

**CITY OF ORINDA
PUBLIC WORKS & ENGINEERING SERVICES DEPARTMENT
PROPOSAL
AND
SAMPLE CONTRACT
FOR
LIBRARY EXTERIOR ACCENT TILE REPLACEMENT
PROJECT NO.: 4179**



FOR USE WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS 2018, STANDARD PLANS 2018, AND THE LATEST VERSIONS OF THE GENERAL PREVAILING WAGE RATES, AND APPLICABLE LABOR SURCHARGE AND EQUIPMENT RENTAL RATES.

BID OPENING DATE: Thursday September 25th, 2025 at 2:00 PM

FOR PRE-BID INFORMATION CONTACT: Ross Volker, rvolker@cityoforinda.org 925-956-9305

ENGINEER'S ESTIMATE: \$165,000

FOR PLAN HOLDER'S LIST - VISIT <https://www.orindaplanroom.com/>

Visit the Public Works & Engineering Services website for other advertised and upcoming projects at <http://www.cityoforinda.org> under the Departments – Public Works & Engineering Services

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Bidder must include the following pages (Pages 3 to 14) in their bid:

Proposal Cover Page

Bid Item List/Bid Form

Proposal Language

Listing of Subcontractors requirements

List of Subcontractors

Bidder Experience Form

Noncollusion Declaration

Public Contract Code Statements & Questionnaire

Acknowledgement of Addenda (& other info.)

Signature Page

Bidder's Bond

Construction Industry Survey

PROPOSAL

* * * * *

LIBRARY EXTERIOR ACCENT TILE REPLACEMENT

PROJECT NO.: 4179

Name of Bidder _____

Company Name _____

Business address _____

Contact info (phone/Email) _____

To the City Council of Orinda:

The undersigned, as bidder, declares that the only persons or parties interested in this proposal as principals are those named herein and that this proposal is made without collusion with any other person, firm, or corporation. In submitting this proposal, the undersigned bidder agrees that if the City determined that it is the successful bidder, that it has carefully examined the contract, and the plans therein referred to; and it proposes, and agrees if this proposal is accepted, and that it will contract with the City of Orinda in the form of the copy of the contract annexed hereto, to provide all necessary machinery, tools, apparatus and other means of construction, and to do all the Work and furnish all the materials specified in the contract, in the manner and time therein prescribed, and according to the requirements of the Engineer as therein set forth, and that it will take in full payment therefore a lump sum amount for all work described in the plans and specifications the total of said work being

\$

(Insert total)

The above lump sum price shall include all items or work, including but not limited to mobilization, removal and disposal of material, pedestrian safety provisions, and replacement tile work, complete and in place.

The work for which this proposal is submitted is for construction in conformance with the Notice to Bidders and Special Provisions (including the payment of not less than the State general prevailing wage rates or Federal minimum wage rates), the project plans, including any addenda thereto, the contract annexed hereto, and also in conformance with the California Department of Transportation Standard Plans 2018, the Standard Specifications 2018, and the Labor Surcharge and Equipment Rental Rates and General Prevailing Wage Rate dated the month and year in effect when the work was performed.

Bids are to be submitted for the entire work. The amount of the bid for comparison purposes will be the total Lump Sum (base bid) amount excluding additive options, unless otherwise specified in the Notice to Bidders and/or the "Contract Award and Execution" section of these special provisions. The bidder shall set forth for each unit basis item of work a unit price and a total for the item, and for each lump sum item a total for the item, all in clearly legible figures in the respective spaces provided for that purpose. In the case of unit basis items, the amount set forth under the "Item Total" column shall be the product of the unit price bid and the estimated quantity for the item.

It is understood and agreed that the quantities of work under each item are approximate only, being given for a basis of comparison of proposal, and the right is reserved to the City of Orinda ("City") to increase or decrease the amount of work under any item as may be required, in accordance with provisions set forth in the specifications for this project.

It is further understood and agreed that the total amount of money set forth for each item of work or as the total amount bid for the project, does not constitute an agreement to pay a lump sum for the work unless it specifically so states.

It is hereby agreed that the undersigned, as bidder, shall furnish a Labor and Material Bond in an amount equal to one hundred percent of the total amount of this proposal and a Performance Bond to be one hundred percent of the total amount of this proposal, to the City and at no expense to the City, executed by a responsible surety acceptable to the City in the event that this proposal is accepted by the City.

If this proposal shall be accepted and the undersigned fails to contract as aforesaid and to give the two bonds in the sums to be determined as aforesaid, with surety satisfactory to the City of Orinda and proper evidence of insurance in accordance with the contract requirements within eight (8) business days, after the bidder has received notice from the City that the contract is ready for signature, the City of Orinda may, in its discretion determine that the bidder has abandoned the contract and that proposal and the acceptance are therefore null and void, and the successful bidder's security is forfeited.

LISTING OF SUBCONTRACTORS

The contractor agrees, by submission of this proposal, to conform to the requirements of Section 4100 through 4113 of the Public Contract Code.

The following is a complete list of items to be subcontracted, including the subcontractor's name, license number/ public works contractor registration number (i.e. D.I.R. #), and address, as required. If a portion of any item of work is done by a subcontractor, the value of the work subcontracted will be based on the estimated cost of such portion of the contract item, determined from information submitted by the contractor, subject to approval by the engineer. City of Orinda requires that all subcontractor information shall be submitted at the time of bid opening, no time extension will be allowed to submit this information.

The Bidder shall list each subcontractor to whom the Bidder proposes to subcontract any item of work, or portion thereof, in excess of one-half of one percent (.50%) of the total bid OR in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of one percent (.50%) of the total bid or \$10,000, whichever is greater in accordance with the Subletting and Subcontracting Fair Practices Act, commencing with Section 4100 of the Public Contract Code.

LIST OF SUBCONTRACTORS

Business Name, Address & CSLB License No.	DIR Registration #	Items or portions of items of work	Dollar amount of subcontracts

BIDDER EXPERIENCE FORM

Sheet 1 of 2

The Bidder (C-54, or its tile C-54 subcontractor, if so used) represents that it is competent, knowledgeable, has not presented false claims to its past or present clients, and has special skills on the nature, extent, and inherent conditions of the work to be performed. Bidder further acknowledges that there are certain peculiar and inherent conditions existent in the construction of the particular facilities which may create, during the construction program, unusual or peculiar unsafe conditions hazardous to persons and property. Bidder expressly acknowledges that it is aware of such peculiar risks and that it has the skill and experience to foresee and to adopt protective measures to adequately and safely perform the construction work with respect to such hazards. By submitting this bid, Bidder grants City any permission which may be necessary to contact Bidder's past & present clients, whether or not listed above or otherwise disclosed. City may use its own experience with bidder as basis to determine responsibility of bidder. The Bidder shall complete the following questionnaire:

1. In what type of construction does the C-54 firm specialize?

2. List of employees from which on-site superintendent would be chosen. Supt. must have 4 years experience with comparable projects:

<u>Name</u>	<u>Position</u>	<u>Years w/ firm</u>	<u>Years experience</u>

3. List of employees from which project manager (or project engineer, **if** they will function as project manager) would be chosen:

<u>Name</u>	<u>Position</u>	<u>Years w/ firm</u>	<u>Years experience</u>

BIDDER EXPERIENCE FORM

Sheet 2 of 2

4) List 3 contracts completed in the past three years which are of comparable scope to subject bid. One must be for a public agency :

Agency or Owner			
Contact Person			
Phone #			
Project Name/Description			
Contract Award Value			
Final Contract Value			
Date of Notice to Proceed			
Contract Time of Completion	____ working days	____ working days	____ working days
Actual Time of Completion	____ working days	____ working days	____ working days
Date of Completion			

**NONCOLLUSION DECLARATION
TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID**

_____, the undersigned declares:
(Name)

I am the _____ of _____
(Title, position in Company) (Name of Company)

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].

(Signature of Bidder)

[Signature must be notarized. Attach acknowledgement form.]

PUBLIC CONTRACT CODE Statements

Public Contract Code Section 10285.1 Statement

In conformance with Public Contract Code Section 10285.1 (Chapter 376, Stats. 1985), the bidder hereby declares under penalty of perjury under the laws of the State of California that the bidder

has ____

has not ____

been convicted within the preceding three years of any offenses referred to in that section, including any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or Federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Public Contract Code Section 1101, with any public entity, as defined in Public Contract Code Section 1100, including the Regents of the University of California or the Trustees of the California State University. The term "bidder" is understood to include any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, as referred to in Section 10285.1.

Note: **The bidder must place a check mark after "has" or "has not"** in one of the blank spaces provided. The above Statement is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

Public Contract Code Section 10162 Questionnaire

In conformance with Public Contract Code Section 10162, the Bidder shall complete, under penalty of perjury, the following questionnaire:

Has the bidder, any officer of the bidder, or any employee of the bidder who has a proprietary interest in the bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation?

Yes _____ No _____

If the answer is yes, explain the circumstances in the following space.

Public Contract Code 10232 Statement

In conformance with Public Contract Code Section 10232, the Contractor, hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board.

Note: The above Statements and Questionnaire are part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement and Questionnaire.

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

Acknowledgment of Addenda (& other info.)

Accompanying this proposal is a Proposal Guarantee in the amount of:

Ten (10) Percent of Amount of Bid
(Cashier's check, certified check or bidder's bond acceptable)

The names of all persons interested in the foregoing proposal, including Bidder as principals are as follows:

IMPORTANT NOTICE

If the bidder or other interested person is a corporation, state legal name of corporation, also names of president, secretary, treasurer, and manager thereof. If a copartnership, state true name of firm, also names of all individual copartners composing firm; if bidder or other interested person is an individual, state first and last names in full.

ACKNOWLEDGMENT OF ADDENDA: The undersigned Bidder acknowledges receipt of the following Addenda, which have been considered in preparation of this Bid.

No. _____ Dated: _____ No. _____ Dated: _____

No. _____ Dated: _____ No. _____ Dated: _____

No. _____ Dated: _____ No. _____ Dated: _____

Warning: If an addendum or addenda have been issued by the Agency and not noted above as being received by the bidder, this Proposal may be rejected as non-responsive.

Licensed to do or subcontract all classes of work involved in the project, in accordance with an act providing for the registration of Contractors, License No.: _____ Class: _____
(Expires: _____)

Signature of Bidder

LIBRARY EXTERIOR ACCENT TILE REPLACEMENT

By my signature on this proposal I hereby submit this bid proposal to the City of Orinda and certify, under penalty of perjury under the laws of the State of California, that the foregoing Acknowledgement of Addenda, List of Subcontractors, Noncollusion Declaration, Public Contract Code Section 10162 Questionnaire, Public Contract Code Section 10232 Statement, and Public Contract Code Section 10285 Statement are true and correct and that the bidder has complied with the requirements of Section 8103 of the Fair Employment and Housing Commission Regulations (chapter 5, title 2, of the California Administrative Code).

BIDDER'S NAME

Date: _____

BIDDER SIGNATURE
[Signature must be notarized. Attach acknowledgement form.]

SIGNATORY'S TITLE/OFFICIAL CAPACITY

CA. DEPT. OF INDUSTRIAL RELATIONS CONTRACTOR REGISTRATION NUMBER: _____

BUSINESS ADDRESS _____

PLACE OF BUSINESS _____

PLACE OF RESIDENCE _____

BIDDER'S BOND

Bond No.: _____

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WE _____ as PRINCIPAL, and

_____,
a corporation organized and existing under the laws of the State of _____ and authorized to transact surety business in the State of California, as Surety, are held and firmly bound unto the City of Orinda in the penal sum of TEN PERCENT (10%) OF THE TOTAL OF THE BID of the Principal above named, submitted by said Principal to the City of Orinda for the work described below, for the payment of which sum in lawful money of the United States, well and truly to be made to the City of Orinda, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by those presents. In no case shall the liability of the surety hereunder exceed the sum of \$ _____.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Principal has submitted the above mentioned bid to the City of Orinda, for certain construction specifically described as follows, for which bids are to be opened at the City Offices, 22 Orinda Way, Orinda, California, _____ p.m., _____ 20_____.

Library Accent Tile Replacement

4179

Project Name

Project Number

NOW, THEREFORE, if said bid is rejected or, in the alternative, if said bid is accepted and the Principal signs and delivers a Contract and furnishes a Performance Bond and Labor and Material Bond, in the form and within the time required by the bid and the Contract Documents, then this obligation shall become null and void, otherwise the same shall remain in full force and effect and upon default of the Principal shall be forfeited to the City of Orinda, it being expressly understood and agreed that the liability of the Surety for any and all default of the Principal shall be the amount of this obligation as herein stated, as liquidated damages. Such forfeiture and liquidated damages under this bond shall be without prejudice to the City of Orinda's right to pursue any excess actual damages from Principal for breach of contract or otherwise.

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

_____.

(SEAL)

(Principal)

(Surety)

(Address)

(Address)

By: _____

(Signature)

(Signature)

NOTE: Signatures of those executing for the surety must be Notarized (attach acknowledgement form) and evidence of corporate authority attached.

CONSTRUCTION INDUSTRY SURVEY

Completion of this form is a condition of the contract. If you would like your company to be added to the Public Works "Bidders List" whereby you are notified of upcoming projects based upon the type of work you indicate below, please check here: _____

Firm Name: _____ Contact Person: _____

Address: _____

Phone No.: (____) _____ Fax No.: (____) _____ *Email: _____

Business Type: ☐ Contractor ☐ Subcontractor

Is your firm a certified Disadvantaged Business Enterprise in the Calif. Unified Certified Program (CUCP)? Yes _____ No _____

In what year did your business start under its current name? (DBEs are required to provide under 49 CFR Part 26) Year _____

Disadvantaged Business Enterprise (DBE) – CUCP Certification No.: _____

Gross Annual Receipts: What was your firm's average gross annual receipts for the last three years? (DBEs required to provide under 49 CFR Part 26)

☐ Less than \$1 Million

☐ Less than \$10 Million

☐ More than \$16.6 Million

☐ Less than \$5 Million

☐ Less than \$16.6 Million

Maximum Size of Projects Interested In Bidding (Check one):

Up to: ☐ ¹ \$50,000

☐ ² \$100,000

☐ ³ \$500,000

☐ ⁴ \$1,000,000

☐ ⁵ over \$1,000,000

California Contracting License(s) Held:

CLASSIFICATION

LICENSE NO.

Type of Work Interested in (Please check all that apply):

☐ Roadway Construction (Reconstruction, Overlay, Paving, Recycling, Grading)

☐ Road Surface Treatment (Slurry Seals, Chip Seals, Microsurfacing)

☐ Storm Drain (Pipelines, Culverts, Drainage Structures)

☐ Traffic Signal Construction (Signal modification/installation, signage)

☐ Frontage Improvements (Sidewalks, Curb Ramps, Bike Lanes, Curb & Gutter)

☐ Reinforced Concrete Structures (Bridges, Box Culverts, Retaining Walls)

☐ Slide Repairs (Landslide, Erosion/Embankment Repairs, Slope Protection, Small Retaining Walls)

☐ Landscaping and Irrigation (Streetscape, Mitigation Planting, Creek Restoration)

☐ OTHER _____

*Email address required to receive project bid notices.

CITY OF ORINDA
CONSTRUCTION CONTRACT
for

PROJECT NAME AND NUMBER

Project Name and Contract No.

THIS CONTRACT FOR CONSTRUCTION is made and entered into the date of the last signature affixed hereto by and between the City of Orinda, a municipal corporation (herein called the City) and **CONTRACTOR NAME**, a **TYPE OF BUSINESS** located at **ADDRESS** (herein called Contractor).

RECITALS

- A. WHEREAS, the City has caused to be prepared in the manner prescribed by law, certain plans, specifications and other contract documents for the public work of construction titled **PROJECT NAME AND NUMBER** herein described and shown, and has approved and adopted the Contract Documents, as that term is defined below, including the specifications and plans, and has caused to be published in the manner and for the time required by law a Notice Inviting Bids for the work described in the Contract Documents (the Work), and
- B. WHEREAS, Contractor in response to the City's Notice has submitted to the City a sealed bid proposal "Proposal", dated _____ (attached as Exhibit H) accompanied by a bid guaranty in an amount not less than ten percent (10%) of the amount bid for the construction of "All" or "Base Bid plus Additive Alternates" of the proposed Work in accordance with the terms of the Contract Documents, and
- C. WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined, and declared the bids submitted and as a result has determined and declared Contractor to be the lowest responsible bidder and has duly awarded to Contractor a contract for all of the Work and for the sum or sums named in the bid proposal and in this Contract.

Accordingly, the City and Contractor agree as follows:

1. **CONTRACT SUM:** The City agrees to pay, and Contractor agrees to accept, in full payment for the above Work, the sum of **DOLLAR AMOUNT IN WORDS** dollars (\$**DOLLAR AMOUNT IN NUMBERS**) to be paid in accordance with the Contract Documents.
2. **COMPLIANCE WITH LAW:** The City is a public agency. All provisions of law applicable to public contracts are a part of this Contract to the same extent as though set forth herein and will be complied with by Contractor. This Contract is subject to State contract nondiscrimination and compliance requirements pursuant to Government Code section 12990.

3. **CONTRACT DOCUMENTS:** The following Contract Documents relating to this Contract for Construction are hereby made a part of and incorporated by reference into this Contract:

I. Notice to Bidders and Special Provisions

- A. Engineering Plans/Drawings and Specifications prepared for this Project.
- B. State of California Dept. of Transportation, 2018 Standard Specifications
- C. State of California Dept. of Transportation, Revised Standard Specifications attached to the Special Provisions
- D. Special Provisions
- E. State of California Dept. of Transportation, 2018 Standard Plans
- F. State of California Dept. of Transportation, Revised Standard Plans listed in the Standard Plan List and attached to the Special Provisions
- G. Any Supplemental Contract Information

II. Proposal & Sample Contract

- A. List of Subcontractors
- B. Non-Collusion Declaration
- C. Public Contract Code Section 10162 Questionnaire
- D. Public Contract Section 10232 Statement
- E. Public Contract Code Section 102851.1 Statement
- F. Bidder's Bond

Including the following for federally funded projects:

- G. Equal Employment Opportunity Certification
- H. General Prevailing Wage Rates (State of California)
- I. Debarment and Suspension Certificate
- J. Nonlobbying Certification
- K. Disclosure of Lobbying Activities
- L. DBE Commitment/DBE Good Faith Effort Documentation
- M. Davis-Bacon Act Federal Minimum Wage Rates

III. Construction Contract

- A. Compliance with Insurance Requirements declaration (Exhibit A)
- B. Performance Bond (Exhibit B)
- C. Labor and Material Bond (Exhibit C)
- D. Warranty and Guaranty (Exhibit D)
- E. Affidavit Concerning Conflicts of Interest and Noncompetitive Practices (Exhibit E)
- F. Certificates of Insurance, Endorsements, and other evidence of insurance provided pursuant to this Contract and accepted by the City (Exhibit F)
- G. Contractor Safety Program: Self-Certification Worksheet (Exhibit G)

Any work called for in one Contract Document not mentioned in another is to be performed and executed the same as if mentioned in all Contract Documents.

4. **EFFECTIVE DATE:** This Contract shall not be effective and no payments to Contractor will be made until:
- a. The City has received satisfactory evidence that Contractor has met all of the insurance requirements of this Contract;
 - b. All required signatures, including those of the City Manager, the City Attorney, and the City Clerk have been obtained; and
 - c. All bonds required by this Contract have been obtained and filed with the City.
5. **INDEMNIFICATION:** The City of Orinda and all officers, employees, and agents thereof connected with the Work, shall not be answerable or accountable in any manner: for any loss or damage that may happen to the Work or any part thereof; for any loss or damage to any of the materials or other things used or employed in performing the Work; for injury to or death of any person; or for damage to property from any cause except losses due to sole or active negligence of the City's officers or employees.

To the fullest extent allowed by law, Contractor shall defend, indemnify and hold harmless the City, its elected and appointed officials, employees and agents, from all liability, penalties, costs, losses, damages, expenses, causes of action, claims or judgments, including attorneys' fees and other defense costs, resulting from injury to or death sustained by any person (including Contractor's employees and subcontractors), or damage to property of any kind, or any other injury or damage whatsoever, which injury, death or damage arises out of or is in any way connected with the performance of the Work, regardless of Contractor's fault or negligence, including any of the same resulting from City's alleged or actual negligent act or omission, or its agents, contractors or employees; except that said indemnity shall not be applicable to injury, death or damage to property arising from the sole or active negligence or willful misconduct of City, its constituent entities, its and their officers, agents, or servants who are directly responsible to City. In instances where the City's active negligence accounts for only a percentage of the liability involved, the obligation of Contractor will be for that entire portion of percentage of liability not attributable to the active negligence of the City.

Contractor shall be obligated to immediately defend, with counsel approved by the City, any suit or action brought against the City, its elected and appointed officials, employees and agents, founded upon any claim of injury to or death sustained by any person (including Contractor's employees and subcontractors), or damage to property of any kind, or any other injury or damage whatsoever, which injury, death or damage arises out of or is in any way connected with the performance of the Work, whether or not liability is established. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of an indemnified party, Contractor may submit a claim to the City for reimbursement of reasonable attorneys' fees and defense costs. This indemnification and duty to defend shall extend to claims asserted after termination of this Contract for whatever reason.

In addition to any remedy authorized by law, as much of the money due Contractor under and by virtue of this 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 damage.

The City and Contractor shall timely notify each other of the receipt of any third-party claim relating to the contract. The City shall be entitled to recover its reasonable costs incurred in providing such notification.

- 6. INSURANCE TYPES AND LIMITS:** Contractor shall promptly obtain, at its own expense, all the insurance described in this section, and submit coverage verification for review and approval by the City. This insurance shall be in addition to any other form of insurance or bonds required under the terms of this Contract.

To the extent that Contractor's insurance documentation is not in compliance with the requirements of this Contract and the City Attorney is required to intervene to explain and obtain the proper documentation from Contractor's insurer, the cost of the City Attorney's services will be deducted from the contract price to which Contractor would otherwise be entitled under the terms of this Contract.

Contractor shall include all costs for all insurance in its bid.

Nothing contained in these insurance requirements is to be construed as limiting the extent of Contractor's responsibility for payment of damages resulting from its operations under this Contract. Contractor's failure to provide or maintain the insurance required by this Contract shall not affect Contractor's obligations under this Contract.

Contractor, at Contractor's own expense, shall procure, pay for, and maintain throughout the duration of this Contract the following insurance coverage against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the Work hereunder by Contractor, its agents, representatives, employees or subcontractors.

Companies writing the insurance under this article shall be authorized to do business in the State of California. Insurance is to be placed with insurers possessing an A.M. Best rating of no less than A:VII.

- a. **Workers' Compensation Coverage.** Contractor shall maintain workers' compensation insurance and employer's liability insurance for Contractor's employees in accordance with Sections 3700 *et seq.* of the California Labor Code. In addition, Contractor shall require each subcontractor involved with the Work to be performed under this Contract to similarly maintain workers' compensation insurance and employer's liability insurance for all of subcontractor's employees in accordance with Sections 3700 *et seq.* of the California Labor Code. The workers' compensation policy shall include employers' liability in an amount not less than \$1,000,000 for each accident, bodily injury by disease, and \$1,000,000 for each employee bodily injury by disease. The workers' compensation

policy shall be endorsed with a waiver of subrogation in favor of the City for all Work performed by Contractor, its employees, agents and subcontractors.

- b. **General Liability Coverage.** Contractor shall maintain commercial general liability insurance and umbrella or excess liability insurance covering all operations by or on behalf of Contractor providing insurance for bodily injury liability and property damage liability for the following limits per occurrence and including coverage for: (1) premises, operations and mobile equipment; (2) products and completed operations; (3) broad form property damage (including completed operations); (4) explosion, collapse, and underground hazards; (5) personal and advertising injury; and (6) contractual liability.

Liability Limits

Total bid	For each occurrence ^a	Aggregate for products/ completed operation	General aggregate ^b	Umbrella or excess liability ^c
≤ \$1,000,000	\$1,000,000	\$2,000,000	\$2,000,000	\$5,000,000
> \$1,000,000 ≤ \$2,000,000	\$2,000,000	\$4,000,000	\$4,000,000	\$5,000,000
> \$2,000,000 ≤ \$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$10,000,000
> \$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$15,000,000

^a Combined single limit for bodily injury and property damage.

^b This limit must apply separately to your work under this Contract.

^c The umbrella or excess policy must contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.

If Contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

- c. **Automobile Liability Coverage.** Contractor shall maintain automobile liability insurance in amounts not less than \$2,000,000 per occurrence for bodily injury and property

damage for all activities arising out of or in connection with the Work to be performed under this Contract. A combination of an automobile liability policy and a “follow-form” excess liability or umbrella policy may be utilized to achieve these limits. All automobiles and trucks owned, non-owned or hired shall be covered.

7. ADDITIONAL INSURANCE REQUIREMENTS:

- a. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
 - i. **Additional Insureds.** The City and its officers, officials, employees, agents, volunteers, and those individuals identified in section 7-1.06D(2) of the special provisions shall be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of Contractor. General liability coverage can be provided in the form of an endorsement to Contractor’s insurance (at least as broad as ISO Form CG 20 10, CG 11 85, or both CG 20 10 and CG 20 37 forms if later revisions used), or as a separate owner’s policy. Forms covering additional insureds only for liability caused in whole or part by Contractor’s acts or omissions are NOT acceptable.
 - ii. **Contractor’s Policy Primary.** For any claims related to the Work, Contractor’s policy shall be considered primary insurance as to the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers, shall be excess of Contractor’s insurance only and shall not contribute with it.
- b. **Period of Effect.** All insurance required by this Contract shall remain in full force and effect at all times during the prosecution of the Work and until the final completion and acceptance thereof. In addition, the general liability coverage shall be maintained for a minimum of five (5) years after final completion and acceptance of the Work. In the event Contractor fails to obtain or maintain completed operations coverage as required by this Contract, the City at its sole discretion may purchase the coverage as required and the cost will be paid by Contractor. The Notice to Proceed does not relieve Contractor of the duty to obtain such insurance as required herein.
- c. **Notice.** Contractor shall not cancel, assign, or change any policy of insurance required by this Contract or engage in any act or omission that will cause its insurer to cancel any insurance policy required by this Contract except after providing 30 days prior written notice to the City. If an insurance policy required by this Contract is unilaterally cancelled or changed by the insurer, the Contractor shall immediately provide written notice to the City and obtain substitute insurance meeting the

requirements of this Contract. Each insurance policy required by this Contract shall provide that coverage shall not be canceled, except with notice to the City. Nothing in this subsection relieves Contractor of its obligation to maintain all insurance required by this Contract at all times during the prosecution of the Work. Insurance policies shall have provisions requiring that City be given minimum 10 day notice of cancellation for nonpayment of premium.

- d. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, agents and volunteers; or (2) Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- e. No insurance policy required herein shall be written as claims-made coverage. Insurance must be written on an occurrence basis.
- f. Failure of the City to enforce in a timely manner any of the provisions of this Contract, including the Contract's insurance provisions, shall not act as a waiver to enforcement of any of these provisions at a later date. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these provisions, at any time.
- g. Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.
- h. Contractor hereby agrees to waive rights of subrogation that any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.
- i. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

8. **EVIDENCE OF INSURANCE:** Contractor shall provide (1) certificates of insurance and (2) original written endorsements as evidence of the insurance coverage required by this Contract. The endorsements are to be signed by a person authorized by that Insurer to bind coverage on its behalf. Certificates and endorsements shall be filed with the City and are considered an integral part of this Contract, which shall not become effective until satisfactory evidence of insurance has been received and approved by the City. However, failure of Contractor to provide satisfactory evidence of insurance or failure of the City to approve satisfactory evidence of insurance shall not operate as a waiver of these insurance requirements. As noted above, the endorsements of insurance coverage shall specifically:

- a. Endorse the City, its officers, officials, employees, agents and volunteers, and those individuals identified in section 7-1.06D(2) of the special provisions, as additional insureds for general liability coverage and automobile liability coverage;
 - b. Provide that Contractor's insurance is primary as to the City's coverage, which shall be non-contributory for general liability coverage and automobile liability coverage;
 - c. Provide that the City is named as a loss payee for the builder's risk (course of construction) coverage; and
 - d. Provide that Contractor waives rights of subrogation in favor of the City for all work performed by Contractor, its employees, agents and subcontractors for the workers' compensation coverage.
 - e. Provide that coverage shall not be canceled, except with notice to the City.
9. **WORKERS COMPENSATION CERTIFICATION** : By signing this Agreement, Contractor certifies the following "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions before commencing the performance of the work of this contract."
10. **PROHIBITED INTEREST**: Contractor represents that to the best of its knowledge no officer or employee of the City has any financial interest in this transaction or in the business of Contractor; has used his or her position considering or approving the Contract for private gain or advantage; or has received any money or other consideration for approval of this Contract. Contractor further represents that to the best of its knowledge no officer or employee of the City is engaged in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties in approving this Contract. If any such interest, employment, activity, or enterprise comes to the knowledge of Contractor at any time, a full and complete disclosure of all such information shall be made in writing to the City, even if such interest would not be considered a conflict of interest under Article IV Division 4 Section 1090 or section 1126 of the Government Code of the State of California. No officer, or employee of the City or of any of its member jurisdictions during his/her tenure of office, or for one year thereafter, shall have any interest, financial or otherwise, in this Contract or the proceeds therefrom.
11. **NOTICES**: Any notices to be given hereunder by either party to the other may be effected either by personal delivery, fax or mail. Mail shall be sent registered or certified, postage pre-paid, return receipt requested. Mailed notices shall be addressed to the parties at the addresses set forth below, but each party may change its address by written notice in accordance with this paragraph. Notices delivered personally shall be effective immediately. Notices sent by mail shall be effective one (1) day after mailing. Notices sent by facsimile shall be effective upon transmission to the number set forth below.

CITY OF ORINDA
Director of **DEPT. NAME**
City of Orinda
ADDRESS # Orinda Way
Orinda, California 94563
Fax: (925) 253-7699

CONTRACTOR
COMPANY NAME
ADDRESS
CITY STATE ZIP
Fax: **FAX #**
Attn: **CONTACT NAME**

12. BONDS:

- a. Performance Bond: A performance bond as shown in Exhibit B shall be provided in the amount of 100% of the contract price.
- b. Labor and Materials: A labor and materials bond as shown in Exhibit C shall be provided in the amount of 100% of the contract price.
- c. Proof of Admitted Surety Insurer Status. A certificate of admitted surety insurer status shall be attached to each bond. Proof of that status shall be in either of the following forms: (a) a printout of information from the website of the Department of Insurance confirming the surety is an admitted surety insurer or (b) the Contra Costa County Clerk's certificate under Code of Civil Procedure section 995.640(a).

- 13. CONTRACTOR'S BOOKS AND RECORDS:** Contractor and its subcontractors shall establish and maintain records pertaining to this Contract. Contractor's and subcontractors' accounting systems shall conform to generally accepted accounting principles and all records shall provide a breakdown of total costs charged under this contract, including properly executed payrolls, time records, invoices and vouchers.

Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Contractor under this Contract.

Contractor shall maintain all documents and records that demonstrate performance under this Contract for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Contract.

Any records, data or documents required to be maintained pursuant to this Contract shall be made available for inspection, copying or audit, at any time during regular business hours, upon written request by the City or a designated representative for the purpose of auditing and verifying statements, performance, invoices, or bills submitted by Contractor pursuant to this Contract and shall provide such assistance as may be reasonably required in the course of such inspection. Copies of such documents shall be provided to the City for inspection at City's

facility when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Contractor's address indicated for receipt of notices in the Contract.

Where the City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Contractor's business, the City may, by written request, require that custody of the records be given to the City and that the records and documents be maintained at the City's facility. Access to such records and documents shall be granted to any party authorized by Contractor, Contractor's representatives, or Contractor's successor-in-interest.

Pursuant to California Government Code section 8546.7, the parties to this Contract may be subject to the examination and audit of representative of the Auditor General of the State of California for a period of three (3) years after final payment under the Contract. Any such examination and audit shall be confined to those matters connected with the performance of this Contract including, but not limited to, the cost of administering the Contract.

Contractor and all subcontractors shall furnish the records specified in California Labor Code section 1776 directly to the Labor Commissioner in accordance with law. Contractor shall post all job site notices that are required by regulations of the Department of Industrial Relations. The work performed pursuant to this Contract is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

14. **WARRANTY AND GUARANTY:** Contractor shall provide the City with a completed warranty and guaranty as shown in Exhibit D.

15. **CONFLICTS OF INTEREST AND NONCOMPETITIVE PRACTICES AFFIDAVIT:**
Contractor shall provide the City with a completed affidavit concerning conflicts of interest and noncompetitive practices as shown in Exhibit E.

16. **FAITHFUL PERFORMANCE:** Contractor agrees to do all things necessary to faithfully perform and complete the Work.

17. **WARRANTIES:**

- a. **Warranty of Title:** Contractor warrants to the City and its successors and assigns that the title to the materials, supplies or equipment covered by this Contract, when delivered to the City or its successors or assigns, shall be free from all liens and encumbrances.
- b. **Warranty of Fitness:** Contractor warrants that all materials, supplies and products furnished meet the requirements and conditions of the Contract Documents and are fit for the purpose intended.

- c. **Warranty of Merchantability:** Contractor warrants that the goods are merchantable in accordance with California Commercial Code section 2314. In accepting this and other warranties and the materials or supplies to be manufactured or assembled pursuant to the Contract Documents, the City does not waive any warranty, either express or implied, in California Commercial Code sections 2312 through 2315, inclusive, or any liability of the manufacture as determined by any decision of a court of the State of California or the United States.
- d. **Registration:** Contractor represents and warrants that it and all subcontractors working under this Contract are registered and qualified to perform public work pursuant to section 1725.5 of the California Labor Code.

18. **WAIVER:** No waiver of any breach of the terms, conditions or covenants of this Contract shall be construed to be a waiver of any succeeding breach of the same or any other covenants, conditions or terms of this Contract.

19. **TIME OF THE ESSENCE:** Time is of the essence in this Contract.

20. **CONTROLLING LAW:** This Contract and all matters relating to it shall be governed by the laws of the State of California.

21. **ENTIRE AGREEMENT:** It is expressly agreed between the City and Contractor that this Contract, including the Contract Documents listed in paragraph 3 and incorporated herein, expresses the complete and integrated agreement between the parties and supersedes all prior oral or written negotiations, agreements and understandings between them regarding the subject matter hereof. There are no other terms and provisions, implied or otherwise, written or oral, respecting the subject of this Contract.

22. **AMENDMENT:** This Contract may be amended only by a written agreement signed by the parties.

23. **SPECIAL NOTICE:**

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR (4) YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN TEN (10) YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CALIFORNIA 95826.

This Contract is executed by the City upon approval by the Council at its regular meeting of **CITY COUNCIL APPROVAL DATE**.

CITY OF ORINDA

CONTRACTOR

By: _____

Linda Smith
City Manager

acknowledgement

Date: _____

Attest: _____

Sheri M. Smith
City Clerk

Approved as to Form:

Osa L. Wolff
City Attorney

By: _____

Print Name: _____

Title: _____

Authorized representative of Contractor

Signature must be notarized. Attach

Date: _____

If Contractor is a corporation, affix corporate seal here

Exhibits

- A. Compliance with Insurance Requirements declaration
- B. Performance Bond
- C. Labor and Material Bond
- D. Warranty and Guaranty
- E. Affidavit Concerning Conflicts of Interest and Noncompetitive Practices
- F. Insurance Documents To Be Provided by Contractor
 - i. Workers' Compensation Certificate of Insurance
 - ii. Workers' Compensation Insurance Endorsements
 - iii. Automobile Liability Certificate of Insurance
 - iv. Automobile Liability Insurance Endorsements
 - v. General Liability Certificate of Insurance
 - vi. General Liability Insurance Endorsements

G. Contractor Safety Program – Self Certification Worksheet

H. Contractor In-Use Off-Road Diesel-Fuel Regulations Assurances

I. Proposal submitted by Contractor

EXHIBIT A

COMPLIANCE WITH INSURANCE REQUIREMENTS

To comply with this Contract, I, the undersigned, declare that I have provided certificates of insurance and original signed written endorsements (or other policy language) as evidence of the insurance coverage required by this Contract, which include the following.

A. Additional Insureds.

With respect to my general liability and automobile insurance coverage, I have attached to this Contract endorsements that add the City of Orinda, its officials, employees, agents, volunteers, and those individuals identified in section 7-1.06D of the special provisions as additional insureds. Acceptable additional insured endorsements for general liability insurance coverage include CG 10 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01.

B. Primary Insurance.

With respect to my general liability and automobile insurance coverage, I have attached to this Contract endorsements that demonstrate my insurance is primary as to the City's insurance for any claim arising out of the subject of this Contract. The endorsements expressly state that the City's insurance is excess insurance only and shall not be required to contribute to a loss that is covered by my insurance.

D. Waiver of Subrogation.

With respect to my workers compensation insurance coverage, I have attached to this Contract an endorsement with a waiver of subrogation in favor of the City for all Work performed by the Contractor, its employees, agents and subcontractors.

E. Notice of Cancellation.

With respect to all insurance policies, I have attached to this Contract endorsements providing that coverage shall not be canceled, except with notice to the City.

Alternatively, I have attached pages from my insurance contracts that provide satisfactory evidence that my policies cover these requirements without the need for an endorsement.

I, the undersigned, further declare that 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.

CONTRACTOR NAME

Date: _____

CONTRACTOR SIGNATURE

[Signature must be notarized. Attach acknowledgement

form.] _____

SIGNATORY'S TITLE/OFFICIAL CAPACITY

EXHIBIT B

PERFORMANCE BOND

Bond No: _____

Premium: _____

Contract No: _____

WHEREAS, the City of Orinda, State of California, and _____, (Principal), have entered into a Contract in which Principal agrees to install and complete certain designated public improvements described as **INSERT PROJECT NAME, CONTRACT #, AND LOCATION**, and;

WHEREAS, the Principal is required under the terms of the Contract for furnish a bond for faithful performance of the Contract.

NOW, THEREFORE, we, the Principal and _____, as corporate surety, are held and firmly bound unto the City of Orinda, (City), in the sum of _____ dollars (\$_____) lawful money of the United States, for the payment of which we bind ourselves, our heirs, successors, executors and administrators, jointly and severally.

The condition of this obligation is such that if the above Principal, his/her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the Contract and any alteration thereof made as therein provided, on this or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, it shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition of the terms of the Contract or to the Work or to the specifications.

The surety is an "admitted surety insurer" as described in California Code of Civil Procedure §995.120. A certificate of admitted surety insurer status is attached to this bond. Proof of that status shall be in either of the following forms: (a) a printout of information from the website of the Department of Insurance confirming the surety is an admitted surety insurer or (b) the Contra Costa County Clerk's certificate under CCP§995.640(a).

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on _____, 20__.

Date: _____

Surety

[Signature must be notarized. Attach acknowledgement form.]

Date: _____

Contractor

[Signature must be notarized. Attach acknowledgement form.]

Title (Designated Official Capacity)

Note: Power of Attorney must be attached for signatory for surety. In addition, a certificate of admitted surety insurer status shall be attached.

NAME AND ADDRESS OF CONTRACTOR:

NAME AND ADDRESS OF SURETY:

EXHIBIT C

LABOR AND MATERIAL BOND

Bond No: _____

Premium: _____

Contract No: _____

WHEREAS, the City of Orinda, State of California, and _____, (Principal), have entered into a Contract in which Principal agrees to install and complete certain designated public improvements described as **INSERT PROJECT NAME, CONTRACT #, AND LOCATION**, and;

WHEREAS, under the terms of the Contract, Principal is required to file a good and sufficient payment with the City of Orinda to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

NOW, THEREFORE, the Principal and _____, as corporate surety are held firmly bound unto the City of Orinda and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of the Contract and referred to in the above-mentioned Civil Code in the sum of _____ dollars (\$_____), for materials furnished or labor on the project of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that the surety will pay the same in an amount not exceeding the amount set forth above, and also in case suit is brought upon this bond, will pay, in addition to the amount set forth above, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment rendered.

THE CONDITION OF THIS OBLIGATION IS SUCH that:

1. If the Principal, its heirs, executors, administrators, successors, or assigns fail to pay for any materials, provisions, or other supplies or teams used in, on, for, or about the performance of the work contracted to be done, or for any work or labor on the project of any kind, as required by California Civil Code section 3247 *et seq.*, and
2. If the Principal fails to pay (1) any of the persons named in Civil Code section 3181, (2) amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract or (3) for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of contractor and subcontractors pursuant to section 13020 of the Unemployment Insurance Code with respect to the work and labor, and
3. If those entitled to be paid (the persons, companies, or corporations furnishing the materials, provisions or other supplies, teams, appliances or power to be used in, on, for, or about the performance of the work contracted to be executed or performed, or any person contributing to said work to be done or any person who performs work or labor on the project, or supplies both work and materials for the

project) have complied with California Civil Code section 3247 *et seq.*, then the Surety will pay the same in or to any amount not exceeding one hundred percent (100%) of the Contract amount and also, in case suit is brought on this bond, the Surety will pay such reasonable attorneys' fees and costs and expenses of litigation as shall be fixed by the court, awarded and taxed as provided in California Civil Code section 3247 *et seq.*

This bond shall inure to the benefit of any of the persons and entities identified in Section 3181 so as to give a right of action to those persons or their assigns in any suit brought on the bond.

Should the conditions of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The surety stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract shall in any manner affect its obligations on this bond, and it waives notice of any such change, extension, alternation or addition.

The surety is an "admitted surety insurer" as described in California Code of Civil Procedure §995.120. A certificate of admitted surety insurer status is attached to this bond. Proof of that status shall be in either of the following forms: (a) a printout of information from the website of the Department of Insurance confirming the surety is an admitted surety insurer or (b) the Contra Costa County Clerk's certificate under CCP §995.640(a).

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on _____, 20__.

Date: _____

Surety

[Signature must be notarized. Attach acknowledgement

form.]

Date: _____

Contractor

[Signature must be notarized. Attach acknowledgement

form.]

Title (Designated Official Capacity)

Note: Power of Attorney must be attached for signatory for surety. In addition, a certificate of admitted surety insurer status shall be attached.

NAME AND ADDRESS OF CONTRACTOR:

NAME AND ADDRESS OF SURETY:

EXHIBIT D

WARRANTY AND GUARANTY

To the CITY OF ORINDA,

Contractor hereby warrants and guarantees for five (5) year from and after the date of completion of the services provided for in this Contract that said materials and labor necessary for the **INSERT PROJECT NAME, CONTRACT #, AND LOCATION** shall operate as provided for in the Contract Documents.

During the term of this warranty, Contractor shall provide all materials, parts and labor, at its own expense, which are necessary to repair and/or correct any and all defects, installation or operational failures in the equipment from any cause. Notwithstanding the foregoing, Contractor shall not be required to bear the expense of correction of any failure in the equipment that is caused by the sole or active negligence or willful misconduct of the City. The warranties of each part or component supplied are in addition to the warranties required of Contractor in other Contract Documents.

Should any of the work prove defective, due to faulty workmanship, materials furnished or methods of installation, or should the work or any part thereof fail to operate properly as originally intended and in accordance with the plans and specifications, due to any of the above causes, or if any work performed under this Contract fails to fulfill any of the requirements of the Contract Documents, all within one year after date on which the Work is accepted by the City, or after relief from maintenance, whichever is latest, the undersigned agrees to without delay and without any cost to the City to repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Work so that said Work will function successfully as originally contemplated. Should Contractor fail to act promptly or in accordance with this requirement, or should the situation require that repairs or replacements be made before Contractor can be notified, the City may, at its option, make the necessary repairs or replacements or perform the necessary work and Contractor shall pay to the City the actual cost of such repairs. Contractor shall also pay to the City any attorneys' fees incurred to enforce this guaranty.

CONTRACTOR NAME

Date:_____

CONTRACTOR SIGNATURE

[Signature must be notarized. Attach

acknowledgement form.]

SIGNATORY'S TITLE/OFFICIAL CAPACITY

EXHIBIT E

AFFIDAVIT CONCERNING CONFLICTS OF INTEREST AND NONCOMPETITIVE PRACTICES

A. Conflict of Interest. That Contractor, by entering into this Contract with the City to perform or provide work, services or materials to the City, has thereby covenanted, and by this affidavit does again covenant and assure that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any such interest, that conflicts in any manner or degree with the services required to be performed under this Contract and that it shall not employ any person or agent having any such interest. In the event that Contractor or its agents, employees or representative hereafter acquires such a conflict of interest, it shall immediately disclose such interest to the City and take action immediately to eliminate the conflict or to withdraw from this Contract, as the City may require.

B. Contingent Fees and Gratuities. That Contractor, by entering into this Contract with the City to perform or provide services or material for the City, has thereby covenanted, and by this affidavit does again covenant and assure:

1. That no person or selling agency except bona fide employees or designated agents or representative of Contractor has been employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage or contingent fee would be paid;
2. That no gratuities, in the form of entertainment, gifts or other, were offered or given by Contractor or any of its agents, employees or representatives, to any official or employee of the City or other governmental agency with a view toward securing this Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this Contract; and
3. That no contracts of communication or lobbying efforts were made by Contractor, its agents or officer with any member of the City Council, any board or commission, or the staff of the City of Orinda with regard to this process.

CONTRACTOR NAME

Date: _____

CONTRACTOR SIGNATURE

[Signature must be notarized. Attach

acknowledgement form.]

SIGNATORY'S TITLE/OFFICIAL CAPACITY

EXHIBIT F

INSURANCE DOCUMENTS TO BE PROVIDED BY CONTRACTOR

Insurance documents to be provided by Contractor pursuant to this Contract and accepted by the City.

EXHIBIT G

CONTRACTOR SAFETY PROGRAM: SELF-CERTIFICATION WORKSHEET

The following worksheet must be completed during the preconstruction meeting or as requested by the City of Orinda. Incomplete or missing responses will be deemed NON-RESPONSIVE.

Part A: Safety Programs

Part A is used to:

- Verify whether a prospective contractor has safety documents and programs relevant to the work they may be performing.
- Inform the prospective contractor of the safety programs that will be mandatory to the project.
- Confirm that the contractor's employees have been trained in project-related safety programs and that there is documentation of the training.
- Give prospective contractors an opportunity to provide more information about their safety programs that may be important and relevant to the project.
- Inform contractors of the types of safety information that may be requested at a later time.

Part B: Safety Equipment

Part B is used to:

- Verify whether a prospective contractor has safety equipment relevant to the work they may be performing.

Part C: Specialized Training and Certification

Part C is used to:

- Verify whether a prospective contractor's employees hold specialized safety certifications relevant to the work they may be performing.
- Inform contractors of the types of specialized safety certifications their employees may be required to possess before being issued a Notice to Proceed.

Part D: Jobsite Safety Practices

Part D is used to:

- Address how safety aspects of the project will be managed and provide a basis for discussing the contractor's safety program practices.

Part E: Certification and Signature

Part E is used to have the bidder certify the following:

- ▶ The submitted information is accurate and complete.
- ▶ Allow the bidder the opportunity to certify that all bidder safety programs, safety equipment and employee safety training described herein meets or exceeds all local, State and Federal requirements.

Contractor Safety Program Self-Certification Worksheet

PART A - Safety Programs

Please indicate below whether your firm has the following written safety programs. If any of the programs listed do not apply to your operations or this project, please make note of this in the “Comments” column. Those programs that have been checked are, without exception, mandatory and must be made available for review, upon request, before commencing work on this project. Other safety programs may be requested if it is later determined that they are applicable to the project and must be made available for review upon request.

Mandatory	Program	Do you have a written program/policy?		Sub will provide	Have project employees been trained?		Is the training documented?		Comments
		Yes	No		Yes	No	Yes	No	
X	Injury and Illness Prevention								
	Hazard Communication								
	Confined Space Operations								
	Respiratory Protection								
	Emergency Response								
X	Site-Specific Project Safety Plan								
	Lockout/Tagout Program								
X	New Employee Orientation								
	Excavation Safety Program								
	Code of Safe Program								
	Electrical Safety Program								
	Drugs/Alcohol								
	Traffic Control Safety ⁽¹⁾								
	Fall Prevention Plan ⁽²⁾								

	Forklift Program								
	Hotwork Program								
	Bloodborne Pathogens Control Program								

(1) Reflecting M.U.T.C.D and California Supplement requirements

(2) If conventional fall protection measures cannot be used.

PART B - Safety Equipment - Identify what safety equipment will be available and used for this project.

Type	Description/Comments
<input type="checkbox"/> Gas detectors	
<input type="checkbox"/> Ventilation equipment	
<input type="checkbox"/> Approved harnesses and lanyards	
<input type="checkbox"/> Mechanical hoists	
<input type="checkbox"/> Fire extinguishers	
<input type="checkbox"/> First aid kits	
<input type="checkbox"/> Respirators	
<input type="checkbox"/> Hard hats	
<input type="checkbox"/> Hearing protectors	
<input type="checkbox"/> Safety goggles	
<input type="checkbox"/> Steeled toed footwear	
<input type="checkbox"/> Hand protection	
<input type="checkbox"/> Fall protection	
<input type="checkbox"/>	
<input type="checkbox"/>	

PART C - Specialized Training and Certification - Identify the areas of specialized training or certification that will have been completed by employees who will be assigned to this Project. Be prepared to provide documentation as requested.

<input type="checkbox"/>	CPR/first aid	<input type="checkbox"/>	Confined space operations and rescue	<input type="checkbox"/>	Scaffolding
<input type="checkbox"/>	Fork lift operation	<input type="checkbox"/>	Respirators <input type="checkbox"/> Air-Supplying <input type="checkbox"/> Air-Purifying	<input type="checkbox"/>	Flagging
<input type="checkbox"/>	Cranes/hoists operation	<input type="checkbox"/>	Trenching and shoring competent person	<input type="checkbox"/>	
<input type="checkbox"/>	Heavy equipment operation	<input type="checkbox"/>	Welding	<input type="checkbox"/>	
<input type="checkbox"/>	Powder-actuated tools use	<input type="checkbox"/>	Asbestos abatement	<input type="checkbox"/>	

PART D - Jobsite Safety Practices

1. Name of person who will have responsibility for jobsite safety?
2. Does the person who is responsible for jobsite safety have authority to take immediate action to correct unsafe conditions of work practices?
3. Who will be responsible for conducting and documenting accident investigations? Does your company perform near-miss investigations?
4. How often are jobsite safety audits or inspections performed, and by whom?
5. How often are jobsite tailgate or toolbox safety meetings held?
6. Briefly describe how you will ensure that workers comply with City safety requirements and Cal/OSHA requirements?
7. Has CAL OSHA cited and assessed penalties against your firm for any “serious,” “willful” or “repeat” violations of its safety or health regulations in the past five years? If "YES", please describe.
8. Have there been any on-the-job fatalities in the last five years? If yes, please explain.
9. Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past five years? If "YES", please describe.

PART E - Certification and Signature

I certify that the above information is complete and accurate. I further certify that, to the best of my knowledge, all safety programs and safety training meets or exceeds all applicable local, State and Federal regulatory requirements. I understand that any false statements may result in my firm not being considered for this project or in my firm being terminated from this project.

Name (Print) _____ Title _____

Signature _____ Date _____

573296.1

Exhibit H –Contractor In-Use Off-Road Diesel-Fuel Regulations Assurances

The City of Orinda requires that all work done on City property or otherwise on behalf of the City is performed in accordance with the State's environmental health and safety laws, codes and regulations. To this end, please check the appropriate boxes and provide information as required below related to compliance with California Air Resources Board (CARB) In-Use Off-Road Diesel-Fueled Fleets Regulations. Failure to do so may affect your contract with the City. This form must be updated annually or anytime changes occur. Contractor agrees to provide the City with any documents referenced below within one business day of the request.

COMPLIANCE MEASURES

I. Does the project involve the use of vehicles subject to 13 CCR 2449, the In-Use Off-Road Diesel-Fueled Fleets Regulation? (More information on these regulations is available here:

<https://ww2.arb.ca.gov/our-work/programs/use-road-diesel-fueled-fleets-regulation>)

YES ☐

NO ☐

II. If the answer in Section I above is NO, Contractor does not need to check any boxes for items 1, 2, and 3 below and no further information is required.

If the answer above in Section I is YES, unless an exemption applies Contractor must provide to the City:

1) a valid Certificate of Reported Compliance for its fleet and 2) valid Certificates of Reported Compliance for fleets of any subcontractors. Contractor must check YES or N/A, as applicable, for items 1, 2, and 3 below.

A. If Contractor will use covered equipment that is subject to an exemption from Off-Road Regulation requirements, Contractor must provide detailed documentation identifying the exemption and supporting the applicability of the exemption.

B. For Contractors asserting the emergency operations exemption, Contractor must include:
1) a description of the emergency, 2) the address or description of the specific location where Contractor performed work to address the emergency, 3) the dates on which the emergency work was performed, and 4) an attestation by the Contractor that the vehicles operated on the project were only used to carry out emergency work.

Please respond YES or N/A for each item below.

YES

N/A

- | | | | |
|--|--------------------------|--------------------------|---|
| 1. Contractor has provided the City of Orinda with a copy of a valid Certificate of Reported Compliance for Contractor's own fleet. | <input type="checkbox"/> | <input type="checkbox"/> | (N/A if exemption applies) |
| 2. Contractor has provided the City of Orinda with a copy of a valid Certificate of Reported Compliance for any subcontractors' fleet. | <input type="checkbox"/> | <input type="checkbox"/> | (N/A if exemption applies or there are no subcontractors) |
| 3. Contractor has provided documentation supporting a claimed exemption to the Off-Road Regulation. | <input type="checkbox"/> | <input type="checkbox"/> | (N/A if no exemption applies) |

Contractor:

(print

company name) hereby certifies that the foregoing is true and correct.

Contractor Signature Above

Print Name & Title & Date Above

Exhibit I – sample change order form

CONTRACT CHANGE ORDER NO. X

Project Name

PROJECT No: XXX

Owner: City of Orinda
22 Orinda Way
Orinda, CA 94563

DATE: 11/5/0000

TO: Contractor Name

In accordance with Construction Contract section 22 "Amendment" and Standard Specifications section 4-1.05 "Changes & Extra Work", you are hereby directed to make the herein described changes to the plans, specifications or scope of work contracted for within the terms of the subject Contract. All new work herein described shall be done in accordance with the applicable provisions of the plans and specifications, except as modified by this contract change order. NOTE: This change order is not valid until signed by the Owner.

DESCRIPTION OF CHANGES IN THE CONTRACT DOCUMENTS:

Clearly describe the changes in scope including location and facilities impacted. Reference Contractor's Request for Change Order if applicable.

Unless otherwise stated, rates for rental of equipment cover only such time equipment is actually used and no allowance will be made for idle time.

1. Increase/decreases in quantities of bid line items, list per line item and subtotal and/or
2. Revisions in scope and/or
3. Suspension of work and/or
4. Other

Net Change in cost to the Contract: \$ _____

Current Contract Amount: \$ _____

Revised Contract Amount: \$ _____

CONTRACT TIME ADJUSTMENT: Increase/decrease **X** working days or **No Change**,

from ____ **WD** to ____ **WD** (or other time of completion unit)

The adjustments to the Contract Price and Contract Time in this Change Order include all costs, including direct, indirect, consequential, and overhead (field, home office and extended) costs, related to the Change described above. By signing this Change Order, Contractor agrees to accept the adjustments and terms as stated herein.

Except as amended by this Contract Change Order, the Contract shall remain in full force and effect.

Submitted by:

Date:

Resident Engineer or Construction Manager

Recommended
by:

Date:

Director of Public Works

Approved by:

Date:

City Manager

We, the undersigned Contractor, have given careful consideration to the change proposed and agree to provide equipment, furnish materials, and perform the work specified above, and will accept as full payment the prices shown above. Note to Contractor: If you do not sign this change order, you are directed to proceed with the ordered work.

Contractor Name

Accepted Date: _____

Contractor: _____

By: _____

Title: _____

If the Contractor does not sign acceptance of this order, his attention is directed to the requirements of the specification as to proceeding with the ordered work and filing a written protest within the time therein specified.

GENERAL PREVAILING WAGE RATES

The General Prevailing Wage Rates are located at:

<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>