy. The policy must be a follows form excess/umbrella policy. CONTRACTOR shall provide the **schedule of underlying policies** for an excess/umbrella liability policy, state that the excess/umbrella policy **follows form** on the insurance certificate, and provide an **additional insured endorsement** for the excess/umbrella liability policy designating CITY, its Officers, Officials, Agents, Employees, Engineers, Volunteers, and Consultants for this Contract, and all public agencies from whom permits will be obtained and their Directors, Officers, Agents and Employees, as determined by the CITY as additional insureds.

A primary/non-contributory endorsement shall be provided to CITY for each policy. For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officers, officials, agents, employees, and consultant for this Contract and all public agencies from whom permits will be obtained and their directors, officers, agents, and employees as determined by CITY. Any insurance or self-insurance maintained by CITY, its officers, officials, agents, employees, and consultants for this Contract and all public agencies from whom permits will be obtained and their directors, officers, agents, and employees, as determined by CITY shall be excess of the CONTRACTOR's insurance and shall not contribute with it. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

CITY or its representatives shall at all times have the right to inspect and receive the original or a certified copy of all said policies of insurance, including certificates. CONTRACTOR shall pay the premiums on the insurance hereinabove required.

If CONTRACTOR maintains higher insurance limits than the minimums shown above, CONTRACTOR shall provide coverage for the higher insurance limits otherwise maintained by the CONTRACTOR

**5.17 Risk and Indemnification.** All work covered by this Contract done at the site of construction or in preparing or delivering materials to the site shall be at the risk of CONTRACTOR alone. CONTRACTOR agrees to save, indemnify and keep the CITY, its Officers, Agents, Employees,

Engineers, and Consultants for this Contract, and all public agencies from whom permits will be obtained and their directors, Officers, Agents and Employees harmless against any and all liability, claims, judgments, costs and demands, including demands arising from injuries or death of persons (CONTRACTOR's employees included) and damage to property, arising directly or indirectly out of the obligations herein undertaken or out of the operations conducted by CONTRACTOR, save and except claims or litigation arising through the active negligence or willful misconduct of CITY and will make good to reimburse CITY for any expenditures, including reasonable attorneys' fees CITY may incur by reason of such matters, and if requested by CITY, will defend any such suits at the sole cost and expense of CONTRACTOR.

**5.18 Termination.**

- 5.18.1 This Contract may be terminated in whole or in part in writing by the CITY for its convenience, provided that the CONTRACTOR is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.
- 5.18.2 If termination for default or convenience is effected by the CITY, an equitable adjustment in the price provided for in this Contract shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the CONTRACTOR at the time of termination may be adjusted to cover any additional costs to the CITY because of the CONTRACTOR's default.
- 5.18.3 Upon receipt of a termination action under paragraph (5.18.1) or (5.18.2) above, the CONTRACTOR shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the CITY all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the CONTRACTOR in performing this Contract whether completed or in process.
- 5.18.4 Upon termination under paragraphs (5.18.1) and (5.18.2) above, the CITY may take over the work and may award another party an agreement to complete the work under this Contract.

**5.19 Warranty.** The CONTRACTOR agrees to perform all work under this Contract in accordance with the CalTrans' designs, drawings and specifications.

The CONTRACTOR guarantees for a period of one (1) year from the date of the notice of completion of the work that the completed work is free from all defects due to faulty materials, equipment or workmanship and that he shall promptly make whatever adjustments or corrections which may be necessary to cure any defects, including repairs or any damage to other parts of the system resulting from such defects. The CITY shall promptly give notice to the CONTRACTOR of observed defects. In the event that the CONTRACTOR fails to make adjustments, repairs, corrections or other work made necessary by such defects, the CITY may do so and charge the CONTRACTOR the cost incurred. The performance bond shall remain in full force and effect through the guarantee period.

The CONTRACTOR's obligations under this clause are in addition to the CONTRACTOR's other express or implied assurances of this Contract or state law and in no way diminish any other rights that the CITY may have against the CONTRACTOR for faulty materials, equipment or work.

**5.20 Attorneys' Fees.** If any action at law or in equity is necessary to enforce or interpret the terms of this Contract, each shall bear its own attorneys' fees, costs and necessary disbursements.

Notwithstanding the foregoing, if any action is brought against the CONTRACTOR or any subcontractor to enforce a Stop Notice or Notice to Withhold, which named the CITY as a party to said action, the CITY shall be entitled to reasonable attorneys' fees, costs and necessary disbursements arising out of the defense of such action by the CITY. The CITY shall be entitled to deduct its costs for any Stop Notice filed, whether court action is involved or not.

**5.21 Notices.** Any notice required or permitted under this Contract may be given by ordinary mail at the address set forth below. Any party whose address changes shall notify the other party in writing.

To CITY:

City of Garden Grove  
Economic Development Dept.  
Attention: Christy Le  
11222 Acacia Prkwy.  
Garden Grove, CA 92840  
(714) 741-5206

TO CONTRACTOR:

QUALITY FENCE CO.  
Attn.: Natalie Reyes  
14929 Garfield Ave.  
Paramount, cA 90723  
(323) 585-8585

**SIGNATURE ON NEXT PAGE**

**IN WITNESS THEREOF**, these parties have executed this Construction Agreement on the day and year shown below.

**"CITY"**  
**CITY OF GARDEN GROVE**

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

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

**Lisa L. Kim**  
**City Manager**

**ATTEST:**

\_\_\_\_\_  
City Clerk

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

**"CONTRACTOR"**

**QUALITY FENCE CO.**

CONTRACTOR'S State License No. \_\_\_\_\_

(Expiration Date: \_\_\_\_\_)

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

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

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

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City of Garden Grove  
City Attorney

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

If CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required.

**FAITHFUL PERFORMANCE BOND**

Bond No. \_\_\_\_\_  
Premium \_\_\_\_\_

NOTICE: TO WHOM IT MAY CONCERN: those we, \_\_\_\_\_,  
\_\_\_\_\_,  
as Principal, and \_\_\_\_\_,  
as Surety, are held and firmly bound unto The City of Garden Grove, (CITY) in the sum of \_\_\_\_\_  
Lawful money of the United States, for the payment of which we bind heirs, our executors, administrators,  
successors, and ourselves jointly and severally.

That the Surety's office is located at \_\_\_\_\_,  
telephone no. \_\_\_\_\_; the Surety is licensed to do business in the State of California; and the  
California Insurance Agent's License No., address, and telephone no. are as follows:

License No.: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone No.: \_\_\_\_\_

That the following clause must be completed if, in fact, a non-resident agent for the Surety is a  
party to the transaction:

Name of non-resident agent: \_\_\_\_\_  
Non-resident agent's office address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone No.: \_\_\_\_\_

THE CONDITION OF THIS OBLIGATION IS SUCH, that:

1. The Principal has agreed entered into a contract attached hereto, dated the \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, with THE CITY OF GARDEN GROVE for **CALTRANS FENCING IMPROVEMENT  
PROJECT; PROJECT NO. 1222000046/EA#0T410**
2. If the Principal shall well and truly perform, or cause to be performed, each and all of the  
requirements and obligations of the contract to be performed by the Principal, as set forth in the  
contract, then this bond shall be null and void; otherwise, it shall remain in full force and effect. In  
the event that suit is instituted to recover on this bond, the Surety will pay reasonable attorneys'  
fees.
3. Further, the Surety, for value received, hereby stipulates and agrees that no change, extension of  
time, alteration, or modification of the contract documents or of work performed shall in any way  
affect its obligation on this bond, and it does hereby waive notice of any change, extension of time,  
alteration, or modification of the contract documents, or of work to be performed.

**FAITHFUL PERFORMANCE BOND (Continues)**

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Principal

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

By: \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
California Resident Agent

By: \_\_\_\_\_  
Non-resident Agent - Attorney-in-Fact

[ATTACH NOTARY ACKNOWLEDGMENT]

**LABOR AND MATERIAL BOND**

Bond No. \_\_\_\_\_  
Premium \_\_\_\_\_

NOTICE: TO WHOM IT MAY CONCERN: those we, \_\_\_\_\_

\_\_\_\_\_,  
as Principal, and \_\_\_\_\_, as Surety,  
are held and firmly bound unto The City of Garden Grove, California ("CITY") in the sum of  
Dollars (\$\_\_\_\_\_), lawful money of the United States, for the payment of the sum, we bind heirs,  
our executors, administrators, successors, and ourselves jointly and severally.

That the Surety's office is located at \_\_\_\_\_,  
\_\_\_\_\_ telephone no. \_\_\_\_\_; the Surety is licensed to do business in the  
State of California; and the California Insurance Agent's License No., address, and telephone no. are  
as follows:

License No.: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone No.: \_\_\_\_\_

That the following clause must be completed if, in fact, a non-resident agent for the Surety is a  
party to the transaction:

Name of non-resident agent: \_\_\_\_\_  
Non-resident agent's office address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone No.: \_\_\_\_\_

THE CONDITION OF THIS OBLIGATION IS SUCH, that:

1. The Principal has entered into a contract attached hereto, dated \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, with the CITY OF GARDEN GROVE for **CALTRANS FENCING IMPROVEMENT PROJECT; PROJECT NO. 1222000046/EA#0T410**
2. If the Principal, its heirs, executors, administrators, successors, or assigns, or SUBCONTRACTORS, shall fail to pay for any materials, provisions, provender, or other supplies or teams, implements, or machinery used in, upon, for, or about, the performance of the improvement, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code with respect to work or labor, and provided that the claimant shall have complied with the provision of the code, the Surety or Sureties will pay for same in the amount not exceeding the sum specified in this bond; otherwise, the above obligation shall be void. In case suit is brought upon this bond, the Surety will pay reasonable attorneys' fees.
3. The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or modification of the contract documents, or of work performed, shall in any way affect its obligation on this bond, and it does hereby waive notice of any change, extension of time, alteration, or modification of the contract documents, or of work to be performed.

**LABOR AND MATERIAL BOND (Continued)**

4. This bond shall inure to the benefit of any and all persons, companies, and corporations entitled to the claims under Civil Code 3181 et seq., so as to give a right of action to them or their assignees in any suit brought upon this bond.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Principal

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

By: \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
California Resident Agent

By: \_\_\_\_\_  
Non-resident Agent - Attorney-in-Fact

[ATTACH NOTARY ACKNOWLEDGMENT]

[



## ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into by and between \_\_\_\_\_  
whose address is \_\_\_\_\_,  
hereinafter called "Owner", \_\_\_\_\_,  
whose address is \_\_\_\_\_,  
hereinafter called "CONTRACTOR", \_\_\_\_\_,  
and \_\_\_\_\_, whose address  
is \_\_\_\_\_,  
hereinafter called "escrow agent."

For the consideration hereinafter set forth, the Owner, CONTRACTOR, and escrow agent agree as follows:

(1) Pursuant to Section 22300 of the Public Contract Code of the State of California, the CONTRACTOR has the option to deposit securities with the escrow agent as a substitute for retention earnings required to be withheld by the Owner pursuant to the construction contract entered into between the Owner and CONTRACTOR for \_\_\_\_\_ in the amount of dated \_\_\_\_\_ (hereafter referred to as the "contract"). Alternatively, on written request of the CONTRACTOR, the Owner shall make payments of the retention earnings directly to the escrow agent. When the CONTRACTOR deposits the securities as a substitute for the contract earnings, the escrow agent shall notify the Owner within ten days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the contract between the Owner and CONTRACTOR. Securities shall be held in the name of the \_\_\_\_\_, and shall designate the CONTRACTOR as the beneficial owner.

(2) The Owner shall make progress payments to the CONTRACTOR for those funds which otherwise would be withheld from progress payments pursuant to the contract provision, provided that the escrow agent holds securities in the form and amount specified above.

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

(4) The CONTRACTOR shall be responsible for paying all fees for the expenses incurred by the escrow agent in administering the escrow account. These expenses and payment terms shall be determined by the CONTRACTOR and escrow agent.

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

(6) The CONTRACTOR shall have the right to withdraw all or any part of the principal in the escrow account only by written notice to the escrow agent accompanied by written authorization from the Owner to the escrow agent that the Owner consents to the withdrawal of the amount sought to be withdrawn by CONTRACTOR.

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

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

(9) The escrow agent shall rely on the written notifications from the Owner and the CONTRACTOR pursuant to Sections (1) to (8), inclusive, of this agreement and the Owner and CONTRACTOR shall hold the escrow agent harmless from the escrow agent's release, conversion, and disbursement of the securities and interest as set forth above.

(10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the Owner and on behalf of the CONTRACTOR in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of the Owner:

On behalf of the CONTRACTOR:

---

---

On behalf of the Owner:  
Title

On behalf of the CONTRACTOR:  
Title

---

Name

---

Name

---

Signature

---

Signature

---

Address

---

Address

On behalf of the escrow agent:

Title

Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

At the time the escrow account is opened, the Owner and CONTRACTOR shall deliver to the escrow agent a fully executed counterpart of this Agreement.

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

Owner/CONTRACTOR \_\_\_\_\_

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

Title/Title \_\_\_\_\_

Approved as to Form \_\_\_\_\_

City of Garden Grove  
City Attorney

**SECTION 6 - GENERAL CONDITIONS**

1. **GENERAL DESCRIPTION**

The work shall consist of furnishing all material and equipment and performing all labor required to carry out the general intention in accordance with the Plans and Specifications.

2. **DEFINITIONS**

State: Shall mean the State of California or the City of Garden Grove as applicable.

Board or City Council: Shall mean the governing body of the City of Garden Grove.

City : Shall mean the City of Garden Grove.

Director: Shall mean the City’s Director of Economic Development or his/her authorized agent.

3. **LOCATION**

The work shall be constructed on land owned or controlled by CalTrans at the sites shown on the plans.

4. **PERFORMANCE BOND**

Refer to Construction Agreement.

5. **RETENTION**

Refer to Construction Agreement.

6. **BEGINNING OF WORK**

Refer to Construction Agreement.

7. **TIME FOR COMPLETION**

Refer to Construction Agreement

8. **LIQUIDATED DAMAGES**

Refer to Construction Agreement.

9. **STANDARD SPECIFICATIONS AND STANDARD PLANS**

"Standard Specifications" referred to herein shall be the STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION (latest) EDITION (GREEN BOOK), including all supplements. Copies of the Standard Specifications are available from the publisher:

<https://www.bnibooks.com/>

"Standard Plans" referred to herein shall be those of the City of Garden Grove and/or CalTrans, latest revision unless noted otherwise.

Where the Plans and Specifications describe portions of the work in general terms, but not in complete detail, it is understood that the item is to be furnished and installed complete and in place and that only the best general practice is to prevail and that only materials and workmanship of the first quality are to be used. Unless otherwise specified, the

**SECTION 6 – GENERAL CONDITIONS** (Continued)

CONTRACTOR shall furnish all labor, materials, tools, equipment and incidentals, and do all the work involved in executing the contract.

10. **MATERIALS**

Materials shall be new and comply with these specifications. Certified reports of material's inspections of materials required under this contract as specified herein shall be submitted and may be accepted by the Director in lieu of actual chemical or physical tests in the field. Where a reasonable doubt exists in the mind of the Director, however, he shall conduct all necessary tests to determine that the material in question meets the requirements of the specifications. The cost of making such tests shall be borne by the City of Garden Grove when the results indicate compliance with the specifications; otherwise, the expense of such tests shall be borne by the CONTRACTOR.

11. **LICENSES, PERMITS, REGULATIONS AND ORDINANCES**

At its sole cost and expense, CONTRACTOR and all subcontractors shall obtain such licenses, permits, and approvals as may be required by law for the performance of the services required by this agreement. CONTRACTOR and all subcontractors shall have the sole obligation to pay for any fees, assessments, county inspections, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the performance of the services required by this contract. The CONTRACTOR and any subcontractor shall have the proper state licenses for the work to be performed along with obtaining city and/or county business license(s) prior to commencement of their work.

CONTRACTOR shall secure City of Garden Grove business license and other required licenses and permits prior to working in the City of Garden Grove. CONTRACTOR shall add the City of Garden Grove, as additional insureds on the required liability insurance and to provide a copy of insurance to the City Garden Grove.

The CONTRACTOR and all subcontractors shall comply with all laws, ordinances, rules and regulations bearing on the conduct of the work. Any work performed, or materials or equipment furnished, which does not conform to said laws, ordinances, rules and regulations, shall be changed to conform thereto by the CONTRACTOR at his sole expense.

12. **WORK OUTSIDE REGULAR HOURS**

No work will be allowed outside regular working hours without the express permission of the Director, except work items relating to maintenance and cleanup of the work area for the purpose of public safety and convenience. In the event work outside regular hours is allowed, any extra expense incurred by the CONTRACTOR shall be considered as being included in his bid prices and no extra compensation will be due for such work.

The legal workday shall consist of eight (8) hours. Should CONTRACTOR receive permission from the Director to work overtime, the CONTRACTOR shall pay all inspection costs as a result of the CONTRACTOR's overtime work at a rate of \$120.00/hr.

Working hours in the City of Garden Grove shall be from 8:00 am to 4:30 pm Monday through Friday. Workdays shall be restricted to Monday through Friday unless written request outlining substantial reasons for working on Saturdays, Sundays or contractual holidays is submitted to the Director a minimum of forty-eight (48) hours in advance of the proposed non-contractual working day(s). If the work proposed is determined by the Director as being in the best interest of the CITY, the necessary inspection and survey services will be provided.

**SECTION 6 – GENERAL CONDITIONS** (Continued)

If the reasons for such request are not deemed sufficient, the Director may authorize inspection and survey services, if available. Such services shall be billed against the CONTRACTOR at the time and one-half salary rate plus fringe benefits for the personnel assigned to the project. Such services shall be paid to the nearest half-hour worked, subject to a minimum working period of two (2) hours.

Emergency repairs and pre-storm protective installations may be performed in project areas without written notice.

13. **PRECONSTRUCTION CONFERENCE**

The CONTRACTOR, along with his field representative(s) and all subcontractors, shall meet with representatives of the CITY before the start of construction. The CONTRACTOR will be notified regarding the exact time and place of the conference.

The CONTRACTOR shall **submit a list of material suppliers** to the Director at the Preconstruction Conference. He shall also **designate an employee to be responsible for traffic control** on this project other than the Project Superintendent. This employee shall have expertise in urban traffic control, and shall be at the site during all operations requiring traffic control. As part of his responsibilities, he shall personally inspect the traffic control devices in use at least twice per day during operations, and twice per day on days when traffic control remains in effect when no work is in progress.

**A project construction schedule shall be submitted** to the Director at the Preconstruction Conference.

**A rate schedule shall be submitted** to the Director at the Preconstruction Conference.

14. **QUANTITIES OF WORK**

The quantities of work shown in the Proposal are approximate only and constitute the Director's Estimate for this project. The CITY does not expressly or by implication agree that the actual amounts of work will correspond exactly with the Director's Estimate.

The CITY reserves the right to increase or decrease the amount of any class or portion of the work as may be deemed necessary or expedient by the Director.

15. **LEGAL RELATIONS AND RESPONSIBILITY**

Attention is directed to the provisions and penalties applicable to workmen permitted to labor more than eight hours in a calendar day, to labor discrimination, and to employment of alien labor.

16. **PROSECUTION OF WORK**

The CONTRACTOR shall conduct the work in such a manner and with sufficient materials, equipment, and in the time limits set forth in the Specifications and/or Agreement. Should the CONTRACTOR discontinue the prosecution of the work for any reason with the consent of the Director, he shall notify the Director at least twenty-four hours in advance of resuming construction activities.

17. **EXAMINATION OF PREMISES**

CONTRACTORS are required to visit the site before submitting proposals so as to satisfy themselves as to existing conditions immediately surrounding the place of work. No extra payment will be allowed by the CITY for failure to properly assess site-working conditions.

**SECTION 6 – GENERAL CONDITIONS** (Continued)

18. **TERMS OF CONSTRUCTION AS USED IN THESE SPECIFICATIONS**

The present tense includes the past and future tenses; and the future the present.

The masculine gender includes the feminine and the neuter.

The singular number includes the plural; and the plural the singular.

"*Shall*" is mandatory and "*may*" is permissive.

19. **RECORD DRAWINGS**

The CONTRACTOR shall keep a complete set of Record Drawings at the job site. Contract Drawings shall be legibly marked showing each actual item of record construction including:

- A. Measured depths of elements in relation to fixed datum points.
- B. Measured horizontal and vertical locations of underground utilities with reference to permanent surface improvements.
- C. Field changes of dimensions, locations and/or materials with details as required to clearly delineate the modifications.
- D. Any details not in the original Contract Drawings developed by the CITY or the CONTRACTOR through the course of construction necessary to clarify or modify the Contract Drawings.

CONTRACTOR shall submit "As-Built" prints to the Director prior to the CITY'S acceptance of the work, **one copy in pdf format and one hard copy**. The prints shall indicate in red all deviations from Project Plans. Failure by CONTRACTOR to submit "As-Built Plans" may cause delay in final payments.

20. **SUBMITTALS (SHOP DRAWINGS)**

The CONTRACTOR shall submit for approval by the Director such material, samples, product specifications/brochures, certified mix designs, warranties material certifications, operations and maintenance manuals and equipment as may be required, whether mentioned specifically herein or not.

The CONTRACTOR shall submit two (2) sets or pdf files of shop drawings for approval. Shop drawings must be completed; any cut sheets with multiple items must be clearly **highlighted** with a yellow felt tip mark identifying specific items to be used on the project. Any "Unhighlighted" cut sheets will be returned for resubmittal. All shop drawings must be approved prior to the start of construction. One set of approved shop drawings must be at the construction site at all times.

21. **SUPERINTENDENCE OF LABOR AND COMPETENCY**

The CONTRACTOR, or an experienced superintendent authorized to act for him, shall be continually in charge of the work. Information given by the Director to the CONTRACTOR's superintendent or his/her authorized representative shall be as binding as though given to the CONTRACTOR in person. In addition, there shall be a qualified and experienced foreman in charge of each branch of work. No workman, foreman, or superintendent shall be continued on the work that is negligent, incompetent or disrespectful in the sole judgment of the Director.

22. **PROTECTIONS AND INSURANCE**

Refer to Construction Agreement.

**SECTION 6 – GENERAL CONDITIONS** (Continued)

23. **SUBCONTRACTORS**

No subcontractor will be recognized as such. All persons engaged in the work of construction will be considered as employees of CONTRACTOR, and CONTRACTOR will be held directly responsible for their work. No contract or any portion thereof may be assigned without the written consent of the Director.

24. **CLAIMS/LEGAL ACTIONS AGAINST THE CITY**

It is the intent of this contract, that the CONTRACTOR shall and will indemnify and hold harmless the City of Garden Grove, its officers, its board members, employees, and consultants from any and all claims, suits or actions regardless of the existence or degree of fault or negligence on the part of the CITY. The CONTRACTOR shall be responsible for any liability imposed by law and for injuries to or death of any person including but not limited to workmen and the public, or damage to property resulting from defects or obstruction or from any cause whatsoever during the progress of the work or at any time before its completion and final acceptance.

In the event claim/legal action is brought against the CITY, it will immediately be referred to the CONTRACTOR. Failure by the CONTRACTOR, for any reason to indemnify, defend and save harmless the CITY, the CITY shall deduct from any money due to CONTRACTOR reasonable expenses that the CITY staff or consultant working for the CITY have incurred in processing, investigation, defending any claims/legal actions brought against the CITY.

25. **SATISFACTION OF LIENS**

Before the CITY will make the final payment to the CONTRACTOR, the CONTRACTOR shall furnish the CITY with lien releases from all subcontractors and suppliers of material, together with a certified statement that the releases represent all the materials furnished and all the subcontractors engaged for the work.

26. **DISPUTED WORK**

If the CONTRACTOR and the CITY are unable to reach agreement on disputed work, the CITY may direct the CONTRACTOR to proceed with the work. Payment shall be as later determined by arbitration, if the CITY and the CONTRACTOR agree thereto, or as fixed in a court of law.

27. **CLEAN UP**

The CONTRACTOR shall protect and care for all work until final completion and acceptance.

During construction, the CONTRACTOR shall keep the site free and clear from all rubbish and debris, and the site must be cleaned up at the end of each day and within one day after the Director gives him notice.

At the time of the completion of the work, the CONTRACTOR shall remove from the site and the vicinity of the work all plant equipment, buildings and other temporary facilities, all used or unused materials belonging to him or used under his direction during construction. He shall remove all debris and rubbish from the site of the work before he makes application for acceptance of the work.

28. **LEGAL HOLIDAYS**

Legal holidays shall be regarded as Thanksgiving Day and the day after, New Year's Day and the day before or after as approved by the CITY, Martin Luther King Day, President's Birthday, Memorial Day, Fourth of July, Labor Day, Veteran's Day, and from **December 18, 2023 to January 2, 2024**.



**SECTION 6 – GENERAL CONDITIONS** (Continued)

Therefore, by submitting a bid the CONTRACTOR acknowledges that the work will be stopped from **December 18, 2023 through January 2, 2024** and that he/she has included all costs for the shut down of work over this period of time, and the recommencement of work on **January 3, 2024**.

29. PAYMENTS

Refer to Construction Agreement.

30. PAYMENT OF TAXES

The contract prices paid for the work shall include full compensation for all taxes which the CONTRACTOR is required to pay, whether imposed by Federal, State, or local government, including, without being limited to, Federal Excise Tax and Federal Transportation Tax.

31. SCHEDULE OF CONSTRUCTION

The CONTRACTOR shall submit to the Director a schedule of construction for approval.

- A. The CONTRACTOR shall submit a written proposed baseline schedule to the Director before starting construction.
- B. The CONTRACTOR shall be responsible for furnishing a schedule on a form, which meets the Director's approval.
- C. The CONTRACTOR shall be responsible for updating the schedule and, if requested, will provide an updated copy of the schedule at the end of each billing period.
- D. No payments of work completed shall be made until the subject schedule is submitted and approved.

The schedule of construction shall list in detail and proper sequence the various construction items for the job. The Director shall be notified before any change is made in the sequence of construction.

32. SAFETY PROVISIONS

The CONTRACTOR shall conform to the rules and regulations pertaining to safety established by the California Division of Industrial Safety.

The CONTRACTOR shall maintain the work site in a clean, safe and workmanlike manner. All material to be cleared from the site shall be removed from the site at the end of each day. All open trenches shall be either backfilled or the work area shall be adequately covered with steel plates as directed by the City Inspector at the end of each working day. The CONTRACTOR shall, upon direction of the Director, immediately remove or protect any item, which in the opinion of the Director presents a safety hazard. All costs involved in maintaining the work site in a clean and safe manner shall be included in the various items of work and no additional compensation will be allowed. With the approval of the Director, The CONTRACTOR may establish temporary "No Parking Tow Away" zones adjacent to the work zone. Establishment of such zones shall be coordinated with the Garden Grove Police Department, (714) 741-5707, and the CITY's Traffic Engineer, (714) 741-5190.

33. GUARANTY

Refer to Construction Agreement.

34. COORDINATION OF DOCUMENTS

**SECTION 6 – GENERAL CONDITIONS** (Continued)

In case of conflict between the various contract documents, the order of precedence shall be as follows:

1. Special Provisions
2. General Conditions
3. Construction Plans
5. The Standard Specifications
6. Cal Trans Publications

The Standard Specifications shall apply to all phases of work not controlled by documents 1 through 6 above.

In case of conflict between the Standard Specifications and the instructions and conditions of the invitation to bid, the Standard Specifications shall have precedence.

In case of conflict, it is the CONTRACTOR's responsibility to use best materials as approved by the Director.

**35. RIGHT-OF-WAY**

It shall be the responsibility of the CONTRACTOR to conduct all of its activities within the confines of the work site.

If, for any reason, the CONTRACTOR elects to encroach upon other lands adjoining rights-of-way or adjoining the work site, CONTRACTOR shall first obtain written permission from the owner thereof and provide evidence of such permission in writing to the Director prior to entering upon such lands.

The CONTRACTOR shall indemnify and hold the CITY harmless from all claims for damages occasioned by such work or activity, whether done in compliance with this section and with permission or in violation of this section and without permission.

**36. CONSTRUCTION SITE**

Construction equipment shall not be stored at the work site before its actual use on the work nor for more than three (3) working days after it is no longer needed on the work. All repairs or assembly of equipment that will take two (2) or more working days to repair shall be done at the construction yard. The CITY shall approve the location and size of construction yard. Any damaged, destroyed or disturbed area at the site shall be restored to their original condition or replaced by the CONTRACTOR as directed by the Director at no additional expense to the CITY. All equipment and materials shall be stored at the yard during weekends, unless otherwise authorized by the Director.

Excavated materials shall not be stored on the site. Excavated materials that may be suitable for backfill may be stored at the site if approved by the Inspector and if storage location conforms to the approved traffic control plan. The Director shall, at all times, have a safe access to the site for purposes of inspection and testing. The CONTRACTOR shall remove all trash, debris, and construction materials, spoil and contaminates (gas, oil diesel fuel, lubricants, etc.) and leave the site in a clean and level condition.

Full compensation for conforming to the requirements of this section shall be considered as included in the prices paid for the various contract items of work and no additional compensation will be allowed.

**37. TESTS**

Tests, including compaction tests, shall be performed in accordance with the Standard Specifications and these Specifications. The CONTRACTOR, at his own expense, shall deliver

**SECTION 6 – GENERAL CONDITIONS** (Continued)

the materials for testing to the place and at the time designated by the Director. The CONTRACTOR shall notify the Director no less than two (2) working days in advance of any required materials testing. The cost of performing such tests shall be borne by the CITY when results indicate compliance with the specifications; otherwise, the expense of such tests shall be borne by the CONTRACTOR.

38. **COMPLIANCE WITH LAW**

CONTRACTOR shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local governments.

40. **NO WAIVER OF CONDITIONS**

CONTRACTOR agrees that waiver by CITY of any one or more of the conditions of performance under this contract shall not be construed as waiver of any other condition of performance under this contract.

41. **CORPORATE AUTHORITY**

The persons executing this contract on behalf of the parties hereto warrant that they are duly authorized to execute this contract on behalf of said parties and that by so executing this contract; the parties hereto are formally bound to the provisions of this contract.

42. **MODIFICATION**

This Agreement constitutes the entire agreement between the parties. This Agreement may be modified only by subsequent mutual written agreement executed by the CITY and the CONTRACTOR.

43. **WAIVER**

All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the CITY and the CONTRACTOR.

44. **CALIFORNIA LAW**

This Agreement shall be construed in accordance with the laws of the State of California.

45. **INTERPRETATION**

This Agreement shall be interpreted as though prepared by both parties.

46. **PRESERVATION OF AGREEMENT**

Should any paragraph, clause or provision of this agreement be found invalid or unenforceable, such decision shall affect only the paragraph, clause, or provision construed and interpreted, and all remaining provisions shall remain valid and enforceable.

47. **MUTUAL AGREEMENT**

The parties hereto do mutually covenant and agree to the full and faithful performance of their respective obligations under this contract.

48. **NOTICE OF COMPLETION**

CONTRACTOR shall certify in writing to CITY, prior to final payment that the entire project is complete and request that CITY issue a Notice of Completion. Within a reasonable time thereafter, CITY and CONTRACTOR shall make an inspection. If the CITY does not consider the project complete, it will notify the CONTRACTOR in writing giving its reasons (the list of work to be completed or corrected) and shall be accepted by the CITY prior to any final payment and recordation of the Notice of Completion.

**SECTION 6 – GENERAL CONDITIONS** (Continued)

**SECTION 7 - SPECIAL PROVISIONS (Continued)**

**SECTION 7 - SPECIAL PROVISIONS**

**ARTICLE 1 – CHANGES/DISPUTED WORK/CLAIMS**

**Owner Directed Changes** – CITY initiated changes in the work shall be processed in accordance with Sections 5.9.1 and 5.9.2 of the Agreement.

**Contractor Initiated Changes/Changed Conditions** – The CONTRACTOR shall promptly notify the Director of the following work site conditions (hereinafter called changed conditions), in writing, upon their discovery, but in no event later than three (3) calendar days after they are discovered, and before they are disturbed:

1. Subsurface or latent physical conditions differing materially from those represented in the Contract;
2. Unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character being performed; and
3. Material differing from that represented in the contract which the CONTRACTOR believes may be 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 provisions of existing law; and

The CONTRACTOR's failure to give written notice of the alleged changed conditions within the time required three (3) calendar days shall constitute a waiver of any potential change order or claim for said alleged changed condition.

The Director will promptly investigate conditions which appear to be changed conditions. If the Director determines that the conditions are changed conditions and will materially affect costs, the CONTRACTOR, upon submitting a written request which is acceptable to the CITY and that includes a breakdown and detail of the costs in sufficient detail so the CITY may fully analyze the change and costs, shall be entitled to a change order. If the Director determines that conditions are changed conditions and they will materially affect performance time, the CONTRACTOR, upon submitting a written request which includes an acceptable Time Impact Analysis, will be granted an extension of time.

If the Director determines that the conditions do not justify an adjustment in compensation, the CONTRACTOR will be notified in writing. This notice will also advise the CONTRACTOR of its obligation to notify the Director in writing if the CONTRACTOR disagrees. Nothing herein will relieve the CONTRACTOR from its obligation to proceeding with the disputed work.

Should the CONTRACTOR disagree with the decision of the Director, it may submit a written claim for equitable adjustment pursuant to Section 5.9.5 of the Agreement. The written claim for equitable adjustment shall include sufficient detail to allow the CITY to fully analyze the potential claim and shall include at a minimum, the points of disagreement, applicable contract specification references, quantities and costs involved. In the event of such dispute, the CONTRACTOR shall not be excused from any scheduled completion date and shall proceed with all work to be performed under the contract. Although not to be construed as proceeding under extra work provisions, CONTRACTOR shall keep and furnish records of disputed work in accordance with Section 3-3 of the Standard Specifications. These records shall be legible and completely describe the work in dispute, including location. These records shall be submitted to the CITY inspector on a daily basis. The inspector will initial records as acknowledgement of T&M only and said initials shall not convey approvals. The Director shall review

**SECTION 7 - SPECIAL PROVISIONS (Continued)**

the notice of potential claim and the parties shall meet and confer, and try to resolve in good faith the potential claim.

**Disputed Work** – If for any reason potential claims cannot be settled through good faith negotiations, the potential claims will be resolved in accordance with Section 3-5 of the Standard Specifications with the following additions:

The CITY and the CONTRACTOR shall share all fees required by mediation or arbitration equally. When the claim is to be settled in court, both parties must pay their own attorneys' fees.

**Resolution of Claims** – At the final inspection, CONTRACTOR shall provide a list of all claims, proceeding from notices of potential claims previously submitted under the requirements of the Contract, for which he intends to file claims. CONTRACTOR shall also arrange to meet and confer on the listed claims within 15 days of the final inspection. Time of the meeting shall be within this 15-day period. If on the day of final inspection CONTRACTOR fails to set such meeting or provide the list of claims, the project will not be accepted and working days will continue to accrue. If these requirements are met on the day of the final inspection, preliminary acceptance will be established pending final acceptance following attendance of CONTRACTOR at the scheduled meeting.

If CONTRACTOR attends the scheduled meeting within 15 working days of the final inspection, the date of acceptance will be the date of final inspection. Failure of the CONTRACTOR to attend such meeting within 15 days of the date of preliminary acceptance shall cause the working days used in performance of the contract to be calculated based on the date of the actual meeting being date of final acceptance, minus 15 days.

Section 20104 et seq. of the California Public Contract Code prescribes a process utilizing informal conferences, nonbinding judicially supervised mediation, and judicial arbitration to resolve disputes on construction claims of \$375,000 or less.

“Public Work” has the same meaning as in Section 3100 and 3106 of the Civil Code,...” (20104 (b) (1)).

“Claim” means a separate demand by the CONTRACTOR for (A) a time extension, (B) payment of money or damages arising from work done by or on behalf of the CONTRACTOR pursuant to the contract for a public work and payment of which is not otherwise entitled to, or an amount the payment of which is disputed by the local agency. (20104 (b) (2)).

For any claim subject to this article, Section 20104.2 et seq., the following requirements apply

- a) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.
- b) (1) For claims of less than fifty thousand dollars (\$50,000), the local agency shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the local agency may have against the claimant.  
  
(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

**SECTION 7 - SPECIAL PROVISIONS (Continued)**

- (3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.
- c) (1) For claims over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the local agency shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the local agency may have against the claimant.
- (2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.
- (3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after the receipt of further documentation, or within a period no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.
- d) If the claimant disputes the local agency's written response, or the local agency fails to respond within the time prescribed, the claimant may so notify the local agency, in writing, either within 15 days of receipt of the local agency's response or within 15 days of the local agency's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the local agency shall schedule a meet and confer conference within 30 days for settlement of the dispute.
- e) Following the meet and confer conference, if the claim or any portion remains in dispute, the claimant may file a claim pursuant to Chapter 1 (commencing with section 900) and Chapter 2 (commencing with Section 910) of Part 3 of division 3.6 of Title 1 of the Government Code.

For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits his or her written claim pursuant to subdivision (a) until the time claim is denied, including any period of time utilized by the meet and confer conference.

20104.4. The following procedures are established for all civil actions filed to resolve claims subject to this article:

- a) Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court.
- b) (1) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that Code. The Civil Discovery Act of 1986 (Article 3 (Commencing with section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.
- (2) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 Part 3 of the Code of Civil Procedure, (A) arbitrators shall, when possible, be experienced in construction

## SECTION 7 - SPECIAL PROVISIONS (Continued)

law, and (B) any party appealing an arbitration award who does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, also pay the attorney's fees on appeal of the other party.

20104.6

- a) No local agency shall fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract.
- b) In any suit filed under Section 20104.4, the local agency shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

## ARTICLE 2 - SCOPE OF WORK AND SEQUENCE OF CONSTRUCTION

The scope of work shall conform to the provisions of Sections 2 and 3 of the Standard Specifications and the following additions:

The work to be done consists of furnishing all labor, materials, tools, equipment and incidentals necessary for the construction as shown on the construction plans and as specified in these Specifications.

The Contractor shall submit detailed work plan with anticipated start date, duration of construction, phasing plan, the sequence of work, staging areas, etc. The Contractor shall be responsible for assuring that all work sequences are logical and the schedule shows a coordinated plan for complete performance of the work.

The project will also require traffic control plans, permits and implementation, storm water protection, demolition and disposing of demolished material and appurtenant work.

The unit prices, shall include the cost of equipment, tools, materials and labor that are delivered to the work site that are necessary for this purpose, to complete the project within the contract time required.

When unforeseen difficulties or a conflict is encountered, including toxic and hazardous materials, CONTRACTOR shall notify the Director in writing immediately upon discovery and before the existing conditions are disturbed. **CONTRACTOR shall also allow the Director minimum of four (4) hours on five (5) separate occurrences of standby time at no charge to investigate the conditions and make determinations concerning these conditions.** CONTRACTOR and his work force shall assist the Director in such investigations. If the Director determines that additional time is needed for evaluation after investigation; the CONTRACTOR shall reschedule, reassign, transfer or move any labor, materials, tools, equipment and alter the sequence of construction activities as necessary to carry out the intent of this project at no cost to the CITY.

The CONTRACTOR cannot withdraw from the project site any labor, materials, tools and equipment without prior written approval by the Director or his authorized representative. Therefore, the CONTRACTOR shall have no claim against the CITY for delay, standby time of tools, equipment and labor, damages, liability and loss of profit, when it is necessary for the Director to exercise this requirement.

Full compensation for conforming to the requirements of this Article shall be considered as included in the Contract bid prices for the various items of work. No separate payment will be allowed.

## ARTICLE 3 – MARK-UP OF EXTRA WORK



**SECTION 7 - SPECIAL PROVISIONS (Continued)**

To eliminate the ambiguity and provide the CONTRACTOR clear understanding of the allowable markup, Section 3-3.2.3 "Markup" of the Standard Specifications shall be deleted and replaced with the following:

(a) Work by CONTRACTOR.

A **markup of five (5) percent**, covering all overhead and profits, shall be added to the CONTRACTOR's costs as determined under 3.3-2.2 and shall constitute the CONTRACTOR's only payment for all overhead of any type and profit on "extra work". There shall be no compensation for bond costs associated with "extra work".

(b) Work by SUBCONTRACTOR.

When a SUBCONTRACTOR performs all or any part of the extra work, the markup established in 3-3.2.3(a) shall be applied to the SUBCONTRACTOR's actual cost of such work, and shall constitute its only payment for all overhead of any type and profit. The CONTRACTOR shall receive an additional markup, not to exceed five (5) percent, for all its overhead and profit on the "extra work" performed by the SUBCONTRACTOR.

No higher markup than as stated above shall be allowed or accepted for any extra work.

**ARTICLE 4 - COOPERATION**

Although there can be no guarantee that difficulties will not be encountered, the cooperation of the CONTRACTOR is expected. The CITY has endeavored to provide a complete set of project plans and specifications. In the event of any conflict during the course of construction, CONTRACTOR shall allow reasonable time and provide equipment and manpower for the Director to field-check and make determination to resolve the conflict.

CONTRACTOR shall provide equipment and manpower to dig all holes necessary for testing and other test requirements.

CONTRACTOR shall have a representative on the job site at all times during working hours. The representative shall have the authority to make decisions regarding work that can commit CONTRACTOR time, materials, equipment, labor, and resources.

Full compensation for conforming to the requirements of this Article shall be considered as included in the contract bid prices for the various items of work. No separate payment will be allowed.

**ARTICLE 5 - SCHEDULE OF CONSTRUCTION AND ORDER OF WORK**

A. Schedule of Construction

Before starting construction, **the CONTRACTOR shall submit to the Director a cost loaded progress schedule, by task in bar form, to be approved by the Director.** The schedule shall show the order in which the CONTRACTOR proposes to carry out the work, and the contemplated dates for starting and completing the separate work activities. The CONTRACTOR shall use Primavera software such as P3, SureTrak or approved equal for schedule.

The sum of the allocated cost to the separate work activities shall equal all work shown on the plans and as required by these specifications.

**SECTION 7 - SPECIAL PROVISIONS (Continued)**

It shall be the CONTRACTOR's responsibility to contact and coordinate the requirements of any impact to public utilities through the utilities representative. **The construction schedule shall include the start and completion dates of public utilities underground work and coordination (if necessary).**

The progress schedule shall be consistent with the order of the work, and time requirements of the contract.

**Construction in more than one location at one time will be allowed only if authorized by the Director in writing.** Said authorization will be contingent upon the CONTRACTOR's ability to demonstrate a significant benefit to the CITY.

**B. Construction Meeting**

A weekly construction meeting shall be held between representatives of the CITY and the CONTRACTOR, at an agreed upon place, day of the week and time in order to discuss progress, submittals, potential problems and other activities related to the project.

**C. Order of Work**

The first order of work, after being notified that the CITY has awarded the contract, shall be to place the **order for all shop drawings, traffic control plan** (if required), and **storm water pollution prevention plan** required by this project. The order shall be placed within **three (3) working days** from date of notification.

Full compensation for conforming to the requirements of this Article shall be considered as included in **the contract bid prices for the various items of work**. No separate payment will be allowed. CITY shall not be

**ARTICLE 6 - PRESERVATION OF PROPERTY AND SURVEY MONUMENTS**

Attention is directed to Section 7-9 of the Standard Specifications and the following Special Provisions:

**Permanent Survey Monuments and Markers**

The CONTRACTOR shall be responsible for protecting all existing horizontal and vertical survey controls, monuments, ties and benchmarks located within the limits of the project. If any of the above require removal; relocation or resetting, the CONTRACTOR shall, prior to any construction work and under the supervision of a California-licensed Land Surveyor or Civil Engineer, establish sufficient temporary ties and benchmarks to enable the points to be reset after completion of construction.

Any ties, monuments and bench marks disturbed during construction shall be reset by the CONTRACTOR per City or Orange County Standards after construction and the centerline tie notes shall be submitted to the CITY on 8 1/2" X 11" loose leaf paper. The CONTRACTOR and his sureties shall be liable for, at his expense, any resurvey required in protecting existing ties, monuments, benchmarks or any such horizontal and vertical controls.

Payment for preservation or reestablishment of permanent survey monuments and markers including centerline ties shall be included in the various items of work. Said payment shall include full compensation for furnishing all labor, materials, tools, equipment, and doing all the work involved in preserving or reestablishing the survey monuments including centerline ties, all excavation, backfill and replacement of pavement section, and conforming to the requirements of this Article. No separate payment will be allowed.

**SECTION 7 - SPECIAL PROVISIONS (Continued)**

**ARTICLE 7 - DUST AND SOUND CONTROL REQUIREMENTS; CLEAN AIR ACT AND WATER POLLUTION CONTROL ACT REQUIREMENTS**

**Erosion Control**

Per the Federal Clean Water Act, the Contractor is required to eliminate pollution to waters of the United States that may result from this project. This project will require the Contractor to implement "Best Management Practices" (BMP's). BMPs shall include, but is not limited to fabric over the grate and side openings during the removal and replacement of AC process and the removal of the AC byproduct, immediately cleaning up spilled fluids with an absorbent material and broom, sealing containers of hazardous materials immediately after use, removing loose dirt from the work sites daily, covering stock piles and materials, etc.

Contractor is required to implement an erosion control program, including plans, prior to performing any excavation or disturbing any soil, landscape, or pavement.

- a. Submit four (4) copies of erosion control plan to City for approval.
- b. Erosion control plan shall include emergency 24-hour telephone number(s) of responsible Contractor personnel and details of protective measures, including desilting basins or other temporary drainage and/or control measures.
- c. Necessary materials (gravel bags, etc.) or devices, per the approved plan, shall be available on site at convenient locations to facilitate rapid installation or to repair any damaged erosion control measures when rain is imminent. All removable protective devices shown on the plan shall be in place at the end of each day when the five (5) day rain probability forecast exceeds forty (40) percent.
- d. Remove all silt and debris from check dams and desilting basins after a rainstorm and as needed to assure proper operation.
- e. Contractor is advised that, based upon actual site conditions, other work devices, controls, and/or revisions to the erosion control plan/program may be by the project inspector, at no cost to the City, to satisfy requirements of this article.

Payment for implementing (BMPs) shall be included in the prices bid for various contract items. The price shall include all costs of all documentation; administration and implementation of the erosion control requirements and SWPPP requirements for the entire contract period, and no additional compensation shall be made therefor.

**Dust Control**

Dust control shall consist of applying water in conformance with Section 7-8 of the Standard Specifications, with the following modification:

The CONTRACTOR shall furnish and operate a water truck and self-loading motor vacuum sweeper with spray nozzles applied at least twice each calendar day (including holidays and weekends), first during construction to keep paved areas reasonably clean, and second at the end of day. The CONTRACTOR shall never leave the construction premises dirty or dusty.

All spillage and any excessive dirt or debris resulting from hauling operations, moving of equipment along or across any private or public property or public traveled way, shall be removed immediately at the CONTRACTOR's expense.

## SECTION 7 - SPECIAL PROVISIONS (Continued)

Whenever the CONTRACTOR fails to control dust resulting from the performance of the work, the Director may cause such dust to be controlled. The costs of controlling dust shall be deducted from moneys due or to become due the CONTRACTOR.

No separate payment will be made for any work performed or material used to control dust resulting from the CONTRACTOR's performance of the work, or by public traffic, either inside or outside the right-of-way. Full compensation for such dust control will be considered as included in the price paid for the various items of work involved.

### Sound Control

The CONTRACTOR shall comply with all local sound control and noise level rules, regulations and ordinances, which apply to any work performed pursuant to the contract.

Each internal combustion engine, used for any purpose on the job or related to the job, shall be equipped with a muffler of a type recommended by the manufacturer. No internal combustion engine shall be operated on the project without said muffler.

The noise level from the CONTRACTOR's operations shall not exceed 86 DBA at a distance of fifty feet (50'). This requirement in no way relieves the CONTRACTOR from responsibility for complying with local ordinances regulating noise level.

Said noise level requirement shall apply to all equipment on the job or related to the job, including but not limited to trucks, transit mixers or transient equipment that may or may not be owned by the CONTRACTOR. The use of loud sound signals shall be avoided in favor of light warnings except those required by safety laws for the protection of personnel.

Full compensation for conforming to the requirements of sound control shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed therefore.

### IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

By submission of this bid, or the execution of this contract or subcontract, as appropriate, the bidder, CONTRACTOR, or SUBCONTRACTOR, as appropriate, will be deemed to have stipulated the following:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub. L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub. L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR Part 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
2. That the CONTRACTOR agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed hereunder.
3. That the CONTRACTOR shall promptly notify the OSHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

**SECTION 7 - SPECIAL PROVISIONS (Continued)**

4. That the CONTRACTOR agrees to include or cause to be included the requirements of paragraphs 1 through 4 of this Section in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements (FHWA 1273 Rev. 8/89, 12-4-89).

Full compensation for conforming to the requirements of the Clean Air Act and Federal Water Pollution Control Act shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed therefore.

**ARTICLE 8 - CONSTRUCTION WATER**

Application of water shall conform to the provisions of Section 7-8.5 of the Standard Specifications and the following additions:

**Construction water may be taken only at locations approved by the City of Garden Grove Water Services Division. The CITY will install a construction meter and eddy valve at these locations at the CONTRACTOR's expense. This valve shall be operated when taking construction water with the fire hydrant remaining open during the day. CONTRACTOR will be charged for construction water on an as-used basis.**

The CONTRACTOR must contact the City of Garden Grove Water Services Division to request installation of a fire hydrant water meter for construction water and shall make appropriate deposits to cover meter installation and testing, meter relocation and or damage to the meter.

Water shall be applied in the amounts, at the locations, and for the purposes designated in these specifications and as ordered by the Director.

Water for compacting embankment material, subbase, base and surfacing material, and for laying dust shall be applied by means of pressure-type distributors or pipe lines equipped with a spray system or hoses with nozzles that will ensure a uniform application of water.

Equipment used for the application of water shall be equipped with a positive means of shut-off. Unless otherwise permitted by the Director or unless all the water is applied by means of pipe lines, at least one mobile unit with a minimum capacity of 1,000 gallons shall be available for applying water on the project all times.

**Payment for applying water, including all labor, tools, equipment, and incidentals required for the application of water shall be considered as included in the various contract items of work involving the use of water, and no additional compensation will be allowed.**

**ARTICLE 9 - PROJECT APPEARANCE**

The CONTRACTOR shall maintain a neat appearance to the work site. Neat appearance shall include daily clean-up of all debris that may be generated from trucks and equipment using the approved Haul Route. Asphalt concrete, aggregate base, broken PC concrete, native soil, and debris developed during construction shall be disposed of concurrently within its removal. If stockpiling is necessary, the material shall be removed or disposed of weekly.

Dust caused by the passage of public traffic through the work shall be considered as resulting from the CONTRACTOR's performance of work. The CONTRACTOR is responsible for abating dust caused by his operation in accordance with **Article 7** of these Special Provisions.

## SECTION 7 - SPECIAL PROVISIONS (Continued)

Full compensation for conforming to the provisions in this section, not otherwise provided for, shall be considered as **included in price paid for the various contract items** of work involved and no additional compensation will be allowed therefore.

## ARTICLE 10 - PUBLIC SAFETY

The CONTRACTOR shall conform to the rules and regulations pertaining to safety established by the California Division of Industrial Safety.

The CONTRACTOR shall take all necessary precautions to protect the public from the hazards of open excavations. Trenches and other excavations shall either be safely covered or adequately fenced in a manner meeting the approval of the Director overnight and on weekends or at other times required by the Director for safety. No open trenches or any other open excavation shall be left open for more than two (2) working days. In the absence of covering or fencing, CONTRACTOR shall backfill all open excavations at his expense.

## ARTICLE 11 - ARCHAEOLOGICAL AND PALEONTOLOGICAL DISCOVERIES

If discovery is made of items of archaeological or paleontological interest, the CONTRACTOR shall cease excavation of the area of discovery and shall not continue until such time as approved by the Director. The Director shall then direct excavation operations within the area of discovery.

Discoveries include but are not limited to, dwelling sites, stone or other artifacts, animal bones, human bones and fossils.

The CONTRACTOR shall be entitled to an extension of time in accordance with the provisions of Subsection 6-3 of the Standard Specifications. Should the CONTRACTOR's operations be affected materially, additional work will be paid for as extra work as provided in Subsection 3-3, "EXTRA WORK," of the Standard Specifications.

## ARTICLE 12 - GEOTECHNICAL INVESTIGATION

The CITY **has not** conducted a geotechnical investigation where the proposed fence improvements are to be constructed. Each prospective bidder shall be responsible for obtaining any geotechnical information that he/she needs to prepare for his/her bid. Each prospective bidder shall be responsible for the cost of obtaining the required geotechnical information for his/her bid.

By submitting a bid, the CONTRACTOR acknowledges that he/she has satisfied himself/herself as to the nature of the work, including but not restricted to the conditions affecting handling and storage of materials, **disposal of excess material, level and amount of groundwater, and ascertaining existing conditions that affect labor, materials and equipment costs.**

In the event groundwater is encountered, the CONTRACTOR shall provide and maintain dewatering during construction in accordance with the standard specifications and the requirements of the CITY's NPDES Order No. 85-83 issued by the California Regional Water Quality Control Board (Santa Ana Region).

**All costs for dewatering, when encountered during construction, shall be included in the contract bid prices for the various items of work. No separate payment will be allowed.**

**SECTION 7 - SPECIAL PROVISIONS (Continued)**

All costs for geotechnical testing other than compaction testing shall be considered as included in the price paid for the various contract items of work involved and no additional compensation will be allowed therefore.

**ARTICLE 13 – MOBILIZATION/DEMobilIZATION**

Mobilization and demobilization shall consist of preparatory work and operations including, but not limited to, those necessary for the movement of personnel, equipment, materials and incidentals to the project site necessary for work on the project and for all other work and operations which must be performed or costs incurred including bonds, insurance and financing prior to beginning work on the various contract items on the project site. Any bonds that must be posted or proof of insurance issues that arise must be resolved prior to mobilization and/or demobilization. Mobilization and demobilization shall also include the time and labor to move the necessary construction equipment to and from the job site, supervisory time on the job by the CONTRACTOR's personnel to keep the construction site in a safe condition, and all other related work as required for all non-working days during the course of construction. **The CONTRACTOR is responsible for securing an adequate storage site for equipment and materials.**

Payment for mobilization and demobilization shall be included in the **bid price per Lump Sum for Clearing and Grubbing, including Mobilization and Demobilization** in the bid proposal and shall include full compensation for furnishing all labor, materials, equipment, rental of necessary equipment, materials and storage sites for storage purpose, and incidentals necessary to mobilize and demobilize in accordance with the paragraph above.

**ARTICLE 14 - TRAFFIC CONTROL (IF NECESSARY)**

Traffic control shall conform to the latest editions of the California Manual on Uniform Traffic Control Devices (CA MUTCD) and with Caltrans Standard Plan T11 Traffic Control System for lane closure on multi-lane conventional highways. Notes 2 and 6 of the Caltrans Standard Plan T11 regarding illuminated advanced warning signs and cones shall not apply.

**A. VEHICLE TRAFFIC CONTROL**

A minimum of one (1) eleven foot lane for each direction shall be kept open and maintained for public use at all times except as indicated on the plans or as directed by the Director during construction.

**B. PEDESTRIAN TRAFFIC CONTROL**

A minimum of one four foot wide all-weather pedestrian walkway shall be kept open and maintained to the satisfaction of the Director along both sides of each public street at all times during construction.

**C. ACCESS TO ADJACENT PROPERTIES**

A minimum of one (1) driveway per property shall be accessible and maintained at all times unless otherwise authorized by the City. Temporary drive approach ramps constructed of recycled materials or temporary asphalt (12' minimum width) may be installed as approved by the Director. Trench plates may also be used.

**D. GENERAL TRAFFIC CONTROLS**

Notification letters shall be hand delivered by Contractor two (2) weeks in advance of beginning of construction giving notice of traffic restriction, period of construction, and suggested use of

## SECTION 7 - SPECIAL PROVISIONS (Continued)

alternate routing. Exact wording on the advanced notification letters will be approved by the Director.

Traffic control devices shall comply with Section 12 of the Standard Specifications.

**The Contractor shall submit traffic control plans prepared by a civil engineer registered in the State of California, stamp the plans for approval at least ten (10) working days prior to commencement of work to the City of Garden Grove Traffic Division for approval.** The plans shall show all businesses, directional signs, driveway entrances, signs, delineation, tapers, dimensions, etc., for traffic control. The traffic control plans should include **Traffic Control Notes** (that can be found at: [revised-traffic-control-notes-3-8-22.pdf \(ggcity.org\)](#)). No construction will begin until the Contractor's traffic control plans are approved by the City of Garden Grove. The plans shall indicate the various phases of work and the proposed traffic control methods for each phase of construction on each street segment. The plans shall conform to the requirements of the latest edition of the CA MUTCD, these Special Provisions.

Flashing arrow signs shall be used as noted in the traffic control plans. (Battery or solar powered only).

Placement of temporary pavement marking tape shall consist of applying, maintaining, and later removing temporary traffic stripe (traffic line) and pavement marking tape at the locations shown on the plans or designated by the Director in conformance with these special provisions.

Temporary tape and/or painted stripes and removal of existing channelization may be required for traffic control. Tape for temporary traffic stripes and pavement markings will be a reinforced plastic type especially designed for ease of removal.

Temporary stripes shall be placed to the line established by the Director. Completed stripes shall be straight on tangent alignment and shall be on a true arc on curved alignment.

Surfaces on which the tape is to be applied shall be cleaned of all dirt and loose material and shall be dry when the tape is applied. The air temperature and pavement temperature at the time the tape is applied shall be 50°F or above. Tape shall not be applied over existing painted stripes or markings.

After the tape has been applied it shall be rolled slowly with a rubber tired vehicle or roller to ensure complete contact with the pavement surface.

Temporary traffic stripes and pavement markings that are damaged from any cause during the progress of the work shall be repaired or replaced by the Contractor at his expense.

When no longer required for the direction of public traffic, as determined by the Director, the tape shall be removed and disposed of outside the highway right of way and all marks used to establish satisfactory lines for the temporary stripes and pavement markings shall be removed from the pavement.

Every effort shall be made by the Contractor to insure traffic safety. If in the opinion of the Director additional signing or delineation is required for traffic safety, then the Contractor shall furnish and place the additional signs or delineators at no additional cost to the Agency.

### E. ROAD CLOSURE CONDITIONS



## SECTION 7 - SPECIAL PROVISIONS (Continued)

When construction conditions do not permit through traffic to use the street as determined by the Director, the following conditions will prevail:

- The Director must receive notice from the Contractor of any proposed road closure at least 48 hours prior to the actual closure. Before any road closures may be approved by the Director, specific detour plans for signing and barricading must be approved by the Traffic Engineer. At the times during the road closure conditions, a ten-foot (10') minimum width access corridor shall be kept open and maintained for emergency vehicles.

### F. TRAFFIC CONTROL AND SAFETY

All control, warning and safety devices shall conform to the requirements set forth in the latest edition of the CA MUTCD.

If attention is directed to the existence of a hazard and the Contractor fails to provide such devices, said devices will be placed or caused to be placed by the City. The cost of placement of these devices shall be the sole responsibility of the Contractor and shall be paid for at the rate of \$500.00 per hour for labor and the pickup truck, \$50.00 per day per barricade, and any other costs incurred by the City relative to traffic control. Said costs, if any, shall be deducted from the progress payments and from the total Contract price for the work.

When entering or leaving roadway carrying public traffic, the Contractor's equipment, whether empty or loaded, shall in all cases yield to public traffic. No excavation within five feet of the traveled way shall remain open no longer than is necessary to perform the work, and in no case shall remain unfenced or unplated overnight or on weekends.

The Contractor shall provide and maintain all signs, barricades, pedestals, flashers, delineators and other necessary facilities for the protection of the motoring public within the limits of the construction area and all its approaches, including advanced signing and barricades. He shall also post proper signs to notify the public regarding the conditions of the roadway, all in accordance with the provisions of the Vehicle Code, and the CA MUTCD, as published by the US Department of Transportation, Federal Highway Administration.

The Contractor shall conduct his operations so as to provide reasonable access to the adjacent properties and shall have no greater length or quantity of work under construction than he can properly prosecute with a minimum of inconvenience to the public and other contractor engaged on adjacent or related work.

Portable delineators shall be spaced as necessary for proper delineation of the travel way. The spacing between delineators shall not exceed the requirements set forth in the CA MUTCD.

If the traffic cones or portable delineators are damaged, displaced or are not in an upright position from any cause, said cones or portable delineators shall immediately be replaced or restored to their original location in an upright position by the Contractor.

The Contractor shall furnish such flagmen as are necessary to give adequate warning to traffic or to the public of any dangerous conditions to be encountered. Flagmen, while on duty and assigned to give warning to the public of any dangerous conditions to be encountered, shall perform their duties and shall be provided with the necessary equipment in accordance with the current Caltrans "Instructions to Flagmen." The equipment shall be furnished and kept clean and in good working condition by the Contractor at his expense.

## SECTION 7 - SPECIAL PROVISIONS (Continued)

Should the Contractor appear to be neglectful or negligent in furnishing warning and protective measures as above provided, the Director may direct attention to the existence of a hazard and the necessary warning and protective measures shall be furnished and installed by the Contractor at this expense. Should the Director point out the inadequacy of warning and protective measures, such action on the part of the Director shall not relieve the Contractor from responsibility for public safety or abrogate his obligation to furnish and pay for these devices.

All existing stop signs and street name signs shall be maintained in visible locations during construction and permanently relocated or removed as directed by the Director. Signs, which need not be maintained during construction or permanently relocated, shall be salvaged and returned to City Yard.

### Temporary Traffic Lanes

1. Temporary control of traffic in work areas requires the provision of adequate street space to accommodate the traffic demands, particularly during peak traffic hours.
2. Temporary traffic lane requirements for construction activities in Arterial STREET may be specified on the permit, on the plans or in the specifications. These requirements constitute a part of the work and must be adhered to as rigidly as any other specification.
3. Construction activities on Arterial STREET shall be planned and scheduled to minimize interference with traffic. Except for emergencies, no construction work shall encroach into a moving lane of traffic between the hours of 4:30 PM to 7:30 AM unless otherwise authorized by the Director.
4. All temporary traffic lanes shall be a minimum of eleven feet in width at either direction unless otherwise authorized.
5. Suitable surfacing must be provided for the temporary traffic lanes in work areas. When traffic is diverted from the existing pavement, temporary surfacing shall be provided and shall be in conformance with the current standard specification for such work issued by the City.
6. Construction equipment not actively engaged in the work and employee vehicles shall not be parked near the work in such a manner as to further restrict or obstruct traffic flow. Vehicles and equipment in continuous or frequent use may be operated or parked in the same traffic lanes as the work obstruction.

### Control, Warning and Guidance Devices

1. Devices fall into six categories: (1) Signs, (2) Barricades, (3) Delineators, (4) High Level Warning Devices, (5) Warning Lights and (6) Flashing Arrow Signs.

### Sign Types

1. Traffic signs are classified into several functional groupings: construction, warning, guide and regulatory.
2. The use of "Regulatory" signs must be approved by the Director. When required, all such signs will be provided, installed and maintained by the Contractor.
3. Existing "Regulatory" signs within or adjacent to the work area must be maintained by the Contractor. If existing signs are not appropriate for traffic conditions in the work area, the Director must be notified to determine if signs shall be covered, replaced or relocated.
4. Temporary "No Parking" signs shall be installed and removed as directed by the Director.

**SECTION 7 - SPECIAL PROVISIONS (Continued)**

5. Temporary "No Parking" signs shall not be posted on any tree, utility pole or traffic sign.

**Sign Placement**

1. The location of signs will depend upon alignment, grade, and location of street intersections and posted speed limit. Signs shall face and be visible to oncoming traffic and be mounted to resist displacement. The center of signs shall be at least four and one-half feet above the roadway. Vertical clearance for signs where pedestrian traffic is permitted shall be two feet. "Advance Warning" signs shall be located on the right hand side of traffic lanes.
2. All signs, which are to convey their messages during darkness, shall be reflectorized or illuminated.
3. No signs or supports shall bear any commercial advertising.
4. Warning, Guide and Regulatory signs normally shall be installed immediately before work is to commence and must be removed immediately after work is complete.
5. If at any time a sign is not required, it shall be covered or removed.
6. Construction signs shall be installed in accordance with Section D, General Traffic Controls.

**Barricades**

1. Barricades shall not be placed in a moving lane of traffic without advance warning, such as a high level warning devices and appropriate delineation.
2. Barricades shall be of three types: Type I, Type II, or Type III.

**Delineators**

1. All delineators used at night must be reflectorized adequately or internally luminated.
2. Opposing traffic shall be separated by delineators, traffic striping, or raised pavement markers.
3. Where traffic is diverted to the left of an existing double yellow centerline, into a painted median or into a left turn lane, delineators shall be utilized beyond the work area to return traffic to normal lanes.
4. Devices, which could roll into the adjacent traffic lane when hit, shall not be used.
5. Metal or wooden post mounted in concrete-filled buckets or on automobile wheels are examples of types, which are prohibited.
6. Maximum Recommended Delineator and Sign Placement

Traffic Speed	Merging Taper Length	Spacing Transition	Spacing Tangent	Signs Space Between and Advance of Taper
25 mph	125 ft.	25 ft.	25 ft.	100 ft.
30 mph	180 ft.	25 ft.	25 ft.	250 ft.
35 mph	245 ft.	25 ft.	25 ft.	250 ft.
40 mph	320 ft.	25 ft.	25 ft.	250 ft.
45 mph	540 ft.	25 ft.	25 ft.	350 ft.

**High Level Warning Devices**

1. High level warning devices shall be at least 9 feet high with legs, base or truck mounting designed to resist overturning.

**SECTION 7 - SPECIAL PROVISIONS (Continued)**

2. Sandbags may be used to add weight to the base or legs.
3. High-level warning devices shall be equipped with a yoke at the top to accommodate at least three flags.
4. Flags shall be high visibility orange, with stays to keep flags extended.
5. Torn or dirty flags shall be immediately replaced.
6. High level warning devices are not permitted on Arterial STREET. Flashing arrow signs are required.

**Warning Lights**

1. Flashers shall be used only to outline the work area or to provide advance warning.
2. Flashers shall not be used to channelize traffic, to separate opposing traffic, or to delineate the path that traffic is to follow.

**Flashing Arrow Signs**

1. All flashing arrow signs shall meet the following requirements:

Type	Minimize Size	Minimum Number of Panel Lamps	Minimum Legibility Distance
II	36" x 72"	13	¾ mile
I	48" x 96"	15	1 mile

2. Flashing arrow signs are intended to supplement, not replace, other work area traffic control device.
3. Flashing arrow signs are required for each lane closure on an arterial street.

**Pavement Striping/Markings**

1. Restriping will be considered under the following conditions:
  - a) Where traffic is diverted for extended periods.
  - b) When traffic is to be diverted to the left of an existing double yellow centerline for two or more consecutive nights.
  - c) When the work area is adjacent to an intersection and results in a transition within the intersection.
  - d) When the traffic lane is continuously obstructed for more than 5 working days and traffic volumes require two or more lanes in a single direction.
  - e) In other unusual situations when traffic and physical conditions require special treatment.
2. The Director shall determine the need for and extent of striping removal and restriping.
3. The installation of temporary striping or pavement markers will be the responsibility of the Contractor.

**Pedestrian Traffic**

**SECTION 7 - SPECIAL PROVISIONS (Continued)**

1. When the work area encroaches upon a sidewalk, walkway or crosswalk area, special consideration must be given to the pedestrian safety.
2. A minimum of advance warning is required.
3. The pedestrian must be separated from the work area.
4. Protective barricades, fencing, handrails and bridges, together with warning and guidance devices must be used to define the passageway.
5. Pedestrian walkways must be approved prior to installation by the Director.
6. Walkways shall be maintained at least four feet in width.
7. Minimum vertical clearance to any obstruction within the walkway must be two feet.
8. At no time shall pedestrians be diverted into a portion of the street without a physical barrier being provided, and in those areas where material can fall, the walkway shall be covered.
9. Appropriate signs and warning must be installed at the construction limits in advance of and crosswalk or pedestrian way that will be closed.

**Flag Person Control**

1. Flag person will be required:
  - a) Where workers or equipment intermittently block a traffic lane.
  - b) Where the traffic plan allows the use of one lane for two directions of traffic.
  - c) Where the safety of the public and workers determines there is a need.
2. Flag persons should be stationed far enough from the work to slow down or stop vehicles before they enter the work area.
3. Flag persons shall wear orange jacket (vest) for daytime use and a reflectorized belt and harness for nighttime.
4. During daylight hours, flag person shall be equipped with a sign paddle and at night, they shall use a red light.

Pursuant to the provisions of Section 14005 of the California Government Code, and pursuant to the provisions of Section 21400 of the California Vehicle Code, that the signs, lights, and devices shall conform to the provisions of the "Manual of Traffic Controls for Construction and Maintenance Work Zones," issued by the Department of Transportation for the State of California.

**G. PAYMENT**

Payment for **Traffic Control** shall be made at the **Contract price bid per Lump Sum** and shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all the work involved in preparation of traffic control plans, approval of traffic control plans, implementation of traffic control, including but not limited to, Construction Information Signs, electronic changeable message board signs, applying, maintaining and removing tape for temporary traffic stripes and pavement markings, complete in place, flashing arrow sign, as specified in these special provisions and as directed by the Director, and no additional compensation will be allowed therefore.

**ARTICLE 15 - CONSTRUCTION YARD SITE**

CONTRACTOR shall at his expense, secure a site for storing materials, supplies, and equipment. It is the CONTRACTOR's responsibility to secure a yard prior to the start of construction. Securing a site,

**SECTION 7 - SPECIAL PROVISIONS (Continued)**

although for this project, shall be agreed upon separately by the Contractor and Private Entity or Contractor and the City's Realtor Agent. Available vacant properties in the project area may not be zoned for a construction yard. It is recommended to check with the City's Planning Department for zoning. A conscious effort on the CONTRACTOR's part is required, that due regard to the rights of the public must be observed at all times. Possible obstruction and inconvenience shall be kept to the minimum.

If the CONTRACTOR pursues to enter in agreement with the City to use City or City leased property as a construction yard a temporary use permit is required with an application fee of \$50.00. The application is subject to review and approval by the Realtor Agent from the Planning Department. Before moving in to the site, CONTRACTOR shall provide a certificate of insurance naming the City of Garden Grove as additional insureds from all liability. The construction yard site will become part of the project. All conditions and requirements of the project also apply to the construction yard.

Construction materials shall not be stored in streets, roads or highways for more than three (3) working days after unloading nor will the materials be stored in the streets over weekends and holidays. All materials or equipment not installed or used in the construction within three (3) working days after unloading shall be stored at the construction yard.

Construction equipment shall not be stored at the work site before its actual use on the work nor for more than three (3) working days after it is no longer needed on the work. All repairs or assembly of equipment that will take two (2) or more working days shall be done at the construction yard. All equipment and materials shall be stored at the yard during weekends and holidays, unless otherwise authorized by the Director.

Excavated materials shall not be stored in public streets, roads or highways. Excavated materials that may be suitable for backfill shall be stored at a site of CONTRACTOR's choice. The Director shall have a safe access to the site for purposes of inspection and testing at all times.

Full compensation for conforming to the requirements of this Article shall be considered as included in the prices paid for the various contract items of work and no additional compensation will be allowed.

**ARTICLE 16 - PROTECTION AND RESTORATION OF EXISTING UTILITIES AND NON-HIGHWAY FACILITIES**

Attention is directed to Sections 5-2 and 7-9 of the Standard Specifications and the following special provisions:

All utilities including water, gas, oil, telephone, electrical, cable TV fiber optic systems, traffic signals, sewer mains and services, storm drains and street light conduit and wires shall be protected in place, except as noted on the project plans.

The CITY does not guarantee the accuracy of depth, size, type, material and location of all utilities shown on the plans or marked in the field by utility companies. Data was provided to the CITY based upon available records. It is to be used for information purposes only.

In order to provide lead time to resolve unforeseen utility conflicts, CONTRACTOR shall pot hole and ascertain the true location and depth of all underground utilities and services as shown or located within the lines of excavation and/or as marked by their respective owners in the field. All potholing shall be completed before CONTRACTOR will receive first progress payment or will be allowed to commence construction. Utilities marked in the field and not shown in the project plan shall be treated the same as if shown in the project plan. CONTRACTOR shall attempt to expose utilities by excavating an area three (3) feet in all directions around the location shown on the plans or marked in the field that may

**SECTION 7 - SPECIAL PROVISIONS (Continued)**

conflict with the proposed sewer main(s). Should the CONTRACTOR fail to locate the utility, CONTRACTOR shall immediately notify the utility purveyor and Director and the CONTRACTOR shall proceed on schedule. CONTRACTOR shall not be entitled to delays, damages or cost for failure to locate a utility by potholing. After exposing the utilities and if in the opinion of the CONTRACTOR a utility is in conflict with the proposed improvements, CONTRACTOR shall immediately notify the Director and allow utilities reasonable time to relocate, realign or remove their facilities at no additional cost to the CITY.

CONTRACTOR shall exercise extreme care in exposing, locating, supporting, protecting and working in the vicinity of existing utilities. CONTRACTOR shall hand dig within three feet (3') on all sides of these utilities; main lines, service lines and other utility appurtenances. CONTRACTOR shall arrange a compatible work schedule with all utility companies involved. CONTRACTOR's attention is also directed to overhead and above ground utilities and poles that exist within the project site that may not be shown on the project plans, but are visible in the field. All utilities above and underground must be protected in place, unless otherwise specified in the project plan.

The CONTRACTOR shall use extreme caution around all existing utilities, especially Southern California Gas, Southern California Edison and AT&T pipes and conduits. Furthermore, the CONTRACTOR shall indemnify and hold harmless the City of Garden Grove, the CITY, its officers, its board members, employees, and consultants from any and all claims, suits, or actions resulting from or arising out of any damage(s) caused to such utilities as a result of the CONTRACTOR's failure to adequately protect such utilities in place.

The CONTRACTOR will not be entitled to damages or additional payment for delays attributable to utility relocations or alterations if utilities are correctly located and shown on the plan. The CONTRACTOR, however, will be given an extension of time for unforeseen delays due to interferences by utilities. This work includes searching within three (3') feet on both sides of a marked utility in the field (not shown in the plans) that is not found or never existed.

All costs incurred for potholing, hand digging, exposing, locating, supporting, protecting, maintaining and providing reasonable time to relocate or resolve conflict of underground and above ground utilities, shall be included in the price bid for the various items of work and no additional compensation will be allowed.

The CONTRACTOR, prior to submitting his/her bid, shall first inquire from the utility owners listed regarding type of facility, line locations, size, material, manhole locations if any, specifications and requirements concerning the protection and support of their respective main, trunk lines, services lines and other appurtenances.

The costs of obtaining any required permits, protecting and supporting of all utility lines, including service and lateral lines shall be included in the various items of work and no additional compensation will be allowed. *No utility line shall be removed from service without written permission from the Director. If permitted, then it is the CONTRACTOR's responsibility to install temporary services as needed in the field and as approved by the Director at no cost to the CITY.*

CONTRACTOR shall notify the Underground Service Alert (USA) giving at least 2 working days notice --- (800) 422-4133.

shall be the CONTRACTOR's responsibility to call, notify and make certain that utilities have responded to his notification. Damage to utilities, caused by failure to notify, is the CONTRACTOR's sole responsibility.

## SECTION 7 - SPECIAL PROVISIONS (Continued)

The CONTRACTOR shall arrange and coordinate his work to permit utilities to make any necessary adjustments required by the construction of the various items in this contract.

CONTRACTOR shall also protect facilities in place as shown on the plans or as marked in the field, and "To be relocated by others", in both original and relocated positions and any damage to such facilities shall be immediately repaired at no cost to the CITY.

When damage occurs to existing utilities, CONTRACTOR shall notify the Owner of the Utility and the Director immediately and take whatever action necessary to mitigate further damage to the utility and the surrounding area.

The CONTRACTOR is notified therefor, that he is responsible and liable for all costs in rectifying damages to any utilities caused as a result of his operations. At the request of the CITY, costs in rectifying such damages can be withheld or deducted from the final progress payment due to CONTRACTOR at the discretion of the Director.

All existing improvements, including utilities, shall be protected in place unless otherwise shown on the contract plans or approved by the Director. All existing improvements damaged by the CONTRACTOR in the performance of his work shall be replaced in its original or better condition. This includes, but is not limited to landscaping, trees, irrigation lines, sprinklers, planters, foundations, walls, driveways, sidewalks, mailboxes, parking curbs, and utilities whether they are located on private property or within the public right-of-way.

Payment for protecting or removing and replacing all facilities, or coordinating utility adjustments, except for those items of work specifically included as separate bid items in the Bid Proposal shall **be considered as paid for in the various contract items** and no additional compensation will be allowed.

## ARTICLE 17 - EXISTING HIGHWAY FACILITIES

All work performed on existing highway facilities shall be done in accordance with applicable sections of the Standard Specifications and other portions of these special provisions with the following modifications and additions:

### A. Miscellaneous Highway Facilities

Care shall be taken in all work performed in the removal of all traffic signs, devices, barricades, posts, barriers, and guard railings. Such devices, etc., shall be carefully removed by the CONTRACTOR as shown on the plans or as directed by the Director, cleaned of all adhering materials and shall be stockpiled within project limits for reuse.

Payment for all labor, materials, tools, and equipment used in removing, cleaning, transporting, relocating, and doing all the work involved shall be included by the CONTRACTOR in various bid items, and no additional compensation will be allowed.

### B. Damaged Portland Cement Concrete Removal and Replacement

Portland Cement Concrete (PCC) damaged by the CONTRACTOR's operation shall be removed and replaced in kind. Work shall include all PCC curbs, gutters, cross gutters, spandrels, driveways, driveway approaches, slabs, sidewalks, decorative crosswalks, and all other miscellaneous PCC construction. Concrete shall be removed to neatly sawed edges with saw cuts made to a minimum depth of 1 inch. Concrete sidewalk or driveway to be removed shall be neatly sawed in straight-line parallels either to the curb or at right angles to the alignment of the



**SECTION 7 - SPECIAL PROVISIONS (Continued)**

sidewalk. No section to be replaced shall be smaller than forty-eight inches (48") in either length or width. If the saw cut in sidewalk or driveway would fall within forty-eight inches (48") of a construction joint, expansion joint, or edge, the concrete shall be removed to the joint or edge, except that where the saw cut would fall within twelve inches (12") of a score mark, the saw cut shall be made in and along the score mark. Curb and gutter shall be sawed to a depth of 1 (one) inch on a neat line at right angles to the curb face. PCC and all other material unsuitable for use as fill, as determined by the Director, shall be removed from the right-of-way and disposed of by the CONTRACTOR at a site of his own choice and he shall pay all costs incidental to the disposal. Sharp edges left on concrete after saw cutting shall be ground in a manner acceptable to the Director.

**Payment for portland cement concrete removal and replacement shall be included in the unit prices paid for the various items of work, that necessitated the PCC removal and no additional compensation will be allowed.** Said payment shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals and performing all the work involved in excavating, removing, replacing, breaking, crushing, saw cutting, backfilling, loading, hauling and disposing of all material, and performing all the work involved. All PCC replacement shall conform to City standards and be in kind.

C. Remove and Restore Traffic Striping, Signing, Legends, Pavement Markings and Pavement Markers

Existing pavement markers shall be removed and disposed of when no longer required for traffic lane delineation due to construction.

Existing striping and pavement markings shall be removed by sand blasting. Existing pavement markers shall be removed prior to installation of AC overlay or slurry seal.

Sandblasting shall be used for the removal of painted traffic stripes and pavement markings and for removal of objectionable material. If such removal operation is being performed within ten feet (10') of a lane occupied by public traffic, the residue including dust shall be removed immediately after contact between the sand and the surface being treated. Such removal shall be by a vacuum attachment operating concurrently with the blast cleaning operation.

Nothing in these special provisions shall relieve the CONTRACTOR from his responsibilities as provided in Section 7-10, "Public Convenience and Safety", of the Standard Specifications.

Any depressions or voids left in the roadway as a result of removing the existing raised pavement markers will be filled with hot bituminous adhesive or as directed by the Director.

CONTRACTOR shall provide cat tracks for review prior to final application of striping. The **City of Garden Grove** shall have 24 hours (1 working day) review time to provide corrections to, or approval of, the cat tracks. All existing striping shall be restriped to satisfaction of the Director.

Full compensation for removing, disposing and restoring, traffic stripes and pavement markings - including filling voids or depressions created by removing pavement markers, shall be included in the contract lump sum price for the traffic signing and striping and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and performing all work involved, and no additional compensation will be allowed.

D. Damaged Asphalt Concrete Pavement Removal and Replacement

**SECTION 7 - SPECIAL PROVISIONS (Continued)**

Asphalt concrete ("A.C.") pavement shall be cut initially by saw cutting to full depth of A.C. at the limits of the removal prior to removal of A.C. A.C. damaged by the construction operation shall be removed and replaced as described in this provision at no cost to the CITY. After backfilling the excavation, the existing A.C. pavement shall be saw-cut again to full depth at a point not less than 12 inches outside the limits of removal as shown in the backfill and resurfacing detail. If the width of existing pavement between proposed A.C. saw cut and edge of adjacent P.C.C. curb and gutter is less than sixty (60) inches, this area shall be removed and new pavement shall be extended to the P.C.C. curb and gutter. All saw cuts should be along straight lines either parallel or perpendicular to line of removal. The use of pavement breaking equipment (stompers) is absolutely not allowed. The thickness of the existing A.C. pavement may be up to 12-inches thick.

The minimum street pavement replacement section for West Street and Chapman Avenue shall be existing plus one-half inch or 6-inches AC/11-inches AB, whichever is greater. The minimum street pavement replacement section for Wilken Way, Eugene Street, Candy Lane, Holyoak Lane, Timmy Lane and Debbie Lane shall be existing plus one-half inch or 4-inches AC/7-inches AB, whichever is greater.

Payment for replacement of pavement section shall be included in the unit prices paid for the various items of work, which caused such pavement section removal and no additional compensation will be allowed. Said payment shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals and performing all the work involved in replacing AC/ AB, street areas and areas damaged by construction and no additional compensation will be allowed.

**ARTICLE 18 – CLEARING AND GRUBBING, REMOVALS AND RELOCATIONS**

Clearing and grubbing shall conform to the provisions of Section 300 of the Standard Specifications with the following modifications:

Clearing and grubbing shall include, but not be limited to the following:

1. Project mobilization/demobilization
2. Removal and disposal of trees and shrubs, all natural and artificial objectionable materials such as logs, upturned stumps, roots of downed trees, brush, grass, plants, weeds and all other surface materials within the limits of construction area.
3. Tree branches, which may interfere with normal construction, shall be trimmed or removed. If tree branch is to be removed, it shall be cut off to the boles in a workmanlike manner. The CONTRACTOR shall remove additional tree branches under the direction of the Director, in such a manner that the tree will present a balanced appearance. Scars resulting from the removal of branches shall be treated with a heavy coat of tree sealant approved by the Director.
4. Saw cut and removal of existing concrete structures including, but not limited to curb and gutter, median curb, cross gutter, spandrel, sidewalks, drainage channel, the removal of K-markers and relocation of traffic signs.
5. Grading, fill material, and compaction of fill material in the parkway areas, drainage channel and areas behind sidewalk.
6. Saw cutting and removal of existing asphalt concrete, aggregate base, native soil, PCC and reinforced PCC pavement as required to complete the project.

## SECTION 7 - SPECIAL PROVISIONS (Continued)

### 7. Abandonment of existing water service connections at the water main.

Payment for furnishing all labor, equipment, materials, tools, and incidentals used in performing clearing and grubbing and as mentioned in this Article shall be considered as included in the lump sum price paid for Clearing and Grubbing, including Mobilization and Demobilization, and no additional compensation will be allowed.

### Tree Roots Removal

Work shall consist of removal of existing tree roots in conformance with Section 300 of the Standard Specifications. The CONTRACTOR shall be responsible for obtaining a suitable disposal site for this material and shall, upon request, file with the Director the written consent of the Owner of the property upon which he intends to dispose of such material.

Removal shall consist of removing tree roots 1-1/2 inches in diameter and larger.

Holes resulting from the removal of tree roots shall be backfilled with soil from the surrounding area the same day the tree roots are removed and compacted to a minimum relative compaction of ninety percent (90%).

All removed tree roots shall be removed from the project site the same day.

Stockpiling of materials within the right-of-way, City parking lots, or other City-improved property shall not be allowed unless approved by the Director in writing.

Tree roots shall be removed in such a manner as not to injure or damage adjacent improvements, which are to remain in place. The CONTRACTOR shall not remove or damage fences adjoining property outside of the contract limits or City right-of-way. The CONTRACTOR shall exercise care in the protection of said fences and shall repair any damage caused by his operations.

No burning of materials will be permitted on the project site.

Payment for removal of existing tree roots shall be considered as included in the lump sum bid for Clearing and Grubbing, including Mobilization and Demobilization. It shall include full compensation for all labor, tools, equipment, incidentals, disposal of resulting material and for doing all the work involved in tree roots removal as required in the field, per these Special Provisions and as directed by the Director, and no additional compensation will be allowed.

### Irrigation System Relocation

All irrigation systems disturbed by the construction operation shall be relocated to behind the right-of-way line. Relocated systems shall be operable and provide full coverage of the areas serviced by the system.

Existing system components may be reused as much as possible. However, new materials may be required to create a complete and working system and the expense shall be borne by the CONTRACTOR. Acceptability of the relocated system will be judged by its performance as described above.

The CONTRACTOR shall bear the cost of replacement of any parts lost or damaged during the construction operations.

**SECTION 7 - SPECIAL PROVISIONS (Continued)**

Payment for irrigation system relocation shall be considered as included in the lump sum price bid for Clearing and Grubbing, including Mobilization and Demobilization, and no additional compensation will be allowed.

Clearing, grubbing, miscellaneous removals, and relocations shall be paid for under the lump sum item for Clearing and Grubbing and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for performing all the work involved in clearing, grubbing, removing, relocating and disposing of all the resulting materials. It also includes the removal of cross gutters, spandrel, curb and gutter, side walk, drive approach, PCC, abandon existing water services at main, replanting and reseeding, as shown on the Plans, as required in the field, as specified in these Specifications and Special Provisions, and as directed by the Director.

**ARTICLE 19 – PERMITS AND IMPLEMENT RULE 1166**

It is the CONTRACTOR's responsibility to procure the encroachment permit and pay the requested permit fees within two weeks of the Notice to Proceed. The CONTRACTOR is responsible for all the permit requirements, including arranging for the inspections. The CONTRACTOR shall also be responsible for all the requirements of South Coast Air Quality Management Rule 1166. Full compensation for conforming to the requirements of this Article shall be considered as included in the **contract price paid for implementing rule 1166 and obtaining Permits** and no additional compensation will be allowed.

**ARTICLE 20 - COMPLETION AND ACCEPTANCE**

Upon receipt of the CONTRACTOR's written assertion that the work has been completed, the Engineer or his authorized representative will inspect the work for acceptance. Thereby a "punch list" is prepared and submitted to CONTRACTOR for compliance and/or repair.

The project is considered certifiable for completion; when all liens and/or claims for labor, materials, tools and equipment has been paid for and all liens and/or claims releases are received by the CITY, when all contract items of work have been completed, including changes to the plan in an acceptable workmanship; when all repairs to damages of existing utilities, appurtenances and improvements has been completed and accepted by the respective owners; when all survey monuments and other survey markers has been re-set and copy of center line ties been submitted; when the project site and all ground occupied by the CONTRACTOR left in a neat and presentable condition. The street shall be swept and washed with water. The CONTRACTOR prior to acceptance by the Engineer must complete all corrections noted in the "punch list".

Full compensation for conforming to the requirements of this Article shall be considered as included in the contract prices paid for the various contract items of work and no additional compensation will be allowed.