



Invitation for Bid

No. 202122-09

FOR

Lions Town & Country Park Ballfields #1 & #2 Renovation

Date Released: Saturday, January 29, 2022

**CITY OF MADERA
Parks and Community Services Division**

Bids are due prior to 2:00 PM on Monday, February 7, 2022

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INVITATION FOR BID No. 202122-09
FOR
LIONS TOWN & COUNTRY PARK BALLFIELDS #1 & #2 RENOVATION

Bids are due prior to 2:00PM on Monday, February 7, 2022

INTRODUCTION

The City of Madera requests your proposal to provide all equipment, labor, materials, and incidentals required to renovate Ballfields #1 & #2 at Lions Town & Country Park, located at 2300 Howard Road, Madera, CA 93637.

INSTRUCTIONS TO BIDDERS

1. You may view or obtain a copy of this Invitation for Bids (IFB) by visiting or contacting the following:
 - The City's Purchasing page at www.madera.gov/purchasing under Bid Announcement and Results.
 - Fresno Builders Exchange, 1244 N. Mariposa, Fresno, CA 93703
 - Valley Builders Exchange, 1118 Kansas Avenue, Modesto, CA 95352
 - Tulare-Kings Counties Builders Exchange, 823 W. Center Ave, Visalia CA 93291
 - Kern Minority Contractors Association, 1330 E. Truxton Ave., Bakersfield Ca. 993305
 - www.ebidboard.com
2. No bid proposal will be considered for award unless submitted in the bid format provided in this IFB. Bid proposals shall only be prepared using the bid forms which are included in this IFB, or subsequent addenda issued by the City of Madera Purchasing Division. The use of substitute bid forms other than clear and correct photocopies of those provided by the City will not be permitted. Bid proposals shall be executed by an authorized signatory as described in these Instructions to Bidders. Bidders shall neither delete, modify, nor supplement the printed matter on the bid forms nor make substitutions thereon. Deviations in the bid forms may result in the bid proposal being deemed non-responsive.
3. Bid security in the amount of ten (10) percent of the amount of the bid, and in the form of a bid bond issued by an admitted surety insurer licensed by the California Department of Insurance, cash, cashier's check, or certified checks is required. Electronic copies of bid

security shall accompany the bids, with the originals submitted to the City of Madera's Procurement Services Manager no later than three days following bid opening. Bid securities shall be made in favor of the City of Madera.

4. ***Due to COVID-19 safety precautions, and to ensure the delivery of your bid, it is required that you email your bid to jstickman@madera.gov by 2:00PM on Monday, February 7, 2022.***

Bid proposals shall be sent via email only, with the subject line: **"IFB No. 202122-09 LIONS TOWN & COUNTRY PARK BALLFIELDS #1 & #2 RENOVATION, DO NOT OPEN UNTIL TIME OF BID"** by the time and date specified above.

Bid proposals received after the time and date specified above will be considered nonresponsive.

Bid proposals will be publicly opened and read aloud on Monday, February 7, 2022, at 2:00 PM via Zoom. Copy and paste the link below into the address bar of your web browser to view:

Join Zoom Meeting

<https://us06web.zoom.us/j/85730079161?pwd=M2dpMCtTamNISDRDMHFKUmgyc3NIQT09>

Meeting ID: 857 3007 9161

Passcode: 057155

One tap mobile

+16699006833,,85730079161# US (San Jose) 13462487799,,85730079161# US
+(Houston)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 346 248 7799 US (Houston)

+1 253 215 8782 US (Tacoma)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington DC) Meeting ID: 857 3007 9161 Find your local
number: <https://us06web.zoom.us/j/kcC99KiDQF>

GENERAL INFORMATION

1. Attention of Bidders is especially directed to the specifications which, in addition to the bid proposal and these instructions, are basis for evaluation and will be part of any contract with the successful bidder. Any deviations from the specifications in this notice shall be proper reason for rejection of all or any part of the bid proposal.
2. The City of Madera recognizes its policy of providing equal opportunity to all qualified persons and reaffirms its commitment that there shall be no discrimination against qualified applicants, or employees on the basis of race, gender, color, national origin, religion, age, disability, sexual orientation, or marital status.
3. The City reserves the right to reject or accept any or all bid proposals or parts thereof, and to accept or reject the alternatives individually or jointly, for any reason.
4. The City reserves the right to consider any minor deviations from the specifications and determine the acceptance or rejection of such deviation.
5. The City reserves the right to modify this Invitation for Bids (IFB) at any time. In the event it becomes necessary to modify or revise the IFB, a written amendment or addenda issued by City's Purchasing Division is the only method which should be relied on with respect to changes to the IFB. Bidder is responsible to contact City's Purchasing Division prior to submitting a bid to determine if any amendments were made to the IFB. Documents, amendments, addenda, etc. will be posted to the City's Purchasing page at www.madera.gov/purchasing under Bid Announcement and Results.

Questions concerning the IFB must be submitted via email to jstickman@madera.gov using the Bidder Question Form in "Attachment A" no later than Wednesday, February 2, 2022.

No questions or inquiries should be directed to any individual(s) at the locations detailed in this document. All inquiries should be submitted in writing per the process described in this document.

6. Bid proposals will be evaluated by the City. If a bid proposal is found to be incomplete or not in compliance with the format required, it will not be submitted for evaluation. During the evaluation process, the City may find it beneficial to

request additional information.

7. Any bid proposal may be withdrawn at any time prior to the hour fixed for the opening, provided that a request in writing executed by the Bidder, or his/her duly authorized representative, for the withdrawal of such bid proposal is filed with Purchasing. The withdrawal of a bid proposal shall not prejudice the right of a Bidder to file a new bid proposal prior to the time and date set for the opening. After the expiration of the time and date for receipt of bid proposals, a bid proposal may not be withdrawn or altered.
8. Bidder is responsible for fully acquainting itself with the conditions of the project site (which may include more than one site), as well as those relating to the construction and labor of the project, to fully understand the facilities, difficulties, and restrictions which may impact the cost or effort required to complete the project.
9. The City reserves the right to seek supplementary information from any Bidder at any time after official bid proposal opening and before the award. Such information will be limited to clarification or amplification of information asked in the original bid proposal.
10. Issuance of the IFB and receipt of bid proposals does not commit the City to award an agreement. The City reserves the right to postpone the IFB process for its own convenience, to accept or reject any or all bid proposals received in response to this IFB, to negotiate with other than the selected company should negotiations with the selected company be terminated, or to cancel any section of this IFB. The City also reserves the right to apportion the award among more than one company.
11. Bid security in the amount of ten (10) percent of the amount of bid, and in the form of a bid bond issued by an admitted surety insurer licensed by the California Department of Insurance, cash, cashier's check, or certified check shall accompany bids. Bid securities shall be made in favor of the City of Madera.
12. The successful Bidder shall enter into a formal agreement with City which will be very similar in content to the Attachment B "Sample" Contractor Services Agreement which is provided for information purposes only and to help clarify City intent relevant to this IFB as well as general contract requirements of the City.

13. Bidder and its subcontractors performing work under this contract will be required to pay California sales tax and other applicable taxes, and to pay for permits, licenses, and fees required by the agencies with authority in the jurisdiction in which the work will be located, unless otherwise expressly provided by the Contract Documents.
14. In accordance with the provisions of Section 1773 of the Labor Code of the State of California, the Owner has obtained from the Director of the Department of Industrial Relations; the general prevailing rate for each craft, classification, or types of workers required to execute the contract. A copy of said prevailing rate of per diem wages is on file in the office of the Owner, to which reference is hereby made for further particulars. Said prevailing rate of per diem wages will be made available to any interested party upon request, and a copy thereof shall be posted at the job site.

Each Contractor and Subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him in connection with the public work. Such records shall be certified and available for inspection at all reasonable hours at the principal office of the Contractor as required by Labor Code Section 1776.

Department of Industrial Relations Registration of Contractors & Subcontractors:

Department of Industrial Relations Annual Registration:

- A. Beginning on March 1, 2015, pursuant to Labor Code Sections 1772 and 1771.1(b) - all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations.
- B. No bid will be accepted, nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations.
- C. Beginning on April 1, 2015, pursuant to Labor Code Section 1725.5 - no Contractor or subcontractor may work on a public works project unless registered with the Department of Industrial Relations.
- D. Pursuant to Labor Code Section 1771.4(a)(1) - all contractors and subcontractors must furnish Certified Payroll Records (CPRs) weekly to the Agency they are contracted with and file electronic certified payroll records weekly directly to the Labor Commissioner, Division of Labor Standards Enforcement (DLSE).

- E. Pursuant to Labor Code Section 1776(c) – the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or forms that contain the same information as the forms provided by the division.
- F. Pursuant to Labor Code 1771.5 - the awarding agency shall withhold contract payments when payroll records are delinquent or inadequate.
- G. Pursuant to Title 8 California Code of Regulations Section 16451(d)/Labor Code Section 1771.4(a) (2) - the contractor must post job Posters and Notices as required by Department of Industrial Relations and as required by other State agencies.
- H. Pursuant to Labor Code Section 1773.3 - the Public Agency must file a PWC 100 Form with the DIR within 5 days of the award of a public works project. PWC Form 100 will be amended to reflect changes in contract time. The DIR will also be notified within 5 days of the completion of project.

In bidding on this Project, it shall be the Bidders sole responsibility to evaluate and include the cost of complying with all labor compliance requirements under this contract and applicable law(s) in the Project bid.

In accordance with the provisions of the Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Section 1777.1 or Section 1777.7 of the Labor Code. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid to a debarred subcontractor by the Contractor for the Project shall be returned to the City. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project. The list of debarred contractors is available from the Department of Industrial Relations at www.dir.ca.gov/DLSE/Debar.html

15. Prior to beginning any work or delivering any equipment or material to be furnished under this bid proposal, the Bidder shall secure the appropriate Business License from the City of Madera. Business license information may be obtained by calling (559) 661-5454. Should the Bidder already have a license, please indicate the license number and expiration date below:

City License No. _____ Expiration Date _____

Any Federal or State of California License/Certification required to provide the services will be required. A Class A license would be preferred. Insurance documentation in accordance with the Insurance Requirements for Contractors will also be required.

16. Bidder's Proprietary Information: Upon award, all documents provided by the successful Bidder shall become public record. All documents provided by any Bidders, other than the successful Bidder, shall become public record in their entirety and subject to disclosure, unless said documents are retrieved by the Bidder within ten (10) business days of the award. This shall also include but is not limited to documents for projects for which all bid proposals are rejected and projects for which an award is not made for any reason. In the event that one or more bid proposals are returned to the bidding parties, it is the intent of the City that such documents shall not become public records of the City unless required by the California Public Records Act or other provisions of law.
17. It is the City's policy to encourage the purchase of supplies, services and equipment from vendors located within the boundaries of the City. Local vendors are sellers, vendors, suppliers, and contractors who maintain places of business located within the limits of the City and who have a current City of Madera business license. The local vendor outreach policy shall not apply to those Agreements where State or Federal law, or other laws or regulations preclude such a preference.
Contractors will, to the greatest extent feasible, attempt to incorporate local area businesses as subcontractors and suppliers. Contractors will, upon request, provide records showing the outreach efforts made to local businesses to demonstrate that they have made a reasonable effort to inform local businesses of the opportunity.

INSURANCE REQUIREMENTS

Without limiting Contractor's indemnification of City, and prior to commencement of Work, Contractor shall obtain, provide, and continuously maintain at its own expense during the term of the Agreement, and shall require any and all Subcontractors and Subconsultants of every Tier to obtain and maintain, policies of insurance of the type and amounts described below and in form satisfactory to the City.

Minimum Scope and Limits of Insurance

Contractor shall maintain limits no less than:

- **\$2,000,000 General Liability** (including operations, products and completed operations) per occurrence, \$4,000,000 general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. Coverage shall be at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage form CG 00 01. General liability policies shall be endorsed using ISO forms CG 20 10 and CG 20 37 to provide that the City and its officers, officials, employees, and agents shall be additional insureds under such policies.
- **\$2,000,000 Automobile Liability** combined single limit per accident for bodily injury or property damage at least as broad as ISO Form CA 00 01 for all activities of Contractor arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles. Automobile Liability policies shall be endorsed to provide that the City and its officers, officials, employees, and agents shall be additional insureds under such policies.
- **Worker's Compensation** as required by the State of California and **\$1,000,000 Employer's Liability** per accident for bodily injury or disease. Contractor shall submit to the City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its officers, agents, employees, and volunteers.

Maintenance of Coverage

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 Contractor, his agents, representatives, employees, subcontractors or subconsultants as specified in this Agreement.

Proof of Insurance

Contractor shall provide to the City certificates of insurance and endorsements, as required, as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by the City prior to commencement of performance. Current evidence of insurance

shall be kept on file with the City at all times during the term of this Agreement. Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.

Acceptable Insurers

All insurance policies shall be issued by an insurance company currently authorized by the Insurance commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and a Financial Size Category Class VII (or larger), in accordance with the latest edition of Best's Key Rating Guide.

Waiver of Subrogation

All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, agents, officials, employees, and volunteers, or shall specifically allow Contractor, or others providing insurance evidence in compliance with these specifications, to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against the City and shall require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

Enforcement of Contract Provisions (non estoppel)

Contractor acknowledges and agrees that any actual or alleged failure on the part of the Agency to inform Contractor of non-compliance with any requirement imposes no additional obligations on the City, nor does it waive any rights hereunder.

Specifications not Limiting

Requirements of specific coverage features, or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If Contractor maintains higher limits than the minimums required above, the entity shall be entitled to coverage at the higher limits maintained by Contractor.

Notice of Cancellation

Contractor agrees to oblige its insurance agent or broker and insurers to provide to the City with thirty (30) calendar days' notice of cancellation (except for nonpayment for which ten (10) calendar days' notice is required) or nonrenewal of coverage for each required coverage.

Self-insured Retentions

Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City's Risk Manager.

Timely Notice of Claims

Contractor shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from Contractor's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional Insurance

Contractor shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgement may be necessary for its proper protection and prosecution of the Work.

Indemnification

Contractor shall indemnify, defend, and hold harmless the City, its officers, employees, agents and volunteers ("City indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of the Contractor's performance of its obligations under this agreement or out of the operations conducted by Contractor, except for such loss or damage arising from the active negligence, sole negligence or willful misconduct of the City. In the event the City indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Contractor's performance of this agreement, the Contractor shall provide a defense to the City indemnitees, or at the City's option, reimburse the City indemnitees their costs of defense, including reasonable legal counsels' fees, incurred in defense of such claims.

SPECIFICATIONS FOR BALLFIELD #1 & #2 RENOVATION

Ballfield #1

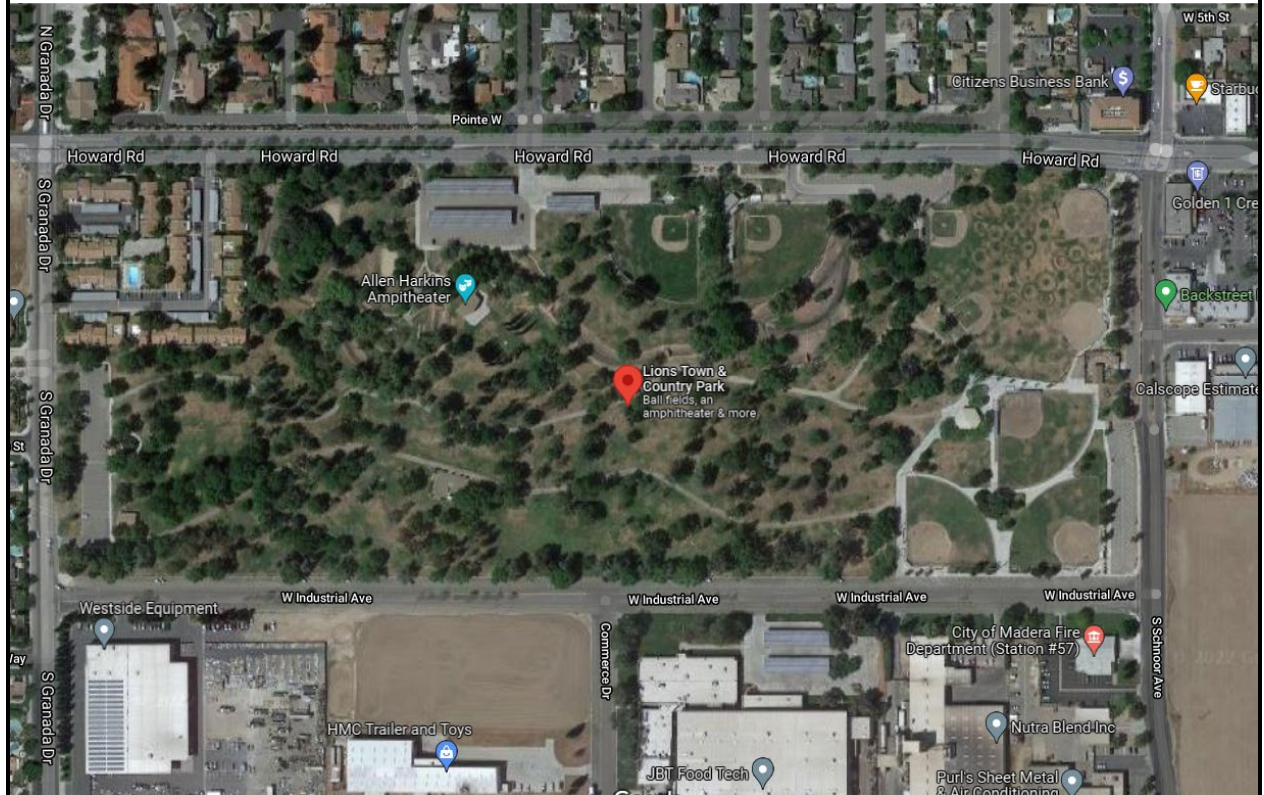
- Survey, re-engineer field & set new grade points.
- Turfplane approximately 7,000 S.F. existing turf with laser function, auto grade/auto depth.
- Grade: Rough & Finish grading.
- Hand labor & Equipment.
- Import 24-ton plaster sand & 16-ton infield mix.
- Turf: Bermuda hybrid overseeded.
- Big roll sod installation.
- Spray out existing turf, to eliminate weeds.
- Reposition pegs in preparation for bases to be installed (City to provide and install bases).

Ballfield #2

- Survey, re-engineer field & set new grade points.
- Turfplane approximately 8,300 S.F. existing turf with laser function, auto grade/auto depth.
- Grade: Rough & Finish grading.
- Hand labor & Equipment.
- Import 24-ton plaster sand & 16-ton infield mix.
- Turf: Bermuda hybrid overseeded.
- Big roll sod installation.
- Spray out existing turf, to eliminate weeds.
- Reposition pegs in preparation for bases to be installed (City to provide and install bases).

LIONS TOWN & COUNTRY PARK
2300 HOWARD ROAD
MADERA, CA 93637

PARK LOCATION MAP



LIONS TOWN & COUNTRY PARK
2300 HOWARD ROAD
MADERA, CA 93637

BALLFIELD IDENTIFICATION MAP



BIDDER CHECKLIST

SUBMIT THIS BIDDER'S CHECKLIST WITH YOUR BID PROPOSAL. Bidders shall complete and submit all documents marked with an "X" in the "REQUIRED" column for bids to be considered responsive.

REQUIRED

- ☒ 1. **BID PROPOSAL FORM**
- ☒ 2. **BID SCHEDULE**
- ☒ 3. **SUBCONTRACTOR LISTING** (In excess of 1/2 of 1%)
- ☒ 4. **BID DEPOSIT (ELECTRONIC SCANNED COPY)** attached to front of Proposal in the form of:
 - ☐ Certified Check ☐ Bidder's Bond (submitted on form in this IFB)
 - ☐ Cashier's Check ☐ Irrevocable Letter of Credit
 - ☐ Certificate of Deposit
- ☒ 5. **NONCOLLUSION AFFIDAVIT**
- ☒ 6. **PUBLIC CONTRACT CODE SECTION 10285.1 STATEMENT, PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE, & PUBLIC CONTRACT CODE SECTION 10232 STATEMENT**
- ☒ 7. **ADDENDA** – Signature page of all Addenda issued

SUBMIT NO LATER THAN 4:00 P.M. ON THE 3RD BUSINESS DAY AFTER BID OPENING:

- ☒ **LETTER FROM BIDDER THAT BIDDER WILL PERFORM NOT LESS THAN 30% OF THE TOTAL NET BID AMOUNT (ORIGINAL CONTRACT PRICE)**, excluding specialty items designated by the City on the bid proposal to be submitted via email to jstickman@madera.gov within three working days from the date of the bid opening.
- ☒ **BID DEPOSIT (HARD COPY ORIGINAL) delivered to Jennifer Stickman, City of Madera Procurement Division, 205 West 4th Street, Madera, CA 93637** in the form of:
 - ☐ Certified Check ☐ Bidder's Bond (submitted on form in this IFB)
 - ☐ Cashier's Check ☐ Irrevocable Letter of Credit
 - ☐ Certificate of Deposit

BID PROPOSAL FORM

LIONS TOWN & COUNTRY PARK BALLFIELD #1 & #2 RENOVATION

IFB #202122-09

Bid proposal of _____ (hereinafter called "BIDDER"), organized and existing under the laws of the State of _____, doing business as (an individual), or (a partnership), or (a corporation), to the City of Madera (hereinafter called "OWNER"):

In compliance with your advertisement for Bids, BIDDER hereby proposes to perform all work required for "**LIONS TOWN & COUNTRY PARK BALLFIELDS #1 & #2 RENOVATION, IFB 202122-09**" in strict accordance with the CONTRACT DOCUMENTS, within the time set forth therein, and at the prices stated below.

By submission of this BID, each BIDDER certifies, and in the case of a joint BID, each party thereto certifies as to his own organization, that this BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this BID with any other BIDDER or with any competitor.

BIDDER hereby agrees to commence work under this Contract on or before a date to be specified in the NOTICE TO PROCEED and to fully complete the PROJECT in **30 Calendar Days**.

BIDDER further agrees to pay as liquidated damages, the sum of **\$375** for each consecutive calendar day thereafter, as provided in Section 1-17 of the General Conditions.

BIDDER acknowledges receipt of the following ADDENDA:

No. _____, dated _____, 2022

No. _____, dated _____, 2022

No. _____, dated _____, 2022

The undersigned, as BIDDER, declares that the only persons, or parties interested in this bid proposal as principals are those named herein; that this bid proposal is made without collusion with any other person, firm or corporation; that the BIDDER has carefully examined the location of the proposed work, the annexed proposed form of contract, and the plan therein referred to; and he proposes and agrees if this bid proposal is accepted, that the BIDDER will contract with the City of Madera to provide all necessary machinery, tools, apparatus and other means of construction, and to do all the work and furnish all the materials specified in the contract in the manner and time therein prescribed and according to the requirements of the OWNER as therein set forth, and that he will take in full payment therefor the following prices, to wit:

BID SCHEDULE

The following Bid Schedule lists the items necessary to complete the work. Bidder will fully complete the schedule including the total price of each item. If the total cost of any item or the Total Base Bid is inconsistent with the unit cost, the unit cost shall prevail. Payment of each item will be based on the actual quantity, except for those items bid lump sum and those items that are noted as fixed quantities.

ITEM NO.	ITEM DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL ITEM PRICE
1.	<p>All equipment, labor, materials, and incidentals required to renovate LIONS TOWN & COUNTRY Park Ballfield #1 including:</p> <ul style="list-style-type: none"> • Survey, re-engineer field & set new grade points. • Turfplane approximately 7,000 S.F. existing turf with laser function, auto grade/auto depth. • Grade: Rough & Finish grading. • Hand labor & Equipment. • Import 24-ton plaster sand & 16-ton infield mix. • Turf: Bermuda hybrid overseeded. • Big roll sod installation. • Spray out existing turf, to eliminate weeds. • Reposition pegs in preparation for base installation (City to provide and install bases). 	LS	1		
2.	<p>All equipment, labor, materials, and incidentals required to renovate LIONS TOWN & COUNTRY Park Ballfield #2 including:</p> <ul style="list-style-type: none"> • Survey, re-engineer field & set new grade points. • Turfplane approximately 8,300 S.F. existing turf with laser function, auto grade/auto depth. • Grade: Rough & Finish grading. • Hand labor & Equipment. • Import 24-ton plaster sand & 16-ton infield mix. • Turf: Bermuda hybrid overseeded. • Big roll sod installation. • Spray out existing turf, to eliminate weeds. • Reposition pegs in preparation for base installation (City to provide and install bases). 	LS	1		

TOTAL BASE BID, INCLUSIVE: \$ _____

Total Amount of Bid (in words) is _____ Dollars and _____ Cents.
In case of discrepancy between words and figures, the words shall prevail.

BID PROPOSAL SIGNATURE PAGE

If this bid proposal shall be accepted and the undersigned shall fail to contract, as aforesaid, and to give the two bonds in the sums to be determined as aforesaid, with surety satisfactory to the Awarding Authority, upon award of the contract, the Awarding Authorities, at its option, may determine that the BIDDER has abandoned the contract, and thereupon this bid proposal and the acceptance thereof shall be null and void, and the forfeiture of such security accompanying this bid proposal shall operate and the same shall be the property of the OWNER.

The final bid amount shall include local, state, and federal taxes.

DATE

COMPANY NAME

STREET ADDRESS

CITY/STATE/ZIP

PHONE NUMBER

EMAIL

PERSON PREPARING BID

TITLE

SIGNATURE

CITY OF MADERA BUS. LIC. NO.

CA CONTRACTOR'S LIC. NO. & CLASS

DIR REGISTRATION NO. & WORK CLASSIFICATION

Attest

(Seal if bid is by a corporation)

SUBCONTRACTOR LISTING

The following named subcontractors(s) will perform with labor, or otherwise render services to the general contractor in or about the construction of the work or improvement in an amount in excess of one-half of one percent of the total BID presented herewith or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of one percent of the prime Contractor's total BID. Use subcontractor's business name style as registered with the License Board. Name, location, and description of work as REQUIRED by Section 4104 of the California Public Contract code.

Subcontractor: _____

Business Address: _____

CSLB No. & Classification: _____

DIR No. & Classification: _____

Item No. or Description of Work: _____

Dollar Amount or Percentage of Total Bid: _____

Subcontractor: _____

Business Address: _____

CSLB No. & Classification: _____

DIR No. & Classification: _____

Item No. or Description of Work: _____

Dollar Amount or Percentage of Total Bid: _____

Subcontractor: _____

Business Address: _____

CSLB No. & Classification: _____

DIR No. & Classification: _____

Item No. or Description of Work: _____

Dollar Amount or Percentage of Total Bid: _____

Subcontractor: _____

Business Address: _____

CSLB No. & Classification: _____

DIR No. & Classification: _____

Item No. or Description of Work: _____

Dollar Amount or Percentage of Total Bid: _____

Subcontractor: _____

Business Address: _____

CSLB No. & Classification: _____

DIR No. & Classification: _____

Item No. or Description of Work: _____

Dollar Amount or Percentage of Total Bid: _____

Duplicate this form as necessary.

BID BOND

KNOWN ALL MEN BY THESE PRESENT, that we, the undersigned, _____
_____ as Principal, and _____ as
Surety, are hereby held and firmly bound unto _____ as Owner in
the penal sum of _____ for the payment of which, well and truly to
be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed, this _____ day of _____, 2022. The condition of the above obligation
is such that whereas the Principal has submitted to _____ a certain
bid, attached hereto and hereby made a part hereof to enter into a contract in writing, for the

“LIONS TOWN & COUNTRY Park Ballfields #1 & #2 Renovation, IFB 202122-09”

NOW, THEREFORE,

- (a) If said Bid shall be rejected, or in the alternate,
- (b) If said Bid shall be accepted and the Principal shall execute and deliver a contract attached hereto (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith and shall in all other respects perform the agreement created by the acceptance of said Bid.

Then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates, and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

____ (L.S.) By _____
Principal

Surety

By: _____
(Seal and Notarial Acknowledge of Surety)

NONCOLLUSION AFFIDAVIT

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

To the CITY of MADERA

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

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Name of Bidder	_____
Signature	_____
Name	_____
Title	_____
Dated	_____

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

PUBLIC CONTRACT CODE

Public Contract Code Section 10285.1 Statement

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

Note. The Bidder must place a check mark after "has" or "has not" in one of the blank spaces provided above. The above Statement is part of the bid proposal.

Public Contract Code Section 10162 Questionnaire

In accordance with the Public Contract Section 10162, the Bidder shall complete, under penalty of perjury, the following questionnaire: Has the Bidder, any officer, or any employee of the Bidder who has a proprietary interest in the Bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation.

Yes _____ No _____

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

Public Contract Code Section 10232 Statement

In accordance with Public Contract Section 10232, the Bidder, hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court has been issued against the Bidder within the immediately preceding two (2) year period because of the Bidder's failure to comply with an order of a federal court which orders the Contractor to comply with an order of National Labor Relations Board.

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

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____, hereinafter called Principal, and (Corporation, Partnership or Individual)

(Name of Surety)

(Address of Surety)

hereinafter call Surety, are held and firmly bound unto

(Name of Owner)

(Address of Owner)

hereinafter called OWNER, in the penal sum of _____ Dollars, (\$_____) in lawful money of the United States, for the payment of which sum well and truly made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents, and also by the provisions of Part 2, Title 14, Chapter 2 of the California Code of Civil Procedure (Section 995.010, et seq.) and of Section 3247, et seq. of the California Civil Code.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the _____ day of _____, 2022, a copy of which is hereto attached and made a part hereof for the construction of:

“LIONS TOWN & COUNTRY Park Ballfields #1 & #2 Renovation, IFB 202122-09”

NOW, THEREFORE, if the Principal shall willingly, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the surety and during the one year guaranty period, and if he shall satisfy all claims and demands incurred under such Contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be null and void: otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the contract or to the work or to the specifications.

PROVIDED FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts, each one of which shall be deemed an original, this the _____ day of _____, 2022.

ATTEST: _____

Principal

(Principal) Secretary BY: _____(s)

(Seal)

(Witness as to Principal) (Address) _____

ATTEST:

(Surety) Secretary (Surety) _____

(SEAL)

Witness as to Surety BY: _____
Attorney in Fact

(Address) (Address) _____

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is Partnership, all partners shall execute Bond.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____, hereinafter called Principal, and (Corporation, Partnership or Individual)

(Name of Surety)

(Address of Surety)

hereinafter call Surety, are held and firmly bound unto

(Name of Owner)

(Address of Owner)

hereinafter called OWNER, in the penal sum of _____ Dollars, (\$_____) in lawful money of the United States, for the payment of which sum well and truly made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the _____ day of _____, 2022, a copy of which is hereto attached and made a part hereof for the construction of:

“LIONS TOWN & COUNTRY Park Ballfields #1 & #2 Renovation, IFB 202122-09”

NOW, THEREFORE, if the Principal shall willingly, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the surety and during the one year guaranty period, and if he shall satisfy all claims and demands incurred under such Contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be null and void: otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the contract or to the work or to the specifications.

PROVIDED FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____
(number)
counterparts, each one of which shall be deemed an original, this the _____ day of _____, 2022.

ATTEST: _____
Principal

(Principal) Secretary BY: _____(s)

(Seal)

(Witness as to Principal) (Address)

ATTEST: (Surety) Secretary (Surety)

(SEAL)

Witness as to Surety BY: _____
Attorney in Fact

(Address) (Address)

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is Partnership, all partners shall execute Bond.

GENERAL CONDITIONS

1-1 DEFINITIONS Wherever used in the CONTRACT DOCUMENTS, the following terms shall have the meanings indicated, which shall be applicable to both the singular and plural thereof:

AASHTO - American Association of State Highway and Transportation Officials, current designation as of the Bid date unless otherwise indicated.

ACCEPTANCE – Project approved by Resolution or Minute Order of City Council of Madera.

ADDENDA - Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the CONTRACT DOCUMENTS, DRAWINGS and SPECIFICATIONS, by additions, deletions, clarifications, or corrections.

ANSI- American National Standards Institute, current designation as of the Bid date unless otherwise.

ASME- American Society of Mechanical PARKS SUPERVISORS, current designation as of the Bid date unless otherwise indicated.

ASTM- American Society for Testing Materials, current designation as of the Bid date unless otherwise indicated.

AWWA- American Water Works Association, current designation as of the Bid date unless otherwise specified.

BID- The offer or proposal of the BIDDER submitted on the prescribed form setting forth the prices for the WORK to be performed.

BIDDER- Any person, firm or corporation submitting a BID for the WORK.

BONDS- Bid, Performance and Payment Bonds and other instruments of security, furnished by the CONTRACTOR and his surety in accordance with the CONTRACT DOCUMENTS.

BUSINESS LICENSE – A City of Madera Business License required for payment of the business tax based on gross receipts.

CALENDAR DAY – Each and every day of the year, including weekends and holidays.

CHANGE ORDER- A written order to the CONTRACTOR authorizing an addition, deletion or revision in the WORK within the general scope of the CONTRACT DOCUMENTS or authorizing an adjustment in the CONTRACT PRICE or CONTRACT TIME.

COMPLETION- That date as certified by the PARKS SUPERVISOR when the construction of the PROJECT or a specified part thereof is sufficiently completed, in accordance with the CONTRACT DOCUMENTS so that the PROJECT or specified part can be utilized; or the purposes for which it is intended.

CONTRACT DOCUMENTS- The Contract, including Advertisement for Bids, Information for Bidders, BID, including Bid Representations and Certifications, Bid Bond, Agreement, Payment Bond, Performance Bond, NOTICE OF AWARD, NOTICE TO PROCEED, CHANGE ORDER, General Conditions, Special Conditions, SPECIFICATIONS, DRAWINGS AND ADDENDA.

CONTRACT PRICE- The total moneys payable to the CONTRACTOR under the terms and conditions of the CONTRACT DOCUMENTS.

CONTRACT TIME- The number of calendar days stated in the CONTRACT DOCUMENTS for the completion of the WORK.

CONTRACTOR- The person, firm, or corporation with whom the OWNER has executed the Agreement.

DRAWINGS- The part of the CONTRACT DOCUMENTS which shows the characteristics and scope of the WORK to be performed and which have been prepared or approved by the CITY PARKS SUPERVISOR.

FIELD ORDER- A written order effecting a change in the WORK not involving an adjustment in the CONTRACT PRICE or an extension of the CONTRACT TIME, issued by the PARKS SUPERVISOR to the CONTRACTOR during construction.

IEEE- Institute of Electrical and Electronics PARKS SUPERVISORS, current designation as of the Bid date unless otherwise indicated.

NEC – National Electric Code, current designation as of the Bid date, unless otherwise indicated.

NEMA- National Electrical Manufacturers Association, current designation as of the Bid date unless otherwise indicated.

NOTICE OF AWARD- The written notice of the acceptance of the BID from the OWNER to the successful BIDDER.

NOTICE TO PROCEED- Written communication issued by the OWNER to the CONTRACTOR authorizing him to proceed with the WORK and establishing the date of commencement of the WORK.

OWNER- The City of Madera, for whom the WORK is to be performed.

PROJECT- The undertaking to be performed as provided in the CONTRACT DOCUMENTS.

SHOP DRAWINGS- All drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by the CONTRACTOR, a SUBCONTRACTOR, manufacturer, supplier, or distributor, which illustrate how specific portions of the WORK shall be fabricated or installed.

SJVAPCD- San Joaquin Valley Air Pollution Control District

SPECIFICATIONS- A part of the CONTRACT DOCUMENTS consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards, and workmanship.

STATE STANDARD SPECIFICATIONS - State of California, Department of Transportation Standard Specifications, May 2015 Edition. Metric units shall be converted to English unit equivalents where applicable.

PARKS SUPERVISOR - The City PARKS SUPERVISOR of the City of Madera, California

CALIFORNIA MANUAL ON TRAFFIC CONTROL DEVICES FOR STREETS & HIGHWAYS – FHWA's MUTCD 2012 Edition, as approved for use in California.

SUBCONTRACTOR- An individual, firm or corporation having a direct contract with the CONTRACTOR or with any other SUBCONTRACTOR for the performance of a part of the WORK at the site.

SUPPLIER- Any person or organization who supplies materials or equipment for the WORK, including that fabricated to a special design, but who does not perform labor at the site.

SWPPP – Storm Water Pollution Prevention Plan on file with the City PARKS SUPERVISOR.

UNI- Uni-Bell Plastic Pipe Association, current designation as of the Bid date unless otherwise specified.

WORK- All labor necessary to produce the construction required by the CONTRACT DOCUMENTS, and all materials and equipment incorporated or to be incorporated in the PROJECT.

WRITTEN NOTICE- Any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at his last given address or delivered in person to said party or his authorized representative on the WORK.

- 1-2 ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS- The CONTRACTOR may be furnished additional instructions and detail drawings by the PARKS SUPERVISOR, as necessary to carry out the WORK required by the CONTRACT DOCUMENTS.

The additional drawings and instructions thus supplied will become a part of the CONTRACT DOCUMENTS. The CONTRACTOR shall carry out the WORK in accordance with the additional detail drawings and instructions.

- 1-3 SCHEDULES, REPORTS AND RECORDS - The CONTRACTOR shall submit to the OWNER such schedules, reports, records, and other data as the OWNER may request concerning WORK performed or to be performed. Prior to the first partial payment estimate, the CONTRACTOR shall submit schedules showing the order in which he proposes to carry on the WORK, including dates at which he will start the various parts of the WORK, estimated date of completion of each part and, as applicable, the dates at which special detail drawings will be required, and respective dates for submission of SHOP DRAWINGS, the beginning of manufacture, the testing and the installation of materials, supplies, and equipment. The CONTRACTOR shall also submit a schedule of payments that he anticipates he will earn during the course of the WORK. The CONTRACTOR shall not be entitled to any payment until he has submitted the schedule, reports and records required under this Section. The CONTRACTOR shall revise or update the schedule whenever requested to do so by the PARKS SUPERVISOR.

- 1-4 DRAWINGS AND SPECIFICATIONS - The intent of the DRAWINGS and SPECIFICATIONS is that the CONTRACTOR shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the WORK in accordance with the CONTRACT DOCUMENTS and all incidental work necessary to complete the PROJECT in an acceptable manner, ready for use, occupancy, or operation by the OWNER.

In case of conflict between the DRAWINGS and SPECIFICATIONS, the SPECIFICATIONS shall govern. Figure dimensions on DRAWINGS shall govern over scale dimensions, and detailed DRAWINGS shall govern over general DRAWINGS. Any discrepancies found between the DRAWINGS AND SPECIFICATIONS and site conditions or any inconsistencies or ambiguities in the DRAWINGS or SPECIFICATIONS shall be immediately reported to the PARKS SUPERVISOR, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. WORK done by the CONTRACTOR after his discovery of such discrepancies, inconsistencies or ambiguities shall be done at the CONTRACTOR'S risk.

The OWNER will furnish to the CONTRACTOR, free of charge, all copies of DRAWINGS AND SPECIFICATIONS reasonably necessary for the execution of the WORK. The CONTRACTOR shall keep one copy of all current DRAWINGS AND SPECIFICATIONS on the job site, in good order, available to the PARKS SUPERVISOR and his representatives.

ALL DRAWINGS, SPECIFICATIONS, and copies thereof furnished by the OWNER are the property of the PARKS SUPERVISOR. They are not to be used on other work, and, with the exception of the signed Contract set, are to be returned to the PARKS SUPERVISOR on request, at the completion of the WORK.

- 1-5 PRECEDENCE OF CONTRACT DOCUMENTS The order of precedence of documents shall be:

1. Rules and Regulations of State Agencies relating to the source of funds for a project.
2. Permits from other agencies as may be required by law.
3. Supplemental Agreements, Change Orders, or Contract, the one dated later having precedence over another dated earlier.
4. Special Conditions.
5. General Conditions.
6. Technical Specifications.
7. Plans.
8. Standard specifications.
9. Standard Plans.

Change orders, supplemental agreements, and approved revisions to plans and specifications will take precedence over documents listed above. Detailed plans shall have precedence over general plans.

Whenever any conflict appears in any portions of the contract, it shall be resolved by application of the order of precedence.

- 1-6 SHOP DRAWINGS - The CONTRACTOR shall provide SHOP DRAWINGS as may be necessary for the prosecution of the WORK as required by the CONTRACT DOCUMENTS. For each item where a SHOP DRAWING is required, the CONTRACTOR shall submit a minimum of six (6) prints. The PARKS SUPERVISOR shall promptly review all SHOP DRAWINGS and retain three sets after his review. All additional copies shall be returned to the CONTRACTOR. If the CONTRACTOR requires more than three prints returned, he shall accordingly increase the number of prints submitted to the PARKS SUPERVISOR. The PARKS SUPERVISOR'S review of any SHOP DRAWINGS shall not release the CONTRACTOR from responsibility for deviations from the CONTRACT DOCUMENTS. The review of any SHOP DRAWING which substantially deviates from the requirements of the CONTRACT DOCUMENTS shall be evidenced by a CHANGE ORDER.

When submitted for the PARKS SUPERVISOR'S review, SHOP DRAWINGS shall bear the CONTRACTOR'S certification that he has reviewed, checked, and approved the SHOP DRAWINGS and that they are in conformance with the requirements of the CONTRACT DOCUMENTS.

Portions of the WORK requiring a SHOP DRAWING or sample submission shall not begin until the SHOP DRAWING or submission has been reviewed by the PARKS SUPERVISOR. A copy of each SHOP DRAWING and each sample shall be kept in good order by the CONTRACTOR at the site and shall be available to the PARKS SUPERVISOR.

- 1-7 MATERIALS, SERVICES AND FACILITIES - It is understood that, except as otherwise specifically stated in the CONTRACT DOCUMENTS, the CONTRACTOR shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the WORK within the specified time.

Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the WORK. Stored materials and equipment to be incorporated in the WORK shall be located so as to facilitate prompt inspection.

Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned as directed by the manufacturer.

Materials, supplies, and equipment shall be in accordance with samples submitted by the CONTRACTOR and reviewed by the PARKS SUPERVISOR.

Materials, supplies, or equipment to be incorporated into the WORK shall not be purchased by the CONTRACTOR or any SUBCONTRACTOR subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

- 1-8 INSPECTION AND TESTING - All materials and equipment used in the construction of the PROJECT shall be subject to adequate inspection and testing in accordance with generally accepted standards, as required and defined in the CONTRACT DOCUMENTS. No work requiring material testing or material inspection shall be performed on Saturdays, Sundays, or City-designated holidays.

All initial compaction and materials tests shall be performed at no expense to the CONTRACTOR. The cost of each subsequent retest shall be paid for by the CONTRACTOR if the first tests fail to meet the required relative compaction or specified strength. Additional materials testing shall be performed by the OWNER at the CONTRACTOR's expense as described in the various sections of the Technical Specifications.

The OWNER shall provide all other inspection and testing services not required by the CONTRACT DOCUMENTS. If the CONTRACT DOCUMENTS, laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction specifically require any WORK to be inspected, tested, approved by someone other than the CONTRACTOR, the CONTRACTOR will give the PARKS SUPERVISOR timely notice of readiness. The CONTRACTOR will furnish the PARKS SUPERVISOR the required certificates of inspection, testing or approval.

Neither observations by the PARKS SUPERVISOR nor inspections, tests, or approvals by persons other than the CONTRACTOR shall relieve the CONTRACTOR from his obligations to perform the WORK in accordance with the requirements of the CONTRACT DOCUMENTS.

The PARKS SUPERVISOR and his representatives will at all times have access to the WORK. In addition, authorized representatives, and agents of the OWNER and appropriate Federal or State agencies shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records. The CONTRACTOR will provide proper facilities for such access and observation of the WORK and also for any inspection or testing thereof.

If any WORK is covered contrary to the written request of the PARKS SUPERVISOR, it must, if requested by the PARKS SUPERVISOR be uncovered for his observation and replaced at the CONTRACTOR'S expense.

If any WORK has been covered which the PARKS SUPERVISOR has not specifically requested to observe prior to its being covered, or if the PARKS SUPERVISOR considers it necessary or advisable that covered WORK be inspected or tested by others, the CONTRACTOR, at the PARKS SUPERVISOR'S request, will uncover, expose or otherwise make available for observation, inspection or testing as the PARKS SUPERVISOR may require, that portion of the WORK in question, furnishing all necessary labor, materials, tools, and equipment. If it is found that such WORK is defective, the CONTRACTOR will bear all the expenses of such uncovering, exposure, observation, inspection, and testing and of satisfactory reconstruction. If, however, such WORK is not found to be defective, the CONTRACTOR will be allowed an increase in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction and an appropriate CHANGE ORDER shall be issued.

- 1-9 SUBSTITUTIONS - Wherever a material, article or piece of equipment is identified on the DRAWINGS or SPECIFICATIONS by reference to brand name or catalogue number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered. The CONTRACTOR may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the CONTRACT DOCUMENTS by reference to brand name or catalogue number, and if, in the opinion of the PARKS SUPERVISOR,

such material, article, or piece of equipment is of equal substance and function to that specified, the PARKS SUPERVISOR may approve its substitution and use by the CONTRACTOR. The CONTRACTOR warrants that if substitutes are approved, no major changes in the function or general design of the PROJECT will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the CONTRACTOR without a change in the CONTRACT PRICE or CONTRACT TIME.

1-10 PATENTS - The CONTRACTOR shall pay all applicable royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and save the OWNER harmless from loss on account thereof, except that the OWNER shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified, but if the CONTRACTOR has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the PARKS SUPERVISOR.

1-11 SURVEYS, PERMITS AND REGULATIONS - Control staking by the PARKS SUPERVISOR is limited to providing a reference line and temporary or permanent benchmarks for the CONTRACTOR's use in staking the project to conform to the plans. Center line monuments will be referenced by the PARKS SUPERVISOR to facilitate replacement after the job is completed. Where possible, center line monuments and all other survey monuments in or adjacent to the project shall be preserved. The cost of replacement of monuments, which in the opinion of the PARKS SUPERVISOR need not have been destroyed, shall be deducted from the moneys due or to become due the Contractor for this project. Supplementary construction staking information to be provided by the PARKS SUPERVISOR shall consist of electronic drawing files in the AUTOCAD format currently in use by the Design PARKS SUPERVISOR.

When monuments exist that control the location of boundaries, roads, streets, or provide survey control, the monuments shall be located and referenced by or under the direction of a licensed land surveyor or registered civil PARKS SUPERVISOR prior to the time when any streets or other rights-of-way are improved or reconstructed and a corner record or record of survey of the references shall be filed with the County Surveyor. They shall be reset in the surface of the new construction in the manner shown on the DRAWINGS to perpetuate their location and a corner record or record of survey shall be filed with the County Surveyor prior to the recording of a Certificate of Completion for the project. It shall be the responsibility of the CONTRACTOR to provide for the monumentation required by this section.

All construction staking shall be the responsibility of the CONTRACTOR. Construction staking costs shall be included in the unit price of the various items of work and no additional monies shall be paid.

Reference lines and marks set by the PARKS SUPERVISOR shall be carefully preserved by the CONTRACTOR. In case such references or markings are destroyed or damaged by reason of the CONTRACTOR's operations, the cost of restoring them will be deducted from any moneys due or to become due the CONTRACTOR. Unless otherwise shown, all measurements and elevations on the plans are in feet and decimals of a foot.

The CONTRACTOR shall make a general check of all lines, dimensions and elevations and shall make all necessary rechecks during the progress of the WORK to avoid errors in construction. The CONTRACTOR shall be responsible for proper dimensions and fittings of all items of WORK being performed by him. Should any discrepancy be found in lines, dimensions, or elevations, they shall be reported to the PARKS SUPERVISOR immediately.

The CONTRACTOR shall protect all existing property and survey monuments, including survey control monuments for this WORK. Where it is necessary to disturb existing property, survey, or control monuments in order to permit the prosecution of the WORK within the permanent and construction right-of-way, such monuments shall be reset by the CONTRACTOR. Such monuments shall not be disturbed during the prosecution of the WORK unless the CONTRACTOR has given the OWNER a minimum of 72 hours' notice of the CONTRACTOR'S intent to disturb such monuments during the prosecution of his WORK.

- 1-12 LICENSE(S) & PERMITS - The CONTRACTOR shall have a City Business License prior to the beginning of WORK. Permits and licenses of a temporary nature necessary for the prosecution of the WORK shall be secured and paid for by the CONTRACTOR. Permits, licenses, and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the OWNER, unless otherwise specified. The CONTRACTOR shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the WORK as drawn and specified. If the CONTRACTOR observes that the CONTRACT DOCUMENTS are at variance therewith, he shall promptly notify the PARKS SUPERVISOR in writing, and any necessary changes shall be adjusted as provided in Section 1-14, CHANGES IN THE WORK.
- 1-13 PROTECTION OF WORK, PROPERTY AND PERSONS - The CONTRACTOR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the WORK. He will take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees on the WORK and other persons who may be affected thereby, all the WORK and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

The CONTRACTOR shall comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction. He shall erect and maintain, as required by the conditions and progress of the WORK, all necessary safeguards for safety and protection. He shall notify owners of adjacent utilities when prosecution of the WORK may affect them. The CONTRACTOR shall remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the CONTRACTOR, any SUBCONTRACTOR or anyone directly or indirectly, in whole or in part, by the CONTRACTOR, any SUBCONTRACTOR or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except damage or loss attributable to the fault of the CONTRACT DOCUMENTS or to the acts or omissions of the OWNER or the PARKS SUPERVISOR or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the CONTRACTOR.

In emergencies affecting the safety of persons or the WORK or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the PARKS SUPERVISOR or OWNER, shall act to prevent threatened damage, injury or loss. He will give the PARKS SUPERVISOR prompt WRITTEN NOTICE of any significant changes in the WORK or deviations from the CONTRACT DOCUMENTS caused thereby, and a CHANGE ORDER shall thereupon be issued covering the changes and deviations involved.

1-14 SUPERVISION BY CONTRACTOR - The CONTRACTOR shall supervise and direct the WORK. He shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. The CONTRACTOR shall employ and maintain on the WORK a qualified supervisor or superintendent who shall have been designated in writing by the CONTRACTOR as the CONTRACTOR'S representative at the site. The supervisor shall have full authority to act on behalf of the CONTRACTOR and all communications given to the supervisor shall be as binding as if given to the CONTRACTOR. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the WORK.

1-15 CHANGES IN THE WORK - The OWNER may at any time, as the need arises, order changes within the scope of the WORK without invalidating the Agreement. If such changes increase or decrease the amount due under the CONTRACT DOCUMENTS, or in the time required for performance of the WORK, an equitable adjustment shall be authorized by CHANGE ORDER.

The PARKS SUPERVISOR may also, at any time, by issuing a FIELD ORDER, make changes in the details of the WORK. The CONTRACTOR shall proceed with the performance of any changes in the WORK so ordered by the PARKS SUPERVISOR unless the CONTRACTOR believes that such FIELD ORDER entitles him to a change in CONTRACT PRICE or CONTRACT TIME, or both, in which event he shall give the PARKS SUPERVISOR WRITTEN NOTICE thereof within seven (7) days after the receipt of the ordered change, and the CONTRACTOR shall not execute such changes pending the receipt of an executed CHANGE ORDER or further instruction from the OWNER.

1-16 CHANGES IN CONTRACT PRICE - The CONTRACT PRICE may be changed only by a CHANGE ORDER. The value of any WORK covered by a CHANGE ORDER or any claim for increase or decrease in the CONTRACT PRICE shall be determined by one or more of the following methods in the order of precedence listed below:

- (A) Unit prices previously approved.
- (B) An agreed lump sum.
- (C) If a lump sum or unit price cannot be mutually agreed upon, the CONTRACTOR shall be entitled to the sum of the following costs of doing the extra work:
 - 1) Direct Labor Costs. Charges for cost of all the labor furnished and used by the CONTRACTOR shall be made for manual classifications up to and including general foreman. It will not include charges for Assistant Superintendents, Superintendents, Office Personnel, Timekeepers, and Maintenance Mechanics. The time charged to extra work shall be subject to the daily approval of the PARKS SUPERVISOR and evidence of such daily approval shall be submitted with the billing.

Labor rates used to calculate the costs shall be those so designated in the Advertisement for Bids. No time or charges will be allowed, except when the men are actually engaged in the proper, efficient, and diligent performance or completion of the extra work as authorized. Overtime shall not be worked without prior approval by the PARKS SUPERVISOR.

- 2) Equipment Costs. Charges for the rental and operation of the equipment furnished and used by the CONTRACTOR shall be made for all prime construction and automotive equipment. It will not include charges for equipment or tools with a new cost of \$500.00 or less. Equipment time charges must be subject to the daily approval of the PARKS SUPERVISOR and evidence of such daily approval submitted with the billing. The equipment rental and operation rates used shall be those agreed upon by the PARKS SUPERVISOR and the CONTRACTOR prior to commencement of the extra work. No time or charges will be allowed except when equipment is actually being used for the proper and efficient performance or completion of the extra work as authorized.
- 3) Material Costs. Charges for the cost of materials furnished by the CONTRACTOR shall be made providing such furnishing was specifically authorized in the extra work order and the actual use verified by the PARKS SUPERVISOR. Charges must be net cost to the CONTRACTOR delivered at the job, and vendor's invoice must accompany the billing along with verification of use of such materials by the PARKS SUPERVISOR.
- 4) Tools, Supplies, Overhead, Supervision, and Profit. A charge for tools, supplies, overhead, supervision and profit will be allowed in the amount of 15% of the total Direct Labor Costs and Material Costs, as defined above, and 5% for work by Subcontractors.

Any extra work performed hereunder shall be subject to all of the provisions of the CONTRACT and the CONTRACTOR'S sureties shall be bound with reference thereto as under the CONTRACT.

- 1-17 TIME FOR COMPLETION AND LIQUIDATED DAMAGES - The date of beginning and the time for completion of the WORK are essential conditions of the CONTRACT DOCUMENTS and the WORK embraced shall be commenced on a date specified in the NOTICE TO PROCEED and be fully completed in **30 calendar days**.

Time is of the essence in this agreement. The CONTRACTOR shall proceed with the WORK at such rate of progress to insure full completion within the CONTRACT TIME. It is expressly understood and agreed, by and between the CONTRACTOR and the OWNER, that the CONTRACT TIME for the completion of the WORK, or specific portions of the WORK, described herein in a reasonable time.

The parties hereto agree that it is extremely difficult and impractical in this case to determine the actual damages the OWNER will suffer if the CONTRACTOR fails to complete the WORK within the CONTRACT TIME and for said reason, if the CONTRACTOR shall fail to complete the WORK within the CONTRACT TIME, or extension of time granted by the OWNER, then the CONTRACTOR will pay

to the OWNER, the amount for liquidated damages as specified in the BID for each calendar day that the CONTRACTOR shall be in default after the time stipulated in the CONTRACT DOCUMENTS. The time for completion of the WORK shall be extended, and the CONTRACTOR shall not be charged with liquidated damages or any excess cost when the delay in completion of the WORK is due to the following, and the CONTRACTOR has promptly given WRITTEN NOTICE of such delay to the OWNER or PARKS SUPERVISOR:

- (A) To any preference, priority or allocation order duly issued by the OWNER.
- (B) To unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including but not restricted to, acts of God or of the public enemy, acts of the OWNER, acts of another CONTRACTOR in the performance of a contract with the OWNER, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and climatic conditions which, in the opinion of the PARKS SUPERVISOR, make prosecution of the WORK unreasonably difficult.
- (C) To any delays of SUBCONTRACTORS occasioned by any of the causes specified in the above paragraphs.

1-18 CORRECTION OF WORK - The CONTRACTOR shall promptly remove from the premises all WORK rejected by the PARKS SUPERVISOR for failure to comply with the CONTRACT DOCUMENTS, whether incorporated in the construction or not, and the CONTRACTOR shall promptly replace and re-execute the WORK in accordance with the CONTRACT DOCUMENTS and without expense to the OWNER shall bear the expense of making good all WORK of other contractors destroyed or damaged by such removal or replacement.

1-19 SUSPENSION OF WORK, TERMINATION AND DELAY - The OWNER may, at any time and without cause, suspend the WORK or any portion thereof for a period of not more than ninety (90) days, or such further time as agreed upon by the CONTRACTOR, by WRITTEN NOTICE to the CONTRACTOR and the PARKS SUPERVISOR, which notice shall fix the date on which WORK shall be resumed. The CONTRACTOR will resume that WORK on the date so fixed. The CONTRACTOR will be allowed an increase in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, directly attributable to any such suspension.

If the CONTRACTOR is adjudged as bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for the CONTRACTOR or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if he repeatedly fails to make prompt payments to SUBCONTRACTORS or for labor, material or equipment or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the WORK or if he disregards the authority of the PARKS SUPERVISOR, or if he otherwise violates any provision of the CONTRACT DOCUMENTS, then the OWNER may, without prejudice to any other right or remedy and after giving the CONTRACTOR and his surety a minimum of ten (10) days from delivery of a WRITTEN NOTICE, terminate the services of the CONTRACTOR and take possession of the PROJECT and of all the materials, equipment, tools, constructing equipment and machinery thereon owned by the CONTRACTOR, and finish the WORK by whatever method he may deem expedient. In such

case the CONTRACTOR shall not be entitled to receive any further payment until the WORK is finished. If the unpaid balance of the CONTRACT PRICE exceeds the direct and indirect costs of completing the PROJECT, including compensation for additional professional services, such excess shall be paid to the CONTRACTOR. If such costs exceed such unpaid balance, the CONTRACTOR shall pay the difference to the OWNER.

Such costs incurred by the OWNER will be determined by the PARKS SUPERVISOR and incorporated in a CHANGE ORDER.

Where the CONTRACTOR'S services have been so terminated by the OWNER, said termination shall not affect any right of the OWNER against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys by the OWNER due the CONTRACTOR will not release the CONTRACTOR from compliance with the CONTRACT DOCUMENTS.

After ten (10) days from delivery of a WRITTEN NOTICE to the CONTRACTOR and the PARKS SUPERVISOR, the OWNER may without cause and without prejudice to any other right or remedy, elect to abandon the PROJECT and terminate the Contract. In such case, the CONTRACTOR shall be paid for all WORK executed and any expense sustained plus reasonable profit.

If, through no act or fault of the CONTRACTOR, the WORK is suspended for a period of more than ninety (90) days by the OWNER or under an order of court or other public authority, or the PARKS SUPERVISOR fails to act on any request for payment within thirty (30) days after it is submitted, or the OWNER fails to pay the CONTRACTOR substantially the sum approved by the PARKS SUPERVISOR or awarded by arbitrators within thirty (30) days of its approval and presentation, then the CONTRACTOR may, after the (10) days from delivery of a WRITTEN NOTICE to the OWNER and the PARKS SUPERVISOR, terminate the Contract and recover from the OWNER payment for all WORK executed and all expenses sustained. In addition and in lieu of terminating the Contract, if the PARKS SUPERVISOR has failed to act on a request for payment or if the OWNER has failed to make any payment as aforesaid, the CONTRACTOR may upon ten (10) days' notice to the OWNER and the PARKS SUPERVISOR stop the WORK until he has been paid all amounts then due, in which event and upon resumption of the WORK, CHANGE ORDERS shall be issued for adjusting the CONTRACT PRICE or extending the CONTRACT TIME or both to compensate for the costs and delays attributable to the stoppage of the WORK.

If the performance of all or any portion of the WORK is suspended, delayed, or interrupted as a result of a failure of the OWNER or PARKS SUPERVISOR to act within the time specified in the CONTRACT DOCUMENTS, or, if no time is specified, within a reasonable time, an adjustment in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, shall be made by CHANGE ORDER to compensate the CONTRACTOR for the costs and delays necessarily caused by the failure of the OWNER or PARKS SUPERVISOR.

- 1-20 PROGRESS ESTIMATE - On or about the last day of the calendar month, the CONTRACTOR will, except as hereinafter provided, make in writing, and certify to the PARKS SUPERVISOR an estimate of the amount and value of the work completed by the CONTRACTOR up to that time in the performance of the Contract. In case of work for which unit prices are named in the Contract, the estimate shall be computed on the basis of said unit prices. In the case of work for which a lump sum is named in the Contract, the CONTRACTOR may use a breakdown of the lump sum price,

provided that such breakdown is submitted within 15 calendar days after the execution of the Contract Agreement in a form acceptable to the PARKS SUPERVISOR. No payment will be made to the CONTRACTOR until such schedule has been submitted to and reviewed by the PARKS SUPERVISOR. To the figure thus arrived at shall be added any amounts due the CONTRACTOR for extra work and the amount of any approved claims for extra costs to the date of the Progress Estimate. The retained percentage hereinafter provided for shall be deducted from the total thus computed; and from the remainder, there shall be further deducted any amounts due the OWNER from the CONTRACTOR for supplies or materials furnished or services rendered and any other amounts that may be due the OWNER under the terms of the Contract. In preparing estimates for partial payments, consideration shall be given to delivery on the site of pipe, valves, fittings, and miscellaneous metal which will become a part of the finished construction work and for which payment in full has been made by the CONTRACTOR, but no consideration will be given to preparatory work done or other materials on hand. From the balance thus determined shall be deducted the amount of all previous payments and the remainder shall constitute the partial estimate for that month. Such partial estimates shall not be required to be made by strict measurement but may be made by measurement or by estimation or partly by one method and partly by the other and it shall be sufficient if they are approximate only. Partial estimates may be withheld or reduced if, in the opinion of the PARKS SUPERVISOR, the CONTRACTOR is not diligently and efficiently endeavoring to comply with the intent of the Contract. No such estimate or payment shall be construed to be an acceptance of any defective work or improper materials. Progress estimates shall be made in the form of itemized invoices in triplicate and shall be submitted together with the data set forth below:

A recapitulation showing balance due current month as follows:

Total Contract Price	_____
Extra Work Ordered	_____
Total Contract Price w/ CCO's	_____
Gross Earnings to Date	_____
(Including extra work ordered)	_____
Less 5% of gross Earnings to Date	_____
Net Earnings to Date	_____
Less Previous Claims	_____
Balance Due this Claim	_____

- 1-21 PROGRESS PAYMENTS - The OWNER will make payments on account of the Contract as follows: Not later than the 30th day of the month following the month in which the Contract is awarded, and the 30th day of each calendar month thereafter, the OWNER will pay to the **CONTRACTOR 95% (5% retention)** of the amount earned by the CONTRACTOR during the preceding month at the rate of prices set forth in the Contract, based on the estimate of the CONTRACTOR as reviewed

and approved by the PARKS SUPERVISOR. At the request and expense of the CONTRACTOR 100% of the amount earned, which is funded by non-federal moneys, will be paid as specified above provided securities are substituted for the retention withheld. Securities shall be deposited with the OWNER or with a State or federally chartered bank as the escrow agent. In the event the securities are to be deposited with an escrow agent, CONTRACTOR agrees to execute any and all necessary documents including an escrow agreement substantially similar to the form set forth in Public Contract Code, Section 22300. Securities eligible for substitution shall include those listed in Section 16430 of the Government Code or bank or savings and loan certificates of deposit. The CONTRACTOR shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon. If the OWNER fails to make payment by the date specified above, in addition to other remedies available to the CONTRACTOR, there shall be added to each such payment interest at the maximum legal rate commencing on the first day after said payment is received by the CONTRACTOR.

The retention will be held by the OWNER or the securities will be held by the OWNER or escrow agent until thirty-five (35) days following filing of the Notice of Completion.

- 1-22 FINAL ESTIMATE - Upon completion of the contract and final inspection and acceptance by the PARKS SUPERVISOR, the PARKS SUPERVISOR shall prepare a final estimate of quantities and the value of such work and the OWNER shall pay to the CONTRACTOR the entire sum so found to be due after deducting therefrom all previous payments and all amounts to be retained under the provisions of the CONTRACT. All prior progress estimates and payments shall be subject to correction in the final estimate and payment.
- 1-23 ACCEPTANCE & FINAL PAYMENT - Upon receipt of the WRITTEN NOTICE from the CONTRACTOR that the WORK is ready for final inspection and acceptance, the PARKS SUPERVISOR will promptly make such inspection, and when he finds the WORK acceptable under the CONTRACT, and the CONTRACT fully performed, he will promptly issue a final certificate, over his own signature, stating that the WORK required by this Contract has been completed and recommending acceptance of the Work by the OWNER. The OWNER, after acceptance of the work by City Council, then shall issue a formal Notice of Acceptance, and the entire balance found to be due shall be paid to the CONTRACTOR by the OWNER thirty-five (35) days from the date of recording by the OWNER of the Notice of Acceptance of all WORK covered by this Contract.

Before issuance of the Notice of Acceptance, the CONTRACTOR shall submit evidence satisfactory to the OWNER that all payrolls, materials bills, and other indebtedness connected with the WORK have been paid, or if not paid, then the CONTRACTOR shall submit evidence of the status of any unpaid indebtedness.

The making and acceptance of the final payment shall constitute a waiver of all claims by the OWNER except the following:

- (A) those arising from unsettled liens;
- (B) those arising from faulty work appearing within twelve (12) months after the date of filing of the Notice of Acceptance;
- (C) those arising from failure to meet the requirements of the SPECIFICATIONS; or,
- (D) those arising from manufacturers' guarantees.

It shall also constitute a waiver of all claims by the CONTRACTOR except those previously made and still unsettled.

All prior certificates upon which partial payment may have been made, being merely estimates, shall be subject to a correction on the final certificate.

- 1-24 QUANTITIES & UNIT PRICES - The quantities noted in the schedule are approximations for comparing BIDS, and no claim shall be made against the OWNER for excess or deficiency therein. Payment at the unit or lump sum prices set forth in the schedule will constitute payment in full for the completed WORK and will include materials, supplies, labor, tools, machinery, and all other expenditures incident to satisfactory compliance with the Contract, unless otherwise specifically provided.

The quantities of WORK performed will be computed for payment by the PARKS SUPERVISOR on the basis of measurements taken by the PARKS SUPERVISOR, and these measurements shall be final and binding.

- 1-25 PROOF OF CARRIAGE OF INSURANCE CONTRACTOR shall furnish such insurance coverage as indicated in the section "INSURANCE REQUIREMENTS".

- (A) "General Liability Special Endorsement"
- (B) "Automobile Liability Special Endorsement"
- (C) "Workers' Compensation/Employees Liability Special Endorsement"
- (D) "Certificate of Insurance"

All of the above to be submitted prior to execution of this agreement.

Insurance shall be provided by an insurance company licensed to transact such business in the State of California with a current A.M. Best's rating of no less than A: VII. Liability insurance shall be written on an "occurrence" basis.

CONTRACTOR shall furnish OWNER, through the PARKS SUPERVISOR, concurrently with the execution thereof, with satisfactory proof of carriage of the insurance required and that each carrier shall give OWNER at least thirty (30) days prior notice of the cancellation of any policy during the effective period of this contract.

- 1-26 CONTRACT SECURITY The CONTRACTOR shall, upon receipt of the NOTICE OF AWARD, furnish the OWNER with a Performance Bond and a Payment Bond in penal sums equal to the amount of the CONTRACT PRICE, conditioned upon the performance by the CONTRACTOR of all undertakings, covenants, terms, conditions and agreements of the CONTRACT DOCUMENTS, and upon the prompt payment by the CONTRACTOR to all persons supplying labor and materials in the prosecution of the WORK provided by the CONTRACT DOCUMENTS.

Such bonds shall be executed by the CONTRACTOR and a corporate bonding company licensed to transact such business in the State of California. The bonding company shall be an admitted surety holding a certificate of authority to transact surety insurance in California issued by the Insurance

Commissioner. The expense of these bonds shall be borne by the CONTRACTOR. If at any time a surety on any such bond is declared a bankrupt or loses its right to do business in the state in which the WORK is to be performed, CONTRACTOR shall within ten (10) days after notice from the OWNER to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the OWNER. The premiums on such bond(s) shall be paid by the CONTRACTOR. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable bond to the OWNER.

- 1-27 ASSIGNMENTS - Neither the CONTRACTOR nor the OWNER shall sell, transfer, assign or otherwise dispose of the Contract or any portion thereof, or of his right, title, or interest therein, or his obligation thereunder, without written consent to the other party.
- 1-28 INDEMNIFICATION - The CONTRACTOR will indemnify and hold harmless the OWNER and their officers, agents, employees, from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the WORK, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, caused in whole or in part by any negligent or willful act or omission of the CONTRACTOR, or any SUBCONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. The obligation of the CONTRACTOR under this paragraph shall not extend to the liability of the OWNER, his agents or employees arising out of the preparation or review of maps, DRAWINGS, opinions, reports, surveys, CHANGE ORDERS, design, or SPECIFICATIONS.
- 1-29 SEPARATE CONTRACTS - The OWNER reserves the right to let other contracts in connection with this PROJECT. The CONTRACTOR shall afford other contractors' reasonable opportunity for the introduction and storage of their materials and the execution of their WORK and shall properly connect and coordinate his WORK with theirs. If the proper execution or results of any part of the CONTRACTOR'S work depend upon the work of any other contractor, the CONTRACTOR shall inspect and promptly report to the PARKS SUPERVISOR any defects in such WORK that render it unsuitable for such proper execution and results.

The OWNER may perform additional WORK related to the PROJECT by himself, or he may let other contracts containing provisions similar to these. The CONTRACTOR will afford the other contractors who are parties to such contracts (or the OWNER, if he is performing the additional WORK himself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of WORK and shall properly connect and coordinate his WORK with theirs.

If the performance of additional WORK by other contractors or the OWNER is not noted in the CONTRACT DOCUMENTS prior to the execution of the Contract, written notice thereof shall be given to the CONTRACTOR prior to starting any such additional WORK. If the CONTRACTOR believes that the performance of such additional WORK by the OWNER or others involves him in additional expense or entitles him to an extension of the CONTRACT TIME, he may make a claim therefore as provided in Sections 1-14 and 1-15.

- 1-30 SUBCONTRACTING The CONTRACTOR may utilize the services of specialty SUBCONTRACTORS on those parts of the WORK which, under normal contracting practices, are performed by specialty

SUBCONTRACTORS. The CONTRACTOR shall perform not less than thirty percent (30%) of the original Contract Bid Price with his/her own forces.

The CONTRACTOR shall be fully responsible to the OWNER for the acts and omissions of his SUBCONTRACTORS, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the WORK to bind SUBCONTRACTORS to the CONTRACTOR by the terms of the CONTRACT DOCUMENTS in so far as applicable to the WORK of SUBCONTRACTORS and to give the CONTRACTOR the same power as regards terminating any subcontract that the OWNER may exercise over the CONTRACTOR under any provision of the CONTRACT DOCUMENTS.

Nothing contained in this Contract shall create any contractual relation between any SUBCONTRACTOR and the OWNER.

- 1-31 PARKS SUPERVISOR'S AUTHORITY - The PARKS SUPERVISOR shall act as the OWNER'S representative. He shall decide questions which may arise as to quality and acceptability of materials furnished and WORK performed. He shall interpret the intent of the CONTRACT DOCUMENTS in a fair and unbiased manner. The PARKS SUPERVISOR will make visits to the site and determine if the WORK is proceeding in accordance with the CONTRACT DOCUMENTS.

The CONTRACTOR will be held strictly responsible to the intent of the CONTRACT DOCUMENTS in regard to the quality of materials, workmanship, and execution of the WORK. Inspections may be made at the factory or fabrication plant of the source of material supply.

The PARKS SUPERVISOR will not be responsible for the construction means, controls, techniques, sequences, procedures, or construction safety.

- 1-32 LAND AND RIGHTS-OF-WAY - Prior to issuance of the NOTICE TO PROCEED, the OWNER shall obtain all land and rights-of-way necessary for carrying out and for the completion of the WORK to be performed pursuant to the CONTRACT DOCUMENTS, unless otherwise mutually agreed.

The OWNER shall provide to the CONTRACTOR information which delineates and describes the lands owned and rights-of-way acquired. The CONTRACTOR shall provide, at his own expense and without liability to the OWNER, any additional land and access thereto that the CONTRACTOR may desire for temporary construction facilities, or for storage of materials.

- 1-33 GUARANTY - Unless stipulated otherwise in the SPECIFICATIONS, the CONTRACTOR shall guarantee all materials and equipment furnished and WORK performed for a period of one (1) year from the date of completion. The CONTRACTOR warrants and guarantees for a period of one (1) year from the date of completion of the system that the completed system is free from all defects due to faulty materials and workmanship and the CONTRACTOR shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects. The OWNER will give notice of observed defects with reasonable promptness. In the event that the CONTRACTOR should fail to make such repairs, adjustments, or other WORK that may be made necessary by such defects, the OWNER

may do so and charge the CONTRACTOR the cost thereby incurred. The Performance Bond shall remain in full force and effect through the guarantee period.

- 1-34 TAXES - The CONTRACTOR shall pay all sales, consumer, use and other similar taxes required by the law of the place where the WORK is performed.
- 1-35 CONTRACTOR'S UNDERSTANDING - It is understood and agreed that the CONTRACTOR has, by careful examination, satisfied himself as to the nature and extent of the WORK, the character, quality, and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the WORK, the general and local conditions, and all other matters which can in any way affect the WORK under this Contract. No verbal agreement or conversation with any officer, agent, or employee of the OWNER, either before or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained.
- 1-36 ACCIDENTS - The CONTRACTOR shall provide, at the site, such equipment, and medical facilities as are necessary to supply first-aid service to anyone who may be injured in connection with the WORK. The CONTRACTOR must promptly report in writing to the PARKS SUPERVISOR all accidents whatsoever arising out of, or in connection with the performance of the WORK, whether on or adjacent to the site which causes death, personal injury, or property damages are caused, the accident shall be reported immediately by telephone or messenger to both the PARKS SUPERVISOR and the OWNER. If any claim is made by anyone against the CONTRACTOR or any SUBCONTRACTOR on account of any accident, the CONTRACTOR shall promptly report the facts in writing to the PARKS SUPERVISOR, giving full details of the claim.
- 1-37 SAFETY AND SANITATION - The CONTRACTOR shall provide adequate safety and sanitation facilities according to State Laws and local ordinances.
- 1-38 CLIMATIC CONDITIONS - The PARKS SUPERVISOR may order the CONTRACTOR to suspend any WORK that may be subject to damage by climatic conditions. The CONTRACTOR may suspend WORK if climatic conditions are such that the CONTRACTOR is unable to work. In such case, the CONTRACTOR, within seven (7) days, shall request in writing a CHANGE ORDER to extend the CONTRACT TIME.
- 1-39 OFFICIALS NOT TO BENEFIT - No official of the OWNER shall receive any benefit that may arise by reason of this Contract.
- 1-40 CLEAN-UP - During the progress of the WORK, the CONTRACTOR shall maintain the site and related structures and equipment in a clean, orderly condition and free from unsightly accumulations of rubbish. Upon completion of the WORK, the CONTRACTOR shall remove from the vicinity of the WORK all plants, buildings, rubbish, unused materials, concrete forms, temporary bridging, and other like material, belonging to him or used under his direction during construction, and in the event of his failure to do so, the same may be removed by the OWNER after ten (10) calendar days' notice to the CONTRACTOR at the expense of the CONTRACTOR, and his surety or sureties shall be liable therefore.

As part of the final clean-up, the CONTRACTOR shall dress up and grade the right of way to match existing ground surfaces and shall remove therefrom all weeds and other growth. Where the

construction has crossed yards or driveways, they shall be restored to a condition equivalent to the condition existing prior to the construction as determined by the PARKS SUPERVISOR.

No direct payment will be made to the CONTRACTOR for any clean-up work, but all compensation therefore shall be included in the prices BID in the schedule for the various items of work.

1-41 UNFAIR BUSINESS PRACTICES CLAIMS; ASSIGNMENT TO AWARDING BODY In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the CONTRACTOR or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract: This assignment shall be made and become effective at the time the awarding body tenders final payment to the CONTRACTOR, without further acknowledgment by the parties.

1-42 CONSTRUCTION RECORD DRAWINGS The CONTRACTOR shall maintain a neatly marked set of record drawings showing the final locations and layout of all piping and conduit, structures, and other facilities. Drawings shall be kept current weekly, in full accordance with and showing all field instructions, change orders and construction adjustments. Drawings shall indicate location of subgrade structures left in place.

Drawings shall be subject to the inspection of the PARKS SUPERVISOR at all times and progress payments may be withheld if drawings are not current. At the final inspection the CONTRACTOR shall submit to the inspector, for review and comment by the PARKS SUPERVISOR, one (1) set of marked record drawings. Drawings shall be stamped "AS BUILT", dated, and signed by the CONTRACTOR. The work will not be formally accepted until the drawings are accepted by the PARKS SUPERVISOR.

1-43 STATE LABOR STANDARDS PROVISIONS State prevailing wage rates shall apply when the State wage rate is higher than the federal wage rate. All CONTRACTORS and SUBCONTRACTORS are subject to the application of Section 1720 et seq. of the California Labor Code which details the regulations and procedures governing the payment of State prevailing wages.

All CONTRACTORS and SUBCONTRACTORS are subject to the provisions of Section 3700 of the California Labor Code which requires that every employer be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the code.

All CONTRACTORS and SUBCONTRACTORS are subject to the provisions of Section 1810-1814 of the California Labor Code which provide that the maximum hours a worker is to be employed is limited to eight (8) hours a day and forty (40) hours a week and the CONTRACTOR or SUBCONTRACTOR shall forfeit, as a penalty, twenty-five (\$25) dollars for each worker employed in the execution of the Contract for each calendar day during which a worker is required or permitted to labor more than eight (8) hours in any calendar day or more than eight (8) hours in any calendar day or more than forty (40) hours in any calendar week and is not paid overtime.

Section 1815 of the California Labor Code requires that, notwithstanding the provision of Sections 1810-1814, employees of CONTRACTORS who work in excess of eight (8) hours per day and forty (40) hours per week shall be compensated for all hours worked in excess of eight hour per day at not less than 1-1/2 times the basic rate of pay.

- 1-44 PAYROLL RECORDS Each CONTRACTOR and SUBCONTRACTOR shall keep an accurate payroll record showing the name, address, Social Security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him in connection with the WORK. Such records shall be certified and available for inspection at all reasonable hours at the principal office of the CONTRACTOR as required by Labor Code Section 1776. Certified payrolls shall be submitted to OWNER weekly. Fringe benefit statements and apprenticeship agreements will be submitted with the project's first certified payroll or when there are mandated changes in the fringe benefits or when new apprentices are employed.
- 1-45 OVERTIME INSPECTION FEES The CONTRACTOR shall pay CITY for all overtime inspection in accordance with existing resolutions or fee schedule of the CITY unless the charges for such inspection have been specifically waived elsewhere within this Contract. Overtime inspection charges will be made for all inspections on Saturdays, Sundays, and CITY-designated holidays, and hours worked by the inspector other than those of the normal CITY working day.
- 1-46 CLAIMS FOR ADDITIONAL TIME Extension of time, when granted, will be based upon the effect of delays to the WORK as a whole and will not be granted for non-controlling delays to minor included portions of the WORK unless it can be shown that such delays did, in fact, delay the progress of the WORK as a whole. The CONTRACTOR shall not be entitled to damages or additional payment due to these delays except when CITY is responsible and the delay is unreasonable under the circumstances involved, and not within the contemplation of the parties. No compensation for WORK delays prior to the original Contract duration shall be paid.
- If delays are caused by unforeseen events beyond the control of the CONTRACTOR, such delays will entitle the CONTRACTOR to an extension of time as provided herein. War, governmental regulations, priorities, labor disputes, strikes, fires, floods, adverse weather necessitating cessation of WORK, other similar action of the elements, inability to obtain materials, equipment or labor because of Federal Government restrictions arising out of the National Defense or War Program, required "Extra Work", action or inaction by the CITY, or other specific reasons as may be further described in the Specifications may constitute such a delay.
- If the CONTRACTOR is delayed by the failure of the CITY to furnish necessary rights of way or materials agreed to be furnished by it, or by failure to supply necessary plans or instructions concerning the WORK, after written request therefore, the CONTRACTOR shall be entitled to an extension of time as provided herein.
- 1-47 RECYCLING The City of Madera encourages all CONTRACTORS, SUBCONTRACTORS, vendors, and suppliers to recycle in accordance with current industry best practices and as required by the State of California recycling of construction materials.

All asphalt concrete to be removed shall be removed by grinding and the grindings shall become City-Owned Material and shall be hauled to the **Talley Sand & Gravel at 12483 Road 29, Madera, California, and dispose of at that location as specified by the PARKS SUPERVISOR.**

Construction and demolition debris generated under a city issued building, renovation, or demolition permit and equal to or exceeding eight cubic yards of material by volume shall have necessary mixed and/or source separated C&D recycling bin(s) or roll-off boxes for the removal and recycling of all construction and demolition debris from the project site. The project permittee, designated hauler, or recycler shall provide to the City of Madera a monthly C&D report which contains at a minimum the construction site address, weight of material hauled, date hauled, material type, recycling facility name and address, and assurances from the recycling facility that a minimum of 50% of the C&D material has been recycled.

The city will provide the proper documentation form; however, other forms of documentation can be used as long as it is deemed by city staff to be acceptable and complete.

- 1-48 COLLECTION, TRANSPORT OF ALL CONSTRUCTION AND DEMOLITION DEBRIS The City of Madera requires all Contractors, Subcontractors, vendors, and suppliers to utilize Mid Valley Disposal for collection, transportation, and reporting of all construction and demolition debris.

SPECIAL CONDITIONS

- 2-1 REQUIREMENTS It is required that there be constructed and completed in accordance with "LIONS TOWN & COUNTRY PARK BALLFIELD #2 RENOVATION."
- 2-2 DESCRIPTION OF THE WORK The principal components of the WORK to be performed under these CONTRACT DOCUMENTS included but are not limited to the following:

The work shall generally consist of all equipment, labor, materials, and incidentals required to renovate LIONS TOWN & COUNTRY Park Ballfields #1 & #2, including:

Ballfield #1

- Survey, re-engineer field & set new grade points.
- Turfplane approximately 7,000 S.F. existing turf with laser function, auto grade/auto depth.
- Grade: Rough & Finish grading.
- Hand labor & Equipment.
- Import 24-ton plaster sand & 16-ton infield mix.
- Turf: Bermuda hybrid overseeded.
- Big roll sod installation.
- Spray out existing turf, to eliminate weeds.
- Reposition pegs in preparation for bases to be installed (City to provide and install bases).

Ballfield #2

- Survey, re-engineer field & set new grade points.

- Turfplane approximately 8,300 S.F. existing turf with laser function, auto grade/auto depth.
- Grade: Rough & Finish grading.
- Hand labor & Equipment.
- Import 24-ton plaster sand & 16-ton infield mix.
- Turf: Bermuda hybrid overseeded.
- Big roll sod installation.
- Spray out existing turf, to eliminate weeds.
- Reposition pegs in preparation for base installation (City to provide and install bases).

2-3 LABOR If any SUBCONTRACTOR or person employed by the CONTRACTOR shall appear to the PARKS SUPERVISOR to be incompetent or to act in a disorderly or improper manner, they shall be removed immediately on the request of the PARKS SUPERVISOR, and that person shall not again be employed on the work.

No person whose age or physical condition is such as to make his employment dangerous to his health and safety or to the health and safety of others shall be employed on the work, and in no event shall any person under the age of sixteen (16) years be employed.

The work shall at all times be executed under safe working conditions, and the conditions of work shall be subject to inspection and correction by the PARKS SUPERVISOR or safety inspectors of the OWNER.

2-4 COMMENCEMENT, PROSECUTION AND COMPLETION OF WORK The CONTRACTOR shall commence WORK and shall complete all of the WORK in accordance with the schedule and within the time stated in the BID. The capacity of the CONTRACTOR's construction plant, sequence of operations, method of operations, and the forces employed shall, at all times during the continuance of the Contract, be subject to the approval of the PARKS SUPERVISOR and shall be such as to ensure the completion of the WORK in accordance with the required schedule and within the time specified.

2-5 SCHEDULE OF WORK The CONTRACTOR shall submit a schedule of work for the improvements to the PARKS SUPERVISOR for review. This schedule shall indicate the date the CONTRACTOR will obtain any and all permits from outside agencies, including a permit from the Division of Industrial Safety for any excavation five (5) feet or more in depth. This schedule shall show all items of work and expected construction times for each item. This schedule shall be revised every two (2) weeks as required and submitted to the PARKS SUPERVISOR. The PARKS SUPERVISOR may withhold progress payments for failure of the CONTRACTOR to submit a schedule of work.

2-6 SEQUENCE OF WORK The CONTRACTOR shall schedule work with the utmost diligence and execute the work expeditiously so as to minimize public inconvenience.

2-7 RESPONSIBILITY REGARDING EXISTING UTILITIES AND PRIVATE PROPERTY The existence and location of public and private utilities indicated on the DRAWINGS are not guaranteed and any additional utilities and facilities not shown on the DRAWINGS shall be investigated and protected by the CONTRACTOR. The CONTRACTOR shall be held responsible for damage to and for

maintenance and protection of existing pipelines, irrigation facilities, public utilities, driveways, alleys, sidewalks, curbs and gutters, and existing fences.

Excavation in the vicinity of existing public utility structures, underground electrical or telephone cable, oil or gas pipelines, and waterlines shall be carefully done by hand. The CONTRACTOR shall adequately protect all adjoining property and structures from damage, whether within or without of the OWNER-furnished rights-of-way and shall be fully responsible for any damage to adjoining property and structures which may result from WORK done under this Contract. Unless otherwise provided, the CONTRACTOR shall repair or replace all existing improvements (e. g. curbs, sidewalks, driveways, fence, signs, utilities, street surfaces, structures, sprinkler, etc.) damaged or removed as a result of his operations. Repairs and replacements shall be at least equal to existing improvements and shall match them in finish and dimension, whether within the right-of-way or on private property. All repairs and replacements for items on private properties shall be made within seven (7) calendar days.

All costs to the CONTRACTOR for protecting, removing, and restoring existing improvements shall be included in the various bid items and no separate payment will be made therefore.

It shall be the CONTRACTOR's responsibility to notify the Underground Service Alert (USA) Organization for utility undergrounding permits per Section 4216 of the Government Code. The CONTRACTOR shall obtain all identification numbers and certifications required for underground utility locations prior to starting excavation within the project limits of work. The USA North's - Underground Service Alert phone number is 811/1-800-227-2600.

The CONTRACTOR shall use extreme care during construction to prevent damage from dust to adjacent property. The CONTRACTOR shall sprinkle the areas where the passage or operation of vehicles and equipment creates a dust problem, or take other preventive measures as directed by the PARKS SUPERVISOR. The CONTRACTOR shall furnish all labor, equipment, materials and means required to control dust which is in any way a result of the CONTRACTOR'S operations.

The CONTRACTOR shall be responsible for all damage or injury which may result to property, outside of the construction right-of-way or within the right-of-way where so noted, from the CONTRACTOR'S operations hereunder, or otherwise, from the performance of this Agreement or failure of performance of this Agreement by said CONTRACTOR or any of his subcontractors or employees.

- 2-8 PROJECT SITE MAINTENANCE Throughout all phases of construction, including suspension of work, and until final acceptance of the project, the CONTRACTOR shall keep the work site clean and free from rubbish and debris. The CONTRACTOR shall also abate dust nuisance by cleaning, sweeping, and sprinkling with water or other means as necessary.

CONTRACTOR shall maintain site in accordance with the City of Madera NPDES Permit for their storm drainage system. Copy of said permit is available at the office of the City of Madera PARKS SUPERVISOR.

Materials and equipment shall be removed from the site as soon as they are no longer necessary. Upon completion of the work and before final inspection, the entire work site shall be cleared of

equipment, unused materials, and rubbish so as to present a satisfactory clean and neat appearance. All cleanup, dust control, and project site maintenance costs shall be absorbed in the CONTRACTOR'S bid.

- 2-9 NOTIFICATION All homeowners and businesses affected by the construction shall be notified five (5) days in advance of the Work. The notification shall be in a form of a written posting, stating the time and date that the activities will take place. Should work not occur on the specified day, a new notification will be distributed. Suitable signs shall be posted 48 hours prior to the surfacing. "No Parking" signs shall include the wording, "Vehicle Code Section 22654".
- 2-10 WATER SUPPLY Water will be available to the CONTRACTOR for the performance of the WORK from assigned City fire hydrants. CONTRACTOR will be billed monthly for metered fire hydrant water. Prior to the use of any hydrant, the CONTRACTOR shall notify the Madera Public Works Department and a representative from the Public Works Department will install a meter furnished by the Public Works Department on the fire hydrant. It will be the CONTRACTOR'S responsibility to convey the water to the work site. Regardless of the method of conveyance chosen, it shall not be cause for closure of any streets nor shall it create a nuisance to nearby residents. The CONTRACTOR is responsible for security of the City-furnished meter. An air gap shall be maintained between the hose or pipe discharge to prevent possible backflow in the event of distribution system pressure loss. Payment of work specified above shall be included in the unit and lump sum prices bid in the schedule for the various items of WORK.
- 2-11 MATERIALS FURNISHED BY OWNER No labor, material, or other facilities shall be provided by the OWNER unless otherwise indicated on the DRAWINGS or in the SPECIFICATIONS.
- 2-12 MATERIALS FURNISHED BY CONTRACTOR Unless otherwise stipulated, the CONTRACTOR shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation, and other facilities necessary for the execution and completion of the WORK.
- 2-13 REQUEST FOR EXTENSION OF TIME No extension of time shall be made for delay occurring more than seven (7) calendar days before a claim is made therefore in writing to the PARKS SUPERVISOR. In the case of a continuing cause of delay, only one claim is necessary.
- 2-14 RIGHTS-OF-WAY The CONTRACTOR shall not be entitled to extra compensation for hardships and increased cost caused by the WORK being adjacent to telephone-telegraph lines and guide wires, power lines and guide wires, buildings, fences, pipelines, ditches, roadways, and other obstacles, which may physically restrict or limit the use of construction equipment. In some cases, such physical confinement may necessitate special methods of construction of the WORK. If the CONTRACTOR desires to utilize additional area, he shall obtain the necessary written approvals from the landowner.

No additional compensation shall be paid to the CONTRACTOR for the cost of obtaining additional right-of-way or for the inability to obtain such.

- 2-15 TRAFFIC CONTROL, CONSTRUCTION SIGNS, BARRICADES, AND LIGHTS

- 2-15.1 TRAFFIC SAFETY AND ACCESS The CONTRACTOR'S operations shall cause no unnecessary inconvenience. The access rights of the public shall be considered at all times. A schedule of work shall be submitted to the PARKS SUPERVISOR for approval prior to the start of construction. CONTRACTOR shall immediately notify PARKS SUPERVISOR of any changes to the approved schedule.

The CONTRACTOR shall submit a traffic control plan to the PARKS SUPERVISOR for approval before the start of construction.

The CONTRACTOR shall backfill all trenches at the end of each working day. The CONTRACTOR shall place and compact backfill in trenches as required to obtain a stable foundation daily for traffic use. In paved areas, three (3) inches of "cold mix" asphalt concrete shall overlay the compacted backfill and be installed daily. Temporary paving work shall be completed to the satisfaction of the PARKS SUPERVISOR. A stockpile of "cold mix" asphalt concrete shall be kept at the project site. There shall be no exception to this requirement.

Public ingress-egress to all streets including driveway access for residences and businesses shall be maintained at all times.

Where necessary, the CONTRACTOR shall place ramps, temporary driveways, or steel plates.

Work will not be permitted on Sundays. The CONTRACTOR must submit an application for Saturday work at least 7 (seven) days in advance of the Saturday in question. Overtime expenses will be charged to the CONTRACTOR for approved Saturday work.

Before the CONTRACTOR commences work, he shall discuss with the PARKS SUPERVISOR his proposal for controlling access during the work.

All costs to the CONTRACTOR for complying with the provisions of this section shall be included in various bid items and no separate payment will be made.

- 2-15.2 PUBLIC SAFETY The CONTRACTOR shall have at the work site copies or suitable extracts of Construction Safety Orders, Tunnel Safety Orders and General Industrial Safety Orders issued by the State Division of Industrial Safety. He shall comply with the provisions of these and all other applicable laws, ordinances, and regulations.

- 2-15.3 TRAFFIC CONTROL The CONTRACTOR shall be solely and completely responsible for furnishing, installing, and maintaining all warning signs and devices, necessary to safeguard the general public and the work, and to provide for the proper and safe routing of the vehicular and pedestrian traffic during the performance of the work. This requirement shall apply continuously and not be limited to normal working hours. All traffic control devices left in use over-night shall be illuminated. Arrow boards will be required for lane closures. The CONTRACTOR shall submit a plan showing traffic control measures and/or detours for vehicles and pedestrians affected by the construction to the PARKS SUPERVISOR for review and approval. This plan shall be submitted a minimum of five (5) working days prior to the start of work within the street right-of-way. The CONTRACTOR will not be allowed to begin work until an approved plan is on file with the PARKS

SUPERVISOR. Approval by the PARKS SUPERVISOR shall in no way relieve the CONTRACTOR from maintaining proper controls at all times.

2-16 STORAGE OF EQUIPMENT AND MATERIALS Construction equipment shall not be stored in streets, roads, or highways without obtaining the approval of the PARKS SUPERVISOR, and then not for more than five (5) days after unloading. All materials or equipment not installed or used in the construction within five (5) days after unloading shall be stored elsewhere by the CONTRACTOR at his expense unless he is authorized additional storage time. Construction equipment shall not be stored at the work site before its actual use on the work and not for more than five (5) days after it is no longer needed on the work. Time necessary for repair or assembly of equipment may be authorized by the PARKS SUPERVISOR.

2-16.1 STOCKPILE SITES Any sites for stockpiling shall be clean and free of objectionable materials and shall be located outside the street right-of-way in a location identified by the PARKS SUPERVISOR. Arrangements for these sites shall be the responsibility of the CONTRACTOR. If on private property, a written agreement with the Owner shall be provided to the PARKS SUPERVISOR prior to commencing operations.

2-17 GENERAL PROVISIONS The specification of any action or remedy that may be taken by the OWNER or the PARKS SUPERVISOR pursuant to the terms hereof for the failure of the CONTRACTOR to perform this Contract or for the breach hereof or for indemnity shall not be the exclusive action or remedy of the OWNER or the PARKS SUPERVISOR, but shall be cumulative with all other actions, rights, and remedies contained herein

2-18 CLEAN AIR ACT OF 1970 ET SEQ. AND FEDERAL WATER POLLUTION CONTROL ACTS AS AMENDED BY THE CLEAN WATER ACT OF 1977 CONTRACTOR agrees to comply with Federal clean air and water standards during the performance of this Contract. The CONTRACTOR shall provide a Storm Water Pollution Prevention Plan (SWPPP) or a Water Pollution Control Program (WPCP) plan as is applicable for the project and shall be prepared and submitted for approval prior to the start of the work. The plan shall be prepared by an authorized QSD and approved by the CITY PARKS SUPERVISOR.

The Contractor shall coordinate with the City of Madera and file a Notice of Intent (NOI) to comply with associated construction activity of this project with the State Water Resources Control Board and shall pay the fees required. The CONTRACTOR and SUBCONTRACTORS shall be regulated by the general construction permitting. The City's Storm Water Pollution Prevention Plan (SWPPP) is on file at the office of the City PARKS SUPERVISOR.

Full compensation for furnishing labor, materials, tools, equipment, and incidentals for doing all work for compliance with this special condition shall be included in the Contract BID ITEM price or within the various BID items and no additional compensation will be allowed therefore.

2-19 AWARD OF CONTRACT The award of contract, if it be awarded, will be to the lowest responsible bidder whose proposal complies with all the requirements prescribed.

2-20 HAZARDOUS MATERIAL AND CHANGED CONDITIONS

- (A) The CONTRACTOR shall promptly, and before the following conditions are disturbed, notify the PARKS SUPERVISOR, in writing, of any:
- 1) Material that the CONTRACTOR believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, which is required to be moved to a Class I, Class II, or Class III disposal site in accordance with provision of existing law.
 - 2) Subsurface or latent physical conditions at the site differing from those indicated.
 - 3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.
- (B) The PARKS SUPERVISOR shall promptly investigate the conditions, and if he 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 time required for performance of any part of the work, the CONTRACTOR shall not be excused from any scheduled completion date provided for by the Contract but shall proceed with all work to be performed under the Contract. The CONTRACTOR shall retain any and all rights provided either by Contract or by law which pertain to the resolution of disputes and protests between the contracting parties.
- (C) In the event that a dispute arises between the PARKS SUPERVISOR 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 the Contract but shall proceed with all work to be performed under the Contract. The CONTRACTOR shall retain any and all rights provided either by Contract or by law which pertain to the resolution of disputes and protests between the contracting parties.
- 2-21 ACCESS TO PROPERTY Pedestrians and vehicular access to properties shall be provided and maintained at all times. Exceptions include during the actual placing of concrete or, for very short periods, during paving operations. Access shall be safe and reasonable for pedestrians and for motor vehicles used by property owners and emergency vehicles (fire, police, and ambulance). The PARKS SUPERVISOR will make the sole determination of what is safe and reasonable.
- 2-22 HOURS OF LABOR The CONTRACTOR shall forfeit, as penalty to the OWNER, the sum of twenty-five (\$25.00) for each laborer, worker, mechanic, and any subcontractor under him for each calendar day during which such laborer, worker, mechanic, or subcontractor is required or permitted to labor more than eight (8) hours in violation of this stipulation.

Overtime and shift work may be established as a regular procedure by the CONTRACTOR with reasonable notice and written permission of the PARKS SUPERVISOR. No work other than overtime and shift work established as a regular procedure shall be performed between the hours of 6:00 p.m. and 7:00 a.m. nor on Saturdays, Sundays, or City holidays, except such work as is necessary for the proper care and protection of the work already performed, or in case of an emergency.

City holidays shall be defined as those holidays annually observed by the City. These are: New Year's Day, Martin Luther King's Birthday, President's Day, Good Friday (4hrs), Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day, (a total of 12 days). City staff shall not work on City recognized Holidays unless the Contractor agrees to cover the cost of staff time.

CONTRACTOR agrees to pay the costs of overtime inspection except those occurring as a result of overtime and shift work established as a regular procedure. Overtime inspection shall include inspection required during holidays, Saturdays, Sundays, and weekdays. Costs of overtime inspection will cover PARKS SUPERVISOR, inspection, general supervision, and overhead expenses which are directly chargeable to the overtime work. CONTRACTOR agrees the PARKS SUPERVISOR shall deduct such charges from payment due the CONTRACTOR.

- 2-23 DUST CONTROL CONTRACTOR shall prepare and provide a dust control plan in accordance with San Joaquin Valley Unified Air Pollution Control District requirements. Said plan shall be approved prior to start of construction. All cost for preparing said plan and acquiring approval shall be included in CONTRACTOR's bid. Dust control requirements shall be included in all construction contract specifications. These construction contract specifications shall include the following San Joaquin Valley Unified Air Pollution Control District's Regulation VIII, Rule 8020 fugitive dust mitigation requirements for the control of fine particulate matter (PM10) from construction activities:

"All disturbed areas of a construction site, including storage piles of fill dirt and other bulk materials, which are not being actively utilized for construction purposes for a period of seven calendar days or more, shall be stabilized using one or more of the following approved soil stabilization methods to effectively limit visible dust emissions. Where soil moisture or natural crusting is sufficient to limit visible dust emission, no action is required. Disturbed areas shall be stabilized for the duration of the construction activity or until construction work resumes on the inactive disturbed area.

- (A) Where water is used as the dust suppressant, watering shall be applied to effectively limit visible dust emissions; or
- (B) Where a chemical dust stabilizer or suppressant, watering shall be applied to effectively limit visible dust emission; or
- (C) Where planting of trees and vegetative ground cover is utilized, vegetation shall be planted in sufficient density and watered with sufficient frequency to effectively stabilize the disturbed area and limit visible dust emissions.

All operations shall effectively limit visible dust emissions from on-site unpaved roads and off-site unpaved access roads using one or more of the following stabilization methods. Road stabilization shall be maintained for the duration of the activity. Where soil moisture is sufficient to meet this requirement, no action is required.

- (A) Where water is used as the dust suppressant, watering shall be applied to effectively limit visible dust emissions.

- (B) Where a chemical dust stabilizer or suppressant is used, the stabilizer or suppressant shall be applied to effectively limit visible dust emissions.

No person shall undertake any land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill operations, or demolition activities, without utilizing appropriate dust control measures during the land preparation, demolition, excavation, or extraction. Appropriate dust control measures may consist of the effective application of water or pre-soaking.

All operations shall limit track-out and expeditiously remove the accumulation of mud or dirt from public paved roads, including shoulders, adjacent to the site. Removal activities must comply with local requirements and procedures.

In addition to restrictions imposed by local agencies, the use of dry rotary brushes for removal of deposited mud/dirt carryout from a paved road shall be prohibited, except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. The use of blower devices for removal of deposited mud/dirt carryout from subject paved roads shall be prohibited.”

- 2-24 NOISE CONTROL Noise generating construction equipment activities shall be limited to 7:00 a.m. to 6:00 p.m. on weekdays and 8:00 a.m. to 5:00 p.m. on Saturdays. No noise generating construction activities shall be permitted on Sundays and holidays.

All construction equipment shall be maintained according to manufacturers’ specifications and noise generating construction equipment shall be equipped with mufflers.

- 2-25 CLEAN-UP The CONTRACTOR shall clean up the job site prior to acceptance of the WORK. All dirt, spoil, and debris of any nature shall be removed, and the entire site shall present a clean, workmanlike appearance. Any damage to paint work caused from spillage or splattering, or from prime coating, paving or seal coating operations shall be corrected. All areas such as manways, gutters, and intersections shall have the surfacing mix removed as specified by the PARKS SUPERVISOR. The CONTRACTOR shall remove, on a daily basis, any debris associated with the performance of the WORK.

- 2-26 SPREADING EQUIPMENT Except as herein specified, pavers shall be capable of spreading and finishing asphalt concrete true to line, grade and crown as required in State Standard Specification, Section 39.

- Pavers shall be equipped with quick and efficient steering devices and shall have reverse as well as forward travelling speeds;
- Pavers shall have a receiving hopper of sufficient capacity to permit a uniform spreading operation. The hopper shall be equipped with distributing screws of the reversing type to place the mixture uniformly in front of the screed;
- The screed shall be equipped with a controlled heating device for use when required. The screed shall strike off the mix to the depth and cross section specified without the aid of manual adjustments during operations;
- Particular attention shall be directed to the setting, clearance, and wear condition of the tamper bar on paver screeds so equipped.

- 2-27 24-HOUR CUSTOMER ACCESS Service Provider must respond to calls from customers or the City concerning leaks, loss of service and other problems associated with installations on a 24-hour per day basis. Service Provider must respond within one (1) hour of receiving the call and mobilize to correct any problems within three (3) hours of receiving the call.

**ATTACHMENT A
BIDDER QUESTION FORM**

Shaded portions of this form for City use only.

CITY OF MADERA		ATTENTION: Jennifer Stickman	
IFB 202022-09, LIONS TOWN & COUNTRY PARK BALLFIELD #1 & #2 RENOVATION		E-mail: <u>jstickman@madera.gov</u>	
PREBID CONFERENCE: N/A		DATE RECEIVED: _____	
DEADLINE FOR QUESTIONS: 02/05/2022		QUESTION No.: _____	
BID OPENING: 2:00PM, Monday, 02/07/2022			
FROM: _____		DATE: _____	
COMPANY: _____		PHONE No: _____	
CONTACT PERSON: _____		E-MAIL: _____	
QUESTION (One question per sheet):			
ANSWER:			
RESPONSE BY: _____		DATE: _____	
ADDENDUM ISSUED: YES _____ NO _____			

Duplicate this form as necessary.

ATTACHMENT B

SAMPLE CONTRACTOR SERVICES AGREEMENT

SAMPLE CONTRACTOR SERVICES AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 2022, between the City of Madera, hereinafter called "**OWNER**", and _____, doing business as (an individual), or (a partnership), or (a corporation), hereinafter called "**CONTRACTOR**".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The **CONTRACTOR** shall commence and complete all **WORK** required for the "**IFB 202122-09 LIONS TOWN & COUNTRY PARK BALLFIELDS #1 & #2 RENOVATION**"
2. The **CONTRACTOR** shall furnish all of the material, supplies, tools, equipment, labor, and other services necessary for the construction and completion of the **WORK** described herein.
3. The **CONTRACTOR** shall commence the **WORK** required by the **CONTRACT DOCUMENTS** within 10 calendar days after the date of the **NOTICE TO PROCEED** and will complete the same within the time period set forth in the **CONTRACT DOCUMENTS**. The **CONTRACTOR** shall submit a Payment Bond and Performance Bond in the amount of \$ _____, each and Insurance Certificates as specified in the **CONTRACT DOCUMENTS** prior to commencing any **WORK**.
4. The **CONTRACTOR** agrees to perform all of the **WORK** described in the **DOCUMENTS** for the unit and lump sum prices set forth in the Bid Schedule.
5. The term "**CONTRACT DOCUMENTS**" means and includes the following:
 - (A) Advertisement for Bids
 - (B) IFB 202122-09 Lions Town & Country Park Ballfields #1 & #2 Renovation
 - (C) Bid Proposal
 - (D) Bid Bond
 - (E) Agreement
 - (F) Payment Bond
 - (G) Performance Bond
 - (H) Insurance Requirements
 - (I) General Conditions
 - (J) Special Conditions
 - (K) City of Madera Standard Specifications and Drawings
 - (L) State Standard Plans and Specifications

Addenda Nos. _____, dated _____

Addenda Nos. _____, dated _____

Addenda Nos. _____, dated _____
6. In the event the **CONTRACTOR** does not complete the **WORK** within the time limit specified herein or within such further time as authorized, the **CONTRACTOR** shall pay to the **OWNER**

liquidated damages in the amount of **Three Hundred Seventy-Five Dollars (\$375.00)** per day for each and every calendar day delay in finishing the **WORK** beyond the completion date so specified.

7. The **OWNER** will pay to the **CONTRACTOR** in the manner and at such times as set forth in the General Conditions such amounts as required by the **CONTRACT DOCUMENTS**. For any moneys earned by the **CONTRACTOR** and withheld by the **OWNER** to ensure the performance of the Contract, the **CONTRACTOR** may, at his request and expense, substitute securities equivalent to the amount withheld in the form and manner and subject to the conditions provided in Division 2, Part 5, Section 22300 of the Public Contract Code of the State of California.

8. In the event of a dispute between the **OWNER** and the **CONTRACTOR** as to an interpretation of any of the specifications or as to the quality or sufficiency of material or workmanship, the decision of the **OWNER** shall for the time being prevail and the **CONTRACTOR**, without delaying the job, shall proceed as directed by the **OWNER** without prejudice to a final determination by negotiation, arbitration by mutual consent or litigation, and should the **CONTRACTOR** be finally determined to be either wholly or partially correct, the **OWNER** shall reimburse him for any added costs he may have incurred by reason of work done or material supplied beyond the terms of the contract as a result of complying with the **OWNER'S** directions as aforesaid. In the event the **CONTRACTOR** shall neglect to prosecute the work properly or fail to perform any provisions of the **CONTRACT**, the **OWNER**, after three days written notice to the **CONTRACTOR**, may, without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due to the **CONTRACTOR**, subject to final settlement between the parties as in this paragraph herein above provided.

8A. CLAIMS RESOLUTION PROCESS FOR DISPUTES.

It is the intent of this Contract that disputes regarding the Contract be resolved promptly and fairly between the Contractor and the Owner. However, it is recognized that some disputes will require detailed investigation and review by one or both parties before a determination and resolution can be reached. For the protection of the rights of both the Contractor and the Owner, the following provisions are provided for the resolution of disputes which cannot be resolved by the Owner and the Contractor within three business days after either party gives verbal notice of dispute or potential dispute to the other's attention and prior to the commencement of such work.

The following provisions are intended by Contractor and Owner to comply with Public Contract Code Sections 9204 and 20104 *et. seq.*

A. Claims:

The term "claim" refers to a separate demand by Contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

- (1) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by Owner under this Contract.

- (2) Payment by the Owner of money or damages arising from work done by, or on behalf of, the Contractor pursuant to the Contract and payment for which is not otherwise expressly provided or to which the Contractor is not otherwise entitled.
- (3) Payment of an amount that is disputed by the Owner.

B. The Claim Must Be Timely and in Writing:

For all claims the claim must be in writing and include the documents necessary to substantiate the claim. A notice of potential claim must be filed within five (5) business days of Contractor's completion of work that is a potential claim. Notice of an actual claim must be filed on or before the date of final payment.

C. Receipt of Claim by Owner:

Upon receipt of a claim pursuant to this section, the Owner will conduct a reasonable review of the claim and, within a period not to exceed 45 days from the date of receipt, will provide the Contractor with a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, Owner and Contractor may, by mutual agreement, extend the time period provided in this section.

The Contractor shall furnish reasonable documentation to support the claim. If additional information is thereafter required, it shall be requested and provided upon mutual agreement by the Owner and the Contractor. The District'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 Contractor in producing the additional information or requested documentation.

D. City Council Approval:

If the Owner needs approval from the City Council to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the claim, and the City Council does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the Owner shall have up to three days following the next duly publicly noticed regular meeting of the City Council after the 45-day period or extension expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.

E. Payment of Claim:

Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the Owner issues its written statement. If the Owner fails to issue a written statement, paragraph F below shall apply.

F. Meet and Confer:

If the Contractor disputes the Owner's written response, or if the Owner fails to respond to a claim issued pursuant to this section within the time prescribed, the Contractor may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the Owner shall schedule a meet and confer conference within 30 days for settlement of the dispute.

Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the Owner shall provide the Contractor a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the Owner issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the Owner and the Contractor sharing the associated costs equally. The Owner and Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

Under this Contract, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

Unless otherwise agreed to by the Owner and the Contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has been commenced.

If mediation as set forth above does not resolve the parties' dispute, the parties will proceed to arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program.

G. Filing a Government Code Written Claim Notice:

Following the meet and confer conference, if the claim or any portion remains in dispute, the Contractor may file a claim under the Torts Claims Act as provided in 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 Section 900.

H. Owner's Failure to Respond to Claim:

Failure by the Owner to respond to a claim from Contractor within the time periods described above or to otherwise meet the time requirements set forth above shall result in the

claim being deemed rejected in its entirety. A claim that is denied by reason of the Owner's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the Contractor.

I. Interest:

Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

J. Subcontractor Claims:

If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against Owner because privity of contract does not exist, the Contractor may present to the Owner a claim on behalf of a subcontractor or lower tier subcontractor. For purposes of this paragraph, the term "subcontractor" means any type of subcontractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with the Contractor or is a lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the Contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the Owner shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the Contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the Owner and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

K. Filing of Action on Unresolved Claims:

The parties shall follow the procedures set forth in Public Contracts Code Section 20104.4 if an action is filed to resolve claims under the foregoing provisions. Any action shall be filed in Madera County.

9. Attention is directed to Section 1735 of the Labor Code, which reads as follows:

"No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical conditions, marital status, or sex of such persons except as provided in Section 12940 of the Government Code, and every contractor for public works violating this section is subject to all the penalties imposed for by violation of this chapter".

10. In accordance with the provisions of Article 5, Chapter I, Part 7, Division 2 (commencing with Section 1860) and Chapter 4, Part I, Division 4 (commencing with Section 3700) of the Labor Code of the State of California, the **CONTRACTOR** is required to secure the payment of compensation to his employees and shall for that purpose obtain and keep in effect adequate Worker's Compensation Insurance.

The undersigned **CONTRACTOR** is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against Liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions before commencing the performance of the **WORK** of this Agreement.

11. The **CONTRACTOR** shall comply with Part 7, Chapter I, Article 2, Section 1775 of the Labor Code of the State of California. The **CONTRACTOR** shall, as a penalty to the **OWNER**, forfeit fifty dollars (\$50.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates for such work or craft in which such worker is employed for any public work done under the Contract by him or by any **SUBCONTRACTOR** under him. The difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than a prevailing wage rate, shall be paid to each worker by the **CONTRACTOR**.

12. The **CONTRACTOR** shall comply with Part 7, Chapter I, Article 2, Section 1776 of the Labor Code of the State of California. The **CONTRACTOR** shall keep and require that all **SUBCONTRACTORS** keep 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 per diem wages paid to each journeyman, apprentice worker or other employee employed by him in connection with public work. Such payroll records shall be certified and shall be available for inspection at all reasonable hours at the principal office of the **CONTRACTOR** by the **OWNER**, its officers, and agents and to the representatives of the Division of Labor Law Enforcement of the State Department of Industrial Relations. In the event of non-compliance with the requirements of Section 1776, the **CONTRACTOR** shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects the **CONTRACTOR** must comply. Should non-compliance still be evident after the ten (10) day period, the **CONTRACTOR** shall, as a penalty to the **OWNER** forfeit twenty-five dollars (\$25.00) for each calendar day, or portion thereof, for each worker until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.

13. Attention is directed to the provisions in Sections 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the **CONTRACTOR** or any **SUBCONTRACTOR** under him. It is the **CONTRACTOR'S** responsibility to ensure compliance by both itself and all **SUBCONTRACTORS**.

Section 1777.5 provides, in part, as follows:

The **CONTRACTOR** or **SUBCONTRACTOR**, if he is covered by this section, upon the issuance of the approval certificate, or if he has been previously approved in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeyman stipulated in the apprenticeship standards. Upon proper showing by the **CONTRACTOR** that he employs apprentices in the craft or trade in the State on all of his/her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by a journeyman, or in the land surveyor classification, one apprentice for each five journeyman, the Division of Apprenticeship Standards may grant a certification exempting the **CONTRACTOR** from the one (1) to five (5) hourly ratio as set forth in this section. This section shall not apply to contracts of general **CONTRACTORS** or to contracts of specialty contractors not bidding for work through a general or prime **CONTRACTOR**, when the contracts of general **CONTRACTORS**, or those specialty **CONTRACTORS** involve less than thirty thousand dollars (\$30,000). Any work performed by a journeyman in excess of eight hours per day or forty (40) hours per week shall not be used to calculate the hourly ratio required by this section.

Apprenticeable craft or trade, as used in this section, shall mean a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council. The joint apprenticeship committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting a **CONTRACTOR** from the 1 to 5 ratio set forth in this section when it finds that any one of the following conditions is met:

- (a) In the event unemployment for the previous three-month period in such area exceeds an average of 15 percent, or
- (b) In the event the number of apprentices in training in such area exceeds a ratio of 1 to 5, or
- (c) If there is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either (1) on a statewide basis, or (2) on a local basis, or
- (d) If assignment of an apprentice to any work performed under a public works contract would create a condition which should jeopardize his life or the life, safety, or property of fellow employees, or the public at large or if the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

When such exemptions are granted to an organization which represents **CONTRACTORS** in a specific trade from the 1 to 5 ratio on a local or statewide basis the member **CONTRACTORS** will not be required to submit individual applications for approval to local joint apprenticeship committees, provided they are already covered by the local apprenticeship standards.

The **CONTRACTOR** is required to make contributions to funds established for the administration of apprenticeship programs if he employs registered apprentices or journeymen in apprenticeable trade on such contracts and if other **CONTRACTORS** on the public work site are making such contributions. The **CONTRACTOR**, and any **SUBCONTRACTOR** under him, shall comply with the requirements of Sections 1777.5 and 1777.6 of the Labor Code in the employment of apprentices. Information relative to number of apprentices, identifications, wages, hours of employment and standards of working conditions shall be obtained from the Division of Apprenticeship Standards. Consult the white pages of your telephone directory under California, State of, Industrial Relations, Apprenticeship Standards, for the telephone number and address of the nearest office. Willful failure by the **CONTRACTOR** to comply with the provisions of Sections 1777.5 will subject the **CONTRACTOR** to the penalties set forth in Section 1777.7 of the Labor Code.

14. Pursuant to California Labor Code Section 1813, eight hours in any one calendar day and forty (40) hours in any calendar week shall be the maximum hours any worker is required or permitted to work, except in cases of extraordinary emergency caused by fires, flood, or danger to life and property. The **CONTRACTOR** doing the work, or his duly authorized agent, shall file with **OWNER** a report, verified by his oath, setting forth the nature of the said emergency, which report shall contain the name of said worker and the hours worked by him on the said day, and the **CONTRACTOR** and each **SUBCONTRACTOR** shall also keep an accurate record showing the names and actual hours worked of all workers employed by him in connection with the work contemplated by this Agreement, which record shall be open at all reasonable hours to the inspection of the **OWNER**, or its officer or agents and to the Chief of all Division of Labor Statistics and Law Enforcement of the Department of Industrial Relations, his deputies or agents;

and it is hereby further agreed that said **CONTRACTOR** shall forfeit as a penalty to the **OWNER** the sum of Twenty-Five Dollars (\$25.00) for each laborer, workman or any **SUBCONTRACTOR** under him for each calendar day during which such laborer, workman or mechanic is required or permitted to labor more than eight (8) hours in violation of this stipulation.

Overtime and shift work may be established as a regular procedure by the **CONTRACTOR** with reasonable notice and written permission of the **OWNER**. No work other than overtime and shift work established as a regular procedure shall be performed between the hours of 6:00 P.M. and 7:00 A.M. nor on Saturdays, Sundays or holidays except such work as is necessary for the proper care and protection of the work already performed or in case of an emergency.

CONTRACTOR agrees to pay the costs of overtime inspection except those occurring as a result of overtime and shift work established as a regular procedure. Overtime inspection shall include inspection required during holidays, Saturdays, Sundays, and weekdays. Costs of overtime inspection will cover engineering, inspection, general supervision, and overhead expenses which are directly chargeable to the overtime work. **CONTRACTOR** agrees that **OWNER** shall deduct such charges from payments due the **CONTRACTOR**.

15. The **CONTRACTOR** shall comply with Division 2, Chapter 4, Part 1 of the Public Contract Code relating to subletting and subcontracting, specifically included but not limited to Sections 4104, 4106, and 4110, which by this reference are incorporated into this Agreement as though fully set forth herein.

16. The **CONTRACTOR** and the **OWNER** agree that changes in this Agreement or in the work to be done under this Agreement shall become effective only when written in the form of a supplemental agreement or change order and approved and signed by the **OWNER** and the **CONTRACTOR**. It is specifically agreed that the **OWNER** shall have the right to request any alterations, deviations, reductions or additions to the contract or the plans and specifications or any of them, and the amount of the cost thereof shall be added to or deducted from the amount of the contract price aforesaid by fair and reasonable valuations thereof.

This contract shall be held to be completed when the work is finished in accordance with the original plans and specifications as amended by such changes. No such change or modification shall release or exonerate any surety upon any guaranty or bond given in connection with this contract.

17. **Contractor** shall indemnify, defend with legal counsel approved by City, and hold harmless City, its officers, officials, employees, and volunteers from and against all liability, loss, damage, expense, and cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with **Contractor's** negligence, recklessness, or willful misconduct in the performance of work hereunder, or its failure to comply with any of its obligations contained in this AGREEMENT, except such loss or damage caused by the sole active negligence or willful misconduct of the City. Should conflict of interest principles preclude a single legal counsel from representing both City and **Contractor**, or should City otherwise find **Contractor's** legal counsel unacceptable, then **Contractor** shall reimburse the City its costs of defense, including without limitation, reasonable legal counsel fees, expert fees, and all other costs and fees of litigation. The **Contractor** shall promptly pay any final judgment rendered against the City (and its officers, officials, employees, and volunteers) with respect to claims determined by a trier of fact to have been the result of the **Contractor's** negligent, reckless, or wrongful performance. It is expressly understood and agreed that

the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

Contractor obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of City under any provision of this agreement, **Contractor** shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of **Contractor** will be for that entire portion or percentage of liability not attributable to the active negligence of City.

Contractor agrees to obtain or cause to be obtained executed defense and indemnity agreements with provisions identical to those set forth in this Section from each and every Subcontractor and Subconsultant, of every Tier. In the event the **Contractor** fails to do so, **Contractor** agrees to be fully responsible to provide such defense and indemnification according to the terms of this Section.

18. Contractor must comply with the insurance requirements as described in the section "INSURANCE REQUIREMENTS" of the Contract Documents.

19. Amendments. Any changes to this Agreement requested by either City or **[Name of Successful Bidder]** may only be effected if mutually agreed upon in writing by duly authorized representatives of the parties hereto. This Agreement shall not be modified or amended or any rights of a party to it waived except by such writing.

20. Termination.

A. This Agreement may be terminated at any time by either party upon fifteen (15) calendar days written notice. In the event the Agreement is terminated by either party, **[Name of Successful Bidder]** shall be compensated for services performed to the date of termination based upon the compensation rates and subject to the maximum amounts payable agreed to together with such additional services performed after termination which are authorized in writing by the City representative to wind up the work performed to date of termination.

B. City may immediately suspend or terminate this Agreement in whole or in part by written notice where, if in the determination of City, there is:

1. An illegal use of funds by **[Name of Successful Bidder]**;
2. A failure by **[Name of Successful Bidder]** to comply with any material term of this Agreement;
3. A substantially incorrect or incomplete report submitted by **[Name of Successful Bidder]** to City.

In no event shall any payment by City or acceptance by **[Name of Successful Bidder]** constitute a waiver by such party of any breach of this Agreement or any default which may then exist on the part of either party. Neither shall such payment impair or prejudice any remedy available to either party with respect to such breach or default. City shall have the right to demand of **[Name of Successful Bidder]** the repayment to City of any funds disbursed to **[Name of Successful Bidder]** under this Agreement which, as determined by the appropriate court or arbitrator, were not expended in accordance with the terms of this Agreement.

Notice of termination shall be mailed to the City:

City of Madera
Parks & Community Services
701 East 5th Street
Madera, Ca 93638

Notice of Termination shall be mailed to the Contractor **[Name of Successful Bidder]**

All notices and communications from **[Name of Successful Bidder]** shall be to City's designated Project Manager or Principal-In-Charge. Verbal communications shall be confirmed in writing. All written notices shall be provided and addressed as soon as possible, but not later than thirty (30) days after termination.

21. Compliance with Laws. City shall comply with all Federal, State, and local laws, ordinances, regulations, and provisions applicable in the performance of City's services.

Wherever reference is made in this Agreement to standards or codes in accordance with which work is to be performed or tested, the edition or revision of the standards or codes current on the effective date of this Agreement shall apply, unless otherwise expressly stated.

22. Attorneys' Fees/Venue. In the event that any action is brought to enforce the terms of this Agreement, the party found by the court to be in default agrees to pay reasonable attorneys' fees to the successful party in an amount to be fixed by the Court. The venue for any claim being brought for breach of this Agreement shall be in Madera County or as appropriate in the U.S. District Court for the Eastern District of California, located in the City of Madera.

23. Governing Law. The laws of the State of California shall govern the rights and obligations of the parties under the Agreement, including the interpretation of the Agreement. If any part of the Agreement is adjudged to be invalid or unenforceable, such invalidity shall not affect the full force and effect of the remainder of the Agreement.

24. City's Authority. Each individual executing or attesting to this Agreement on behalf of the City hereby covenants and represents: (i) that he or she is duly authorized to execute or attest and deliver this Agreement on behalf of such corporation in accordance with a duly adopted resolution of the corporation's articles of incorporation or charter and bylaws; (ii) that this Agreement is binding upon such corporation; and (iii) that Contractor is a duly organized and legally existing municipal corporation in good standing in the State of California.

25. Contractor's Legal Authority. Each individual executing or attesting this Agreement on behalf of **[Name of Successful Bidder]** hereby covenants and represents: (i) that he or she is duly authorized to execute or attest and deliver this Agreement on behalf of such corporation in accordance with such corporation's articles of incorporation or charter and by-laws; (ii) that this Agreement is binding upon such corporation; and (iii) that **[Name of Successful Bidder]** is a duly organized and legally existing corporation in good standing in the State of California.

26. Remedies for Default. Failure by a party to perform any term, condition or covenant required of the party under this Agreement shall constitute a "default" of the offending party under this Agreement. In the event that a default remains uncured for more than ten (10) days following receipt of written notice of default from the other party, a "breach" shall be deemed to have occurred. Any failure

or delay by a party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any rights or remedies associated with a default.

27. Independent Contractor. In performance of the work, duties, and obligations assumed by the Contractor under this Agreement, it is mutually understood and agreed that the City, including any and all of City's officers, agents and employees will, at all times, be acting and performing as an independent contractor, and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venturer, partner, or associate of **City**. Furthermore, **City** shall have no right to control or supervise or direct the manner or method by which City shall perform its work and functions. The City shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over the subject matter hereof.

Because of its status as an independent contractor, City shall have absolutely no right to employment rights and benefits available to **City** employees. City shall be solely liable and responsible for providing to, or on behalf of, its employees all legally required employee benefits. In addition, City shall be solely responsible and hold **City** harmless from all matters relating to payment of City's employees, including compliance with Social Security, withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, City may be providing services to others unrelated to **City** or to this Agreement.

28 Sole Agreement. This instrument constitutes the sole and only Agreement between City and **[Name of Successful Bidder]** in connection to the Project and correctly sets forth the obligations of the City and **[Name of Successful Bidder]** to each other as of its date. Any Agreements or representations in connection with the Project, not expressly set forth in this instrument are null and void.

27. Assignment-Neither the **[Name of Successful Bidder]** nor City will assign its interest in this Agreement without the written consent of the other.

28. Caltrans is required by 23 code of Federal Regulations (CFR), part 200, Section 200.9 (b)(7) to conduct reviews of sub-recipients (Local Agencies) of federal-aid to ensure compliance with Title VI of the Civil Rights Act of 1964 and the related statutes (Title VI) through the requirements under the Federal Highway Administration (FHWA), the U.S. Department of Transportation (USDOT), and the U.S. Department of Justice (USDOJ) regulations and guidance materials related to the implementation of Title VI.

The scope of the process reviews conducted by Caltrans focuses on the Local Agency's adherence to the FHWA's Title VI Program (Race, Color and National Origin) and the related statutes protecting additional classes as required under

- Federal-Aid Highway Act of 1973 (Sex)
- The Age Discrimination Act of 1975 (Age), and
- The Americans with Disabilities Act of 1990 (ADA)(Disability) and Section 504 of the Rehabilitation Act of 1973 (Disability).

29 Binding Agreement. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in THREE copies, each of which shall be deemed an original on the date first above written.

City of Madera
Herein Called OWNER

By: _____
Santos Garcia, Mayor

APPROVE AS TO FORM:

Hilda Cantú Montoy, City Attorney

ATTEST:

Alicia Gonzales, City Clerk

BY: _____
Herein Called CONTRACTOR

BY: _____

Federal Tax I.D. No.

Contractor License Number

DIR Registration Number

NOTE: This Notary Acknowledgment on the following page is required for verification of Contractor's signature.

Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____, 2022 before me, _____
(insert name and title of officer)

Personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)