

GENERAL CONDITIONS

All work shall be accomplished in accordance with the Latest Edition of Standard Specifications for Public Work Construction (SSPWC), and all supplements thereto, hereinafter referred to as Standard Specifications, Standard Construction Drawings and these Special Provisions.

Bidders are required to submit all of the following items completed in full and submitted by the designated bid opening date and time:

- ☐ Signed Bidder's Proposal Forms
- ☐ Contractor's License Declaration
- ☐ Certification of Non-Discrimination and Affirmative Action
- ☐ Non-Collusion Declaration
- ☐ List of Subcontractors
- ☐ Bidder's Statement of Financial Responsibility
- ☐ Bidder's Bond (Cash, certified cashier's check, or bidders bond must be scanned and uploaded, lowest/responsive bidder shall provide original upon bid opening)
- ☐ Performance Bond (Lowest/responsive bidder shall provide original upon bid opening)
- ☐ Labor and Material Bond (Lowest/responsive bidder shall provide original upon bid opening)

Examination of Specifications, Special Provisions and Site Work: The bidder is required to examine carefully the site of and the proposal, specifications and contract forms for the work contemplated, and it will be assumed that the bidder has investigated and is satisfied as to the conditions to be encountered, including all installations and utilities, whether underground, surface or overhead, as to the character, quality and quantities of work to be performed and materials to be furnished, and as to the requirements of the specifications, and special provisions and the contract. It is mutually agreed that submission of a proposal shall be considered prima facie evidence that the bidder has made such examination.

It is the responsibility of the Contractor to construct this project in accordance with the specifications. Please be advised that the City of Duarte is located adjacent to the San Gabriel River. Rocky soil conditions may be encountered during the excavation phase of this project. The existence of rocks **shall not** be considered a changed condition as defined in the Standard Specifications. The Contractor shall not be entitled to any additional compensation due to rocky soil conditions.

Proposal Form: All proposals shall be scanned and uploaded to the Planet Bids Portal. All proposals must give the unit prices proposed, and totals based on estimated quantities, and must be signed by the bidder, and his address shown. If an individual makes this proposal, his name and post office address must be shown. If made by a firm or partnership, the name and post office address of each member of the firm or partnership must be shown. If made by a corporation, the proposal must show the names of the state under the laws in which the corporation was chartered and the names, titles, and business addresses of the president, secretary and treasurer.

Rejection of Proposals:

1. Containing Alterations, Erasures or Irregularities: Proposals may be rejected if they show any alterations of form, additions not called for, conditional or alternative proposals, incomplete proposals erasures, or irregularities of any kind.

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Contractor to strictly adhere to all State labor laws.

- 2. Pursuant to Labor Code section 1771.1, no contractor or subcontractor may be listed on a bid proposal for a public works project submitted unless registered with the Department of Industrial Relations. Ready-mix haulers and companies that deliver ready-mixed concrete for public works projects are considered subcontractors under Labor Code section 1722.1. Furthermore, all bidders are hereby notified that no contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations.**

Bidder's Guaranty: All proposals shall be scanned and uploaded to the Planet Bids Portal, and shall be accompanied by cash, cashier's check or certified check payable to, or bidder's bond in favor of, the City of Duarte in an amount equal to at least ten percent (10%) of the amount of said proposal, and no proposal shall be considered unless such cash, cashier's check, certified check, or bidder's bond is provided. The lowest and responsive bidder shall provide the original Bidder Bond documentation at time of award.

Award of Contract: The award of the contract, if it be awarded, will be to the lowest responsible bidder whose proposal complies with all the requirements described. The award, if made, will be made within thirty (30) calendar days after the opening of the bids. All bids will be compared on the basis of the Engineer's estimate of quantities of work to be done.

Execution of Contract: The contract in the form contained in the contract documents, shall be signed by the successful bidder and returned, together with the contract bonds and certificate of insurance within ten (10) days, not including Sunday, or holidays, after mailing by the City Notice of Award of Contract to the successful bidder. No proposal shall be considered binding upon the City until the execution of the contract.

Failure to execute a contract and file acceptable bonds and certificate of insurance as provided herein within ten (10) days, not including Sunday, or holidays, after mailing by the City of Notice of Award of Contract to the successful bidder, shall be just cause for the annulment of the award and forfeiture of the proposal guaranty.

Insurance:

Without limiting Contractor's indemnification of the City and prior to commencement of work, the Contractor shall obtain, provide, and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance:

A. Comprehensive General Liability Insurance. Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$5,000,000 per occurrence, \$10,000,000 general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability.

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B. Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000). Contractor shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees and volunteers.

C. Professional Liability. (errors and omissions) insurance. Contractor shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date or retroactive date must be before the effective date of this agreement and Contractor agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

D. Automotive Liability Insurance. Contractor shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Contractor arising out of or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$5,000,000 combined single limit for each accident.

Insurance Deductibles and Self-insured Retentions. Any deductibles or self-insured retention's must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention's as respects the City, its officers, officials, employees, agents and volunteers, or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claims administration and defense expense.

Other Insurance Provisions. For any claims related to this project or service, the Contractor's insurance coverage shall be primary insurance as respects to the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess to the Contractor's insurance and shall not contribute with it. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

A. The City, its officers, officials, employees, agents and volunteers are to be covered as insured with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connections with such work or operations. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Civil Code § 27882(b). General liability coverage can be provided in the form of an endorsement to the Contractor's insurance, or as a separate owner's policy.

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

C. Each insurance policy required by this clause shall be endorsed to state that the City shall receive not less than thirty (30) days' prior written notice Page 26 of 31 of cancellation (except

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for nonpayment for which a ten (10) day notice is required) or nonrenewal of any policies of insurance required hereunder.

D. Requirements of specific coverage features, or limits contained in this Agreement are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

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

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

Additionally Insured Status. General liability policies shall provide or be endorsed to provide that Agency and its officers, officials, employees, and agents shall be additional insured under such policies. The provision shall also apply to any excess liability policies.

Excess umbrella insurance can fill the gap between the standard insurance and the dollar limits requested. Umbrella or excess liability policies with limits that will provide bodily injury, personal injury, and property damage liability coverage, including commercial general liability, automobile liability, and employer's liability. Such policy or policies shall include the following terms and conditions: a drop-down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason, other than bankruptcy or insolvency of said primary insurer; "pay on behalf of" wording as opposed to "reimbursement"; concurrency of effective dates with primary policies. Should an excess liability policy be obtained and maintained, such policy shall be excess over commercial general liability, automobile liability, and employer's liability policies. Such policy or policies shall include wording that the excess liability policy follows the terms and conditions of the underlying policies.

Duration of Coverage. Contractor shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work under this Agreement by Contractor, its agents, representatives, employees, subcontractors or subconsultants.

City's Rights of Enforcement of Contract Provisions. In the event any policy of insurance required under this Agreement does not comply with these requirements or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Contractor or City will withhold amounts sufficient to pay premium from Contractor payments. In the alternative, City may cancel this Agreement.

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City's Right to Revise Requirements. City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Contractor a ninety (90)-day advance written notice of such change. If such changes results in substantial additional cost to the Contractor, the City and Contractor may renegotiate Contractor's Compensation.

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

Original Certificates and Amendatory Endorsements. Contractor shall furnish the City with original certificates and amendatory endorsements effecting coverage required by the City. The endorsements should be on forms provided by the City or on other than the City's forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

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

Additional Insurance. Further, Contractor shall obtain any additional kinds and amounts of insurance which, in its own judgment, may be necessary for the proper protection of any of its officers', employees', or authorized subcontractors' own actions during the performance of this Agreement.

Return of Bidder's Guarantees: Proposal guarantees will be held until the contract has been finally executed, after which they will be returned to the respective bidders whose proposals they accompany.

If the bidder to whom award is made fails to enter into the contract as herein provided, the award will be annulled, and an award may be made to the next lowest responsible bidder, and such bidder shall fulfill every stipulation embraced herein as if he were the party to whom the first award was made.

The Notice to Bidders, Proposal, Bonds, Instructions to Bidders, General Provisions and Specifications, shall be deemed incorporated in the contract by reference. A corporation to which an award is made will be required, before the contract is finally executed, to furnish evidence of its corporate existence and evidence that the officer signing the contract and bonds for the corporation is duly authorized to do so.

Laws and Regulations: The bidder's attention is directed to the fact that all applicable State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.

Safety Standards and Accident Prevention: With respect to all work performed under this contract, the Contractor shall:

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Comply with the safety standards provisions of applicable laws, building and construction codes and the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, and the requirements of the Occupational Safety and Health Act of 1970 (Public Law 91-596).

Exercise every precaution at all times for the prevention of accidents and the protection of persons (including employees) and property. Maintain at his/her office or other well known place at the job site, all articles necessary for giving first aid to the injured, and shall make standing arrangements for the immediate removal to a hospital or a doctor's care of persons (including employees), who may be injured on the job site. In no case shall employees be permitted to work at a job site before the employer has made a standing arrangement for removal of injured persons to a hospital or a doctor's care.

Coordination of Contract Documents: The contract documents are intended to be cooperative and a requirement occurring in one shall be as binding as though occurring in all. Plan shows locations and work areas; in case of ambiguities, the Special Provisions shall govern over both the plan and General Conditions.

Schedule of Work: The Contractor shall furnish the City with a schedule showing how s/he intends to carry out the work, including dates s/he starts various phases of the work. The Contractor will not be allowed to commence work on the project until the City has accepted a project schedule.

Utilities: It is the Contractor's responsibility to determine specific utility location. In the event any such utility should be disturbed or damaged, the Contractor shall notify the utility company and shall bear the cost of any repairs that have to be made. No compensation will be allowed for repairing of damage, incurred by the Contractor, to any utility line. Contractor shall notify Underground Service Alert before commencing any groundwork.

Utility Owner Identifications: Utility owners who may have facilities that may affect the work are as follows:

California-American Water Co.
8657 Grand Ave.
Rosemead, CA 91770
(626) 614-2534

Charter Communications
4781 Irwindale Avenue
Irwindale, CA 91706
Henry Martinez (626) 430-3337

Southern California Gas Co.
9400 Oakdale Avenue
Chatsworth, CA 91311
(626) 815-4010

Southern California Edison Co.
1440 S. California Street
Monrovia, CA 91016
(626) 303-8464

Frontier
5010 Azusa Canyon Road
Irwindale, CA 91706
(626) 813-4521

Underground Service Alert
(800) 422-4133

Prosecution, Progress and Acceptance of Work: Default by Contractor. Contractor's attention is directed to the provisions within the Standard Specifications regarding cancellation. Any lapse, even for a short

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term, in the Contractor's performance of this work in full compliance with the contract may result in cancellation of the contract.

Time and Completion: The Contractor shall complete all work within the allowed days (**see bid proposal**) from the effective day reflected on the Notice to Proceed.

Liquidated Damages. The last sentence of the first paragraph of Section 6-9 of the SSPWC is changed to read: "For each consecutive calendar day in excess of the time specified for the completion of the Work, as adjusted in accordance with 6-6, the Contractor shall pay to the Agency, or have from monies due it, the sum of \$1000.00. per calendar day."

Responsibilities of the Contractor in Conduct of his Work:

Labor Discrimination. No discrimination shall be made in the employment of such persons upon public works because of race, color, or religion of such persons, and every Contractor for public works violating this section is subject to all the penalties imposed for a violation of Chapter 1 of Part VII, Division 2 of the Labor Code, in accordance with the provisions of Section 1735 thereof.

Contractor's Responsibility for Work: Except as provided above, until the formal acceptance of the work by the City, the Contractor shall have the charge and care thereof, and shall bear the risk of injury or damage to any part thereof, by the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bare the expense thereof, except such injuries or damages occasioned by act of the Federal Government or public enemy.

Traffic and Access is amended by addition of the following:

The Contractor shall furnish all flagmen and guards, and supply and install all signs, lights, barricades, delineators, and other facilities that are necessary to expedite the passage of public traffic through or around the work or to prevent accidents or damage or injury because of the dangerous conditions to be encountered. All traffic control shall be in conformance with the California Code and the Work Area Traffic Control Handbook (WATCH) latest edition.

Street closures shall not be allowed without the written permission of the Community Development Director or his designated representative.

Measure and Payment is modified by addition of the following paragraphs:

The Contractor agrees that the payment of the amount due under the contract, and the adjustment and payment of the amount due under the contract, and the adjustment and payment for any work done in accordance with all alterations of the same, shall release the City of Duarte, and its agents from any and all claims or liability on account of work performed under the contract or any alterations thereof.

Progress Payments. The Contractor shall be entitled each month to a monthly progress payment in an amount equal to ninety percent (95%) of the estimated percentage of actual work satisfactorily completed.

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This payment on account shall in no way be considered as an acceptance of any part of the work or materials of the contract, nor shall it in anyway govern the final estimate.

Final Payment. After the completion of the contract, the inspector shall make a final inspection of the work done thereunder and, if entirely satisfactory and complete, the City shall pay the balance of the contract price remaining unpaid 35 days after the recording of a Notice of Completion by the City. The payment of the final amount due under the contract and the adjustment and payment for any work done in accordance with any alterations of the same shall release the City from any and all claims on account of the work performed under the contract or any alterations thereof.

Indemnification and Hold Harmless Indemnification:

Contractor shall indemnify, protect, defend and hold free and harmless the City, its officers, officials, employees, agents and volunteers from and against any and all damages to property or injuries to or death of any person or persons, and shall defend, indemnify, save and hold harmless City, its officers, officials, employees, agents and volunteers from any and all claims, demands, suits, actions or proceedings of any kind or nature, including, but not by way of limitation, all civil claims, workers' compensation claims, and all other claims resulting from or arising out of the acts, errors or omissions of Contractor, its employees and/or authorized subcontractors, whether intentional or negligent, in the performance of this Agreement. When the law establishes a professional standard of care for Contractor/Consultant's Services, to the fullest extent permitted by law, Contractor/Consultant shall indemnify, protect, defend and hold harmless the City and any and all of its officials, employees, and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including legal counsel's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Contractor/Consultant, its Page 28 of 31 officers, agents, employees or Subconsultants/contractors (or any agency or individual that Consultant/Consultant shall bear the legal liability thereof) in the performance of professional services under this agreement.

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