

**CITY OF COACHELLA
CONSTRUCTION CONTRACT**

**STREET PAVEMENT REHABILITATION PHASE 17
VISTA ESCONDIDA NEIGHBORHOOD SLURRY SEAL AND STRIPING IMPROVEMENTS
CITY PROJECT ST-105**

1. PARTIES AND DATE.

This Contract is made and entered into this 14th day of September, 2022 by and between the City of Coachella, a municipal organization organized under the laws of the State of California with its principal place of business at 53990 Enterprise Way, Coachella, California 92236 (“City”) and Petrochem Materials Innovation, LLC, a construction company with its principal place of business at 6168 Innovation Way, Carlsbad, CA 92009 (“Contractor”). City and Contractor are sometimes individually referred to as “Party” and collectively as “Parties” in this Contract.

2. RECITALS.

2.1 City. City is a municipal organization organized under the laws of the State of California, with the power to contract for services necessary to achieve its purpose.

2.2 Contractor. Contractor desires to perform and assume responsibility for the provision of certain construction services required by the City on the terms and conditions set forth in this Contract. Contractor represents that it is duly licensed and experienced in providing the construction work as described in the scope of work, Attachment A, related construction services to public clients, that it and its employees or subcontractors have all necessary licenses and permits to perform the services in the State of California, and that it is familiar with the plans of City. The following license classifications are required for this Project:

License A – General Engineering Contractor.

2.3 Project. City desires to engage Contractor to render such services for Street Pavement Rehabilitation Phase 17 Project, City Project ST-105 (“Project”) as set forth in this Contract.

2.4 Project Documents & Certifications. Contractor has obtained, and delivers concurrently herewith, a performance bond, a payment bond, and all insurance documentation, as required by the Contract.

3. TERMS

3.1 Incorporation of Documents. This Contract includes and hereby incorporates in full by reference the following documents, including all exhibits, drawings, specifications and documents therein, and attachments and addenda thereto:

- a. Scope of Work & Schedule of Payment
- b. Location Areas
- c. Contractor’s Certificate Regarding Workers’ Compensation
- d. Public Works Contractor Registration Certification

- e. Payment and Performance Bonds
- f. City of Los Angeles Contract
- g. Project Cost Estimate

The Contractor shall complete the Work in strict accordance with all of the Contract Documents.

All of the Contract Documents are intended to be complementary. Work required by one of the Contract Documents and not by others shall be done as if required by all. In the event of conflict, the various Contract Documents will be given effect in order set forth in the General Conditions. This contract shall supersede any prior agreements of parties.

3.2 Contractor's Basic Obligation; Scope of Work. Contractor promises and agrees, at its own cost and expense, to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately complete the Project, including all structures and facilities necessary for the Project or described in the Contract (hereinafter sometimes referred to as the "Work"), for a Total Contract Price as specified pursuant to this Contract. All Work shall be subject to, and performed in accordance with the above referenced documents.

3.2.1 Change in Scope of Work. Any change in the scope of the Work, method of performance, nature of materials or price thereof, or any other matter materially affecting the performance or nature of the Work shall not be paid for or accepted unless such change, addition or deletion is approved in writing by a valid change order executed by the City. Should Contractor request a change order due to unforeseen circumstances affecting the performance of the Work, such request shall be made within five (5) business days of the date such circumstances are discovered or shall waive its right to request a change order due to such circumstances. If the Parties cannot agree on any change in price required by such change in the Work, the City may direct the Contractor to proceed with the performance of the change on a time and materials basis.

3.2.2 Substitutions/"Or Equal". Pursuant to Public Contract Code Section 3400(b), the City may make a finding that designates certain products, things, or services by specific brand or trade name. Unless specifically designated in this Contract, whenever any material, process, or article is indicated or specified by grade, patent, or proprietary name or by name of manufacturer, such Specifications shall be deemed to be used for the purpose of facilitating the description of the material, process or article desired and shall be deemed to be followed by the words "or equal."

Contractor may, unless otherwise stated, offer for substitution any material, process or article which shall be substantially equal or better in every respect to that so indicated or specified in this Contract. However, the City may have adopted certain uniform standards for certain materials, processes and articles. Contractor shall submit requests, together with substantiating data, for substitution of any "or equal" material, process or article no later than thirty-five (35) days after award of the Contract. To facilitate the construction schedule and sequencing, some requests may need to be submitted before thirty-five (35) days after award of Contract. Provisions regarding submission of "or equal" requests shall not in any way authorize an extension of time for performance of this Contract. If a proposed "or equal" substitution request

is rejected, Contractor shall be responsible for providing the specified material, process or article. The burden of proof as to the equality of any material, process or article shall rest with Contractor.

The City has the complete and sole discretion to determine if a material, process or article is an “or equal” material, process or article that may be substituted. Data required to substantiate requests for substitutions of an “or equal” material, process or article data shall include a signed affidavit from Contractor stating that, and describing how, the substituted “or equal” material, process or article is equivalent to that specified in every way except as listed on the affidavit. Substantiating data shall include any and all illustrations, specifications, and other relevant data including catalog information which describes the requested substituted “or equal” material, process or article, and substantiates that it is an “or equal” to the material, process or article. The substantiating data must also include information regarding the durability and lifecycle cost of the requested substituted “or equal” material, process or article. Failure to submit all the required substantiating data, including the signed affidavit, to the City in a timely fashion will result in the rejection of the proposed substitution.

Contractor shall bear all of the City’s costs associated with the review of substitution requests. Contractor shall be responsible for all costs related to a substituted “or equal” material, process or article. Contractor is directed to the Special Conditions (if any) to review any findings made pursuant to Public Contract Code section 3400.

3.3 Period of Performance and Liquidated Damages. Contractor shall perform and complete all Work under this Contract before December 15, 2022, beginning the effective date of the Notice to Proceed (“Contract Time”). Contractor shall perform its Work in strict accordance with any completion schedule, construction schedule or project milestones developed by the City. Such schedules or milestones may be included as part of Attachment “A” attached hereto, or may be provided separately in writing to Contractor. Contractor agrees that if such Work is not completed within the aforementioned Contract Time and/or pursuant to any such completion schedule, construction schedule or project milestones developed pursuant to provisions of the Contract, it is understood, acknowledged and agreed that the City will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to the City as fixed and liquidated damages the sum of \$3,000 per day for each and every calendar day of delay beyond the Contract Time or beyond any completion schedule, construction schedule or Project milestones established pursuant to the Contract.

3.4 Standard of Performance; Performance of Employees. Contractor shall perform all Work under this Contract in a skillful and workmanlike manner, and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Work. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Work assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Work, including any required business license, and that such licenses and approvals shall be maintained throughout the term of this Contract. As provided for in the indemnification provisions of this Contract, Contractor shall perform, at its own cost and expense and without reimbursement from the City, any work necessary to correct errors or omissions which are caused by Contractor’s failure to comply with the standard of care provided for herein. Any employee who is determined by the City to be

uncooperative, incompetent, a threat to the safety of persons or the Work, or any employee who fails or refuses to perform the Work in a manner acceptable to the City, shall be promptly removed from the Project by Contractor and shall not be re-employed on the Work.

3.5 Control and Payment of Subordinates; Contractual Relationship. City retains Contractor on an independent contractor basis and Contractor is not an employee of City. Any additional personnel performing the work governed by this Contract on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance under this Contract and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

3.6 City's Basic Obligation. City agrees to engage and does hereby engage Contractor as an independent contractor to furnish all materials and to perform all Work according to the terms and conditions herein contained for the sum set forth above. Except as otherwise provided in the Contract, the City shall pay to Contractor, as full consideration for the satisfactory performance by Contractor of the services and obligations required by this Contract, the below-referenced compensation in accordance with compensation provisions set forth in the Contract.

3.7 Compensation and Payment.

3.7.1 Amount of Compensation. As consideration for performance of the Work required herein, City agrees to pay Contractor the Total Contract Price of **Three Hundred Seventy-Six Thousand Two Hundred and Sixty-Nine Dollars and Twenty-Eight Cents (\$376,269.28)** provided that such amount shall be subject to adjustment pursuant to the applicable terms of this Contract or written change orders approved and signed in advance by the City.

3.7.2 Payment of Compensation. If the Work is scheduled for completion in thirty (30) or less calendar days, City will arrange for payment of the Total Contract Price upon completion and approval by City of the Work. If the Work is scheduled for completion in more than thirty (30) calendar days, City will pay Contractor on a monthly basis as provided for herein. On or before the fifth (5th) day of each month, Contractor shall submit to the City an itemized application for payment in the format supplied by the City indicating the amount of Work completed since commencement of the Work or since the last progress payment. These applications shall be supported by evidence which is required by this Contract and such other documentation as the City may require. The Contractor shall certify that the Work for which payment is requested has been done and that the materials listed are stored where indicated. Contractor may be required to furnish a detailed schedule of values upon request of the City and in such detail and form as the City shall request, showing the quantities, unit prices, overhead, profit, and all other expenses involved in order to provide a basis for determining the amount of progress payments.

3.7.3 Prompt Payment. City shall review and pay all progress payment requests in accordance with the provisions set forth in Section 20104.50 of the California Public Contract Code. However, no progress payments will be made for Work not completed in accordance with this Contract. Contractor shall comply with all applicable laws, rules and regulations relating to the proper payment of its employees, subcontractors, suppliers or others.

3.7.4 Contract Retentions. From each approved progress estimate, five percent (5%) will be deducted and retained by the City, and the remainder will be paid to Contractor. All Contract retention shall be released and paid to Contractor and subcontractors pursuant to California Public Contract Code Section 7107.

3.7.5 Other Retentions. In addition to Contract retentions, the City may deduct from each progress payment an amount necessary to protect City from loss because of: (1) liquidated damages which have accrued as of the date of the application for payment; (2) any sums expended by the City in performing any of Contractor's obligations under the Contract which Contractor has failed to perform or has performed inadequately; (3) defective Work not remedied; (4) stop payment notices as allowed by state law; (5) reasonable doubt that the Work can be completed for the unpaid balance of the Total Contract Price or within the scheduled completion date; (6) unsatisfactory prosecution of the Work by Contractor; (7) unauthorized deviations from the Contract; (8) failure of Contractor to maintain or submit on a timely basis proper and sufficient documentation as required by the Contract or by City during the prosecution of the Work; (9) erroneous or false estimates by Contractor of the value of the Work performed; (10) any sums representing expenses, losses, or damages as determined by the City, incurred by the City for which Contractor is liable under the Contract; and (11) any other sums which the City is entitled to recover from Contractor under the terms of the Contract or pursuant to state law, including Section 1727 of the California Labor Code. The failure by the City to deduct any of these sums from a progress payment shall not constitute a waiver of the City's right to such sums.

3.7.6 Substitutions for Contract Retentions. In accordance with California Public Contract Code Section 22300, the City will permit the substitution of securities for any monies withheld by the City to ensure performance under the Contract. At the request and expense of Contractor, securities equivalent to the amount withheld shall be deposited with the City, or with a state or federally chartered bank in California as the escrow agent, and thereafter the City shall then pay such monies to Contractor as they come due. Upon satisfactory completion of the Contract, the securities shall be returned to Contractor. For purposes of this Section and Section 22300 of the Public Contract Code, the term "satisfactory completion of the contract" shall mean the time the City has issued written final acceptance of the Work and filed a Notice of Completion as required by law and provisions of this Contract. Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon. The escrow agreement used for the purposes of this Section shall be in the form provided by the City.

3.7.7 Title to Work. As security for partial, progress, or other payments, title to Work for which such payments are made shall pass to the City at the time of payment. To the extent that title has not previously been vested in the City by reason of payments, full title shall pass to the City at delivery of the Work at the destination and time specified in this Contract. Such transferred title shall in each case be good, free and clear from any and all security interests, liens, or other encumbrances. Contractor promises and agrees that it will not pledge, hypothecate, or otherwise encumber the items in any manner that would result in any lien, security interest, charge, or claim upon or against said items. Such transfer of title shall not imply acceptance by the City, nor relieve Contractor from the responsibility to strictly comply with the Contract, and shall not relieve Contractor of responsibility for any loss of or damage to items.

3.7.8 Labor and Material Releases. Contractor shall furnish City with labor and material releases from all subcontractors performing work on, or furnishing materials for, the Work governed by this Contract prior to final payment by City.

3.7.9 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720 et seq., and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. Since the Services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Contract. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at Contractor’s principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. Contractor and any subcontractor shall forfeit a penalty of up to \$200 per calendar day or portion thereof for each worker paid less than the prevailing wage rates.

3.7.10 Apprenticeable Crafts. When Contractor employs workmen in an apprenticeable craft or trade, Contractor shall comply with the provisions of Section 1777.5 of the California Labor Code with respect to the employment of properly registered apprentices upon public works. The primary responsibility for compliance with said section for all apprenticeable occupations shall be with Contractor. The Contractor or any subcontractor that is determined by the Labor Commissioner to have knowingly violated Section 1777.5 shall forfeit as a civil penalty an amount not exceeding \$100 for each full calendar day of noncompliance, or such greater amount as provided by law.

3.7.11 Hours of Work. Contractor is advised that eight (8) hours labor constitutes a legal day’s work. Pursuant to Section 1813 of the California Labor Code, Contractor shall forfeit a penalty of \$25.00 per worker for each day that each worker is permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week, except when payment for overtime is made at not less than one and one-half (1-1/2) times the basic rate for that worker.

3.7.12 Payroll Records. Contractor and each 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 shall be certified and shall be available for inspection at all reasonable hours at the principal office of Contractor in the manner provided in Labor Code section 1776. In the event of noncompliance with the requirements of this section, Contractor shall have 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, Contractor shall, as a penalty to City, forfeit not more than \$100.00 for each calendar day or portion thereof, for each worker, until strict compliance is effectuated. The

amount of the forfeiture is to be determined by the Labor Commissioner. A contractor who is found to have violated the provisions of law regarding wages on Public Works with the intent to defraud shall be ineligible to bid on Public Works contracts for a period of one to three years as determined by the Labor Commissioner. 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 responsibility for compliance with this section is on Contractor. The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

3.7.13 Contractor and Subcontractor Registration. Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. Contractor is directed to review, fill out and execute the Public Works Contractor Registration Certification attached hereto as Attachment "E" prior to contract execution. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

3.7.14 Labor Compliance. This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be the Contractor's sole responsibility to evaluate and pay the cost of complying with all labor compliance requirements under this Contract and applicable law. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of Work, including any delay, shall be Contractor's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay subject to any applicable liquidated damages and shall not be compensable by the City. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

3.8 Performance of Work; Jobsite Obligations.

3.8.1 Water Quality Management and Compliance.

3.8.1.1 Water Quality Management and Compliance. Contractor shall keep itself and all subcontractors, staff, and employees fully informed of and in compliance with all local, state and federal laws, rules and regulations that may impact, or be implicated by the performance of the Work including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); local ordinances regulating discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the State.

3.8.1.2 Compliance with the Statewide Construction General Permit. Contractor shall comply with all conditions of the most recent iteration of the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity, issued by the California State Water Resources Control Board ("Permit"). It shall be Contractor's sole responsibility to file a Notice of Intent and procure coverage under the Permit for all construction activity which results in the disturbance of more than one acre of total land area or which is part of a larger common area of development or sale. Prior to initiating work, Contractor shall be solely responsible for preparing and implementing a Storm Water Pollution Prevention Plan (SWPPP) as required by the Permit. Contractor shall be responsible for procuring, implementing and complying with the provisions of the Permit and the SWPPP, including the standard provisions, and monitoring and reporting requirements as required by the Permit. The Permit requires the SWPPP to be a "living document" that changes as necessary to meet the conditions and requirements of the job site as it progresses through different phases of construction and is subject to different weather conditions. It shall be Contractor's sole responsibility to update the SWPPP as necessary to address conditions at the project site.

3.8.1.3 Other Water Quality Rules Regulations and Policies. Contractor shall comply with the lawful requirements of any applicable municipality, drainage City, or local agency regarding discharges of storm water to separate storm drain systems or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs.

3.8.1.4 Cost of Compliance. Storm, surface, nuisance, or other waters may be encountered at various times during construction of The Work. Therefore, the Contractor, by submitting a Bid, hereby acknowledges that it has investigated the risk arising from such waters, has prepared its Bid accordingly, and assumes any and all risks and liabilities arising therefrom.

3.8.1.5 Liability for Non-Compliance. Failure to comply with the Permit is a violation of federal and state law. Pursuant to the indemnification provisions of this Contract, Contractor hereby agrees to defend, indemnify and hold harmless the City and its officials, officers, employees, volunteers and agents for any alleged violations. In addition, City may seek damages from Contractor for any delay in completing the Work in accordance with the Contract, if such delay is caused by or related to Contractor's failure to comply with the Permit.

3.8.1.6 Reservation of Right to Defend. City reserves the right to defend any enforcement action brought against the City for Contractor's failure to comply with the Permit or any other relevant water quality law, regulation, or policy. Pursuant to the indemnification provisions of this Contract, Contractor hereby agrees to be bound by, and to reimburse the City for the costs (including the City's attorney's fees) associated with, any settlement reached between the City and the relevant enforcement entity.

3.8.1.7 Training. In addition to the standard of performance requirements set forth in paragraph 3.4, Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Work assigned to them without impacting water quality in violation of the laws, regulations and policies described in paragraph 3.8.1. Contractor further warrants that it, its employees and subcontractors will receive

adequate training, as determined by City, regarding the requirements of the laws, regulations and policies described in paragraph 3.8.1 as they may relate to the Work provided under this Agreement. Upon request, City will provide the Contractor with a list of training programs that meet the requirements of this paragraph.

3.8.2 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. Contractor shall comply with the requirements of the specifications relating to safety measures applicable in particular operations or kinds of work. In carrying out its Work, Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the Work and the conditions under which the Work is to be performed. Safety precautions as applicable shall include, but shall not be limited to, adequate life protection and lifesaving equipment; adequate illumination for underground and night operations; instructions in accident prevention for all employees, such as machinery guards, safe walkways, scaffolds, ladders, bridges, gang planks, confined space procedures, trenching and shoring, fall protection and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and adequate facilities for the proper inspection and maintenance of all safety measures. Furthermore, Contractor shall prominently display the names and telephone numbers of at least two medical doctors practicing in the vicinity of the Project, as well as the telephone number of the local ambulance service, adjacent to all telephones at the Project site.

3.8.3 Laws and Regulations. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Contract or the Work, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Work. If Contractor observes that the drawings or specifications are at variance with any law, rule or regulation, it shall promptly notify the City in writing. Any necessary changes shall be made by written change order. If Contractor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Contractor shall be solely responsible for all costs arising therefrom. City is a public entity of the State of California subject to certain provisions of the Health & Safety Code, Government Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a municipality are a part of this Contract to the same extent as though set forth herein and will be complied with. Contractor shall defend, indemnify and hold City, its officials, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Contract, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.8.4 Permits and Licenses. Contractor shall be responsible for securing City permits and licenses necessary to perform the Work described herein, including, but not limited to, any required business license. While Contractor will not be charged a fee for any City permits, Contractor shall pay the City's business license fee, if any. Any ineligible contractor or subcontractor pursuant to Labor Code Sections 1777.1 and 1777.7 may not perform work on this Project.

3.8.5 Trenching Work. If the Total Contract Price exceeds \$25,000 and if the Work governed by this Contract entails excavation of any trench or trenches five (5) feet or more

in depth, Contractor shall comply with all applicable provisions of the California Labor Code, including Section 6705. To this end, Contractor shall submit for City's review and approval a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the shoring system standards, the plan shall be prepared by a registered civil or structural engineer.

3.8.6 Hazardous Materials and Differing Conditions. As required by California Public Contract Code Section 7104, if this Contract involves digging trenches or other excavations that extend deeper than four (4) feet below the surface, Contractor shall promptly, and prior to disturbance of any conditions, notify City of: (1) any material discovered in excavation that Contractor believes to be a hazardous waste that is required to be removed to a Class I, Class II or Class III disposal site; (2) subsurface or latent physical conditions at the site differing from those indicated by City; and (3) unknown physical conditions of an unusual nature at the site, significantly different from those ordinarily encountered in such contract work. Upon notification, City shall promptly investigate the conditions to determine whether a change order is appropriate. In the event of a dispute, Contractor shall not be excused from any scheduled completion date and shall proceed with all Work to be performed under the Contract, but shall retain all rights provided by the Contract or by law for making protests and resolving the dispute.

3.8.7 Underground Utility Facilities. To the extent required by Section 4215 of the California Government Code, City shall compensate Contractor for the costs of: (1) locating and repairing damage to underground utility facilities not caused by the failure of Contractor to exercise reasonable care; (2) removing or relocating underground utility facilities not indicated in the construction drawings; and (3) equipment necessarily idled during such work. Contractor shall not be assessed liquidated damages for delay caused by failure of City to provide for removal or relocation of such utility facilities.

3.8.8 Air Quality. Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the California Air Resources Board (CARB). Although CARB limits and requirements are more broad, Contractor shall specifically be aware of their application to "portable equipment", which definition is considered by CARB to include any item of equipment with a fuel-powered engine. Contractor shall indemnify City against any fines or penalties imposed by CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

3.8.9 State Recycling Mandates. Contractor shall comply with State Recycling Mandates. Any recyclable materials/debris collected by the contractor that can be feasibly diverted via reuse or recycling must be hauled by the appropriate handler for reuse or recycling.

3.9 Completion of Work. When Contractor determines that it has completed the Work required herein, Contractor shall so notify City in writing and shall furnish all labor and material releases required by this Contract. City shall thereupon inspect the Work. If the Work is not acceptable to the City, the City shall indicate to Contractor in writing the specific portions or items of Work which are unsatisfactory or incomplete. Once Contractor determines that it has completed the incomplete or unsatisfactory Work, Contractor may request a re-inspection by the

City. Once the Work is acceptable to City, City shall pay to Contractor the Total Contract Price remaining to be paid, less any amount which City may be authorized or directed by law to retain. Payment of retention proceeds due to Contractor shall be made in accordance with Section 7107 of the California Public Contract Code.

3.10 Claims; Government Code Claim Compliance.

3.10.1 Intent. Effective January 1, 1991, Section 20104 et seq., of the California Public Contract Code prescribes a process utilizing informal conferences, non-binding judicial supervised mediation, and judicial arbitration to resolve disputes on construction claims of \$375,000 or less. Effective January 1, 2017, Section 9204 of the Public Contract Code prescribes a process for negotiation and mediation to resolve disputes on construction claims. The intent of this Section is to implement Sections 20104 et seq. and Section 9204 of the California Public Contract Code. This Section shall be construed to be consistent with said statutes.

3.10.2 Claims. For purposes of this Section, "Claim" means a separate demand by the Contractor, after a change order duly requested in accordance with the terms of this Contract has been denied by the City, for (A) a time extension, (B) payment of money or damages arising from Work done by or on behalf of the Contractor pursuant to the Contract, or (C) an amount the payment of which is disputed by the City. Claims governed by this Section may not be filed unless and until the Contractor completes all procedures for giving notice of delay or change and for the requesting of a time extension or change order, including but not necessarily limited to the change order procedures contained herein, and Contractor's request for a change has been denied in whole or in part. Claims governed by this Section must be filed no later than the date of final payment. The claim shall be submitted in writing to the City and shall include on its first page the following in 16 point capital font: "THIS IS A CLAIM." Furthermore, the claim shall include the documents necessary to substantiate the claim. Nothing in this Section is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims, including all requirements pertaining to compensation or payment for extra Work, disputed Work, and/or changed conditions. Failure to follow such contractual requirements shall bar any claims or subsequent lawsuits for compensation or payment thereon.

3.10.3 Supporting Documentation. The Contractor shall submit all claims in the following format:

3.10.3.1 Summary of claim merit and price, reference Contract Document provisions pursuant to which the claim is made

3.10.3.2 List of documents relating to claim:

- (A) Specifications
- (B) Drawings
- (C) Clarifications (Requests for Information)
- (D) Schedules
- (E) Other

- 3.10.3.3 Chronology of events and correspondence
- 3.10.3.4 Analysis of claim merit
- 3.10.3.5 Analysis of claim cost
- 3.10.3.6 Time impact analysis in CPM format

3.10.4 City's Response. Upon receipt of a claim pursuant to this Section, City shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the Contractor a written statement identifying what portion of the claim is disputed and what portion is undisputed. Any payment due on an undisputed portion of the claim will be processed and made within 60 days after the public entity issues its written statement.

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

3.10.4.2 Within 30 days of receipt of a claim, City may request in writing additional documentation supporting the claim or relating to defenses or claims City may have against the Contractor. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of City and the Contractor.

3.10.4.3 City's written response to the claim, as further documented, shall be submitted to the Contractor within 30 days (if the claim is less than \$50,000, within 15 days) after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater.

3.10.5 Meet and Confer. If the Contractor disputes City's written response, or City fails to respond within the time prescribed, the Contractor may so notify City, in writing, either within 15 days of receipt of City's response or within 15 days of City's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand, City shall schedule a meet and confer conference within 30 days for settlement of the dispute.

3.10.6 Mediation. Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, City shall provide the Contractor a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after City issues its written statement. Any disputed portion of the claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation, with City and the Contractor sharing the associated costs equally. City and Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing, unless the parties agree to select a mediator at a later time.

3.10.6.1 If the Parties cannot agree upon a mediator, each Party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each Party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator.

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

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

3.10.6.4 The mediation shall be held no earlier than the date the Contractor completes the Work or the date that the Contractor last performs Work, whichever is earlier. All unresolved claims shall be considered jointly in a single mediation, unless a new unrelated claim arises after mediation is completed.

3.10.7 Procedures after Mediation. If following the mediation, the claim or any portion remains in dispute, the Contractor must file a claim pursuant to Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the Contractor submits his or her written claim pursuant to subdivision (a) until the time the claim is denied, including any period of time utilized by the meet and confer conference or mediation.

3.10.8 Civil Actions. The following procedures are established for all civil actions filed to resolve claims subject to this Section:

3.10.8.1 Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to non-binding mediation unless waived by mutual stipulation of both parties or unless mediation was held prior to commencement of the action in accordance with Public Contract Code section 9204 and the terms of these procedures.. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court.

3.10.8.2 If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1114.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

3.10.8.3 In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, (A) arbitrators shall, when possible,

be experienced in construction law, and (B) any party appealing an arbitration award who does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, also pay the attorney's fees on appeal of the other party.

3.10.9 Government Code Claims. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City. A Government Code claim must be filed no earlier than the date the work is completed or the date the Contractor last performs work on the Project, whichever occurs first. A Government Code claim shall be inclusive of all unresolved claims unless a new unrelated claim arises after the Government Code claim is submitted.

3.10.10 Non-Waiver. City's failure to respond to a claim from the Contractor within the time periods described in this Section or to otherwise meet the time requirements of this Section shall result in the claim being deemed rejected in its entirety. City's failure to respond shall not waive City's rights to any subsequent procedures for the resolution of disputed claims.

3.11 Loss and Damage. Except as may otherwise be limited by law, Contractor shall be responsible for all loss and damage which may arise out of the nature of the Work agreed to herein, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the Work until the same is fully completed and accepted by City. In the event of damage proximately caused by an Act of God, as defined by Section 7105 of the Public Contract Code, the City may terminate this Contract pursuant to Section 3.17.3; provided, however, that the City needs to provide Contractor with only one (1) day advanced written notice.

3.12 Indemnification.

3.12.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City, its officials, employees, agents and authorized volunteers free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Contractor's services, the Project or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent required by Civil Code section 2782, Contractor's indemnity obligation shall not apply to liability for damages for death or bodily injury to persons, injury to property, or any other loss, damage or expense arising from the sole or active negligence or willful misconduct of the City or the City's agents, servants, or independent

contractors who are directly responsible to the City, or for defects in design furnished by those persons.

3.12.2 Additional Indemnity Obligations. Contractor shall defend, with counsel of City's choosing and at Contractor's own cost, expense and risk, any and all Claims covered by this section that may be brought or instituted against City or its officials, employees, agents and authorized volunteers. In addition, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City or its officials, employees, agents and authorized volunteers as part of any such claim, suit, action or other proceeding. Contractor shall also reimburse City for the cost of any settlement paid by City or its officials, employees, agents and authorized volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Contractor shall reimburse City and its officials, employees, agents and authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its officials, employees, agents and authorized volunteers.

3.13 Insurance.

3.13.1 Time for Compliance. Contractor shall not commence Work under this Contract until it has provided evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Contract for cause.

3.13.2 Minimum Requirements. Contractor shall, at its expense, procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Contract. Such insurance shall meet at least the following minimum levels of coverage:

3.13.2.1 Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01) OR Insurance Services Office Owners and Contractors Protective Liability Coverage Form (CG 00 09 11 88) (coverage for operations of designated contractor); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 00 01, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. Policies shall not contain exclusions contrary to this Contract.

3.13.2.2 Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability*: \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury and property damage; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's*

Liability: Workers' compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000 each accident, policy limit bodily injury or disease, and each employee bodily injury or disease. Defense costs shall be available in addition to the limits. Notwithstanding the minimum limits specified herein, any available coverage shall be provided to the parties required to be named as additional insureds pursuant to this Contract.

3.13.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Contractor shall provide endorsements (amendments) on forms supplied or approved by the City to add the following provisions to the insurance policies:

3.13.3.1 General Liability. (1) Such policy shall give the City, its officials, employees, agents and authorized volunteers additional insured status using ISO endorsements CG 20 10 10 01 plus CG 20 37 10 01, or endorsements providing the exact same coverage, with respect to the Work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such work; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it.

3.13.3.2 Automobile Liability. (1) Such policy shall give the City, its officials, employees, agents and authorized volunteers additional insured status with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Contractor or for which Contractor is responsible; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it in any way.

3.13.3.3 Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents and authorized volunteers for losses paid under the terms of the insurance policy which arise from work performed by Contractor.

3.13.3.4 All Coverages. Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (2) any failure to comply with reporting or other

provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its officials, employees, agents and authorized volunteers.

3.13.4 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its officials, employees, agents and authorized volunteers.

3.13.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. Contractor shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, employees, agents and authorized volunteers; or (2) the Contractor shall procure a bond or other financial guarantee acceptable to the City guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.13.6 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A: VII, licensed to do business in California, and satisfactory to the City. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

3.13.7 Verification of Coverage. Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Contract on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms supplied or approved by the City. All certificates and endorsements must 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, at any time.

3.13.8 Subcontractors. All subcontractors shall meet the requirements of this Section before commencing Work. Contractor shall furnish separate certificates and endorsements for each subcontractor. Subcontractor policies of General Liability insurance shall name the City, its officials, employees, agents and authorized volunteers as additional insureds using form ISO 20 38 04 13 or endorsements providing the exact same coverage. All coverages for subcontractors shall be subject to all of the requirements stated herein except as otherwise agreed to by the City in writing.

3.13.9 Reporting of Claims. Contractor shall report to the City, in addition to Contractor's insurer, any and all insurance claims submitted by Contractor in connection with the Work under this Contract.

3.14 Bond Requirements.

3.14.1 Payment Bond (Labor and Materials). Contractor shall execute and provide to City concurrently with this Contract a Payment Bond for one hundred percent (100%) of the Total Contract Price and in a form provided or approved by the City. No payment will be made to Contractor until the bond has been received and approved by the City.

3.14.2 Performance Bond. Contractor shall execute and provide to City concurrently with this Contract a Performance for one hundred percent (100%) of the Total Contract Price and in a form provided or approved by the City. No payment will be made to Contractor until the bond has been received and approved by the City.

3.14.3 Bond Provisions. Should, in City's sole opinion, any bond become insufficient or any surety be found to be unsatisfactory, Contractor shall renew or replace the effected bond within (ten) 10 days of receiving notice from City. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written notice shall be given to the City, and Contractor shall post acceptable replacement bonds at least ten (10) days prior to expiration of the original bonds. No further payments shall be deemed due or will be made under this Contract until any replacement bonds required by this Section are accepted by the City. To the extent, if any, that the Total Contract Price is increased in accordance with the Contract, Contractor shall, upon request of the City, cause the amount of the bond to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the City. If Contractor fails to furnish any required bond, the City may terminate the Contract for cause.

3.14.4 Surety Qualifications. Only bonds executed by an admitted surety insurer, as defined in California Code of Civil Procedure Section 995.120, shall be accepted. If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the City.

3.15 Warranty. Contractor warrants all Work under the Contract (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the Work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Contract or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Work or non-conformance of the Work to the Contract, commence and prosecute with due diligence all Work necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the Work (or work of other contractors) damaged by its defective Work or which becomes damaged in the course of repairing or replacing defective Work. For any Work so corrected, Contractor's obligation hereunder to correct defective Work shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected Work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Contract. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstatement of equipment and materials necessary to gain access, shall be the sole responsibility of Contractor. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the

City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Contract, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand.

3.16 Employee/Labor Certifications.

3.16.1 Contractor's Labor Certification. By its signature hereunder, Contractor certifies that he is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Work. A certification form for this purpose, which is attached to this Contract as Attachment "F" and incorporated herein by reference, shall be executed simultaneously with this Contract.

3.16.2 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

3.16.3 Verification of Employment Eligibility. By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subcontractors and sub-subcontractors to comply with the same.

3.17 General Provisions.

3.17.1 City's Representative. The City hereby designates the General Manager, or his or her designee, to act as its representative for the performance of this Contract ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Contract. Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.17.2 Contractor's Representative. Before starting the Work, Contractor shall submit in writing the name, qualifications and experience of its proposed representative who shall be subject to the review and approval of the City ("Contractor's Representative"). Following approval by the City, Contractor's Representative shall have full authority to represent and act on behalf of Contractor for all purposes under this Contract. Contractor's Representative shall supervise and direct the Work, using his best skill and attention, and shall be responsible for all construction means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Contract. Contractor's Representative shall devote full time to the Project and either he or his designee, who shall be acceptable to the City, shall be present at the Work site at all times that any Work is in progress and at any time that any

employee or subcontractor of Contractor is present at the Work site. Arrangements for responsible supervision, acceptable to the City, shall be made for emergency Work which may be required. Should Contractor desire to change its Contractor's Representative, Contractor shall provide the information specified above and obtain the City's written approval.

3.17.3 Termination. This Contract may be terminated by City at any time, either with or without cause, by giving Contractor three (3) days advance written notice. In the event of termination by City for any reason other than the fault of Contractor, City shall pay Contractor for all Work performed up to that time as provided herein. In the event of breach of the Contract by Contractor, City may terminate the Contract immediately without notice, may reduce payment to Contractor in the amount necessary to offset City's resulting damages, and may pursue any other available recourse against Contractor. Contractor may not terminate this Contract except for cause. In the event this Contract is terminated in whole or in part as provided, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated. Further, if this Contract is terminated as provided, City may require Contractor to provide all finished or unfinished documents, data, diagrams, drawings, materials or other matter prepared or built by Contractor in connection with its performance of this Contract.

3.17.4 Contract Interpretation. Should any question arise regarding the meaning or import of any of the provisions of this Contract or written or oral instructions from City, the matter shall be referred to City's Representative, whose decision shall be binding upon Contractor.

3.17.5 Anti-Trust Claims. This provision shall be operative if this Contract is applicable to California Public Contract Code Section 7103.5. In entering into this Contract to supply goods, services or materials, Contractor hereby offers and agrees to assign to the City 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. Section 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 Contract. This assignment shall be made and become effective at the time the City tender final payment to Contractor, without further acknowledgment by the Parties.

3.17.6 Notices. All notices hereunder and communications regarding interpretation of the terms of the Contract or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

CONTRACTOR:

PMI, LCC
6168 Innovation Way
Carlsbad, CA 92009
Attn: Charles Hoffman

CITY:

City of Coachella
53990 Enterprise Way

Coachella, CA 92236
Attn: Andrew Simmons, City Engineer

Any notice so given shall be considered received by the other Party three (3) days after deposit in the U.S. Mail as stated above and addressed to the Party at the above address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.17.7 Time of Essence. Time is of the essence in the performance of this Contract.

3.17.8 Assignment Forbidden. Contractor shall not, either voluntarily or by action of law, assign or transfer this Contract or any obligation, right, title or interest assumed by Contractor herein without the prior written consent of City. If Contractor attempts an assignment or transfer of this Contract or any obligation, right, title or interest herein, City may, at its option, terminate and revoke the Contract and shall thereupon be relieved from any and all obligations to Contractor or its assignee or transferee.

3.17.9 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.17.10 Laws, Venue, and Attorneys' Fees. This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Yolo, State of California.

3.17.11 Counterparts. This Contract may be executed in counterparts, each of which shall constitute an original.

3.17.12 Successors. The Parties do for themselves, their heirs, executors, administrators, successors, and assigns agree to the full performance of all of the provisions contained in this Contract.

3.17.13 Solicitation. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, City shall have the right to terminate this Contract without liability.

3.17.14 Conflict of Interest. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Contract, no director, official, officer or employee of City, during the term of his or her

service with City, shall have any direct interest in this Contract, or obtain any present or anticipated material benefit arising therefrom. In addition, Contractor agrees to file, or to cause its employees or subcontractors to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Work.

3.17.15 Certification of License.

3.17.15.1 Contractor certifies that as of the date of execution of this Contract, Contractor has a current contractor's license of the classification indicated below under Contractor's signature.

3.17.15.2 Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

3.17.16 Authority to Enter Contract. Each Party warrants that the individuals who have signed this Contract have the legal power, right and authority to make this Contract and bind each respective Party.

3.17.17 Entire Contract; Modification. This Contract contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Contract may only be modified by a writing signed by both Parties.

3.17.18 Non-Waiver. None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

3.17.19 City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this Project or other projects.

3.17.20 Federal Provisions. When funding for the Services is provided, in whole or in part, by an agency of the federal government, Contractor shall also fully and adequately comply with the Federal Provisions. With respect to any conflict between such Federal Requirements and the terms of this Agreement and/or the provisions of state law, the more stringent requirement shall control.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties on the day and year above written.

CITY OF COACHELLA

PETROCHEM MATERIALS INNOVATION, LLC

By: _____
Gabriel Martin
City Manager

By: _____

Title: _____

Printed Name: _____

ATTEST:

By: _____
Andrea Carranza, Deputy City Clerk

APPROVED AS TO FORM:

By: _____
Carlos Campos, City Attorney

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Coachella (hereinafter referred to as "City") has awarded to Petrochem Materials Innovation, LLC (PMI), (hereinafter referred to as the "Contractor") an agreement for Street Pavement Rehabilitation Phase 17 Vista Escondida Neighborhood Slurry Seal and Striping Improvements, City Project ST-105 (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated S, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Contractor is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, _____, the undersigned Contractor and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the City in the sum of **Three Hundred Seventy-Six Thousand Two Hundred and Sixty-Nine Dollars and Twenty-Eight Cents (\$376,269.28)**, said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount 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 the Contractor, 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 Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one-year guarantee of all materials and workmanship; and shall indemnify and save harmless the City, its officers and agents, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a condition precedent to the satisfactory completion of the Contract Documents, unless otherwise provided for in the Contract Documents, the above obligation shall hold good for a period of one (1) year after the acceptance of the work by City, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the City from loss or damage resulting from or caused by defective materials or faulty workmanship, Surety shall undertake and faithfully fulfill all such obligations. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the City's rights or the Contractor or Surety's obligations under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

Whenever Contractor shall be, and is declared by the City to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the City's option:

- (1) Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or
- (2) Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and the City, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.
- (3) Permit the City to complete the Project in any manner consistent with local, California and federal law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the City may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a bid from Contractor for completion of the Project if the City, when declaring the Contractor in default, notifies Surety of the City's objection to Contractor's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed thereunder shall in any way 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 Documents or to the Project, including but not limited to the provisions of sections 2819 and 2845 of the California Civil Code.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 2022.

(Corporate Seal)

Contractor/ Principal

By _____

Title _____

(Corporate Seal)

Surety

By _____

Attorney-in-Fact

Signatures of those signing for the Contractor and Surety must be notarized and evidence of corporate authority attached.

(Attach Attorney-in-Fact Certificate)

Title _____

The rate of premium on this bond is _____ per thousand. The total amount of premium charges, \$ _____.

(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of Agent or Representative for service of process in California, if different from above)

(Telephone number of Surety and Agent or Representative for service of process in California)

NOTE: A copy of the Power-of-Attorney authorizing the person signing on behalf of the Surety to do so must be attached hereto.

Notary Acknowledgment

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

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 2022, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- Individual
- Corporate Officer

Title(s)

- Partner(s) Limited
- General

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

PAYMENT BOND (LABOR AND MATERIALS)

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Coachella (hereinafter designated as the "City"), by action taken or a resolution passed September 14, 2022 has awarded to Petrochem Materials Innovation, LLC (PMI) hereinafter designated as the "Principal," a contract for the work described as follows:

Street Pavement Rehabilitation Phase 17 Vista Escondida Neighborhood Slurry Seal and Striping Improvements, City Project ST-105 (the "Project"); and

WHEREAS, the work to be performed by the Principal is more particularly set forth in the Contract Documents for the Project dated September 14, 2022 ("Contract Documents"), the terms and conditions of which are expressly incorporated by reference; and

WHEREAS, said Principal is required to furnish a bond in connection with said contract; providing that if said Principal or any of its Subcontractors shall fail to pay for any materials, provisions, provender, equipment, or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of said Principal and its Subcontractors with respect to such work or labor the Surety on this bond will pay for the same to the extent hereinafter set forth.

NOW THEREFORE, we, the Principal and _____ as Surety, are held and firmly bound unto the City in the penal sum of **Three Hundred Seventy-Six Thousand Two Hundred and Sixty-Nine Dollars and Twenty-Eight Cents (\$376,269.28)** lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Section 9100 of the Civil Code, fail to pay for any materials, provisions or other supplies, 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 amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Section 18663 of the Revenue and Taxation Code, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified.

This bond shall inure to the benefit of any of the persons named in Section 9100 of the Civil Code so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement

pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or City and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 9100 of the Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned and the provisions of sections 2819 and 2845 of the California Civil Code.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 2022.

(Corporate Seal)

Contractor/ Principal

By _____

Title _____

(Corporate Seal)

Surety

By _____
Attorney-in-Fact

Title _____

Signatures of those signing for the Contractor and Surety must be notarized and evidence of corporate authority attached. A Power-of-Attorney authorizing the person signing on behalf of the Surety to do so much be attached hereto.

NOTE: A copy of the Power-of-Attorney authorizing the person signing on behalf of the Surety to do so must be attached hereto.

Notary Acknowledgment

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

STATE OF CALIFORNIA
 COUNTY OF _____

On _____, 2022, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

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

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

WITNESS my hand and official seal.

Signature of Notary Public _____

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- Individual
- Corporate Officer

_____ Title(s)

- Partner(s) Limited
- General

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

Signer is representing:
 Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

_____ Title or Type of Document

_____ Number of Pages

_____ Date of Document

_____ Signer(s) Other Than Named Above

ATTACHMENT A

SCOPE OF WORK

The basic scope of work for the project includes the following items:

CMS Message Boards (Placed 2 Weeks Prior)
Resident Notification
Dust Control and Stormwater Best Management Practices (BMP's)
Installation and Maintenance of Proper Traffic Control
Striping Removals (Complete and to Satisfaction of City)
Street Sweeping/Cleaning (Including any Grease/Oil Spots)
Speed Hump Construction & Signage
Crack Cleaning & Filling
Utility & Monument Masking
REAS Slurry Application
Striping (Thermoplastic)
Post Sweeping of Ravel

The contractor shall supply all labor, material, and equipment to perform R.E.A.S slurry seal on designated neighborhood and residential streets upon an agreed schedule and as directed by the City of Coachella. The designated neighborhood includes Vista Escondida (+/-356,806 SF), which is located in the City of Coachella, California.

Materials, procedures, and payment terms is to be piggy-backed on the City of Los Angeles Contract Number ARC 40 59680 5 Amendment 08 Slurry, Premix R.E.A.S.

All traffic control is to be by contractor and shall be performed as approved by City of Coachella per approved traffic control plans and staging plans.

Contractor shall provide appropriate documentation identifying all striping and raised pavement marker removals and reinstallation for City Engineer approval, such work is included and will be performed by a contractor licensed in that work. Restripe shall be done per the appropriate documentation provided by the contractor and as "Tied-Out" in the field.

Dust Control and Stormwater BMPs shall be implemented to protect storm drain, retention basin drainage inlets and other structures, and shall be to the satisfaction of the City.

Unless otherwise stated or approved, the City will not be providing a yard or staging location, but the contractor will be allowed to stage his slurry tank and equipment within the work zone as long as it does not interfere with traffic or the residents' daily living.

A no-cost encroachment permit must be secured through the Engineering Division before work is started.

Contractor shall coordinate with the City/Coachella Water Authority for Construction Water and Meter. Full compensation for developing a water supply, for furnishing and placing all water required for work done in the Contract, including extra work, shall be included in the prices paid for the various items of work requiring water; and no separate payment will be made therefore.

Based on expected ambient temperatures in the City of Coachella, the work window is expected to start in the month of October and be completed within 30 Working Days (prior to the Thanksgiving Holiday if possible) after the Start date as listed on the notice to proceed. Anticipated application schedule is subject to change and or be modified by the City.

Special Notifications:

The Contractor shall coordinate his/her hours of operation and work with schools and their bus schedules, and bus stop locations that are located within the project area.

One (1) Portable Changeable Message Sign (PCMS) is required at each entrance (total 2) to the Vista Escondida/Escondida Pointe neighborhood located on Avenue 54 east of Cesar Chavez Street. They shall be placed two (2) weeks prior to the start of the crack cleaning, filling, and slurry application work and maintained throughout the construction period, unless otherwise approved by the City.

Notification to Residents:

The Contractor shall notify in person and with printed notification (in English and Spanish language), at least seven (7) working days prior to commencing work, to all agencies, firms, institutions, postal service, residents, hospital, Sun Bus, schools, stores, utilities and waste disposal service fronting or affected by the work. Additional printed notification (in English and Spanish language) shall be given not less than forty-eight (48) hours prior to performing any work which will restrict property access, close or partially close the street, or which will restrict or disallow street parking.

The Contractor will be responsible for the notification of local residents and commercial operators on streets scheduled to receive a slurry seal. Said notification shall be accomplished by distributing individual notices to each occupied residential and commercial property no more than 72 hours prior and no less than 48 hours prior to the scheduled application time. The notification shall provide the date and time the work is to begin and finish, the name, address and phone number of the Contractor, and a brief description of the work to be completed. The proposed notice shall be submitted with the tentative sealing schedule for review and approval by the City Engineer before distribution.

The Contractor should note that the public schools are generally busy with traffic between 6:45 am to 8:15 am and from 1:45 pm to 3:20 pm on weekdays. Contractor shall coordinate with Sunline Bus and Local School districts for coordination or temporary relocation of any Bus Stops located within the project areas.

The Contractor shall coordinate with waste disposal collection companies, postal, and delivery services to ensure delivery of mail and other items.

Temporary "No Parking" signs shall be posted on Type I barricades (minimum) at least 48 hours, but no more than 72 hours, in advance of the work. The signs shall be placed no more than 150 feet apart on each side of the street and at shorter intervals if conditions warrant. The Contractor shall provide the signs and will be responsible for adding the dates and hours of closure to the signs, removal of the signs, and furnishing and placing of barricades, if necessary, for posting of the signs. All signs shall be removed by the Contractor within 48 hours after the effective date.

The signs shall contain the day, date, hours and vehicle code that parking will be prohibited on that particular street, CVC 22651 L and CVC 22654D. The signs shall be removed immediately upon completion of work that will prohibit parking.

The printed notices and the "NO PARKING" signs shall be furnished by the Contractor.

All coordination, traffic control devices, measures, and Message Boards shall be included in the Traffic Control Bid Item and No additional compensation shall be allowed. Notification and Traffic Control Measures shall be to the satisfaction of the City.

If work cannot be completed on the same day as scheduled, then this work shall be rescheduled in one to two weeks and the residents shall be notified that the work will not be completed as scheduled and re-notified of new work day promptly. All "NO PARKING" signs must be promptly removed. No more than two (2) rescheduled streets shall be scheduled for the same day and they shall be the first order of work for that day.

The Contractor will be responsible for providing the City with a Color Coded GIS style, PDF map of crack fill, slurry work and staging per City sample. Such map shall be included in the Notice to Residents and include the proposed dates of the work in each area.

Crack Cleaning, Filling, and Slurry Operations:

Prior to applying slurry seal, the Contractor shall clean the street surface with a power sweeper, remove all R.P.M.'s, abrasively grind completely all lane lines, street legends, crosswalks or other painted or thermoplastic surfaces. This is necessary to provide a good bonding surface for the slurry seal, as well as eliminate "ghosting" of the old striping and markings as the new slurry wears off over time. If previous striping is encountered below the existing slurry surface, it shall be

blacked out with black paint prior to the application of slurry. Striping removals shall be to the satisfaction of the City.

The Contractor shall remove any and all weeds that are growing through cracks from the project street located within the pavement or growing between the concrete gutter and the pavement and blow cracks clean of weeds and debris using compressed air. The work shall be approved by the City prior to application of rubber crack sealant and or/or slurry. Full compensation for plant removal and crack cleaning as included in the Lump Sum cost for Crack Cleaning, and Filling.

Prior to applying slurry seal, all pavement cracks greater than or equal to 1/4" width shall be cleaned with a heat lance and sealed with Crafcro Polyflex Type III crack sealant, or approved equal per Subsection 201-3.7 "Type 'D' Joint Sealant (Hot-Poured Rubber-Asphalt Joint Sealant)". The Contractor should take note that all the streets within the limits may need crack treatment. It is the responsibility of the Contractor to perform a field review to determine which streets require the crack treatment. Cracks shall be cleaned for the entire crack depth using sandblasting, brushing and hot air blowing techniques, as required to provide a crack free from all debris, dust, loose material and moisture. Gauging or plowing may be required to remove incompressible material deep in the crack. The clean crack shall be filled with sealant, from the bottom up to surface level, in a manner which does not result in sealant bridging or entrapped air pockets. With deep cracks, settlement of sealant may occur, thus requiring application of a second layer of sealant material. **Cracks 1 inch in width and wider shall be filled with compacted pea-gravel and SS grade asphaltic emulsion or hot mix asphalt concrete as directed by the Engineer, so that the sealant does not exceed 1 inch in depth.** Where cracks already have sealant Contractor shall inspect the quality and repair as necessary as directed by the Engineer. Repair shall include removing the material and re-applying. Rubberized Crack Seal and asphalt pavement repairs adjacent to cross gutters, spandrels and repair of pot holes is included in the work.

No slurry seal material may be placed until after the crack seal material has been in place for a minimum of two (2) full calendar days. Crack sealant shall be applied with a wand, such that excess material is not remaining at the crack surface after sealing. Immediately remove crack treatment material that is spilled or deposited on the pavement surface. Before opening to traffic, apply sand or the manufacturer's recommended tack removal agent to tacky crack treatment material on the traveled way. Sweep up excess sand before opening to traffic. Payment for crack cleaning & sealing shall be included unit price bid per **Lump Sum (LS)** Bid Item for Crack Cleaning & Filling.

Prior to the application of the slurry, the contractor shall burn, scrape, brush, and seal all oils stains in the roadway and parking areas. Stain removal shall be to the satisfaction of the City. Contractor shall "mask" and protect all visible Manholes, Water Valves, Monuments, or other known utilities in the roadway. Such masking shall be removed upon completion of the slurry application.

Contractor shall supply and install Pre-Mixed Type II Rubber Emulsified Aggregate Slurry (REAS).

The application of REAS slurry shall not commence until after 8:00 a.m. and shall conclude at 1:30 p.m. unless other authorized by the Engineer. The slurry shall be sufficiently cured to be open to traffic by 4:00 p.m. The portions of streets to be slurried shall be closed from the time the application begins until the mixture has achieved sufficient cure time to be opened to traffic.

The Contractor shall “mechanically” sweep any raveled material on the street Two (2) weeks after the initial placement. If the Engineer determines the raveling is excessive, the frequency of sweeping shall be adjusted or increased until the raveling reaches a level of acceptability as determined by the City. If raveling continues after the streets have been swept, the City reserves the right to have the roads re-slurried by the Contractor at no cost to the City. Raveling can be identified by the presence of “black pebbles” in the gutter.

Type II Rubberized Emulsified Asphalt Slurry (REAS) will be measured for payment and paid according the payment schedules found in the City of Los Angeles Contract ID 59680-Amendment 09 Slurry. Payment for slurry seal includes full compensation for constructing the slurry seal, complete in place, including testing for and furnishing the mix design, cleaning the surface, protecting utilities, masking, furnishing construction water, street sweeping, application of REAS Slurry, clean-up, and protecting the seal until it has set. **Slurry application shall be to the satisfaction of the City.**

Construction of Speed Humps:

Construction of Speed Humps shall be in accordance with City of Coachella Std. Drawing S-32. An Asphalt tack coat shall be applied to the existing asphalt surface prior to the installation and construction of the asphalt speed hump. Asphalt shall consist of 3/8” PF. 10 or approved equal. Contractor shall submit mix designs within 10 days after Notice of Award. Speed Humps will be paid at a unit price of **EACH (EA)**.

Removal and Replacement of Striping:

Prior to applying slurry seal, the Contractor shall clean, the street surface with a power sweeper, remove all R.P.M.’s, abrasive grind completely all lane lines, street legends, crosswalks or other painted or thermoplastic surfaces.

The removal of traffic pavement markings shall be accomplished by grinding. Sand-blasting shall be used with prior City approval only. A minimum of 3 passes with the grinder, per stripe, or as required and approved by the City. Removal shall be to a maximum depth of 1/10". Removal depth may exceed 1/10" only when necessary to effectively remove existing striping, as approved by the City.

Obliteration of stripes or pavement markings by applying black paint or asphalt emulsion is not an approved removal method. However, if the existing striping has been previously covered with slurry, and is too deep to fully remove, the contractor may cover the existing sub-slurry striping with black paint or asphalt emulsion as approved by the City.

Contractor shall immediately sweep up striping removals prior to relocating to the next striping removal location. It shall be the responsibility of the contractor to properly and legally dispose of the residue from removal of striping and pavement markings.

Striping removal and replacement shall include all Stop Bars and Legends, Speed Hump or Bump Markings, Speed Hump Chevrons or markings, Center Lines, and all or any existing pavement markings, legends, and/or striping.

Payment for removal of traffic stripes and pavement marking in the areas to be slurry sealed shall be included in the Unit Price bid per **Lump Sum (LS) for Remove and Replace Existing Striping in Thermoplastic** and shall include full compensation for furnishing all labor materials, tools, equipment and incidentals as required in the Specifications. **Striping removals shall be to the satisfaction of the City.**

All new striping markings and lines shall be installed in “Thermoplastic” and conform to current standards and installed per manufacturer’s recommendations. All Thermoplastic Striping shall be installed no later than seven (7) calendar days after slurry application of the entire tract has been completed. Remove and replacement of speed humps striping is included. All street sweeping needed for performance of the contract is included.

A blue RPM shall be placed in the street at each fire hydrant location within the slurry limits as per the direction of the City.

Payment for **Remove and Replace Existing Striping in Thermoplastic** shall be considered as included in the **LUMP SUM (LS)** as noted in the bid schedule, and shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals and for doing all the work involved in traffic stripes, and pavement markings, including establishing alignment for stripe and layout work as shown on the plans and as required in the Specifications.

Mobilization:

Mobilization shall conform to the provisions in Section 9-3.4, “Mobilization” of the Standard Specifications. Mobilization includes expenditures for all preparatory work and operations, including but not limited to, those costs necessary for the movement of personnel, equipment, supplies, and incidentals to the project site; for the establishment of all facilities necessary for work on the project; Storm Water, Dust Control, and all environmental compliance, and for all other work and operations which must be performed or costs incurred prior to beginning work on the

various contract items on the project site as well as the related demobilization costs anticipated at the completion of the project.

Mobilization shall be paid for at the contract **LUMP SUM (LS)** basis as shown on the Bid Schedule. Fifty percent (50%) of the lump sum price will be paid upon successful move in and completion of mobilization. The remaining fifty percent (50%) shall be paid after the contractor is completely demobilized and all project sites have satisfactorily been restored and the project cleanup is completed to the satisfaction of the City.

See attached City of Los Angeles Contract ID 59680 Slurry, Premix R.E.A.S.

SCHEDULE OF PAYMENT

Contractor will be paid according the payment schedules found in the City of Los Angeles Contract ID 59680-Amendment 09 Slurry, Premix R.E.A.S. See Attachment B.

Contractor will be paid for mobilization, traffic control, crack sealing and striping per Lump Sum per the Bid Schedule and Estimate from PMI attached as Attachment C.

All Prevailing Wage, Per Diem, home office, profit and overhead, and subcontractor costs are included in the amount of this contract.

Total amount of contract is estimated at Three Hundred Seventy-Six Thousand Two Hundred and Sixty-Nine Dollars and Twenty-Eight Cents (\$376,269.28).

Quantity Adjustments will be accounted for in a Contract Quantity Adjustment Change Order. Change Order shall be issued upon completion of the work and verification of the final quantities installed.

**ATTACHMENT B
CITY OF LOS ANGELES**

City of Los Angeles Purchasing Agent
111 E 1ST STREET
ROOM 110
LOS ANGELES CA 90012



ANNUAL REQUIREMENTS CONTRACT

Contract Number	Description	RFQ Number
ARC 40 59680 13	Slurry, Premix R.E.A.S.	
Contract Dates	Payment Terms	Delivery Days ARO
11-24-20 to 12-31-22	1% Net 30	1
Central Purchasing	Vendor	Bill To
Contact: Martha Medina Phone: (213) 928-9536 E-mail: Martha.Medina@lacity.org	000034616 PETROCHEM MATERIALS INNOVATION,LLC 6168 INNOVATION WAY CARLSBAD, CA 92009	City of Los Angeles Supply Svcs., Accounts Payable 555 Ramirez St., Space 312 Los Angeles CA 90012

Reason for Modification

Administrative Change to upload signed Amendment 7, Renewal option 5 of 5. mmm

Renewal Period Options

Option	Effective Date	Expiration Date
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Line Items

Line	Commodity Code	CL Description	UOM	Unit Price	Markdown %	Markup %
1	30121601	Premix, Rubberized Emulsion Aggregated Slurry, Type I	GLL	\$2.4900		
Extended Description: Premix, Rubberized Emulsion, Aggregate Slurry, Type I:						
Slurry made in accordance with Standard Specifications for Public Works Construction 2012 Edition, Sections 203-3.4.4 to 203- 5.54, 302-4.6.4.1 to 302-5.1 and GSD/BSS Specifications for Modified Asphalts, Pavements and Processes, as well as any changes or updates going forward.						
Prices reflect asphalt prices at 1/1/2016 to \$355/ton (liquid)						
2	30121601	Premix, Rubberized Emulsion Aggregated Slurry, Type II	GLL	\$2.1100		
Extended Description: Premix, Rubberized Emulsion, Aggregate Slurry, Type II:						
All in accordance with Standard Specifications for Public Works Construction 2012 Edition, Sections 203-3.4.4 to 203- 5.54, 302-4.6.4.1 to 302-5.1 and GSD/BSS Specifications for Modified Asphalts, Pavements and Processes, as well as any changes or updates going forward.						
3	30121601	Premix, Rubberized Emulsion Aggregated Slurry, Type III	GLL	\$2.0100		
*** THIS LINE IS NOT ACTIVE ***						
Extended Description: Premix, Rubberized Emulsion Aggregated Slurry, Type III						

Line	Commodity Code	CL Description	UOM	Unit Price	Markdown %	Markup %
4	30121400	Service, Regular Time Labor only (application of Central Pla	HUR	\$95.0000		
<p>Extended Description: SERVICE, LABOR, PER PERSON: Labor for work performed in accordance with the RFQ/Contract specifications and requirements attached.</p> <p>Regular rate: \$ 95.00</p> <p>Labor rates shall be subject to change in accordance with the applicable prevailing wage, living wage, or minimum wage, and upon supplier's written notification to the Purchasing Agent.</p>						
5	30121400	Service, Overtime Labor only (application of Central Plant M	HUR	\$142.0000		
<p>Extended Description: SERVICE, LABOR, PER PERSON: Labor for work performed in accordance with the RFQ/Contract specifications and requirements attached.</p> <p>Overtime rate: \$ 142.50</p> <p>Labor rates shall be subject to change in accordance with the applicable prevailing wage, living wage, or minimum wage, and upon supplier's written notification to the Purchasing Agent.</p>						
6	721417	Rental, Service/Haul Trucks (Bare)	DAY	\$200.0000		
<p>Extended Description: Rental, Service/Haul Trucks (Bare)</p> <p>DAILY, WEEKLY & MONTHLY RENTAL RATES: (Bare) Daily: \$200.00 Minimum rental time: 1 Day Number of units available: 9</p>						
7	721417	Rental, Application Trucks (Bare).	HUR	\$252.0000		
<p>Extended Description: APPLICATION TRUCKS: (Bare)</p> <p>HOURLY RENTAL RATES: Within the City of Los Angeles, City Limits</p> <p>Hourly: \$252.00 Overtime: \$252.00 Sunday/Holiday: \$252.00</p> <p>**Minimum rental time: 4 Hours** Number of units available: 22</p> <p>APPLICATION TRUCKS: (Bare)</p> <p>HOURLY RENTAL RATES: NOT Within the City of Los Angeles, City Limits Hourly: \$252.00</p>						
8	721417	Job Tankers, for delivery of Premix, R.E.A.S in trailer moun	EA	\$550.0000		
<p>Extended Description: Job Tankers, for delivery of Premix, R.E.A.S. in trailer mounted 4,000 gallon tank to any location within the City of Los Angeles.</p> <p>JOB TANKER: As needed Delivery of Premix, R.E.A.S in trailer mounted 4,000 gallon tank to any location within the City of Los Angeles.</p> <p>\$600 Per Load</p>						
9	301216	Asphalt Binder, Heavy Traffic, Structurally Modified Binder	STN	\$800.0000		
<p>Extended Description: Heavy Traffic Binder: Structurally Modified Binder PG 76-10 (City of Los Angeles Custom Mix)</p> <p>Specifications as called in Attachment B of EV 4672, as provided by GSD Bureau of Standards.</p>						

Line	Commodity Code	CL Description	UOM	Unit Price	Markdown %	Markup %
10	78121603	Delivery, Trucking to AP1 Asphalt Binder, PG 76-10	STN	\$17.0000		
Extended Description: Delivery, Trucking to Asphalt Plant 1 of Asphalt Binder, Heavy Traffic, Structural Modified PG-10 (City of Los Angeles Custom Mix).						
Delivery, Trucking to Asphalt Plant I of Custom Blend, Heavy Traffic Asphalt Binder, Structural Modified PG-10.						
11	78121603	Delivery, Trucking - AP2, Asphalt Binder, PG 76-10	STN	\$19.0000		
Extended Description: Delivery, Trucking to Asphalt Plant II Asphalt Binder, Heavy Traffic, Structural Modified PG-10 (City of Los Angeles Custom Mix).						
Delivery, Trucking to Asphalt Plant II of Custom Blend, Heavy Traffic Asphalt Binder, Structural Modified PG 10.						
12	721417	Rental, of Job Tankers, for Delivery of Premix, R.E.A.S. not	SMI	\$3.0000		
Extended Description: Rental, of Job Tankers, for Delivery of Premix, R.E.A.S. not within the City of L.A., (price to include delivery fee and mileage from PMI's shipping Plant).						
For any location outside the City of L.A., delivery change from PMI Shipping Plant						
\$3.00 per mile (\$600.00 Minimum)						
For any location outside the City of L.A., delivery change from PMI Shipping Plant \$3.00 per mile (\$600.00 Minimum)						
13	301216	Fine Aggregate Slurry Mix: Premixed REAS.	GLL	\$3.0000		
Extended Description: Fine Aggregate Slurry Mix: Premixed REAS.						
Specifications as called in Attachment B of EV 4672, as provided by GSD Bureau of Standards.						
14	721417	Pump Rental, Specialized Slurry Pump, (pump capable of 250	DAY	\$500.0000		
Extended Description: Pump Rental, Specialized Slurry Pump.						
(Pump capable of 250 gallons centralized mix slurry/minute).						
DAILY RENTAL RATES:						
Daily: \$500.00						
Minimum rental time: 1 day						
Number of units available: 12						
15	78121603	Delivery, Trucking (common carrier) AP1, Asphalt, Hvy Bndr	STN	\$17.0000		
Extended Description: Delivery, Trucking (common carrier) to Asphalt Plant I of Asphalt, Heavy Traffic Binder, (City of LA Custom Mix)						
Note* Please include Proof of Delivery/Bill of Lading from common carrier trucking along with their invoice to ensure prompt payment.						
16	78121603	Delivery, Trucking (common carrier) to AP2 of Asphalt, Heavy	STN	\$19.0000		
Extended Description: Delivery, Trucking (common carrier) to Asphalt Plant II of Asphalt, Heavy Traffic Binder, (City of LA Custom Mix).						
Note* Please include Proof of Delivery/Bill of Lading from common carrier trucking along with their invoice to ensure prompt payment.						

Line	Commodity Code	CL Description	UOM	Unit Price	Markdown %	Markup %
17	721116	Plant Opening	EA	\$1,500.0000		
Extended Description: Plant Opening: For, Saturday, Sunday or Holidays						
Saturday \$ 1,500						
Sunday \$ 1,500						
Holiday \$ 1,500						
18	801116	Per Diem for Los Angeles.	DAY	\$150.0000		
Extended Description: Per Diem for Temp Los Angeles personnel						
19	721417	Rental, Storage Tank Portable for Jobsite Work.	DAY	\$1,000.0000		
Extended Description: Rental, Storage Tank Portable for Jobsite Work.						
PORTABLE STORAGE TANK RENTAL:						
DAILY, RENTAL RATES:						
Daily: \$ 1,000.00						
Minimum rental time: 1 Day						
Number of units available: 5						
20	721417	Rental, Slurry Box	DAY	\$250.0000		
Extended Description: SLURRY BOX RENTAL:						
DAILY, RENTAL RATES:						
Daily: \$ 250.00						
Minimum rental time: 1 Day						
Number of units available: 5						
21	721417	Rental, Delivery, Tanker - Bare, each load.	EA	\$200.0000		
Extended Description: TANKER (Bare) DELIVERY, RENTAL:						
DAILY, RENTAL RATES:						
\$ 200.00 per load						
Number of units available: 28						
22	801116	Labor, Posting & Notifying Affected Traffic Disruptions	HUR	\$0.0100		
*** THIS LINE IS NOT ACTIVE ***						
Extended Description: NOTE: THIS LINE IS BEING REPLACED BY LINES 26 (REG.RATE) & LINES 27 (OVERTIME RATE)						
LABOR:						
Labor for work performed in accordance with the RFQ/Contract specifications and requirements attached.						
Regular rate: \$95.00						
Overtime rate: \$142.50						
Labor rates shall be subject to change in accordance with the applicable prevailing wage, living wage, or minimum wage, and upon supplier's written notification to the Purchasing Agent.						

Line	Commodity Code	CL Description	UOM	Unit Price	Markdown %	Markup %
23	551215	Hangtag/Doorknob Notices of Affected Traffic Disruptions	EA	\$0.3000		
Extended Description: HANG TAG NOTICES: \$0.30 Per Hang Tag Notice \$300.00 Minimum per job = (1,000 hang tags)						
24	55121710	Traffic Control, To furnish, place/maintain traffic signage,	DAY	\$1,500.0000		
Extended Description: Traffic Control, To furnish, place/maintain traffic signage, excluding electronic, of affected areas, (NO LABOR INVOLVED).						
25	721417	Rental, Sweeper, Mobile Units.(only if no showCity Sweepers)	HUR	\$0.0100		
*** THIS LINE IS NOT ACTIVE ***						
Extended Description: NOTE: THIS LINE IS BEING REPLACED BY LINES 28 (REG.RATE), LINES 29 (OVERTIME RATE) & LINES 30 (SUNDAY & HOLIDAY) HOURLY RENTAL RATES: Regular Rate Hourly: \$ 200.00 Overtime Rate Hourly: \$ 300.00 Sunday/Holiday Rate Hourly: \$ 400.00 Minimum rental time: 8 Hours Number of units available: 2						
26	801116	Labor, Reg .Rate, Posting & Notify Affected TrafficDisrupt	HUR	\$95.0000		
Extended Description: NOTE: THIS LINE IS REPLACEMENT FOR LINES 22 (REG.RATE)LABOR: Labor, Posting and Notifying of Affected Traffic Disruptions Labor for work performed in accordance with the RFQ/Contract specifications and requirements attached. Regular rate: \$95.00 Labor rates shall be subject to change in accordance with the applicable prevailing wage, living wage, or minimum wage, and upon supplier's written notification to the Purchasing Agent.						
27	801116	Labor, Overtime Rate, Posting & Notify Affected Traffic	HUR	\$142.5000		
Extended Description: NOTE: THIS LINE IS REPLACEMENT FOR LINES 22 (Overtime Rate) LABOR: Labor, Posting and Notifying of Affected Traffic Disruptions Labor for work performed in accordance with the RFQ/Contract specifications and requirements attached. Overtime rate: \$142.50 Labor rates shall be subject to change in accordance with the applicable prevailing wage, living wage, or minimum wage, and upon supplier's written notification to the Purchasing Agent.						
28	721417	Rental, Sweeper, Mobile Unit, Regular rate	HUR	\$200.0000		
Extended Description: NOTE: THIS LINE REPLACES LINES 25 (REG.RATE), Rental, Sweeper, Mobile Units, to be used "only" should City Sweepers not show up. HOURLY RENTAL RATES: Regular Rate Hourly: \$ 200.00 Minimum rental time: 8 Hours Number of units available: 2						

Line	Commodity Code	CL Description	UOM	Unit Price	Markdown %	Markup %
29	721417	Rental, Sweeper, Mobile Units, Overtime Rate.	HUR	\$300.0000		
Extended Description: NOTE: THIS LINE REPLACES LINES 25 (OVERTIME RATE) Rental, Sweeper, Mobile Units, to be used "only" should City Sweepers not show up. HOURLY RENTAL RATES: Overtime Rate Hourly: \$ 300.00 Minimum rental time: 8 Hours Number of units available: 2						
30	721417	Rental, Sweeper, Mobile Units, Sunday/ Holiday Rate.	HUR	\$400.0000		
Extended Description: NOTE: THIS LINE REPLACES LINES 25 (Sunday & HOLIDAY RATE) Rental, Sweeper, Mobile Units, to be used "only" should City Sweepers not show up. HOURLY RENTAL RATES: Overtime Rate Hourly: \$ 400.00 Minimum rental time: 8 Hours Number of units available: 2						
31	30121601	1781 Slurry, Pilot Program	GLL	\$2.1100		
Extended Description: Pilot Program: 1781 Slurry						
32	30121601	Cold in Place Recycling, CIR, Pilot Program	GLL	\$3.6500		
Extended Description: Pilot Program: CIR						
33	30121601	Reclaimed Asphalt Pavement RAP, Central Mixed Slurry, Pilot	GLL	\$2.0100		
Extended Description: Pilot Program: Reclaimed Asphalt Pavement RAP, Centrally Mixed Slurry						
34	30121601	Emulsion, Cold Patch, Modified Emulsion, Pilot Program	GLL	\$3.6500		
Extended Description: Pilot Program: Emulsion Cold Patch, Modified Emulsion						
35	30121601	Premix, REAS, Type II (76-22 Binder)	GLL	\$2.3500		
Extended Description: Premix, Rubberized Emulsion Aggregate Slurry, Type II(76-22 Binder)						
36	30121601	1781-LA (76-22 Binder)	GLL	\$2.3000		
Extended Description: 1781-LA (76-22 Binder)						
37	721417	Rental, Pneumatic Rubber Tire Roller	DAY	\$500.0000		
Extended Description: Rental, Pneumatic Rubber Tire Roller						
38	78121603	Delivery Fee, Job Trailer for delivery of Equipment	EA	\$600.0000		
Extended Description: Delivery Fee, Job Trailer for delivery of Equipment to any location within the City of Los Angeles						

Authorized By _____

Annual Requirements Contract Clauses, Terms, and Conditions

Line Item Provisions

Clauses and Comments on PDF

Document Provisions

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Supporting Documents

CONTRACT COMMENTS

Document ID 59680	Document Phase Final	Document Description Slurry, Premix R.E.A.S.	Page 8 of 11
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INTENTIONALLY LEFT BLANK TO ADD CLAUSES AND COMMENTS.

Document ID 59680	Document Phase Final	Document Description Slurry, Premix R.E.A.S.	Page 9 of 11
Procurement Analyst: Martha Medina E-mail address: Martha.Medina@lacity.org		Phone Number: 213-928-9536 Fax Number: 213-928-9511	

Requirements Contract for: ****Slurry, Pre-Mix R.E.A.S. **** Award No. 59680

Payment Terms: 1.88% net 30 days Delivery: 1 Days ARO RFQ No.:EV4672 Previous Contract: 59180

Renewal Options: 5 Option Date 1 = --/--/-- Option Date 2 = --/--/-- Option Date 3 = --/--/--
Options Granted: 0 Option Date 4 = --/--/-- Option Date 5 = --/--/--

You are hereby notified of the award of this contract with the City of Los Angeles in accordance with RFQ Number EV4672, to furnish the City's annual requirements for the items and/or services identified in this document. The entire RFQ (including Attachment A and specifications) or any items thereof, addendums, and general conditions comprise the contract. The Quotation document signed by the appropriate contractor and by duly authorized City officials is on file in the Purchasing Agent's office.

NOTE: SALES TAX WILL BE ADDED AT TIME OF ORDER.

The following listed item(s) cover the only product(s) or service(s) approved for purchase under this contract. Products or services requested by the City and not listed in the contract require a separate City Purchase Order in order for the supplier to receive payment.

SUPPLIER CONTACT:

Contact Person: Frank B. Hoffman, Title: C. F. O.
Telephone No.: 760-603-0961
Fax No.: 760-603-0962
E-Mail Address: frank@pmitechnology.com
24 Hour Contact No.: 760-271-0197

CONTRACT PURCHASE ORDERS:

Contract Purchase Orders will be issued during the contract period for materials or services as required. Supplier shall deliver no goods or services until a City department issues a Contract Purchase Order.

APPROVED CONTRACT ITEM PURCHASES:

The listed items cover the only products approved for purchase under this contract. The City of Los Angeles will not pay any invoice covering the delivery of any merchandise that is not explicitly authorized by this contract. Any products requested by the City not listed in the contract require a separate City Purchase Order in order for the supplier to receive payment.

RENEWAL OPTION:

The City reserves the right to renew this contract for 5 additional one (1) year period(s). All renewals shall be on an annual basis and under the same terms and conditions of the original contract.

ANNUAL PRICE ADJUSTMENT FOR LONG TERM FIXED PRICE CONTRACTS:

Unit Prices for each line item shall be fixed for one year from the contract start date. On contract anniversaries and renewals, unit prices may be adjusted for the next year in accordance with manufacturer's published price adjustments. Any price adjustments shall be mutually agreed upon by the City Purchasing Agent and the supplier. Price increases will not exceed a reasonable amount, supported by written documentation as indicated in the paragraph below and as determined by the City Purchasing Agent, for any price adjustment. Price reductions may be issued at any time.

The City reserves the right to terminate contract without further obligation by either party in event price increases are not acceptable. Escalating factors will not be automatically granted. Requests for price increases shall be in writing and accompanied by each manufacturer(s) price list(s) with appropriate supporting documents acceptable to the City. Such documents shall include, but not be limited to manufacturer/distributor/dealer invoices, insurance bills, utility

Document ID	Document Phase	Document Description	Page
bills, freight bills, payroll records, etc. The request shall state the percentage increase and the revised price for each affected contract item.	Final	Slurry, Premix R.E.A.S.	10 of 11

No increases will be granted without prior approval of the City Purchasing Agent. ESTIMATED EXPENDITURES AND THRESHOLD ADJUSTMENT:
 Total expenditures for the life of this contract, including the initial term and all renewals or extensions, are estimated to be \$67,788,010. No guarantee can be given that this total will be reached or that it will not be exceeded. Supplier agrees to furnish more or less in accordance with actual contract requirements.

AUTHORIZED DISTRIBUTOR/DEALER:

The supplier indicates it is an authorized factory distributor/dealer for the manufacturer quoted, or has provided a formal Letter of Certification from the manufacturer, stating that the manufacturer will honor any warranty claims by the City for equipment, parts, and/or materials provided by the supplier.

The manufacturer will be responsible for any default of the supplier that is not corrected by the supplier in a timely and efficient manner. This responsibility includes replacing incorrect or defective parts, trouble shooting, and correcting problems that are traceable to the manufacturer.

ANNUAL PRICE ADJUSTMENT FOR LONG TERM FIXED PRICE CONTRACTS:

Unit Prices for each line item shall be fixed for one year from the contract start date. On contract anniversaries and renewals, unit prices may be adjusted for the next year in accordance with manufacturer's published price adjustments. Any price adjustments shall be mutually agreed upon by the City Purchasing Agent and the supplier. Price increases will not exceed a reasonable amount, supported by written documentation as indicated in the paragraph below and as determined by the City Purchasing Agent, for any price adjustment. Price reductions may be issued at any time.

The City reserves the right to terminate contract without further obligation by either party in event price increases are not acceptable. Escalating factors will not be automatically granted. Requests for price increases shall be in writing and accompanied by each manufacturer(s) price list(s) with appropriate supporting documents acceptable to the City. Such documents shall include, but not be limited to manufacturer/distributor/dealer invoices, insurance bills, utility bills, freight bills, payroll records, etc. The request shall state the percentage increase and the revised price for each affected contract item.

No increases will be granted without prior approval of the City Purchasing Agent.

LIQUIDATED DAMAGES FOR LATE DELIVERY:

Delivery delays beyond the Contract/Purchase Order delivery date will result in added expense to the City. The City of Los Angeles shall be paid damages for such delay. Inasmuch as the amount of damage is extremely difficult to ascertain, the supplier agrees to compensate the City in the amount of \$100.00 per calendar day beyond the delivery date specified. This amount shall be fixed as liquidated damages that the City will suffer by reason of such delay, and not as a penalty. The City shall have the right to deduct and retain the amount of such liquidated damages from any monies due the supplier.

The supplier shall be entitled to a reasonable extension of time for unavoidable delay in delivery due to causes not reasonably foreseeable by the parties at the time of the Contract/Purchase Order execution, and that are entirely beyond the control and without the fault or negligence of the supplier, including, but not limited to, acts of God or the public enemy, war or other national emergency making delivery temporarily impossible or illegal, acts or omissions of other suppliers, strikes and labor disputes not brought on by any act or omission of the supplier, fire, flood, epidemics, quarantines, or freight embargoes.

INSURANCE:

The suppliers General Liability and Workers Compensation Insurance Certificates are recorded in the City Administrative Officer's Risk Management Track4LA database.

Document ID	Document Phase	Document Description	Page
REPRESENTATIVE SAMPLE TESTING: 35000	REPRESENTATIVE SAMPLE TESTING: Final	Representative samples may be taken from each delivery and tested for compliance with specifications. Testing costs will be paid by the City for samples that comply. If samples do not comply with requirements, the expense of testing will be charged to the supplier, and delivery will be rejected. The supplier will be required to pick up the rejected material and to make a new delivery within 5 days of notification by the City. Notification will be made by the most effective means to the supplier's designated representative.	11 of 11

SALES/USE TAX PAID DIRECTLY TO STATE:

Since the supplier has not indicated it has a permit to collect California State sales tax, the City will pay use tax directly to the State of California. No sales tax will be paid to the supplier.

REPRESENTATIVE SAMPLE TESTING:

Representative samples may be taken from each delivery and tested for compliance with specifications. Testing costs will be paid by the City for samples that comply. If samples do not comply with requirements, the expense of testing will be charged to the supplier, and delivery will be rejected. The supplier will be required to pick up the rejected material and to make a new delivery within 5 days of notification by the City. Notification will be made by the most effective means to the supplier's designated representative.

SALES/USE TAX PAID DIRECTLY TO STATE:

Since the supplier has not indicated it has a permit to collect California State sales tax, the City will pay use tax directly to the State of California. No sales tax will be paid to the supplier.

OTHER GOVERNMENT AGENCY PURCHASES:

Other government agencies may make purchases using the prices, terms and conditions of this contract.

CITY OF LOS ANGELES
CALIFORNIA

TONY M. ROYSTER
GENERAL MANAGER
AND
CITY PURCHASING AGENT



DEPARTMENT OF
GENERAL SERVICES
ROOM 701
CITY HALL SOUTH
111 EAST FIRST STREET
LOS ANGELES, CA 90012
(213) 928-9555
FAX No. (213) 928-9515

ERIC GARCETTI
MAYOR

June 7, 2022

Petrochem Manufacturing, Inc.
6168 Innovation Way
Carlsbad, CA 92009

SUBJECT: CITY LOS ANGELES SUPPLY CONTRACT 59680 - AMENDMENT 9
SLURRY, PREMIX R.E.A.S.


The following price changes are effective June 6, 2022:

Line	Description	Old Price	New Price
1	Premix REAS Type I	\$2.72/gallon	\$2.84/gallon
2	Premix REAS Type II	\$2.26/gallon	\$2.34/gallon
3	Premix REAS Type III	\$2.26/gallon	\$2.34/gallon

This Agreement may be executed in one or more counterparts, and by the parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. The parties further agree that facsimile signatures or signatures scanned into .pdf (or signatures in another electronic format designated by City) and sent by e-mail shall be deemed original signatures.

All other contract terms and conditions remain unchanged and in force. Questions regarding this contract modification should be addressed to Martha Medina, at 213-928-9536, or via e-mail to Martha.Medina@lacity.org.

Tony M. Royster 
General Manager and
City Purchasing Agent
By: 
Supply Services Manager

Approved as to Form
Michael N. Feuer
City Attorney
By: 
Kimberly Miera
Deputy City Attorney





City of Coachella
 Summary of Estimate Charges
 Central Mix Type REAS II
 Vista Escondida Estimate

Quote no:

22-78

QTY U/M Unit Price Days Total

Vista Escondida

*Material	Type II REAS	38,565	GAL	\$2.34	5	\$90,242.10
*Freight	(\$3/Mile – 272 miles) \$816/per load	15	LOAD	\$816.00		\$12,240.00
1 Applicator Trucks	(\$2016/per truck)8hr/day	80	HR	\$252.00		\$20,160.00
6 Tanker Rental		15	LOAD	\$200.00		\$3,000.00
6 Service Haul Trucks		30	EA	\$200.00		\$6,000.00
Slurry Box		5	EA	\$250.00		\$1,250.00
Slurry Pump		5	EA	\$500.00		\$2,500.00
Sevice Labor crew	\$95/PP/Day (PostNotify, Driver, Pumper,Operator, Squeegees)	456	HR	\$95.00		\$43,320.00
Per Diem	=(\$150 per day / per person) 12/pp	60	DAY	\$150.00		\$9,000.00
Supervior		5	DAY	\$1,000.00		\$5,000.00
Traffic Control equipment		5	DAY	\$1,500.00		\$7,500.00
Door Hangers		1	LS	\$300.00		\$300.00
Sweeping (Subcontract)		56	HR	\$200.00		\$11,200.00
2 CMS Broads		2	EACH	\$1,580.00		\$3,160.00
Crackseal & Sealing (Sub. Roadworks)		1	LS	\$83,581.00		\$83,581.00
Striping Thermo (Sub. Cal-Stripe)		1	LS	\$28,993.00		\$28,993.00
Asphalt Repairs (Koch General)		1	LS	\$36,056.00		\$36,056.00
Project Bonds		1	LS	\$3,800.00		\$3,800.00
		Subtotal:				\$367,302.10
Estimate good through 12/31/2022		Sales Tax*			8.75%	\$8,967.18

Total Estimated Charges (Included sales Tax) \$376,269.28

Prices Includes: Type II Central Mix REAS, bonds, transportation, equipment and labor for application of the material, covering manholes and water valves, post and notifying, traffic control per WATCH BOOK, installing 6 speed humps, sweeping. Removals of thermos striping and installation of thermo restriping, Crack-sealing (1/4"-1" Wide), signage and 2 CMS boards

Prices Excludes: Traffic control plans, No Weed kill and/or asphalt digouts.

The foregoing quotation is subject to all the Terms and conditions and pricing are in accordance with the Price Agreement no.1530 and the City of Los Angeles Contract No. 59680 Amendment 08 dated March 9, 2022

Name: Vicki Nguyen Signature: Date: 8/8/2022

ST-105 VISTA ESCONDIDA NEIGHBORHOOD SLURRY SEAL & STRIPING IMPROVEMENTS

VICINITY MAP



LEGEND : TYPE II REAS SLURRY (+/- 356,806 SF)

ATTACHMENT E

PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. See <http://www.dir.ca.gov/PublicWorks/PublicWorks.html> for additional information.

No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work.

Bidder hereby certifies that it is aware of the registration requirements set forth in Labor Code sections 1725.5 and 1771.1 and is currently registered as a contractor with the Department of Industrial Relations.¹

Name of Contractor: _____

DIR Registration Number: _____

DIR Registration Expiration: _____

Small Project Exemption: _____ Yes or _____ No

Unless Bidder is exempt pursuant to the small project exemption, Bidder further acknowledges:

1. Bidder shall maintain a current DIR registration for the duration of the project.
2. Bidder shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of bid opening and maintain registration status for the duration of the project.
3. Failure to submit this form or comply with any of the above requirements may result in a finding that the bid is non-responsive.

Name of Bidder _____

Signature _____

Name and Title _____

Dated _____

ATTACHMENT F

CONTRACTOR'S CERTIFICATE REGARDING WORKERS' COMPENSATION

I am aware of the provisions of section 3700 of the Labor Code which require 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.

Name of Bidder _____

Signature _____

Name and Title _____

Dated _____