RESOLUTION NO. 15-OB-11

A RESOLUTION OF THE OVERSIGHT BOARD TO THE
SUCCESSOR AGENCY TO THE FORMER INGLEWOOD
REDEVELOPMENT AGENCY APPROVING A CONSTRUCTION
CONTRACT ("CONSTRUCTION CONTRACT") WITH ALL
AMERICAN ASPHALT ("CONTRACTOR") TO USE CERTAIN
2007A-1 BOND PROCEEDS ISSUED PRIOR TO DECEMBER 31,
2010 UNDER HEALTH & SAFETY CODE SECTION 34191.4(c)(1)9
("BOND FUNDS"), TO PARTIALLY FUND THE CENTURY
BOULEVARD MOBILITY IMPROVEMENT PROJECTS 1, 2 and 4.

WHEREAS, Assembly Bill x1 26 ("AB 26") and AB x 27 ("AB 27") were passed
by the State Legislature on June 15, 2011, and signed by the Governor on
June 28, 2011, and

WHEREAS, by enactment of Part 1.85 of Division 24 of the Health and Safety
Code, subject to all reservations herein stated, the Inglewood Redevelopment Agency
was dissolved as February 1, 2012, such that the Inglewood Redevelopment Agency is
now deemed to be the former redevelopment agency under Health and Safety Code
section 34173(a); and

WHEREAS, Health and Safety Code section 34173(a) designates successor
agencies as successor entities to former redevelopment agencies; and

WHEREAS, on January 10, 2012, by Resolution H12-01/12-02, the City Council
of the City of Inglewood, subject to all reservation stated in the subject Resolution
declared the City of Inglewood, as Successor Agency to the former Inglewood
Redevelopment Agency (sometimes referred to herein as the "Successor Agency");
WHEREAS, the California Supreme Court in California Redevelopment Association v. Matosantos, Case No. S194861 upheld the constitutionality of AB 26 and found AB 27 to be unconstitutional;

WHEREAS, AB 26 requires that there shall be an oversight board ("Oversight Board") established for each of the former California redevelopment agency’s successor agencies to supervise the activities of the Successor Agency and the wind down of the dissolved Redevelopment Agency’s affairs pursuant to AB 26; and

WHEREAS, upon satisfaction of the conditions in AB 26, specifically, Health & Safety Code section 34179.7, the Successor Agency received its finding of completion on December 29, 2014; and

WHEREAS, in furtherance of Health & Safety Code section 34191.4(c)(1), the bond proceeds derived from the former Inglewood Redevelopment Agency bonds issued before December 31, 2010 shall be used by the Successor Agency for the purposes for which the bonds were sold and the Successor Agency desires to expend available bond proceeds to partially fund the construction of the Century Boulevard Mobility Improvement Projects 1, 2 and 4 (the "PROJECT") in accordance with the terms of the Construction Contract; and

WHEREAS, the SUCCESSOR AGENCY received its finding of completion on December 29, 2014 from the California Department of Finance and, pursuant to California Health & Safety Code section 34191.4(c), desires to expend an amount not-to-exceed amount of Eighteen Million, One Hundred and Eighteen Thousand Dollars ($18,118,000)(the "COMPENSATION AMOUNT") to perform the work and services to complete the PROJECT; pursuant to which, up to Three Million One Hundred Ninety
Thousand Three Hundred and Seventy-Six Dollars ($3,190,376) shall be made available for expenditure by the Successor Agency to fund the Project for the period of time commencing with the Effective Date of the Construction Contract through December 31, 2015 with any remaining amount of the BOND FUNDS required for PROJECT funding made available for expenditure by the Successor Agency in the amounts and within the times determined by the Department of Finance ("DOF") as provided in future Recognized Obligation Payment Schedules ("ROPS") submitted to and approved by DOF.

WHEREAS, at all relevant times prior to receipt of its finding of completion under AB X1 26, the BOND FUNDS were allocated and purposed to be expended for the construction of the PROJECT.

WHEREAS, the BOND FUNDS alone are, insufficient to fully fund the COMPENSATION AMOUNT and additional funding is provided for in the CONSTRUCTION CONTRACT to fund the difference between COMPENSATION AMOUNT and the BOND FUNDS authorized by DOF for the PROJECT.

WHEREAS, the SUCCESSOR AGENCY desires to commit the BOND FUNDS for expenditure to only partially fund the COMPENSATION AMOUNT and the PROJECT costs in accordance with the terms and conditions of the CONSTRUCTION CONTRACT.

WHEREAS, in conformance with California Health & Safety Code section 34191.4(c), the use of the BOND FUNDS for payment of the COMPENSATION AMOUNT is consistent with the purposes of the 2007A-1 bond issuance of the former Inglewood Redevelopment Agency.
WHEREAS, the SUCCESSOR AGENCY agrees to allocate and reserve the BOND PROCEEDS and use them only for COMPENSATION AMOUNT required for the PROJECT in accordance with the CONSTRUCTION CONTRACT which shall be fully executed by the CITY, SUCCESSOR AGENCY, and CONTRACTOR.

NOW, THEREFORE, the Oversight Board Successor Agency to the Inglewood Redevelopment Agency does hereby resolve as follows:

Section 1. The Recitals set forth above are true and correct and are incorporated into the Resolution by this reference.

Section 2. The Oversight Board approves the expenditure of BOND FUNDS for the PROJECT by the Successor Agency subject to the funding limitations and restrictions set forth in the CONSTRUCTION CONTRACT, and directs the authorized signatory of the Successor Agency to negotiate, finalize, and execute the CONSTRUCTION CONTRACT for the funding and development of the PROJECT in accordance with the requirements of the CONSTRUCTION CONTRACT.

Section 3. The Oversight Board directs staff to submit copies of the Resolution and its attachments to the State Department of Finance and the Controller’s office for further review and approval.

Section 4. The Oversight Board Secretary shall certify as to the adoption of this Resolution.

Section 5. This Resolution shall take effect immediately upon adoption.

Section 6. The Secretary of the Oversight Board shall certify as to the adoption of this Resolution.
PASSED, APPROVED AND ADOPTED by the Oversight Board to the
Successor Agency of the former Inglewood Redevelopment Agency, at a regularly
scheduled public meeting held this 25th day of SEPTEMBER, 2015.

James T. Buys, Chairman

ATTEST:

Secretary
AGREEMENT NO.:

THIS AGREEMENT is made and entered into this ______ day of____________, 2015 (the “Effective Date”), by and among the CITY OF INGLEWOOD (hereinafter referred to as the “City”), a municipal corporation, located at One Manchester Boulevard, Inglewood, California 90301; CITY OF INGLEWOOD as SUCCESSOR AGENCY to the INGLEWOOD REDEVELOPMENT AGENCY (hereinafter referred to as the “Successor Agency”), a public body corporate and politic, located at One Manchester Boulevard, Inglewood, California 90301; and ALL AMERICAN ASPHALT, (hereinafter referred to as the “Contractor”) a California corporation with its principal place of business located at P.O. Box 2229, Corona, California 92878.

RECITALS

WHEREAS, the City and the Successor Agency are desirous of obtaining the services of a licensed contractor to provide labor and materials for the completion of the City’s Century Boulevard Mobility Improvement Projects 1, 2 and 4 Between La Cienega Boulevard and Inglewood Avenue and Doty Avenue and Van Ness Avenue (hereinafter referred to as the “Project”); and

WHEREAS, the Contractor holds itself out as capable and competent to perform such services in accordance with the needs of the City and the Successor Agency.

NOW THEREFORE, the City, Successor Agency and the Contractor (hereinafter referred to collectively as the “Parties”) hereto mutually agree as follows:

ARTICLE 1 – SCOPE OF SERVICES

The Contractor shall:

1. Perform the Project in a workmanlike manner in accordance with Exhibit “A,” the City’s bid specification No.: CB-15-30, dated May 2015; and Exhibit “B,” Bidder’s Proposal and Statement. Each Exhibit is incorporated herein by this reference as if set forth in full. In the event of a conflict, the order of precedence shall be:
a. This Agreement shall prevail over Exhibit “A,”
b. Exhibit “A,” shall prevail over Exhibit “B.”

2. Ensure that all work is done in a workmanlike and professional manner and in accordance with standard industry practices.

3. Agree to comply with and be bound by all applicable federal, state, county, and local laws, rules, and regulations.

4. Ensure that all personnel engaged by the Contractor to perform the services contemplated by this Agreement shall be properly licensed.

5. Obtain, at its own expense, all necessary licenses, and permits, including but not limited to those required by the City and the Successor Agency, to perform the services contemplated by this Agreement.

6. Secure the payment of workers’ compensation to its employees as provided in California Labor Code Sections 1860 and 3700 and agree, that pursuant to California Labor Code Section 1810, that eight (8) hours’ labor constitutes a legal day’s work.

7. Correct all defects detected in workmanship and materials shall be corrected at the expense of the Contractor and approved by the Public Works Director or his designee. No payment shall be made to the Contractor until corrections are completed and approved.

8. Agree that should disputes arise respecting the true value of any work done, of any work omitted, or any extra work, which the Contractor may be required to do, or respecting the size of payment to the Contractor during the performance of this contract, such dispute shall be decided by the Director of Public Works on the behalf of the Parties.

9. Abide by California Public Contract Code Section 7104 and California Labor Code Section 6705 whenever such Codes are relevant.

10. Agree to comply with the applicable provisions of California Labor Code Section 1777.5 relating to employment by the Contractor and all
subcontractors under it, of journeymen, or apprentices, or workmen in any
apprentice craft or trade. The Contractor specifically agrees to comply with the
applicable provisions of California Labor Code Section 1770 through and including
Section 1776 relating to compliance monitoring and enforcement, payment of
prevailing rates of wages to all workmen employed in the performance of the
services contemplated by this Agreement by the Contractor and all subcontractors
under it and to keep and maintain accurate certified payment records.

11. Agree that any digging of trenches or other excavations that extend
deeper than four (4) feet below the surface, then the Contractor shall:
   a. Promptly, and before the following conditions are disturbed, notify the
      City and Successor Agency, in writing, of any:
         i. Material that the Contractor believes may be material that is
              hazardous waste, as defined in Section 25117 of the Health and
              Safety Code that is required to be removed to a Class I, Class II,
              or Class III disposal site in accordance with provisions of existing
              law.
         ii. Subsurface or latent physical conditions at the site differing from
              those indicated by information about the site made available to
              bidders prior to the deadline for submitting bids.
         iii. Unknown physical conditions at the site of any unusual nature,
              different materially from those ordinarily encountered and
              generally recognized as inherent in work of the character provided
              for in this Agreement.

12. Agree that, in the event a dispute arises between the City and the
Contractor whether the conditions materially differ, or involve hazardous waste, or
cause a decrease or increase in the Contractor's cost of, or time required for,
performance of any part of the work, the Contractor shall not be excused from any
scheduled completion date provided for by this Agreement, but shall proceed with all
work to be performed under the Agreement. The Contractor shall retain any and all
rights provided by this Agreement first and then by relevant law which pertain to the
resolution of disputes and protests between the Parties.

13. Agree that statutory provisions for penalties for failure to pay
prevailing wages will be enforced and that the statutory provisions for penalties for
failure to comply with the state’s minimum wage and hour laws will be enforced.

14. Provide a written guarantee of workmanship and safety to the Public
Works Director or his designee. No payment shall be made to the Contractor without
said written guarantee.

ARTICLE 2 – CITY/SUCCESSOR AGENCY DUTIES

The City hereby promises to provide all access, data, records, and documents
reasonably within its possession or control as are necessary for the Contractor to
perform the services contemplated by this Agreement.

The City further promises to timely notify the Contractor of the receipt of any
third party claim related to this Agreement as provided in California Public Contract
Code Section 9201(b). Should such notification become necessary, the City shall
recover all reasonable costs incurred in providing the notification contemplated by this
Article, pursuant to California Public Contract Code Section 9201(c).

Relative to Article 1, Paragraph 11 the City shall investigate the conditions, and
if it finds that the conditions do materially so differ, or do involve hazardous waste, and
cause a decrease or increase in the Contractor’s cost of, or the time required for,
performance of any part of the work shall issue a change order under the procedures
described in this Agreement.

The Successor Agency hereby promises to provide certain tax-exempt bond
funding to assist with the financing of the Project as required by and subject to the
terms and conditions of this Agreement.
ARTICLE 3 – TERM

This Agreement shall terminate at 11:59 p.m., June 30, 2018. All work contemplated in Article 1 of this Agreement shall be completed within Four Hundred (400) Working Days from the date of the Notice to Proceed ("NTP").

ARTICLE 4 – COMPENSATION AND SOURCES OF COMPENSATION

1. The Contractor shall be paid pursuant to Exhibit "B," a not-to-exceed amount of Eighteen Million, One Hundred and Eighteen Thousand Dollars ($18,118,000)(the "Compensation Amount") to perform the work and services to complete the Project. The entire Compensation Amount shall be funded by: (a) Los Angeles County Metropolitan Transportation Authority ("MTA") construction funding in the amount of One Million Four Hundred Eleven Thousand and Two Hundred and Twenty-Five Dollars ($1,411,225); and (b) Successor Agency tax-exempt bond financing (the "Bond Funding"); pursuant to which, up to Three Million One Hundred Ninety Thousand Three Hundred and Seventy-Six Dollars ($3,190,376) shall be made available for expenditure by the Successor Agency to fund the Project for the period of time commencing with the Effective Date of this Agreement through December 31, 2015. The remaining amount of the Bond Funding shall be made available for expenditure by the Successor Agency for the Project in the amounts and within the times determined by the Department of Finance ("DOF") as provided in future Recognized Obligation Payment Schedules ("ROPS") submitted to and approved by DOF. Additionally, a not-to-exceed contingency fee of One Million, Eight Hundred and Eleven Thousand, Eight Hundred Dollars ($1,811,800), or ten percent (10%) of the Compensation Amount shall be provided by the MTA until completion of the Project.

2. The Contractor shall invoice, from the date of Notice to Proceed, the City every thirty (30) days for services contemplated hereunder and which have been completed within that thirty (30) day period.

3. The Contractor shall invoice the City within ten (10) working days after the completion of the work for which payment is requested in the invoice. Upon receipt of a
Contractor invoice, City shall review the work and the invoice to assure that the invoice amount accurately reflects the work actually performed. Once the City approves the work and the invoice, City may request in writing and immediately following such request, Successor Agency shall deliver to the City Bond Fund proceeds in the amount of the invoice or any portion thereof (as determined by the City) to pay that invoice. The City shall pay the Contractor invoice in the ordinary course of the City business, and agrees that it will use its best efforts to avoid unnecessary delays in processing the Contractor's invoices.

4. The Contractor agrees that, should work be performed outside the scope of services without the prior written approval of the City, such work shall be ultra vires and deemed a gratuitous effort on the part of the Contractor, and the Contractor shall not have nor assert any claim against the City for reimbursement.

5. For purposes of this Agreement, the Compensation Amount may also from time to time be referred to herein as the "Contract Price."

6. However, notwithstanding anything contained herein to the contrary, under no circumstances shall any of the Bond Funding be expended pursuant to this Agreement until such time as this Agreement has been approved by the DOF.

**ARTICLE 5 – TERMINATION**

This Agreement shall be subject to termination by the City at its sole discretion for convenience; or if it encounters conditions during the work contemplated hereunder that make it impossible or impracticable to proceed; or if the City is prevented from proceeding with the Agreement by law or by official action of a public authority; or if there is an unavailability of Successor Agency or City funding, the Contractor violates any material provisions of this Agreement; or if the Contractor fails to provide and complete the services required of this Agreement in a satisfactory manner as determined by the City Engineer.

The City shall advise the Contractor of any deficiencies and shall allow the Contractor a ten (10) day period to correct any deficiencies at the Contractor's
expense prior to cancellation of this agreement and shall advise the Contractor of
notice of termination by a method of notification specified in Article 6 of this
Agreement. If the City terminates for convenience, then the Contractor is entitled to
receive, as full and complete compensation, and in lieu of any and all forms of
damages, (i) the amount paid to for all Work performed in accordance with the
Contract Documents; (ii) the amount for any and all materials and/or equipment
ordered (which cannot be cancelled); (iii) the reasonable costs for accounting for the
winding up of the Contract; and (iv) a markup of 8% to cover overhead, profit and any
other alleged costs and/or damage the Contractor might otherwise contend it would be
owed because of the City's termination for convenience; provided that in no event shall
the compensation paid pursuant to this paragraph exceed the amount which would
have been payable pursuant to Article 4 of this Agreement. The Contractor fully
acknowledges the potential effect and the liquidating nature of the termination for
convenience provision and, having received the independent advice of legal counsel,
agrees to it without reservation.

ARTICLE 6 – NOTICES

All notices required or permitted to be given under this Agreement shall be in
writing or sent by certified mail and shall be dated and signed by the party giving such
notice or by a duly authorized representative of such party.

Any notice given pursuant to this Agreement shall be deemed received and
effective when properly addressed, posted and deposited in the United States Mail
addressed to the respected parties as follows:

Notice to City

If notice is given to the City, it shall be by personal delivery thereof to the City
or by depositing the same in United States Mail, enclosed in a sealed envelope
postage prepaid and return receipt requested and addressed to the City as follows:

CITY:  CONTRACTOR:
Yvonne Horton,  Edward J. Carlson, Vice-President
City Clerk  All American Asphalt
City of Inglewood  P.O. Box 2229
One Manchester Boulevard
Inglewood, California 90301-1750

Corona, California 92878

WITH COPY TO:
Director of Public Works
One Manchester Boulevard
Inglewood, California 90301

AGENT FOR SERVICE OF PROCESS ONLY
Michael Scott Farkas,
400 E. Sixth Street
Corona, California 92879

SUCCESSOR AGENCY:
Yvonne Horton,
Agency Secretary
City of Inglewood as Successor Agency
One Manchester Boulevard
Inglewood, California 90301-1750

Notice of Contractor

If notice is given to the Contractor, it shall be by personal delivery thereof to the Contractor or to the Contractor’s project manager or superintendent at a Site, or by depositing same in United States Mail, enclosed in a sealed envelope addressed to the Contractor at its last known address for its regular place of business and sent by registered or certified mail with postage prepaid.

Notice of Surety

If notice is given to Surety, it shall be by personal delivery to the Surety or by depositing same in United States mail, enclosed in a sealed envelope, addressed to the Surety at the address of the Surety shown in the applicable Performance Bond or Payment Bond (or, if none is shown, the last known address for the Surety), and sent by registered or certified mail with postage prepaid.

Agent for Service of Process

The Contractor may from time to time designate another address or addressee and shall, in such instances, notify the City in writing within ten (10) calendar days of such designation. Notwithstanding any contrary language in this Agreement, changes, modifications, updates, or amendments to any name, title or address in this Article shall not require City Council or Successor Agency action.
Effective Date of Notice

Notice shall be deemed effective on the date personally delivered or, if mailed, five (5) days after deposit of the same in the custody of the United States Postal Service, properly addressed, with postage prepaid and return receipt requested.

ARTICLE 7 – INSURANCE REQUIREMENTS

The Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees, or subcontractors. The cost of such insurance shall be borne by the Contractor. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract.

Minimum Scope of Coverage

Coverage shall be at least as broad as indicated below:

1. Insurance Service Office Commercial General Liability coverage (occurrence form CG 0001).

2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, code 1 (any auto).

3. Workers’ Compensation insurance as required by the State of California and Employer’s Liability Insurance.

Minimum Limits of Insurance

The Contractor shall maintain these policies and shall cause all parties supplying services, labor, or materials to maintain the following insurance in amounts not less than those specified below:

1. General Liability (including operations, products and completed operations): $1,500,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this

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project/location or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: $1,500,000 per accident for bodily injury or property damage.

3. Employer’s Liability: $1,000,000 per accident for bodily injury or disease.

Deductions and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Inglewood City Attorney’s office. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officers, officials, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the Inglewood City Attorney’s Office guaranteeing payment of losses, investigations, claims administration, and defense expenses.

Other Insurance Provisions

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

1. The City of Inglewood, its officers, officials, employees and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General insurance, liability coverage can be provided in the form of an endorsement to the Contractor’s insurance, or as a separate owner’s policy (CG 20 10 11 85).

2. For any claims related to this project, the Contractor’s insurance coverage shall be primary insurance with respect to the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be in excess of the Contractor’s insurance and shall not contribute to it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days, ten (10) days if cancellation is due to non-payment of premium, prior written notice has been given to the City by certified mail, return receipt requested.

4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

Verification of Coverage

The Contractor shall furnish the City with original certificates and amendatory endorsements affecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Inglewood City Attorney’s Office before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

Subcontractors

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

ARTICLE 8 – INDEMNIFICATION

1. The Contractor shall indemnify and hold harmless the City and its respective officers, employees and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of the work described herein, to the extent caused in whole or in part by any negligent act or omission, recklessness or willful misconduct of the Contractor.
any subcontractor, anyone directly or indirectly employed by any of them or anyone for
whose acts any of them may be liable, except where caused by the negligence, or willful
misconduct of the City or the Successor Agency.

2. If any action or proceeding is brought against Indemnitees by reason of
any of the matters against which the Contractor has agreed to indemnify Indemnitees as
provided above, the Contractor, upon notice from the City and/or Successor Agency,
shall defend Indemnitees at the Contractor's expense by counsel acceptable to the City,
such acceptance not to be unreasonably withheld. Indemnitees need not have first paid
for any of the matters to which Indemnitees are entitled to indemnification in order to be
so indemnified. The insurance required to be maintained by the Contractor under this
Article shall ensure the Contractor's obligations under this section, but the limits of such
insurance shall not limit the liability of the Contractor hereunder. The provisions of this
Article shall survive the expiration or earlier termination of this Agreement.

ARTICLE 9 - BONDS

The Contractor agrees that, at all times during the performance of the services
contemplated by this Agreement, it shall keep and maintain the following Contract
Bonds in the amount set forth below:

1. Bid Bond

2. Performance Bond

3. Payment Bond

Said bonds shall be in the form approved by the Inglewood City Attorney and
shall be satisfactory to the City.

Bid Bond

As a guaranty of good faith, each bidder shall submit with their proposal an
unconditional bidder's bond or certified or cashier's check, drawn on a solvent State or
national bank, or cash in the sum stated in the Invitation to Submit Bids, payable to
the City of Inglewood, said bidder's bond or check to be held uncollected until it
becomes subject to disposal as herein provided. Any condition or limitation placed
upon said bidder's bond or check will render it informal and may, at the option of the
City, result in the rejection of the proposal under which such bidder's bond or check is
submitted. If a bidder to whom an award is made fails or refuses to execute the
contract and furnish the required bonds, all within the time stated, said bidder's bond or
check and the monies represented thereby, or the cash guaranty, shall be and remain
the property of the City and shall be subject to deposit with the Treasurer of the City as
other monies belonging to the City, the amount thereof being agreed to by the bidder as
liquidated damages due the City. Within 15 days after the award of the contract, the
City of Inglewood will return the proposal guarantees accompanying such as the
proposals that are not to be considered in making the award. All other proposal
 guarantees will be held until the contract has been finally executed, after which they will
be returned to the respective bidders whose proposal they accompany.

Performance Bond

The Contractor agrees to at all times during the performance of the agreement to
obtain, keep, and maintain a faithful performance bond in the amount equal to one
hundred percent (100%) of the Contract Price. Said bond shall guarantee to the City
the prompt, faithful and competent performance of each and every term, condition and
provision set forth in this Agreement; pursuant to which, this Agreement shall be
incorporated into the Performance Bond by express reference therein. Said Bond and
the obligations of Surety thereunder shall remain in full force and effect for as long as
the Contractor's obligations under this Agreement remain in effect with respect to the
City and Successor Agency. Said bond shall also be in the form and have the content
required for approval by the City Attorney.

Payment Bond

Before the Contractor begins Work, of any kind for the Project, the Contractor
shall post a Payment Bond pursuant to the requirements of Civil Code section 3247 Et
Seq. The Contractor shall keep such bond in force and effect as required by applicable
law, but in no case less than seven (7) months from the date of acceptance of the
Project by the City. Said Bond shall be in an amount equal to one hundred percent (100%) of the Contract Price. Said bond shall be in the form approved by the City Attorney.

ARTICLE 10 - LIQUIDATED DAMAGES

It is agreed to by the parties to this Agreement that in case all the work called for in this Agreement is not completed expeditiously, safely, and per all of the rules set forth in this Agreement before or upon the expiration of the time limit as set forth in this Agreement, damage will be sustained by the City of Inglewood (in terms of inconvenience, lost productivity, additional administrative costs, and other costs both tangible and intangible). It is also agreed by the parties that it is and will be impracticable to determine the actual damage which the City will sustain in the event of and by reason of such delay; and it is, therefore, agreed that the Contractor will pay to the City the sum of Eight Thousand Three Hundred Dollars ($8,300) for each and every day's delay beyond the time prescribed to complete the work; and the Contractor agrees to pay such liquidated damages as herein provided, and in case the same are not paid, agrees that the City of Inglewood may deduct the amount thereof from any Compensation Amount due and payable or that may become due and payable to the Contractor under this Agreement.

Multiple Correction Notices

The Contractor shall receive only one Correction Notice for the same issue, or issues within the same specification section, without sanction. Additional Correction Notices shall constitute an unwillingness of the Contractor to abide by the terms of this Agreement. The City may impose Liquidated Damages of Three Hundred Dollars ($300) for each correction notice, which is written on the same issue, or concerning the same section of the specifications.

The City of Inglewood may issue a change order credit to this Agreement (thereby reducing the Contract Price) by Three Hundred Dollars ($300) per correction notice in the case of repetitive correction notices.
ARTICLE 11 – INGLEWOOD BUSINESS LICENSE

The Contractor agrees, at all times during the performance of the work or services required by this Agreement, to obtain and maintain an Inglewood City business license. A copy of said license must be forwarded to the City Clerk and Public Works Department prior to issuing the Notice to Proceed (NTP).

ARTICLE 12 – “OR EQUAL” CLAUSE

Whenever a material, article, or piece of equipment is identified on the plans or in the specifications by reference to manufacturers' or vendors' names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and any material, article, or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed is, in the opinion of the Engineer of equal substance and function. Said materials, article or equipment shall not be purchased or installed by the Contractor without the Engineer's written approval.

Any bidder wishing to make an “or equal” request must such request in writing to the Engineer within (7) seven days after the bid opening date.

ARTICLE 13 – PERMITS, COSTS AND NOTICES

City Permits

Wherever the property of the Federal Government, the State of California, the County of Los Angeles, the City of Inglewood, any local utilities, or of any other agency is affected by the work included in this contract, the Contractor shall procure all permits, give all notices necessary, and bear the cost of all permits and inspection lawfully exacted by said Government, State, County, City, District, Department, or other agency during the time of performing the work affecting said property. In addition, the Contractor shall bear all cost of traffic regulation and traffic control devices lawfully exacted by said State, County, City, or other agency during the time of performing the work affecting said property. Work may not start unless all permits are pulled. The
Contractor will bear all the burden of construction delays caused by delays in pulling permits. Permits for all trades for all units must be pulled at one time.

**Work within the Public Rights of Way**

Neither the terms hereof nor anything shown on the drawings in connection with rights-of-way provided by the City shall be construed to entitle the Contractor to conduct operations in said rights-of-way in violation of existing regulations restricting interference with watercourses and drainage channels. The Contractor shall take adequate precautions against obstructing storm water flow in any affected watercourse or channel, and shall not deposit excavated materials in any area where they might interfere with or be subject to erosion from such flow.

The Contractor shall be responsible for making their own arrangements for parking facilities, storage areas, and staging area; the Contractor shall obtain written permission from the owners of the affected property for such use, and a copy of each such written permit shall be furnished to the City and property owners for their protection and records.

The Contractor shall indemnify and hold harmless the City and the Successor Agency from all claims for damages occasioned by such actions.

**Encroachment Permits**

The Contractor shall obtain encroachment permit(s) from the City’s Public Work Department prior to start of any Project Work. The costs of such permits are included on the Contract Sum.

**Liability Insurance for Permits**

Where required under the terms of the permits, the Contractor shall obtain liability insurance acceptable to and in an amount required by the public agency having jurisdiction. The policy shall insure said agency against all claims arising out of or in connection with the work to be performed and shall remain in full force and effect until the work is accepted by the City. The Contractor shall furnish to each such agency a
certificate of protective liability insurance showing the protection afforded and the amount thereof.

ARTICLE 14 – RESPONSIBILITIES OF PROJECT SUPERINTENDENT

The Contractor shall submit, at the initial pre-construction meeting, written qualification of the proposed project superintendent, for City review. The approved superintendent shall be on the project site full time and will be responsible for all general contract and subcontract work on the project. The approved superintendent shall be assigned to one construction project only. The approved Superintendent shall attend all field measurement verifications.

The Construction Manager for the City will have sole responsibility for obtaining approval of qualifications. The Superintendent shall be fully capable of scheduling, monitoring, and controlling the work of all trades that are performing work for this Project and of answering questions and concerns without consulting other off-site persons unless design or contractual issues require special consultation. The Superintendent must be responsible for a maximum of one project at any time and shall be assigned for a time period that at least includes the period from Notice to Proceed through Notice of Completion.

ARTICLE 15 – AUTHORITY OF THE ENGINEER

All work of the contract will be supervised by the Engineer. References to "Engineer" shall be understood literally as meaning the Engineer or an authorized representative.

The Engineer shall have the authority to give such general directions and exercise such control as may be necessary to ensure that work on the project is in strict compliance with the Contract Documents. The Engineer shall determine the adequacy of the Contractor's methods, plant, and equipment and may issue such directions relative to the sufficiency of forces as may be reasonably necessary to insure proper and continuous execution of the work. The Engineer shall have the authority to stop the work, if necessary, to prevent its improper execution and shall determine the amount,
quality, and fitness of the several kinds of work. The Engineer shall have the authority to reject all work which does not conform to the requirements of the contract and shall have power to make such other decisions as provided in these specifications. All instructions, rulings, and decisions of the Engineer shall be final and binding unless formal protest is made under the provisions for "Rights and Remedies; Claims and Protests" in Article 16 of this Contract.

The Engineer shall have executive authority to enforce such decisions and orders which the Contractor shall carry out promptly. The Engineer shall have the authority to issue change orders not to exceed 15% of contract amount, and time extensions as he deems necessary to best serve the City's interests.

ARTICLE 16 – RIGHTS AND REMEDIES; CLAIMS AND PROTESTS

Duties and obligations imposed by the Contract Documents and rights and remedies available hereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by Applicable Law.

If the Contractor considers any work demanded of them to be outside the requirements of the contract, or considers any instruction, ruling, or decision of the Engineer to be unfair, the Contractor shall within 10 working days after any such demand is made, or any such instruction, ruling, or decision is given, file a written protest with the Engineer stating the nature of the protest and the reasons therefore.

Except for such protests and objections as are made of record in the manner and within the time above stated, the Contractor shall be deemed to have waived and does hereby waive all claims for any extra work, damages, and extensions of time on account of such demands, instructions, rulings, and decisions of the Engineer.

Upon receipt of any such protest from the Contractor, the Engineer will review the demand, instruction, ruling, or decision objected to and will, within 30 calendar days, advise the Contractor, in writing, of his/her final decision, which shall be binding upon all parties unless, within 10 working days after the date of said final decision, the Contractor shall file with the Council formal protest against said final decision of the
Engineer. The Council will then consider and render its final decision on any such protest within 30 calendar days after receipt of such protest. The decision of the City Council shall be final and binding upon all parties to the dispute.

Claims Based on Differing Site Conditions. Save and except as provided in this paragraph, the Contractor agrees to solely bear the risk of Loss and Delay due to concealed or unknown conditions, surface or subsurface, at a Site or in Existing Improvements at the Site, without adjustments to the Contract Sum or Contract Time. If the Contractor encounters conditions it believes constitutes Differing Site Conditions, then notice of such conditions shall, before such conditions are disturbed, be promptly reported to Engineer within twenty-four (24) hours by a written notice stating a detailed description of the condition encountered. Failure to submit a timely written notice to the Engineer shall be deemed a waiver of any right by the Contractor for an adjustment to the Contract Sum or Contract Time by reason of such conditions. The City shall treat any time written notice as a claim for damages and shall be resolved in accordance with this Article 16 of the Contract.

ARTICLE 17 – INDEPENDENT CONTRACTOR

The Contractor enters into this Agreement as an independent contractor and not as an employee of the City. The Contractor shall have no power or authority by this Agreement to bind the City in any respect. Nothing in this Agreement shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by the Contractor are employees, agents, contractors or subcontractors of the Contractor and not of the City. The City shall not be obligated in any way to pay any wage claims or other claims made against the Contractor by any such employees, agents, contractors, or subcontractors, or any other person resulting from performance of this Agreement.

ARTICLE 18 – RETENTION

1. Provisions of California Public Contract Code §22300 Et Seq., substitution of eligible and equivalent securities for retention held by the City to ensure the
Contractor's performance under the Contract will be permitted at the request and expense of the Contractor and in conformity with California Public Contract Code §22300. The foregoing notwithstanding, the Contractor shall have ten (10) days following action by the City to award the Agreement to the Contractor to submit its written request to the City to permit the substitution of securities for retention under California Public Contract Code §22300. The failure of such Contractor to make such written request to the City within said ten (10) day period shall be deemed a waiver of the Contractor's rights under California Public Contract Code §22300.

2. In the event the Contractor wishes to choose to exercise its rights under California Public Contract Code Section §22300, the Contractor shall enter into an escrow agreement with the City, and the escrow agent, a state or federally chartered bank in California with a current A.M. Best Rating of not less than “A,” in the form specified by said Section §22300. The Contractor shall have the obligation of ensuring that such securities deposited are sufficient to maintain, in total fair market value, an amount equal to the cash amount of the sums to be withheld under the Agreement. If, upon written notice from the City or from the appropriate escrow agent, indicating that the fair market value of the securities has dropped below the dollar amount of monies to be withheld by the City to ensure performance, the Contractor shall, within five (5) days of the date of such notice, post additional securities as necessary to ensure that the total fair market value of all such securities held by the City, or in escrow, is equivalent to the amount of money to be withheld by the City under the Agreement.

ARTICLE 19 – NON-ASSIGNABILITY

The expertise and experience of the Contractor are material considerations for this Agreement. The City has an interest in qualifications of and capability of the Contractor which will fulfill the duties and obligations imposed under this Agreement. In recognition of that interest, the Contractor shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of the Contractor's duties or obligations under this Agreement without the prior written consent of the City. Any
attempted unauthorized assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling the City to any and all remedies at law or in equity, including summary termination of this Agreement. The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the same whether by assignment or novation, without prior written approval of the City.

ARTICLE 20 – PROHIBITED INTERESTS

No official, employee, or agent of the City, nor any member of his of her immediate family, shall have any direct or indirect interest in the contract.

ARTICLE 21 – EQUAL EMPLOYMENT

The Contractor agrees that during the performance of this Agreement, it will not discriminate against any employee or applicant for employment because of race, color, religious creed, national origin, ancestry, sex, sexual orientation, age, physical handicap, medical condition or marital status.

ARTICLE 22 – CHANGES, AMENDMENTS AND MODIFICATIONS

No change, amendment, or modification to this Agreement shall be effective unless in writing and signed by the Parties hereto.

ARTICLE 23 – SEVERABILITY

In the event that any condition or covenant herein is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of the Agreement and shall in no way affect any other covenant or condition herein contained as long as the invalid provision does not render the Agreement meaningless with regard to a material term in which event the entire Agreement shall be void. If such condition, covenant, or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent the scope or breadth is permitted by law.

ARTICLE 24 – WAIVER

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant.
Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by the City of any work or services by the Contractor shall not constitute a waiver of any of the provisions of this Agreement.

ARTICLE 25 – ENTIRE AGREEMENT

This Agreement, including all Exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed therein and supersedes all other Agreements or understandings, whether oral or written, entered into between the Contractor and the City prior to the execution of this Agreement. No statements, representations or other Agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding unless in writing and duly executed by the Parties of their authorized representatives.

ARTICLE 26 – GOVERNING LAW; VENUE

This Agreement shall be interpreted, construed, and governed according to the laws of the State of California. In the event of litigation between the Parties, venue in state trial courts shall lie exclusively in the County of Los Angeles, Superior Court, Southwest District, located at 825 Maple Avenue, Torrance, California 90503-5058. In the event of litigation in the United States District Court, venue shall lie exclusively in the Central District of California, in Los Angeles.

ARTICLE 27 – MISCELLANEOUS

1. The Parties waive any benefits from the principle of contra proferentum and interpreting ambiguities against drafters. No party shall be deemed to be the drafter of this Agreement, or of any particular provision or provisions, and no part of this Agreement shall be construed against any party on the basis that the particular party is the drafter of any part of this Agreement.

2. This Agreement may be executed in counterparts, and when each party hereto has signed and delivered at least one such counterpart, each counterpart shall
be deemed an original and, when taken together with the other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all parties hereto.

3. Article titles, paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provision hereof.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date and year first above written.

CITY OF INGLEWOOD

\[signature\]

James T. Butts, Jr.,
Mayor

\[signature\]

Edward J. Carlson,
Vice-President

ATTEST:

\[signature\]

Yvonne Horton,
City Clerk

APPROVED AS TO FORM:

\[signature\]

Kenneth R. Campos,
City Attorney

APPROVED:

\[signature\]

Royce K. Jones
Kane, Ballmer & Berkman
City Special Counsel