CITY OF COSTA MESA

CALIFORNIA 92628-1200 P.O. BOX 1200

PUBLIC SERVICES DEPARTMENT

September 16, 2004

Mr. Jerome Contreras
Channel Islands Paving, Inc.
355 N. Lantana Street, #685
Camarillo, CA 93010

Dear Mr. Contreras,

As was conveyed to you in a letter dated September 10, 2004, the City of Costa Mesa (the "City") staff is planning to recommend to the City Council that the award of Project No. 04-19 to Channel Islands Paving, Inc. ("Channel Islands") be rescinded and that the bid bond provided by Channel Islands be forfeited to the City. These actions are being recommended pursuant to Item 14 of the Information for Bidders – Forfeiture for failure to Post Security and Execute Agreement; Section 2-1.1 Award of Contract and Section 2-1.5 Execution of the Agreement of the Project's General Provisions; California Publics Contracts Code Section 20172.

The purpose of this letter is to provide the City and Channel Islands with an alternative course of action to settle the issues regarding Project 04-19. The City proposes that Channel Islands withdraw its bid for Project 04-19 in exchange for the City's agreement not to pursue the forfeiture of Channel Islands' bid bond. In addition, Channel Islands agrees to 1) release the City, and all its elected and appointed officials, officers, and employees from any and all claims arising out of or in any way connected with Channel Islands' bid on Project 04-19 and the City's award of Project 04-19 to Channel Islands and 2) defend and indemnify the City, and all its elected and appointed officials, officers, and employees from any and all claims arising out of or in any way connected with Channel Islands' bid on Project 04-19 and by subcontractors and suppliers who may have provided sub bids to Channel Islands. For its part, City agrees to release Channel Islands and its officers, directors, shareholders, sureties, and employees from claims arising out of or related to Channel Islands' bid for Project 04-19."

Please countersign this letter to show your acceptance of the above-mentioned terms and conditions. Upon receipt of your countersignature, the staff will recommend to the City Council at the regular meeting scheduled for September 20, 2004 that the City ratify the terms of this letter. Once the City Council ratifies the terms of this letter, Channel Islands' bid on Project 04-19 will be deemed to be withdrawn and the City will return to Channel Islands its bid bond.

Sincerely,

Ernesto Munoz, P.E.
City Engineer

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Jerome Contreras, President

c: William Morris, Director of Public Services
Linda Nguyen, Deputy City Attorney
Thomas L. Banks, P.E., Project Manager
Susan Santoro, Assistant Engineer