



CONTRACT DOCUMENTS AND SPECIFICATIONS

FOR

**RANCHO MIRAGE LIBRARY & OBSERVATORY
COMMUNITY ROOM LIGHTING PROJECT**

CITY PROJECT NO. CP 21-368

Prepared by:

**CITY OF RANCHO MIRAGE
69-825 Highway 111
Rancho Mirage, California 92270
(760) 770-3224**

**FOR PROBLEMS DOWNLOADING BID PACKET OR SUBMITTING FORM,
PLEASE CONTACT THE FOLLOWING PERSONS BY EMAIL OR PHONE:**
Lori O'Keefe, lorio@ranchomirageca.gov or Gloria Griego, gloriag@ranchomirageca.gov
Phone: (760) 324-4511

MAY 9, 2023

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COMMUNITY ROOM LIGHTING PROJECT**

CITY PROJECT NO. CP 21-368

Prepared Under the Supervision of:

for 

Leland E. Cole, City Engineer
R.C.E. 47159

5/03/2023
Date

**TABLE OF CONTENTS
FOR
RANCHO MIRAGE LIBRARY & OBSERVATORY
COMMUNITY ROOM LIGHTING PROJECT
PROJECT NO. CP 21-368**

NOTICE INVITING SEALED BIDS	4
INSTRUCTIONS TO BIDDERS	6
PROPOSAL DOCUMENTS	
Bid Proposal.....	10
Bidder's List of Subcontractors.....	12
Bid Bond	14
Non-Collusion Affidavit.....	16
Bid Proposal Sheet	17
CONTRACT DOCUMENTS	
Standard Agreement for Public Works Construction.....	18
Time For Completion	19
Schedule A to Standard Agreement	33
Letter of Credit	34
Performance Bond	36
Payment Bond	38
Certificate of Completion of Standard Agreement for Public Works Construction	40
Notice of Acceptance	41
GENERAL CONDITIONS	
Index of General Conditions.....	42
General Conditions of the Contract	44
SPECIAL PROVISIONS	
PART 1 - GENERAL PROVISIONS	56
PART 3 – CONSTRUCTION METHODS	62
PART 4 – EXISTING IMPROVEMENTS	63
EXHIBIT “A” – LABOR CODE PROVISION	65



**NOTICE INVITING SEALED BIDS FOR
RANCHO MIRAGE LIBRARY & OBSERVATORY
COMMUNITY ROOM LIGHTING PROJECT
CITY PROJECT NO. CP 21-368**

PUBLIC NOTICE IS HEREBY GIVEN that the City of Rancho Mirage, hereinafter referred to as CITY, invites sealed bids for the above-stated project and will receive such bids in the offices of the City Engineer up to the hour of **2:00 P.M., on TUESDAY, the 6th day of JUNE 2023.**

MANDATORY SITE VISIT: TUESDAY, MAY 16, 2023, AT 11:00 A.M. AT RANCHO MIRAGE LIBRARY & OBSERVATORY, 71-100 HIGHWAY 111, RANCHO MIRAGE, CA 92270.

Written comments and questions shall be submitted to Charles Nesbit, by email at charlesn@ranchomirageca.gov, or by U.S. mail, by no later than 2:00 P.M. on TUESDAY, MAY 23, 2023. When submitted by mail, to City of Rancho Mirage, ATT: Charles Nesbit, 69825 Highway 111, Rancho Mirage, CA 92270.

The general items of work to be done hereunder consist of furnishing all materials, equipment, tools, labor, and incidentals as required by the Plans, Specifications, and Contract Documents for the above-stated project, including but not limited to the addition of a modular theatrical lighting system and controls, for use in the Rancho Mirage Library and Observatory Community Room. The project will consist of but is not limited to the purchase and installation of all required lighting equipment, and the installation of high-voltage electrical wiring added to support the theatrical lighting system. Installation of low-voltage wiring installation to control the theatrical lighting system separately from the existing architectural lighting control system. Also, the installation of theatrical lighting mounted to temporary truss structures that are suspended by hoists mounted to the facility steel structure. Structural installations will include seismic bracing for hoist suspended truss.

Plans and Specifications are available only through the City's website at: www.RanchoMirageCA.gov. Under Quick Links select Notice Inviting Bids/P&S/RFPs ► Plans and Specifications ► RANCHO MIRAGE LIBRARY & OBSERVATORY COMMUNITY ROOM LIGHTING PROJECT, CP 21-368. If you are interested in this project, you will need to visit the City's website and sign up. To receive plans, you must complete the on-line registration form. Once you have signed up you will receive an email with the requested documents for download and printing.

Any contract entered into pursuant to this notice will incorporate certain provisions of the State Labor Code. Compliance with the prevailing rates of wages and apprenticeship employment standards established by the State Department of Industrial Relations will be required.

In accordance with Labor Code Sections 1725.5 and 1771.1, no contractor or subcontractor shall be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any contract for public work, unless currently registered and qualified to perform public work.

No bidders will be discriminated against on the basis of race, denial of family and medical care leave, religious creed (including religious dress and grooming practices), color, national origin (including language use restrictions), ancestry, physical disability or mental disability (including HIV and Aids), medical condition (cancer and genetic characteristics), genetic information, military or veteran status, marital status, gender, gender identity, gender expression, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), age or sexual orientation in any consideration leading to the award of contract.

The contract documents call for monthly progress payments based upon the engineers' estimate of the percentage of work completed. The CITY will retain 5 percent of each progress payment as security for completion of the balance of the work. At the request and expense of the successful bidder, the City will pay the amounts retained upon compliance with the requirements of Public Contract Code, Part 5, Section 22300, and the provisions of the contract documents pertaining to Substitution of Securities.

Bids must be prepared on the approved proposal forms in conformance with the Instructions to Bidders and submitted in a sealed envelope plainly marked on the outside "**SEALED BID FOR RANCHO MIRAGE LIBRARY & OBSERVATORY COMMUNITY ROOM LIGHTING PROJECT CP 21-368 - DO NOT OPEN WITH REGULAR MAIL.**" City staff will not be available to respond to questions on the day of bid opening. The CITY reserves the

right to reject any or all bids, to waive any irregularity, to accept any bid or portion thereof, and to take all bids under advisement for a period of sixty (60) days. At the time of contract award, the prime contractor shall possess a valid **Class B contractor's license and/or a combination of Class "C" specialty contractor's license(s) sufficient to perform the work.**

Dated: MAY 9, 2023
City of Rancho Mirage
69-825 Highway 111
Rancho Mirage, CA 92270
(760) 770-3224

INSTRUCTIONS TO BIDDERS

PROPOSAL FORMS

Bids shall be submitted in writing on the Proposal forms provided by the CITY. All information requested therein must be clearly and legibly set forth in the manner and form indicated. The CITY will not consider any proposal not meeting these requirements.

PROPOSAL GUARANTEE (BID BOND)

Proposals must be accompanied by a proposal guarantee consisting of a certified check or bid bond payable to the CITY in the amount of ten percent (10%) of the total amount bid. Any proposal not accompanied by such a guarantee will not be considered. If a bidder to whom a contract is awarded fails or refuses to execute the contract documents or furnish the required insurance policies and bonds as set forth in those documents, the proposal guarantee shall be forfeited to the CITY. The proposal guarantees of all bidders will be held until the successful bidder has properly executed all contract documents.

NONCOLLUSION DECLARATION

Bidder shall declare under penalty of perjury that the only persons or parties interested in the proposal as principals are those named therein; that no officer, agent, or employee of the CITY is personally interested, directly or indirectly, in the proposal; that the proposal is made without connection to any other individual, firm, or corporation making a bid for the same work; and that the proposal is in all respects fair and without collusion or fraud. The Noncollusion Declaration shall be executed and submitted with the proposal.

PROPOSAL BID SHEET

Bidders shall give unit prices for each and all of the items set forth. No aggregate bids shall be considered. The bidder shall set forth for each item of work, in clearly legible figures, a unit item price and a total for the item in the respective spaces provided for this purpose. The quantities listed in the Bid sheets are supplied to give an indication of the general scope of work, but the accuracy of figures is not guaranteed, and the bidder shall make his/her own estimates from the drawings. In case of a variation between the unit price and the totals shown by the bidder, the unit price shall be considered to be the bid.

DELIVERY OF PROPOSAL

Proposals may be mailed or delivered by messenger. However, it is the bidder's responsibility alone to ensure delivery of the proposal to the hands of the CITY'S designated official prior to the bid opening hour stipulated in the "Notice Inviting Sealed Bids." Late proposals will not be considered. Proposals shall be enclosed in a sealed envelope plainly marked on the outside, outside "SEALED BID FOR RANCHO MIRAGE LIBRARY & OBSERVATORY COMMUNITY ROOM LIGHTING PROJECT, CP 21-368 - DO NOT OPEN WITH REGULAR MAIL."

WITHDRAWAL OF PROPOSALS

A proposal may be withdrawn by a written request signed by the bidder. Such requests must be delivered to the CITY'S designated official prior to the bid opening hour stipulated in the "Notice Inviting Sealed Bids." The withdrawal of a proposal will not prejudice the right of the bidder to submit a new proposal, providing there is time to do so. Proposals may not be withdrawn after said hour without forfeiture of the proposal guarantee.

IRREGULAR PROPOSALS

Unauthorized conditions, limitations, or provisions attached to a proposal will render it irregular and may cause its rejection. The completed proposal forms shall be without interlineations, alterations, or erasures. Alternative proposals will not be considered unless specifically requested. No oral, telegraphic, or telephonic proposal, modification, or withdrawal will be considered.

TAXES

No mention shall be made in the proposal of Sales Tax, Use Tax, or any other tax, as all amounts' bids will be deemed and held to include any such taxes that may be applicable.

DISQUALIFICATION OF BIDDERS

In the event that any bidder acting as a prime contractor has an interest in more than one proposal, all such proposals shall be rejected, and the bidder disqualified. This restriction does not apply to subcontractors or suppliers who may submit quotations to more than one bidder, and while doing so, may also submit a formal proposal as a prime contractor.

No contract will be executed unless the bidder is licensed in accordance with the provisions of the State Business and Professions Code.

INTERPRETATION OF PLANS AND DOCUMENTS

If any person contemplates submission of a bid for the proposed contract and is in doubt as to the true meaning of any part of the plans, specifications, or other proposed contract documents, or finds discrepancies in, or omissions from, the drawings or specifications, they may submit to the Engineer of said CITY a written request for an interpretation or correction thereof. The person submitting the request shall be responsible for its prompt delivery prior to the deadline set forth in the Notice Inviting Sealed Bids. Any interpretation or correction of the proposed documents shall be made only by addendum duly issued and copy of such addendum shall be mailed or delivered to each person receiving a set of such documents. The Engineer will not be responsible for any other explanation or interpretations of the proposed documents. In the event of any ambiguity, inconsistency or conflict among the documents or portions herein, or addenda issued herefrom, it shall be resolved (where applicable) by operation of law where state, local or feral law, rule, or regulation controls; and in the absence of such applicable law, shall be at the discretion of CITY in its sole and reasonable discretion, to effectuate best practices and for the benefit of the public.

ADDENDA OR BULLETINS

The effect of all addenda to the Contract Documents shall be considered in the contract and said addenda shall be made a part of the contract documents and shall be returned with them. Before submitting his/her bid, each bidder shall inform themselves as to whether or not any addenda have been issued, and failure to cover in this bid any such addenda issued may render his/her bid irregular and may result in its rejection by the City.

LEGAL RESPONSIBILITIES

All proposals must be submitted, filed, made, and executed in accordance with State and Federal laws relating to bids for contracts of this nature whether the same or expressly referred to herein or not.

Any bidder submitting a proposal shall by such action thereby agree to each and all of the terms, conditions, provisions, and requirements set forth, contemplated, and referred to in the Plans, Specifications, and Contract Documents, and to full compliance therewith.

BID OPENING

The CITY publicly opens and reads bids at the time and place shown on the "Notice Inviting Sealed Bids".

AWARD OF CONTRACT

Following a review of the bids, the CITY shall determine whether to award the contract or to reject all bids. The award of contract, if made, shall be to the lowest responsible Bidder as determined solely by the CITY. At the time of contract award through contract acceptance and term of the agreement, the successful bidder shall hold a **Class B contractor's license and/or a combination of Class C specialty contractors licenses**, as required to perform the work, issued by the State of California. Additionally, the CITY reserves the right to reject any or all proposals, to accept any bid or portion thereof, to waive any irregularity, and to take the bids under advisement for the period of time stated in the "Notice Inviting Sealed Bids," all as may be required to provide for the best interests of the CITY. In no event will an award be made until all necessary investigations are made as to the responsibility and qualifications of the bidder to whom the award is contemplated.

No bidder may withdraw his/her proposal for a period of sixty (60) days after the time set for opening thereof. However, the CITY will return all proposal guarantees within ten (10) days after the award of the contract or rejection of the bids, as the case may be, to the respective bidders whose proposals they accompany.

LABOR CODE

Pursuant to the provisions of Section 1773 and 1773.2 of the Labor Code of the State of California, the CITY has obtained the general provisions rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification or type of workman needed to execute the contract from the director of the Department of Industrial Relations. These rates are on file with the Clerk of the CITY, and copies will be made available to any interested party on request. It shall be the responsibility of the prime CONTRACTOR to comply with all applicable sections of the Labor Code.

In accordance with Labor Code Sections 1725.5 and 1771.1, no contractor or subcontractor shall be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any contract for public work, unless currently registered and qualified to perform public work.

The CONTRACTOR shall comply with the provisions of Section 1774 of the Labor Code. Failure to comply with the subject section will subject the CONTRACTOR to penalty and forfeiture provisions of Section 1775 of the Labor Code.

Pursuant to the provisions of Section 1770 of the Labor Code, the general prevailing rate of wages has been ascertained (which rate includes employer payments for health and welfare, vacation, pension, and similar purposes) applicable to the work to be done, for straight time, overtime, Saturday, Sunday, and holiday work. The holiday wage rate listed shall be applicable to all holidays recognized in the collective bargaining agreement of the particular craft, classification or type of workmen concerned.

The CITY will not recognize any claim for additional compensation because of the payment by the CONTRACTOR of any wage rate in excess of the prevailing wage rate set forth in the contract. The possibility of wage increases is one of the elements to be considered by the CONTRACTOR in determining his bid and will not under any circumstances be considered as the basis of a claim against the CITY on the contract.

The CONTRACTOR shall comply with Section 1777.5 of the Labor Code, which allows the employment of properly registered apprentices on public works projects. The CONTRACTOR is responsible for the compliance with this section for all apprenticeable occupations and subcontractors.

The CONTRACTOR and subcontractors shall comply with all State of California laws against employment discrimination.

The CONTRACTOR may find the latest prevailing wage decision online at the following address:
<http://www.dir.ca.gov/dlsr/PWD/index.htm>

WORKERS COMPENSATION CERTIFICATE

Section 3700 of the State Labor Code requires that every employer shall secure the payment compensation by either being insured against liability to pay compensation with one or more insurers or by securing a Certificate of Consent to Self-Insure from the State of California Director of Industrial Relations.

CLAYTON ACT AND CARTWRIGHT ACT

Section 4551 of the State Government Code specifies that in executing a public works contract with the City to supply goods, services or materials, the CONTRACTOR or Subcontractor 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. Sec. 15) or under the Cartwright Act (Chapter 2 commencing with Sec. 16700) of Part 2 of Division 7 of the Business and Professions Code, arising from purchase of goods, services or materials pursuant to the contract or subcontract. This assignment shall become effective when the CITY tender's final payment to the CONTRACTOR without further acknowledgment by the parties.

SUBSTITUTION OF SECURITIES

In conformance with the State of California Public Contract Code, Part 5, Section 22300, the CONTRACTOR may substitute securities for any monies withheld by the CITY to ensure performance under the contract.

At the request and expense of the CONTRACTOR, the CONTRACTOR has the option to set up an escrow agreement account with a local bank for direct deposit of the retention or deposit securities which have been approved by the CITY and deposited with a state or federally chartered bank as the escrow agent. Said securities will be used as a substitute for retention earnings required to be withheld by the CITY, pursuant to the construction contract. Said securities shall be solely for this project. When the CONTRACTOR deposits the CITY-approved securities with the escrow agent, the escrow agent shall notify the CITY within 10 calendar days of the deposit. Said securities shall be evaluated quarterly by the escrow agent to verify the current market value. If the current market value of said securities falls below the required amount, the escrow agent shall notify the CONTRACTOR and require additional securities and/or cash be submitted for CITY approval and be held in the escrow account to meet the CONTRACTOR'S obligations. Said securities shall be held by the escrow agent until such time as the escrow agent receives written notification from the CITY that the CONTRACTOR has satisfactorily completed his/her contract obligations.

The type of escrow account or types of securities deposited, and the method of release shall be approved by the City Attorney's office.

CALIFORNIA PUBLIC RECORDS ACT

Each bidder is hereby informed, and by submitting a proposal acknowledges, that proposals and their contents are subject to disclosure in accordance with the California Public Records Act (California Government Code Sections 6250 et seq.).

INDEPENDENT CONTRACTOR STATUS

By submitting a proposal to this RFP, proposers thereby represent, warrant, covenant and agree, that in the event City elects to enter into a contract for services outlined herein, as of the effective date of the agreement and throughout the term of the agreement, proposers firm and any person providing services hereunder shall be an independent contractor and not an employee of the City under applicable law, which may include but not be limited to, California Labor Code Sections 2775 et seq. and under the Public Employees' Retirement Law. Failure to comply with this requirement, as may be determined by the City, in consultation with the City Attorney, in City's sole and absolute reasonable discretion, shall result in the proposal being rejected as non-responsive. As set forth in more detail herein, successful proposers shall enter into an Agreement with the City governing the services, which shall include express language effectuating the same.

CALPERS OBLIGATIONS

CalPERS Participation. As set forth in this RFP, City has an obligation to treat all persons working for or under the direction of Consultant as agents and employees of Consultant, and not as agents or employees of City. Consultant and City acknowledge and agree that City participates in a defined benefit plan ("CalPERS").

CalPERS Retiree Disclosure. Proposers expressly agrees to clearly and conspicuously disclose to City in writing any and all persons working for Consultant who are retirees under the California Public Employees' Retirement System (CalPERS) whom receives a monthly CalPERS retirement allowance, and whom are, subject to City approval, assigned by successful bidder to provide services to City under the Agreement, prior to such person performing any services thereunder. Nothing herein shall be deemed or interpreted to limit a CalPERS retiree's obligations under applicable law, rules or regulations.

Joint Cooperation. In the event that the City's Retirement Program initiates an inquiry that includes examination of whether individuals providing services under this Agreement to City are City's employees, successful bidder shall within five days and share all communications and documents from CalPERS that it may legally share. In the event that either successful proposer or City files an appeal or court challenge, successful proposer and City each agree to cooperate with each other in responding to the inquiry and any subsequent administrative appeal or court challenge of an adverse determination.

Indemnity. To the fullest extent permitted by law, in addition to indemnification obligations set forth herein, in the event that any person providing services under this Agreement is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the City, to the fullest extent of the law, successful proposer shall indemnify, defend, and hold harmless City for any payment that City is required as a result to make to CalPERS, whether in the form of employee and/or employer contributions or any similar obligations, as well as for the payment of any penalties and interest on such payments.

BID PROPOSAL

BIDDER'S NAME _____

TO CITY OF RANCHO MIRAGE, as CITY:

In accordance with CITY'S "Notice Inviting Sealed Bids", the undersigned BIDDER hereby proposes to furnish all materials, equipment, tools, labor, and incidentals required for the above-stated project as set forth in the Plans, Specifications, and Contract Documents therefore, and to perform all work in the manner and time prescribed therein.

BIDDER declares that this proposal is based upon careful examination of the work site, Plans, Specifications, Instructions to Bidders, and Contract Documents. If this proposal is accepted for award, BIDDER agrees to enter into a contract with CITY at the unit and/or lump sum prices set forth in the following Proposal Bid Sheets. BIDDER understands that failure to enter into a contract in the manner and time prescribed will result in forfeiture to CITY of the Bid Bond accompanying this proposal.

BIDDER understands that a bid is required for the entire work, that the estimated quantities set forth in the Proposal Bid Sheet are solely for the purpose of comparing bids, and that final compensation under the contract will be based upon the actual quantities of work satisfactorily completed, subject to the terms set forth in the Contract Documents and Specifications. It is agreed that the unit and/or lump sum prices bid include all appurtenant expenses, taxes, royalties, and fees. In the case of discrepancies in the amounts bid, unit prices shall govern over aggregate amounts.

BIDDER agrees and acknowledges that he is aware of the provisions of Section 3700 of the Labor Code which requires that every employer be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of that code, and that the successful BIDDER shall comply with such provisions of that code before commencing the performance of the Contract.

BIDDER certifies that in all previous contracts or subcontracts, all reports that may have been due under the requirements of any agency, state, or federal equal employment opportunity orders have been satisfactorily filed, and that no such reports are currently outstanding.

BIDDER declares that the only persons or parties interested in this proposal as principals are those named herein; that no officer, agent, or employee of the CITY is personally interested, directly or indirectly, in this proposal; that this proposal is made without connection to any other individual, firm, or corporation making a bid for the same work; and that this proposal is in all respects fair and without collusion or fraud.

DATED _____, 20__

BIDDER _____

(BY) _____

TITLE _____

BIDDER'S ADDRESS:

PHONE: _____

FAX: _____

BIDDER'S INFORMATION

BIDDER certifies that the following information is true and correct.

Bidder's Name _____

Business Address _____

Telephone _____

State Contractor's License No. and Class _____

Original Date Issued _____ Expiration Date _____

Department of Industrial Relations Contractor Registration Number _____

The following are the names, titles, addresses, and phone numbers of all individuals, firm members, partners, joint ventures, and/or corporate officers having a principal interest in this proposal:

The dates of any voluntary or involuntary bankruptcy judgments against any principal having an interest in this proposal are as follows:

All current and prior dba's, aliases, and/or fictitious business names for any principal having an interest in this proposal are as follows.

REFERENCES

The following are the names, addresses, and phone numbers for three public agencies or private clients for which BIDDERS has performed similar work within the past two years:

DESIGNATOR OF SURETIES

The following are the names, addresses, and phone numbers for all brokers and sureties from whom BIDDERS intends to procure insurance and bonds:

BID BOND

KNOW ALL MEN BY THESE PRESENTS that _____, as BIDDER, and _____, as SURETY, are held and firmly bound unto the CITY OF RANCHO MIRAGE, as AGENCY, in the penal sum of _____ dollars (\$_____), which is ten percent (10%) of the total amount bid by BIDDER to AGENCY for the above-stated project, for the payment of which sum BIDDER and SURETY agree to be bound jointly, severally, and firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, whereas BIDDER is about to submit a bid to AGENCY for the above-stated project, if said bid is rejected, or if said bid is accepted and a contract is awarded and entered into by BIDDER in the manner and time specified, then this obligation shall be null and void; otherwise, it shall remain in full force and effect in favor of AGENCY.

WITNESS our hands this _____ day of _____, 20___. (seal)

CONTRACTOR (CORPORATION)-TYPE

By: _____
President

By: _____
Secretary/Treasurer

NOTE: SIGNATURE OF CORPORATE OFFICIALS MUST BE NOTARIZED.

(seal)

SURETY'S NAME-TYPE

Mailing Address

By: _____
Name

Title

NOTE: SIGNATURE OF SURETY MUST BE NOTARIZED

NON-COLLUSION DECLARATION
TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

STATE OF CALIFORNIA)

)

COUNTY OF)

The undersigned declares:

I am the _____(president, managing member, etc.) of _____, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly, or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on _____[date], at _____[city], _____[state].”

Signed: _____

Title: _____

BID PROPOSAL SHEET

**RANCHO MIRAGE LIBRARY & OBSERVATORY
COMMUNITY ROOM LIGHTING PROJECT
CP 21-368**

Provide a Schedule of Fees, which includes scope of work, administrative fees, Bonds, and Insurance costs.

Total Bid Amount \$ _____

TOTAL BID AMOUNT IN WORDS _____

By signing below the bidder acknowledges their understanding of the scope of work and that bidder has read, understands, and agrees to the terms and conditions of the project documents and all of the attachments and addenda.

AUTHORIZED SIGNATURE: _____

PRINT SIGNER'S NAME AND TITLE: _____

DATE SIGNED: _____

COMPANY NAME, ADDRESS, TELEPHONE: _____

STANDARD AGREEMENT FOR PUBLIC WORKS CONSTRUCTION

The CITY OF RANCHO MIRAGE ("CITY") and _____ ("CONTRACTOR"), through this agreement ("Agreement"), which shall be effective _____, 2023 ("Effective Date"), agree as follows:

A. CONTRACTOR shall construct the following public improvements ("work") identified as:

RANCHO MIRAGE LIBRARY & OBSERVATORY COMMUNITY ROOM LIGHTING PROJECT – CP 21-368.

B. CITY-approved plans and specifications for the construction of the work ("Project"), which are incorporated herein by reference and prepared by:

are identified as:

PLANS: CP 21-368 RANCHO MIRAGE LIBRARY & OBSERVATORY COMMUNITY ROOM LIGHTING PROJECT.

SPECIFICATIONS: Contract Documents and Specifications for RANCHO MIRAGE LIBRARY & OBSERVATORY COMMUNITY ROOM LIGHTING PROJECT-CP 21-368.

C. The following are attached hereto and made a part hereof and/or are incorporated by reference: Schedule A, Notice Inviting Sealed Bids, Instructions to Bidders, Proposal Documents, Contract Documents, General Provisions, Special Provisions, and all referenced specifications, details, standard drawings and appendices, together with this Agreement and all required bonds, insurance certificates, permits, notices and affidavits; and also including any and all addenda or supplemental agreements clarifying, amending or extending the work contemplated as may be required to ensure its completion in an acceptable manner. The parties agree that the specifications, standards, and procedures set forth in the 2018 Greenbook: Standard Specifications for Public Works Construction, as may be subsequently updated ("Greenbook") shall govern the completion of the Project, and to such extent the Greenbook is incorporated herein by this reference; provided, however, in the event any conflict exists between this Agreement and the Greenbook, this Agreement shall supersede unless otherwise required by law. Without limiting the generality of the forgoing, in the event of any inconsistency or ambiguity among the terms and conditions of this Agreement and any Contract Documents and Specifications, such inconsistency or ambiguity shall be resolved in accordance with the following order of precedence: (1) this Agreement shall control over all others, followed by (2) Special Provisions and (3) General Conditions; provided however, where there is any inconsistency or ambiguity among the subject matter covered in Sections 23 through 25, inclusive, as set forth in the General Conditions, such provisions shall control over the Special Provisions.

1. **COMPENSATION:** For and in consideration of the payments to be made by CITY, CONTRACTOR agrees to furnish all materials and perform all work required for the project, and to fulfill all other obligations as set forth herein.

CONTRACTOR agrees to receive and accept the prices set forth in the Proposal as full compensation for furnishing all materials, performing all work, and fulfilling all obligations hereunder, in an amount not to exceed the amount listed in Schedule A, Section 1. Said

compensation shall cover all expenses, losses, damage and consequences arising out of the nature of work during its progress or prior to its acceptance, including those for well and faithfully completing the work and the whole thereof in the manner and time specified herein; and also including those arising from actions of the elements, unforeseen difficulties or obstructions encountered in the prosecution of the work, suspension or discontinuance of the work and all other unknowns or risks of any description connected with the work.

CITY hereby promises and agrees to retain, and does hereby retain, CONTRACTOR to provide the materials, do the work, and fulfill the obligations according to the terms and conditions herein contained and referred to, for prices aforesaid, and hereby contracts to pay the same at the time, in the manner and upon the conditions set forth herein.

Monthly progress payments shall be made by the CITY based upon the City Engineer's ("ENGINEER") estimate of the percentage of work completed. The CITY will retain five (5) percent of each progress payment as security for completion of the balance of the work, in accordance with Section 9203 of the Public Contract Code. The retention shall be released in accordance with applicable law.

2. **IMPROVEMENTS:** For valuable consideration, CONTRACTOR agrees to do, or cause to be done, all of the work described herein by the date specified in Schedule A. CONTRACTOR warrants that all of the materials supplied and work to be done will be of good quality and workmanship. Said work shall be in strict conformity with the plans and specifications of the work, the standard specifications and drawings for public improvements adopted by CITY and this Agreement. CONTRACTOR shall furnish all transportation, equipment, labor, services, permits, utilities, and all other items necessary to complete the work. CONTRACTOR shall pay all claims, demands and liability arising out of, or resulting from or in connection with, the performance of the work. CONTRACTOR shall furnish accurate "as constructed" plans. CONTRACTOR'S obligations herein are not limited by any cost estimates, nor will any estimate be a measure of damages.
3. **TIME FOR COMPLETION:** The work shall be commenced on a date to be specified in a written Notice to Proceed from the CITY and shall be completed within **ninety (90) calendar days** from and after said date. It is expressly agreed that except for extensions of time duly granted by the CITY, time shall be of the essence.
4. **INSURANCE:** CONTRACTOR shall not commence or continue to perform any work unless CONTRACTOR has in full force and effect all insurance required hereunder with companies satisfactory to CITY. To be acceptable, insurers must be authorized to do business, and have an agent for service of process, in California, and have an "A" policyholder's rating and a financial rating of at least Class V, in accordance with the current Best's Ratings. All insurance policies shall be maintained at CONTRACTOR's expense until expiration of the term of this Agreement as defined herein, and CONTRACTOR shall provide for coverage of all causes of action or disputes arising out of acts in performance of the construction of the work herein, whether said causes or disputes are filed or brought to the attention of CITY before or after the termination of this Agreement.

Concurrent with execution of this Agreement, CONTRACTOR shall provide certificate(s) of insurance and endorsements, satisfactory to CITY, or otherwise provide proof of insurance as approved by the City Attorney, certifying that CONTRACTOR has and will maintain for the Agreement period, full worker's compensation insurance coverage as required by State laws, for all persons who are or may be employed in carrying out the work.

Concurrent with execution of this Agreement, CONTRACTOR shall provide to CITY certificate(s) of insurance and endorsements, satisfactory to CITY, or otherwise provide proof of insurance as approved by the City Attorney, certifying that CONTRACTOR has general liability and commercial vehicle liability insurance coverage naming CITY, City Council members, CITY'S Engineer, and their consultants, officials, directors, officers, agents and employees, as additional insureds for both bodily injury and property damage of not less than that specified in Schedule A. CONTRACTOR shall ensure that it shall carry the coverages required herein and ensure the most current certificates of insurance and endorsements shall be delivered to and maintained by the CITY at all times until the date that is one (1) year following the CITY's acceptance of the Project unless the CITY releases the Performance Bond earlier pursuant to Section 7 in which event CONTRACTOR's obligation to ensure the CITY maintains current certificates of insurance and endorsements will expire as of the date of such release. The requirements set forth in this paragraph shall survive expiration or sooner termination of this Agreement.

General liability and commercial vehicle liability insurance coverage shall include each of the following types of insurance as required by CITY to carry out this Agreement:

- | | |
|--|------------------------|
| A. General Liability | B. Vehicle Liability |
| 1. Comprehensive Form | 1. Comprehensive Form, |
| 2. Premises-Operations | Including Loading and |
| 3. Explosion and Collapse Hazard | Unloading |
| 4. Underground Hazard | 2. Owned |
| 5. Products/Completed Operations Hazard | 3. Hired |
| 6. Contractual Insurance | 4. Non-owned |
| 7. Broad Form Property Damage including Completed Operations | |
| 8. Independent Contractors | |
| 9. Personal Injury | |

Concurrent with execution of any agreements between CONTRACTOR and any subcontractors retained by CONTRACTOR to perform any work required of CONTRACTOR hereunder, and in any event prior to CONTRACTOR authorizing any subcontractors to perform any such work or to even conduct any preliminary activities in preparation for or in anticipation of such work, CONTRACTOR shall collect certificates of insurance and endorsements from all such subcontractors evidencing proof that all subcontractors have procured and will maintain all the insurance coverages required of CONTRACTOR under this Agreement, and name as additional insureds the parties to this Agreement. CONTRACTOR agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Section.

In addition to naming the CITY, City Council members, CITY'S Engineer, and their consultants, officials, directors, officers, agents and employees, as additional insureds, as set forth above, the certificates of insurance, including those provided by any subcontractor, provided either on forms required by the CITY or as otherwise approved by the City Attorney, shall bear the following endorsements: (1) each policy required herein must be endorsed to provide that the policy shall not be cancelled or non-renewed by or reduced in coverage or limits (except by paid claims) unless the insurer has provided the CITY with thirty (30) days prior written notice of cancellation; (2) the carriers of all required insurance policies must waive all rights of subrogation against the CITY and its officers, employees, servants, volunteers, agents and independent contractors; and (3) except for worker's compensation insurance, all insurance policies required to be provided by CONTRACTOR must be endorsed to provide that the policies shall apply on a primary and noncontributing basis in relation to any insurance or self-insurance, primary or

excess, maintained or available to the CITY, and its officers, employees, servants, volunteers, agents and independent contractors.

CONTRACTOR shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and shall also be responsible for payment of any self-insured retentions. In the event CONTRACTOR maintains insurance with broader coverage and/or limits of liability greater than those required herein, CITY requires and shall be entitled to the broader coverage and/or higher limits of liability maintained by CONTRACTOR. Any insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to CITY. The fact that insurance is obtained by CONTRACTOR shall not be deemed to release or diminish the liability of CONTRACTOR, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify and hold the CITY harmless shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of CONTRACTOR, its principals, officers, agents, employees, persons under the supervision of CONTRACTOR, vendors, suppliers, invitees, sub-contractors, or anyone employed directly or indirectly by any of them. Without limiting the generality of the forgoing, CONTRACTOR agrees and acknowledges that if it fails to obtain all of the insurance required in this Agreement in accordance with the requirements herein, or to obtain and ensure that the coverage required herein is maintained by any subcontractors or others involved in any way with the Project, CONTRACTOR shall be responsible for any losses, claims, suits, damages, defense obligations, or liability of any kind or nature attributable to the CITY or its officers, employees, servants, volunteers, agents and independent contractors; and all performance under this Agreement shall be discontinued immediately until notice is received by CITY that the required insurance has been restored to full force and effect and that the premiums therefor have been paid for a period satisfactory to CITY. Any failure to maintain the required insurance, including insurance required of any subcontractors or others involved in any way with the Project, shall be sufficient cause for CITY to terminate this Agreement.

Nothing contained in these insurance requirements shall limit the liability of CONTRACTOR or CONTRACTOR's sureties. Review and acceptance of insurance certificates shall not constitute any representation by CITY or its representatives that any required insurance has been issued.

Unless Contractor has no employees and is exempt from worker's compensation requirements, Contractor shall further procure and maintain at its expense, until expiration of the term of this Agreement as defined in Section 10, workers' compensation insurance providing coverage as required by the California State Workers' Compensation Law. If any class of employees employed by the Contractor pursuant to this Agreement is not protected by the California State Workers' Compensation Law, Contractor shall provide adequate insurance for the protection of such employees to the satisfaction of the City. Contractor agrees to waive its statutory immunity under any workers' compensation or similar statute, as respecting the City, and to require any and all subcontractors and any other person or entity involved in the Project to do the same. Additionally, Contractor shall execute and file with the City the certification as required by Labor Code Section 1861, as set forth in Exhibit "A."

Worker's Compensation Insurance:

- Contractor has no employees and is exempt from workers compensation requirements.

- Contractor carries workers' compensation insurance for all employees.

5. **CONTRACTOR'S LIABILITY:** CONTRACTOR shall, at CONTRACTOR'S sole cost and expense, be solely and completely responsible for all matters effecting the design, prosecution, progress, and completion of the work (both on and off the job site). CONTRACTOR shall be responsible for observing all laws, including, but not limited to, those required under Section 1725.5 of the Labor Code. CONTRACTOR shall provide for public convenience and safety and safety of workers, including CONTRACTOR'S workers and those of CONTRACTOR'S subcontractors, suppliers and others contributing to the work. CONTRACTOR shall protect CITY property and property rights of others, including the location, maintenance, and replacement of utilities, whether shown on the plans or not. CONTRACTOR shall give prior notification to utility owners. CONTRACTOR shall notify Underground Service Alert at 1-800-422-4133 at least 48 hours prior to start of construction. CONTRACTOR shall protect against, and prevent drainage from, storm runoff. CONTRACTOR shall not interfere with easements, rights-of-way and encroachment permits. Nothing in this Agreement, the specifications, or other contract documents, or CITY'S approval of the plans and specifications or inspection of the work is intended to include CITY'S review, inspection, acknowledgment of or responsibility for any such matters. CITY, CITY COUNCIL members, ENGINEER, and their consultants and each of their officials, directors, officers, employees, and agents shall have no responsibility or liability for the above.

6. **CONTRACTOR'S INDEMNIFICATION:** CONTRACTOR shall defend, indemnify and hold harmless CITY, CITY COUNCIL members, ENGINEER, and their consultants and each of their officials, directors, officers, agents and employees from and against all liability, claims, damages, losses, expenses and other costs, including costs of defense and attorneys' fees arising out of or resulting from or in connection with all matters affecting the design or construction of the work, both on and off the job site, and during and after completion, except for any such claim arising out of the sole or active negligence or willful misconduct of the CITY, its officers, agents, employees, or volunteers. This provided any of the above is: (1) attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of property (other than the work itself) including the loss of use resulting therefrom, and (2) caused in whole or in part by any act or omission of CONTRACTOR, CONTRACTOR'S engineer, any subcontractor, any supplier, anyone directly or indirectly employed by any of them or anyone for whose acts or omissions any of them may be liable. Said indemnification and agreement to hold harmless shall extend to injuries to persons and damages to or taking of property resulting from all matters affecting the design or construction of said improvements or the diversion of waters or from all matters affecting the design or construction or maintenance of drainage systems, streets, and other improvements. Acceptance of these improvements by CITY shall not constitute an assumption by CITY of any responsibility for such damage or taking. As to any and all claims against the indemnified parties by any employee of CONTRACTOR, any contractor, any subcontractor, any supplier, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnity obligations hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR, subcontractor, supplier or other person under workers' compensation acts, disability benefit acts or other employee acts.

CONTRACTOR shall also defend, indemnify and hold harmless CITY, CITY COUNCIL members, ENGINEER, and their consultants, and each of their officials, directors, officers, employees and agents from and against all losses, expenses, damages (including damages to the work itself), attorneys' fees and other costs, including costs of defense, which any of them may incur both during and after completion with respect to any latent deficiency in all matters affecting the design, specifications, surveying, planning, supervision, observation or construction of the improvements referred to herein or any injury to a person or property, real or personal, as a result of any such latent portions of the work which CITY reasonably suspects may also be defective by reason of known defects in the work or other work performed by CONTRACTOR or CONTRACTOR'S subcontractors, or suppliers or designed by their representatives, except for any such claim arising out of the sole or active negligence or willful misconduct of the CITY, its officers, agents, employees or volunteers. Provisions of this paragraph shall remain in effect ten (10) years following acceptance of improvements by the City. Nothing contained herein shall limit CITY'S remedies pursuant to Code of Civil Procedure, Section 337.15.

The indemnity provisions contained in this Section shall survive expiration or sooner termination of this Agreement.

7. **SECURITY:** With the execution of this Agreement, unless otherwise indicated on Schedule A, CONTRACTOR shall furnish and deliver to CITY, at no expense to CITY, a payment bond, and a performance bond. Each shall be in the amount of CITY-approved estimate specified on Schedule A. Bonds shall be furnished by surety companies satisfactory to CITY on the forms provided by CITY. No alterations or substitution of said forms shall be allowed. To be acceptable, surety companies must be authorized to do business and have an agent for service of process in California, be on the accredited list of the United States Treasury Department and have an "A" policyholder's rating and a financial rating of Class V, or better, in accordance with the current Best's Rating. The bonds shall be limited to amounts acceptable to the Treasury Department. The payment bond shall remain in force and shall not be released until at least seven (7) months after recordation of the Notice of Completion or Notice of Acceptance, whichever occurs first. The performance bond shall remain in force until at least one (1) year after the date of final acceptance of the Project, unless the City determines, in its sole and absolute discretion, to release the performance bond earlier and notifies the Contractor of the same in writing. The requirements set forth in this paragraph shall survive expiration or sooner termination of this Agreement.

None of the following shall in any way affect the obligations of any surety. Each surety waives notice thereof: (a) any change, extension of time, alteration or additions to the terms of the Agreement, or the work to be performed, or the plans and specifications therefor; (b) any matters unknown to surety which might affect surety's risk, except that CITY shall advise surety upon request of the following: (1) any written claims it receives from unpaid subcontractors or suppliers, (2) any written orders received from other public authorities charging violations of laws, ordinances or regulations, and (3) failure of CONTRACTOR to comply with any written notice to correct defective work. The obligations of CONTRACTOR shall not be limited by the amount of such bonds.

8. **TYPES/AMOUNT OF SECURITY:** If specified in Schedule A, in lieu of payment and performance bonds, CONTRACTOR may furnish CITY either cash, a Letter of Credit, or an Agreement of Deposit as security for performance. Said security shall be in an amount not less than 100% of the cost estimate and, in addition, for payment of those furnishing materials, labor or equipment in an amount not less than 100% of the cost estimate. Said security agreements

shall be on forms furnished by CITY. No alterations or substitution of said forms shall be allowed. The obligations of CONTRACTOR shall not be limited by the amount of the security required. No interest shall be paid CONTRACTOR on any cash deposit made pursuant to this paragraph.

9. **SUBSTITUTION OF SECURITIES:** In conformance with the State of California Public Contract Code, Part 5, Section 22300, CONTRACTOR may substitute securities for any monies withheld by the CITY to ensure performance under this Agreement.

At the request and expense of CONTRACTOR, CONTRACTOR has the option of establishing an escrow account with a state or federally chartered bank which shall serve as an escrow agent, for CONTRACTOR'S direct deposit of securities as a substitute for retention earnings required to be withheld by the CITY. Upon CONTRACTOR'S completion of its obligations hereunder, as evidenced by the CITY'S acceptance of the work pursuant to Section 11 hereof, the escrow agent shall return the securities to CONTRACTOR. The escrow agent shall notify the CITY within ten (10) days after deposit of the securities. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention. Securities shall be held in the name of the CITY and shall designate CONTRACTOR as the beneficial owner. Alternatively, on written request of CONTRACTOR, the CITY shall make payments of the retention earnings directly to the escrow account.

10. **PARTIAL UTILIZATION:** Until all work has been completed and accepted by CITY and all other public authorities having jurisdiction, CONTRACTOR shall be responsible for the care and maintenance of, or any damage to, the work.

When the work or any portion of it is sufficiently complete to be utilized or placed into service, CITY shall have the right, upon written notification to CONTRACTOR, to utilize such portions of the work and to place the operable portions into service. With this notice and commencement of utilization or operation by CITY, CONTRACTOR shall be relieved of the duty of maintaining the portions so utilized or placed into operation. However, such use and operation shall not relieve CONTRACTOR of the full responsibility for completing the work in its entirety, for making good any defective work or materials, for protecting the work from damage, and for being responsible for damage and for the work as set forth herein. Nor shall such action by CITY be deemed completion and acceptance. Further, such action shall not relieve CONTRACTOR or CONTRACTOR'S sureties and insurers of the provisions hereof relating to indemnity and guarantees.

11. **ACCEPTANCE OF PROJECT - WARRANTY:** Acceptance of the work shall only be by action of the CITY COUNCIL. Neither the acceptance nor any prior inspections or failure to inspect shall constitute a waiver by CITY of any defects in the work. From and after acceptance, the work shall be owned and operated by CITY. As a condition to acceptance, CONTRACTOR shall certify to CITY in writing that all of the work has been performed in strict conformity with the Agreement and that all costs have been paid or security supplied to CITY, satisfactory to CITY, guaranteeing such performance. In addition to CONTRACTOR'S other obligations under the Agreement CONTRACTOR warrants all work and materials to be good quality and fit for the purpose and intended use, including, but not limited to, against fading, chipping, or peeling, for a duration that shall continue until five (5) years following acceptance of the Project, or the longest period permitted by law, whichever is later. If any defects in materials or workmanship become evident prior to the date referenced above, the CONTRACTOR shall, at his or her own expense, make any repair(s) or replacement(s) necessary to restore the work to full compliance with the plans and specifications. CONTRACTOR shall also repair, replace, and restore any

other work which is displaced in correcting defective work as well as other portions of the work which CITY by reason of such defects reasonably suspects may also be defective.

In the event of a failure to commence with the compliance of above-mentioned conditions within seven (7) calendar days after being notified in writing or failure to diligently pursue such compliance to completion, CITY is hereby authorized to proceed to have the defects repaired and made good at the expense of CONTRACTOR who hereby agrees to pay the cost and charges therefor immediately on demand.

If, in the opinion of CITY, nonconforming work creates a dangerous condition or requires immediate correction or repair to prevent further loss to CITY or to prevent interruption of operations, CITY shall attempt to give the CONTRACTOR notice. If CONTRACTOR cannot be contacted or does not comply with CITY'S request for correction within a reasonable time as determined by CITY, CITY may proceed to make such correction or provide such repair. The costs of such correction or repair shall be charged against CONTRACTOR, who agrees to make payment for said costs upon demand.

Corrective action by CITY will not relieve CONTRACTOR or CONTRACTOR'S sureties or insurers of the guarantees and indemnities of this Agreement.

This paragraph does not in any way limit CITY'S remedies pursuant to Code of Civil Procedure, Section 337 and 337.15, or the guarantee or warranty on any items for which a longer guarantee is specified or on any items for which a manufacturer or supplier gives a longer guarantee or warranty period. CONTRACTOR agrees to act as a co-guarantor with such manufacturer or supplier and shall furnish CITY all appropriate guarantees or warranty certificates upon completion of the project. No manufacturer's guarantee period shall in any way limit the liability of CONTRACTOR or CONTRACTOR'S sureties and insurers under the indemnity or insurance provisions of this Agreement.

12. **TERM:** The term of this Agreement shall commence as of the Effective Date and expire upon the date the City Council accepts the Project pursuant to this Agreement, or upon release of the Performance Bond in accordance with Section 7 of this Agreement, whichever occurs first.
13. **CONTRACTORS AND AGENTS:** CONTRACTOR shall be as fully responsible to CITY for the acts and omissions of CONTRACTOR'S subcontractor and of the persons directly or indirectly employed by CONTRACTOR'S subcontractor as CONTRACTOR is for the acts and omissions of persons directly or indirectly employed by CONTRACTOR. Nothing contained in the Agreement shall create any contractual relationship between any subcontractor or others and CITY. CONTRACTOR shall bind every contractor to be bound by the terms of this Agreement.

14. **DEFAULT BY CONTRACTOR**: CONTRACTOR shall be in default of this Agreement if: CONTRACTOR refuses or fails to prosecute the work or any separable part thereof with such diligence as will ensure its completion within the time specified herein, or any written extension thereof, or fails to complete such work within such time, or if CONTRACTOR should be adjudged a bankrupt, make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of CONTRACTOR'S insolvency, or if CONTRACTOR or any of their subcontractors violate any of the provisions of this Agreement, or if CONTRACTOR fails to make prompt payment for materials or labor, or if CONTRACTOR disregards laws, ordinances, or instructions of CITY. CITY may thereafter serve written notice upon the CONTRACTOR and CONTRACTOR'S surety of its intention to declare this Agreement in default. Said notice shall contain the reasons for such intention to declare a default. Unless, within ten (10) days after the service of such notice, such violations shall cease and satisfactory arrangements for the corrections thereof be made, this Agreement shall upon the expiration of said time be in default.

Upon such default, CITY shall serve written notice thereof upon the surety and CONTRACTOR, and the surety shall have the right to take over and perform this Agreement. If the surety does not, within fifteen (15) days after the serving upon it of a notice of a default, give CITY written notice of its intention to take over and perform this Agreement or does not commence performance thereof within thirty (30) days from the date of CITY'S notice, CITY may take over the work and prosecute the same to the extent of completion it deems necessary by contract or by any other method it may deem advisable for the account and at the expense of CONTRACTOR, and the surety shall be liable to CITY for any cost or other damage occasioned CITY thereby. In such event CITY may, without liability for so doing, take possession of, and utilize in completing such work, such materials, appliances, plants, and other property belonging to CONTRACTOR that may be on the site of the work and be necessary therefor. Should surety fail to take over and diligently perform the Agreement upon CONTRACTOR'S default, surety agrees to promptly on demand deposit with CITY such amount as CITY may reasonably estimate as the cost of completing all of CONTRACTOR'S obligations. For any such work the CITY elects to complete by furnishing its own employees, materials, tools, and equipment, CITY shall receive reasonable compensation therefor including costs of supervision and overhead.

CITY may, at its option, elect not to complete any or all of the work and may elect not to accept any of the work already completed. If CITY elects not to accept any of the work, then all CITY'S obligations to CONTRACTOR and the lands to be served shall terminate. CITY'S obligations to CONTRACTOR and the lands to be served shall continue to the extent of any acceptance, subject to CITY'S right to offset any sums due the CITY.

The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to CITY.

15. **DELAY BY CONTRACTOR**: If the work is suspended or otherwise not continuously prosecuted for any cause whatsoever, within or without the time for completion, CONTRACTOR shall, at CONTRACTOR'S sole cost and expense, remove and replace all or any portion of the work already completed and inspected which CITY, in its sole discretion, determines is or can be damaged.
16. **ATTORNEYS' FEES AND COSTS**: Should CITY engage an attorney to enforce any provision of this Agreement or to defend any claim brought by anyone arising out of the failure of CONTRACTOR to perform any of CONTRACTOR'S obligations under this Agreement, CONTRACTOR shall pay all of CITY'S attorneys' fees incurred in connection therewith, with or without suit, whether or not said attorney is in the regular employ of the CITY.

17. **PREVAILING WAGES:** All work or services performed within the State of California pursuant to this Agreement by CONTRACTOR, CONTRACTOR's employees and independent contractors, or CONTRACTOR's subcontractors and its subcontractors' employees and independent contractors shall be performed by individuals lawfully permitted to perform such work or services in the State of California and/or the United States of America pursuant to all applicable State and/or Federal labor laws, rules and regulations including, but not limited to, any State or Federal law, rule or regulation prohibiting the employment of undocumented workers or any other person not lawfully permitted to perform said work or services in the State of California or the United States of America.

CONTRACTOR represents that it is an equal opportunity employer and shall not discriminate against any subcontractor, employee, or applicant ("person") for employment because of race, denial of family and medical care leave, religious creed (including religious dress and grooming practices), color, national origin (including language use restrictions), ancestry, physical disability or mental disability (including HIV and Aids), medical condition (cancer and genetic characteristics), genetic information, military or veteran status, marital status, gender, gender identity, gender expression, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), age or sexual orientation. Unless otherwise permitted under the law, CONTRACTOR shall not refuse to hire or employ any such person or refuse to select any such person for a training program leading to employment, or bar or discharge any such person from employment or from a training program leading to employment, or otherwise discriminate against any such person in compensation or in terms, conditions, or privileges of employment.

CONTRACTOR and all of CONTRACTOR's subcontractors, if any, shall pay each employee engaged in all applicable trades or occupation not less than the prevailing hourly wage rate for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work. In accordance with the provisions of Section 1770 of the California Labor Code ("Labor Code"), the Director of Department of Industrial Relations of the State of California has determined the general prevailing rates of wages and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in Labor Code Section 1773.8, apprenticeship or other training programs authorized by Labor Code Section 3093 and similar purposes applicable to the work to be done. Said wages are available through the California Department of Industrial Relations' Internet website at <http://www.dir.ca.gov/dlsr/PWD/index.htm> and are on file at City Hall, as provided in Section 1773.2 of the Labor Code. Said rates shall be posted at the project site where work is to be performed, in accordance with Labor Code Section 1773.2. CONTRACTOR shall access a copy of the wage rate determination and shall make all subcontractors, if any, aware of the determination. As the wage determination for each craft reflects an expiration date, it shall be the CONTRACTOR's responsibility to ensure that the prevailing wage rates of concern are current and paid. Subject to the safe harbor provisions of Labor Code Section 1775, CONTRACTOR shall forfeit to the CITY an amount not to exceed two hundred dollars (\$200) for each calendar day or portion thereof, as set by the Labor Commissioner in accordance with the terms of Labor Code section 1775, for each laborer, workmen or mechanics employed that is paid less than the general prevailing rate of wages herein referred to and stipulated for any work done under the proposed contract, by him, or by any subcontractor under him, in violation of the provisions of the Labor Code, and in particular, Sections 1770 to 1781 inclusive. CONTRACTOR and any and all or its subcontractors shall forfeit to the CITY twenty-five dollars (\$25) for each worker employed in the performance of this Agreement for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Section 1813 of the Labor Code. In the event the total cost of the

Project is thirty thousand dollars (\$30,000.00) or more, Contractor shall further comply with provisions set forth in Labor Code Section 1777.5 pertaining to employment of properly registered apprentices, including without limitation the obligation to (i) pay employed apprentices the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of craft or trade to which he or she is registered; (ii) employ apprentices in at least the ratio as set forth in said section; (iii) submit contract award information to an applicable apprenticeship program; and (iv) contribute to California Apprenticeship Council.

CONTRACTOR and all subcontractors hired to perform any work for the subject project shall keep accurate payroll records, including 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 worker, in accordance with Section 1776 of the Labor Code. Payroll records shall be on forms provided by the Division of Labor Standards Enforcement ("DLSE") or in a manner containing the same information as the forms provided by the DLSE. Failure to comply with the above may result in monetary penalties to the CONTRACTOR or affected subcontractor. Payroll records shall be verified by written declaration made under penalty of perjury, that the information contained in the records is true and correct. CONTRACTOR and any and all subcontractors shall make a certified copy of all payroll records available for inspection by DLSE, the CITY or any member of the public and otherwise provide certified copies of such records to any of the foregoing within ten (10) days of CONTRACTOR's and subcontractor's receipt of written request therefor. Failure to comply with the above may result in monetary penalties, in accordance with Labor Code Section 1776(d) and (h).

Notwithstanding anything else to the contrary, CONTRACTOR hereby acknowledges that all contractors must be registered with the Department of Industrial Relations ("Department") pursuant to Labor Code Section 1725.5 in order to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any public work contract, including this Agreement, that is subject to the payment of prevailing wages. The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. In accordance with Section 3700 of the Labor Code, CONTRACTOR must secure payment of compensation to CONTRACTOR's employees. CONTRACTOR represents and warrants that CONTRACTOR is registered with the Department in the manner prescribed by the Department and has paid the requisite application fee, as required by Labor Code Section 1725.5. Moreover, prior to CONTRACTOR entering into any contracts with any subcontractor, CONTRACTOR shall obtain proof that all such subcontractors have also registered with the Department in accordance with Section 1725.5.

18. **ASSIGNMENT**: The performance of the Agreement may not be assigned except upon the written consent of CITY. Consent will not be given to any proposed assignment which would relieve CONTRACTOR or CONTRACTOR'S sureties of their responsibilities under the Agreement unless CITY finds that assignee can perform this Agreement and provide security comparable to that provided by CONTRACTOR.
19. **NOTICE**: All notices required hereunder shall be deemed served or given upon the earlier of actual receipt or deposit in the U.S. Postal Service, first class postage prepaid, addressed to CONTRACTOR at the address set forth below, to the surety at the address in the security instrument, and to CITY at 69-825 Highway 111, Rancho Mirage, California 92270.
20. **SUBSTITUTION OF SUBCONTRACTORS**: Pursuant to Synergy Project Management v. the City and County of San Francisco, 33 Cal.App.5th 21 (2019), CITY may initiate substitution

proceedings and direct CONTRACTOR to remove any subcontractor from performing any work on the Project, in the event CITY deems such subcontractor's performance to be substantially unsatisfactory and not in substantial accordance with the Project's plans and specifications.

21. **COUNTERPARTS:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Except as otherwise required by law, electronic signatures shall be deemed to constitute evidence of the Agreement having been executed.

22. **CHANGES IN WORK AND CHANGE ORDERS.**

The CITY, upon agreement with the CONTRACTOR, without invalidating the Contract, may order extra work or make changes by altering, adding to, or deducting from the work, the Contract sum being adjusted accordingly. The CONTRACTOR shall not be authorized to comply with such order without previously obtaining written authority therefore from the CITY. All such work shall be executed under the conditions of the original Contract, except that any claims for extension of time caused thereby shall be adjusted at the time of ordering such change.

The CONTRACTOR shall, when requested by the CITY, furnish an itemized breakdown of the quantities and prices used in computing the value of any change that may be ordered. If in the opinion of the CONTRACTOR any instructions, detail Drawings, or notices of any description issued by the ENGINEER or CITY involve extra cost above the Contract price CONTRACTOR shall immediately give the CITY written notice to that effect before proceeding with the work involved, as described in more detail in 24.1 of the General Conditions. The execution of work without prior submission of such written notice shall constitute the contractor's acceptance of the work as being within the Contract price. WITHOUT LIMITING THE GENERALITY OF THE FORGOING AND NOTWITHSTANDING ANYTHING IN ANY PROJECT DOCUMENTS TO THE CONTRARY, ANY WORK RESULTING IN ANY PROPOSED CHANGE IN COMPENSATION AS SET FORTH IN SCHEDULE "A" SHALL BE SUBJECT TO THE REQUIREMENTS HEREIN, AND COMPLIANCE WITH NOTICE REQUIREMENTS SHALL BE A CONDITION PRECEDENT TO CITY'S OBLIGATION TO PAY CONTRACTOR.

The CONTRACTOR agrees that any change orders represent an accord and satisfaction between the CITY and CONTRACTOR for such extra work. The CONTRACTOR's change order shall contain the entire claim of CONTRACTOR for all such extra work, including but not limited to claims for delay, disruption, and acceleration damages. The CONTRACTOR waives any further claim for costs and damages except as specifically set forth in the change order.

Notice of Change in Work – When the CONTRACTOR foresees or discovers a potential change in scope or work in the prosecution of the Work and, in any event, immediately upon the discovery, the CONTRACTOR shall notify the CITY and ENGINEER in writing of the probability of the occurrence and the estimated extent of the change, the estimated cost impact, schedule impact, and its cause. The CONTRACTOR agrees that no claim shall be made for changes in work or scope, which are not called to the attention of the CITYCITY and ENGINEER at the time of their discovery.

Avoidable Change Orders – Avoidable change orders in the prosecution of the Work shall include Change Orders which could have been avoided by the exercise of known industry standards, professional experience, Plan review, care, prudence, foresight, and diligence on the part of the Contractor or its subcontractors, at any tier level, or suppliers, which may include

delays, as determined by the CITY in its reasonable discretion based on the same standards. Avoidable change order(s) shall not be subject to any additional compensation nor shall CONTRACTOR make any such claim.

Unavoidable Change Orders

Unavoidable change orders in the prosecution or completion of the Work shall include delays which result from causes beyond the control of the CONTRACTOR, and which could not have been avoided by the exercise of known industry standards, professional experience, Plan review, care, prudence, foresight, and diligence on the part of the CONTRACTOR or his subcontractors, at any tier level, or suppliers.

Payment Calculation for Change Orders

Change orders will be calculated on a daily Time and Materials basis, unless CITY and CONTRACTOR can agree to lump sum pricing; provided, however, in the event any change order or portion thereof includes any work and/or quantities identified in the bidding schedules and unit pricing is provided therein, such work and/or quantities shall be billed at a rate no higher than as set forth therein. Daily time and material tickets must be signed daily by the CITY project manager and the Contractors authorized representative. Time and materials tickets must include time and rates per certified payrolls. Must include all materials and equipment used.

Change Order Request

Change order requests must include signed authorized time and material tickets. Materials cost mark-up will be at a predetermined agreed-upon rate between the CITY, ENGINEER, and CONTRACTOR or as specified in the bid package. Change order requests must include employee rate per certified payrolls, all material used, and equipment. Cost of work overhead will be determined by Contract Bid price divided by Contract Period Calendar Days x 0.03 = Daily Home Office Overhead (\$/Day). Change Orders must be provided to City upon CITY provided or approved forms.

23. LIQUIDATED DAMAGES.

In accordance with Government Code Sections 53069.85 and 7203, Should the CONTRACTOR fail to complete the work within the time specified in the contract, as extended in accordance with this clause if appropriate, the CONTRACTOR shall pay to the CITY liquidated damages of One Thousand dollars (\$1,000.00) per day as specified in the Special Provisions of these specifications. The parties hereto acknowledge and agree that if CONTRACTOR delays or fails to timely perform as specified in herein, such delay or failure would result in damages to the CITY in an amount not readily ascertainable by the parties, and being that it is impracticable and difficult to fix the amount of such damages, the parties hereby agree that such damage would be approximately equal to amounts incurred by CITY and that CONTRACTOR shall pay this amount as liquidated damages for each and every delay or failure, and that such amount is reasonable and not a penalty. Such liquidated damages may be deducted from any payments due or to become due to the CONTRACTOR.

**CITY OF RANCHO MIRAGE
STANDARD AGREEMENT FOR PUBLIC WORKS CONSTRUCTION
SIGNATURE REQUIREMENTS**

(Limited Partnership/General Partnership/Corporation)

1. WHERE PRINCIPAL IS A LIMITED PARTNERSHIP

- A. General Partner shall execute on behalf of the limited partnership.
- B. General Partner shall furnish City of Rancho Mirage a copy of the recorded Certificate of Limited Partnership to authenticate the authority of the General Partner to sign on behalf of the limited partnership.

2. WHERE PRINCIPAL IS A GENERAL PARTNERSHIP

- A. General Partner shall execute on behalf of general partnership.
- B. General Partner shall furnish City of Rancho Mirage a copy of the General Partnership Agreement authenticating that the General Partner who signs the document has authority to do so.

3. WHERE PRINCIPAL IS A CORPORATION

- A. Officers shall execute on behalf of corporation.
- B. Officers shall furnish City of Rancho Mirage a copy of a corporate resolution indicating that the officers who sign the document are the officers of the corporation and authorized to bind the corporation to contract. An instrument entered into by a corporation is precluded from being invalidated, despite evidence demonstrating that the signing officers lacked authority to execute the instrument on the corporations' behalf. *Corp C. §313.*

Where a corporate resolution is not provided or acceptable to the reasonable determination of the City, Corporation requires two signatures. One signature shall be provided by either: Chair of the Board, President, or any Vice President; and the second signature shall be provided by either: the Secretary, any Assistant Secretary, Chief financial Officer or any Assistant Treasurer of the Corporation.

4. WHERE PRINCIPAL IS A LIMITED LIABILITY COMPANY

- A. In a member-managed Limited Liability Company, a member shall execute on behalf of the Limited Liability Company.
- B. In a manager-managed Limited Liability Company, a manager shall execute on behalf of the Limited Liability Company.
- C. The member or manager who executed the contract shall provide the City a copy of the Limited Liability Company's Operating Agreement authenticating that the member or manager who executes the contract has the authority to do so.

By: _____
Richard W. Kite Date

By: _____
(Authorized Representative of Corp.) Date

Title: Mayor _____

Title _____

APPROVED AS TO FORM:

Address: _____

By: _____
City Attorney

Telephone: _____

ATTEST:

By: _____
City Clerk

(SEAL IF CORPORATION)

(SIGNATURES MUST BE NOTARIZED)

(Seal: Partnership/Corporation)

SCHEDULE A

STANDARD AGREEMENT FOR PUBLIC WORKS CONSTRUCTION

This schedule is attached to and made a part of the Standard Agreement for Construction of Public Improvements between CITY and CONTRACTOR for the above-referenced property.

- 1. Compensation: \$ _____
- 2. Completion Date **(90 Calendar Days)**: To be determined by Notice to Proceed
- 3. Liability Insurance Limits:

General Liability

\$2,000,000	Each Occurrence (Includes Bodily Injury and Property Damage)
\$1,000	Medical Expense
\$1,000,000	Personal & Advertising Injury
\$2,000,000	General Aggregate
\$2,000,000	Products-Completed/Operations Aggregate

Vehicle Liability

Combined Single Limit \$1,000,000 each accident, and \$2,000,000 in the aggregate

Workers Compensation Statutory

- 4. Approved Security Amounts:

- a. Performance

\$ _____

- b. Payment

\$ _____

- 5. Bond Substitute Acceptable: Yes No (Cross out one)

- 6. Contractor(s):

Name and Address License No. Phase of Work

() Initial of CITY REPRESENTATIVE () Initials of CONTRACTOR REPRESENTATIVE

LETTER OF CREDIT

CITY OF RANCHO MIRAGE
69-825 Highway 111
Rancho Mirage, CA 92270

Attention: Isaiah Hagerman, City Manager

Reference: Irrevocable Letter of Credit No. _____

Gentlemen:

This Letter of Credit is given to fulfill the requirements of that certain agreement entered into between the City of Rancho Mirage, a political subdivision of the State of California, hereinafter referred to as "CITY," and

_____ hereinafter referred to as "Principal," covering certain improvements to be installed in that certain project known and designated as:

_____ As required by said agreement, and for that purpose only, we hereby establish in favor of CITY our Irrevocable Letter of Credit No. _____ in the amount of _____ U.S. dollars (\$ _____), to be paid by drafts at sight on us if accompanied by the following documents:

CITY'S written statement (signed by the City Manager or City Attorney) certifying that there has been failure of the Principal to perform the above agreement. Said statement shall declare the amount of the sight draft on us and that the amount of this draft is, therefore, now due and payable.

IT IS AGREED that the above funds are on deposit and guaranteed for payment and said funds shall become trust funds for the purposes set forth herein as required by Section 66499.6 of the Government Code of the State of California.

Upon our receipt, from time to time, of a signed and dated certificate, in the form below, from the City of Rancho Mirage, the amount of this Letter of Credit will be reduced by the amount stated in such certificate. Said certificate must read as follows:

Required improvement(s) has been performed in that certain project known and designated as _____. The amount and liability under Letter of Credit No. _____ is hereby reduced to \$_____

All drafts under this Letter of Credit shall be marked:

Name of Bank _____

Address _____

IRREVOCABLE LETTER OF CREDIT NO. _____

We expressly agree with you that all drafts drawn under and in compliance with the terms of this Letter of Credit shall meet with due honor upon representation. "Due honor" requires payment to CITY within three (3) banking days after presentation of demand.

This Letter of Credit shall be deemed automatically extended without amendment one year from the present and annually thereafter unless sixty (60) days prior to any such date bank shall notify City Clerk, by registered letter, that bank elects not to renew for such additional one year. In any event, this guaranteed Letter of Credit shall expire forty-five (45) days after CITY'S approval of the foregoing improvements, the recordation of the Notice of Acceptance and notification thereof to bank.

DATED: _____

Name of Bank _____

By: Authorizing Agent or Representative _____

APPROVED AS TO FORM: _____

City Attorney

Note: Letter must be submitted on bank letterhead with resolution or other documentation identifying signature as bank officer authorized to sign on behalf of bank.

PERFORMANCE BOND

We, _____, as Principal, and _____, as Surety, jointly and severally, firmly bind ourselves, our heirs, representatives, successors and assigns, as set forth herein, to the City of Rancho Mirage ("CITY") for payment of the penal sum of: _____ U.S. Dollars (\$_____). CITY and Principal have entered into an agreement or are about to enter into the agreement attached hereto and incorporated by reference, for the construction of public improvements for property referenced in said agreement. Surety herein approves of the terms and conditions of said agreement and binds itself to faithfully perform the obligations of Principal therein if Principal fails to so perform. Surety acknowledges that the agreement herein referenced shall be that document as executed by CITY and Principal.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal shall in all things stand to and abide by, and well and truly keep and perform all of the covenants, conditions, and provisions in said agreement, and any alteration thereof made as therein provided, on Principal's part to be kept and performed at the time and in the manner therein specified, and shall indemnify and save harmless the CITY, CITY'S engineer, and their consultants, and each of their officials, directors, officers, employees and agents, as therein stipulated, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

Surety agrees that should it fail to take over and diligently perform the agreement upon Principal's default after notice and within the time specified in the agreement, Surety will promptly on demand deposit with CITY such amount as CITY may reasonably estimate as the cost of completing all of Principal's obligations. Surety's obligation for payment herein shall exist, notwithstanding any controversy between Principal and CITY regarding Principal's failure under the agreement, and payment by Surety should be conclusively presumed between the parties herein to relieve, as demanded, Surety's obligations herein and shall be deemed proper payment as between Principal and Surety.

Surety agrees that no change, extension of time, alteration, or addition to the terms of the agreement, or the work to be performed thereunder or the plans and specifications, or any matters unknown to Surety which may affect Surety's risk shall in any wise affect its obligation on this bond, and it does thereby waive notice thereof.

Principal and Surety agree that if the CITY is required to engage the services of an attorney in connection with the enforcement of this bond, each shall pay CITY'S reasonable attorneys' fees incurred, with or without suit, in addition to the above sum.

Executed this ____ day of _____, 20__.

Seal of Corporation

By _____
Authorized Representative of Principal

Title _____

By _____
Authorized Representative of Principal

Title _____

(ATTACH ACKNOWLEDGEMENT OF AUTHORIZED REPRESENTATIVES)

Any claims under this bond may be addressed to: (check one)

Surety's agent for service
of process in California:

() _____
Surety Company

Name

Street Number

Street Number

City and State

City and State

Telephone Number

Telephone Number

By _____
Attorney in Fact or other Representative

(ATTACH ACKNOWLEDGEMENT OF AUTHORIZED REPRESENTATIVE)

() _____
Company Agent

APPROVED AS TO FORM:

Street Number

City Attorney

City and State

Telephone Number

Furnish the name, address, and phone number of the company agent as well as the surety company. Sureties must be authorized to do business in and have an agent for service of process in California and be on the accredited list of the United States Treasury Department (their bonds will be limited to such amounts as would be acceptable to the Treasury Department), and otherwise meet the requirements of section 7 of the agreement.

(NOTICE: No substitution or revision of this bond form shall be accepted.)

PAYMENT BOND

We, _____, as Principal, and _____, as Surety, jointly and severally, firmly bind ourselves, our heirs, representatives, successors and assigns, as set forth herein, to the CITY OF RANCHO MIRAGE ("CITY") and those for whose benefit this bond insures in the sum of: _____ U.S. Dollars (\$_____). CITY and Principal have entered into an agreement or are about to enter into the agreement attached hereto and incorporated by reference, for the construction of public improvements for the property referenced in said agreement. Surety herein approves of the terms and conditions of said agreement and binds itself to faithfully perform the obligations of Principal therein if Principal fails to so perform. Surety acknowledges that the agreement herein referenced shall be that document as executed by CITY and Principal. If Principal or any of Principal's contractors or subcontractors, fails to pay any of the persons named in Section 9000 *et seq.* of the California Civil Code employed in the performance of the agreement for materials furnished or for labor thereon of any kind, or for amounts due under the Unemployment Insurance Code with respect to such work or labor, then Surety shall pay the same in an amount not exceeding the sum specified above, and also shall pay, in case suit is brought upon this bond, such reasonable attorneys' fees as shall be fixed by the court.

Surety agrees that it shall pay the amounts due the persons above named and diligently perform the agreement upon Principal's default after notice and within the time specified in the agreement. If Surety fails to perform within the times specified in the agreement, Surety shall promptly on demand deposit with CITY such amount as CITY may reasonably estimate as the cost of completing all of Principal's obligations. Surety's obligation for payment herein shall extend, notwithstanding any controversy between Principal and CITY regarding Principal's failure under the agreement. Principal and Surety agree that any payment by Surety pursuant to this paragraph should be conclusively presumed between the parties herein to relieve, as demanded, Surety's obligation herein and shall be deemed proper payment as between Principal and Surety.

This bond shall insure to the benefit of any and all of the persons named in Section 9000 *et seq.* of the California Civil Code so as to give a right of action to them or their assigns in any suit brought upon this bond.

Surety agrees that no change, extension of time, alteration, or addition to the terms of the agreement, or the work to be performed thereunder, or the plans and specifications, or any matters unknown to Surety which might affect Surety's risk, shall in any way affect its obligation on this bond, and it does hereby waive notice thereof.

Principal and Surety agree that should CITY become a party to any action on this bond, that each will also pay CITY'S reasonable attorneys' fees incurred therein in addition to the above sums.

Executed this _____ day of _____, 20__.

Seal of Corporation

By _____
Authorized Representative of Principal
Title _____

(ATTACH ACKNOWLEDGEMENT)

By _____
Authorized Representative of Principal
Title _____

Any claims under this bond may be addressed to: (check one)

Surety's agent for service
of process in California:

() _____
Surety Company

Name

Street Number

Street Number

City and State

City and State

Telephone Number

Telephone Number

By _____
Attorney in Fact or other Representative

(ATTACH ACKNOWLEDGEMENT OF AUTHORIZED REPRESENTATIVE)

() _____
Company Agent

APPROVED AS TO FORM:

Street Number

CITY Attorney

City and State

Telephone Number

Furnish the name, address, and phone number of the company agent as well as the surety company.

Sureties must be authorized to do business in and have an agent for service of process in California and be on the accredited list of the United States Treasury Department (their bonds will be limited to such amounts as would be acceptable to the Treasury Department), and otherwise meet the requirements of section 7 of the agreement.

(NOTICE: No substitution or revision of this bond form shall be accepted.)

**CERTIFICATE OF COMPLETION OF STANDARD AGREEMENT
FOR PUBLIC WORKS CONSTRUCTION**

To induce the CITY OF RANCHO MIRAGE ("CITY") to accept all the work under the above dated Standard Agreement for Public Works Construction between CITY and CONTRACTOR, CONTRACTOR represents and certifies to CITY as follows:

- 1 All the work described in said agreement has been fully and completely performed in strict conformity with the agreement; and,
2. Except for final payments due CONTRACTOR or subcontractors which are contingent upon CITY'S acceptance, all transportation, equipment, labor, service, permits, utilities, and all other items used in completing the work have been fully paid for.

CONTRACTOR: _____
(Name) (Phase of Work)

(Date) (Authorized Representative) (Title)

CONTRACTOR: _____
(Name) (Phase of Work)

(Date) (Authorized Representative) (Title)

CONTRACTOR: _____
(Name) (Phase of Work)

(Date) (Authorized Representative) (Title)

CONTRACTOR: _____
(Name) (Phase of Work)

(Date) (Authorized Representative) (Title)

CONTRACTOR: _____
(Name) (Phase of Work)

(Date) (Authorized Representative) (Title)

Recording Requested By And
When Recorded Mail to:

CITY OF RANCHO MIRAGE
69-825 Highway 111
Rancho Mirage, CA 92270
No fee

NOTICE OF ACCEPTANCE

Notice is hereby given that the following public improvements have been completed and accepted by the CITY COUNCIL of the City of Rancho Mirage on _____, 20__.

(Brief description of improvements)

(General location)

_____ Rancho Mirage, California,

(City of property)

(Contractor(s))

This Notice of Acceptance is executed under authority of a directive from the City Council of the City of Rancho Mirage.

I, _____, declare under the penalty of perjury that I am the _____ of the City of Rancho Mirage, that I am familiar with the facts stated in the foregoing Notice of Acceptance executed for and on its behalf, and that I have read the foregoing Notice of Acceptance and know the contents thereof to be true.

DATED: _____, 20__.

(SIGNATURES MUST BE NOTARIZED)

Title

SECTION 00700-A

INDEX OF GENERAL CONDITIONS

<u>ARTICLE</u>	<u>PAGE NO.</u>
1. Scope of Work.....	44
2. Location of Work	44
3. Time For Completion.....	44
4. Correlation and Intent of Documents	44
5. Detail Drawings and Instructions	44
6. No Oral Agreements.....	44
7. Shop Drawings.....	45
8. Drawings and Specifications	45
9. Materials, Workmanship	45
10. Defective Work and Materials.....	45
11. Substitutions of Materials and Equipment.....	45
12. Contractor's Title To Materials.....	46
13. Licenses, Permits, Laws, and Regulations	46
14. Patents, Royalties, and Taxes.....	46
15. Engineering, Survey, and Site Examination.....	46
16. Protection of Work and Property.....	46
17. Accident Prevention	46
18. Emergencies	46
19. Access To The Work	46
20. Inspection of The Work	47
21. Inspector	47
22. Supervision of Contractor	47
23. Changes in The Work.....	47
24. Delays	48
25. Time Extensions.....	49
26. CITY'S Right To Do Work.....	50
27. CITY'S Right To Terminate The Contract	51
28. Contractor's Right To Terminate The Contract	51
29. Payments Withheld	51
30. Liens	51

31. Assignments.....	51
32. Mutual Responsibility Of Contractors.....	51
33. Separate Contracts	52
34. Subcontracts	52
35. Use of Work Area and Cleaning	52
36. Correction of Work After Final Payment & Guarantee 1 Year	52
37. Occupancy By The Owner.....	52
38. Damage To Adjacent and Existing Property	52
39. Utilities	53
40. Temporary Toilet	53
41. Climatic Conditions.....	53
42. Laws Concerning the Owner A Part Hereof	53
43. Wages & Hours	53
44. Brand or Trade Name Substitution or “Equals”	53
45. Notice of Completion	54
46. Equal Opportunity Clause.....	54
47. Progress Schedule	54
48. Pre-construction Conference.....	54

SECTION 00700
GENERAL CONDITIONS OF THE CONTRACT

1. SCOPE OF WORK

The work to be done consists of furnishing all materials, equipment, tools, labor, and incidentals as required by the Plans, Specifications, and Contract Documents for the above-stated project. The general items of work to be done hereunder consist of the addition of a modular theatrical lighting system and controls, for use in the Rancho Mirage Library and Observatory Community Room. The project will consist of but is not limited to the purchase and installation of all required lighting equipment, and the installation of high-voltage electrical wiring added to support the theatrical lighting system. Installation of Low-voltage wiring installation to control the theatrical lighting system separately from the existing architectural lighting control system. Also, the installation of theatrical lighting mounted to temporary truss structures that are suspended by hoists mounted to the facility steel structure. Structural installations will include seismic bracing for hoist suspended truss.

2. LOCATION OF WORK

The general location: Rancho Mirage Library & Observatory, 71-100 Highway 111, Rancho Mirage, California, 92270.

3. TIME FOR COMPLETION

Time is of the essence; therefore, the CONTRACTOR shall prioritize and schedule the work to be completed within the time specified in the Notice to Proceed and as set forth in Paragraph C.3 of the Standard Agreement, Page 18, "Time For Completion," and shall be initiated as follows:

All long lead delivery time items shall be ordered immediately upon award of the contract. Vendor delivery date commitments shall be provided to the City of Rancho Mirage.

4. CORRELATION AND INTENT OF DOCUMENTS

The Standard Specifications for Public Works Construction (Green Book), 2018 Edition, project plans, special provisions, contract change orders, and all supplementary documents are essential parts of the contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be complimentary, and to describe and provide for a complete work.

Project Plans shall govern over Standard Plans; Standard Plans and Project Plans shall govern over the Standard Specifications; the Project Special Provisions shall govern over the Project Plans, Standard Specifications, and Standard Plans.

5. DETAIL DRAWINGS AND INSTRUCTIONS. The Engineer will furnish to the Contractor, with reasonable promptness, such further detail explanations, instructions, and Drawings as may be necessary for the proper execution of the Work. In giving such additional instructions, the Engineer shall have authority to make minor changes in the Work, not involving extra cost, and not inconsistent with the intent of the Drawings and Specifications or the purposes of the improvement. The Contractor shall conform to the intent of the Contract, Drawings and Specifications. The Contractor shall not proceed with any portion of the work unless he is in possession of Plans and information necessary to its proper execution and completion.

The execution of the work as specifically detailed or explained without a written Change Order signed by the Owner and the Engineer, shall constitute an acceptance by the Contractor of detailed Drawings or information as being in conformity with the original intent of the Contract Documents.

6. NO ORAL AGREEMENTS. No oral agreement or conversation with any officer, agent, or employee of the Owner, either before or after execution of the Contract, shall affect or modify any of the terms or obligations contained in any of the documents comprising said Contract.

7. SHOP DRAWINGS

A. The Contractor shall submit for the approval of the Engineer shop, fabrication and setting drawings required by the Specifications or that may be requested by the Engineer, and no work shall be fabricated by the Contractor, except at his own risk, until such approval has been given.

B. Drawings shall be submitted in quadruplicate accompanied by letter or transmittal which shall give a list of the numbers and dates of the drawings submitted. Drawings shall be complete in every respect and bound in sets.

C. The Drawings submitted shall be marked with the name of the project, numbered consecutively, and bear the approval of the Contractor as evidence that the Drawings submitted without this approval will be returned to the Contractor for re-submission.

D. The Contractor shall submit all Drawings and schedules sufficiently in advance of construction requirements to allow ample time for checking, correcting, resubmitting, and rechecking.

If the shop drawings show variations from the requirements of the Contract because of standard shop practice or other reasons, the Contractor shall make specific mention of such variations in his letter of transmittal in order that, if acceptable, suitable action may be taken for proper adjustment; otherwise, the Contractor will not be relieved of the responsibility for executing the work in accordance with the Contract even though such shop drawings have been approved.

E. If a Drawing as submitted indicates a departure from the Contract requirements which the Engineer finds to be in the interest of the Owner and to be so minor as not to involve a change in the Contract price or time for performance, he may approve the Drawings.

F. The approval of shop and setting drawings will be general and, except as provided above, shall not be construed: (1) as permitting any departure from the Contract requirements; (2) as relieving the Contractor of the responsibility of any error in details, dimensions or otherwise that may exist; (3) as approving departures from additional details or instructions previously furnished by the Engineer.

8. **DRAWINGS AND SPECIFICATIONS.** The Contractor shall keep on the work site a complete copy of the Drawings and Specifications, including all authorized Change Orders, in good condition, which shall always be available to the Owner, Engineer, and their representatives.

All Drawings, Specifications and copies thereof furnished to the Contractor are the property of the Owner and shall not be used on other work without its consent. Upon completion of this project, all copies of the Drawings and specifications shall be returned to the Engineer, as agent of the Owner.

9. **MATERIALS, WORKMANSHIP.** All materials used in the project, unless otherwise specified, shall be new, of the types and grades specified, and the Contractor shall, if requested, furnish evidence satisfactory to the Engineer that such is the case. All workmanship shall be of the best quality and all workers shall be adequately skilled in the work which they perform.

10. **DEFECTIVE WORK AND MATERIALS.** The Contractor shall promptly remove from the premises all materials condemned by the Owner, the Contractor shall promptly replace and re-execute his work in accordance with the Contract and shall perform that work without expense to the Owner and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement. If the Engineer and Owner deem it expedient to correct work injured or done not in accordance with the Contract, the difference in value together with a fair allowance for damage shall be deducted from the sum agreed to be paid the Contractor for the performance of the Contract.

11. **SUBSTITUTIONS OF MATERIALS AND EQUIPMENT.** Materials and equipment, including specially designated makes, must be furnished as specified except when equals are approved by the Owner. Equals will not be accepted unless the Contractor requests and receives permission in writing from the Owner to make

specific substitutions. Requests shall be made within sufficient time to allow the Owner to investigate the merits of the proposed substitutes, and the Contractor shall present complete details with specific explanations of the characteristics of those details, which differ, from the Specifications.

12. **CONTRACTOR'S TITLE TO MATERIALS.** No materials or supplies for the work shall be purchased by the Contractor or by any subcontractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies for which he accepts partial payment.

13. **LICENSES, PERMITS, LAWS AND REGULATIONS.** The contractor, acting in the name of the Owner, shall obtain and pay, only where legally required, for all licenses and permits, inspections and inspection certificates, required to be obtained from or made by any authority having jurisdiction over any part of the work included in the Contract. The Contractor shall comply with all laws, ordinances, and regulations applicable to the work.

14. **PATENTS, ROYALTIES AND TAXES.** The Contractor shall hold the Owner and the Engineer harmless from liability of any nature, including costs and expenses, for or on account of any patented or unpatented article, appliance, or device used in the performance of the Contract and shall defend all suits or claims for infringement of any patent right. He shall pay all applicable Federal, State, and local sales taxes and all other taxes pertinent to the work involved in this Contract.

15. **ENGINEERING, SURVEY AND SITE EXAMINATION.** The Contractor shall be responsible for having ascertained pertinent local conditions such as location, accessibility, and general character of the site and for having satisfied himself as to the conditions under which the work is to be performed. No claim for allowances because of his error or negligence in acquainting himself with the conditions at this site will be recognized.

The Contractor shall provide competent engineering services to lay out the work and all parts thereof and to establish all grades and elevations in accordance with the Contract requirements and ADA guidelines. He shall verify the figures shown on the approved drawings before undertaking any construction work and shall be responsible for the accuracy of the finished work.

16. **PROTECTION OF WORK AND PROPERTY.** The Contractor shall at all times safely guard the City's property from injury or loss in connection with this Contract. He shall at all times safely guard and protect his own work and adjacent property from damage. All passageways, guard fences, lights and other facilities required for protection by State of municipal laws and regulations and local conditions shall be provided and maintained. Existing pavements located on or near the site shall be protected against damage, and pavements that are accidentally damaged or necessarily cut shall be replaced with the same material upon completion of the work.

17. **ACCIDENT PREVENTION.** Precaution shall be exercised at all times for the protection of persons, including employees, and property. The safety provisions of applicable laws, building and construction codes shall be observed. The Contractor shall maintain sufficient safeguards, such as railings, temporary walks, lights, etc., against the occurrence of accidents, injuries, damage or harm to any person or property and shall also be responsible for the same if such occur.

18. **EMERGENCIES.** In an emergency affecting the safety of life or of any structure or of adjoining property, the Contractor shall take all necessary and proper steps to prevent any threatened loss or injury. If practicable, the Contractor shall communicate with the City and shall be guided by the directions and advice of the Owner. But if the character of the emergency is such as to require action with such short limits or time or under circumstances rendering that impracticable, then the Contractor shall act independently and upon his own responsibility, subject to the direction and control of the Owner as soon as it may become practicable to obtain the same.

19. **ACCESS TO THE WORK.** The Engineer, the City, and their representatives shall have access at all times to the work for purposes of inspection, wherever said work is in preparation or progress, and the Contractor shall provide proper facilities for such access and inspection.

20. **INSPECTION OF THE WORK.** All material and workmanship (if not otherwise designated by the Specifications) shall be subject to inspection, examination, and test by the Engineer at any all times during manufacture and/or construction and at any and all places where such manufacture and/or construction are carried on. The Engineer shall have the right to reject defective material and workmanship or require its correction. Should the Specifications, the Engineer's instructions, any law, ordinances, or public authority require any work to be specially tested or approved, the Contractor shall give the Engineer timely notice of its readiness for inspection, and if the inspection is by an authority other than the Engineer, of the date fixed for such inspection. If any work should be covered, without proper inspection and without approval or consent of the Engineer, it shall, if required by the Engineer, be uncovered for examination at the Contractor's expense.

21. **INSPECTOR.** The City may employ an Inspector, who will act as a direct representative of the City or the Engineer, and who shall provide full-time and continuous personal supervision and inspection of the work. Such supervision and inspection shall not, in any way relieve the Contractor from responsibility for full compliance with all of the terms and conditions of the Contract, nor be construed to lessen to any degree, the Contractor's responsibility for providing efficient and capable superintendence as required herein. The Inspector is not authorized to make changes in the Drawings or Specifications, nor shall his approval of work and methods relieve the Contractor of responsibility for the correction of subsequently discovered defects.

No work of any kind shall be performed on the project site outside of the regularly established working hours without the knowledge and consent of the Inspector.

22. **SUPERVISION OF CONTRACTOR.** The CONTRACTOR shall give his personal attention constantly to the faithful prosecution of the work, and shall be present, either in person or be represented by a duly authorized and competent SUPERINTENDENT satisfactory to the ENGINEER, continually at the site of the work during progress, to receive directions or instructions from the CITY. The SUPERINTENDENT shall be qualified to, and shall, represent the CONTRACTOR during all times when the CONTRACTOR is not present, and all orders or directions issued to the SUPERINTENDENT by the CITY shall be as binding as if given to the CONTRACTOR personally. Important directions shall be confirmed in writing to the CONTRACTOR. Other directions shall be so confirmed upon written request in each case. The CONTRACTOR shall designate the Project SUPERINTENDENT in writing to the CITY and obtain ENGINEER approval prior to the start of construction. Both the CONTRACTOR and the SUPERINTENDENT shall cooperate to provide efficient and complete supervision over all phases of the work.

23. **CHANGES IN THE WORK.** The CITY, upon agreement with the CONTRACTOR, without invalidating the Contract, may order extra work or make changes by altering, adding to, or deducting from the work, the Contract sum being adjusted accordingly. The CONTRACTOR shall not be authorized to comply with such order without previously obtaining written authority therefore from the CITY. All such work shall be executed under the conditions of the original Contract, except that any claims for extension of time caused thereby shall be adjusted at the time of ordering such change.

The CONTRACTOR shall, when requested by the CITY, furnish an itemized breakdown of the quantities and prices used in computing the value of any change that may be ordered. If in the opinion of the CONTRACTOR any instructions, detail Drawings, or notices of any description issued by the ENGINEER or CITY involve extra cost above the Contract price CONTRACTOR shall immediately give the CITY written notice to that effect before proceeding with the work involved, as described in more detail in 24.1. The execution of work without prior submission of such written notice shall constitute the contractor's acceptance of the work as being within the Contract price. **WITHOUT LIMITING THE GENERALITY OF THE FORGOING AND NOTWITHSTANDING ANYTHING IN ANY PROJECT DOCUMENTS TO THE CONTRARY, ANY WORK RESULTING IN ANY PROPOSED CHANGE IN COMPENSATION AS SET FORTH IN SCHEDULE "A" SHALL BE SUBJECT TO THE REQUIREMENTS HEREIN, AND COMPLIANCE WITH NOTICE REQUIREMENTS SHALL BE A CONDITION PRECEDENT TO CITY'S OBLIGATION TO PAY CONTRACTOR.**

The CONTRACTOR agrees that any change orders represent an accord and satisfaction between the CITY and CONTRACTOR for such extra work. The CONTRACTOR's change order shall contain the entire claim of CONTRACTOR for all such extra work, including but not limited to claims for delay, disruption, and acceleration damages. The CONTRACTOR waives any further claim for costs and damages except as specifically set forth in the change order.

23.1 Notice of Change in Work – When the CONTRACTOR foresees or discovers a potential change in scope or work in the prosecution of the Work and, in any event, immediately upon the discovery, the CONTRACTOR shall notify the CITY and ENGINEER in writing of the probability of the occurrence and the estimated extent of the change, the estimated cost impact, schedule impact, and its cause. The CONTRACTOR agrees that no claim shall be made for changes in work or scope, which are not called to the attention of the CITY and ENGINEER at the time of their discovery.

23.2 Avoidable Change Orders – Avoidable change orders in the prosecution of the Work shall include Change Orders which could have been avoided by the exercise of known industry standards, professional experience, Plan review, care, prudence, foresight, and diligence on the part of the Contractor or its subcontractors, at any tier level, or suppliers, which may include delays, as determined by the CITY in its reasonable discretion based on the same standards. Avoidable change order(s) shall not be subject to any additional compensation, nor shall CONTRACTOR make any such claim.

23.3 Unavoidable Change Orders

Unavoidable change orders in the prosecution or completion of the Work shall include delays which result from causes beyond the control of the CONTRACTOR, and which could not have been avoided by the exercise of known industry standards, professional experience, Plan review, care, prudence, foresight, and diligence on the part of the CONTRACTOR or his subcontractors, at any tier level, or suppliers.

23.4 Payment Calculation for Change Orders

Change orders will be calculated on a daily Time and Materials basis, unless CITY and CONTRACTOR can agree to lump sum pricing; provided, however, in the event any change order or portion thereof includes any work and/or quantities identified in the bidding schedules and unit pricing is provided therein, such work and/or quantities shall be billed at a rate no higher than as set forth therein. Daily time and material tickets must be signed daily by the CITY project manager and the Contractors authorized representative. Time and materials tickets must include time and rates per certified payrolls. Must include all materials and equipment used.

23.5 Change Order Request

Change order requests must include signed authorized time and material tickets. Materials cost mark-up will be at a predetermined agreed-upon rate between the CITY, ENGINEER, and CONTRACTOR or as specified in the bid package. Change order requests must include employee rate per certified payrolls, all material used, and equipment. Cost of work overhead will be determined by Contract Bid price divided by Contract Period Calendar Days x 0.03 = Daily Home Office Overhead (\$/Day). Change Orders must be provided to City upon CITY provided or approved forms.

24. DELAYS

24.1 Notice of Delays – When the CONTRACTOR foresees a delay in the prosecution of the Work and, in any event, immediately upon the occurrence of a delay, the CONTRACTOR shall notify the CITY and ENGINEER in writing of the probability of the occurrence and the estimated extent of the delay, and its cause. The CONTRACTOR agrees that no claim shall be made for delays, which are not called to the attention of the ENGINEER at the time of their occurrence. Failure to duly notify CITY of any delay shall be deemed CONTRACTOR's waiver of any rights and/or claims to any additional expenses resulting from such delay and CONTRACTOR's agreement to diligently bring such work to completion without any additional delay or expense to CITY.

24.2 Avoidable Delays – Avoidable delays in the prosecution of the Work shall include delays, which could have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the CONTRACTOR or its subcontractors, at any tier level, or suppliers. CONTRACTOR shall receive no additional compensation for avoidable delays, and CONTRACTOR agrees that it shall make any such claim therefor.

24.3 Unavoidable Delays – Unavoidable delays in the prosecution or completion of the Work shall include delays which result from causes beyond the control of the CONTRACTOR, and which could not have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or his subcontractors, at any tier level, or suppliers.

Delays in completion of the Work of other contractors employed by the CITY will be considered unavoidable delays but only to the very limited extent that they interfere with the CONTRACTOR's completion of the current critical activity or item of the Work. Where CITY provides notice to CONTRACTOR of any such delay caused by a third-party contractor of the CITY, CONTRACTOR shall immediately take all reasonable measures to mitigate any potential delays, and failure to do so be deemed an avoidable delay.

24.4 **Abnormal Delays** – Delays caused by acts of God, fire, unusual storms, floods, tidal waves, earthquakes, strikes, labor disputes, freight embargoes, and shortages of materials shall be considered as unavoidable delays provided they prevent the CONTRACTOR from proceeding with seventy-five (75) percent or more of the normal labor and equipment force for five (5) hours or more per day toward completion of the current critical activity item on the approved progress schedule, provided such event is beyond CONTRACTOR'S reasonable control, occurs without CONTRACTOR's fault or negligence, is no caused directly or indirectly by CONTRACTOR, and could not have been prevented or avoided by CONTRACTOR's reasonable diligence. CONTRACTOR shall immediately notify CITY in writing of any such abnormal delay upon knowledge of such delay or where CONTRACTOR reasonably should have known of such delay. Such notice shall include the known or anticipated length of delay and cause of delay, and CONTRACTOR shall notify CITY upon the terminating of any such delay. Failure to strictly comply with said notice requirements may result in such delay being deemed an avoidable delay, which shall be determined at the CITY's sole reasonable discretion.

24.5 **Material Shortages** – Upon the submission of satisfactory proof to the ENGINEER by the CONTRACTOR, a shortage of materials outside the control of the CONTRACTOR will be acceptable as grounds for granting a time extension. In order that such proof may be satisfactory and acceptable to the CITY and ENGINEER, it must be demonstrated by the CONTRACTOR that the CONTRACTOR has made every effort to obtain such materials from all known sources within reasonable reach of the proposed Work and was not due to a lack of scheduling or planning on the CONTRACTOR's part. Any extension provided herein shall be limited to the duration of such material shortage, unless otherwise agreed in writing by CITY.

Only the physical shortage of material caused by unusual circumstances beyond CONTRACTOR'S reasonable control, occurs without CONTRACTOR's fault or negligence, is no caused directly or indirectly by CONTRACTOR, and could not have been prevented or avoided by CONTRACTOR's reasonable diligence, will be considered under these provisions as a cause for Extension of Time, and no consideration will be given to any claim that material could not be obtained at a reasonable, practical, or economical cost or price, unless it is shown to the satisfaction of the CITY and ENGINEER that such material could have been obtained only at exorbitant prices entirely out of line with current rates, taking into account the quantities involved and usual practices in obtaining such quantities. A time extension for shortage of materials will not be considered for material ordered or delivered late or whole availability is affected by virtue of the mishandling of procurement. The above provisions apply equally to equipment to be installed in the Work.

25. **TIME EXTENSIONS**

25.1 **Avoidable Delay** – The CITY may grant an Extension of Time for avoidable delays if the CITY deems it is in its best interest. If the CITY grants an Extension of Time for avoidable delays, the CONTRACTOR agrees to pay the CITY'S actual costs, including changes for engineering, inspection and administration incurred during the extension.

25.2 **Unavoidable Delay** – In the event of an Unavoidable Delay as described in 24.3 above, then the Contract completion date may be extended by the CITY for such time that, in the CITY's and ENGINEER's opinion, the CONTRACTOR's completion date will be unavoidably delayed, provided that the CONTRACTOR strictly fulfills the following:

- a. The CONTRACTOR shall provide notification in accordance with Section 24.1 **Notice of Delays** and submit in writing a request for an Extension of Time to the ENGINEER stating at a minimum the probable cause of the delay and the number of days being requested. The time extension request shall be submitted along with a time impact analysis.

- b. If requested by the ENGINEER, the CONTRACTOR shall promptly provide sufficient information to the CITY and ENGINEER to assess the cause or effect of the alleged delay, or to determine if other concurrent delays affected the work.
- c. Weather Delays. The CONTRACTOR will be granted a non-compensable time extension for weather-caused delays.

Should the CONTRACTOR fail to fulfill any of the foregoing, which are considered conditions precedent to the right to receive a Time Extension, the CONTRACTOR waives the right to receive a time extension.

Should the CONTRACTOR fail to complete the work within the time specified in the contract, as extended in accordance with this clause if appropriate, the CONTRACTOR shall pay to the CITY liquidated damages as specified in the Special Provisions of these specifications.

During such extension of time, neither extra compensation for engineering, inspection and administration, nor damages for delay will be charged to the CONTRACTOR. It is understood and agreed by the CONTRACTOR and CITY that time extensions due to unavoidable delays will be granted only if such unavoidable delays involve controlling operations which would prevent completion of the whole Work within the specified Contract Time.

25.3 Indirect Overhead – The CONTRACTOR shall be reimbursed for indirect overhead expenses (see Section 24.3) for periods of time when the Work is stopped due to Unavoidable Delays as defined in Section 25.2. However, no reimbursement for indirect overhead shall be made for delays as defined in Section 24.4 Abnormal Delays; Section 24.4 Weather Delays; or Section 24.5 Material Shortages.

As a condition precedent to any reimbursement, the CONTRACTOR must fulfill all conditions as provided Section 25.2, Unavoidable Delay.

The reimbursement of indirect overhead is limited to those delay conditions defined above when the CONTRACTOR is prevented from proceeding with seventy-five (75) percent of the normal labor and equipment force for five (5) hours or more per day toward completion of the current critical activity item(s) on the current favorably reviewed progress schedule.

25.4 Indirect Field Overhead – For those allowable delay periods as defined in Section 24.3, the CONTRACTOR shall be reimbursed for its indirect field overhead based on:

- a. Invoices for all field office equipment.
- b. Actual salary for field office staff.
- c. Fair rental values acceptable to the ENGINEER for construction equipment idled due to the delay.

25.5 Home Office Overhead – For those allowable delay periods as defined in Section 25.3, Unavoidable Delays, the CONTRACTOR shall be reimbursed for its home office overhead based on the following formula:

Contract Bid price divided by Contract Period Calendar Days x 0.03 = Daily Home Office Overhead (\$/Day).

Such reimbursement shall be mutually agreed between the CITY and CONTRACTOR to encompass full payment for any home office overhead expenses for such periods of time for the CONTRACTOR. The CONTRACTOR agrees to hold the CITY harmless for any indirect overhead claims from its subcontractors.

26. CITY’S RIGHT TO DO WORK

Should the Contractor, at any time during the process of construction, fail or refuse to furnish enough materials and/or workers to properly prosecute the work, unless prohibited from so doing though the action of the CITY, the Engineer, or other authorized official agencies, the CITY, after giving two (2) days written notice to the CONTRACTOR may, without prejudice to any other rights it may have, proceed with and/or complete the work, and may deduct the cost thereof, together with reasonable expenses arising from such procedure, CONTRACTOR.

27. CITY'S RIGHT TO TERMINATE THE CONTRACT

If the Contractor should be adjudged a bankruptcy; if he should make a general assignment for the benefit of its creditors; or if a receiver should be appointed on account of its insolvency; if CONTRACTOR should, except in cases stated in the following paragraph, persistently or repeatedly refuse or fail to supply enough properly skilled workers or proper materials, or if he should fail to make prompt payment to subcontractors or for materials or labor, persistently disregard laws, ordinances or the instruction of the CITY; or otherwise be guilty of a substantial violation of any provision of the Contract, then the CITY, upon certificate of the Engineer that sufficient cause exists to justify such action, may, without prejudice to any other right or remedy after giving the CONTRACTOR ten (10) days written notice, terminate the employment of the Contractor and take possession of the premises and of all materials, tools, and appliances thereon and finish the work by whatever he may deem expedient. In such case, the CONTRACTOR shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price shall exceed the expense of finishing the work including compensation to the Engineer for his additional services, such excess shall be paid to the CONTRACTOR. If such expense shall exceed such unpaid balance, the CONTRACTOR shall pay the difference to the CITY.

28. CONTRACTOR'S RIGHT TO TERMINATE THE CONTRACT

If through no fault of the Contractor, or of anyone employed by CONTRACTOR (1) the work is stopped by order of any court or governmental authority, other than the CITY, or (2) the CITY fails to pay to the Contractor within sixty (60) days after presentation of the Engineer's certificate to the CITY, any sum certified by the Engineer, then the Contractor may upon ten (10) days written notice to the CITY and the Engineer stop work or terminate the Contract, and the CITY shall be liable to the Contractor for such approved amounts withheld.

29. PAYMENTS WITHHELD

The Engineer may withhold or, on account of subsequent discovered evidence, nullify the whole or a part of any certificate for payment to such extent as may be necessary to protect the CITY from loss on account of:

- A. Defective work not remedied.
- B. Claims filed, or reasonable evidence indicating probable filing of claims.
- C. Failure of the CONTRACTOR to make payments properly to subcontractor or for material or labor.
- D. A reasonable doubt that the Contract can be completed for the balance remaining unpaid.
- E. Damage to another Contractor.
- F. Default of the Contractor in the performance of the terms of the Contract.
- G. Excessive costs as determined by ENGINEER.

30. LIENS

The CONTRACTOR agrees that at any time upon request of either the CITY or the Engineer, CONTRACTOR will submit a sworn statement setting forth the work performed or material furnished by subcontractors and material suppliers, and the amount due and to become due to each, and that before the final payment called for hereunder CONTRACTOR will, if requested, submit to the CITY or the Engineer a complete set of vouchers showing what payments have been made for materials and labor used in connection with the work.

31. ASSIGNMENTS

The Contractor shall not assign the whole or any part of this Contract without the written consent of the CITY and all Sureties executing bonds on behalf of the CONTRACTOR in connection with said Contract.

32. MUTUAL RESPONSIBILITY OF CONTRACTORS

If the CONTRACTOR or any of his subcontractors or employees cause loss or damage to any separate Contract on the work, the CONTRACTOR agrees to settle with such separate Contractor by agreement or arbitration, if such contractor will so settle. If such separate Contractor sues the CITY, on account of any loss so sustained, the CITY shall notify the CONTRACTOR, who shall indemnify, defend, and save harmless the CITY against any expenses and judgment arising therefrom.

33. **SEPARATE CONTRACTS**

The CITY reserves the right to award other contracts in connection with the project and the work, under which may proceed simultaneously with the execution of this Contract. The CONTRACTOR shall coordinate operations with those of other Contractors. Cooperation will be required in the arrangement for the storage of materials, and in the detailed execution of the work. The CONTRACTOR, including his subcontractors, shall keep himself informed of the progress and the detail work of other Contractors and shall notify the Engineer immediately of lack of progress or defective workmanship on the part of other Contractors where such delay or such defective workmanship will interfere with his own operations. Failure of a Contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by him of the status of the work as being satisfactory for proper coordination with his own work.

34. **SUBCONTRACTS**

A. The CONTRACTOR may, without additional expense to the CITY, utilize the services of subcontractors on those parts of the work that are specified to be performed by subcontractors where permitted by law.

B. Nothing contained in the Specifications of Drawings shall be construed as creating any contractual relationship between any subcontractor and the CITY. The divisions or sections of the Specifications are not intended to control the CONTRACTOR in dividing the work among subcontractors or to limit the work performed by any trade.

C. The CONTRACTOR shall be as fully responsible to the CITY for the acts and omissions of subcontractors and of persons employed by them, as he is for the acts and omissions of persons directly employed by him.

D. The CONTRACTOR shall be responsible for the coordination of the trades, subcontractors and material men engaged upon his work.

E. Neither the CITY nor Engineer will undertake to settle any differences between the CONTRACTOR and his subcontractors or between subcontractors, except as where obligated by law.

F. The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontract relative to the work to bind subcontractors to the CONTRACTOR by the terms of the General Conditions and other Contract Documents insofar as applicable to the work of subcontractors.

35. **USE OF WORK AREA AND CLEANING.** The Contractor shall maintain the work area under his control in an orderly condition. He shall store his apparatus, materials, supplies, and equipment in such a manner as will not interfere with the daily operations of adjacent businesses or residences during the week. The Engineer shall approve all storage and field yard areas. The Contractor shall not permit any load or stress to be placed upon any part of the permanent work or existing work that will endanger the safety or strength of said work.

36. **CORRECTION OF WORK AFTER FINAL PAYMENT AND GUARANTEE ONE YEAR.** Neither the final certificate, final payment, or any provision in the Contract Documents shall relieve the Contractor of responsibility for faulty materials or workmanship, and he shall remedy any defects due thereto and pay for any damage to other work resulting therefrom, which may appear to be discovered up to one year after recording of the Notice of Completion. The Owner shall give notice of observed defects with reasonable promptness, and the Contractor shall proceed to remedy such defects immediately upon receiving such notification. Payments due to the Engineer by the Owner for extra engineering services required in the enforcement of Contractor's guarantee after acceptance of the work shall be paid to the Owner by the Contractor or his Surety.

37. **OCCUPANCY BY THE OWNER.** The Owner has the right to occupy and to use the any and all parts of the property to the completion of the entire work, and that such use shall not operate as an acceptance of any part of the work.

38. **DAMAGE TO ADJACENT AND EXISTING PROPERTY.** The Contractor shall be responsible for any and all damage done to existing property and adjacent construction work during all construction work under this Contract, and he shall make any repairs that result from his operations to the satisfaction of the Owner.

39. **UTILITIES.** The Contractor shall furnish and pay for all water, gas, electricity, and other utilities used for construction purposes, unless otherwise provided in the Special Conditions or Specifications.

40. **TEMPORARY TOILET.** The Contractor shall install a chemical toilet or construct a temporary toilet connected to a cesspool for the use of all persons connected with the work. Structure shall have roof and door and shall be fly-proof. An overflow-catching "containment tray" should be installed under or around the toilet system as part of the normal water quality BMPs. At conclusion of the work, the chemical toilet or cesspool and toilet shall be removed from the premises and any excavation filled and left in a thoroughly sanitary condition. Exact location must be approved by the Engineer.

41. **CLIMATIC CONDITIONS.** The Contractor shall provide and maintain heat, fuel, materials, and services necessary to protect all work and materials against injury from extreme heat, cold, dry winds, or dampness as follows:

A. At all times during the placing, setting, and curing of concrete and cement work, provide sufficient heat to ensure the heating of spaces involved to not less than fifty (50) degrees Fahrenheit.

B. The Engineer shall have full authority to suspend operations on work when subject to damage by climatic conditions or because of insufficient curing or drying of surfaces or materials.

42. **LAWS CONCERNING THE OWNER A PART HEREOF.** The Contract is subject to all provisions of the constitution and laws of California governing, controlling, or affecting the Owner, or the property, funds, operations or powers of the Owner, and such provisions are by this reference made a part hereof and of the Contract.

43. **WAGES AND HOURS.** The Owner has determined that the minimum wages paid on this project shall not be less than those set forth in the Notice Inviting Bids. It is the responsibility of bidders to inform themselves as to local labor conditions and prospective changes or adjustments of wage rates. No increase in the Contract price shall be allowed or authorized on account of the payment of increased wage rates.

In accordance with the provisions and requirements of section 1810-16 of the Labor Code, neither the contractor or the subcontractor who employes, directs, or controls the work of any worker employed to execute work done under the Contract, shall require or permit such worker to labor more than eight (8) hours during any one calendar day, except in cases of extraordinary emergency, caused by fire, flood or danger to life or property. Within thirty (30) days after any worker is permitted to work over eight (8) hours in one calendar day due to such extraordinary emergency, the Contractor shall file with the Owner a verified report settling the nature of the emergency. The report shall contain the name of the worker and the hours worked by him on the particular day. Failure to file the report within the thirty (30) day period shall be prima facie evidence that no extraordinary emergency existed. The Contractor and every subcontractor shall keep an accurate record showing the name of, and actual hours worked by, each worker employed by him in connection with the work executed under the Contract. The record shall be kept open to all reasonable hours to the inspection of the Owner and the Division of Labor Law Enforcement. The contractor shall forfeit, as a penalty to the Owner, up to \$200.00 for each worker employed in the execution of the Contract by the contractor or by any subcontractor for each calendar day during which any worker is required or permitted to labor more than eight (8) hours, in violation thereof.

44. **BRAND OR TRADE NAME, SUBSTITUTION OF "EQUALS".** The provisions of this paragraph control over the provisions of paragraph 10 of these General Conditions.

Whenever any material, product, thing, or services is specified by brand or trade name, the specified name shall be deemed to be followed by the words "or equal" (except where the product is designated to match others in use on a particular public improvement; either completed or in the course of completion).

As a part of his Bid Proposal any bidder must include a request for a substitution of an item "equal" to any so specified by brand or trade name. Within twenty-one (21) calendar days after award of the Contract, the Contractor may submit to the Engineer data substantiating such a request made in his Bid Proposal; otherwise, the request shall be deemed to have been withdrawn. Such submission shall include data showing the equality, his reasons for making the request, and the difference, if any, in cost to the Contractor. The Engineer shall

promptly investigate the request and make a recommendation to the Owner, who shall promptly determine whether or not the substitute is equal in every respect to the items specified, shall grant or deny the request accordingly, and shall notify the Engineer, who shall inform the Contractor in writing. Unless the request is granted by the governing board of the Owner, the substitution shall not be permitted. Nothing herein shall authorize any change in the Contract price nor prevent the use of Change Orders in the manner authorized by law for the project.

45. **NOTICE OF COMPLETION.** Within ten (10) days after the completion of construction in accordance with the Contract, the Contractor shall promptly notify the Engineer when construction is complete to enable the Engineer to make his final inspection, prepare a report and inform the Owner. Upon review and acceptance of the Engineer's report, the Owner shall cause a Notice of Completion to be recorded in the office of the County Recorder. Any significant deficiencies or requests for missing or incomplete portions of the work or submittals found within the report may be cause to withhold filing a Notice of Completion to allow the CONTRACTOR time to provide correction or remedy.

46. **EQUAL OPPORTUNITY.** The Contractor herein agrees not to discriminate in its recruiting, hiring, promotion, demotion, or termination practices on the basis of race, religious creed, national origin, ancestry, sex, age, sexual preference or physical handicap in the performance of this Contract and to comply with the provisions of the State Fair Employment Practices as set forth in Part 4.5 of Division 2 of the California Labor Code.

47. **PROGRESS SCHEDULE**

The Contractor shall furnish three (3) copies of Job Progress Schedule to the CITY at the start of the construction and shall provide updates regularly as necessary, or as stipulated and requested by the CITY or his representative.

48. **PRECONSTRUCTION CONFERENCE**

The CITY shall call a preconstruction conference after the award of the Construction Contract. A principal of the CONTRACTOR shall attend such a conference. At the conference, CONTRACTOR shall submit the name of the proposed Project SUPERINTENDENT for the project, along with a description of documented experience and references to verify the competency of the same. The CONTRACTOR shall also submit the names of each person authorized to execute Change Orders for and on behalf of the CONTRACTOR, a critical path construction schedule, showing the method by which CONTRACTOR proposed to accomplish the work and proposed completion dates of different aspects of the work, and what arrangements the CONTRACTOR wishes as to storage of on-site materials or equipment for the project.

At the preconstruction conference, CONTRACTOR will be asked whether he is aware of any ambiguity in the Contract Documents requiring clarification and whether the methods of accomplishment of the work provided for in the specifications are appropriate.

CONTRACTOR shall at the preconstruction conference report in detail as to what steps have been taken to provide the requisite personnel to accomplish the work, whether listed subcontractors have entered into subcontracts with him and what arrangements have been made for providing necessary equipment and material for the accomplishment of the work.

At the preconstruction conference, the CONTRACTOR shall submit to the ENGINEER a Schedule of Values of the various portions of the work, including quantities if required by the ENGINEER aggregating the total Contract Sum, divided so as to facilitate payment, prepared in such form as specified or as the ENGINEER and CONTRACTOR may agree upon, and supported by such data to substantiate its correctness as the ENGINEER may require. Each item in the Schedule of Values shall include its proper share of overhead and profit. This schedule, when approved by the ENGINEER, shall be used as a basis for CONTRACTOR's Applications for Payment.

The Contractor shall also provide the following submittals at or prior to the preconstruction meeting:

1. The Local Air Quality Management Plan (LAQMP) sheet filled in with the noted information.

2. A traffic control, phasing, and staging plan. (The traffic control plan shall include designated paths of travel for the disabled in compliance with the requirements of Title 24 and the Americans with Disabilities Act [ADA] through or around the project work area.)
3. Copies of permits.
4. Any requests for variances or substitutions.

END OF SECTION

SPECIAL PROVISIONS

PART 1 - GENERAL PROVISIONS

The Standard Specifications of the City are contained in the Standard Specifications for Public Works Construction ("Green Book"), 2018 Edition as written and promulgated by the Joint Cooperative Committee of the Southern California Chapter of the American Public Works Association and the Southern California District of the Associated General Contractors of California. Copies of these Standard Specifications are available from the publisher:

Building News, Incorporated
990 Park Center Drive, Suite E
Vista, CA 92081
(760) 734-1113

The Standard Specifications set forth above will control the general provisions, construction materials and construction methods for this contract except as amended by the Plans, Special Provisions, or other contract documents.

The Section Numbers of the following Special Provisions coincide with those of the Standard Specifications for Public Works Construction ("Green Book"), 2018 Edition. Only those sections requiring amendment or elaboration, or specifying options, are called out.

The Standard Specifications shall prevail in all cases except where a Contract Document of a higher order, provides a different requirement on a given topic or topic aspect. All language in the Standard Specifications that is not in conflict with the language in the prevailing contract Documents on a given topic or topic aspect shall remain in full force and effect, unless the language in the prevailing Contract Document specifically cites the section number in the Standard Specification and states that said provision is in lieu of that Standard Specification section.

References in the Special Provisions to "CALTRANS Standard Specifications" shall mean the Standard Specifications (2018 Edition or any updates thereof) of the State of California, Department of Transportation. Copies of these specifications may be obtained from the internet at dot.ca.gov/hq/esc/techpubs/, or:

State of California – Department of Transportation
1820 Alhambra Blvd.
MS 9/101
Sacramento, California 95816-8041
(916) 227-4132

References in the Special Provisions to Standard Plans shall mean the most recent Standard Plans of the City of Rancho Mirage and where applicable, the Riverside County and the State Department of Transportation, 2018 edition, or any updates thereof. Applicable Standard Plans for this project are contained in the Appendix of the Specifications.

Where the Plans or Specifications describe portions of the work in general terms, but not in complete detail, it is understood that the item is to be furnished and installed complete and in place and that only the best general practice is to prevail and that only materials and workmanship of the first quality are to be used. Unless otherwise specified, the CONTRACTOR shall furnish all labor, materials, tools equipment and incidentals, and do all the work involved in executing the contract.

SECTION 1 - GENERAL

1-2 TERMS AND DEFINITIONS

Agency/City/Owner	- City of Rancho Mirage
Board/Council	- Rancho Mirage City Council
Caltrans	- California Department of Transportation
County	- County of Riverside
Federal	- United States of America
State	- State of California
Engineer	- City Engineer or Designated Representative
Laboratory	-The designated laboratory authorized by the City of Rancho Mirage to test materials and work involved in the contract.
Standard Specifications	- Standard Specifications for Public Works Construction (Green Book, 2018 edition)

1-6 BIDDING AND SUBMISSION OF THE BID

The Bidder's attention is directed to the provision in Section 1-6 of the Standard Specifications for the Requirements and Conditions that he must observe in the preparation of the proposal form and the submission of the bid.

REQUIRED LISTING OF PROPOSED CONTRACTORS--In accordance with the subletting and Subcontracting Fair Practices Act, commencing with Section 4100 of the Public Contract Code:

The bidder's attention is directed to other provisions of said Act related to penalties for failure to observe the provisions by using unauthorized Subcontractors or by making unauthorized substitutions.

A sheet for listing Subcontractors, as required, is included in the Bid Proposal.

1-7 AWARD AND EXECUTION OF THE CONTRACT.

(Replace with the following:)

Within ten (10) working days after the date of the Notice of Award, the CONTRACTOR shall execute and return the following contract documents to the AGENCY:

- Contract Documents
- Faithful Performance Bond
- Payment Bond
- Public Liability and Property Damage Insurance Certificate
- Worker's Compensation Insurance Certificate
- Proposed Construction Schedule
- Source and submittals of all contract materials, including proof of availability

Failure to comply with the above will result in annulment of the award and forfeiture of the Proposal Guarantee. The Contract Agreement shall not be considered binding upon the agency until executed by the authorized CITY officials.

A corporation to which an award is made may be required, before the Contract Agreement is executed by the CITY, to furnish evidence of its corporate existence, of its right to enter into contracts in the State of California, and that the officers signing the contract and bonds for the corporation have the authority to do so.

1-7.2 CONTRACT BONDS

Both the Faithful Performance Bond and the Payment Bond shall each be for not less than one-hundred percent (100%) of the total contract amount. The Payment Bond shall remain in force until seven (7) months after the date of recordation of the Notice of Completion or Notice of Acceptance. The Faithful Performance Bond shall remain in force until one year after the date of final acceptance of the work.

SECTION 2 – SCOPE OF THE WORK

2-2 PERMITS (Replace the first sentence with the following):

Prior to the start of any work, the CONTRACTOR shall take out the applicable CITY permits and make arrangements for CITY inspections. The CONTRACTOR and all subcontractors shall each obtain any and all other permits, state licenses, CITY Business licenses, inspections, certificates, or authorizations required by any governing body or public utility. The permit shall be obtained by the contractor prior to the start of work. The City of Rancho Mirage shall waive the encroachment permit fee for this project.

2-5 THE CONTRACTOR'S EQUIPMENT AND FACILITIES

2-5.1 General. (Add the following):

A noise level limit of 130 dba at a distance of fifty feet (50') shall apply to all construction equipment on or related to the job whether owned by the CONTRACTOR or not. The use of excessively loud warning signals shall be avoided except in those cases required for the protection of personnel.

SECTION 3 – CONTROL OF THE WORK

3-7 CONTRACT DOCUMENTS

3-7.1 General (Replace the first paragraph with the following):

The CONTRACTOR shall maintain a control set of plans and specifications on the project site at all times. All final locations determined in the field, and any deviations from the plans and specifications, shall be marked in red on this control set to show the record conditions. Upon completion of all work, the CONTRACTOR shall return the control set to the Engineer. Final payment shall not be made until this requirement is met.

3-8 Submittals. [Replace the last two sentences of the first paragraph with the following]:

One (1) original of each product or construction document submittal shall be transmitted to the Engineer, along with a sequentially numbered Submittal Response Form (see Appendix). One (1) photocopy of the submittal shall be returned to the CONTRACTOR with the Submittal Response Form appropriately marked.

[Add the following]:

Except as otherwise specified herein, the CONTRACTOR shall furnish for approval, within fifteen (15) working days following award of the Contract, all submittals as required on the Plans or in the Specifications. This provision shall not authorize any extension of time for performance of the Contract. The Engineer will check and approve such submittals, within five (5) working days from receipt of same, only for conformance with design concept of work and for compliance with information and regulatory documents given in Contract Documents. Work shall be in accordance with approved submittals.

Unless specified otherwise, sampling, preparation of samples, and tests shall be in accordance with the latest standards of the American Society for Testing and Materials.

Samples of materials and/or articles shall, upon demand, be submitted for tests or examinations and consideration before incorporation of same in work started. The CONTRACTOR shall be solely responsible for delays due to submittals not being submitted in time to allow for proper time to make tests. Acceptance or rejection will be expressed in writing. The Engineer shall have sole discretion as to the acceptance or rejection of submittals. Rejection of submittals and any demand for re-submittal for review and approval by the Engineer shall not entitle the CONTRACTOR to additional time or costs caused by the rejection.

Materials furnished must be equal to approved samples in every respect. Samples which are of value after testing will remain the property of the CONTRACTOR.

3-12 WORK SITE MAINTENANCE

3-12.1 General [Add the following]:

Demolition and Construction Material Recycling: CONTRACTOR shall recycle demolition and construction materials from the job site. For example, asphalt, concrete, metals, glass, and green waste are all recyclable materials. CONTRACTOR shall provide the City with verification, including name and address, of the company hauling the recyclable materials. Weight tickets shall be submitted to the City from the facility receiving the materials.

SECTION 5 – LEGAL RELATIONS AND RESPONSIBILITIES

5-3 LABOR

5-3.1 General (Add the following):

The CONTRACTOR, and all subcontractors, suppliers, and vendors, shall comply with all AGENCY, State, and Federal orders to ensure equal employment opportunities and fair employment practices.

5-4 INSURANCE

(Replace the entire Subsection with the following):

5-4.1 General (Add the following):

The CONTRACTOR shall indemnify and save harmless the City of Rancho Mirage, the State of California, the County of Riverside, and/or any incorporated city for all claims or suits for damages arising from his/her prosecution of the contract work, as more fully described in Subsection 5-4.2 "General Liability Insurance."

5-4.2 General Liability Insurance

The City of Rancho Mirage, its City Council, or its Engineer, shall not be answerable or accountable in any manner for any loss or damage that may happen to the work or any part thereof; or for any of the materials or other things used or employed in performing the work; or for injury to any person or persons, either workmen or the public; or for damage to adjoining property from any cause which might have been prevented by the CONTRACTOR or his/her workmen or any one employed by him, against all of which injuries or damages to persons and property the CONTRACTOR, having control over such work, must properly guard. The CONTRACTOR shall be responsible for any damage to any person or property resulting from defects or obstructions or any time before its completion and final acceptance, and shall indemnify and save harmless the City of Rancho Mirage, its City Council, and the Engineer from all suits or actions of every name and description brought for, or on account of, any injuries or damages received or sustained by any person or persons, by the CONTRACTOR, his/her servants or agents, in the construction of the work or by or in consequence of any negligence in guarding the same, in improper materials used in its construction, or by or on account of any act or omission of the CONTRACTOR or his agents, and so much of the money due the CONTRACTOR under and by virtue of the contract as shall be considered necessary by the CITY may be retained by the CITY until disposition has been made of such suits or claims for damages aforesaid.

If, in the opinion of the Engineer, the precautions taken by the CONTRACTOR are not safe or adequate at any time during the life of the contract, he may order the CONTRACTOR to take further precautions, and if the CONTRACTOR shall fail to do so, the Engineer may order the work done by others and charge the CONTRACTOR for the cost thereof, such cost to be deducted from any money due or becoming due the CONTRACTOR. Failure of the Engineer to order such additional precautions, however, shall not relieve the CONTRACTOR from his/her full responsibility for public safety.

5-7.2 Safety Orders. [Add the following paragraph]:

The CONTRACTOR shall comply with the provisions of any Agency ordinances or regulations regarding requirements for the protection of excavations and the nature of such protection.

SECTION 6 – PROSECUTION AND PROGRESS OF THE WORK

6-1 CONSTRUCTION SCHEDULE AND COMMENCEMENT OF WORK

(Replace with the following):

The CONTRACTOR'S proposed construction schedule shall be submitted to the Engineer within five (5) working days after the date of the Notice of Award of Contract. The schedule shall be supported by written statements from each supplier of materials or equipment indicating that all orders have been placed and acknowledged and setting forth the dates that each item will be delivered.

Prior to issuing the Notice to Proceed, the Engineer will schedule a preconstruction meeting with the CONTRACTOR to review the proposed construction schedule and delivery dates, arrange the utility coordination, discuss construction methods, and clarify inspection procedures.

The CONTRACTOR shall submit periodic progress reports to the Engineer by the tenth day of each month. The report shall include an updated construction schedule. Any deviations from the original schedule shall be explained. Progress payments will be withheld pending receipt of any outstanding reports.

6-3 TIME OF COMPLETION

6-3.1 General (Add the following paragraphs):

The time for completion shall be as set forth in Paragraph C.3 of the Standard Agreement, Section 00312-2 "Time For Completion", and Paragraph 3, Section 00700, "Time For Completion", of the General Conditions.

The CONTRACTOR'S activities shall be confined to the hours between 7:00 A.M. and 4:00 P.M., Monday through Friday, excluding holidays. Deviation from these hours will not be permitted without the prior consent of the City and Engineer, except in emergencies involving immediate hazard to persons or property.

In the event of either a requested or emergency deviation where additional time, days or inspectors are deemed necessary, inspection service charges will be charged against the CONTRACTOR. The service charges will be calculated at overtime rates including benefits, overhead, and travel time. The service charges will be deducted from any amounts due the CONTRACTOR.

6-9 LIQUIDATED DAMAGES

(Replace last sentence of the first paragraph and the entire second paragraph with the following):

For each consecutive calendar day in excess of the time specified, as adjusted in accordance with Subsection 6-6, for completion of the work the CONTRACTOR shall pay to the AGENCY, or have withheld from monies due it, the sum of \$1,000.00 per day.

Execution of the Contract shall constitute agreement by the Agency and CONTRACTOR that \$1,000.00 per day is the minimum value of the costs and actual damage caused by the failure of the CONTRACTOR to complete the Work within the allotted time. Such sum is liquidated damages and shall not be construed as a penalty and may be deducted from payments due the CONTRACTOR if such delay occurs.

SECTION 7 – MEASUREMENT AND PAYMENT

7-1 MEASUREMENT OF QUANTITIES FOR UNIT PRICE WORK

7-3.2 Partial and Final Payment (Replace the last paragraph with the following):

The closure date for periodic progress payments shall be five (5) working days prior to the first Monday of each month. The final progress payment shall not be released until the CONTRACTOR returns the control set of plans and specifications showing the record conditions, and provides any other documentation or submittals required by these specifications.

The full five percent (5%) retention shall be deducted from all payments. The final retention shall be authorized for payment thirty-five (35) days after the date of recordation of the Notice Completion and Acceptance of the work.

In conformance with the State of California Public Contract Code Part 5, Section 22300, the CONTRACTOR may substitute securities for any monies withheld by the CITY to ensure performance under the contract.

7-3.3 Delivered Materials (Replace with the following):

Materials and equipment delivered but not incorporated into the work will not be included in the estimate for progress payment, subject to the discretion of the Engineer.

7-3.4 Mobilization (Replace with the following):

Mobilization shall consist of preparatory work and operations, including but not limited to those necessary for the movement of personnel, equipment, supplies, and incidentals to the project site; for the establishment of all portable offices, buildings, and other facilities necessary for the work on this project; and for all other work and operations which must be performed, or cost incurred prior to beginning work on the various contract items on the project site.

Mobilization shall also include, but not be limited to, temporary power, construction water (including meter acquisition and fees), scheduling, progress reports, invoicing, permits (except as otherwise provided in these specifications), staging areas, special inspection, mobilizing equipment, personnel and materials, and all other indirect costs associated with completing the work and not covered or compensated under relevant bid items.

The compensation paid for mobilization **shall be included in accordance with the Standard Specifications and paid for in the Bid Proposal** fees and shall be full compensation for all costs incurred by the CONTRACTOR for doing all the work involved in mobilization as specified herein. **Payment for mobilization will be included with the first month progress payment and shall be considered full compensation for the cost of such mobilization and administered for the entire contract period.**

7-4 PAYMENT FOR EXTRA WORK.

7-4.1 General (Add the following):

(a) No CONTRACTOR claims for extra work shall be accepted or approved by the Agency that are submitted more than 10 days after the work was performed unless the work has been authorized in writing by the Engineer.

7-4.3 Markup (Replace with the following):

(a) **Work by Contractor.** The following percentages shall be added to the CONTRACTOR'S costs and shall constitute the markup for all overhead and profit.

1)	Labor	15%
2)	Materials	10%
3)	Equipment Rental	10%
4)	Other Items and Expenditures	5%

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

(b) **Work by Subcontractor.** When a Subcontractor performs all or any part of the extra work, the markup established in 7-4.3(a) shall be applied to the Subcontractor's actual cost of such work. **The Contractor may add a markup of 5 percent of the subcontracted portion of the extra work.**

PART 3 - CONSTRUCTION METHODS

SECTION 300 – EARTHWORK

300-1 CLEARING AND GRUBBING

300-1.1 General. [Add the following]: Miscellaneous

1. CONTRACTOR shall protect existing asphalt or concrete pavement within the travel ways of the project areas unless specifically indicated to be removed. The CONTRACTOR shall exercise extreme care with his operations so as to not damage the existing pavement, unless it was directed to be removed or pulverized in place. The CONTRACTOR shall repair, at his own expense, all pavement deemed solely by the Agency to have been improperly damaged during the project by the CONTRACTOR.
2. CONTRACTOR shall be responsible for the removal and replacement in kind of all disturbed landscape irrigation and electrical lighting systems and the removal and disposal of any and all trees/landscaping necessary to complete the planned improvements shown or not shown on the plans. Existing irrigation facilities are to be plugged by the CONTRACTOR until the replacement system is constructed. To ensure the remainder landscaping irrigation still functions as it exists, temporary facilities will be constructed at the CONTRACTOR'S expense to allow the protection of the existing foliage.
3. CONTRACTOR shall protect pipelines, curbs, sidewalks, pavements, and facilities from damage caused by settlement, lateral movement, undermining, washout and other hazards created by the demolition operations. Any damage to existing improvements shall be replaced in kind as approved by the Engineer at the CONTRACTOR'S own expense.
4. Complete compliance with the Local Air Quality Management Plan (LAQMP) for this project, and all other items of work as directed in these Special Provisions.
5. CONTRACTOR shall provide for watering, including developing a water supply and furnishing and placing all water required for work done in the contract, including water used for extra work. CONTRACTOR shall obtain a temporary water meter or supply.
6. CONTRACTOR shall protect existing utilities, paving, curb and gutter, plant material, and irrigation not indicated on plans to be removed or otherwise made known to the CONTRACTOR prior to or during demolition work. If damaged, immediately notify the City's Representative. If existing active facilities encountered are not indicated or otherwise made known to the CONTRACTOR and require protection or relocation, the CONTRACTOR shall be responsible for taking whatever immediate steps are necessary to ensure that the service provided is not interrupted. If services are interrupted as a result of the CONTRACTOR'S operation, immediately notify the Agency's Representative. If existing utilities are found to interfere with the permanent facilities under construction under this Contract, immediately notify the Agency's Representative, in writing, requesting instructions on their disposition. Do not proceed until written instructions are received from the Agency's Representative.
7. CONTRACTOR shall be responsible for cleanup of the job site. CONTRACTOR shall leave the site in a clean and orderly manner. This item shall also be interpreted to include the removal or relocation of any additional items not specifically mentioned herein or covered by specific bid item, which may be found within the work limits whether shown or not shown on the plans to be removed or relocated.

Measurement and payment for all of the items of work noted above shall be included in the CONTRACTOR'S bid proposal and no additional compensation shall be allowed.

300-1.4 Payment. [Replace the first paragraph with the following]:

Compensation shall be paid for at the Lump Sum contract price and no additional compensation will be allowed. Payment shall include full compensation for furnishing all labor, materials, tools, equipment, and doing all work involved in clearing and grubbing as specified. Existing damaged asphalt, vegetation, and other items of removal necessary for construction of the improvements will be considered included in their respective bid items. **Items not covered under respective bid items shall be paid for under the bid proposal for Clearing and no additional compensation shall be allowed.**

PART 4 – EXISTING IMPROVEMENTS

SECTION 400 - PROTECTION AND RESTORATION

400-1 General (Add the following):

During Construction operations, the Contractor shall protect any existing landscaping and irrigation systems adjacent to the construction area. Any irrigation systems altered or modified due to the construction operations shall be restored to full operation by the Contractor. Landscaping, hardscape, plants, vegetation, and irrigation systems damaged or disturbed during construction shall be replaced or repaired by the Contractor. In performing these repairs and replacements, the Contractor shall use new and equivalent items and materials.

If any irrigation facilities are encountered, they shall be preserved in place or repaired quickly so no serious disruption in watering takes place.

Restoration of other landscape items shall follow the Standard Specifications except as modified by these Special Provisions. If questions arise about how the finished products should look, the CONTRACTOR should anticipate allowing direction from the residents and the Engineer. If resident requests appear to be beyond the scope of the plans and specifications, the CONTRACTOR shall get written clearance from the Engineer to proceed prior to doing the work. However, the City is not opposed to the CONTRACTOR setting up separate construction agreements outside this contract if they do not interfere with this project. If such "side-jobs" require City Permits, the CONTRACTOR is responsible for getting them prior to the work being done.

SECTION 402 – UTILITIES

402-1 LOCATION

402-1.1 General (Add the following paragraphs:)

The CONTRACTOR shall notify the utilities at least 48 hours in advance of excavating around any of their structures.

The CONTRACTOR shall determine the exact location of all existing utilities prior to commencing work. He/She agrees to be fully responsible for any and all damages which may be occasioned by his failure to exactly locate and preserve any and all underground utilities, whether shown on the plans or not. **In the event the CONTRACTOR encounters underground utilities not shown on the plans, he/she shall verify the exact location of the utility and immediately notify the Engineer, regardless of whether the unknown utility conflicts with the proposed construction or not.** In the event of such a previously unknown conflict, the CONTRACTOR shall immediately notify the Engineer as to the extent, if any, of delays or additional costs resulting from said conflict.

The CONTRACTOR shall perform work and provide necessary materials to disconnect or relocate existing utilities as indicated. The CONTRACTOR shall document on record drawings all existing utility termination points before disconnecting.

The CONTRACTOR shall protect in place all existing power poles and overhead lines in the work area.

Where underground main distribution conduits such as water, gas, sewer, electric power, telephone, or cable television are shown on the Plans, the CONTRACTOR shall assume that every property parcel will be served by a service connection for each type of utility.

When uncharted or incorrectly charted underground piping or other utilities and services are encountered during site work operations, notify the applicable utility company immediately to obtain procedure directions. Cooperate with the applicable utility company in maintaining active services in operation.

The CONTRACTOR is advised of the existence of the utility notification service provided by UNDERGROUND SERVICE ALERT (USA). USA member utilities will provide the CONTRACTOR with the precise locations of their substructures in the construction area when the CONTRACTOR gives at least 48 hours notice to the Underground Service Alert by calling 1-800-227-2600. CONTRACTOR shall provide the AGENCY with proof of contact with USA upon request.

1. Southern California Gas Company
USA Member Utility, Phone 1-800-422-4133
Protection of existing facilities by Contractor.
2. Southern California Edison Company
Local Telephone (760) 202-4227/4254
USA Member Utility, Phone 1-800-422-4133
Protection of existing facilities by Contractor.
3. Frontier Communication –Telephone
USA Member Utility, 1-800-422-4133
Protection of existing facilities by Contractor.
4. Coachella Valley Water District (Water, Sewer and Flood Control)
USA Member Utility, Phone 1-800-422-4133
Protection of existing facilities by Contractor.
5. Charter Spectrum - Cable
Local Telephone (800) 314-7195
Protection of existing facilities by Contractor.
6. City of Rancho Mirage, Public Works Department
Local Telephone (760)770-3224
Protection of existing facilities by Contractor.

The California Public Utilities Commission mandates that, in the interest of public safety, main line gas valves be maintained in a manner to be readily accessible and in good operating condition. The CONTRACTOR shall notify the Southern California Gas Company's Headquarters Planning Office at (714) 369-0680 at least two (2) working days prior to the start of construction.

The CONTRACTOR shall exercise extreme care to protect all existing utilities in place whether shown on the plans or not, and shall assume full responsibility for all damage resulting from his operations. The CONTRACTOR shall coordinate with each utility company as to the requirements and methods for the duration of protection, and shall be responsible for preparation and processing of any required plans or permits. The CONTRACTOR shall assume full responsibility to maintain uninterrupted service for all utilities.

By submitting a bid, the CONTRACTOR acknowledges the above referenced utility work to be completed in conjunction with this project. The CONTRACTOR shall schedule his work and conduct his operations so as to permit access and time for the required utility work to be accomplished during the progress of the work.

The CONTRACTOR shall coordinate with each utility company as to the extent of required work and the time required to do so. The CONTRACTOR shall include this time in his/her schedule. **Payment for the above, if any, shall be deemed as included in the bid proposal**, and no additional compensation as will be allowed.

END OF SECTION

Exhibit "A"

"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."

Signature