



CITY COUNCIL AGENDA REPORT

MEETING DATE: October 4, 2011

ITEM NUMBER: **CC-11**

SUBJECT: GRAFFITI ABATEMENT SERVICES REQUEST FOR PROPOSAL

DATE: SEPTEMBER 27, 2011

FROM: OFFICE OF THE CEO

PRESENTATION BY: THOMAS R. HATCH, CEO

FOR FURTHER INFORMATION CONTACT: THOMAS R. HATCH @ (714) 754-5328

RECOMMENDATION:

Staff recommends that the City Council authorize staff to release the Notice to Bidders and Request for Bids for Graffiti Abatement Services (Attachment 3) based upon the analysis provided by both the Graffiti Abatement Services Contracting Committee and Public Services Department.

BACKGROUND/ANALYSIS:

Council Policy 100-6 provides guidelines for evaluating the potential contracting of on-going City services on a long-term or permanent basis. As set forth in the policy, a committee was formed and comprised of three segments: Project Responsibility, Department Representative and Employee Representative. The committee was tasked with the following:

- Hearing a presentation from department representatives and asking questions about the specific proposal under consideration;
- Working together to outline how to evaluate a comparable City effort to provide the same or similar service;
- Having the project facilitator draft an analysis addressing the available alternatives for service delivery as outlined by the committee; and,
- Determining if outside comparative data would be useful.

On September 9, 2011 the Graffiti Abatement Services Contracting Committee met to discuss the duties and responsibilities of the Graffiti Abatement program and determine "the available alternatives for service delivery." After hearing a presentation by department staff and asking questions, the Contracting Committee determined the following alternatives for the Graffiti Abatement program:

1. Retain existing service level at existing cost.
2. Lower level service at a lesser cost.
3. Contract with a private entity.
4. Eliminate some or all of the service provided to the City and Community.
5. Contract out to another public entity.
6. Contract in with another public entity.

On September 15, 2011 and September 20, 2011, the Contracting Committee met to discuss, clarify and finalize the alternatives/options and the draft Bid documents. The following is an explanation of the attachments.

Attachment 1, a memo from the Contracting Committee to the City CEO Tom Hatch, provides identification and analysis of each alternative and survey information provided by other agencies.

Attachment 2, a memo from the Interim Public Services Director Ernesto Munoz to the City CEO Tom Hatch, provides a written evaluation (including pros and cons) of each option addressed by the Contracting Committee.

Attachment 3, the draft Bid documents for Graffiti Abatement Services, prepared by the Public Services Department and reviewed and finalized by the Contracting Committee.

Based on the attached information it appears that the most viable alternatives are to retain the existing service level but at a lower cost through reorganization or contracting with either a public entity or private company for services. It is difficult to determine which of these alternatives would provide the highest level of service at the lowest cost without issuing a Bid request so that appropriate cost analysis and comparisons in level of service can be made. The services involved in graffiti abatement primarily fall into the "public works" characterization which must be bid out formally under the Public Contract Code and awarded to the lowest responsive and responsible bidder, if at all, unless done by in-house forces.

As directed under Council Policy 100-6, the above is an analysis addressing the available alternatives for service delivery as outlined by the Graffiti Abatement Services Contracting Committee

ALTERNATIVES CONSIDERED:

The City Council may decide not to release the Bid documents and direct the CEO to evaluate other alternatives identified by the Graffiti Abatement Services Contracting Committee.

FISCAL REVIEW:

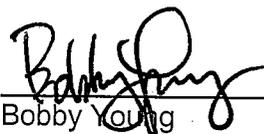
The fiscal impact for outsourcing the identified City service is unknown at this time. If the City Council directs staff to release the Bid documents a complete analysis of the proposals and the costs for each will be provided to the City Council at that time.

CONCLUSION:

Staff recommends releasing Bid Documents for Graffiti Abatement Services based upon the analysis provided by both the Graffiti Abatement Services Contracting Committee and the Public Services Department.



Thomas R. Hatch
Chief Executive Officer



Bobby Young
Finance & IT Director

Attachment:	Attachment 1	<u>Contract Committee Analysis Memo</u>
	Attachment 2	<u>Departmental Analysis</u>
	Attachment 3	<u>Draft Bid documents</u>



**CITY OF COSTA MESA
DEPARTMENT OF FINANCE
INTEROFFICE MEMORANDUM**

TO: THOMAS R. HATCH, CHIEF EXECUTIVE OFFICER

FROM: BOBBY YOUNG, FINANCE AND IT DIRECTOR

DATE: SEPTEMBER 25, 2011

SUBJECT: GRAFFITI ABATEMENT CONTRACTING COMMITTEE

Council Policy 100-6 provides guidelines for evaluating the potential contracting of on-going City services on a long-term or permanent basis. As set forth in the policy, a committee should be formed and comprised of three segments: Project Responsibility, Department Representative and Employee Representative. The committee is tasked with:

- hearing a presentation from department representatives and asking questions about the specific proposal under consideration,
- working together to outline how to evaluate a comparable City effort to provide the same or similar service,
- having the project facilitator draft analysis addressing the available alternatives for service delivery as outlined by the committee,
- determining if outside comparative data would be useful.

On September 9, 2011 the Graffiti Abatement Contracting Committee met to discuss the duties and responsibilities of the Graffiti Abatement program and determine "the available alternatives for service delivery". After hearing a presentation about services by department staff and asking questions, the Committee determined alternatives for the Graffiti Abatement program.

On September 15, 2011 the Committee met to finalize and approve the draft bid documents and analysis of the alternatives.

On September 20, 2011 the Committee met to further discuss and clarify the draft bid documents and alternatives/options.

The following are alternatives for the Graffiti Abatement program with analysis included.

1. Retain existing service levels at existing cost.

Currently Graffiti Abatement is staffed by 2 full time personnel and 25% of a supervisor's time, with a total program cost of \$229,406. Including graffiti abatement, staff also provides cleaning/pressure washing of bus stops, park benches, rental picnic shelters, Angels Playground, Volcom Skatepark, exterior of City buildings (NCC, DRC, Lions Park, Senior Center, TeWinkle Athletic Facility), and for offsite locations as needed for special events.

2. Lower level of service at a lesser cost.

It is possible to reduce the service level and cost should the City choose to reduce the program to one (1) full time staff member, a level of supervision would still be required though. This is likely to impact additional cleaning work that is current completed, just graffiti no pressure washing (as detailed in #1 above). It is estimated that basic graffiti abatement could still be completed within a 24 hour response time during normal business hours. Coverage would likely be reduced for either weekends or other periods of non-operation.

3. Contract with a private entity.

The City could contract with a private entity for graffiti abatement services. The committee did a survey of other cities (attached) and it shows many agencies currently provide this service with a private contractor. It is unknown at this time if vendors also include the pressure washing services currently provided with City staff, but the Committee suggests including the details in a draft bid documents to possibly get pricing information at the same time as graffiti abatement services.

4. Eliminate some or all of the service provided to the City and Community.

The Committee recognizes that graffiti abatement is not required by the Health and Safety code or any Federal/State/County oversight agency. Therefore, the City could eliminate the service altogether. Some impacts may be obvious as the appearance of graffiti would likely increase and many City owned public facilities would not be pressure washed or cleaned.

5. Contract out to another public entity.

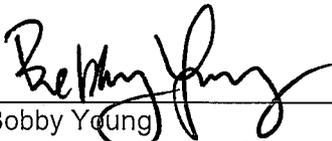
The City could look to another public entity to assist with or provide graffiti abatement services. Unfortunately there are no examples of this option available, however the committee recognizes the possibility exists. If another public entity does not participate in the bidding process, it would require City staff contacting other cities to determine if the desire and ability are available to provide such service.

6. Contract in with another public entity.

The committee recognizes that with the current staffing level, the City could either contact other cities or look for proposals to bid on work from other public agencies. This option would require more studies to be completed to determine what level of costs could be offset by additional outside work. It is also possible that the pressure washing service currently provided would be reduced or eliminated to allow for increased graffiti abatement services.

As directed under Council Policy 100-6, the above is analysis addressing the available alternatives for service delivery as outlined by the Graffiti Abatement Contracting Committee. Attached are draft bid documents reviewed and approved by the Committee, should you desire to present it to City Council.

The Graffiti Abatement Contracting Committee is available should you have any questions or request more information.



Bobby Young
Finance and IT Director

Graffiti Abatement Comparative Data

Respondent	Representative	Graffiti abatement handled by City or Contractor/Personnel?	How Many are assigned to Graffiti Abatement?	What is your annual budget for graffiti abatement?	Is graffiti a significant problem in your city?	Do you provide more than the minimum legal requirements?	What is your call volume per month?	Do you remove graffiti from public or private property?	What Process is used to remove graffiti?	Budget includes vehicles, equipment, materials, labor, and other related costs?	Do you remove graffiti from: (check all that apply)	Do you charge for this service?	Do you provide service 7 days/week?	What is your response time?
City of Costa Mesa	Bruce Hartley	City	2 Staff, 25% supervisor	\$229,405	Moderate	Yes	750/900 per month	Both	Wetler, sand, paint remover	All except phone costs	Yes for faster service	No	Yes	.5 to 2.5 hrs. during working hours
City of Santa Ana	Daniel Mercado	Contractor	5	1.5K	Yes	Yes	not specified	Both	Paint, water blast, chemical	Yes for contractor and all related costs	Yes for faster service	No	No, use contractor provided system	48 hours, but 24 hour typical
City of Anaheim	Mark Dickenson	Contractor	Part-time	\$590,000	High	Yes	3,300 per month	Both	All methods	All expenses	Yes for faster service	No	Yes	48 hour paint, 72hrs blast
City of Tustin	George Wiestner	Contractor	Part-time (1-20 Hours Per day)	\$175,000	Moderate	Yes	350/month	Both	All methods	Yes	Yes	Yes	Yes	5 days per week 24hrs
City of Garden Grove	Mark Ladney	City and contractor (Weekends)	2 full and 1 part-time	\$330,000	High	Unknown	800/month	Both if can be reached from ground	All methods	All but Telecom	Yes	No	No	5-5 days/week 48-72hrs
City of Westminster	Todd Miller	City	1 full and 2 part-time	\$140,000	High	Yes	Unknown	Both	All methods	Yes	Yes	Yes	No	Same day except Sunday
City of Newport Beach	Jim Auger	Contractor	1 Supervisor	\$80,000	Low to Moderate	Yes	125-150 per month	Both	Paint, Logo, Assoc. User, Graffiti* for small areas	No	Yes	No	Yes	5 days/week 24hrs
City of Huntington Beach	Debra Johnson	Primarily Contractor except for graffiti	None specifically	\$75,000	15% of PW Maintenance & GS Div. Maintenance	Compliant with Muni Code	Monthly counts vary. Approx. 2300/yr	Both but required signed waiver	All methods	No, only operating line item used. Nothing else allocated	Yes	No. Charge for utility or to the company	No	2-75 Calendar day average
City of Irvine	Rob Jeffrey	Contractor	1 lead technician	\$90,000	Moderate	Yes	60 on average	Only Public	All methods	Yes	No	N/A	Yes	48 hours but 24 hour typical
City of Orange	Michael Wolf	City	Limited staffing allows for 1.3 workers per year. Includes Supervisor	\$31,000 but does not include PD budget	No, but some hot spots.	Compliant with Muni Code	Roughly 280 calls per month	Both but private is case by case	All methods	Metals and Public Works in the cost provided for question #2. Estimated labor costs to be \$100,000. Labor costs to be \$10,000. Labor costs are developed with a rate that includes benefits and based upon budgeted subcontracts.	On occasion but vary rate.	No	On-call crews are available 4 days/week 48 hours	

CITY OF COSTA MESA

Department of Public Services
INTER OFFICE MEMORANDUM

TO: Tom Hatch, Chief Executive Officer

FROM:  Ernesto Munoz, Interim Director, Public Services Department

DATE:  September 28, 2011

SUBJECT: Analysis of Alternatives Proposed by the Graffiti Abatement Contracting Committee

The Public Services Department has reviewed the alternatives for contracting Graffiti Abatement Services as outlined in the September 25, 2011 memorandum from the Contracting Committee. The following analysis is provided on each of the six alternatives as requested.

Alternative 1: Retain existing service levels at existing cost.

Pros: Flexibility is provided in areas other than graffiti abatement by allocating staff accordingly. Cleaning of various outdoor City facilities may also be accomplished between abatement assignments.

Cons: Majority of costs associated with the existing organizational structure in this service area are dependent on employment contracts. Current staffing levels must be maintained to continue to provide existing level of service.

Alternative 2: Lower level of service at a lesser cost.

Pros: Overall budgeted costs for this service area will be reduced. Lower material and equipment costs will result due to reduction in the number of locations abated and facilities cleaned. Extended life of equipment due to lower use.

Cons: Reducing the level of service in this area will increase the "broken window" effect, where blight will increase and promote additional decline. Outdoor playground equipment and other facilities will be cleaned less frequently and will increase complaints from members of the community. Bus benches and similar public gathering areas will go longer without pressure water cleaning, giving a poor image to the community. Savings will be realized due to reduction of staffing level to one (1) full time position. However staff must still administer the reduced services resulting in diminished savings due to this alternative.

Alternative 3: Contract with a private entity.

Pros: Service levels can be maintained by contracting all the functions under this service. This alternative will reduce permanent staffing costs, and will allow the City to reduce or increase level of service upon contract expiration, to meet budgetary expectations.

Cons: Will necessitate appropriate staff to manage, and oversee contract which may reduce cost effectiveness of this alternative. May reduce responsiveness to customer complaints unless specifically negotiated into the agreement.

Alternative 4: Eliminate some or all of the service provided to the City and the Community

Pros: Overall budgeted costs for this service area will be reduced or completely eliminated. Material and equipment costs will be reduced or completely eliminated. Equipment and its depreciation cost is eliminated.

Cons: Eliminating or reducing this service in any way will increase the "broken window" effect, where blight will increase and promote additional decline. Outdoor playground equipment and other facilities will be cleaned less frequently and will increase complaints from members of the community. Bus benches and similar public gathering areas will go longer without pressure washing resulting in significant blight.

Alternative 5: Contract out to another public entity.

Pros: This alternative results in potentially lower costs for similar services as provided by our current organizational structure. Will reduce staffing levels and equipment costs.

Cons: Will require administration of a maintenance agreement. This alternative will limit the City's ability to allocate staff to priority areas, and reduce the versatility of having the City's own staff or managing an on-call contractor.

Alternative 6: Contract in with another public entity.

Pros: Retain some of the flexibility associated with in-house staff. Potentially offset some of the program costs.

Cons: Costs for this alternative are higher due to increased equipment and materials used. Personnel costs may increase if staffing level is not adequate to accommodate other public entity's needs.

c: Tamara Le Tourneau, Interim Assistant CEO
Bobby Young, Finance/IT Director

CITY OF COSTA MESA
ORANGE COUNTY, CALIFORNIA

**NOTICE TO BIDDERS, PROPOSAL, CONTRACT AND SPECIAL
PROVISIONS
FOR**

GRAFFITI ABATEMENT SERVICES

CITY PROJECT NO. _____

Dated: _____/2011

Copy No. _____ Checked by _____

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**CITY OF COSTA MESA
ORANGE COUNTY, CALIFORNIA
NOTICE INVITING BIDS**

NOTICE IS HEREBY GIVEN that sealed proposals for furnishing all labor, materials, equipment, transportation and such other facilities as may be required for **GRAFFITI ABATEMENT SERVICES, CITY PROJECT NO. _____**, will be received by the City of Costa Mesa at the Office of the City Clerk, 77 Fair Drive, Costa Mesa, California, until the hour of **10:00 a.m., _____, 2011**, at which time they will be opened publicly and read aloud in the Council Chambers. Sealed proposals shall bear the title of the work and name of the bidder but no other distinguishing marks. Any bid received after the scheduled closing time for the receipt of bids shall be returned to bidder unopened. It shall be the sole responsibility of the bidder to see that his bid is received in proper time.

A set of Bid Documents may be obtained at the Office of the City Engineer, 77 Fair Drive, Costa Mesa, California, upon **non-refundable payment of \$10.00. An additional charge of \$10.00** will be made if handled by mail. Bid Documents and other contract documents may also be examined at the Office of the City Clerk of the City of Costa Mesa. Bid Documents will not be mailed unless the additional \$10.00 charge is included with payment.

Each bid shall be made on the Proposal form, sheets P-1 through P-9a provided in the contract documents, and shall be accompanied by a certified or cashier's check or a bid bond for not less than 10% of the amount of their bid, made payable to the City of Costa Mesa. No proposal shall be considered unless accompanied by such cashier's check, cash, or bidder's bond.

No bid shall be considered unless it is made on a blank form furnished by the City of Costa Mesa and is made in accordance with the provisions of the Proposal requirements.

Each bidder must have a C33 (Painting and Decorating Contractor) contractor's license at the time of contract award. All subcontractors shall be properly licensed by the State of California to perform specialized trades.

A Contractor using a craft or classification not shown on the General Prevailing Wage Determinations may be required to pay the wage rate of that craft or classification most closely related to it as shown in the General Determinations effective at the time of the call for bids.

This is a Public Works Contract. In accordance with section 1720 et seq. of the Labor Code, the general prevailing wage rates as established by the Director of the California Department of Industrial Relations will apply. The prevailing wage rates established by the State Director of Industrial Relations can be viewed at the City's offices, are available on the State of California's website at <http://www.dir.ca.gov/> or can be obtained by mail addressed to: Prevailing Wage Unit, Division of Labor Statistics and Research, Department of Industrial Relations, P.O. Box 603, San Francisco, CA 94101.

Pursuant to California Civil Code Section 3247, the successful bidder shall furnish a payment bond if civil work exceeds twenty-five thousand dollars (\$25,000).

Pursuant to Public Contract Code Section 22300, the successful bidder may submit certain securities in lieu of the City withholding retention of payments.

The City Council of the City of Costa Mesa reserves the right to reject any or all bids.

JULIE FOLCIK

City Clerk,
City of Costa Mesa

Dated: (date of the advertisement)

N-1

INFORMATION FOR BIDDERS

1. **PREPARATION OF BID FORM:** The City invites bids on the form attached to be submitted at such time and place as is stated in the Notice Inviting Bids. All blanks in the bid form must be appropriately filled in. All bids shall be submitted in sealed envelopes bearing on the outside the name of the bidder, his address, and the name of the project for which the bid is submitted. It is the sole responsibility of the bidder to see that his bid is received in proper time. Any bid received after the scheduled closing time for receipt of bids will be returned to the bidder unopened.
2. **QUALIFICATION OF BIDDERS:** Each bidder shall submit a list of Construction Project References indicating Public Works and/or similar construction projects completed or in progress within the last 24 months. Forms for this purpose are furnished with the bid form.
3. **BID SECURITY:** Each bid shall be accompanied by either cash, cashier's check made payable to the City, a certified check made payable to the City, or a bidder's bond executed by an admitted surety insurer, made payable to the City, in an amount not less than 10% of the maximum amount of the bid. The bid security shall be given as a guarantee that the bidder shall execute the contract if it be awarded to him in conformity with the Contract Documents and shall provide the surety bond or bonds as specified therein within fourteen (14) days after a written Notice of Intent to Award Contract is deposited in the mail.
4. **NON-COLLUSION AFFIDAVIT:** Each bid shall be accompanied by a notarized Non-collusion Affidavit on a form which is included in the Contract Documents.
5. **SIGNATURE:** The bid must be signed in the name of the bidder and must bear the signature in longhand of the person or persons duly authorized to sign the bid on behalf of the bidder.
6. **ERASURES:** The bid submitted must not contain any erasures, interlineations, or other corrections unless each such correction is suitably authenticated by affixing in the margin immediately opposite the correction the surname or surnames of the person or persons signing the bid.
7. **EXAMINATION OF SITE AND CONTRACT DOCUMENTS:** Each bidder shall visit the site of the proposed work and fully acquaint himself with the conditions relating to the construction and labor so that he may fully understand the facilities, difficulties, and restrictions attending the execution of the work under the contract. Bidders shall thoroughly examine and be familiar with the specifications. The failure or omission of any bidder to receive or examine any contract document, form, instrument, addendum, or other document or to visit the site and acquaint himself with conditions there existing shall in no way relieve any bidder from any obligation with respect to his bid or to the contract. The submission of a bid shall be taken as prima facie evidence of compliance with this section.

8. WITHDRAWAL OF BIDS: Any bidder may withdraw his bid either personally, by written request, or by telegraphic request confirmed in the manner specified above at any time prior to the scheduled closing time for receipt of bids.
9. AWARD OF CONTRACT: The CITY reserves, in its sole discretion, the right to reject any and all Proposals and to waive any informalities and irregularities in Proposals received, other provisions in the Contract Documents notwithstanding.

The Proposals will be compared on the basis of the Grand Total Bid Price which is the sum of the lump sum bid items and, for unit price items, the sum of the products of the Engineer's Estimate of quantities shown in the Proposal multiplied by the unit bid price. In the event of a discrepancy between the unit bid price and the extension price, the unit price shall govern and the mathematical error corrected accordingly. Any mathematical errors that appear on the face of the bid will be corrected by the City and the City will use the mathematically correct Grand Total Bid Price to determine the lowest monetary bidder.

The award of the Contract, if it be awarded, will be made to the lowest responsible, responsive bidder.

In addition, the Owner reserves, in its sole discretion, the right to award the Contract for all or some of the bid items included in the Bid Schedule. The Owner may eliminate some of the bid items prior to or after award of the Contract due to budgetary constraints.

10. BID PROTESTS: The CITY will consider written bid protests subject to the following procedures. All protests must clearly specify in writing the grounds and evidence on which the protest is based. Protests based upon restrictive specifications or alleged improprieties in the bidding procedure which are apparent or reasonably should have been discovered prior to the bid opening shall be filed in writing with the CITY, at least five (5) days prior to bid opening. Protests based upon alleged improprieties that are not apparent or which could not reasonably have been discovered prior to bid opening shall be submitted in writing to the CITY, within forty-eight (48) hours from receipt of notice from the Owner advising of the recommendation for award of contract. Failure to comply with these requirements may result in rejection of the protest.
11. AGREEMENT AND BONDS: The Agreement form, which the successful bidder, as Contractor, will be required to execute, and the forms and amounts of surety bonds and Certificate of Insurance which he will be required to furnish prior to the execution of the Agreement, are included in the Contract Documents and should be carefully examined by the bidder. The required number of executed copies of the Agreement, the Performance Bond, the Payment Bond and the Certificate of Insurance is two. Payment and performance bonds shall be issued by an admitted surety insurer as defined by the Code of Civil Procedure Section 995.120.
12. INTERPRETATION OF SPECIFICATIONS AND DOCUMENTS: If any person contemplating submitting a bid for the proposed contract is in doubt as to the true meaning of any part of the, specifications, or other Contract Documents, or finds discrepancies in, or omissions from the drawings and specifications, he may submit to the Engineer a written request for an interpretation or correction thereof. The person submitting the request will be responsible for its prompt delivery. Any interpretation or

correction of the Contract Documents will be made only by addendum duly issued and a copy of such addendum will be mailed or delivered to each person receiving a set of the Contract Documents. No person is authorized to make any oral interpretation of any provision in the Contract documents to any bidder, and no bidder is authorized to rely on any such unauthorized oral interpretation.

13. BIDDERS INTERESTED IN MORE THAN ONE BID: No person, firm or corporation shall be allowed to make, or file or be interested in more than one bid for the same work unless alternate bids are specifically called for.
14. EVIDENCE OF RESPONSIBILITY: Upon the request of the City, a bidder whose bid is under consideration for the award of the contract shall submit promptly to the City satisfactory evidence of responsibility, including financial resources, as well as the trustworthiness, quality, fitness, capacity, and experience to satisfactorily perform the contract.
15. BID DEPOSIT RETURN: Deposits of three or more low bidders, the number being at the discretion of the City, will be held for sixty days or until posting by the successful bidder of the Bonds and Certificates of Insurance required and return of executed copies of the Agreement, whichever first occurs, at which time the deposits will be returned.

16. FORFEITURE FOR FAILURE TO POST SECURITY AND EXECUTE AGREEMENT:
In the event the successful bidder fails or refuses to post the required bonds and Certificate of Insurance and return executed copies of the Agreement within fourteen (14) calendar days after contract award, the City may declare the bidder's bid deposit or bond forfeited as damages and may give Notice of Intent to Award Contract to the next lowest responsible bidder, or may call for new bids.
17. ANTI-DISCRIMINATION: It is the policy of the City that in connection with all work performed under contracts, there be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, sex, age, or marital status. The Contractor agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment Practice Act, beginning with Government Code Section 12900, and Labor Code Section 1735. In addition, the Contractor agrees to require like compliance by any subcontractors employed on the work by him.
18. DRUG-FREE WORKPLACE POLICY: Contractor, upon notification of contract award, shall establish a Drug-Free Awareness Program to inform employees of the dangers of drug abuse in the workplace, the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace, and the employee assistance programs available to employees. Each employee engaged in the performance of a City contract must be notified of this Drug-Free Awareness Program, and must abide by its terms. Contractor shall conform to all the requirements of City's Policy No. 100-5. Failure to establish a program, notify employees, or inform the City of a drug-related workplace conviction will constitute a material breach of contract and cause for immediate termination of the contract by the City.
19. DISCLOSURE: Bidder shall disclose any and all past or current business and/or personal relationships with any current City of Costa Mesa elected official, appointed official, City employee, or family member of any current Costa Mesa elected official, appointed official, or City employee. *Any past or current business relationship may not disqualify the firm from consideration.*

PROPOSAL

The Honorable City Council
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

Dear Council Members:

In compliance with the NOTICE INVITING BIDS FOR **GRAFFITI ABATEMENT SERVICES, CITY Project No.. [REDACTED]**, a copy which is hereto attached, the undersigned has carefully examined the location of the proposed work, the plans, specifications and other contract documents and is therefore satisfied as to the conditions to be encountered, as to the character, quality and quantity of work to be performed and materials to be furnished and as to the requirements of the specifications and the contract. It is mutually agreed that the submission of a proposal shall be considered prima facie evidence that the bidder has made such examination. If awarded the contract, the undersigned agrees to commence the work under the contract **WITHIN TEN (10) WORKING DAYS AFTER DATE OF CONTRACT** and to perform and complete the work WITHIN three (3) years, as per the attached agreement and in accordance with the specifications and other contract documents, and to furnish all labor, materials, tools and equipment necessary to complete the work in place therefore, in the manner and time herein prescribed at the following prices, to wit:

PROPOSAL SCHEDULE

<u>Item</u>	<u>Description</u>	<u>Approx. Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total Amount</u>
1	Remove graffiti, per location (less than 7 sq. ft)	4,400	EA	_____	\$ _____
2	Remove graffiti, per square foot (greater than 7 sq. ft.)	90,000	SF	_____	\$ _____
3	Pressure washing, per square foot	75,000	SF	_____	\$ _____

**GRAND TOTAL BID
PRICE:\$ _____**

PROPOSAL SCHEDULE (cont'd)

EXTRA WORK - UNIT PRICING

Table 1 – Graffiti Removal Painted Surfaces

<u>Item</u>	<u>Description</u>	<u>Unit</u>	<u>Unit Price</u>
1	0-7	Sq. Ft.	\$
2	7-15	Sq. Ft.	\$
3	15-30	Sq. Ft.	\$
4	30-60	Sq. Ft.	\$
5	60-100	Sq. Ft.	\$
6	100-150	Sq. Ft.	\$
7	150-200	Sq. Ft.	\$
8	200-300	Sq. Ft.	\$
9	300-400	Sq. Ft.	\$
10	400-500	Sq. Ft.	\$

Table 2 – Graffiti Removal - Pressure Washing Non-Painted Surface

<u>Item</u>	<u>Description</u>	<u>Unit</u>	<u>Unit Price</u>
1	0-7	Sq. Ft.	\$
2	7-15	Sq. Ft.	\$
3	15-30	Sq. Ft.	\$
4	30-60	Sq. Ft.	\$
5	60-100	Sq. Ft.	\$
6	100-150	Sq. Ft.	\$
7	150-200	Sq. Ft.	\$
8	200-300	Sq. Ft.	\$
9	300-400	Sq. Ft.	\$
10	400-500	Sq. Ft.	\$

Table 3 – Sand Blasting

<u>Item</u>	<u>Description</u>	<u>Unit</u>	<u>Unit Price</u>
1	0-7	Sq. Ft.	\$
2	7-15	Sq. Ft.	\$
3	15-30	Sq. Ft.	\$
4	30-60	Sq. Ft.	\$
5	60-100	Sq. Ft.	\$
6	100-150	Sq. Ft.	\$
7	150-200	Sq. Ft.	\$
8	200-300	Sq. Ft.	\$
9	300-400	Sq. Ft.	\$
10	400-500	Sq. Ft.	\$

NOTE: The accuracy of estimated quantities as shown is not guaranteed; the Bidder shall make his/her own estimate. If the unit price and the total amount are different, the unit price will control the bid. Payment shall be based on actual work done and/or actual quantities used. The unit price proposed shall remain unmodified for the duration of the contract term.

Bidder's Initials _____

P-1

**PROPOSAL SCHEDULE
(CONTINUE)**

(Please Type or Print)

Total Bid Amount (in written words) _____

_____ (\$ _____)
in figures

Contractor's Lawful Name: _____

Bidder's Name: _____ Bidder's Initials: _____

Contractor's License No. _____ Expiration: _____

Contractor's Taxpayer I.D. Number: _____

Signature: _____ Date: _____

Contractor's Address: _____

Telephone Number: (_____) _____
Area Code

Fax Number: (_____) _____
Area Code

24-Hour Emergency Contacts:

Name Telephone No.: (_____) _____
Area Code

Name Telephone No.: (_____) _____
Area Code

Name Telephone No.: (_____) _____
Area Code

Bidder's Initials

The Contractor agrees that the City will not be held responsible if any of the approximate quantities shown in the foregoing proposal shall be found incorrect, and he shall not make any claim for damages or for loss of profits because of a difference between the quantities of the various classes of work as estimated and the work actually done. If any error, omission or misstatements shall be discovered in the estimated quantities, it shall not invalidate this contract or release the Contractor from the execution and completion of the whole or part of the work herein specified, in accordance with the specifications and the plans herein mentioned and the prices herein agreed upon and fixed therefore, or excuse him from any of the obligations or liabilities hereunder, or entitle him to any damages or compensation otherwise than as provided for in this contract.

The Contractor agrees that the City shall have the right to increase or decrease the quantity of any bid item or portion of the work or to omit portions of the work as may be deemed necessary or expedient, and that the payment for incidental items or work, not separately provided in the proposal shall be considered included in the price bid for other various items or work.

Accompanying this proposal is "Cash," "Certified Check," or "Bidder's Bond" (circle one) in the amount of _____ (\$_____) equal to at least ten (10%) percent of the total bid price, payable to the City of Costa Mesa, to guarantee that within fourteen (14) days after written notice is deposited in the mail, or the bidder has received notice by telephone, the bidder will furnish proper Certificates of Insurance, and required bonds satisfactory to the City and execute a contract in accordance with the proposal and in the manner and form required by the contract documents.

The undersigned deposits the above-named security as a proposal guarantee and agrees that it shall be forfeited to the City of Costa Mesa if the above requirements are not complied with.

Bidder's Initials

Contractor's Business Name	Contractor	Title
Business Address: Street	By	Title
City State Zip	Contractor's License No. and Classification	
Business Phone Number	Date	
Name Title	Residence: Street	
City State Zip	Residence Phone Number	

If the bid is by a corporation, state the names of the officers who can sign an agreement on behalf of the corporation and whether more than one officer must sign.

Corporation Taxpayer I.D. Number: _____

	Can Sign	Must Sign
Name _____	□	□
Name _____	□	□
Name _____	□	□

If the bid is by a partnership or a joint venture, state the names and addresses of all general partners and joint ventures.

Partnership or Joint Ventures Taxpayer I.D. Number: _____

Name _____

Address _____

Name _____

Address _____

If the bidder is a sole proprietorship or another entity that does business under a fictitious name, the bid shall be in the real name of the bidder with a designation following showing "DBA (the fictitious name)"; provided, however, no fictitious name shall be used unless there is a current registration with the Orange County Recorder.

The full names and residences of all persons and parties interested in the foregoing proposal, as principals, are as follows:

NOTE: Give first and last names in full; in case of corporation, give names of President, Secretary, Treasurer and Manager, and affix corporate seal; in case of partnerships and joint ventures, give names of all the individual members.

Bidder's Initials

CITY OF COSTA MESA BIDDERS LIST

All bidders/proposers are required to provide the following information for all DBE and non-DBE contractors, who provided a proposal, bid, quote, or were contacted by the proposed prime. This information is also required from the proposed prime contractor, and must be submitted with their bid/proposal. City of Costa Mesa will use this information to maintain and update a "Bidders List" to assist in the overall annual goal DBE goal setting process. To the extent permitted by law, all information submitted will be held in confidence.

If Bidders List information is not submitted with the bid, it shall be submitted to the City of Costa Mesa, Project Administration Division, 77 Fair Drive, Costa Mesa, CA 92626, no later than 4:00 p.m. on the fourth day, not including Saturdays, Sundays and legal holidays, following the bid opening. Bidders List information sent by U.S. Postal Service certified mail with return receipt and certificate of mailing and mailed on or before the third day, not including Saturdays, Sundays and legal holidays, following bid opening will be accepted even if it is received after the fourth day following bid opening. Failure to submit the required Bidders List information by the time specified will be grounds for finding the bid or proposal non-responsive.

Firm Name: _____ Phone: _____

Address: _____ Fax: _____

Contact Person: _____ No. of years in business: _____

Is the firm currently certified as a DBE under 49 CFR Part 26? YES NO

Type of work/services/materials provided by firm? _____

What was your firm's Gross Annual receipts for last year?

- Less than \$1 Million
- Less than \$5 Million
- Less than \$10 Million
- Less than \$15 Million
- More than \$15 Million

This form can be duplicated if necessary to report all bidders (DBEs and non-DBEs information).

BIDDER'S BOND TO ACCOMPANY PROPOSAL

(Required if the bidder desires to submit bond instead of a certified or cashier's check.)

KNOW ALL PEOPLE BY THESE PRESENTS:

That we, _____ as Principal, and _____ as Surety, are held and firmly bound unto the City of Costa Mesa, a municipal corporation, organized under the laws of the State of California and situated in Orange County (City) in the sum of _____ (\$ _____) to be paid to the City, its successors and assigns, for which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, successors or assigns, jointly and severally firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH,

That, whereas the Principal has submitted said bid to the City on _____, 200__ for the _____, as specified therein.

NOW THEREFORE, if the Principal is awarded a contract by the City and, within the time and in the manner required by the Specifications, enters into a contract with the City and furnishes the requisite insurance certificates, bonds, or other contract documents, then this obligation shall become null and void; otherwise to remain in full force and effect.

In the event suit is brought upon this bond by the City and judgment is recovered, the Surety shall pay all costs incurred by the City in such suit, including reasonable attorney's fees to be fixed by the court.

IN WITNESS WHEREOF:

We hereunto set our hands and seals this _____ day of _____, 20__.

Principal _____

By: _____

By: _____

Surety: _____

By: _____

(Note: Signature of person executing for Surety must be notarized and evidence of power of attorney attached)

Attorney-In-Fact

CONTRACT ASSURANCE

The CONTRACTOR or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONTRACTOR shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the CONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as recipient deems appropriate.

The CONTRACTOR will require that the above provision is included in all subcontracts.

Bidder's Initials

**CONTRACTOR'S CERTIFICATION
OF
WORKERS' COMPENSATION INSURANCE REQUIREMENTS
FOR
PUBLIC WORKS PROJECTS
(Labor Code §1861)**

I am aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract.

Dated: _____

CONTRACTOR

COMPANY NAME

PROJECT

Bidder's Initials

DRUG-FREE WORKPLACE POLICY

CONTRACTOR, upon notification of contract award, shall establish a Drug-Free Awareness Program to inform employees of the dangers of drug abuse in the workplace, the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace, and the employee assistance programs available to employees. Each employee engaged in the performance of a CITY contract must be notified of this Drug-Free Awareness Program, and must abide by its terms. Failure to establish a program, notify employees, or inform CITY of a drug-related workplace conviction will constitute a material breach of contract and cause for immediate termination of the contract by CITY.

CONTRACTOR shall conform to all the requirements of CITY'S Policy No. 100-5. A copy of this policy is attached to the sample contract agreement as Attachment No. 1 in the Project Specifications.

Bidder's Initials

PART I**A: STANDARD SPECIFICATIONS**

Except as hereinafter provided, the provisions of the latest edition of the "Standard Specifications for Public Works Construction" (Green Book), and all amendments thereto, adopted by the Joint Cooperative Committee of Southern California Chapter, American Public Works Association, Southern California District and Associated Contractors of California; hereinafter referred to as Standard Specifications, are adopted as the "Standard Specifications of the City of Costa Mesa" and shall be considered as a part of these specifications.

Where specified in these specifications, the California Building Code, 2007 Edition, based on the 2006 International Building Code, the latest edition of the "Standard Specifications and Standard Plans of the State of California, Department of Transportation, Division of Highways," "Standard Plans of the Orange County Environmental Management Agency," and "Los Angeles County Flood Control District, Design Manual, Standard Drawings" shall apply.

B: GENERAL PROVISIONS

The following additions are made to the "Standard Specifications." If there is a conflict between the "Standard Specifications" and these additions, these additions shall have first precedence.

1-2 DEFINITIONS

- | | |
|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) AGENCY | The City of Costa Mesa, California, hereinafter referred to as "CITY." |
| (b) BOARD | The City Council of the City of Costa Mesa, California, hereinafter referred to as "BOARD." |
| (c) <u>CONTRACT DOCUMENTS</u> | Documents including but not limited to the following: The proposal form P-1 through P-9a, Notice Inviting Bids, Standard Specifications, General Provisions, Special Provisions, Plans, Bonds, Insurance Certificates, Agreement, and all Addenda setting forth any modifications of the documents as further specified in contract agreement. |
| (d) CITY REPRESENTATIVE, PROJECT MANAGER OR ENGINEER | The administrating officer of the City of Costa Mesa or his authorized representative hereinafter referred to as CITY REPRESENTATIVE, PROJECT MANAGER OR ENGINEER. |
| (e) BIDDER | Any individual, firm, partnership, corporation, or combination thereof, submitting a bid proposal for the work contemplated in the contract documents, |

acting directly or through a duly authorized representative, hereinafter referred to as BIDDER.

(f) LEGAL ADDRESS OF CONTRACTOR

The legal address of the Contractor shall be the address given on the Contractor's bid and is hereby designated as the place to which all notices, letters or other communications to the Contractor shall be mailed or delivered.

(g) LABORATORY

An established laboratory approved and authorized by the ENGINEER for testing materials and work involved in the contract.

1-3 ABBREVIATIONS

CALTRANS

State of California, Department of Transportation, Division of Highways

O.C.E.M.A.

Orange County Environmental Management Agency

O.C.F.C.D.

Orange County Flood Control District

2-1.1 AWARD OF CONTRACT

The award of contract, if awarded, will be to the lowest responsible bidder, as defined in Public Contract Code 1103, whose proposal complies with all requirements of the Notice Inviting Bids and Section 2-1.2 of these specifications. The BIDDER, upon notification as the "apparent low bidder," shall comply with the CITY'S insurance and bonding requirements by submitting the required insurance certificates and bonds within fourteen (14) days after the mailing of a notice to the BIDDER that the contract is ready for execution. The contract will be awarded within thirty (30) days of receipt of properly approved insurance certificates and bonds pursuant to CITY requirements spelled out in these specifications. BIDDER must take particular note of "insurance requirements" contained in these specifications and sample agreement included within the contract documents, and should provide that information to his insurance broker in order that a properly executed certificate is submitted. The CITY, however, reserves the right to reject any or all bids and to waive any informality in the bids received.

2-1.2 PROCEDURE FOR PROPOSAL SUBMITTAL

Proposal shall be made and submitted on proposal forms P-1 through P-9a in accordance with the Notice Inviting Bids. In addition to the required signatures in the spaces provided in the proposal forms, each BIDDER shall initial each sheet of the proposal forms at the bottom right hand corner.

No person, firm, partnership, corporation, or combination thereof shall be allowed to make

or file or be interested in more than one bid for the same work, unless alternate bids are called for. A person, firm, partnership, corporation, or combination thereof who has submitted a sub-proposal to a BIDDER or who has quoted prices on materials to a BIDDER is not thereby disqualified from submitting a sub-proposal to or quoting prices to the other bidders. If, on the opening of bids, more than one bid appears in which the same person, firm, partnership, corporation or combination thereof is interested as a principal, all such bids shall be rejected.

Proposals with interlineations, alterations, or erasures shall be initialed by the BIDDER'S authorized agent. Alternative proposals, special conditions, or other limitations or provisions affecting the bid, except as such called for in the contract documents, will render the bid informal and may cause its rejection.

All proposals must give the prices bid for the various items of work and must be signed by the BIDDER, who shall give his address. Each bid shall have thereon the affidavit of the BIDDER that such bid is genuine and not sham nor collusive, nor made in the interest nor behalf of any other person not therein named and that the BIDDER has not directly nor indirectly induced or solicited any other BIDDER to put in a sham bid, nor induced nor solicited any person, firm, partnership, corporation, or combination thereof to refrain from bidding, and that the BIDDER has not in any manner sought by collusion to secure himself an advantage over any other BIDDER.

2-1.3 REQUEST FOR INTERPRETATION

If any person contemplating submitting a bid is in doubt as to the meaning of any part of the plans, specification, or other proposed contract documents, or finds discrepancies in, or omissions from the drawings or specifications, he may make a request to the ENGINEER, in writing, for an interpretation or correction thereof. The person submitting such a request shall be responsible for its prompt delivery. All such interpretations of the contract documents will be made only by addenda duly issued, and a copy of each such addendum will be mailed or delivered to each person receiving a set of contract documents at his last address of record. The CITY will not be responsible for any other explanations or interpretations of the contract documents.

2-1.4 RETURN OF BID SECURITY

Any BIDDER may withdraw his bid, either personally, or by telegraphic or written request, at any time prior to the scheduled closing time for the receipt of bids. It is the sole responsibility of the BIDDER to see that any such telegraphic or written request is delivered to the City Clerk prior to said closing time. Bid security of such BIDDERS will be returned promptly to the BIDDER.

The bid security of the BIDDER whose bid is accepted will be held by the CITY until the contract has been executed and the accompanying insurance certificates, performance bond and labor and materials bond are approved and filed, whereupon the bid security will then be returned to the BIDDER.

The bid security of the second and third lowest BIDDERS will be retained until the contract is awarded to and executed by the BIDDER whose bid is accepted, or until 45 days after

the opening of bids, whichever period is shorter. The bid security of all BIDDERS other than the three lowest will be returned promptly after the opening of bids.

If a BIDDER fails or refuses promptly to execute the agreement to do the work or fails or refuses to comply with insurance and bonding requirements, the bid security shall be forfeited to the CITY and shall be collected and paid into the General Fund of the CITY.

2-1.5 EXECUTION OF AGREEMENT

The agreement shall be signed by the successful BIDDER and returned to the CITY prior to the award of the contract. Failure to comply with insurance and bonding requirements as specified in the agreement and in Section 2-1.1 of the General Provisions shall be considered grounds for the revocation and rejection of the bid and forfeiture of bid security. No proposal shall be considered binding upon the CITY until the execution of the agreement by the CITY. In case of conflict, the agreement shall have precedence over all other written specifications.

2-2.1 ASSIGNMENT

No contract or portion thereof may be assigned without consent of the BOARD.

2-3.1 SUBCONTRACTS: GENERAL

The ENGINEER, as duly authorized officer, may consent to subcontractor substitution requested by the Contractor subject to the limitations and notices prescribed in Section 4107 of the Public Contract Code.

2-4 CONTRACT BONDS

The "Faithful Performance Bond" and the "Payment Bond" as specified in this section shall be for one hundred percent (100%) of the contract price. The Faithful Performance Bond shall also be kept by the Contractor in full force and effect for at least one (1) year following the filing of the Notice of Completion. The Payment bond shall continue in full force and effect until after the expiration of the time limit established by Civil Code Section 3249.

CONTRACTOR shall provide the following:

A certified copy of the certificate of authority of the surety issued by the Insurance Commissioner.

A certificate from the clerk of the county in which the court or officer is located that the certificate of authority of the surety has not been surrendered, revoked, canceled, annulled, or suspended or, in the event that it has, that renewed authority has been granted.

Copies of the surety's most recent annual statement and quarterly statement filed with the Department of Insurance pursuant to Article 10 (commencing with Section 900) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

2-5.1 PLANS AND SPECIFICATIONS

Contractor will obtain from the ENGINEER, free of charge, copies of plans, general provisions, special provisions and additions to the Standard Specifications that are reasonably necessary for the execution of work.

BIDDER shall, at his own expense, obtain copies of the Standard Specifications and Standard Plans and Specifications of CALTRANS, for his general use.

If after the contract is awarded it appears that the work to be done, or any matter relative thereto, is not sufficiently detailed or explained in the specifications and plans, the Contractor shall apply to the ENGINEER for such further explanations as may be necessary and shall conform to such explanation or interpretation as part of the contract.

All scaled dimensions are approximate. Before proceeding with the work, the Contractor shall carefully check and verify all dimensions and quantities and shall immediately inform the ENGINEER or his representative of any discrepancies.

2-6.1 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK

All work which is defective in its construction or does not meet all of the requirements of the plans and/or specifications shall be remedied, or removed and replaced by the Contractor in an acceptable manner, and no compensation will be allowed for such correction.

Upon failure on the part of the Contractor to comply forthwith with any order of the ENGINEER made under the provisions of this article, the ENGINEER shall have authority to cause defective work to be remedied, or removed and replaced, and unauthorized work to be removed, and to deduct the costs and thereof from any monies due or to come due the Contractor.

Payment will not be made for materials wasted or disposed of in a manner not called for under the contract. This includes rejected material not unloaded from vehicles, material rejected after it has been placed and material placed outside the limits of the project. No compensation will be allowed for disposing of rejected or excess material.

2-10 AUTHORITY OF BOARD AND ENGINEER

Authority of BOARD and ENGINEER shall conform to Section 2.10 of Standard Specifications and the following:

When any of the various units or operations of the work have been suspended, the Contractor shall give at least 24 hours advance notice of the time when he or his subcontractor will start or resume any of such units or operations. That notice is to be given during working hours, exclusive of Saturdays, Sundays or holidays, for the purpose of permitting the ENGINEER to make necessary assignments to his representative on the work.

Any work performed in conflict with said notice, without the presence or approval of the ENGINEER, or work covered up without notice, approval or consent may be rejected or ordered to be uncovered for examination at Contractor's expense and shall be removed at Contractor's expense, if so ordered by the ENGINEER or his representative on the work.

Any unauthorized or defective work, defective material or workmanship or any unfaithful or imperfect work that may be discovered before the final payment and final acceptance of work shall be corrected immediately by the Contractor without extra charge even though it may have been overlooked in previous inspections and estimates or may have been caused due to failure to inspect the work.

All authorized alterations affecting the requirements and information given on the approved plans shall be in writing. No changes shall be made on any plan or drawing by the Contractor after the same has been approved by the ENGINEER, except by direction of the ENGINEER in writing. Deviations from the approved plans, as may be required by critical conditions of construction, must be authorized in writing by the ENGINEER.

All instructions, rulings and decisions of the ENGINEER shall be in writing and are binding on all parties unless a formal protest is made as provided in the following paragraph:

If the Contractor considers any work demanded of him to be outside the requirements of the contract, or if he considers any instruction, ruling or decision of the ENGINEER or ENGINEER'S representative to be unfair, the Contractor shall, within ten (10) days after any such demand is made, or instruction, ruling or decision is given, file a written protest with the ENGINEER, stating clearly and in detail his objections and reasons therefore. Except for such protests and objections as are made of record, in the manner and within the time above stated, the Contractor shall be deemed to have waived and does hereby waive all claims for extra work, damages and extensions of time on account of demands, instructions, rulings and decisions of the ENGINEER.

Upon receipt of any such protest from the Contractor, the ENGINEER shall review the demand, instruction, ruling or decision objected to and shall promptly advise the Contractor, in writing, of his final decision, which shall be binding on all parties, unless within the ten (10) days thereafter the Contractor shall file with the BOARD a formal protest against said decision of the ENGINEER. The BOARD shall consider and render a final decision on any such protest within thirty (30) days of receipt of same. If the BOARD fails to consider and render a final decision on any such protest within thirty (30) days of receipt of the same, the protest shall be deemed denied.

2-11.1 INSPECTION COSTS

If the Contractor requests and receives approval from the ENGINEER to receive inspection services from the CITY outside of a normal eight (8) hour day/forty (40) hour work week or on Saturday, Sunday, or CITY holidays, the Contractor shall arrange with the CITY and ENGINEER for the special inspection services and Contractor shall pay for such special inspection services at a fee established by the ENGINEER to defray the cost for such service.

3-1.1 CHANGES IN WORK: GENERAL

ENGINEER shall be the duly authorized officer of the CITY who may grant the changes prescribed in this section.

3-3.1 EXTRA WORK: GENERAL

Any work done by the Contractor beyond the estimated quantities shown on the Proposal form (P-1) shall only be performed when ordered in writing by the ENGINEER. In absence of such written order, any such work by the Contractor shall be considered unauthorized and will not be paid. Extra work performed at the direction of the ENGINEER shall be compensated at the appropriate Extra Work Unit Prices as shown in the Proposal (P-1).

3-4 CHANGED CONDITIONS

The Contractor shall promptly act to supply all information to the ENGINEER for proper evaluation. Failure to do so shall constitute a waiver of any payment for delays suffered by the Contractor.

5-2 UTILITIES: PROTECTION

The Contractor shall be responsible for protecting and supporting all existing utilities and maintaining the location of and access to all gate valves during construction. When damage to existing utilities is caused by the Contractor's operations, the Contractor shall, at his expense, repair or replace damaged facilities promptly, in accordance with Sections 5 and 306 of the Standard Specifications and the standards of each affected utility. Should the Contractor fail to perform the required repairs or replacements, the cost of performing such repairs or replacement by others shall be deducted from any monies due or to become due the Contractor.

6-1 CONSTRUCTION SCHEDULE AND COMMENCEMENT OF WORK

Prior to the commencement of construction, arrangements will be made for a meeting between the Contractor and the ENGINEER. The purpose of this meeting is to organize the activities of the Contractor within the limits of this contract, review scheduling, discuss construction methods and clarify inspection procedures. At this meeting the Contractor will be required to submit, for approval by the ENGINEER, a complete work schedule showing the number of working days required to complete the entire project.

6-1.1 DAILY REPORT SUBMITTAL

Contractor shall submit daily reports to the CITY at the end of each working day. All forms shall be provided by the CITY. Any cost for this item shall be included in the various items of work and no other compensation will be allowed.

6-9 LIQUIDATED DAMAGES

The amount of liquidated damages shall be as delineated in the Special Provisions and contract agreement.

7-2.4 APPRENTICES

Attention is directed to the provisions of Sections 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor or any subcontractor under him. The Contractor and any subcontractor under him shall comply with the requirements of those sections in the employment of apprentices.

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

7-2.5 HIRING OF CITY EMPLOYEES

In an effort to retain qualified former employees of the City who have been displaced due to layoff, Contractor will, upon request, interview any interested former employees of the City who performed jobs similar to those to be performed by Contractor's employees and will not discriminate against any job applicant who was previously employed by the City.

7-3 LIABILITY INSURANCE

The minimum amounts and types of insurance coverages are as stated in the agreement (sample copy attached). Prior to bid submittal the BIDDER shall keep fully informed of the latest insurance requirements of the City of Costa Mesa and shall comply with all other provisions of Section 7.3 of the Standard Specifications.

Below are approved endorsements which satisfy the basic insurance requirements contained in contracts entered into by City of Costa Mesa. These have been approved by the City Attorney's office. The terms of any specific contract with the City are controlling. Prior to the commencement of any work, the CITY requires that the ENGINEER receive Certificates of Insurance in **DUPLICATE** for liability coverage of at least \$1,000,000 combined single limit, per occurrence and in the aggregate.

Each insurance policy required by the CITY of the Contractor shall contain the following endorsements:

1. Additional Insureds

"The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to the subject project and agreement."

2. Notice

"Said policy shall not terminate, nor shall it be canceled nor the coverage reduced, until thirty (30) days after written notice is given to City."

3. Other Insurance

"Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."

If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

7-5 PERMITS, LICENSES and COMPLIANCE with SOLID WASTE HAULING

All permits and licenses shall be obtained in sufficient time to prevent delays to the work.

In the event that the CITY has obtained permits, licenses or other authorizations applicable to the work, the Contractor shall comply with the provisions of said permits, licenses and other authorizations.

The Contractor will be responsible for complying with the City of Costa Mesa Municipal Code Section 8-77 to use a City-permitted hauler for all work performed under this project. Non-compliance with this requirement shall be subject to an administrative penalty of \$1,000 or 3% of the total project cost, whichever is greater. A Construction Project Debris/Solid Waste Hauling Compliance Agreement must be submitted by the contractor to the city on a City-approved form prior to the release of retention monies.

7-6 THE CONTRACTOR'S REPRESENTATIVE

Contractor shall also file with the ENGINEER the addresses and telephone numbers where he or his designated representative may be reached during hours when the work is not in progress.

Instructions and information given by the ENGINEER to the Contractor's authorized representative or at the address or telephone numbers filed in accordance with this section shall be considered as having been given to the Contractor.

The Contractor shall have on the work site at all times a competent English-speaking superintendent, as his agent, capable of reading and thoroughly understanding the plans and specifications and other related documents.

7-8.5 TEMPORARY LIGHT, POWER AND WATER

The Contractor shall provide for his employees an adequate supply of clean, potable drinking water, which shall be dispensed through approved sanitary facilities. Contractor shall supply water, electricity or other necessary utilities to complete the work.

7-8.7.1 DRAINAGE CONTROL: RESPONSIBILITIES

The Contractor shall be responsible for any damage to any portion of the work occasioned by failure to provide proper drainage control prior to the completion and acceptance of the work.

7-10 PUBLIC CONVENIENCE AND SAFETY

Material or other obstructions shall not be placed within fifteen feet (15') of fire hydrants. Fire hydrants shall be made readily accessible to the Fire Department at all times. Traffic control shall also conform with the provision of the latest edition of Work Area Traffic Control Handbook (WATCH) published by Building News, Inc.

7-10.1 TRAFFIC AND ACCESS

Prior to restricting normal access from a public street to adjacent properties, the Contractor shall notify each property owner or owner's agent, informing them of the nature of the access restriction and the approximate duration of the restriction. The Contractor shall make every effort possible to minimize such restrictions.

Trenches left open overnight shall be bridged in a safe and acceptable manner at all driveways and walkways to provide safe access.

A minimum of one four (4) foot wide pedestrian walkway shall be maintained and safely delineated along each public street at all times during construction.

7-13 LAWS TO BE OBSERVED

The Contractor shall protect and indemnify the CITY, the BOARD, the ENGINEER, and all of its or their officers, agents and servants against any claim or liability arising from or based on the violation of any existing or future State, Federal and local laws, ordinances, regulations, orders or decrees, whether by himself or his employees. If any discrepancy or inconsistency is discovered in the plans, drawings, specifications or contract for the work in relation to any such law, ordinance, regulation, order or decree, the Contractor shall forthwith report the same to the ENGINEER in writing.

9-3.1.1 PAYMENT GENERAL

Payment for the various items listed on the Bid Proposal, as further specified herein, shall constitute full compensation to the Contractor for furnishing all material, tools, equipment, supplies, and manufactured articles, and for all labor, operations, and incidentals appurtenant to the items of work and as specified and shown on the drawings, including all costs for compliance with the regulations of public agencies having jurisdiction, including Safety and Health Requirements of the California Division of Industrial Safety and the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor. No separate payment will be made for any item that is not specifically set forth in the Bid Proposal.

Costs arising from violations of regulations will be paid by the offending party to the extent that there will be no additional cost to the CITY.

9-3.1.2 PRICE INCREASES/DECREASES

No price increases will be permitted during the term of the contract.

9-3.2 PARTIAL AND FINAL PAYMENT

Contractor shall comply with the requirements of Division 2, Part 1, Chapter 7, Section 7107 of the California Public Code.

The lead time for processing invoices for the monthly progress payments approved by the ENGINEER for inclusion on the warrant list of the CITY is governed by the rules and regulations established by the Finance Department of the CITY. Monthly payments will be processed and paid in accordance with the rules and regulations established or revised by the said Finance Department.

After completion of the contract, the BOARD shall, upon recommendation of the ENGINEER, accept the work as completed and authorize the final payment.

The final payment shall be the entire sum found to be due the Contractor after deducting therefrom all previous payments and all amounts to be kept and all amounts to be retained under the provisions of the contract. All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

No certificate given or payment made under the contract, except the final certificate or final payment, shall be conclusive evidence of full or substantial performance of this contract; and no payment shall be construed to be an acceptance of any defective work or improper material.

Before final payment can be made, the CONTRACTOR shall release and waive any and all claims against the CITY arising from the work under and in connection with the Agreement. The release will be in a form furnished by the Engineer and shall be accompanied by a certification by the CONTRACTOR that:

- (1) All warranties and guarantees are in full force and effect; and
- (2) The release and certification will survive Final Payment.

Final payment will be made within 30 days after approval of the Final Invoice by the Engineer, submittal of release form by the CONTRACTOR and resolution of all CONTRACTOR claims whichever is later, and in no event sooner than 65 days after Notice of Final Acceptance. If an approved Final Invoice has not been submitted within 60 days after Notice of Final Acceptance, the CITY may elect to make payment of sums not in dispute without prejudice to the right of either the CITY or the CONTRACTOR in connection with such disputed sums.

The CITY will withhold sums sufficient to pay all unsettled claims for which stop notices have been filed pursuant to Section 3179 et seq. of the California Civil Code, together with the reasonable cost of any litigation thereunder.

The making of final payment shall not operate to release the CONTRACTOR or its sureties from obligations arising under this Contract, the Contract bonds and warranties as herein

provided. Specifically, the making of final payment shall not constitute a waiver and release of claims by the CITY arising from

- (1) Unsettled or stop notices,
- (2) Failure of the work to comply with the requirements of the Contract ,
- (3) The terms of any warranties required by or contained in the Contract ,
- (4) The right to any insurance proceeds or the right to make any insurance or bond claims,
- (5) Any claims with respect to CONTRACTOR's obligation of indemnity with respect to claims, asserted by third parties, or
- (6) Any latent deficiencies with the work or CONTRACTOR's fraud.

9-3.2a PROMPT PROGRESS PAYMENT TO SUBCONTRACTORS

Contractor shall comply with the requirements of Division 2, Part 1, Chapter 7, Section 7200 of the California Public Code.

The CONTRACTOR agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than 10 days from the receipt of each payment the CONTRACTOR receives from CITY.

The CONTRACTOR agrees further to release retainage payments to each subcontractor within 7 days after the retention payment is received by the contractor.

Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the CITY. This cause applies to both DBE and non-DBE subcontractors.

9-3.3 DELIVERED MATERIALS

Materials delivered, but not in place, will not be classed as work done, except as otherwise provided in these specifications.

[NEED TO **INCLUDE AND** RENUMBER THE FOLLOWING SECTIONS]

Hazardous Chemicals and Wastes

The CONTRACTOR shall bear full and exclusive responsibility for the release of hazardous or non-hazardous chemicals or substances which were brought to the site by the CONTRACTOR during the course of the Work. The CONTRACTOR shall immediately report any such release to the Engineer. The CONTRACTOR shall be solely responsible for all claims and expenses associated with the response to, removal and remediation of the release, including, without limit, payment of any fines or penalties levied against the CITY by any agency as a result of such release and shall hold harmless, indemnify and defend the Owner from any claims arising from such release. For purposes of this article

only, the term "claims" shall include:

- (1) All notices, orders, directives, administrative or judicial proceedings, fines, penalties, fees or charges imposed by any governmental agency with jurisdiction, and
- (2) Any claim, cause of action, or administrative or judicial proceeding brought against the CITY, its directors, employees, and agents for any loss, cost (including reasonable attorney's fees), damage or liability, sustained or suffered by any person or entity, including the CITY.

If the performance of the work creates any hazardous wastes as a result of a release of hazardous material brought to the site by the CONTRACTOR, those wastes shall be properly disposed of according to federal, state and local laws, at the expense of the CONTRACTOR. The CONTRACTOR shall dispose of the wastes under its own EPA Generator Number. In no event shall the CITY be identified as the generator. The CONTRACTOR shall notify the Engineer of any such hazardous wastes and the Engineer reserves the right to obtain a copy of the results of any tests conducted on the wastes and, at CITY's cost, to perform additional tests or examine those wastes, prior to its disposition. The CONTRACTOR shall hold harmless, indemnify and defend the CITY from any claims arising from the disposal of the hazardous wastes brought to the site by the CONTRACTOR, regardless of the absence of negligence or other malfeasance by CONTRACTOR. CONTRACTOR shall not be deemed the generator of any hazardous waste except for those brought to the site by the CONTRACTOR. Disposal of all Hazardous Materials must be performed in accordance with all laws and regulations. Copies of required regulatory documentation including copies of final manifests shall be provided to the Engineer.

PUBLIC WORKS PROVISIONS

Prohibition Against Contracting with Debarred Subcontractors. Contractors are prohibited from performing work on a public works project with a subcontractor who is ineligible to perform work on the public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.

Use Of Subcontractors. Contractor shall not subcontract any work to be performed by it under this Contract without the prior written approval of CITY. Contractor shall be solely responsible for reimbursing any subcontractors and CITY shall have no obligation to them. Attention is directed to the requirements of Sections 4100 to 4113, inclusive, of the California Public Contract Code which are applicable to this Contract. Each Contractor shall list the name and business address of each subcontractor to whom the Contractor proposes to subcontract a portion of the work in an amount in excess of one-half of one percent (.5%) of the Total Contract Price, along with a description of the portion of the work which shall be done by each subcontractor, by executing the "List of Subcontractors" form attached to this Contract.

Prompt Payment to Contractor. The City will make progress payments within 30 days after receipt of an undisputed and properly submitted progress payment invoice. Attention is directed to Section 20104.50 of the Public Contract Code. No such payment will be made when, in the judgment of the Engineer, (a) the work is not proceeding in accordance with the

provisions of the Contract; (b) the Contractor is not complying with the requirements of the Contract; or (c) when the total value of the work done as shown on the invoice does not exceed Three Hundred Dollars (\$300.00).

No such invoice or payment will be construed to be an acceptance of any work or materials. Before any progress payment or the final payment is made, the Contractor may be required to submit satisfactory evidence that he is not delinquent in payments to his employees, subcontractors, suppliers or other creditors for labor and materials incorporated into the work.

Pursuant to Public Contract Code Section 20104.50, if the City fails to make a progress payment in a timely manner, it shall pay interest to the Contractor at the legal rate set forth in Section 685.010(a) of the California Code of Civil Procedure.

Partial Payments. CITY will retain ten percent (10%) of the estimated value of the work done and ten percent (10%) of the value of materials estimated to have been furnished and delivered and unused, or furnished and stored as part security for the fulfillment of the Contract by the Contractor. Any time after fifty percent (50%) of the work has been completed, if CITY finds that satisfactory progress is being made, CITY may reduce the total amount being retained from payment pursuant to the above requirements to five percent (5%) of the total Contract value in accordance with Public Contract Code Section 9203.

Pursuant to Public Contract Code Section 22300, the Contractor may elect, in lieu of having progress payments retained by CITY, to deposit in escrow with CITY, or with a bank acceptable to CITY, securities eligible for investment under Government Code Section 16430, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and CITY. If the Contractor elects to submit securities in lieu of having progress payments retained by CITY, the Contractor shall, at the request of any subcontractor performing more than 5% of the Contractor's total bid, make the same option available to the subcontractor.

Non-Collusion Affidavit. Pursuant to Public Contract Code section 7106, Contractor shall execute a Non-Collusion Affidavit, in a form provided by CITY, which is attached and incorporated herein.

Assignment of Claims. 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 acknowledgement by the parties.

Third-Party Claims.

- A. Pursuant to Public Contracts Code Section 9201, CITY shall have full authority to compromise or otherwise settle any claim relating to the Contract at any time.

- B. CITY shall provide for timely notification to the Contractor of the receipt of any third-party claim, relating to the contract. Notice shall be in writing and will be provided within thirty (30) days.
- C. CITY shall be entitled to recover its reasonable costs incurred in providing the notification required by subdivision (b).

Claims Procedures.

The claims provisions of California Public Contract Code sections 20104-20104.6 shall apply, which provisions are summarized below. Any claim submitted by the Contractor shall be in writing and include the documents necessary to substantiate the claim.

For claims of less than fifty thousand dollars (\$50,000), the CITY shall respond in writing within 45 days of receipt of the claim, or request additional documentation supporting the claim within 30 days of receipt of the claim. If additional documentation is requested, CITY will respond in writing to the claim within 15 days of receipt of the additional documentation, or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

For claims of over \$50,000 and less than or equal to \$375,000, CITY shall respond in writing within 60 days of receipt of the claim, or request additional documentation supporting the claim within 30 days of receipt of the claim. If additional documentation is requested, CITY will respond in writing to the claim within 30 days of receipt of the additional documentation, or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

For claims over \$375,000, CITY shall respond in writing within 90 days of receipt of the claim, or request additional documentation supporting the claim within 45 days of receipt of the claim. If additional documentation is requested, CITY will respond in writing to the claim within 30 days of the additional documentation, or within a period of time no greater than that taken by the claimant in providing the additional information, whichever is greater.

For claims of any amount, if the Contractor disputes the CITY's response, or the CITY fails to respond within the time prescribed, the Contractor may demand an informal conference to meet and confer for settlement of the issues in dispute within 15 days of the CITY's response or failure to respond. In the event that the meet and confer conference is unsuccessful, Contractor must file a government claim pursuant to Government Code section 910 et seq. in order to initiate a civil action. In any civil action filed to resolve claims for \$375,000 or less, the court shall submit the matter to nonbinding mediation within 60 days following the filing or responsive pleading. If the matter remains in dispute after nonbinding mediation, the court shall submit the matter to judicial arbitration pursuant to Code of Civil Procedure section 1141.10 et seq. If the matter remains in dispute after judicial arbitration, the CITY or the Contractor may request a trial de novo.

Utility Relocation. Pursuant to California Government Code Section 4215, if during the course of the work the Contractor encounters utility installations which are not shown or indicated in the contract plans or in the specifications or which are found in a location substantially different from that shown, and such utilities are not reasonably apparent from visual examination of the work site, then it shall promptly notify CITY in writing. Where necessary for the work of the Contract, CITY will amend the contract to adjust the scope of work and

the compensation to allow the Contractor to make such adjustment, rearrangement, repair, removal, alteration, or special handling of such utility, including repair of the damaged utility. If the Contractor fails to give the notice specified above and thereafter acts without instructions from CITY, then it shall be liable for any or all damage to such utilities or other work of the Contract which arises from its operations subsequent to the discovery, and it shall repair and make good such damage at its own cost.

Excavation. In accordance with state law (Public Contract Code Section 7104), with respect to any work involving digging trenches or excavations that extend deeper than four feet, the Contractor shall notify CITY promptly in writing of any of the following conditions: (a) material that the Contractor believes may be hazardous waste, as defined in California Health and Safety Code Section 25117, that is required to be removed to a Class I, Class II or Class III disposal site in accordance with provisions of existing law; (b) subsurface or latent physical conditions at the site differing from those indicated; (c) unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents. Contractor shall notify CITY of such conditions prior to disturbing them, and shall await direction from CITY as to how to proceed.

Trench Safety. For all contracts over \$25,000, excavation for any trench 5 feet or more in depth shall not begin until the Contractor has received approval from CITY, of the Contractor's detailed plan for worker protection from the hazards of caving ground during the excavation of such trench. Such plan shall be submitted at least 5 days before the Contractor intends to begin excavation for the trench and shall show the details of the design of shoring, bracing, sloping or other provisions to be made for worker protection during such excavation. No such plan shall allow the use of shoring, sloping or a protective system less effective than that required by the Construction Safety Orders of the Division of Industrial Safety; and if such plan varies from the shoring system standards established by the Construction Safety Orders, the plan shall be prepared and signed by an engineer who is registered as a Civil or Structural Engineer in the State of California. Attention is directed to the provisions of Section 6705 of the Labor Code concerning trench excavation safety plans.

Payment Bond. For all contracts over \$25,000, the successful Bidder shall provide a payment bond in the amount equal to one hundred percent (100%) of the Total Contract Price and issued by a California admitted surety. The payment bond shall provide CITY with security for Contractor's full payment to all subcontractors for costs of materials, equipment, supplies, and labor furnished in the course of the performance of the Contract. Full compensation for furnishing the payment bond is included in the Total Contract Price.

Contractor's License Requirements. Contractor and any approved subcontractors shall hold such current and valid Contractor's Licenses as required by California Law.

Labor Code Requirements. In the performance of this Contract, Contractor's attention is directed to the following requirements of the Labor Code:

Hours of Labor. Eight hours labor constitutes a legal day's work. Contractor shall forfeit, as penalty to CITY, \$25 for each worker employed in the performance of the Contract by Contractor or by any subcontractor under it for each calendar day during which such worker is required or permitted to work more than eight hours in any one day and 40 hours in any one calendar week in violation of the provisions of the California Labor Code and in particular, Sections 1810 to 1815, inclusive. Work performed by employees of the Contractor in excess of eight hours per day and 40 hours during

any one week shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one-and-one-half times the basic rate of pay, as provided in Section 1815.

Prevailing Wages. Contractor shall comply with California Labor Code Sections 1770 to 1780, inclusive. In accordance with Section 1775, the Contractor shall forfeit as a penalty to CITY an amount as determined by the Labor Commissioner not to exceed \$50 for each calendar day or portion thereof for each worker paid less than stipulated prevailing wage rates for such work or craft in which such worker is employed for any work done under the contract by him or by any subcontractor under it in violation of the revisions of the Labor Code and in particular, Labor Code Sections 1770 to 1780, inclusive. In addition to said penalty and pursuant to Section 1775, the difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by Contractor. Pursuant to the provisions of Section 1773 of the Labor Code, CITY has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work applicable to the work to be done from the Director of the Department of Industrial Relations. Copies of the prevailing wage rates are on file at CITY and are available for review upon request.

Payroll Records. The Contractor's attention is directed to the following provisions of Labor Code Section 1776. The Contractor shall be responsible for the compliance with these provisions by his subcontractors.

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 or her in connection with the public work.

The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative on request.

A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to CITY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations.

A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either CITY, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the Contractor, subcontractor and the entity through which the request was made.

The public shall not be given access to such records at the principal office of the Contractor.

The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the Division.

The Contractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested such records within ten (10) days after receipt of a written request.

Any copy of records made available for inspection as copies and furnished upon request to the public or CITY, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor shall not be marked or obliterated.

The Contractor shall inform CITY of the location of records enumerated under subdivision (a), including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

In the event of noncompliance with the requirements of this Section, the Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects such contractor must comply with this Section. Should noncompliance still be evident after such 10-day period, the Contractor shall, as a penalty the State or CITY, forfeit Twenty-five Dollars (\$25) 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, such penalties shall be withheld from progress payments then due. The penalties specified in subdivision (g) of Labor Code Section 1776 for noncompliance with the provisions of said Section 1776 may be deducted from any monies due or which may become due to the Contractor.

The Contractor and each subcontractor shall preserve their payroll records for a period of three (3) years from the date of completion of the Contract.

Labor Non-discrimination. Attention is directed to Section 1735 of the Labor Code which provides that Contractor shall not discriminate against any employee or applicant for employment because of race or color, religion, physical or mental disability, national origin or ancestry, medical condition, marital status or sex of such persons, except as provided in Section 12940 of the Government Code. Contractor further agrees to include a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

Apprentices. The Contractor and all subcontractors shall comply with the requirements of California Labor Code sections 1777.5, 1777.6 and 1777.7 regarding the employment and of apprentices.

Payment of Workers Compensation.

Each Contractor to whom a public works contract is awarded shall sign and file with CITY the following certification, provided with the Bid Forms, prior to performing the work of the contract:

"I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Contract."

Examination and Audit of Records (Gov. Code section 8546.7)

Pursuant to Government Code Section 8546.7, Contractor shall retain all project-related records for a period of 3 years after final payment on this contract, which shall be subject to audit or inspection by the CITY or the State Auditor during this period.

Notice of Taxable Possessory Interest (Rev. and Taxation Code section 107.6)

In accordance with Revenue and Taxation Code Section 107.6, the Contract Documents may create a possessory interest subject to personal property taxation for which Trade Contractor will be responsible.

PART 2**C. SPECIAL PROVISIONS – TECHNICAL SPECIFICATIONS****CONTRACTOR RESPONSIBILITIES - GRAFFITI VANDALISM ABATEMENT****1-1 WORK ASSIGNMENTS**

The City program will require graffiti to be abated (removed or painted over as specified below) on any surface visible from the public right-of-way within the City of Costa Mesa city limits within 24 hours of notification or self-discovery, seven days per week.

1-1.2 EXCEPTIONS

Contractor shall not be responsible for abating graffiti on:

- Vehicles (public and/or private)
- Property owned by the Newport Mesa Unified School District
- Property owned by Orange Coast College
- Property owned by Coast Community College District
- Utility boxes not owned by City.
- Graffiti on bus shelters.
- Property owned by the County of Orange
- Property owned by the U.S. Army Corps of Engineers

1-1.3 MEETINGS

The Contractor shall contact the Project Manager and/or his/her designee one time per day, seven (7) days per week at a mutually agreed upon time to discuss the Contractor's schedule for the day, pending work orders, areas to be maintained and areas to be inspected for approval. Weekend work orders may be generated by a voice mailbox where locations to be abated are recorded for Contractor response.

The Contractor shall receive work orders from the ENGINEER and/or Project Manager or his/her designee via electronic mail or facsimile, or written as agreed upon by the Project Manager and/or his/her designee and the Contractor. Upon receipt of a work order, the Contractor shall inspect the location and determine the method of removal according to the Public Services Department Graffiti Removal Standards and that will maintain the integrity of the surface prior to abatement.

The Contractor shall meet with the Project Manager and/or his/her designee one time per week at a mutually agreed upon time to discuss program status and issues.

1-1.4 SERVICE LEVEL

The Contractor shall provide services within twenty-four (24) hours of receiving work orders. In the event that a site cannot be abated within twenty-four (24) hours due to inclement weather, size of the site or other reasons, the Contractor shall notify the Project Manager and/or his/her designee with the status of the site prior to the end of the twenty-four (24) hour period.

Work may be assigned as a 'targeted' or 'graffiti route' for graffiti discovery and removal. As directed by the Project Manager and/or his/her designee, the Contractor shall be assigned

to schedule visits to specified sites, neighborhoods or corridors. The Contractor may be required to work with a site, neighborhood or corridor liaison in addition to the Project Manager and/or his/her designee.

The Project Manager and/or his/her designee or the Police Department may designate sites as needing an emergency response. An emergency work order may be issued immediately. Emergency response sites will have first priority and will require abatement within 4 hours, during working hours, or within 4 hours beginning the next working day after notification, if such notification is after working hours.

1-1.5 REQUIRED DOCUMENTS

The Contractor shall deliver completed work orders to the Project Manager and/or his/her designee via electronic mail, facsimile, mail or in person on or prior to the first working day of the week following assignment of the work order. Accommodations for special projects may be made.

Work on private property shall not be performed without the Consent form signed by the owner or authorized by the Project Manager and/or his/her designee. A sample of the Consent form is provided as Attachment A. The Contractor shall obtain the signature of the property owner on the consent form prior to beginning work. Original consent forms shall be returned to the Project Manager and/or his/her designee on a weekly basis and are property of the City. The City will maintain a database of Consent forms.

2-0 DESCRIPTION OF WORK

Following documentation as required in section 3-0 hereof, graffiti removal shall be done as follows:

The method of removal shall not leave shadows or ghosts and shall not follow the pattern of the graffiti such that letters or shapes remain apparent on the surface after markings have been removed.

Unless otherwise approved by the Project Manager and/or his/her designee, graffiti shall be removed so that virtually no trace of the pre-existing graffiti remains.

The Contractor shall protect the surfaces adjacent to the area to be abated.

The Contractor shall abate the entire surface in the event that the graffiti covers a significant area of the surface. The Project Manager and/or his/her designee shall determine whether or not an entire surface will be abated on a case by case basis.

In the event that the Contractor arrives on site to find the graffiti has been abated, the Contractor shall notify the Project Manager and/or his/her designee and submit photographs of the location within twenty-four (24) hours.

The Contractor shall ensure protection of the work area at all times including, but not limited to:

- Barricading the area of work at distances, so as not to allow persons who are not involved with the abatement into the area.
- Barricading area of work performed within the public right-of-way.
- Using warning signs and sidewalk and street cones to inform the public of work being conducted as stipulated in watch handbook.

- Immediately correcting damages to the work site.
- Leaving work in undamaged condition.
- Providing signs to protect the finishes and the public.

The Contractor shall remove all equipment and materials from each site and leave the site broom clean at the completion of each removal location.

The Contractor shall dispose of all materials containers and excess materials in accordance with all applicable laws, regulations, ordinances, codes and any other legislative or statutory requirements. Material rinse residue shall be collected and disposed of appropriately.

Typical surfaces/structures that require graffiti abatement when visible from the public right-of-way:

Walls: Block Walls, Wood Fence

Poles: Concrete, Metal, Signal Light and Wood

Utility Boxes, Traffic Control Boxes

City Traffic Signs

Streets, Alleys, Sidewalks, Curbs and Gutters

Awnings and garage doors

City monument signs

Water District Air Vent Covers, Fire hydrants, Water sample boxes

Mailboxes and mail stations, Newspaper racks

Phone booths

Refuse Dumpsters

Park amenities: Shelters, playground equipment, drinking fountains, benches, tables

Park facilities including: Restrooms, building structures, fences, kiosks, sports courts

Contractor shall make the designated representative available to accompany the City representative to inspect sites and/or work upon twenty-four (24) hours notice; by City via electronic mail, telephone or in writing.

3-0 DOCUMENTATION OF WORK

Proposer's staff shall be fully trained and proficient in utilizing the required digital camera phone to document all abated graffiti incidents. The proposer shall utilize the countywide Tracking and Automated Graffiti Reporting System "TAGRS" to track and report all graffiti. The TAGRS system is a web based database program that provides a centralized database whereby public agencies may track graffiti and document the cost of removal. Photographs shall be taken in the field by the graffiti abatement staff and downloaded in the database through a GPS (global positioning system) camera phone. The proposer shall include all costs associated with the "TAGRS" equipment and on-going communication costs into the proposed cost of services.

Upon arrival at location, graffiti data shall be entered into the 'TAGRS' database via camera phone in the following order. Upon completion of data entry, the incident is documented and the cost is calculated by the software program.

- i. Address
- ii. Method of Graffiti
- iii. Surface Type
- iv. Private or publically owned property
- v. Size of Graffiti
- vi. Removal Color
- vii. Photograph of vandalism

A. Personnel

1. Contractor shall designate one specific individual to oversee and inspect work performed by Contractor's personnel assigned to this contract. The representative shall be immediately available during work activities to receive communications from the Project Manager and/or his/her designee. All Contractor staff shall have a cell phone in order to be contacted by the Project Manager and/or his/her designated staff.
2. All Contractor personnel performing services on the contract shall wear a clean uniform with the Contractor's business name, the employee's first and/or last name and have photographic identification clearly showing the person is an employee of the contractor in their possession at all times.
3. The Contractor shall utilize only trained, competent employees in the performance of this contract. At the request of the City, the Contractor shall remove from assignment to this contract any incompetent, abusive or disorderly employee, whether supervisory or non-supervisory.
4. The Contractor shall be in possession of a copy of the resulting contract and the Material Safety Data Sheet's (MSDS) for each product used in the performance of work at all times.
5. Any person assigned to this contract found to be in possession of and/or under the influence of intoxicants or narcotics shall be removed from assignment to this contract. This person may be subject to arrest and criminal prosecution.
6. Personnel employed by the Contractor and assigned to the City contract shall have background and motor vehicle license checks at Contractor expense, prior to performing any services under the contract without prior approval from the Contract Representative.

B. Equipment

1. The Contractor's vehicles and equipment shall be neat in appearance and easily identified. Identification on the Contractor's vehicles shall consist of, at a minimum,

company name, local telephone number and contract services provided by City of Costa Mesa in print no less than six (6) inches tall.

2. The Contractor shall maintain all vehicles and equipment in safe and mechanically sound condition.
3. The Contractor shall provide all personnel, vehicles, supplies and equipment necessary to perform services.

C. Compliance with Applicable Laws and Regulations

1. Contractor shall perform all requirements under and in strict observance of and compliance with all applicable laws, regulations, ordinances, codes and any other legislative or statutory requirements.
2. Contractor warrants that the performance of services under this contract shall be compliant with the current requirements of the Occupational Safety and Health Act (OSHA) and as it may be amended or updated throughout the term of this contract.
3. Contractor shall compensate its employees at current prevailing wage rates in place at the time of award for the classification of worker utilized for any task associated with this specification. Certified documentation of wages and benefits paid to employees shall be submitted to the City with each invoice for work completed.

D. Use of Products

1. Contractor shall ensure that all employees have immediate access to the Material Safety Data Sheet's (MSDS) for each product used in the performance of this contract.
2. Contractor shall be in compliance with all provisions of the Federal Hazard Communication Act.
3. All products used by the Contractor shall be manufactured products specifically intended for purpose for which they are being used. Contractor shall not devise any products of his/her own making for use under this contract. The use of all products shall in strict conformance with the manufacturer's specifications.

E. Protection of the Public and Damages to existing Structures

1. The Contractor shall exercise caution at all times for the protection of persons and property. All fines, penalties and/or repair charges resulting from the Contractor's actions and responsibility of the Contractor.
2. The Contractor shall not permit placing or use of equipment in such a manner as to block vehicle traffic lanes or create safety hazards. The Contractor shall be responsible for the use of all appropriate warning devices according to the W.A.T.C.H handbook.
3. The Contractor shall avoid damage to existing structures. In the event that structure is damaged in the course of the work, the Contractor shall be solely responsible for its repair or replacement.

4. Consent shall be obtained from the property owner for the abatement of graffiti that is visible from the public right-of-way on private property.

F. Invoices

1. Invoices for work performed under this contract shall be submitted monthly to the City at the following address: City of Costa Mesa, Attention Accounts Payable, P.O. Box 1200, Costa Mesa, CA 92628-1200
2. The invoice shall include the following:
 - i) Contract number.
 - ii) Contractor's invoice number.
 - iii) Abatement site address(es).
 - iv) Work order number.
 - v) Beginning and ending dates for services.
 - vi) Square footage removed for each method of removal.
 - vii) Total square footage removed.
 - viii) Unit cost subtotals and total for invoice.

G. Additional Specifications – Painting

1. The Contractor shall professionally match existing paint using 552 X-Rite Portable Color Match Device with Frazee Paint Software or approved equal.
2. The Contractor shall not paint previously unpainted surfaces and finishes including but not limited to; slump stone, split face masonry, stone, brick or concrete block unless painting is specifically requested by the property owner or Project Manager and/or his/her designee. These specific requests shall be noted on the work order for the site.

H. Additional Specifications – Media Blasting and Chemical Removal

1. All chemical graffiti removal products shall be biodegradable and environmentally safe.
2. The Contractor shall perform all abrasive removal techniques so that the abatement area is blended into the adjacent surface.

I. Working Hours

1. Working hours shall be no earlier than 6:00 a.m. to no later than 5:00 p.m. daily. On Saturdays and holidays, the Contractor shall respond to all graffiti telephone hotline requests received by 12:00 p.m. prior to the end of the day. Contractor shall respond to graffiti removal requests received between 12:00 p.m. on Saturday and 12:00 p.m. on Sunday, by 5:00 p.m. that same Sunday.

J. Work performed by City Staff because of Nonconformance to Contract

1. Should the Contractor fail to correct deficiencies or public nuisances that have been created because of his/her operation, the City may take corrective measures as deemed necessary by the City to correct the deficiency. Costs incurred by the City shall be reimbursed by the Contractor or credited on the invoice for the month in which it occurs.

N. Estimated work quantities

- Approximately 3,700 to 4,400 locations annually.
- Approximately 55,000 square feet removed annually.

PRESSURE WASHING

Contractor shall provide pressure washing services to various public facilities on scheduled and on an as-needed basis. These sites to include, but are not limited to:

- bus stops
 - picnic shelters
 - skate park
 - play structures and resilient safety surfacing
 - City entry monument signs
 - City park signs
 - other public property and/or facilities
1. Contractor shall perform pressure washing services utilizing hot and cold water as appropriate for the application. Cleaning and or sanitizing products may be required by the Project Manager as needed to insure a high quality work product.
 2. All work must be performed in compliance with all applicable laws and or regulations. Wash water must be contained and discharged legally. All work areas must be appropriately signed and secured to insure the safety of the public.
 3. Estimated quantities of pressure washing: 75,000 square feet per month. Pressure washing services shall include a minimum of eight (8) hours of service each week.

Additions/Modifications to Standard Specifications

The following additions are made to the latest edition of the "Standard Specifications for Public Works Construction", and the General Provisions stated within the "Standard Specifications" of this project. Should there be a conflict between any of these provisions; the Special Provisions shall have precedence.

All work shall be performed in conformance with the 2007 Uniform Building Code as adopted by the City of Costa Mesa. The electrical, plumbing, and fire code, and other regulations as adopted by the City of Costa Mesa Building Official shall apply to this project.

Where referenced in these specifications, the latest edition of the "City of Costa Mesa Standard Drawings" and the "Work Area Traffic Control Handbook (WATCH)" published by building News, Inc., shall also apply.

Payment for compliance with the following provisions shall be included in the various bid items of work unless otherwise modified in the special provisions section. No additional compensation will be allowed.

Payment for the various items listed on the Bid Proposal, as further specified herein, shall constitute full compensation to the Contractor for furnishing all material, tools, equipment, supplies, and manufactured articles, and for all labor, operations, and incidentals appurtenant to the items of work and as specified and as shown on the Drawings and in the contract documents, including all costs for compliance with the regulations of public agencies having jurisdiction, including Safety and Health Requirements of the California Division of Industrial Safety and the Occupational Safety and Health Administration (OSHA) of the U. S. Department of Labor.

No separate payments will be made for any items that are not specifically set forth in the Bid Proposal. Payments for any such items are included in various bid items of work.

Costs arising from violations of regulations will be paid by the offending party to the extent that there will be no additional cost to the City.

Section 2-6 Work to be done

The contractor shall furnish all materials, tools, equipment and incidentals necessary to perform and complete the work as shown on the plans and these contract documents, and to the satisfaction of the Engineer.

Section 3-3.2.2 (a) Labor Surcharge

The compensation for employer's payments of payroll taxes; workers compensation insurance; liability insurance; health and welfare; pension; vacation; apprenticeship funds; other direct costs resulting from Federal, State, or local laws; and for assessments or benefits required by lawful collective bargaining agreements to be applied to the actual cost for wages shall be 15 percent for regular time and overtime.

Section 3-3.2.3 Markup

- a. **Work by Contractor.** The allowance for overhead and profit to be added to the Subcontractor's costs shall be as follows:

Equipment and Material: 15%

Labor: 20%

To the sum of the costs and markups provided for in this section, 1 percent shall be added as compensation for bonding.

- b. **Work by subcontractor.** The allowance for overhead and profit to be added to the Subcontractor's costs shall be the same as the ones allowed in 3-2.2.3(a). The allowance for the Contractor's overhead and profit to be added to the sum of the Subcontractor's costs and markup shall be 5%.

No markups will be allowed for second tier or higher subcontractors.

Section 6-1 Construction Schedule and Commencement of Work

The Contractor shall prepare and submit to the Engineer a written schedule of his work operations for the proposed project. The schedule shall be submitted for approval at the pre-construction conference. The Contractor's designated project superintendent shall be present at the pre-construction meeting.

Section 6-7 - Time of Completion

The Contractor shall begin work on the project within ten (10) working days after the contract has been awarded by the City Council. Said work shall be diligently prosecuted to completion before the expiration of **the contract term of three (3) years.**

Section 6-9 – Liquidated Damages

The Contractor shall pay to the City of Costa Mesa the sum of \$250.00 per day, for each and every calendar day where work reported to the Contractor is not responded to and/or corrected per the Special Provisions.

Section 7-13 Laws to be observed

The Contractor shall comply with and meet all applicable SCAQMD, OSHA, NPDES and EPA requirements as specified. The Contractor shall be responsible to obtain those necessary manuals and publications.

Section 9-3.3 Delivered Materials

The cost of materials and equipment delivered, but not incorporated in said work, will not be included in the progress payment estimate unless otherwise provided in these specifications. All materials shall be nontoxic and shall not contain asbestos and hazardous substances as established by applicable laws.

Section 9-3.4.1 Hauling Of Materials

The Contractor shall comply with the solid waste hauling provisions set forth in the City of Costa Mesa Municipal Code Section 8-77. Failure to comply will result in an administrative penalty of \$1,000 or 3% of the project costs, whichever is greater.

Section 9-3.4.2 Water Supply

If water is needed for the work specified, Contractor shall contact Mesa Consolidated Water District or the Irvine Ranch Water District to obtain service. The Contractor is required to

make any and all necessary installations and connections. All water shall be metered. The Contractor shall pay for all deposits and fees involved.

**MISCELLANEOUS
CONTRACT
DOCUMENTS
(SAMPLE)**

ORIGINAL - COPY TO USE

AGREEMENT

THIS AGREEMENT, dated _____, 2011, is made by the CITY OF COSTA MESA, a political subdivision of the State of California ("CITY"), and _____ a California Corporation, ("CONTRACTOR").

CITY desires to maintain public work and improvements described below under Scope of Work, Paragraph 1 ("Work").

ACCORDINGLY, the parties hereto agree as follows:

1. SCOPE OF WORK.

The Work consists of _____.

The Work is further described in the "Contract Documents" referred to below. Contractor agrees to provide services to the City in accordance with the terms and conditions of this Contract. In the performance of its work, the Contractor represents that it (1) has and will exercise the degree of care, skill, efficiency, and judgment of contractors with special expertise in _____; (2) carries all applicable licenses, certificates, and registrations in current and good standing that may be required to perform the work; and (3) will retain all such licenses, certificates, and registrations in active status throughout the duration of this engagement.

2. CONTRACT DOCUMENTS.

The complete Agreement consists of the following documents relating to the Project: this Agreement; notice inviting bids; the Contractor's bid; the complete plans, profiles, detailed drawings and specifications, including general provisions and special provisions; the provisions of the most current edition of Standard Specifications for Public

Works Construction, published by Building News, Inc., Los Angeles, California, popularly known as "The Green Book"; Faithful Performance Bond and Payment Bond, including agent's Power of Attorney for each Bond; certificates of insurance; ; and all addenda setting forth any modifications or interpretations of those documents. The documents comprising the complete Agreement will be referred to as the "Contract Documents."

All of the Contract Documents are intended to complement one another, so that any Work called for in one and not mentioned in another is to be performed as if mentioned in all documents.

In the event of an inconsistency in the Contract Documents the terms of this Agreement shall prevail over all other Contract Documents. The order of precedence between the remaining Contract Documents shall be as set forth in the "Standard Specifications for Public Works Construction" (The Green Book).

The Contract Documents constitute the entire agreement between the parties and supersede any and all other writings and oral negotiations.

3. CITY'S REPRESENTATIVE.

The CITY'S Representative is _____, who shall be referred to herein as the Project Manager ("Project Manager").

4. SCHEDULE.

All Work shall be performed in accordance with the schedule approved on behalf of CITY by the Project Manager, and in accordance with the time of performance set forth in Paragraph 7.

5. EQUIPMENT - PERFORMANCE OF WORK.

CONTRACTOR shall furnish all tools, equipment, apparatus, facilities, labor and materials necessary to perform and complete the Work of construction in a good and workmanlike manner in strict conformity with the Contract Documents.

The equipment, apparatus, facilities, labor and material shall be furnished and

such Work performed and completed as required in the plans and specifications to the satisfaction of the Project Manager or his designee, and subject to his approval.

6. CONTRACT PRICE - \$ _____.

7. TERM AND TIME OF PERFORMANCE.

Work shall begin within ten (10) days after the date this Agreement is executed by CITY unless a later time is agreed upon in writing by the parties, and the Work shall be completed continuously for a base term of three years, from the date of the Agreement unless terminated earlier as set forth herein. The City, at its sole discretion, may exercise an option to extend the term for up to two one year periods. The City shall notify Contractor of its intention to exercise its option at least 30 days prior to the expiration of the base, or first option, term.

8. TERMINATION

The City may terminate this Contract at any time by giving the Contractor thirty calendar day's written notice. Notice of termination shall be by certified mail. Upon termination, the City shall pay the Contractor its allowable costs incurred to date of termination and those costs deemed necessary by the City to effect termination. In the event that the Contractor at any time during the entire term of this Contract breaches the requirements or conditions of the Contract, and does not within five (5) calendar days of receipt of notice from the City cure such breach or violation, the City may immediately terminate this Contract and shall pay the Contractor only its allowable costs to date of termination.

9. LIQUIDATED DAMAGES.

In the event the Work is not completed, for any reason, within the time required

including any approved extensions of time, and to the satisfaction of the Project Manager, CITY may, in addition to any other remedies, equitable and legal, including remedies authorized by Paragraph 8 of this Agreement, charge to CONTRACTOR or his sureties, or deduct from payments or credits due CONTRACTOR, a sum equal to \$_____ as liquidated damages for each day beyond the date provided for the completion of such Work.

The parties hereto agree that the amount set forth above, as liquidated damages constitutes a fair and reasonable estimate of the costs the CITY would suffer for each day that the CONTRACTOR fails to meet the performance schedule. The parties hereby agree and acknowledge that the delays in the performance schedule will cause CITY to incur costs and expenses not contemplated by this Agreement.

10. PERFORMANCE BY SURETIES.

In the event CONTRACTOR fails or refuses to perform the Work, CITY may provide CONTRACTOR with a notice of intent to terminate as provided in paragraph 8, of this Agreement. The CITY shall immediately give written notice of such intent to terminate to CONTRACTOR and CONTRACTOR'S surety or sureties, and the sureties shall have the right to take over and perform this Agreement; provided, however, that the sureties must, within five (5) days after CITY'S giving notice of termination, (a) give the CITY written notice of their intention to take over the performance of this Agreement; (b) provide adequate assurances, to the satisfaction of the CITY that the Work shall be performed diligently and in a timely manner; and, (c) must commence performance thereof within five (5) days after providing notice to the CITY of their intention to take over the Work. Upon the failure of the sureties to comply with the provisions set forth above, CITY may take over the Work and complete it, at the expense of CONTRACTOR, and the CONTRACTOR and the sureties shall be liable to CITY for any excess costs or damages including those referred to in

Paragraph 9, incurred by CITY. In such event, CITY may, without liability for so doing, take possession of such materials, equipment, tools, appliances, Contract Documents and other property belonging to CONTRACTOR as may be on the site of the Work and reasonably necessary therefor and may use them to complete the Work.

11. DISPUTES PERTAINING TO PAYMENT FOR WORK.

Should any dispute arise respecting whether any delay is excusable, or its duration, or the value of the Work done, or of any Work omitted, or of any extra Work which CONTRACTOR may be required to do, or respecting any payment to CONTRACTOR during the performance of this Agreement, such dispute shall be decided by the Project Manager, and his decisions shall be final and binding upon CONTRACTOR and his sureties.

12. SUPERINTENDENCE BY CONTRACTOR.

At all times during performance of the Work, CONTRACTOR shall give personal superintendence or have a competent foreman or superintendent on the worksite, with authority to act for CONTRACTOR.

13. INSPECTION BY CITY.

CONTRACTOR shall at all times maintain proper facilities and provide safe access for inspection by CITY to all parts of the Work and to all shops on or off-site where the Work or portions of the Work, are in preparation. CITY shall have the right of access to the premises for inspection at all times. However, CITY shall, at all times, comply with CONTRACTOR'S safety requirements on the job site.

14. CARE OF THE WORK AND OFF-SITE AUTHORIZATION.

CONTRACTOR warrants that it has examined the site of the Work and is familiar with its topography and condition, location of property lines, easements, building

lines and other physical factors and limitations affecting the performance of this Agreement. CONTRACTOR, at CONTRACTOR'S sole cost and expense, shall obtain any permission, and all approvals, licenses, or easements necessary for any operations conducted off the premises owned or controlled by CITY. CONTRACTOR shall be responsible for the proper care and protection of all materials delivered to the site or stored off-site and for the Work performed until completion and final inspection and acceptance by CITY. The risk, damage or destruction of materials delivered to the site or to Work performed shall be borne by CONTRACTOR.

15. PAYMENTS TO CONTRACTOR.

On or before the last Monday of each and every month during the performance of the Work, CONTRACTOR shall meet with the Project Manager or his designee to determine the quantity of pay items incorporated into the improvement during that month. A "Progress Payment Order" will then be jointly prepared, approved, and signed by the Project Manager and the CONTRACTOR setting forth the amount to be paid. Upon approval of the progress payment order by the CITY Engineer, or his designee, it shall be submitted to CITY'S Finance Department and processed for payment by obtaining approval from the City Council to issue a warrant.

Within three (3) days following City Council's approval to issue a warrant, CITY shall mail to CONTRACTOR a warrant for the amount specified in the progress payment order as the amount to be paid.

In the event that claims for property damage or bodily injury are presented to CITY arising out of CONTRACTOR'S or any subcontractor's Work under this Agreement; CITY shall give notice thereof to CONTRACTOR, and CONTRACTOR shall have thirty-five (35) days from the mailing of any such notice to evaluate the claim and to settle it by whole or partial payment, or to reject it, and to give notice of settlement or rejection to CITY. If

CITY does not receive notice within the above-mentioned thirty-five day period that the claim has been settled, and if the Project Manager, after consultation with the City Attorney, determines that the claim is meritorious, CITY may pay the claim or a portion of it in exchange for an appropriate release from the claimant, and may deduct the amount of the payment from the retained funds that would otherwise be paid to CONTRACTOR upon completion of the Work; provided, however, that the maximum amount paid for any one claim pursuant to this provision shall be one thousand dollars (\$1,000), and the maximum amount for all such claims in the aggregate paid pursuant to this provision shall be five thousand dollars (\$5,000).

16. PROMPT PAYMENT OF SUBCONTRACTORS.

The CONTRACTOR shall pay Subcontractors for work that has been satisfactorily performed no later than ten (10) days from the date of CONTRACTOR's receipt of progress payments from the CITY. Within thirty (30) days of satisfactory completion of all work required of the Subcontractor, CONTRACTOR shall release any retainage payments withheld to the Subcontractor but in no instance later than seven (7) days after Contractor receives retention from CITY. In the event Contractor does not make progress payments or release retentions to the Subcontractors in accordance with the time period specified herein, CONTRACTOR will be subject to penalties payable to the Subcontractor in accordance with California Business and Professions Code section 7108.5.

17. CONTRACT SECURITY AND GUARANTEE.

Unless previously provided by CONTRACTOR to CITY, CONTRACTOR shall furnish, concurrently with the execution of this Agreement, the following: (1) a surety bond in an amount equal to one hundred percent (100%) of the contract price as security for the faithful performance of this Agreement, and (2) a separate surety bond in an amount equal to at least one hundred percent (100%) of the contract price to secure payment of all claims

of laborers, mechanics, or material suppliers, subcontractors, and other persons named in Civil Code Section 3181 for the costs of materials, equipment, supplies and labor furnished in the course of the performance of the Contract. Contract bonds shall be on forms provided by the CITY and shall be executed as surety by a corporation authorized to issue surety bonds in the State of California, with a financial condition and record of service satisfactory to the CITY. Any alternation, extension of time, extra and additional work and other changes authorized by the Contract may be made without securing the consent of the surety or sureties on the Contract bonds.

CONTRACTOR guarantees that all materials used in the Work and all labor performed shall be in conformity with the Contract Documents including, but not limited to, the standards and specifications set forth in the most current edition of Standard Specifications for Public Works Construction, published by Building News, Inc., Los Angeles, California, more commonly known as "The Green Book." CONTRACTOR shall, at his own expense, make any and all repairs and replacements that shall become necessary as the result of any failure of the Work to conform to the aforementioned Contract Documents, and standard specifications; provided, however, that CONTRACTOR shall be obligated under this provision only to the extent of those failures or defects of which he is given notice within a period of twelve (12) months from the date that the Notice of Completion is recorded.

The rights and remedies available to CITY pursuant to this provision shall be cumulative with all rights and remedies available to CITY pursuant to statutory and common law, which rights and remedies are hereby expressly reserved, and neither the foregoing guarantee by CONTRACTOR nor his furnishing of the Bonds, nor acceptance thereof by CITY, shall constitute a waiver of any rights or remedies available to CITY against CONTRACTOR.

18. INDEMNIFICATION.

To the maximum extent allowed by law, the CONTRACTOR shall be responsible for and the CITY shall not be responsible for (1) any injury to or death of any person (including but not limited to any of CONTRACTOR's employees or subcontractors or the public) or (2) damage to any property if the injury, death or damage arises out of, is connected to, or in any way related to CONTRACTOR's work or the performance of this Contract.

CONTRACTOR shall defend, indemnify, and hold harmless the CITY and its elected and appointed boards, officers, agents, and employees and assigns of any of them (collectively referred to as "Indemnitees") from and against all claims, demands, liability, suits, actions, costs, or expenses for any and all loss or damage, including, but not limited to, personal injury or property damage, arising out of, connected to, or in any way related to Contractor's work or performance of this Contract (including the work or materials of its subcontractors and suppliers), except to the extent that the claims, demands, liability, suits, actions, costs or expenses are caused by Indemnitees' active negligence, willful misconduct or criminal acts. The duty of CONTRACTOR to indemnify and save harmless includes the duties to defend as set forth in Section 2778 of the Civil Code. This indemnity shall survive termination or acceptance of the Contract.

CONTRACTOR waives any and all rights to any type of express or implied indemnity against the Indemnitees. It is expressly understood and agreed that CONTRACTOR is to indemnify and save harmless the Indemnitees from the types of claims, suits, or actions specified above regardless of the existence of the Indemnitee's passive negligence.

Any person, firm or corporation that Contractor authorizes to work on CITY's property, including Subcontractors, shall be deemed to be an agent of the Contractor for

purposes herein, shall be subject to all the applicable terms herein, and shall be within the scope of Contractor's indemnity obligation described herein.

CONTRACTOR shall comply with all of the provisions of the Workers' Compensation insurance laws and Safety in Employment laws of the State of California, including the applicable provisions of Divisions 4 and 5 of the California Labor Code and all amendments thereto and regulations promulgated pursuant thereto, and all similar State, Federal or local laws applicable; and CONTRACTOR shall indemnify and hold harmless CITY from and against all claims, liabilities, expenses, damages, suits, actions, proceedings and judgments, of every nature and description, including attorney fees, that may be presented, brought or recovered against CITY for or on account of any liability under or failure to comply with any of said laws which may be incurred by reason of any Work performed under this Agreement by CONTRACTOR or any subcontractor or others performing on behalf of CONTRACTOR.

CITY does not, and shall not, waive any rights against CONTRACTOR which it may have by reason of the above hold harmless agreements, because of the acceptance by CITY or the deposit with CITY by CONTRACTOR of any or all of the insurance policies described in Paragraph 19 of this Agreement.

The hold harmless agreements by CONTRACTOR shall apply to all liabilities, expenses, claims, and damages of every kind (including but not limited to attorney fees) incurred or alleged to have been incurred, by reason of the operations of CONTRACTOR or any subcontractor or others performing on behalf of CONTRACTOR, whether or not such insurance policies are applicable. CONTRACTOR shall require any and all tiers of

subcontractors to afford the same degree of indemnification to the CITY OF COSTA MESA and its elected and appointed boards, officers, agents, and employees that is required of CONTRACTOR and shall incorporate identical indemnity provisions in all contracts between CONTRACTOR and all tiers of his subcontractors.

In the event that CONTRACTOR and CITY are sued by a third party for damages caused or allegedly caused by negligent or other wrongful conduct of CONTRACTOR, or by a dangerous condition of CITY'S property created by CONTRACTOR or existing while the property was under the control of CONTRACTOR, CONTRACTOR shall not be relieved of its indemnity obligation to CITY by any settlement with any such third party unless that settlement includes a full release and dismissal of all claims by the third party against the CITY.

19. INSURANCE.

CONTRACTOR shall not commence Work under this Agreement until he has obtained all insurance required under this section and CITY has approved the insurance as to form, amount, and carrier, nor shall CONTRACTOR allow any subcontractor to commence any Work until all similar insurance required of the subcontractor has been obtained and approved.

Neither the failure of CONTRACTOR to supply specified insurance policies and coverage, nor the failure of CITY to approve same shall alter or invalidate the provisions of Paragraph 18 of this Agreement.

A. Workers' Compensation Insurance.

CONTRACTOR shall obtain and maintain during the life of this Agreement workers' compensation insurance and, if any Work is sublet, CONTRACTOR shall require all tiers of subcontractors to obtain workers' compensation insurance.

All workers' compensation insurance policies shall provide that the insurance may not be canceled without thirty (30) days' advance written notice of such cancellation to CITY.

CONTRACTOR agrees to waive, and obtain endorsements from its workers' compensation insurer waiving, subrogation rights under its workers' compensation insurance policy against the CITY and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

B. Liability Insurance Coverage.

CONTRACTOR shall obtain and maintain during the life of this Agreement the following insurance coverage:

(1) Comprehensive General Liability, including coverage for premises-operations, products/completed operations hazard, blanket contractual, broad form property damage, and independent contractors. In addition, CONTRACTOR shall obtain and maintain during the life of this Agreement each of the following insurance coverage which are not stricken out and initialed by the Project Manager: Explosion and collapse hazard, underground hazard, personal injury, and automobile liability, including owned, hired, and non-owned vehicles. All insurance coverage shall have limits of not less than \$1,000,000.00 combined single limit, per occurrence and aggregate.

(2) Below are approved endorsements which satisfy the basic insurance requirements contained in contracts entered into by City of Costa Mesa. These have been approved by the City Attorney's office. The terms of any specific contract with the City are controlling. Prior to the commencement of any work, the City requires that the Engineer receive Certificates of Insurance in DUPLICATE for liability coverage of at least \$1,000,000 combined single limit, per occurrence and in the aggregate. Endorsements to the policies providing the above insurance shall be obtained by CONTRACTOR, adding the following three provisions:

(i) Additional Insured:

The City of Costa Mesa, and its elected and appointed boards, officers, agents, employees, are additional insureds with respect to the subject project and agreement.

(ii) Notice:

"Said policy shall not terminate, nor shall it be canceled nor the coverage reduced, until thirty (30) days after written notice is given to CITY."

(iii) Other Insurance:

"Any other insurance maintained by the City of Costa Mesa, shall be excess and not contributing with the insurance provided by this policy."

If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

20. PROOF OF INSURANCE.

Prior to award of the contract by the City Council of CITY, CONTRACTOR shall furnish CITY, through the Project Manager, proof of compliance with the above insurance requirements in a form satisfactory to the City Attorney.

21. LEGAL WORK DAY - PENALTIES FOR VIOLATION.

Eight hours of labor shall constitute a legal day's work during any one calendar day. CONTRACTOR shall forfeit to CITY the sum of twenty-five dollars (\$25.00) for each workman employed in the execution of this Agreement by CONTRACTOR or by any subcontractor for each calendar day during which such workman is required or permitted to work more than eight (8) hours in any one calendar day and 40 hours in any one calendar week in violation of California Labor Code Sections 1810 through 1815, inclusive.

22. PREVAILING WAGE SCALE.

CONTRACTOR shall comply in all respects with California Labor Code, Sections 1770 et seq., including the keeping of all records required by the provisions of Labor Code Section 1776.

23. DRUG-FREE WORKPLACE POLICY.

CONTRACTOR, upon notification of the award of this Agreement, shall establish a Drug-Free Awareness Program to inform employees of the dangers of drug abuse in the workplace, the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace, and the employee assistance programs available to employees. Each employee engaged in the performance of a CITY contract must be notified of this Drug-Free Awareness Program, and must abide by its terms. CONTRACTOR shall conform to all the requirements of CITY'S Policy No. 100-5, attached hereto as Attachment No. 1. Failure to establish a program, notify employees, or inform the CITY of a drug-related workplace conviction will constitute a material breach of contract and cause for immediate termination of the contract by the CITY.

24. NON – DISCRIMINATION.

In performing this Agreement, CONTRACTOR will not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status or sex, or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code. Violation of this provision may result in the imposition of penalties referred to in Labor Code, Section 1735.

25. CONTRACT ASSURANCE.

The CONTRACTOR or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONTRACTOR

shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the CONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as recipient deems appropriate.

The CONTRACTOR will require that the above provision is included in all subcontracts.

26. PROVISIONS CUMULATIVE

The provisions of this Agreement are cumulative and in addition to, and not in limitation of, any other rights or remedies available to CITY.

27. NOTICES.

It shall be the duty and responsibility of CONTRACTOR to notify all tiers of subcontractors and material men of the following special notice provision; namely, all preliminary 20-day notices or stop notices shall be directed only to the City Clerk and to no other department, and shall be either personally delivered or sent by certified mail, postage prepaid.

All other notices shall be in writing and delivered in person or sent by certified mail, postage prepaid. Notices required to be given to CITY pursuant to this Agreement shall be addressed as follows:

The City of Costa Mesa
77 Fair Drive
Post Office Box 1200
Costa Mesa, California 92628-1200

Attention: Construction Management

Notices required to be given to CONTRACTOR shall be addressed as follows:

Notices required to be given to CONTRACTOR'S sureties shall be addressed as follows:

28. INDEPENDENT CONTRACTOR.

The parties hereto acknowledge and agree that the relationship between CITY and CONTRACTOR is one of principal and independent Contractor and no other. All personnel to be utilized by CONTRACTOR in the performance of this Agreement shall be employees of CONTRACTOR and not employees of the CITY. CONTRACTOR shall pay all salaries and wages, employer's social security taxes, unemployment insurance and similar taxes relating to employees and shall be responsible for all applicable withholding taxes. Nothing contained in this Agreement shall create or be construed as creating a partnership, joint venture, employment relations, or any other relationship except as set forth between the parties. The parties specifically acknowledge and agree that CONTRACTOR is not a partner with CITY, whether general or limited, and no activities of CITY or CONTRACTOR or statements made by CITY or CONTRACTOR shall be interpreted by any of the parties hereto as establishing any type of business relationship other than an independent Contractor relationship.

29. VALIDITY.

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any of the other provisions of this Agreement.

30. GOVERNING LAW.

This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any legal action relating to or arising out of this Agreement shall be subject to the jurisdiction of the County of Orange, California.

31. ATTORNEY'S FEES.

In the event any legal proceeding is instituted to enforce any term or provision of this Agreement, the prevailing party in said legal proceeding shall be entitled to recover attorney's fees and costs from the opposing party in an amount determined by the Court to be reasonable.

32. NO THIRD PARTY BENEFICIARY RIGHTS.

This Agreement is entered into for the sole benefit of the CITY and CONTRACTOR and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

33. ASSIGNABILITY

This Agreement may not be sold, transferred or assigned by either party, or by operation of law, to any other person or persons or business entity, without the other party's written permission. Any such sale, transfer or assignment, or attempted sale, transfer or assignment without written permission, may be deemed by the other party to constitute a voluntary termination of this Agreement and this Agreement shall thereafter be deemed terminated and void.

34. WAIVER.

No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought referring expressly to this Paragraph. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver

35. HEADINGS.

Section and subsection headings are not to be considered part of this Agreement, are included solely for convenience, and are not intended to modify or explain or to be a full or accurate description of the content thereof.

36. COUNTERPARTS.

This Agreement may be executed in one or more counterparts by the parties hereto. All counterparts shall be construed together and shall constitute one Agreement.

37. CORPORATE AUTHORITY.

The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by doing so, the Parties hereto are formally bound to the provisions of this Agreement.

38. ADDITIONAL SERVICES.

CONTRACTOR shall not receive compensation for any services provided outside the scope of the Contract Documents unless such additional services, including change orders, are approved in writing by CITY prior to CONTRACTOR performing the additional services.

It is specifically understood that oral requests or approvals of such additional services, change orders or additional compensation and any approvals from CITY shall be barred and are unenforceable.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written

ATTEST:

CITY OF COSTA MESA

City Clerk of the City of Costa Mesa

Mayor of the City of Costa Mesa

APPROVED AS TO FORM:

CONTRACTOR:

City Attorney

(Name)

Title: _____

APPROVED FOR CONTENT:

State License No.: _____

Federal Tax I.D. No.: _____

Project Manager

Address: _____

Telephone: _____

CITY OF COSTA MESA, CALIFORNIA
COUNCIL POLICY

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8/08/89	1 OF 3

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a subgrantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This Policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or subgrantee hereby certifies that it will provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possessing, or use of a controlled substance is prohibited in Contractor's and/or subgrantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will taken against the employees for violation of such prohibition;
 - B. Establishing a Drug-Free Awareness Program to inform employees about:
 1. The dangers of drug abuse in the workplace;

CITY OF COSTA MESA, CALIFORNIA

COUNCIL POLICY

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8/08/89	2 OF 3

2. Contractor's and/or subgrantee's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- C. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by Subparagraph A.
- D. Notifying the employee in the statement required by Subparagraph 1.A that, as a condition of employment under the contract, the employee will:
1. Abide by the terms of the statement; and
 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such violation.
- E. Notifying the City of Costa Mesa within ten (10) days after receiving notice under Subparagraph 1.D.2 from an employee or otherwise receiving the actual notice of such conviction.
- F. Taking one of the following actions within thirty (30) days of receiving notice under Subparagraph 1.D.2 with respect to an employee who is so convicted:
1. Taking appropriate personnel action against such an employee, up to and including termination; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency.
- G. Making a good faith effort to maintain a drug-free workplace through implementation of Subparagraph 1.A through 1.F, inclusive.
2. Contractor and/or subgrantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
- A. Contractor and/or subgrantee has made a false certification under Paragraph 1 above.

CITY OF COSTA MESA, CALIFORNIA

COUNCIL POLICY

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8/08/89	3 OF 3

B. Contractor and/or subgrantee has violated the certification by failing to carry out the requirements of Subparagraphs 1.A through 1.G above.

C. Such number of employees of Contractor and/or subgrantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the Contractor and/or subgrantee has failed to make a good faith effort to provide a drug-free workplace.

3. Should any Contractor and/or subgrantee be deemed to be in violation of this Policy pursuant to the provisions of 2.A, B and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, or local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a Contractor and/or subgrantee, the Contractor and/or subgrantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the Contractor and/or subgrantee, the Contractor and/or subgrantee shall be eligible for compensation as provided by law.

CERTIFICATE OF INSURANCE

CERTIFICATE HOLDER City of Costa Mesa 77 Fair Drive P. O. Box 1200 Costa Mesa, CA 92628-1200	INSURANCE COMPANIES AFFORDING COVERAGES Company Letter A
NAME AND ADDRESS OF INSURED	E

This is to certify that policies of insurance listed below have been issued to the insured named above and are in force at this time, including attached endorsement(s).

COMPANY LETTER	TYPE OF INSURANCE	POLICY NO.	POLICY EXP. DATE	LIMITS OF LIABILITY IN THOUSANDS (000)	
				Each Occurrence	Aggregate
	GENERAL LIABILITY				
	Comprehensive Form			Bodily Injury	\$ \$
	Premises—Operations			Property Damage	\$ \$
	Explosion & Collapse Hazard				
	Underground Hazard				
	Products/Completed—Operations Hazard			Bodily Injury and Property Damage Combined	\$ \$
	Contractual Insurance				
	Broad Form Property Damage				
	Independent Contractors				
	Personal Injury			Personal Injury	\$
	Marine				
	Aerial				
	AUTOMOBILE LIABILITY				
	Comprehensive Form			Bodily Injury (Each Person)	\$
	Owned			Bodily Injury (Each Occurrence)	\$
	Hired			Property Damage	\$
	Non-owned			Bodily Injury and Property Damage Combined	\$
	EXCESS LIABILITY				
	Umbrella Form			Bodily Injury and Property Damage Combined	\$ \$
	Other than Umbrella Form				
	WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY			Statutory	(Each Accident)

NOTE: The Comprehensive General Liability policy and/or Automotive Liability policy is/are endorsed with the City of Costa Mesa Endorsement(s) shown on the reverse side.

CANCELLATION: Said policy shall not terminate, nor shall it be cancelled, nor the coverage reduced, until thirty (30) days after written notice is given to City.

By: _____ Agency: _____ Date Issued _____
Authorized Representative

Description of operations/locations/vehicles: All operations performed for the City of Costa Mesa by or on behalf of the named insured in connection with the following designated contract:

(Project title and contract number)

NOTICE: This certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies, including attached endorsements.

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization:

The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to the subject project and agreement.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule as an insured but only with respect to liability arising out of your operations or premises owned by or rented to you.

Said policy shall not terminate, nor shall it be canceled nor the coverage reduced, until thirty (30) days after written notice to City.

Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy.

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

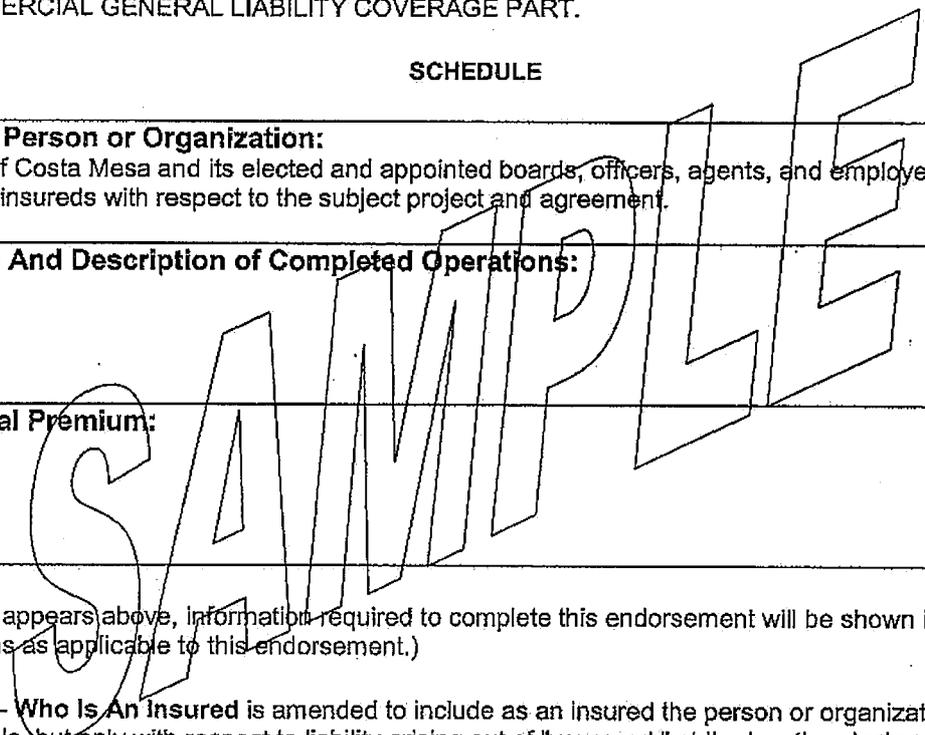
ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

<p>Name of Person or Organization: The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to the subject project and agreement.</p>
<p>Location And Description of Completed Operations:</p>
<p>Additional Premium:</p>



(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

Section II – Who Is An Insured is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" at the location designated and described in the schedule of this endorsement performed for that insured and included in the "products-completed operations hazard".

Said policy shall not terminate, nor shall it be canceled nor the coverage reduced, until thirty (30) days after written notice to City.

Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy.

WC 04 03 06 (Ed. 04/84)

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The following 'clause' need be completed only when this endorsemnt is issued subsequent to preparation of the policy.)

This endorsement, effective on _____ at 12:01 a.m. standard time, forms a part of

Policy No. _____ Endorsement No. _____

of the Insurance Company

Issued to: _____

Policy Expiration Date: _____

Premium (if any): _____

Authorized Representative

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be _____% of the California workers compensation premium otherwise due on such remuneration.

SCHEDULE

Person or Organization

Job Description

Bond Number _____

**FAITHFUL PERFORMANCE BOND
PUBLIC WORK**

(The premium charge on this bond is \$ _____, being at the rate of \$ _____ per thousand of the contract price)

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS the CITY OF COSTA MESA, 77 Fair Drive, Costa Mesa, California 92626, has entered into a contract dated _____, 20____, which is hereby incorporated by reference herein, with _____ hereinafter designated as the "Principal," for the work described as follows:

_____ ; and

WHEREAS, said Principal is required by the terms of said contract to furnish a bond for the faithful performance of said contract.

NOW, THEREFORE, We the Principal, and _____ a corporation organized and existing under the laws of the State of _____ and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the CITY OF COSTA MESA in the penal sum of _____ Dollars (\$ _____), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

The Condition Of This Obligation Is Such, That, if the above bounden Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the said contract and any alteration thereof made as therein provided, or his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the CITY OF COSTA MESA, its officers and agents, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue.

And 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 the work to be performed thereunder or the specifications accompanying the same shall in any wise affect its obligations 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 the work or to the specifications.

IN WITNESS WHEREOF. We have hereunto set our hands and seals this _____ day of _____, 20____.

Bond Number _____

**LABOR AND MATERIAL BOND TO ACCOMPANY CONTRACT
PUBLIC WORK**

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS the CITY OF COSTA MESA, 77 Fair Drive, Costa Mesa, California 92626, has awarded to _____ hereinafter designated as the "Contractor," a contract which is hereby incorporated by reference herein, for the work described as follows: _____

_____ ; and WHEREAS, said Contractor is required by the provisions of Chapter 7, Division 3, Title 15, Sections 3247-3248, Civil Code to furnish a bond in connection with said contract, as hereinafter set forth.

NOW, THEREFORE, We _____ the undersigned Contractor, as Principal, and _____ a corporation organized and existing under the laws of the State of _____ and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the CITY OF COSTA MESA in the penal sum of _____ Dollars (\$ _____), said sum being not less than one-half of the estimated amount payable by the said CITY OF COSTA MESA under the terms of the contract. for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

The Condition Of This Obligation Is Such, That, if said Contractor, his or its heirs, executors, administrators, successors or assigns, or sub-contractors, shall fail to pay for any materials, provisions, provender or other supplies or teams, implements or machinery used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code with respect to such work or labor performed under the above contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Contractor and sub-contractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, the surety or sureties herein will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In case suit is brought upon this bond, the said Surety will pay a reasonable attorney's fee to be fixed by the court. This bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Section 3181 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond. And 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 the work to be performed thereunder or the specifications accompanying the same shall in any wise affect its obligations 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.

IN WITNESS WHEREOF, We have hereunto set our hands and seals this _____ day of _____, 20____.

City of Costa Mesa, Department of Public Services
Application and Permit for Work Described Below

PERMIT NO.

VENDOR NO.

Address or Location of Work _____ Date _____

Type of Work to be Done _____

Start Date _____ Permit Not Valid After _____ (Expiration Date) Plan No. _____

Contractor's Name _____ Address _____

Telephone No. (Day) _____ (Night) _____ City and State _____

State License No./Class _____ City Business License No. _____

Applicant's Name _____ Address _____

Telephone No. _____ Developer's Name _____ Telephone No. _____

Name of Insurance Co. _____ Insurance Cert. No.(s) _____

24-Hour Emergency Contact _____ Telephone No. _____

<p>Bond \$ _____</p> <p>Cash Deposit \$ _____</p> <p>Issuance \$ _____</p> <p>Inspection \$ _____</p> <p>TOTAL \$ _____</p>	<p>48 HOURS MINIMUM REQUIRED FOR PROCESSING PERMIT</p> <p>Account # </p>	<p>PERMIT APPROVED FOR CITY ENGINEER</p> <p>By _____</p> <p>Date _____</p> <p>Underground Service Alert ID No. _____</p>
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Permittee shall contact the City Inspector's office (754-5025) at least 24 hours prior to commencing any work. Failure to obtain proper inspections prior to commencement of work may be cause for its rejection. **THIS PERMIT WITH APPROVED PLANS MUST BE ON THE JOB AND AVAILABLE TO CITY REPRESENTATIVES AT ALL TIMES.** You are guided by Municipal Code Sections 1-33, 15-25, 15-27, 15-27.1, 15-39 and 15-43.

THE UNDERSIGNED PERMITTEE HEREBY CERTIFIES:

1. That all work shall be performed in accordance with the Standard Specifications for Public Works Construction (latest edition); Standard Drawings of the City of Costa Mesa; special agency provisions; and all applicable laws and ordinances.
2. Control of traffic shall conform to the Work Area Traffic Control Handbook (W.A.T.C.H.) (latest edition). The permittee shall furnish and/or install all signs, lights, barricades, traffic control or warning devices, flagmen and flashing arrow board. The permittee shall obtain approval of the Transportation Services Engineer for all street closures, detours, turn restrictions, parking prohibitions and methods of accommodating traffic. The permittee shall notify Emergency, Fire and Police services and residents or businesses twenty-four (24) hours in advance of any access limitation or traffic restrictions.
3. That a maximum of _____ lane(s) may be closed if necessary to perform work within the public right of way during the hours of 6:30 a.m. - 3:30 p.m. Monday through Friday as long as traffic can be maintained in each direction with flagmen unless otherwise approved by the Transportation Services Engineer.
4. That throughout all phases of construction the work site shall be kept clean and free of rubbish, debris and dust and drainage shall be maintained.

SUBJECT TO THE NOTES BELOW: (Inspection fees over the basic inspection time will be billed at the approved hourly rate.)

1. City will provide inspection between 7:30 a.m. and 3:00 p.m., Monday through Friday (except on City observed holidays).
2. Prior to placing Portland Cement Concrete or Asphalt Concrete (A.C.), the following will have been inspected and approved; native and imported .
3. Curb and gutter shall not be removed on the day prior to a weekend or a City observed holiday.
4. Fill in areas left by curb and gutter removal flush with the adjacent pavement on the same day that removal occurs.
5. Bore under all streets, curbs and gutters, sidewalks, cross-gutters and driveway approaches. Tunneling is not allowed.
6. Open excavations must be backfilled or plated with spikes and A.C. backed around edges during non-working hours.
7. Sidewalk shall be constructed per City of Costa Mesa Standard Drawing No. _____.
8. Driveway approach shall be constructed per City of Costa Mesa Standard Drawing No. _____.
9. No traffic allowed on concrete for minimum of seven days for curing. See traffic control above.
10. Trench compaction and resurfacing shall conform to City of Costa Mesa Standard Drawing No. 813.
11. Trenches exceeding five (5) feet in depth require a permit from the Division of Industrial Safety, State of California.
12. Permittee shall pay for all S.E., compaction and materials tests deemed necessary by the City.
13. All trenches shall be permanently patched within ten (10) days of completion of work below subgrade.
14. Permittee shall provide the City with record drawings of permitted work before final inspection by the City.
15. Permittee understands and agrees to the hold-harmless agreement required by CMMC Section 15-27 and printed on the reverse of this application.
16. Other: _____

NOTICE: Contractor must notify the following Utility Companies two working days before starting work:

Costa Mesa Sanitary District
 (714) 831-1731

Mesa Consolidated Water District
 714) 831-1200

UNDERGROUND SERVICE ALERT
 Toll Free - 1-800-422-4133; After Hours & Holidays - (714) 739-3031; (213) 821-9111

INSPECTION RECORD	Inspector of Records	CERTIFICATE OF INSPECTION
Date		I hereby certify that the street work allowed by this permit has been constructed according to the plans and specifications and I hereby accept the work in this manner.
		By: _____ Inspector
		_____ Date

0183-62 mw, rev. 2/03
 White - Inspectors;
 Canary - Engineering;
 Pink - Finance
 Goldenrod - Applicant

I certify I have read and understand all of the above and that all statements made are correct and complete.

Applicant's Signature _____ Date _____

3 COPIES OF SKETCHES OR PLANS ARE REQUIRED PRIOR TO PERMIT ISSUANCE
THIS APPLICATION BECOMES A PERMIT WHEN APPROVED AND VALIDATED



APPLICATION FOR BUSINESS LICENSE
 SEND YOUR CHECK MADE PAYABLE TO THE CITY OF COSTA MESA
 TREASURY MANAGEMENT DIVISION, PO BOX 1200, COSTA MESA, CA 92628-1200
 (714) 754-5234 TDD: (714) 754-5244

Business Name _____

Parent Company Name _____
(If Corporate Owned)

Note: Business address will be compared to zoning requirements before approval. Check with the Planning Division regarding the use of the location at (714) 754-5245.

Business Address _____
(Cannot be a P.O. Box) Street # _____ Street name _____ Unit # _____ City _____ State _____ Zip _____

Mailing Address _____
(Can be a P.O. Box) Street # _____ Street name _____ Unit # _____ City _____ State _____ Zip _____

Business Telephone # (_____) _____ Business Start Date _____ No. of Employees (on average) _____

Ownership (Check One only)
 Sole Owner Corporation Partnership Husband & Wife Co-ownership Limited Liability Company
 Limited Liability Partnership

Seller's Permit No. _____ Contractors State No. & Class _____
(If Applicable) (If Applicable)

Federal Employer ID # or, Owner's Social Security # _____ Federal Firearms License # (if applicable) _____

OWNER'S OR PRINCIPAL'S NAME(S)

Name _____	Name _____
Home Address _____	Home Address _____
City _____ Zip _____	City _____ Zip _____
Telephone # (_____) _____ Title _____	Telephone # (_____) _____ Title _____
Drivers License No. _____ Date of Birth _____	Drivers License No. _____ Date of Birth _____

TYPE OF BUSINESS

PLEASE CIRCLE ONE: Wholesale/Retail/Manufacturing/Services/Non-Profit/Administrative Only/Warehouse/ Other

Fully Describe Business Operation: _____

Standard Industrial Class Code (SIC) _____

Alcohol Beverage Control Permit No. _____ Department of Motor Vehicles Permit # _____
(If Applicable) (Required for automobile/motorcycle sales businesses)

Hours of Operation (M-F) _____ (S-SU) _____ Number of Rental Units/Rooms/Spaces _____
(Commercial/Industrial only) (If Applicable)

CHOOSE ONE OF THE APPROPRIATE FEES BELOW

GENERAL BUSINESS
(wholesale, retail, professional, Etc.)

Enter Annual Gross Receipts Amount \$ _____

And Circle the corresponding category below

Annual Gross Receipts	Tax
\$0.00 to 1,000.00	\$0.00
\$1,000.01 to 25,000.00	\$25.00
\$25,000.01 to 40,000.00	\$35.00
\$40,000.01 to 75,000.00	\$45.00
\$75,000.01 to 200,000.00	\$60.00
\$200,000.01 to 500,000.00	\$100.00
Over 500,000.00	\$200.00

TAX EXEMPT ORGANIZATIONS
 Attach proof of Tax Exempt Status (required for waiver of tax due)

SHOW, EXHIBITION, SWAP MEET Tax on the Promoter's Gross Receipts from the Gross Receipts schedule to the left _____
 Enter the tax due amount here \$ _____
 PLUS _____ (# of sellers _____ x \$5 = \$ _____)
 EQUALS _____ Total tax due \$ _____

ADMINISTRATIVE OFFICES/WAREHOUSES
(Fees based on annual operating expenses when no receipts generated)
 Enter annual operating expenses amount \$ _____
 Use Gross Receipts schedule to the left to determine business license tax.

CONTRACTOR
(California Licensed) Total tax due \$50.00

VEHICLE WHEEL, TAXI, TOW TRUCK, BUS
 Number of Vehicles: _____ x \$25.00 = Total Tax Due \$ _____

- Will you store, handle or use 55 gallons, 500 pounds or 200 cubic feet of hazardous materials per year? Yes No
- Will you have an assembly room with an occupant load of 50 or more persons? Yes No
- Will you be installing a spray booth? Yes No
- Will your business produce dust/wood shavings or other material? Yes No
- Will you be storing or using flammable or combustible liquids or compressed gases? Yes No
- Will you be warehousing materials higher than 12 feet? Yes No
- Fire Department approval required for any "Yes" answer. Please make an appointment by calling (714) 754-5128.

Your Business License will be issued under the provisions of Municipal Code Section 9-1. You are cautioned that this License does not permit operation of a business in violation of other Municipal Code Sections. There will be no tax refund if you are found operating illegally after the Certificate has been issued. Your business location will be checked by Planning, Building, and, if necessary, Fire Department officials. If you have any doubt whether your business location and/or building may conform with the requirements of the Municipal Code administered by these departments, you are urged to contact these departments for further information before filing your application. ** Sales or use tax may apply to your business activities. You may seek written advice regarding the application of tax to your particular business by writing or visiting the nearest State Board of Equalization. ** I declare under penalty of perjury that, to the best of my knowledge and belief, the statements made herein are correct and true and that acceptance of payment does not constitute approval of the Business License. Authorization to conduct business is not granted until issuance of the license.

Authorized Signature _____ Title _____ Date _____

FOR CITY OFFICE USE ONLY

Planning Approval _____ Date Approved _____ CUP Required? _____ CLUP # _____

Building Approval _____ Date Approved _____ Comments _____

Fire Department Approval _____ Date Approved _____

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