



City of Imperial Beach ~ 825 Imperial Beach Blvd. Imperial Beach, CA 91932 ~ (619) 423-8301

## CONTRACT/AGREEMENT TRACKING FORM

This form must be completed by the originating department and must accompany all contracts/agreements submitted to the City Clerk's Department. All contracts/agreements must be submitted in accordance with the approved procedures for processing. **ALL SECTIONS MUST BE COMPLETED.** Failure to submit as required will result in the document being returned to the originating department for completion.

CONTRACT NO.: (Obtained from the City Clerk's Dept.) \_\_\_\_\_ PROJECT NUMBER: (if any) S22107  
RESOLUTION/ORDINANCE NO.: 2023-101 FINAL FILE LOCATION: City Clerks Office  
ORIGINATING DEPT.: Public Works STAFF CONTACT PERSON: (Name & Ext.) Bobbi x3728  
APPROVAL/BEGIN DATE: 11/15/2023 EXPIRATION DATE: As completed  
APPROVING AGENCY: (City Council, RDA, Staff, City Manager, etc.) City Council

CONTRACTOR: (Company, Agency, Other Party, etc.) Fordyce Construction, Inc.  
Contact Name: Brian Fordyce; President Phone Number: (619) 449-4272  
Address: 9932 Prospect Ave., #138 City: Santee State: CA Zip Code: 92071  
BUSINESS LICENSE ATTACHED:  CERTIFICATE OF INSURANCE ATTACHED:

CONTRACT DESCRIPTION: Construct street improvements and repairs including, but not limited to, the construction of site demolition; asphalt paving; landscaping and irrigation, decorative features, cold milling; concrete curb, gutter, sidewalk, curb ramps, spandrels, and cross gutters, etc.

ADDITIONAL COMMENTS AND/OR DOCUMENTS ATTACHED: (Check one) YES  NO   
(Please attach any Summaries, Comments, and/or Documents necessary)

COST: (if any) \$1,171,685.00

EXTENSION PROVISIONS: 85 Working Days

TERMINATION PROVISIONS: City can terminate at any time with 10 days notice.

COPIES OF FULLY EXECUTED CONTRACT TO: City Clerk, Finance

FULLY EXECUTED CONTRACT RECEIVED ON: (to be completed by the City Clerk's Dept.) \_\_\_\_\_  
FILED BY: \_\_\_\_\_

# CITY OF IMPERIAL BEACH



CONTRACT DOCUMENTS FOR:

**10th Streetscape  
Enhancements  
(S22107)**

**TABLE OF CONTENTS  
CITY OF IMPERIAL BEACH  
10th Streetscape Enhancements (S22107)**

**Contents**

**SECTION I ..... 3**

**BIDDERS INFORMATION ..... 3**

        NOTICE ADVERTISING FOR BIDS ..... 4

        INSTRUCTIONS TO BIDDERS ..... 6

        PROPOSAL REQUIREMENTS ..... 9

**SECTION II ..... 19**

**DOCUMENTS TO BE EXECUTED PRIOR TO BID OPENING ..... 19**

        BID VERIFICATION ..... 20

        BIDDER'S PROPOSAL (1/2) ..... 21

        BIDDER'S PROPOSAL (2/2) ..... 22

        BID FORM ..... 23

        BIDDERS BOND ..... 30

        ACKNOWLEDGEMENT ..... 31

        CONTRACTOR'S CERTIFICATION (1/2) ..... 32

        CONTRACTOR'S CERTIFICATION (2/2) ..... 33

        NON-COLLUSION AFFIDAVIT TO BE EXECUTED ..... 34

**SECTION III ..... 35**

**DOCUMENTS TO BE EXECUTED AFTER AWARD OF CONTRACT ..... 35**

        PUBLIC WORKS CONTRACT ..... 36

        CORPORATE CERTIFICATE ..... 47

        PARTNERSHIP CERTIFICATE ..... 48

        CONTRACTOR'S CERTIFICATE REGARDING WORKERS' COMPENSATION ..... 49

        PERFORMANCE BOND ..... 50

        ACKNOWLEDGEMENT ..... 51

        BOND FOR MATERIALS AND LABOR ..... 52

**SECTION IV ..... 54**

**SPECIAL PROVISIONS ..... 54**

        SPECIAL PROVISIONS ..... 55

**SECTION I**

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***BIDDERS INFORMATION***

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Notice Advertising for Bids

Instructions to Bidders

Proposal Requirements

CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)

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NOTICE ADVERTISING FOR BIDS

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Sealed proposals will be received at the office of the Administrative Services Department, 825 Imperial Beach Boulevard, Imperial Beach, California, up to the hour of **2:00 pm** on **November 2, 2023** for performing work as follows:

CITY OF IMPERIAL BEACH  
10th Streetscape Enhancements (S22107)  
ENGINEERS ESTIMATE: **\$900,000**

The proposal shall be enclosed in a sealed envelope addressed to the City of Imperial Beach, California, or if sent by messenger, shall be delivered to the Administrative Services Department, City Hall, 825 Imperial Beach Boulevard, Imperial Beach, California. **The envelope shall be plainly marked on the upper left hand corner with the name and address of the bidder and bear the words "Proposal For" followed by the name of the item and the date and hour of the bid opening.**

The proposals received will be publicly opened and read in the City Council Chambers, 825 Imperial Beach Boulevard, Imperial Beach, California at the time above stated. Award will be made by the City Council at a meeting subsequent to the date above set for the opening of bids. Proposals received shall remain valid for 60 days from the bid opening date.

Electronic copies of the bid package may be acquired at no cost, (1) from the City's website ([www.imperialbeachca.gov](http://www.imperialbeachca.gov)), or (2) from Bidnet Direct ([www.bidnetdirect.com](http://www.bidnetdirect.com)).

**NON- MANDATORY** Pre-bid meeting will be held on **WEDNESDAY, OCTOBER 25, 2023 at 10:30 A.M.** at **SOUTHEAST CORNER OF THE INTERSECTION OF PALM AVENUE AND 10<sup>TH</sup> STREET, IMPERIAL BEACH, CA, 91932.**

In accordance with the provisions of Division 2, Part 7, Chapter 1, Article 2, of the Labor Code of the State of California, the City Council of the City of Imperial Beach has ascertained the general prevailing rate of wages in the City of Imperial Beach of each craft or type of workman needed to execute the contract; also, the general prevailing rate for legal holiday and overtime work, applicable to the work to be done. The prevailing Wage Schedule is on file in the Public Works Department.

The special attention of prospective bidders is called to Section I, "Instructions to Bidders" and "Proposal Requirements," for instructions regarding bidding.

The City Council reserves the right to reject any or all bids and to waive any irregularity or informality in any bid to the extent permitted by law.

No bid will be accepted from a Contractor who has not been licensed in accordance with both the provisions of Division 3, Chapter 9 of Business and Professions Code. Contractors shall possess the following California Contractor's licenses, or such other licenses as may be allowed by law, at the time of award of the prime contract in order to perform the work: Class "A". Subcontractors must possess the appropriate licenses for each specialty subcontracted. Each bidder shall submit a copy of its active contractor's licenses with the bid documents. All electricians who work on this project shall be State-certified and show proof of certification, prior to commencement of work.

In addition to professional licensure, no bid will be accepted from a Contractor, or its subcontractors, without proof of current registration with the California Department of Industrial Relations (DIR) pursuant to Labor Code section 1725.5 of each Contractor and subcontractor identified in the bid. It is the responsibility of the Contractor to ensure that its business name appears in the DIR's Public Works Contractor Registration database prior to submitting a bid package. The DIR Public Works Contractor Registration database can be found online at <https://efiling.dir.ca.gov/PWCR/Search>. This project is subject to continuing compliance monitoring and enforcement by the DIR.

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**CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)**

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**INSTRUCTIONS TO BIDDERS**

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Sealed proposals will be received at the office of the Administrative Services Department, 825 Imperial Beach Boulevard, Imperial Beach, California pursuant to the Notice Advertising for Bids.

**1. Preparation of the Bid Proposal**

Each bidder shall observe the following in preparing a bid proposal:

**1.1 Federal Excise Taxes**

The prices quoted by the bidder shall be exclusive of Federal excise taxes pursuant to the exemption of political subdivisions in the "Revenue Act of 1935" or any other acts of Congress.

**1.2 Retail Sales Tax or Use Tax**

Prices quoted by the bidder in his proposal shall include any sales or use tax levied by the California Revenue and Taxation Code.

**1.3 Proposal Form**

All proposals must be made upon blank forms attached herein. All proposals must give the prices proposed, both in writing and figures, and must be signed by the bidder, with his address. If the proposal is made by an individual, his name and post office address must be shown. If made by a firm or partnership, the name and post office address of each member of the firm or partnership must be shown. If made by a corporation, the proposal must show the name of the state under the laws, of which the corporation was chartered, and the names, titles and business addresses of the president, secretary and treasurer. If the form is deemed inadequate, additional descriptive matter may be submitted with the proposal by the attachment of catalogs, drawings, photographs or a letter.

**1.4 Rejection of Proposals Containing Alterations. Erasures or Irregularities**

Proposals may be rejected if they show any alterations of form, additions not called for, conditional or alternative bids, incomplete bids, erasures or irregularities of any kind. Any explanation or alternative offered shall be set forth in a letter attached to the front cover of the specifications, Alternatives which do not substantially comply with the City's specifications cannot be considered. Bids subject to conditions or limitations may be irregular and rejected.

The right is reserved by the City to reject any and all proposals.

**1.5 Interpretations and Addenda**

Should a bidder find discrepancies in, or omissions from the specifications, or other proposed Contract documents, or should bidder be in doubt as to their true meaning, bidders may submit to the Public Works Director a request for an interpretation thereof. Any interpretation of, or change in, the proposed documents will be made only by addendum issued to each person to whom specifications have been issued, and shall become a part of any Contract awarded. The City will not be responsible for any other explanation or interpretations. In the event that an addendum or bulletin, setting forth material changes,

additions or deletions is issued when there is 72 hours or less to the bid deadline, the City will extend the bidding deadline by at least 72 hours.

No person is authorized to make any oral interpretation of any provision in the Contract documents to any bidder, and no bidder is authorized to rely on any such unauthorized oral interpretation.

#### **1.6 Delivery of Proposal**

The proposal shall be enclosed in a sealed envelope addressed to the City of Imperial Beach, California, or if sent by messenger, shall be delivered to the Administrative Services Department, City Hall, 825 Imperial Beach Boulevard, Imperial Beach, California. The envelope shall be plainly marked on the upper left hand corner with the name and address of the bidder and bear the words "Proposal For" followed by the name of the item and the date and hour of the bid opening.

#### **1.7 Any Withdrawal of Bids**

Any bidder may withdraw his bid, either personally or by written request, or by telegraphic request confirmed in the manner specified above, at any time prior to the scheduled time for the opening of bids.

#### **1.8 Late Bids**

Bids received after the scheduled time for the opening of bids shall be accepted over the counter, clocked in, and received as late bids. They shall be returned UNOPENED to the vendor after City Council action on the project.

#### **1.9 Bid Evaluation**

The City reserves the right of being sole judge of bid meeting specifications.

Evaluation of the bids will be based on a combination of the total cost of the work including equipment, warranty included with the purchase, its compliance with design criteria and City's minimum requirements, maintenance history and ease of service, durability and safety of equipment, availability of parts and service, delivery/installation time period, financial standing and responsibility of the contractor and their subcontractors, if any, as judged by technical background and experience verified by reference checks.

#### **1.10 Bidders Interested In More Than One Bid**

No person, firm or corporation shall be allowed to make or file or be interested in more than one bid for the same work unless alternate bids are specifically called for. A person, firm or corporation that has submitted a sub-proposal to a Bidder, or that has quoted installation prices or materials to a Bidder, is not thereby disqualified from submitting a sub-proposal or quoting prices to other Bidders or making a prime proposal.

#### **1.11 Examination of Plans. Specifications and Site of the Work**

Each Bidder shall visit the site of the proposed equipment and its installation, and fully acquaint himself with the conditions relating to the proposed design, its layout, use, construction and labor so that he may fully understand the facilities, difficulties and restrictions attending the execution of the work under the Contract. Bidders shall thoroughly examine and be familiar with the proposal plans, specifications and area measurements. The failure or omission of any Bidder to receive or examine any form, instrument or other documents, or to visit the site, verify measurements and acquaint himself with conditions there existing, shall in no way relieve any Bidder from obligation with respect to his bid or to the Contract. The submission of a bid shall be taken as prima facie evidence of compliance with this section. Each Bidder

shall report to the City any errors or omissions in the architectural or engineering plans and specifications prior to submission of a bid.

#### **1.12 Business License**

The successful vendor, including all subcontractors, shall obtain a business license for work within the City of Imperial Beach.

No Contracts shall be issued to any vendor until such business license has been obtained, and all fees paid therefore, by the vendor and subcontractors. Business License applications and information may be obtained from the Imperial Beach Administrative Services Department, 825 Imperial Beach Boulevard, Imperial Beach, California 91932, (619) 628-1423.

#### **1.13 Guarantee**

The Contractor shall guarantee all work against defective workmanship and materials furnished by the Contractor for a period of 1 year from the date the Notice of Completion is filed (Greenbook, section 3-13).

#### **1.14 Installation**

All materials, parts, and equipment furnished by the Contractor in the Work shall be new, high grade, and free from defects. Quality of work shall be in accordance with the generally accepted standards. Material work quality shall be subject to the Engineer's approval.

#### **1.15 Award of Contract**

The award of the Contract, as made by the City, will be made to the lowest responsive, responsible, qualified bidder whose proposal most closely meets the City's requirements and bid evaluation criteria. The award, if made, may be made within 30 days after the opening of the proposals. (The City Manager shall determine whether a Bidder is qualified to perform the Contract and what bid is lowest and whether it is in the interest of the City to accept the bid, subject to approval by the City Council.)

The Contract shall be signed by the successful Bidder and returned, together with the Contract bonds, within ten (10) days after the Notice of Award of a Contract has been mailed. No proposal shall be considered binding upon the City until the execution of the Contract.

Failure to execute a Contract within ten (10) days after the Notice of Award of a Contract has been mailed shall be just cause for cancellation and award to the next lowest Bidder.

#### **1.16 Items To Be Submitted**

Items to be submitted with the bid are set forth in Section II of these bid documents (except as otherwise specifically provided therein).

#### **1.17 Bid Forms**

Bid forms must be filled in completely by Bidder. Do not leave any blanks. If you need more space, use an additional sheet of paper, mark the block with "See Attachment" and reference the block on the additional sheet of paper. Any and all deviations from the design criteria and proposal requirements shall be clearly defined on attachments to the Bid Form.

#### **1.18 For Questions or More Information**

##### Contact:

Paul Macias, CIP Construction Manager, at (619) 455-8891 or email [pmacias@imperialbeachca.gov](mailto:pmacias@imperialbeachca.gov)

CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)

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**PROPOSAL REQUIREMENTS**

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**1. Acceptance of Bid**

In the event that this bid is duly accepted, the City shall purchase, and does hereby purchase, from Contractor said products, materials and/or services above described according to the terms and conditions herein contained and referred to for the prices aforesaid and hereby contracts to pay for the above set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained and as set forth in the Public Works Contract ("Contract").

**2. Compliance**

Contractor does hereby warrant that Contractor will comply with all the laws, rules, regulations and ordinances of the City of Imperial Beach, County of San Diego, State of California, and the Federal Government, respecting this sale of said goods or services and does further warrant that Contractor has good and sufficient title to the same and will supply title to the same, and does further warrant that the said goods or services sold hereunder are good merchantable and are suited for the use for which they are intended.

**3. Payments**

Final payments shall not be made to Contractor until after all work is completed and inspected by the Public Works Director. Progress payments may be made at the discretion of the Public Works Director.

**4. Loss or Damage**

Contractor shall be liable for loss or damage to said goods until completion and acceptance by the City of Imperial Beach and its designated officer.

**5. Bidder Guarantee**

Contractor shall guarantee the bid by securing a bid bond, certified check, or cashier's check in the amount of 10% of the of the contractor's bid price. All bids shall be presented under sealed cover and be properly identified as a bid.

**6. Project Completion**

Project completion shall be no later than **85 Working Days** calendar days from the date of the Notice to Proceed. In case of non-completion by the installation deadline date by the Contractor, the Contractor agrees to reimburse the City at the rate of \$500.00 per calendar day for each day beyond the installation deadline date until the project is complete.

**7. Resolution of Claims**

A. Resolution of Claims Generally

1. Notwithstanding Subsection 7.B. or any other law, including but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with

Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3 of the Public Contract Code, the below shall apply to any claim by a contractor in connection with a public works project:

- a. The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment as provided for in the Public Works Contract Between the City of Imperial Beach and contractor ("Contract"). Nothing in this section is intended to extend the time limit or supersede notice requirements otherwise provided by the Contract for filing of claims.
  - i. Upon receipt of a claim pursuant to this Subsection, the City shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the Contractor a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, the City and the Contractor may, by mutual agreement extend the time provided in this Subsection.
  - ii. The Contractor shall furnish reasonable documentation to support the claim.
  - iii. If the City needs approval from its governing body to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the City shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.
  - iv. Any payment due to an undisputed portion of the claim shall be processed and made within 60 days after the City issues its written statement.
- b. If the Contractor disputes the City's written response, or if the City fails to respond to a claim issued pursuant to this Subsection, within the time prescribed, the Contractor may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the City shall schedule a meet and confer conference within 30 days for settlement of the dispute.
  - i. Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation, with the City and the Contractor sharing the associated costs equally. The City and the Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

- ii. For purposes of this Subsection, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assist the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this Subsection.
- iii. Unless otherwise agreed by the City and the Contractor in writing, the mediation conducted pursuant to this Subsection shall excuse any further obligation under Public Contract Code Section 20104.4.
- iv. This Subsection does not preclude the City from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this Subsection does not resolve the parties' dispute.
- c. If the City fails to issue a written statement within the time periods described in this Subsection or otherwise to meet the time requirements in this Subsection, the claim will be deemed rejected in its entirety. A claim that is denied by reason of the City's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this Subsection, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the Contractor.
- d. Amounts not paid in a timely manner as required by this Subsection shall bear interest at 7 percent per annum.
- e. For purposes of this Subsection, "claim" means a separate demand by the Contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:
  - i. A time extension, including, without limitations, for relief from damages or penalties for delay assessed by the City under the Contract;
  - ii. Payment by the City of money or damages arising from work done by, or on behalf of, the Contractor pursuant to the Contract and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled; or
  - iii. Payment of an amount that is disputed by the City.

B. Resolution of Claims of \$375,000 or Less

- 1. Except for tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code, for all claims between the City and the Contractor of three hundred seventy-five thousand dollars (\$375,000) or less, the following claims process shall be followed:
  - a. The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment as provided for in the Contract. Nothing in this section is intended to extend the time limit or supersede notice requirements otherwise provided by the Contract for the filing of claims.
  - b. For claims of less than fifty thousand dollars (\$50,000):
    - i. The City shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the City may have against the Contractor.

- ii. If additional information is thereafter required, it shall be requested and provided pursuant to this Subsection, upon mutual agreement of the City and the Contractor.
  - (a) The City's written response to the claim, as further documented, shall be submitted to the Contractor within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the Contractor in producing the additional information, whichever is greater.
- c. For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000):
  - i. The City shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the City may have against the Contractor.
  - ii. If additional information is thereafter required, it shall be requested and provided pursuant to this Subsection, upon mutual agreement of the City and the Contractor.
  - iii. The City's written response to the claim, as further documented, shall be submitted to the Contractor within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater.
- d. If the Contractor disputes the City's written response, or the City fails to respond within the time prescribed, the Contractor may so notify the City, in writing, either within 15 days of receipt of the City's response or within 15 days of the City's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the City shall schedule a meet and confer conference within 30 days for settlement of the dispute.
- e. Following the meet and confer conference, if the claim or any portion remains in dispute, the Contractor may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the Contractor submits its written claim pursuant to Subsection A. above until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.
- f. For all civil actions filed to resolve claims subject to Public Contract Code section 20104 et seq., the matter shall comply with the mediation process and judicial arbitration process as set forth in Public Contract Code section 20104.4.
- g. For purposes of this Subsection, "claim" means a separate demand by the Contractor for either of the following:
  - i. A time extension;
  - ii. Payment of money or damages arising from work done by, or on behalf of, the Contractor pursuant to the Contract and payment of which is not otherwise expressly provided for or the Contractor is not otherwise entitled to; or
  - iii. An amount the payment of which is disputed by the City.

This Section shall not apply to tort claims and nothing in this Section is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

**8. Unfair Business Practice Claims**

In entering into the Contract or a subcontract to supply goods, services, or materials pursuant to the Contract, 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 Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or the subcontract. This assignment shall be made and become effective at the time the City tenders final payment to the Contractor, without further acknowledgment by the parties.

**9. Change Orders**

The City reserves the right to make such alteration in the plans as may be necessary to improve the overall project or other features that may have been overlooked in the Proposal Requirements – Continued preparation of plans and specifications. Such alterations or changes will be in writing and shall not be considered a waiver of any conditions of the Contract nor to invalidate any of the provisions thereof.

Changes initiated by the Contractor due to unforeseen conditions at the jobsite shall be reported immediately and approved by the Public Works Director prior to commencing work.

**10. Contractor Responsibility - Property Damages within Project Area**

The Contractor and his subcontractors shall be responsible for, and hold the City harmless from, any and all damages which occur by reason of the Contractor's or subcontractor's operation within the limits of the project area, and shall be responsible for restoring them at no cost to the City to their original condition.

**11. Safety Provisions**

Precaution shall be exercised at all times by the Contractor, his subcontractors and all workers for the safeguard of life and property. Observation of the safety provisions of applicable laws and building, construction codes and OSHA regulations shall be the responsibility of the Contractor who shall also be responsible for all personnel working or visiting the job site.

**12. Public Convenience and Safety**

The successful Bidder will take all measures that are practical to minimize inconvenience to City personnel and the public. The successful Bidder shall conform with all governing safety regulations.

**13. Installation Clean-Up**

The successful Bidder will remove from the site DAILY all rubbish, debris and all material and debris resulting from the work performed daily throughout the installation period. Extra precautions will be taken to clean-up debris in a timely fashion in order to maintain a safe condition at all times. When leaving a work area, the work area shall be vacated in a completely safe and clean condition, free from all debris, tools and equipment.

**14. Subcontract For Work or Services**

No contract shall be made by the Contractor with any other party for furnishing any other work or services herein contained without the prior written approval of the City. This provision shall not require the approval of contracts of employment between the Contractor and personnel assigned for services thereunder.

**15. Designation of Subcontractors**

Each bidder shall set forth on the form provided herein, and submit with its sealed bid at the time bids are due, the name and address of the place of business of each subcontractor who will perform work, labor, furnish materials, or render service to the bidder on said Contract in excess of one-half (1/2) of one percent (1%) of the total bid, or in the case of streets and highways work, one-half (1/2) of one percent (1%) or ten thousand dollars (\$10,000) whichever is greater. Bidders are required to submit the phone number, license number and license expiration date of each subcontractor listed in its bid within twenty-four (24) hours of bid opening. No time extension will be allowed for submission of additional information required by this Section. If no subcontractors are to be designated, enter the word "NONE."

**16. Independent Contractor**

The Contractor, manufacturer and supplier, and their respective employees, agents and subcontractors ("Contractor") are, for all purposes arising out of the Contract, an independent contractor and shall not be deemed an employee of the City. It is expressly understood and agreed that the Contractor shall in no event as a result of the Contract be entitled to any benefits to which the City employees are entitled, including, but not limited to overtime, retirement benefits, workers' compensation benefits, and injury leave or other leave benefits.

**17. Workers' Compensation**

The Contractor is required to comply with Section 3700 of the Labor Code regarding Workers' Compensation in accordance with the statutory limits of coverage. The successful Contractor shall provide the City as additional insured in regards to this project.

**18. Public Liability, Product Liability and Property Damage Insurance**

The Contractor shall take out and shall furnish satisfactory proof by certificate or otherwise as may be required by the City of Imperial Beach that he has taken out public liability, product liability and property damage insurance with insurance carriers satisfactory to the City of Imperial Beach and in such form as shall be satisfactory. The insurance shall protect the Contractor and the City of Imperial Beach, its officers and agents against loss from liability imposed by law for damages on account of bodily injury, including death resulting therefrom suffered or alleged to have been suffered by any person or persons other than employees resulting directly or indirectly from the design, manufacture, construction of the proposed equipment and its performance of installation or execution of this contract or any subcontract thereunder.

The insurance shall also protect the Contractor and the City of Imperial Beach, its officers, employees and agents against loss from liability imposed by law for damage to any property caused directly or indirectly by the performance of execution of this contract or any subcontract thereunder.

Contractor shall maintain this public liability, product liability and property damage insurance in full force and effect during the entire period of performance under this contract in amounts not less than the following:

**18a. Liability Insurance**

Liability insurance policy or policies shall contain the following provisions:

- (1) Coverage for owned and non-owned automobiles.

- (2) Manufacturers and Contractors liability.
- (3) Broad form property damage in any case where the Contractor has any property belonging to the City in his care, custody or control.
- (4) Owners and Contractors protective liability.
- (5) Blanket contractual liability.
- (6) Products and complete operations coverage.
- (7) Coverage for collapse, explosion, and where any excavation, digging, and trenching is done with power equipment, the liability insurance shall cover such operations.
- (8) An endorsement containing the following provisions.

"Solely as respects work done by and on behalf of the named insured for the City of Imperial Beach, it is agreed that the City of Imperial Beach, its officers, agents and employees including the Private Engineer as an Agent or Representative of the City, is added as an additional insured under this policy and the coverage provided hereunder shall be primary insurance available to the City of Imperial Beach, California, including the Private Engineer, under any other third party liability policy. It is agreed that any insurance or self-insurance maintained by the City shall apply in excess of, and not contribute with, insurance provided by this policy. It is further agreed that the other insurance conditions of the policy are amended to conform therewith."

All liability insurance policies shall bear an endorsement or shall have attached a rider whereby it is provided that, in the event of expiration, material alteration, or proposed cancellation of such policies for any reason whatsoever, the City shall be notified by registered or certified mail not less than 30 days before expiration, material alteration or cancellation is effective.

All liability insurance shall cover comprehensive general and automobile liability for both bodily injury (including death) and property damage, including, but not limited to, aggregate products, aggregate operation, aggregate protective and aggregate contractual with the following minimum limits:

- a. **General Liability:**
  - \$1 Million each occurrence
  - \$2 Million general aggregate
  - \$1 Million products completed/operations aggregate
  - \$50,000 Fire Damage
  - \$5,000 Medical Expense
- b. **Automobile Liability:**
  - \$1 Million Bodily Injury Per Accident
  - \$1 Million Property Damage Per Accident
- c. **Workers Compensation and Employers' Liability:**
  - Workers Compensation - Statutory Limits
  - Employers Liability - \$1 Million Per Accident

All insurance policies required by this Section shall contain the following provision:

Contractor shall furnish City with original endorsements effecting coverage required by this Section. The endorsements are to be signed by a person authorized by that insurer to bind

coverage on its behalf. All endorsements are to be received and approved by the City before work commences. Certificates of Insurance shall also be provided but will not be accepted as substitutes for endorsements required herein.

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, and shall be "California-admitted carriers."

If the Contractor fails to maintain such insurance, the City of Imperial Beach may take out such public liability, product liability and property damage insurance to cover any damage which the City of Imperial Beach may be liable to pay through any of the operations under this contract and deduct and retain the amount of the premiums for such insurance from any sums under this contract.

Nothing herein contained shall be construed as limiting in any way the extent to which the Contractor may be held responsible for payment of damages to persons or property resulting from his products use or operations or any subcontractor under him.

#### **19. Installation Guarantee**

All work shall be guaranteed by the installer as specified herein from the date of acceptance of the work, against defective workmanship and materials furnished by the Contractor or his subcontractors. The Contractor shall promptly replace or repair in a manner satisfactory to the City Public Works Director, any such defective work, after notice to do so from the Public Works Director, and upon the Contractor's failure to make such replacement or repairs promptly, the City may perform this work and the Contractor and his sureties shall be liable for the costs thereof.

#### **20. Pre-Construction Conference**

A Pre-Construction Conference shall be held with the Public Works Director and the successful Contractor within three (3) weeks after the date of the award.

#### **21. Faithful Performance Bond and Bond for Materials and Labor**

The successful Bidder is required to furnish the City with a surety bond executed by a surety company authorized to do business in the State of California, and approved by the City of Imperial Beach, in a sum equal to one hundred percent (100%) of the amount of the contract price, conditioned for the faithful performance, delivery and installation of said contract. The City will provide the form for this surety bond.

A bond for materials and labor is required in accordance with Civil Code section 3247. The City will provide the form for this bond.

#### **22. Retention**

Unless findings are made by the City Council or designee pursuant to Public Contracts Code section 7201(b)(3)-(4) allowing for a retention greater than five percent (5%), the City shall retain five percent 5% of the total project costs for thirty-five (35) days following final inspection and acceptance by the City of the Project. However, in the event of a dispute between the City and the Contractor, the City may withhold from the final payment an amount not to exceed 150 percent of the disputed amount.

Pursuant to California Public Contracts Code, Section 22300, the Contractor has the option, at its expense, to substitute for any money withheld by the City, securities equivalent to the amount being withheld. Securities eligible for such substitution are those listed in Section 16430 of the Government Code, bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and the City. As to any such security or securities so substituted for monies withheld, the Contractor shall be the beneficial owner of same and shall receive any interest thereon.

Such security shall, at the request and expense of the Contractor, be deposited with the City or with a State or Federally Chartered bank in this state as the escrow agent who shall pay such monies to the Contractor upon notification by the City that payment can be made. Such notification will be given at the expiration of 35 days from the date of acceptance of the work, or as prescribed by law, provide however, that there will be a continued retention of the necessary securities to cover such amounts as are required by law to be withheld by properly executed and filed notices to stop payment, or as may be authorized by the contract to be further retained.

Alternatively, the Contractor may request and the City shall make payment of retentions earned directly to the escrow agent at the expense of the Contractor. At the expense of the Contractor, the Contractor may direct the investment of the payments into securities and the Contractor shall receive the interest earned on the investments upon the same terms provided for in Public Contracts Code, Section 22300 for securities deposited by the Contractor. Upon satisfactory completion of the contract, the Contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the owner, pursuant to the terms of Public Contracts Code, Section 22300. The Escrow Agreement for Security Deposits in Lieu of Retention shall be substantially similar to the form contained in Public Contracts Code, Section 22300, and security deposits will be administered as specified therein.

### **23. Prevailing Wage**

Contractor shall strictly adhere to the Labor Code provisions regarding minimum wage (City has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work and are on file at the office of the City Public Works Department), the eight (8) hour day (Labor Code § 1810) and forty (40) hour week, overtime, weekend and holiday work, the provisions of Labor Code §1777.5 relating to apprentices, and all other applicable Labor Code provisions.

### **24. California Department of Industrial Relations Registration, Monitoring, and Enforcement**

To perform the work required for this Project, bidders must provide evidence of registration with the DIR pursuant to Labor Code §1725.5. Each Contractor and subcontractor identified in the bid must be separately registered with the DIR, and must maintain lawful DIR registration for the duration of the Contract. It is the responsibility of the bidder to ensure that: a) all Contractor and subcontractors are properly registered with the DIR prior to bid submission; and b) maintain lawful DIR registration for the duration of the Contract. Any Contractor or subcontractors who is not lawfully registered with the DIR at the time of bid submission shall be deemed unqualified to perform work under the Contract, shall not be listed in a bid proposal, and shall be prohibited from engaging in any work under the Contract. If, at the time the bids are opened, any Contractor or subcontractor identified in the bid is found not to be lawfully registered with the DIR, the bid will not be considered.

This Project shall be subject to continuous compliance monitoring and enforcement by the DIR. It is the responsibility of each Contractor and subcontractor during the performance of this Contract to comply with all requirements of Labor Code §1776, including but not limited to, the certification, retention, inspection, and timely submission to the California Labor Commissioner of accurate payroll records.

### **25. Debarment of Contractors and Subcontractors**

In accordance with the provisions of the California Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Section 1777.1 or Section 1777.7 of the California Labor Code. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid, or may have been paid to a debarred subcontractor by a contractor on the Project shall be returned to the City of Imperial Beach.

The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.

## 26. Contractor's License

To perform the work required for this Project, bidders must possess the appropriate Contractor's License for the portion of the work bid upon, and bidders must maintain the license throughout the duration of the Contract. The Successful Bidder shall possess, pursuant to Section 7028.15 of the Business and Professions Code and Section 3300 of the Public Contract Code, and all bidders must possess proper licenses for performance of this contract. Contractors shall possess the following California Contractor's licenses, or such other licenses as may be allowed by law, at the time of award of the prime contract in order to perform the work (see Notice Advertising for Bids) Subcontractors must possess the appropriate licenses for each specialty subcontracted. Contractors who are ineligible to perform work on a public works project pursuant to Section 1777.1 or Section 1777.7 of the Labor Code are prohibited from bidding on this Project. If, at the time the bids are opened, bidder is not licensed to perform the Project in accordance with Division 3, Chapter 9 of the Business and Professions Code of the State of California and these Proposal Requirements, the bid will not be considered.

## 27. Payments to Subcontractors

In accordance with Public Contracts Code §7108.5, the Contractor and any subcontractor shall comply with the following:

- (a) A prime contractor or subcontractor shall pay to any subcontractor, not later than seven days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed the contractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from the prime contractor or subcontractor to a subcontractor, the prime contractor or subcontractor may withhold no more than 150 percent of the disputed amount.
- (b) Any violation of this section shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subcontractor, of 2 percent of the amount due per month for every month that payment is not made.
- (c) In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs.
- (d) The sanctions authorized under this section shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal.
- (e) This section applies to all private works of improvement and to all public works of improvement, except where Section 10262 of the Public Contract Code applies.

Pursuant to Civil Code §9358, the City shall have the right to perform the following:

On receipt of a stop payment notice, withhold from the Contractor sufficient funds due or to become due to the Contractor to pay the claim stated in the stop payment notice and to provide for the City's reasonable cost of any litigation pursuant to the stop payment notice.

Further, the City reserves the right to demand from the Contractor proof of any and all payments made by Contractor or subcontractor to any subcontractors, and investigate complaints of non-payment to subcontractors.

## SECTION II

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### *DOCUMENTS TO BE EXECUTED PRIOR TO BID OPENING*

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Bid Verification

Bidder's Proposal

Bid Form

Bidder's Bond

Attorney-in-Fact Acknowledgement of Surety

Contractor's Certification

Non Collusion Affidavit

**CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)**

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**BID VERIFICATION**

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The following documents must be completed by each bidder and shall accompany, and be a part of, the bidder's proposal. Proposals received without these documents shall be rejected as non-compliant.

1. **Bidder's Proposal (1/2)** ..... [Section II, Page 21]
2. **Bidder's Proposal (2/2)** ..... [Section II, Page 22]
3. **Bid Form** ..... [Section II, Page 23]
4. **Bidder's Bond** ..... [Section II, Page 30]
5. **Acknowledgement** ..... [Section II, Page 31]
6. **Contractor's Certification (1/2)** ..... [Section II, Page 32]
7. **Contractor's Certification (2/2)** ..... [Section II, Page 33]
8. **Non-Collusion Affidavit** ..... [Section II, Page 34]

**ADDENDA** (when applicable)

#1 acknowledged

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This Bid Verification **must** be acknowledged and attached to the bid when submitted.

Acknowledged:

  
\_\_\_\_\_  
Bidder's Signature

11/02/23  
\_\_\_\_\_  
Date

Fordyce Construction, Inc.  
\_\_\_\_\_  
Business/Agency

1000003113  
\_\_\_\_\_  
Bidder's DIR Registration #

**CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)**

**BIDDER'S PROPOSAL (1/2)**

TO THE HONORABLE CITY COUNCIL, CITY OF IMPERIAL BEACH

Pursuant to the provisions of the plans, specifications and Contract documents, the undersigned proposes, on award by the City of Imperial Beach, to do the work as described in a manner satisfactory to the Engineer. All material, equipment, tools, labor and services necessary to do the work will be furnished. The undersigned declares that the plans, specifications, contract documents and the site of the work have been thoroughly examined and that this proposal is made without collusion with any person, firm or corporation. As a guarantee that the terms of this proposal will be complied with, the undersigned submits herewith a proposal guarantee for an amount equal to at least ten percent (10%) of his total bid.

The undersigned agrees that in case of default in executing the required Contract, with necessary bonds, within ten (10) days after the Notice of Award of a Contract has been mailed, the proceeds of the check or bond accompanying his bid shall become the property of the City of Imperial Beach.

All licensed subcontractors who will perform work for the bidder on this project in an amount in excess of one half of one percent of the prime Contractor's total bid, shall be listed. They are as follows:

<u>Name and Address and Email of Subcontractor</u>	<u>Subcontractor's License</u>	<u>Subcontractor's DIR #</u>	<u>Type of Work</u>
<del>Nava Landscapes, Inc. - 484 Kensington Dr. San Marcos, CA 92078 tene.navalandscapes.com</del>	<del>1003673 BF</del>	<del>100114682 BF</del>	<del>Landscaping BF</del>
Golden Triangle Land Surveying 1298 Navel Place Vista CA 92081 willard@heat.net	6788	1000015071	Surveying
RAP Engineering, LLC - 503 E. Mission Rd San Marcos, CA 92069 Swhitlocke@rapenginc.com	1100708	1001014442	Paving
T.B. Penick & Sons, Inc. - 15435 Innovation Dr Ste 200 San Diego CA 92128 Brianbe@topenick.com	185381	1000000003	Seat wall + Decorative concrete
In-Line Construction - 1307 Walnut St. Ramona, CA 92065 gank@inlinerail.com	769516	1000002605	Railing and gates
Marina Landscape - 3707 W Garden Grove, Orange, CA 92828 estimator@marinaco.com	492862	1000000079	Landscaping

**CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)**

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**BIDDER'S PROPOSAL (2/2)**

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The undersigned further agrees that, in the case of award to him of the Contract for the within described work and improvements, said work will be commenced within fifteen (15) calendar days after issuance of the Notice to Proceed. The work shall be prosecuted with diligence from day to day thereafter to completion within the time limits set forth in the "Special Provisions."

The undersigned are prepared to satisfy the City Council of the City of Imperial Beach of their ability, financial or otherwise to perform the Contract for the proposed work and improvements in accordance with the plans and specifications set forth.

The names of all persons, firms and corporations interested in the foregoing proposal as principals are as follows:

Fordyce Construction, Inc.  
Brian Fordyce, President  
Krista Fordyce, Secretary

Signature of Bidder: 

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If an individual, so state. If a firm or co-partnership, state the firm name and give the names of all individual co-partners composing the firm. If a corporation, state legal name of corporation, also names of president, secretary, treasurer, and manager thereof.

Business Address: 9932 Prospect Ave #138  
Santee, CA 92071

Dated: November 2, 2023

**CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)**

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**BID FORM**

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The bid is submitted in response to Notice Advertising for Bids, attached hereto, and pursuant to all of the proceedings of the City Council of the City of Imperial Beach heretofore had and taken to date.

The undersigned bidder warrants that he/she is duly licensed in accordance with California Business and Professions Code providing for the registration of Contractors in the State of California, and that said License is numbered:

608529

, Expiration Date 10/31/2025.

THE CONTRACTORS LICENSE NUMBER AND EXPIRATION DATE STATED HEREIN ARE MADE UNDER PENALTY OF PERJURY.

  
\_\_\_\_\_  
Signature of Bidder

The estimated quantities and total costs herein set forth are for the purpose of comparison of bids only, and final payment will be made upon the basis of actual quantities as per unit prices bid, as the same may be finally determined by the Engineer and confirmed by the City Council of the City of Imperial Beach.

**A. PROPOSAL**

**10th Streetscape Enhancements (S22107)**

The undersigned agrees to enter into a contract therefore in the time, form and manner provided by law at the following prices, to wit:

<u>Item</u>	<u>Quantity</u>	<u>Item with Unit Price Written in Words</u>	<u>Unit Price Written in Figures</u>	<u>Item Total Price</u>
1	1 LS	Mobilization at <u>Twenty thousand five</u> <u>hundred</u> <u>dollars</u> per LS	\$ <u>20,500-</u> per LS	\$ <u>20,500</u>
2	1 LS	Traffic Control and Pedestrian Control at <u>Fourteen thousand</u> <u>dollar</u> per LS	\$ <u>14,000</u> per LS	\$ <u>14,000</u>
3	1 LS	Surveying and Construction Staking at <u>Sixteen thousand dollars</u> per LS	\$ <u>16,000</u> per LS	\$ <u>16,000</u>
4	1 LS	Clearing and Grubbing at <u>One hundred four thousand</u> <u>seven hundred dollars</u> per LS	\$ <u>104,700</u> per LS	\$ <u>104,700</u>
5	4,200 SF	Construct 4" Integral Colored PCC Sidewalk at <u>eighteen dollars</u> per SF	\$ <u>18-</u> per SF	\$ <u>75,600-</u>
6	50 LF	Construct 6" Type G Curb and Gutter at <u>Fifty dollars</u> per LF	\$ <u>50</u> per LF	\$ <u>2,500-</u>
7	490 LF	Construct 6" Curb at <u>forty seven dollars</u> per LF	\$ <u>47-</u> per LF	\$ <u>23,030-</u>
8	25 LF	Construct 8" Type H Curb and Gutter at <u>sixty two dollars</u> per LF	\$ <u>62-</u> per LF	\$ <u>1,550-</u>
9	380 SF	Construct 5.5" Thick Integral Colored Residential Concrete Driveway at <u>twenty one dollars</u> per SF	\$ <u>21-</u> per SF	\$ <u>7,980-</u>



20	350 SF	Construct Accessible Ramp with 4" PCC Sidewalk at  <u>twenty eight dollars</u> per SF	\$ <u>28-</u> per SF	\$ <u>9,800</u>
21	200 SF	Construct 4" Standard Grey PCC Sidewalk at  <u>twenty one dollars</u> per SF	\$ <u>21-</u> per SF	\$ <u>4,200 -</u>
22	1,050 SF	Construct 4" Integral Colored PCC Sidewalk (Jointing And Scoring To Match Existing Adjacent Sidewalk Improvements) at  <u>Nineteen dollars</u> per SF	\$ <u>19-</u> per SF	\$ <u>19,950 -</u>
23	220 SF	Construct 7.5" Thick Grey Commercial Concrete Driveway Slab at  <u>twenty five dollars</u> per SF	\$ <u>25-</u> per SF	\$ <u>5,500 -</u>
24	50 CY	Unsuitable Subgrade ( <b>Allowance</b> ) at <i>Fifteen thousand and no cents</i>  _____ per CY	\$ <u>300</u> per CY	\$ <u>15,000</u>
25	10,000 SF	Install Tensar TX-7 at  <u>Thirty cents</u> per SF	\$ <u>.30</u> per SF	\$ <u>3,000</u>
26	1 LS	Signing and Marking at  <u>Nine thousand five hundred dollars</u> per LS	\$ <u>9,500</u> per LS	\$ <u>9,500</u>
27	240 LF	Construct 3' Integral Ribbon Gutter (Includes Transition) at  <u>Seventy three dollars</u> per LF	\$ <u>73-</u> per LF	\$ <u>17,520 -</u>
28	22 LF	Construct Trench Drain with 24" Grate at  <u>four hundred seventy five dollars</u> per LF	\$ <u>475</u> per LF	\$ <u>10,450</u>

29	35 LF	Construct 1' Integral Color Ribbon Gutter at <u>eighty eight dollars</u> per LF	\$ <u>88</u> per LF	\$ <u>3,080</u>
30	12 LF	Construct Trench Drain with 18" Grate at <u>four hundred fifty seven dollars</u> per LF	\$ <u>457-</u> per LF	\$ <u>5,484</u>
31	1 LS	Furnish and Install Sidewalk Underdrain at <u>eight hundred dollars</u> per LS	\$ <u>800-</u> per LS	\$ <u>800-</u>
32	0.50 CY	Rip Rap at <u>Four hundred thirty dollars</u> per CY	\$ <u>430</u> per CY	\$ <u>2,150</u>
33	11 CY	8" Bioretention Soil at <u>two hundred thirty dollars</u> per CY	\$ <u>230</u> per CY	\$ <u>2,530</u>
34	650 SF	Impermeable Liner at <u>eight dollars</u> per SF	\$ <u>8-</u> per SF	\$ <u>5,200</u>
35	80 LF	Construct BMP Curb and Gutter Edge Treatment at <u>two hundred thirty dollars</u> per LF	\$ <u>230-</u> per LF	\$ <u>18,400-</u>
36	55 LF	Construct BMP Side Edge Treatment at <u>One hundred seventy dollars</u> per LF	\$ <u>170-</u> per LF	\$ <u>9,350-</u>
37	11 EA	Furnish and Install Solar LED Pedestrian Lights and Foundation at <u>thirteen thousand twenty dollars</u> per EA	\$ <u>13,020</u> per EA	\$ <u>143,220</u>
38	13 EA	Furnish and Install 36" Box Tree at <u>two thousand one hundred sixty dollars</u> per EA	\$ <u>2,160</u> per EA	\$ <u>28,080</u>

39	307 EA	Furnish and Install 5 Gallon Shrub at _____ per EA <u>eighty two dollars</u> per EA	\$ <u>82</u> per EA	\$ <u>25,174</u>
40	100 EA	Furnish and Install 1 Gallon Shrub at _____ per EA <u>forty four dollars</u> per EA	\$ <u>44</u> per EA	\$ <u>4,400</u>
41	2,550 SF	Furnish and Install Wood Bark Mulch at _____ per SF <u>three dollars</u> per SF	\$ <u>3-</u> per SF	\$ <u>7,650</u>
42	9 TON	Furnish and Install Crushed Rock at _____ per TON <u>Five hundred eighty dollars</u> per TON	\$ <u>580-</u> per TON	\$ <u>5,220-</u>
43	1 EA	Furnish and Install Tree Grate at _____ per EA <u>Four thousand eight hundred dollars</u> per EA	\$ <u>4800-</u> per EA	\$ <u>4,800-</u>
44	480 LF	Furnish and Install Root Control Barrier at _____ per LF <u>twenty seven dollars</u> per LF	\$ <u>27</u> per LF	\$ <u>12,960-</u>
45	6 EA	Furnish and Install Bench at _____ per EA <u>Four thousand eight hundred twenty two dollars</u> per EA	\$ <u>4822</u> per EA	\$ <u>28,932</u>
46	2 EA	Furnish and Install Trash Receptacle at _____ per EA <u>Three thousand six hundred ten dollars</u> per EA	\$ <u>3,610-</u> per EA	\$ <u>7,220-</u>
47	70 LF	Construct Seat Wall at _____ per LF <u>two thousand one hundred seventy two dollars</u> per LF	\$ <u>2,172</u> per LF	\$ <u>152,040</u>
48	1 LS	Construct Decorative Paving Feature at _____ per LS <u>Forty three thousand eight hundred dollars</u> per LS	\$ <u>43,800</u> per LS	\$ <u>43,800</u>

49	1 LS	Furnish and Install Irrigation System at <u>thirty eight thousand</u> <u>one hundred</u> per LS <u>dollars</u>	\$ <u>38,100</u> per LS	\$ <u>38,100</u>
50	1 LS	Provide Landscape Maintenance and Establishment Period (180 Days) at <u>Six thousand</u> <u>three hundred</u> per LS	\$ <u>6,300-</u> per LS	\$ <u>6,300</u>
<b>TOTAL BID</b>				\$ <u>1,173,620-</u>

**SECTION II EXECUTED DOCUMENTS MUST BE SUBMITTED WITH THIS BID PACKAGE.**

In case of discrepancy between words and figures, the words shall prevail.

- B. I understand that the Owner reserves the right to reject this bid, but that this bid shall remain open and not be withdrawn for a period of thirty (30) days from the date prescribed for its opening.
- C. If written notice of the acceptance of this bid is mailed or delivered to the undersigned within thirty (30) days after the date set for the opening of this bid, or at any other time thereafter before it is withdrawn, the undersigned will execute and deliver the Contract Documents to the Owner in accordance with this bid as accepted, and will also furnish and deliver to the Owner the Performance Bond, Payment Bond, and proof of insurance coverage, all within ten days after personal delivery or after deposit in the mails of the notification of acceptance of this bid.
- D. Notice of acceptance, or request for additional information, may be addressed to the undersigned at the address set forth below.
- E. The names of all persons interested in the foregoing bid as principals are:

*(IMPORTANT NOTICE: If bidder or other interested person is a corporation, give legal name of corporation, state where incorporated, and names of president, secretary, treasurer and manager thereof; if a partnership, give name of firm and names of all individual co-partners composing the firm; if bidder or other interested person is an individual, give first and last names in full.)*

Fordyce Construction, Inc. - Incorporated in the State of California

Brian Fordyce, President

Krista Fordyce, Secretary

licensed in accordance with an act for the registration of Contractors, and with license # 608529

  
Signature of Bidder

admin@fordyceconstruction.com  
Email Address

9932 Prospect Ave #138 Santee, CA 92071

Business Address

619.449.4272

11/02/23

Telephone Number(s)

Date of Proposal

CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)

BIDDERS BOND

KNOW ALL MEN BY THESE PRESENTS

THAT WE Fordyce Construction, Inc.

as Principal, and The Ohio Casualty Insurance Company

as surety, are held and firmly bound unto the City Council of the City of Imperial Beach hereinafter called the "Council" in the penal sum of TEN PERCENT (10%) OF THE TOTAL AMOUNT OF THE BID or the principal above named, submitted by said Principal to the County for the work described below, for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

In no case shall the liability of the surety hereunder exceed the sum of:

Ten Percent of Total Amount Bid (10% of Total Bid Amount)

THE CONDITION OF THIS OBLIGATION IS SUCH,  
That whereas the Principal has submitted the above-mentioned bid to the Council for certain construction specifically described as follows, for which bids are to be opened on November 2, 2023 at 2:00 pm for:

CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)

NOW, THEREFORE, IF the aforesaid principal shall not withdraw said bid within the period specified therein after the opening of the same, or, if no period be specified, within thirty (30) days after said opening, and shall within the period specified therefore, or, if no period be specified, within ten (10) days after the prescribed forms are presented to him for signature, enter into a written Contract with the Council in the prescribed form, in accordance with the bid as accepted, and file the two bonds with the Council, one to guarantee faithful performance and the other to guarantee payment for labor and materials, as required by law, then this obligation shall be null and void; otherwise it shall be and remain in full force and virtue.

In the event suit is brought upon this bond by the Council and judgment is recovered, the surety shall pay all costs incurred by the Council in such suit, including a reasonable attorney's fee to be fixed by the Court.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this

24th day of October A.D. 2023.

Fordyce Construction, Inc.

(SEAL)

The Ohio Casualty Insurance Company



(SEAL)

Brian Fordyce

(SEAL)

Bart Stewart

Brian Fordyce, President

(SEAL)

Bart Stewart - Attorney-in-Fact

(SEAL)





This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8206236 - 969556

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Bart Stewart

all of the city of Encinitas state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 3rd day of September, 2021.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

State of PENNSYLVANIA
County of MONTGOMERY

On this 3rd day of September, 2021 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 24th day of October, 2023.



By: Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

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

State of California )  
County of San Diego )

On October 24, 2023 before me, Genevieve Sistar, Notary Public,  
*Date Here Insert Name and Title of the Officer*  
personally appeared Bart Stewart  
*Name(s) of Signer(s)*

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

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

WITNESS my hand and official seal.



*Genevieve Sistar*

Signature \_\_\_\_\_  
*Signature of Notary Public*

*Place Notary Seal Above*

**OPTIONAL**

*Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)

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CONTRACTOR'S CERTIFICATION (1/2)

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Fordyce Construction, Inc. - Brian Fordyce \_\_\_\_\_ certifies that:  
(Contractor)

1. It intends to employ the following listed construction trades in its work under the Contract

\_\_\_\_\_  
Carpenter, Laborer, Cement Mason  
\_\_\_\_\_  
\_\_\_\_\_



\_\_\_\_\_  
(Signature of authorized representative of Contractor)

**CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)**

**CONTRACTOR'S CERTIFICATION (2/2)**

*Required at Bid Opening [Public Contract Code 4100]*

In compliance with the provisions of the Subletting and Subcontracting Fair Practices Act (Section 4100 et sec of the Public Contract Code of the State of California) the undersigned Bidder has set forth below the full name and the location of the place of business of each Subcontractor who will perform work or labor or render service to the Prime Contractor in or about the construction of the work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Prime Contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications to which the attached bid is responsive, and the portion of the work which will be done by each Subcontractor for each subcontract in excess of one-half of one percent of the Prime Contractor's total bid.

The Bidder understands that if he fails to specify a subcontractor for any portion of the work to be performed under the Contract in excess of one-half of one percent of his bid, he shall be deemed to have agreed to perform such portion of the work except in cases of public emergency or necessity, and then only after a finding, reduced to writing as a public record of the Awarding Authority, setting forth the facts constituting the emergency or necessity. If no subcontractors are to be employed on the project, enter the word "NONE".

ITEM NO.	DESCRIPTION OF WORK	% TOTAL CONTRACT	SUBCONTRACTOR	ADDRESS
1. <sup>BF</sup> 38, 39, 40 <sup>BF</sup> 41, 42, 43, 44, 49+50 <sup>BF</sup>	Landscaping <sup>BF</sup>		Nava Landscapes <sup>BF</sup>	484 Kensington Dr <sup>BF</sup> San Marcos, CA 92078 <sup>BF</sup>
2. 3	Survey	1.1%	Golden Triangle Land Surveying	1298 Navel Place Vista, CA 92081
3. 13, 14 15, 16	Paving	8.9%	RAP Engineering, LLC	503 E. Mission Rd San Marcos, CA 92069
4. 47, 48	Seat Wall - Specialty Decorative Concrete - Specialty	13.2%	TB Penick + Sons, Inc.	15435 Innovation Dr San Marcos, CA 92069
5. 18+19	Gate/Railing/Handrail	4.3%	In-Line Construction	1307 Walnut St Ramona CA 92065
6. 38, 39, 40, 41 42, 43, 44, 49+50	<sup>BF</sup> Marina Landscaping	8.8%	Marina Landscape	3707 W Garden Grove Orange, CA 92868
<b>TOTAL % SUBCONTRACTED</b>		<u>36.1%</u>		

Fordyce Construction, Inc.

(Legal Name of Bidder)

By  Brian Fordyce

Title President

(This affidavit shall be executed by the bidder at the time of submitting his bid.)

CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)

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

State of California )  
County of San Diego ) ss.

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

To the City of Imperial Beach, Department of Public Works:

Brian Fordyce, being first duly sworn, deposes and says that he or she is President of Fordyce Construction, Inc. the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that 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, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that 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, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

9932 Prospect Ave #138 Santee, CA 92071  
Business Address

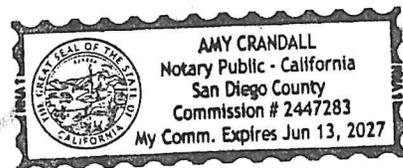
*Brian Fordyce*  
Signature of Bidder

9932 Prospect Ave #138 Santee, CA 92071  
Place of Residence

Brian Fordyce, President

Subscribed and sworn to before me this 2nd day of November, 2023

*Amy Crandall*  
Notary Public in and for the County of  
San Diego, State of California





# City of Imperial Beach, California

PUBLIC WORKS DEPARTMENT

825 Imperial Beach Blvd., Imperial Beach, CA 91932 Tel: (619) 423-8311 Fax: (619) 429-4861

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October 27, 2023

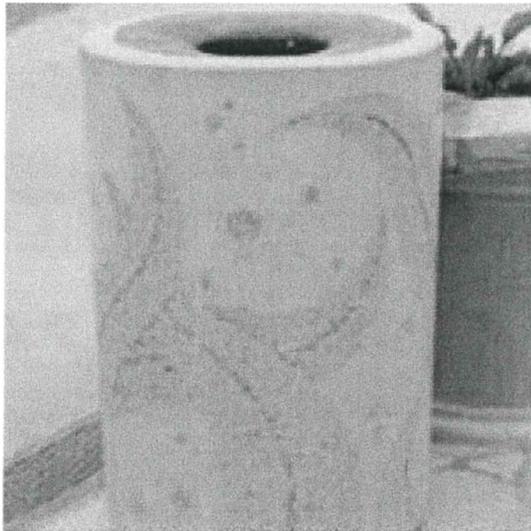
**RE: RESPONSE TO QUESTIONS FOR THE 10TH STREETSCAPE IMPROVEMENTS**

Dear Perspective Bidders:

The following responds to questions received as of October 27, 2023, regarding the 10<sup>th</sup> Streetscape Improvements Project currently being advertised.

**Question 1. Please provide a detail showing the custom wave pattern for the trash receptacle.**

**Answer 1. Concrete trash receptacle and custom wave pattern to match those on the Palm Avenue/ State Route 75 West and Park Sectors Project. CALIFORNIA w/ custom wave pattern QR-CAL2436W-HOVER19 (Image below).**



**Question 2. Please provide recommended Manufacturer information needed for site Benches?**

**Answer 2. The manufacturer is 'Forms+Surfaces'.  
<https://www.forms-surfaces.com/camber-bench>**

Sincerely,

Paul Macias  
CIP Construction Manager

Project name: 10th Streetscape Enhancements

**REQUIRED ARCHITECTECTURAL CAST-IN-PLACE CONCRETE SUB-CONSULTANT INFORMATION**

The proper installation of specialty concrete finishes such as Lithocrete Sedimentary Wall is critical to the success of the project. The bidder, or the bidder's subcontractor, shall have four (4) or more Lithocrete Sedimentary Wall projects installed. Minimum size of individual installations shall be 100 linear feet.

**I. LICENSED LITHOCRETE INSTALLER** *Item 47*

- Contractor: T.B. Penick & Sons, Inc.
- Project Manager/Foreman: Frank Klemaske
- Phone Number: 858-558-1800

**II. COMPARABLE PROJECT LIST (PROVIDE MINIMUM OF 4)**

1. Project Name: UCSD Satellite Utility Plant Building  
Address: UCSD - Osler Lane & Pharmacy Lane  
Client Contact: Jim Gabriel  
Phone Number: 619-523-8485
2. Project Name: Moonlight Beach  
Address: 386 C Street, Encinitas, CA 92024  
Client Contact: Stephen Dalton  
Phone Number: 858-792-5906
3. Project Name: Sellers Kever  
Address: Bayshore bikeway (silver strand bikeway), Imperial Beach, CA, 91932  
Client Contact: Chuck Tucker  
Phone Number: 858-966-1352
4. Project Name: Solana Beach Coastal Rail Trail  
Address: parallel to Highway 101, Solana Beach, CA  
Client Contact: Dan Goldberg  
Phone Number: 858-720-2400
5. Project Name: Reunion Trails  
Address: Casady Hollow Avenue & Chapata Drive, Henderson, NV  
Client Contact: Joe Vickers  
Phone Number: 858-720-2400

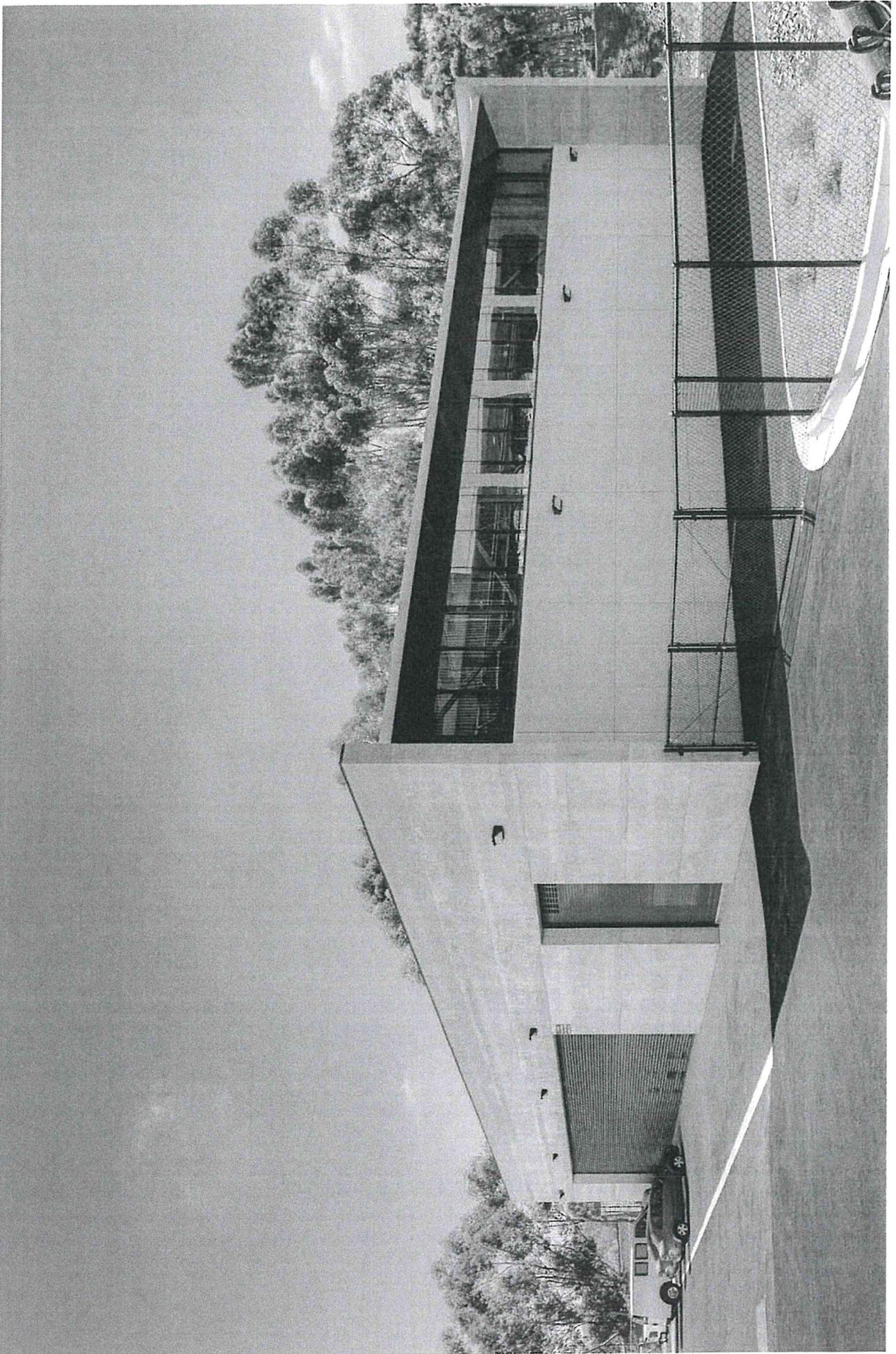
Provide two (2) color photos, 8"x10" in size, of each installation listed above. Photo #1 shall show the approximate size of the installation. Photo #2 shall be taken approximately 2 to 3 feet from the respective paving surface. Photos shall clearly show the detail associated with the Lithocrete Sedimentary Wall finish or the photo(s) will be rejected. The bidder must submit the above information along with the color photos with the bid. Failure to submit the information and photos shall be considered a non-responsive bid and therefore the bidder shall be considered non-responsive.

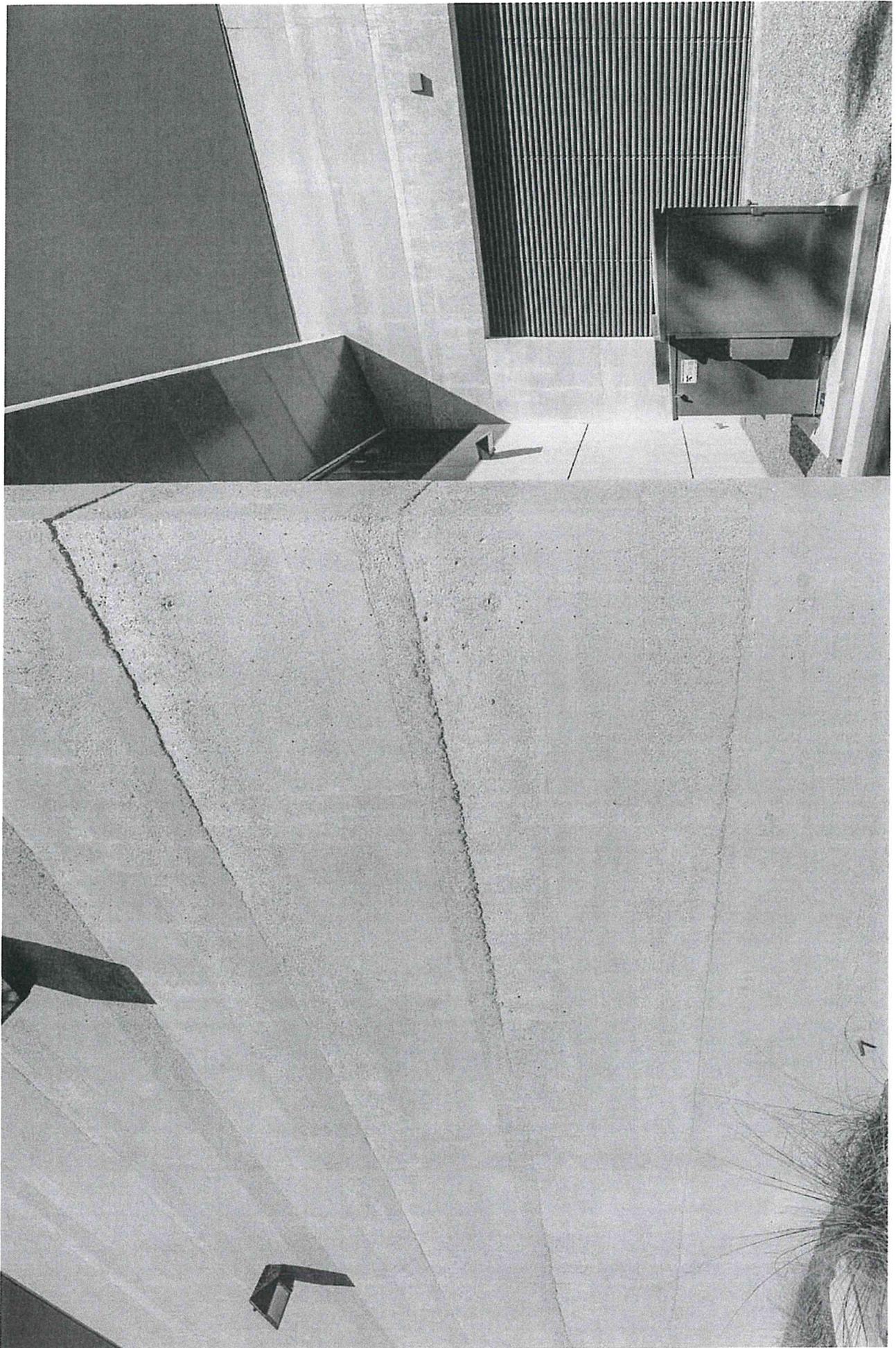
*Jason Avila*

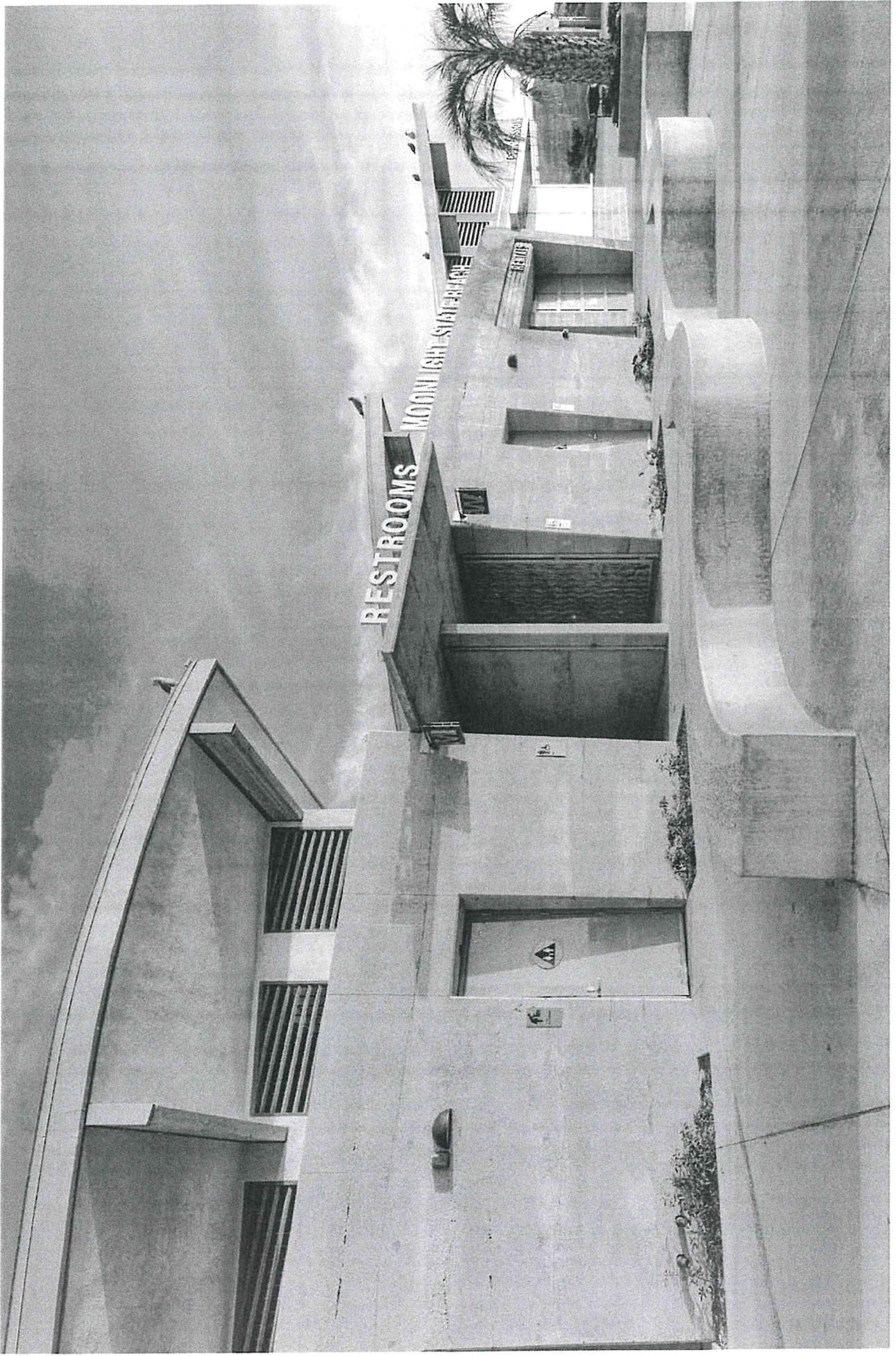
Signature of Bidder

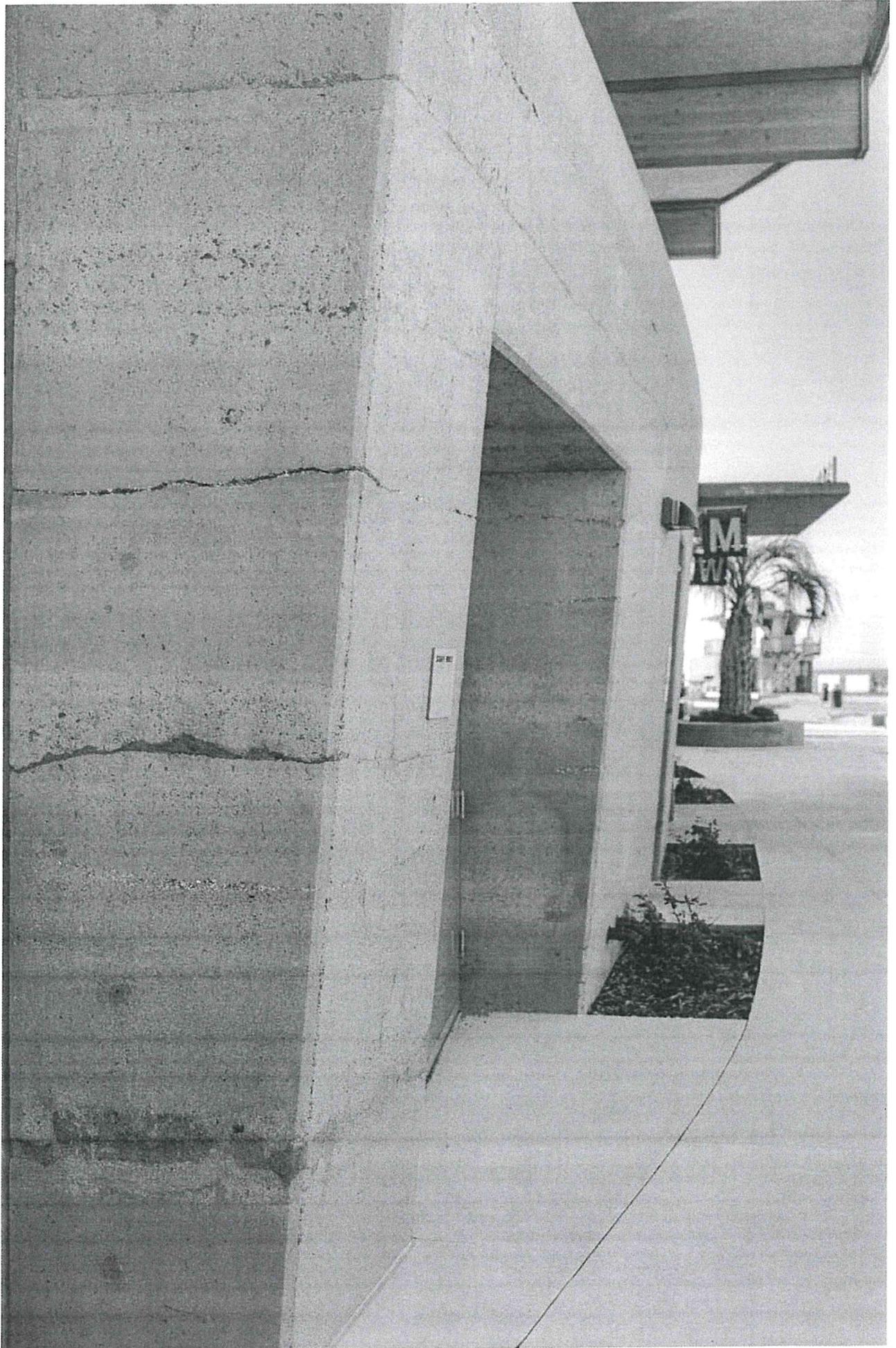
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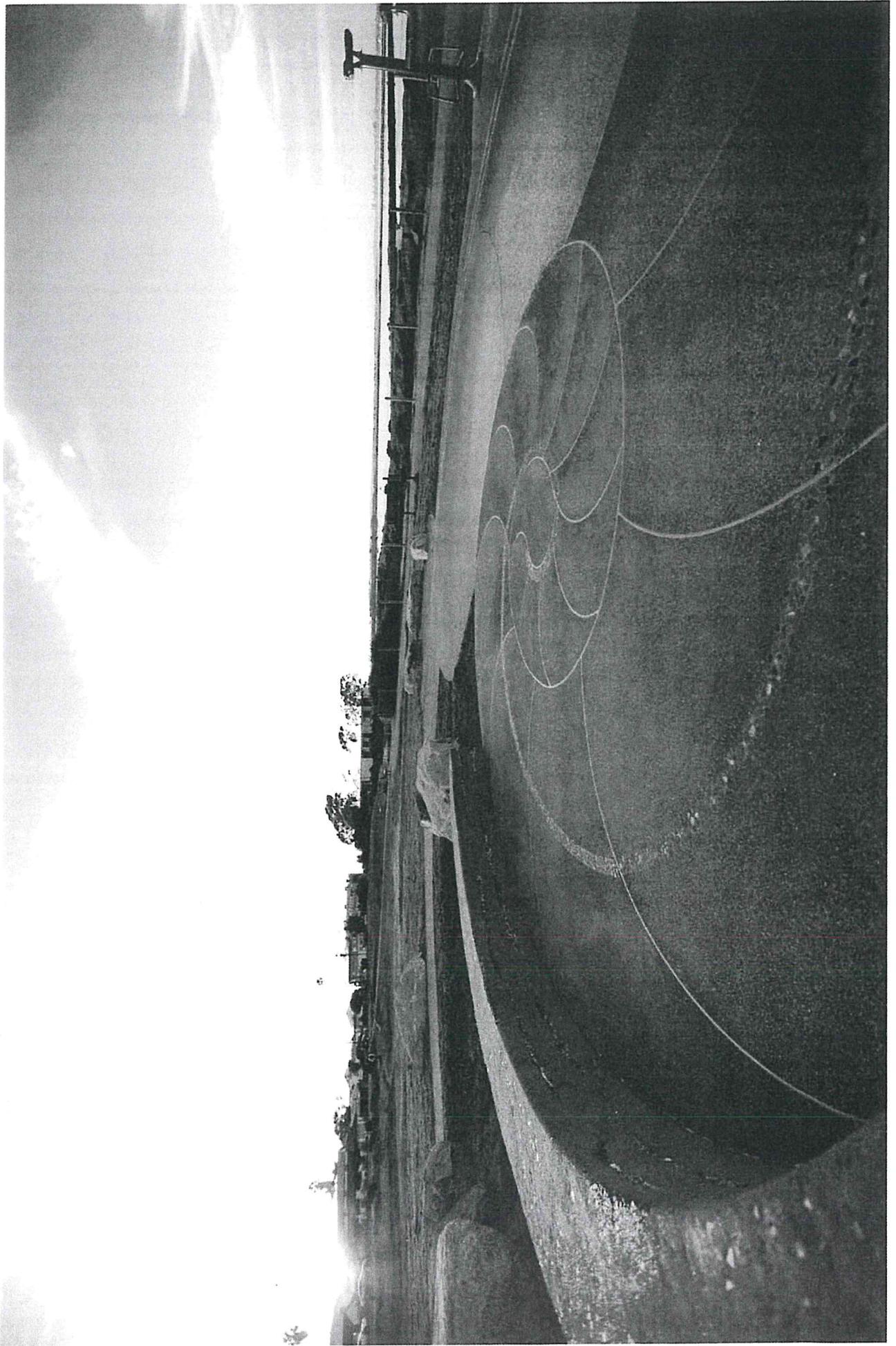
Date

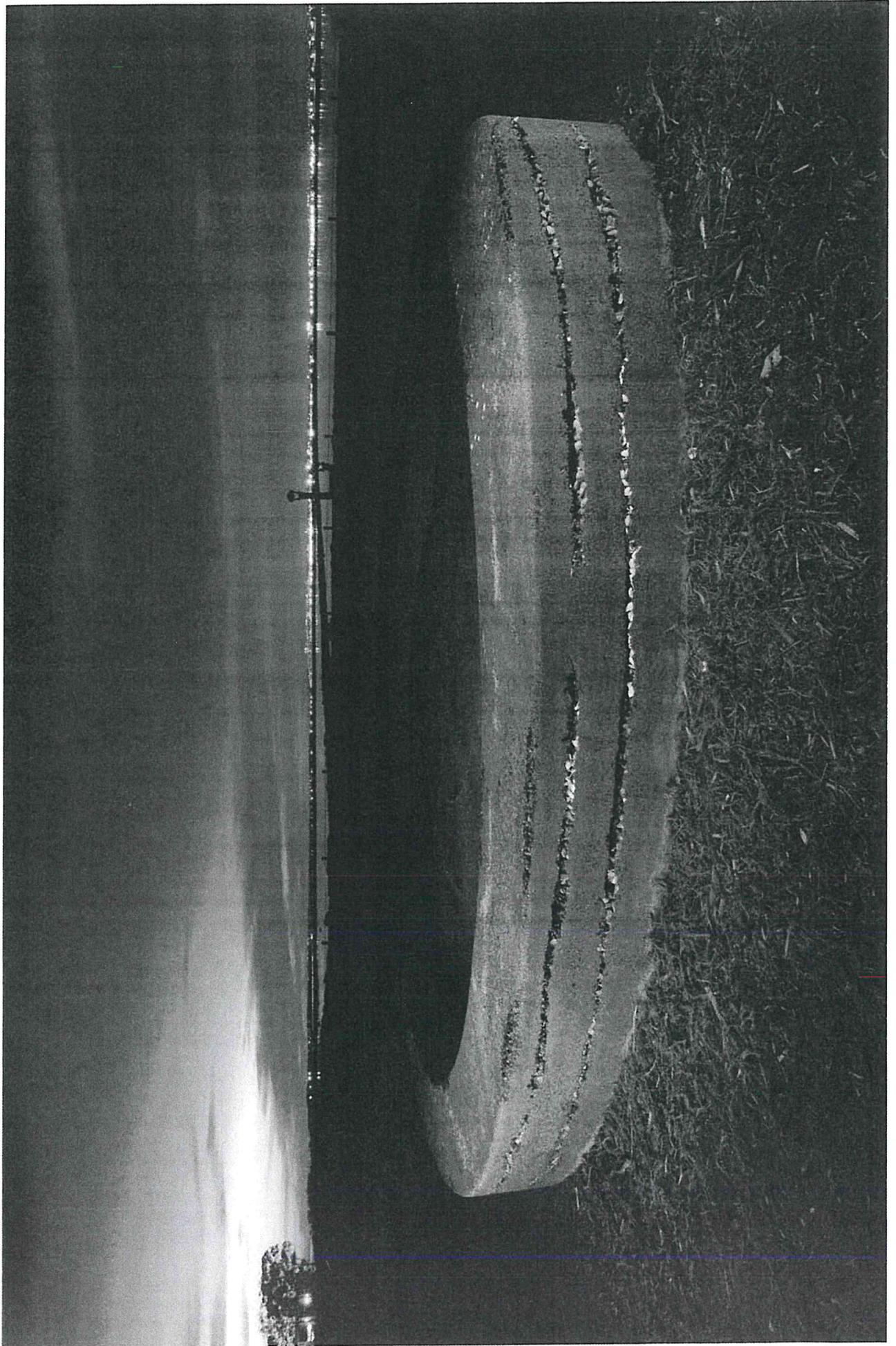








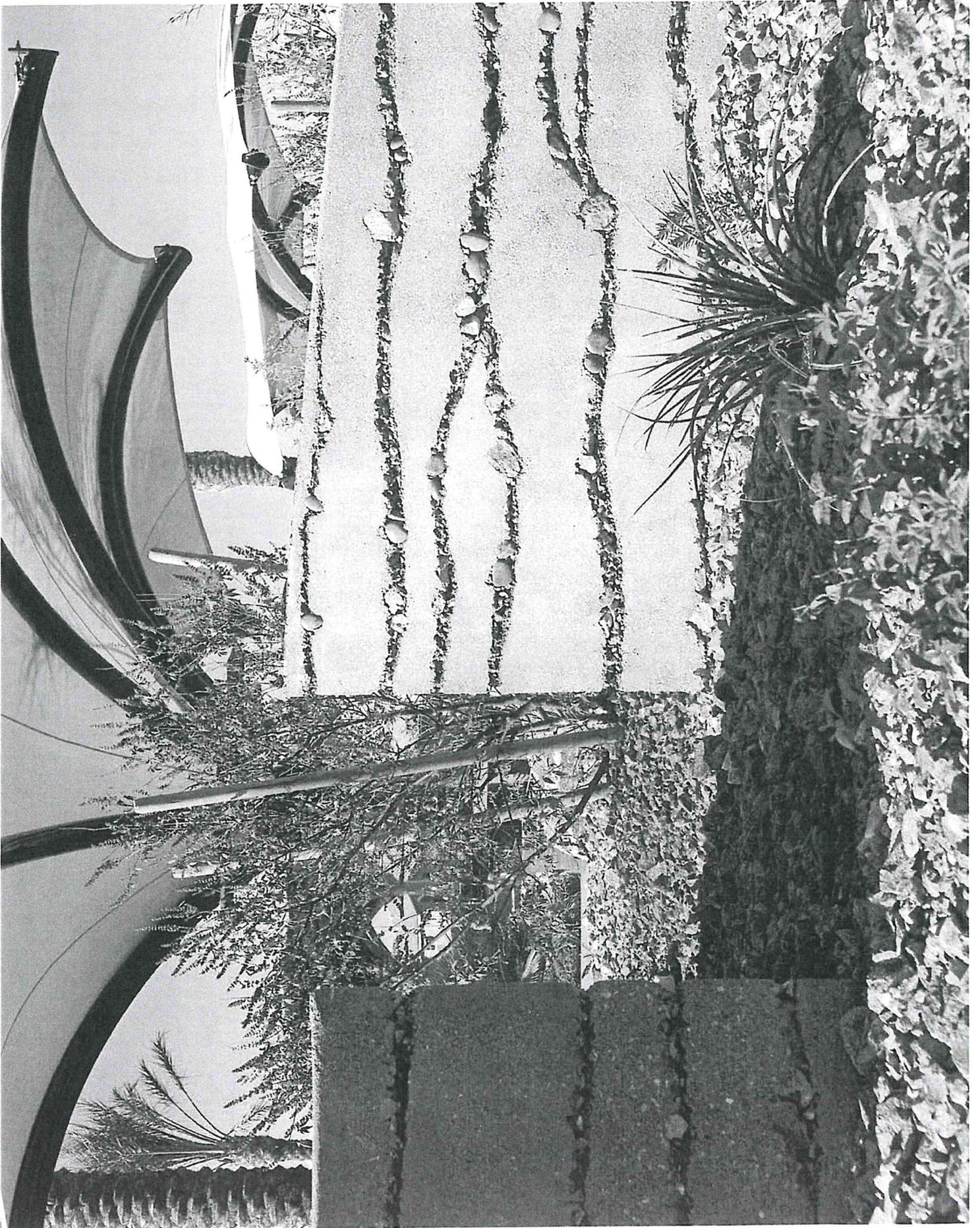












Project name: 10th Streetscape Enhancements project

**REQUIRED ARCHITECTECTURAL CAST-IN-PLACE CONCRETE SUB-CONSULTANT INFORMATION**

The proper installation of specialty concrete finishes such as Lithomosaic is critical to the success of the project. The bidder, or the bidder's subcontractor, shall have at least three (3) or more Lithomosaic projects installed.

**I. LICENSED LITHOCRETE INSTALLER**

*1 Team 4/8*

- Contractor: T. B. Penick & Sons, Inc.
- Project Manager/Foreman: Victor Klemaske
- Phone Number: 800-239-3046

**II. COMPARABLE PROJECT LIST (PROVIDE MINIMUM OF 5)**

1. Project Name: Santee Town Center  
Address: 10601 Magnolia Avenue, Santee, CA 92071  
Client Contact: Jim Cappadocia  
Phone Number: 619-239-3428
2. Project Name: Old Town State Park  
Address: 4002 Wallace St, San Diego, CA 92110  
Client Contact: Penny Clews  
Phone Number: 916-857-9372
3. Project Name: Reunion Trails  
Address: 44 Chapata Drive, Henderson, NV 89012  
Client Contact: Bonnie Kolesa  
Phone Number: 702-267-3684
4. Project Name: North Island Credit Union  
Address: 5898 Copley Drive, San Diego, CA 92111  
Client Contact: Chris Varone  
Phone Number: 858-560-8349
5. Project Name: Highway 101  
Address: From Dahlia Drive to Cliff Street, Solana Beach, CA 92075  
Client Contact: Pat O'Connor  
Phone Number: 619-296-3713

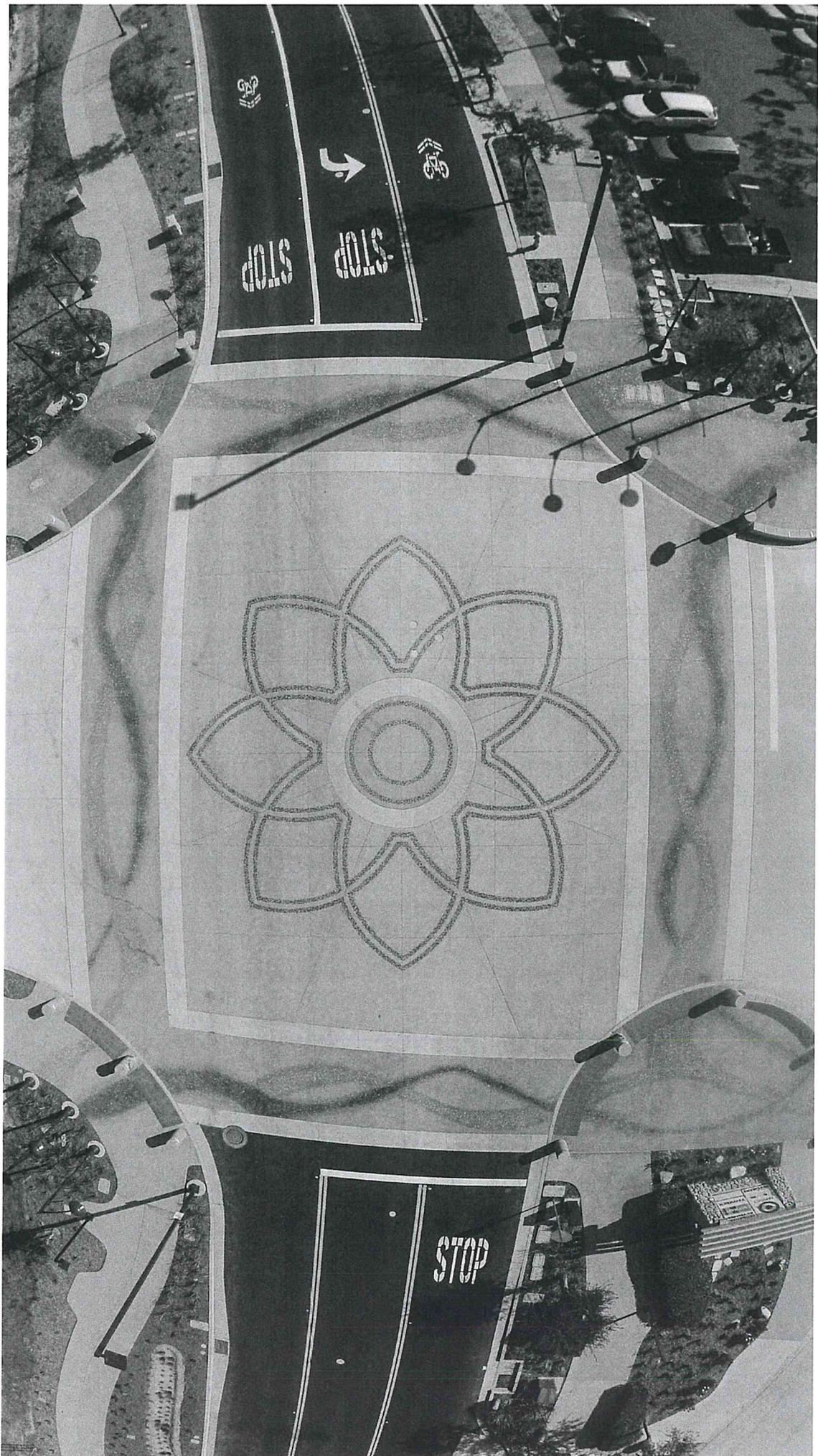
Provide two (2) color photos, 8"x10" in size, of each installation listed above. Photo #1 shall show the approximate size of the installation. Photo #2 shall be taken approximately 2 to 3 feet from the respective paving surface. Photos shall clearly show the detail associated with the Lithocrete® LQS finish or the photo(s) will be rejected. The bidder must submit the above information along with the color photos with the bid. Failure to submit the information and photos shall be considered a non-responsive bid and therefore the bidder shall be considered non-responsive.

*Jason Avila*

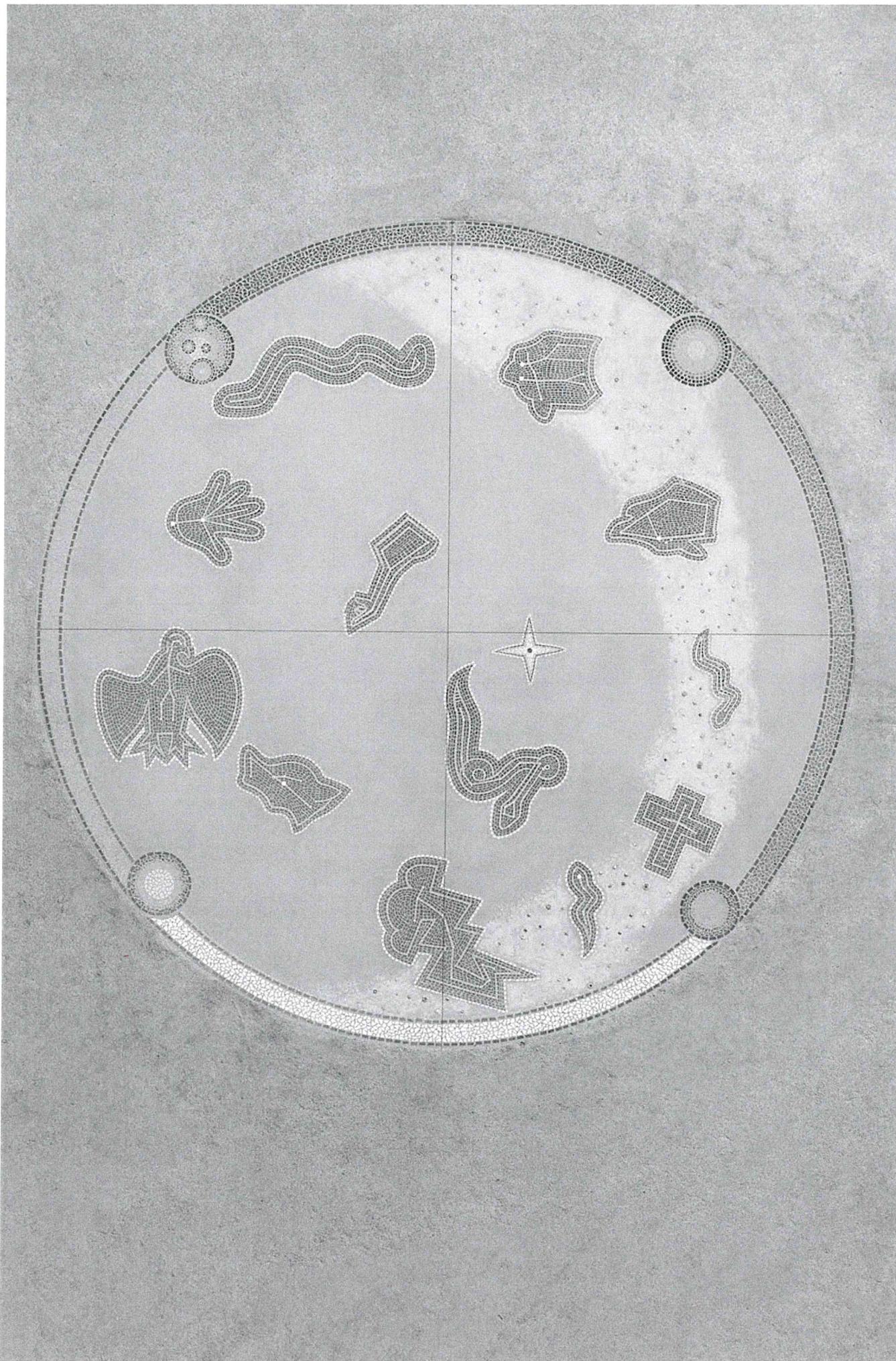
Signature of Bidder

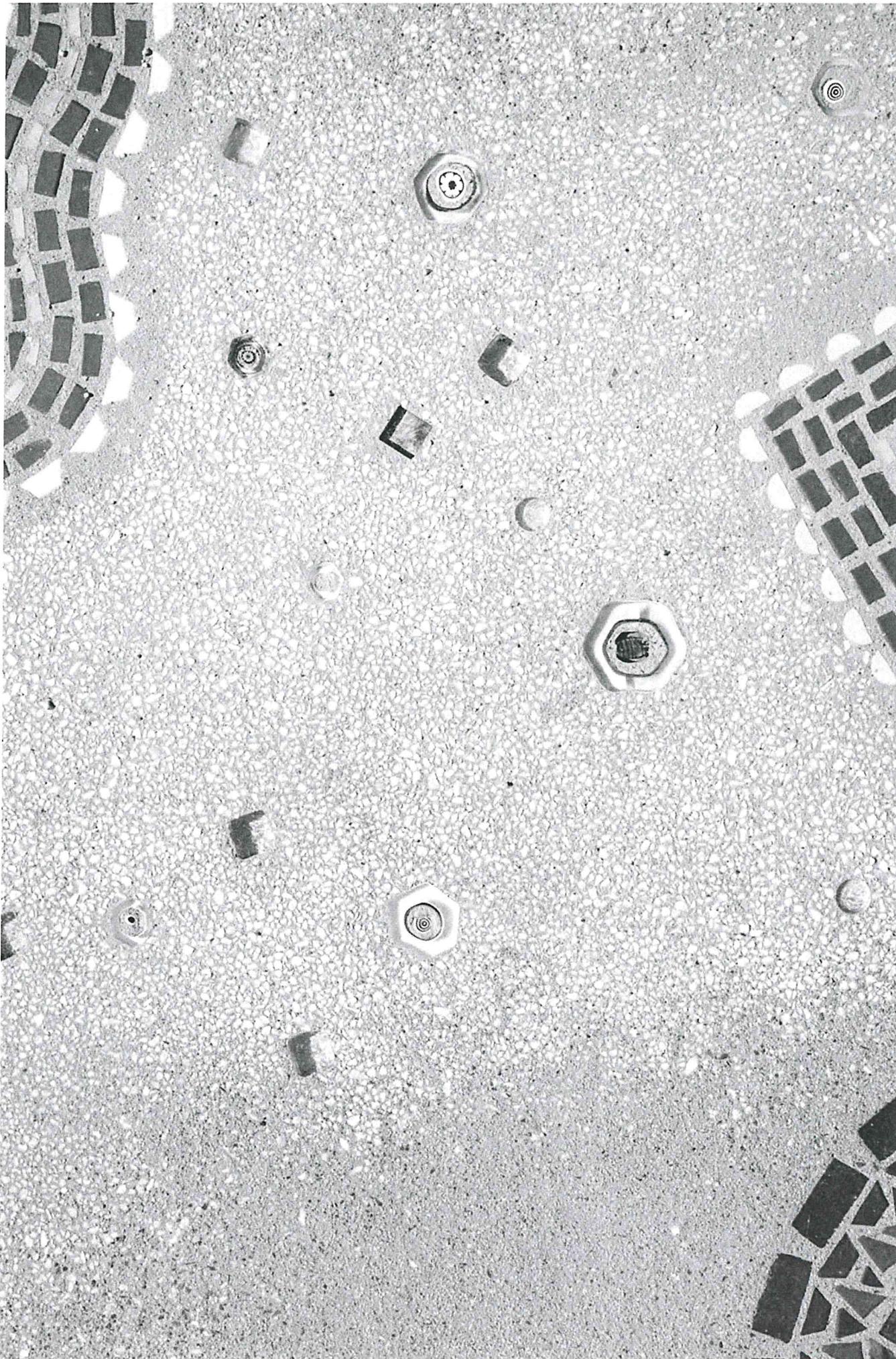
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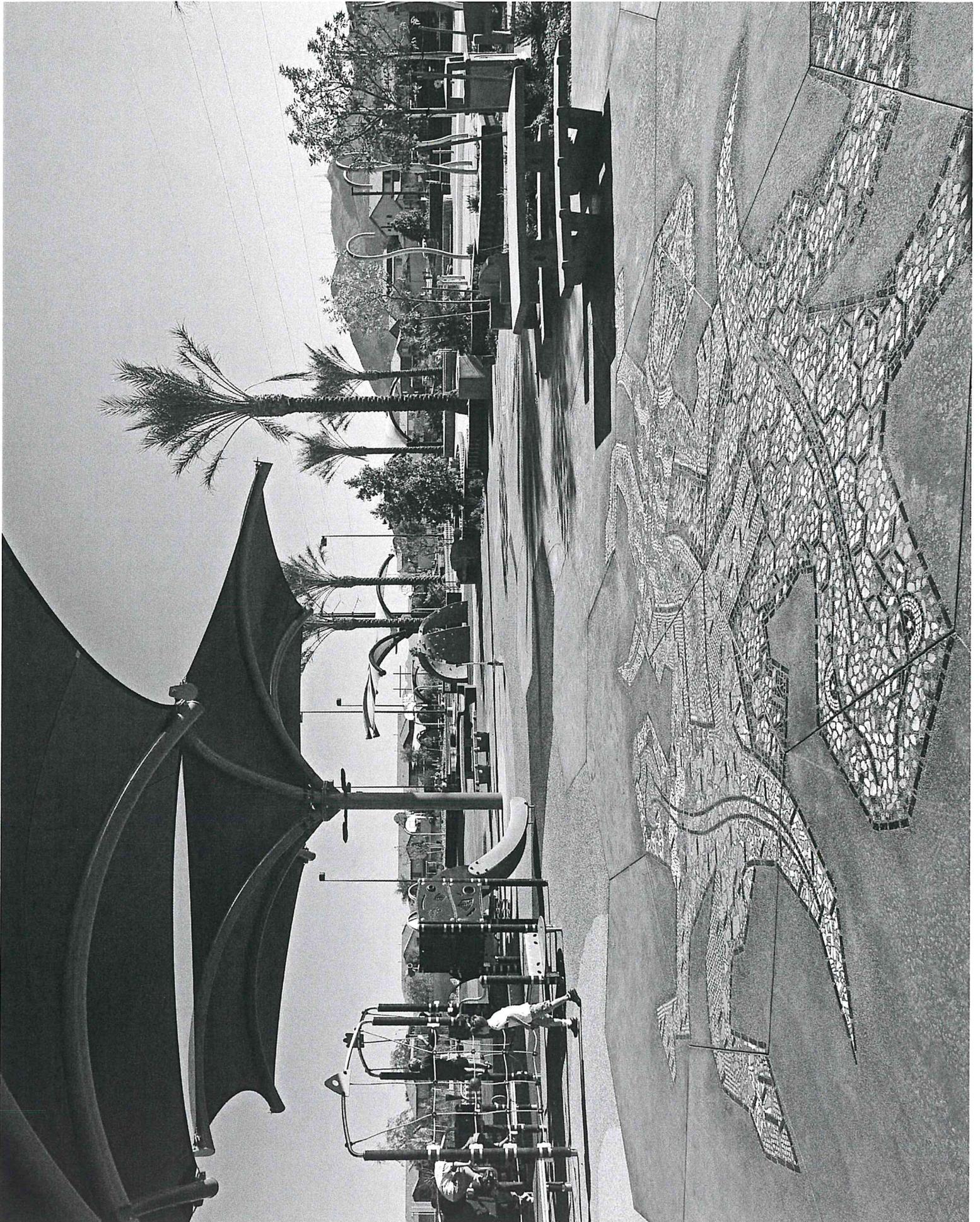
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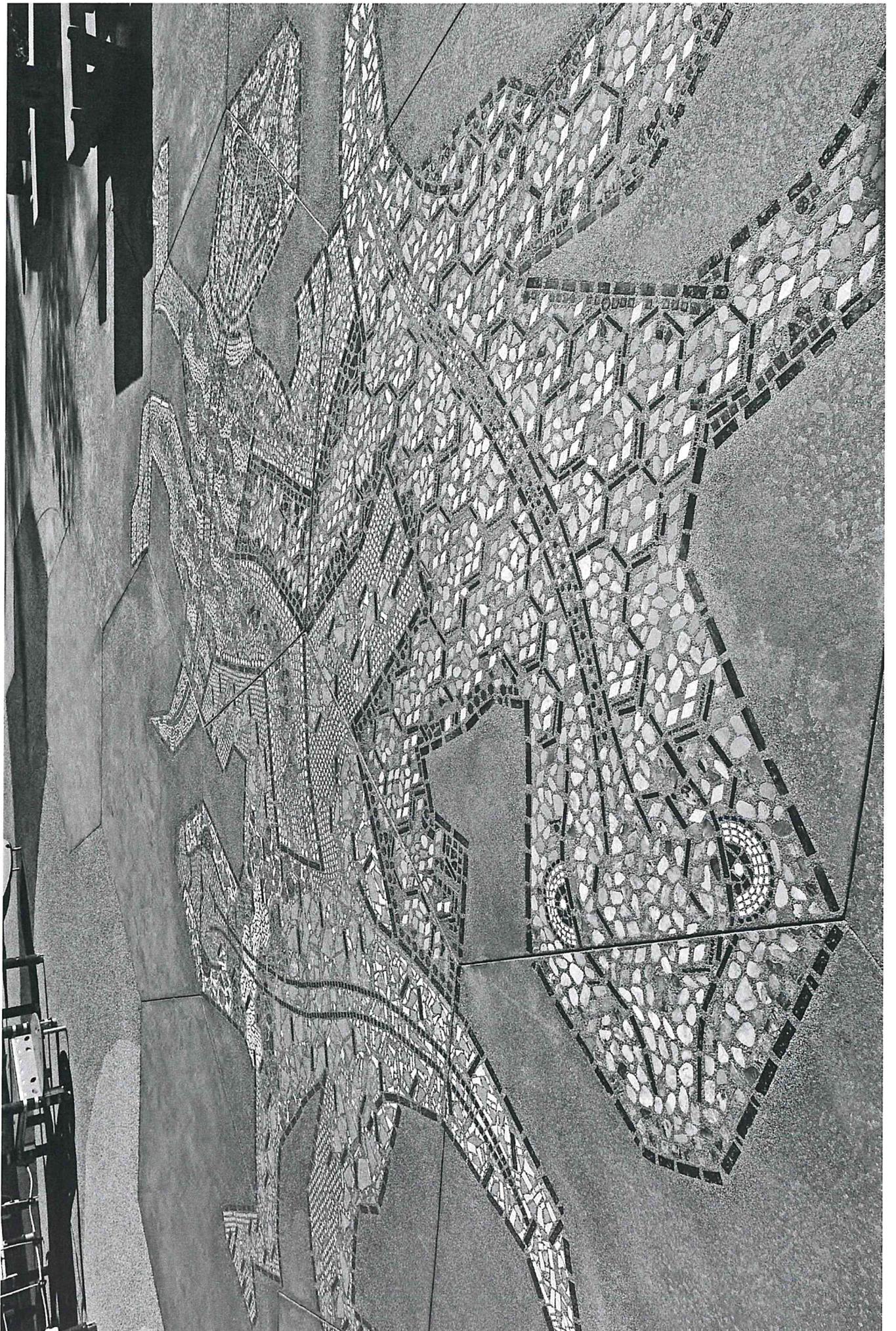


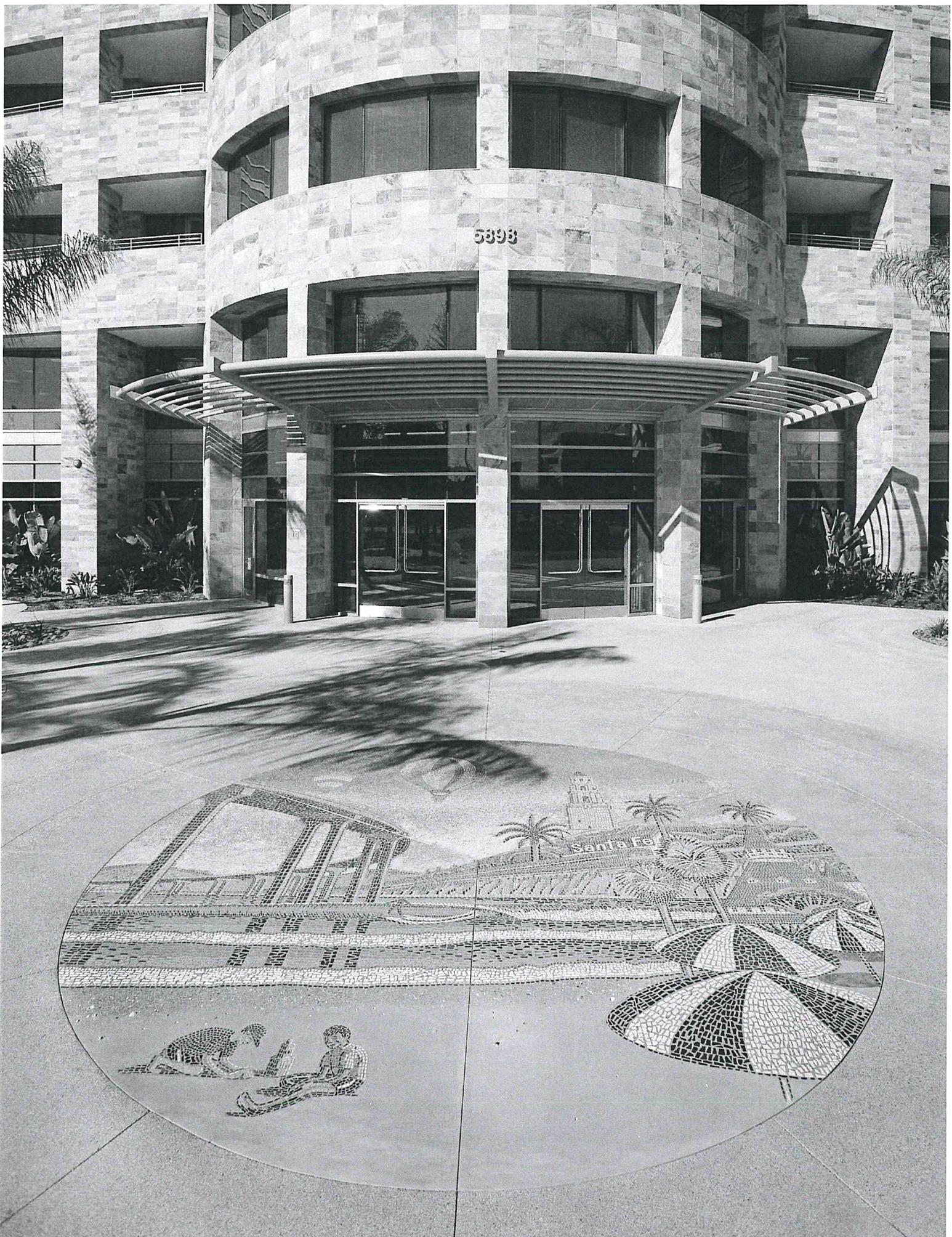


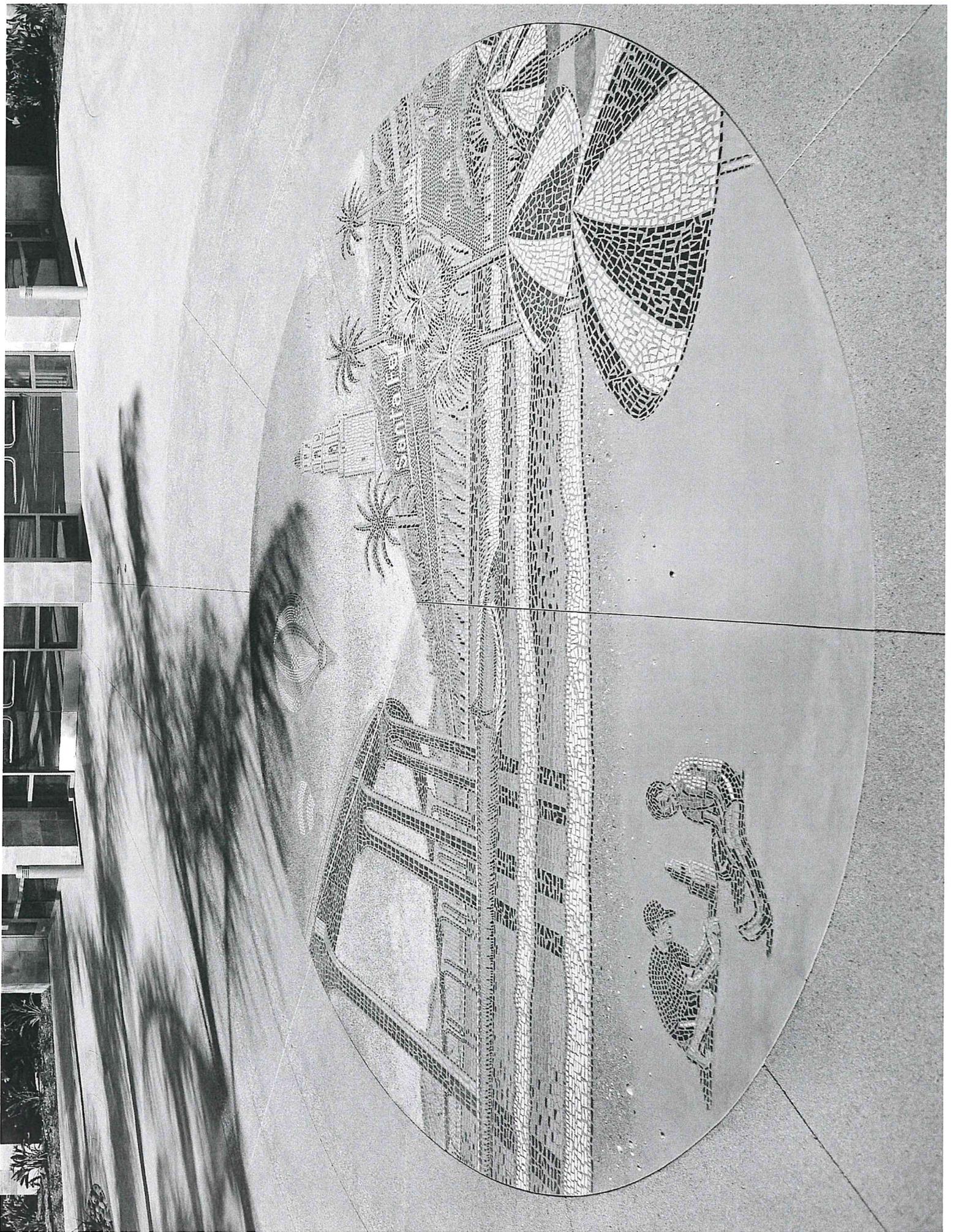


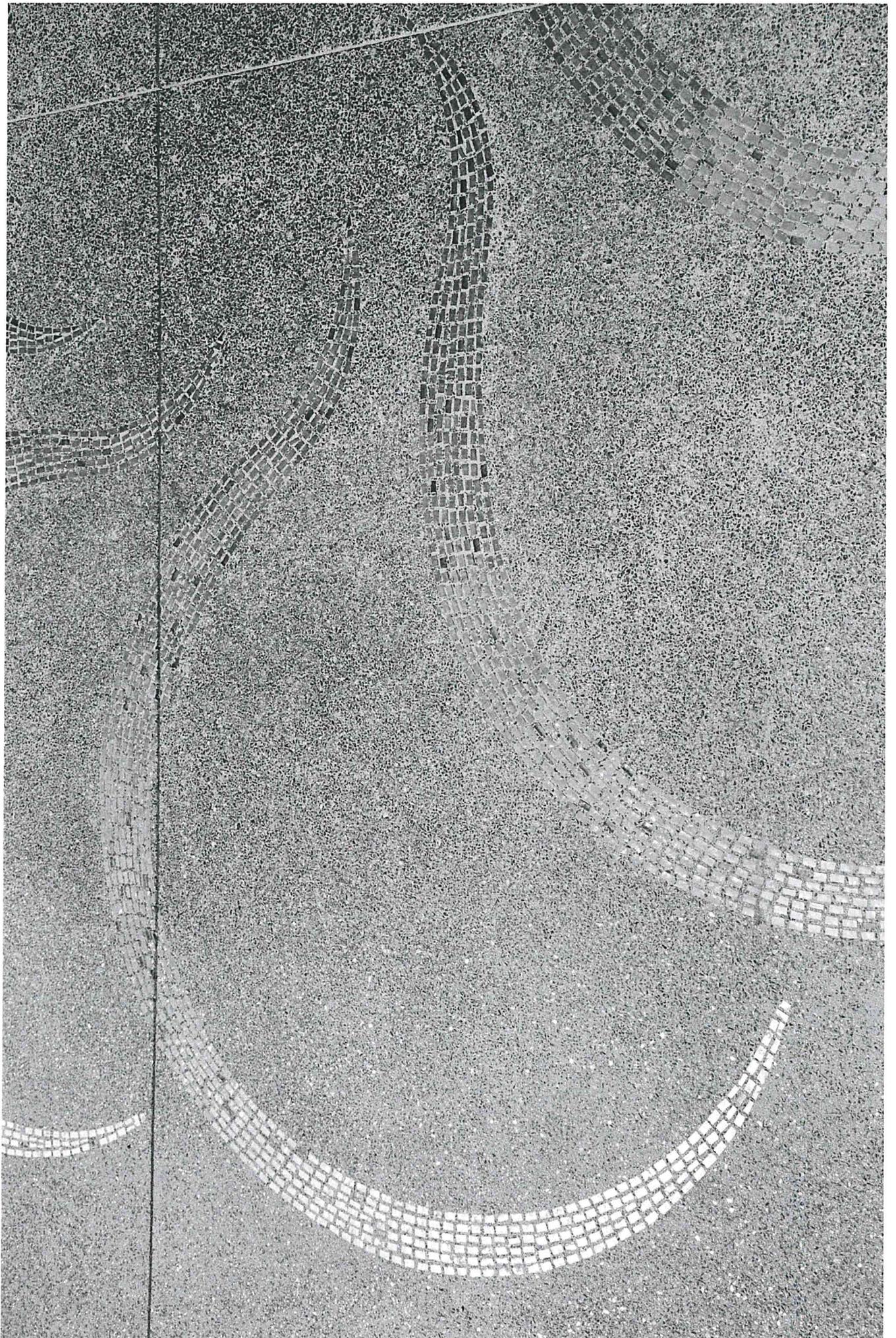


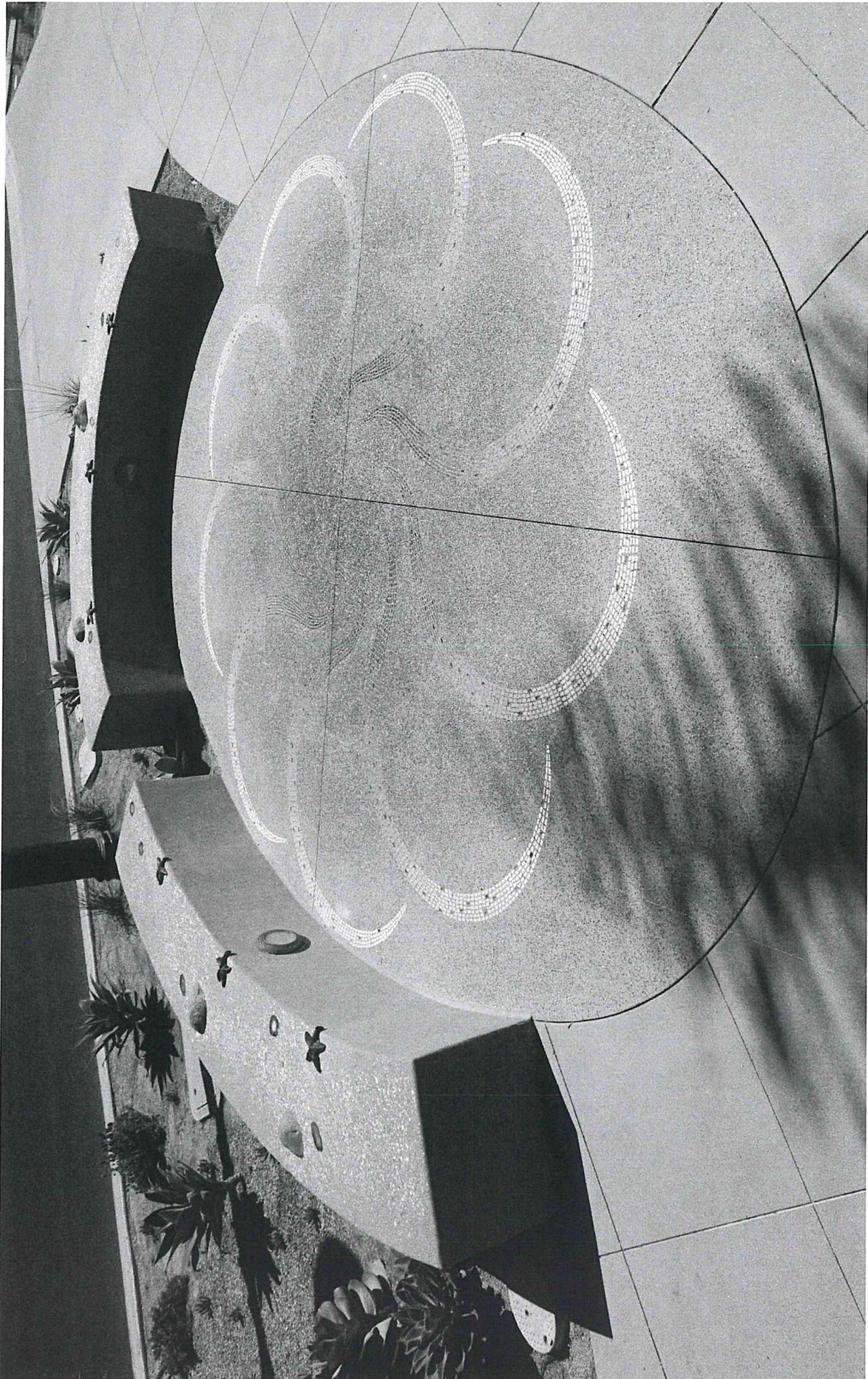












### SECTION III

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*DOCUMENTS TO BE EXECUTED  
AFTER AWARD OF CONTRACT*

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Contract

Corporate Certificate

Partnership Certificate

Contractor's Certificate

Regarding Workmen's Compensation

Performance Bond

Bond for Materials and Labor

**PUBLIC WORKS CONTRACT  
BETWEEN THE CITY OF IMPERIAL BEACH AND  
FORDYCE CONSTRUCTION, INC.**

This CONTRACT is entered into this 15<sup>th</sup> day of November, 2023, by and between the CITY OF IMPERIAL BEACH, a municipal corporation ("CITY"), and FORDYCE CONSTRUCTION INC., a California corporation ("CONTRACTOR").

**1. CONSIDERATION.**

- a. As partial consideration, CONTRACTOR agrees to perform the work listed in the SCOPE OF SERVICES, below;
- b. As additional consideration, CONTRACTOR and CITY agree to abide by the terms and conditions contained in this Contract;
- c. As additional consideration, CITY agrees to pay CONTRACTOR the sum of One Million, One Hundred Seventy-One Thousand, Six Hundred Eighty-Five Dollars and zero Cents (\$1,171,685.00) for full performance of the work listed in the SCOPE OF SERVICES, unless otherwise agreed to between the parties by written agreement. The approximate sum is based on the total cost of the various items as determined by multiplying the estimated units by the unit bid price, as set forth by the CONTRACTOR in the Bidder's Proposal for the work of this Contract, and as accepted by CITY in the Award of Contract. The actual contract amount will be based upon the actual units completed at the unit bid price, all as set forth in Paragraph 27, ENTIRE CONTRACT.

**2. SCOPE OF SERVICES.**

- a. CONTRACTOR will perform services specified in Paragraph 27 of this Agreement and the Plans (if applicable) for 10<sup>th</sup> Streetscape Enhancement Project (S22107) which are incorporated herein as if fully set forth.
- b. The work to be performed pursuant to this Contract shall occur for the purpose of furnishing of all labor, materials, tools and equipment to construct street improvements and repairs including, but not limited to, the construction of site demolition; asphalt paving; landscaping and irrigation, decorative features, cold milling; concrete curb, gutter, sidewalk, curb ramps, spandrels, and cross gutters; traffic control; adjusting manholes and utility covers; and water pollution control measures.
- c. CONTRACTOR shall at its own cost and expense, in a professional manner, furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, tools, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculation, and all other means whatsoever, except as herein otherwise expressly specified to be furnished by CITY, necessary or proper to perform and complete the work and provide the services required of CONTRACTOR by this Contract.

- 3. PROJECT COORDINATION AND SUPERVISION.** The Public Works CIP Construction Manager, Paul Macias, is designated as CITY's PROJECT COORDINATOR and will monitor the progress and execution of this Contract. CONTRACTOR's President, currently Brian Fordyce, is designated as CONTRACTOR's PROJECT MANAGER and will provide supervision and have overall responsibility for the progress and execution of this Contract.

- 4. EFFECT OF ACCEPTANCE.** CITY's review or acceptance of, or payment for, work performed by CONTRACTOR under this Contract shall not be construed to operate as a waiver of any rights CITY may have under this Contract or of any cause of action arising from CONTRACTOR's performance.

5. **CERTIFICATION.** CITY shall provide a final certificate of completion and make final payment to CONTRACTOR upon satisfactory completion of the work described in Paragraph 2. Such certificate and payment shall be the only conclusive evidence of contract performance, either in whole or in part, against any CITY claim, and no payment shall be construed to be acceptance of any defective work or improper materials.

CONTRACTOR agrees that its acceptance of the mutually agreed upon, and undisputed, final amount due under the contract, and payment for work done pursuant to project alterations, shall release CITY, its agents, employees, or representatives, from any claim or liability for the cost of work performed pursuant to this Contract, including overhead and profit.

6. **TERM.**

- a. Unless otherwise determined by written amendment between the parties, this Contract shall terminate in the following instances:
- i. Completion of the work specified in Paragraph 27 and the Plans (if applicable) as determined by CITY upon issuance of a final certificate of completion and final payment;
  - ii. 85 Working Days unless extended under Paragraph 7; or
  - iii. Termination as stated in Paragraph 8.
- b. Should CONTRACTOR begin work on any phase in advance of receiving written authorization to proceed, any such services are at CONTRACTOR's own risk.

7. **TIME EXTENSIONS.** Should CONTRACTOR be delayed by causes beyond CONTRACTOR's control, CITY may grant a time extension for the completion of the contracted services. If delay occurs, CONTRACTOR must notify CITY's PROJECT COORDINATOR within forty-eight (48) hours, in writing, of the cause and the extent of the delay and whether such delay interferes with the item's critical path schedule by extending the item beyond the scheduled completion date. The PROJECT COORDINATOR may extend the completion time, when appropriate, for the completion of the contracted services.

8. **TERMINATION.**

- a. CITY may terminate this Contract at any time. Notice will be in writing at least ten (10) days before the effective termination date. If CITY terminates the Contract, it will pay CONTRACTOR for all effort and material expended under the terms of this Contract, up to the date of notice.
- b. Subject to Paragraph 9, below, CONTRACTOR may terminate this Contract at any time with CITY's mutual consent. Notice will be in writing at least fifteen (15) days before the effective termination date.
- c. Subject to Paragraph 9, below, if CONTRACTOR fails to properly perform its obligations in a timely manner due to any cause, or if CONTRACTOR violates any part of this Contract, CITY shall have the right to terminate this Contract. Notice will be in writing at least fifteen (15) days before the effective termination date. Should this occur, all finished or unfinished documents, data, studies, surveys, drawing, maps, reports and other materials prepared by CONTRACTOR shall, at CITY's option, become CITY's property, and CONTRACTOR shall receive just and equitable compensation for any work satisfactorily completed up to the effective date of notice of termination, not to exceed the total costs under Paragraph 1(c).
- d. Should the Contract be terminated pursuant to this Paragraph, CITY may procure on its own terms services similar to those terminated.
- e. By executing this document, CONTRACTOR waives any and all claims for damages that might otherwise arise from CITY's termination under this Paragraph.

9. **NOTICE OF BREACH AND OPPORTUNITY TO CURE.** Neither party shall be deemed to be in breach of this Agreement based on a breach, which is capable of being cured, until after it has received written notice of the breach from the other party. The party charged with breach shall have ten (10) days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other party within ten (10) days from the date on which the party received notice of breach, the non-breaching party may terminate this Agreement.
10. **CHANGES.** CITY may order changes in the Scope of Services within the general scope of this Contract consisting of additions, deletions, or other revisions. The Contract amount and time shall be adjusted to reflect any such change. All such changes shall be authorized in writing and executed by CONTRACTOR and CITY. The cost or credit to CITY resulting from changes in the services shall be determined in accordance with the procedure described in Paragraph 11, below.
11. **COMPENSATION FOR CHANGES.** CONTRACTOR shall seek compensation for any change made by CITY pursuant to Paragraph 10, in the following manner:
  - a. CONTRACTOR shall submit a written claim for compensation in the form of a lump sum proposal (unless otherwise requested) with an itemized breakdown of all increases or decreases in the cost of CONTRACTOR's and all Subcontractors' work. Any or all of the following detail may be required by CITY:
    - i. Material quantities and unit costs;
    - ii. Labor costs (identified in terms of manhour by labor skill and labor class);
    - iii. Construction equipment;
    - iv. Worker's Compensation and Public Liability Insurance;
    - v. General and field overhead;
    - vi. Profit; and
    - vii. Employment taxes.
  - b. The overhead and profit percentages included in the proposal shall not exceed the maximums given in subparagraph (c), and shall be considered to include, without limitation, insurance other than that mentioned in this Paragraph, bond or bonds, use of small tools, incidental job burdens, and general office expense. Percentages for overhead or profit may vary according to the nature, extent, and complexity of the work involved. Not more than three percentages, not to exceed the maximum in subparagraph (c), will be allowed regardless of the number of subcontractors; that is, any markup of Subcontractor's work is limited to one overhead percentage and one profit percentage in addition to CONTRACTOR'S percentage. Only the net change will be calculated in proposals covering both increases and decreases in the contract amount. Overhead and profit will be added to the direct cost decrease for proposals that decrease the Contract amount.
  - c. Overhead and profit will each be limited to ten percent (10%) of the total sum of proposed changes for work performed by CONTRACTOR and its Subcontractors.
  - d. Any request for a time extension will be included with CONTRACTOR's proposal.
  - e. CITY shall consider CONTRACTOR's proposal in detail, utilizing unit prices where specified or agreed upon for calculating CONTRACTOR's estimates, to determine equitable compensation.
  - f. After receiving CONTRACTOR's detailed proposal, the PROJECT COORDINATOR shall promptly review and take action on it. When the immediate need to proceed with a change, as indicated through written communication by CONTRACTOR to CITY or reasonably apparent to CITY, allows insufficient time to review a proposal, or should the parties fail to reach an agreement regarding a proposal, CITY may direct CONTRACTOR in writing to proceed on the basis of a price determined at the earliest practicable date but not more than the increase or less than the decrease proposed by CONTRACTOR.

- g. Any claim for compensation due to Differing Site Conditions, as defined by the Green Book, is subject to and shall be in accordance with the requirements and limitations set forth in subparagraphs (a) through (g) of this Paragraph 11. All other claims for compensation submitted by CONTRACTOR under this Contract shall be subject to the requirements and limitations of subparagraphs (a) through (c) of this Paragraph 11.
  - h. Upon written request by the PROJECT COORDINATOR, CONTRACTOR shall submit a proposal, in accordance with the requirements and limitations set out in subparagraphs (a) through (g) of this Paragraph 11, for work involving contemplated changes covered by request, within the time limit indicated in the request or any extension of such time limit that may be subsequently granted. If, within a reasonable time after receiving CONTRACTOR's proposal, the PROJECT COORDINATOR directs CONTRACTOR to proceed with performing the proposed work, the proposal shall constitute CONTRACTOR's claim for compensation.
  - i. With the exception of emergencies, which may be approved by the City Manager, CONTRACTOR understands that project changes in excess of \$5,000 must be approved by CITY's City Council. Such approval may occur only during regularly scheduled City Council meetings that occur twice a month.
12. **DELAY DAMAGES.** Should CITY delay CONTRACTOR through the willful or negligent failure to perform duties assigned to it by this Contract or law, and such delay is unreasonable under the circumstances and not contemplated by the CITY and CONTRACTOR, CONTRACTOR may be entitled to time extensions, compensation, or both. Should such delay occur CONTRACTOR shall inform CITY, pursuant to the procedure in Paragraph 7, regarding how CITY caused, and why it is responsible for, such delay. CITY will follow the procedure in Paragraph 7 for granting a time extension. Any damages resulting from such delay will be calculated by CITY's PROJECT COORDINATOR by dividing the contract amount by the contract time (including time extensions, if any) and multiplying that sum by fifteen percent (15%). This sum shall be the daily delay damages to which CONTRACTOR may be entitled. Office overhead and profit shall be included in this calculation. No other formula, e.g., the Eichleay or other method, shall be used to calculate daily damages for office overhead, profit, or other purported loss. Under no circumstances will CITY pay CONTRACTOR compensation for any alleged delay that does not extend beyond the contract completion date determined in Paragraph 6(a)(ii).
13. **OWNERSHIP OF DOCUMENTS.** All documents, data, studies, drawings, maps, models, photographs and reports prepared by CONTRACTOR under this Contract shall be considered CITY's property. CONTRACTOR may retain copies of said documents and materials as desired, but shall deliver all original materials to CITY upon CITY's written notice.
14. **PUBLICATION OF DOCUMENTS.** Except as necessary for performance of service under this Contract, no copies, sketches, or graphs of materials, including graphic art work, prepared pursuant to this Contract shall be released by CONTRACTOR to any other person or agency without CITY's prior written approval. All press releases, including graphic display information to be published in newspapers or magazines, shall be approved and distributed solely by CITY, unless otherwise provided by written contract between the parties. After project completion, CONTRACTOR may list the project and the general details in its promotional materials.
15. **STORM WATER MANAGEMENT.** If CONTRACTOR, its subcontractors, agents or employees are accused of having violated Chapter 8.30 of the Imperial Beach Municipal Code, regarding discharges into CITY's storm water system, CITY will notify CONTRACTOR in writing. Within ten (10) days of receiving notice, CONTRACTOR may submit to the Project Coordinator a written request for a hearing. A hearing before the city manager or the city manager's designee will, if feasible, be held within ten (10) days after the Project Coordinator receives a request from CONTRACTOR. The hearing shall be informal and shall not conform to the strict rules of evidence. The city manager or the city manager's designee must determine whether CONTRACTOR, its subcontractors, agents or employees were in violation of Chapter 8.30 of the Imperial Beach Municipal Code. Within ten (10) days of the hearing, the city manager or the city manager's designee shall deposit in the mail, certified with return receipt requested, the written

determination whether CONTRACTOR, its subcontractors, agents or employees were in violation of Chapter 8.30 of the Imperial Beach Municipal Code.

If CONTRACTOR does not timely request a hearing, or if it is determined after a hearing that CONTRACTOR, its Subcontractors, agents or employees committed a violation, the monetary consideration in paragraph 1 of this Contract will be offset by one thousand dollars (\$1,000). Subsequent violations, or CONTRACTOR's failure to timely request subsequent hearings, will offset the monetary consideration for this Contract by two thousand five hundred dollars (\$2,500) each.

16. **STANDARD PROVISIONS.** CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, or national origin, nor shall CONTRACTOR discriminate against any qualified individual with a disability. CONTRACTOR will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex or national origin and shall make reasonable accommodation to qualified individuals with disabilities. Such action shall include, but not limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places available to employees and applicants for employment any notices provided by CITY setting forth the provisions of this non-discrimination clause.
17. **PAYROLL RECORDS; CALIFORNIA LABOR CODE.**
  - a. CONTRACTOR will comply with California Labor Code § 1776, and related provisions, relating to the maintenance, certification, inspection, and timely submission to the California Labor Commissioner of accurate payroll records for all persons CONTRACTOR, or its subcontractors, employs for the work in this Contract. CONTRACTOR shall be responsible for ensuring that CONTRACTOR and its subcontractors furnish to the California Labor Commissioner the certified payroll records specified in Labor Code § 1776 at least once per month.
  - b. CONTRACTOR shall ensure that it, and its subcontractors, are properly registered with the California Department of Industrial relation pursuant to Labor Code §§ 1725.5 and 1771.1 throughout the duration of this Contract. Contractors and subcontractors that are not lawfully and currently registered with the DIR are unqualified and may not perform work under this Contract. A list of all currently registered contractors can be found online at the DIR's Public Works Contractor Registration database at <https://efiling.dir.ca.gov/PWCR/Search>.
  - c. CONTRACTOR shall post notices on the Project's job site notifying its subcontractors of their continuing obligations to both maintain their current registration with California Department of Industrial Relations pursuant to §§ 1725.5 and 1771.1, and to submit to the California Labor Commissioner the certified payroll records specified in Labor Code § 1776 at least once per month.
  - d. CONTRACTOR shall strictly adhere to the Labor Code provisions regarding minimum wage (CITY has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work and are on file at the office of the CITY Public Works Department), the eight (8) hour day and forty (40) hour week, overtime, weekend and holiday work, the provisions of Labor Code §1777.5 relating to apprentices, and all other applicable Labor Code provisions. Penalties for failure to comply with the Labor Code provisions regarding prevailing wages, and wage and hour laws shall be enforced. CONTRACTOR is required to secure the payment of employee compensation in accordance with Labor Code § 3700. CONTRACTOR shall post or cause to be posted at the job site a copy of the determination of the Director of the Department of Industrial Relations of the prevailing rate of per diem wages.
  - e. In accordance with the provisions of the California Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Section 1777.1 or Section 1777.7 of the California Labor Code. Any

contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid, or may have been paid to a debarred subcontractor by a contractor on the Project shall be returned to the CITY. CONTRACTOR shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.

f. CONTRACTOR shall forfeit to CITY the penalties prescribed in Labor Code §§ 1775, 1776, 1777.7, 1813, and related sections, for any violations.

18. **SOLICITATION.** CONTRACTOR maintains and warrants that it has not employed nor retained any company or person, other than CONTRACTOR's bonafide employee, to solicit or secure this Contract. Further, CONTRACTOR warrants that it has not paid nor has it agreed to pay any company or person, other than CONTRACTOR's bonafide employee, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract. Should CONTRACTOR breach or violate this warranty, CITY may rescind this Contract without liability.

19. **HOLD HARMLESS.**

a. The CONTRACTOR shall indemnify, defend (with counsel satisfactory to CITY) and hold harmless the City and its officers, agents and employees from and against any and all claims, demands, costs, liability, loss, injury or damage including attorney costs and fees arising out of, in any way connected with, relating to, or resulting from the following caused in whole or in part by any act or omission of the CONTRACTOR or any agent, subcontractor or employee of CONTRACTOR (the "Indemnity Obligations"), excepting only loss, injury or damage arising from the sole negligence, active negligence or willful misconduct of the CITY:

- i. Any work performed by CONTRACTOR and/or its agents, employees and subcontractors pursuant to this Contract;
- ii. Any materials furnished at the instance or request of CONTRACTOR or any agent, subcontractor or employee of CONTRACTOR;
- iii. Default under this Contract by CONTRACTOR, or by any agent, subcontractor or employee of CONTRACTOR, or failure by CONTRACTOR or any agent, subcontractor or employee of CONTRACTOR to comply with any requirement of Law.

Notwithstanding the foregoing, CONTRACTOR shall undertake the Indemnity Obligations involving the active negligence of the CITY for contract types set forth in Civil Code sections 2782.1, 2782.2 and 2782.5.

b. Upon written notice from CITY, CONTRACTOR agrees to assume the defense of any lawsuit, administrative action, or other proceeding brought against CITY by any public body, individual, partnership, corporation, or other legal entity relating to any matter covered by this Contract for which CONTRACTOR has an obligation to assume liability for and/or to indemnify and hold harmless CITY. CONTRACTOR shall pay all the costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation expenses, settlement payments, and amounts paid in satisfaction of judgments. CITY agrees to timely notify CONTRACTOR of the receipt of any third party claim related to this Contract.

c. It is expressly understood and agreed that the foregoing provisions shall survive the termination of this Contract.

d. The requirements as to the types and limits of insurance coverage to be maintained by CONTRACTOR as required by Paragraph 23 below, and any approval of said insurance by CITY, are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONTRACTOR pursuant to this Contract, including but not limited to the provisions concerning indemnification.

20. **ASSIGNABILITY.** This Contract shall not be assigned by either party without the prior written approval of the other.
21. **INDEPENDENT CONTRACTOR.** CONTRACTOR, its employees, subcontractors and agents, shall be independent contractors and not CITY's agents.
22. **AUDIT OF RECORDS.** At any time during normal business hours and as often as may be deemed necessary CONTRACTOR shall make available to a representative of CITY for examination all of its records with respect to all matters covered by this contract and will permit CITY to audit, examine and/or reproduce such records. CONTRACTOR will retain such financial and program service records for at least four (4) years after termination or final payment under this Contract.
23. **INSURANCE/WORKER'S COMPENSATION.** CONTRACTOR shall provide proof of liability coverage which meets CITY's insurance requirements as set forth in the Instructions to Bidders and Proposal Requirements, and designates CITY as additional insured. Such policy shall insure against all liability of CONTRACTOR and its authorized representatives arising out of and in connection with CONTRACTOR's work under this Contract.
24. **MEDIATION.** Except as otherwise required by this Contract, the parties may agree that any dispute arising out of or relating to this Contract, or its breach, that cannot be settled by negotiation may be first submitted to mediation under the Commercial Mediation Rules of the American Arbitration Association before resorting to litigation or other action.
25. **NOTICES.** All communications to either party by the other party shall be deemed made when received by such party at its respective name and address, as follows:

CITY

Juan Larios  
 City of Imperial Beach  
 825 Imperial Beach Blvd.  
 Imperial Beach CA 91932

CONTRACTOR

Brian Fordyce  
 Fordyce Construction, Inc.  
 9932 Prospect Ave., #138  
 Santee, CA 92071

Any such written communications by mail shall be conclusively deemed to have been received by the addressee five days after the deposit thereof in the United States Mail, postage prepaid and properly addressed as noted above.

26. **INTERPRETATION.** This Contract and its performance shall be governed, interpreted, construed and regulated by the laws of the State of California.
27. **ENTIRE CONTRACT.**
- a. This Contract, its Attachments, and the Documents set forth in subparagraph (b) sets forth the entire understanding of the parties. There are no other understandings, terms or other contracts expressed or implied, oral or written.
  - b. The following documents are incorporated within this Contract as if fully set forth:
    - i. Notice Advertising for Bids;
    - ii. Instructions to Bidders and Proposal Requirements;
    - iii. Bidder's Proposal and Bidder's Bond;
    - iv. Bid Acceptance;
    - v. Performance Bond;
    - vi. Labor and Material Bond;
    - vii. Policy of Insurance;
    - viii. Special Provisions;
    - ix. Special Requirements;

- x. The edition of the Standard Specifications for Public Works Construction (the "Green Book") as set forth in the Special Provisions;
- xi. The Standard Special Provisions for use in connection with the Standard Specifications;
- xii. The General Prevailing Wage Rate of per diem wages as determined by the Director of Industrial Relations;
- xiii. California Public Contract Code § 20104.50;
- xiv. All addenda setting forth any modifications or interpretations of these documents.

28. **SEVERABILITY.** If any portion of this Contract is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion shall be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Contract shall continue in full force and effect.

29. **TIME IS OF ESSENCE.** Time is of the essence for each and every provision of this Contract.

30. **STATEMENT OF EXPERIENCE.** By executing this Contract, CONTRACTOR represents that it has demonstrated trustworthiness and possesses the quality, fitness, and capacity to perform the Contract in a manner satisfactory to CITY. CONTRACTOR represents that its financial resources, surety and insurance experience, service experience, completion ability, personnel, current workload, experience in dealing with private owners, and experience in dealing with public agencies all suggest that CONTRACTOR is capable of performing the proposed contract and has a demonstrated capacity to deal fairly and effectively with and to satisfy a public agency.

31. **RISK.** By executing this Contract, CONTRACTOR acknowledges and understands that all work performed pursuant to this Contract involves inherent business risks. Such risks may occur before acceptance or during the progress of work performed for this Contract and may involve damage or losses resulting from, without limitation:

- a. Inclement weather;
- b. Unforeseen conditions arising during work performance;
- c. Suspension or discontinuance of work due to labor disputes, or other reasons;
- d. Earthquakes and/or floods;
- e. Changes in law;
- f. Actions by third-parties, including Utility Companies; and
- g. Other Federal, State, or Local Government actions.

CONTRACTOR is solely responsible for such risk and loss except where this Contract or State law specifies that CITY bears such responsibility. As permitted under Public Contracts Code § 7105, CONTRACTOR shall be solely responsible for repairing or restoring damages caused by an act of God up to and including five percent (5%) of the total Contract amount. The City shall have the right, but not the obligation, to immediately terminate this Contract in the event of such damages.

32. **RETENTION.**

Unless findings are made by the City Council or designee pursuant to Public Contracts Code section 7201(b)(3)-(4) allowing for a retention greater than five percent (5%), the CITY shall retain five percent (5%) of the total project costs for thirty-five (35) days following final inspection and acceptance by the CITY of the Project. However, in the event of a dispute between the CITY and the Contractor, the CITY may withhold from the final payment an amount not to exceed 150 percent of the disputed amount.

Pursuant to California Public Contracts Code, Section 22300, the CONTRACTOR has the option, at its expense, to substitute for any money withheld by the CITY, securities equivalent to the amount being withheld. Securities eligible for such substitution are those listed in Section 16430 of the Government Code, bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the CONTRACTOR and the CITY.

As to any such security or securities so substituted for monies withheld, the CITY shall be the beneficial owner of same and shall receive any interest thereon.

Such security shall, at the request and expense of the CONTRACTOR, be deposited with the CITY or with a State or Federally Chartered bank in this state as the escrow agent who shall pay such monies to the CONTRACTOR upon notification by the CITY that payment can be made. Such notification will be given at the expiration of 35 days from the date of acceptance of the work, or as prescribed by law, provide however, that there will be a continued retention of the necessary securities to cover such amounts as are required by law to be withheld by properly executed and filed notices to stop payment, or as may be authorized by the contract to be further retained.

Alternatively, the CONTRACTOR may request and the owner shall make payment of retentions earned directly to the escrow agent at the expense of the CONTRACTOR. At the expense of the CONTRACTOR, the CONTRACTOR may direct the investment of the payments into securities and the CONTRACTOR shall receive the interest earned on the investments upon the same terms provided for in Public Contracts Code 22300 for securities deposited by the CONTRACTOR. Upon satisfactory completion of the contract, the CONTRACTOR shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the owner, pursuant to the terms of Public Contracts Code 22300. The Escrow Agreement for Security Deposits in Lieu of Retention shall be substantially similar to the form contained in Public Contracts Code 22300, and security deposits will be administered as specified therein.

33. **UNFAIR BUSINESS PRACTICE CLAIMS.** In entering into this Contract or a subcontract to supply goods, services, or materials pursuant to this Contract, 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 Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to this Contract or the subcontract. This assignment shall be made and become effective at the time the CITY tenders final payment to the CONTRACTOR, without further acknowledgment by the Parties.

**[ONLY IF TRENCHING OF MORE THAN 4 FEET IS REQUIRED, INCLUDE THE FOLLOWING SECTION 34.]**

34. **TRENCHING.** In the digging of trenches or other excavations that extend deeper than four feet below the surface, the CONTRACTOR shall promptly, and before the following conditions are disturbed, notify the CITY, in writing, of any:
- (a) Material that the CONTRACTOR believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law;
  - (b) Subsurface or latent physical conditions at the site differing from those indicated by information about the site made available to bidders prior to the deadline for submitting bids; or
  - (c) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract.

The CITY shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the CONTRACTOR's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in this Contract.

In the event that a dispute arises between the CITY and the CONTRACTOR whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the CONTRACTOR's cost of, or time required for, performance of any part of the work, the CONTRACTOR shall not be excused from any scheduled completion date provided for by this Contract, but shall proceed with all work to be performed under this Contract. The CONTRACTOR shall retain any and all rights provided by this Contract regarding resolution of disputes and protests between the Parties.

In trenching contracts exceeding twenty-five thousand dollars (\$25,000), CONTRACTOR shall provide detailed plans for trenches or excavations of five feet or more in depth.

35. **UTILITY RELOCATION.** The CITY shall comply with Government Code § 4215 in the event that utilities not identified in the plans, specifications and other bid documents require relocation.
36. **SUBCONTRACTOR PAYMENTS.** In accordance with Public Contracts Code §7108.5, the CONTRACTOR and any subcontractor shall comply with the following:
- (a) The CONTRACTOR or subcontractor shall pay to any subcontractor, not later than seven days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed the CONTRACTOR on account of the work performed by the subcontractors, to the extent of each subcontractor's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from the CONTRACTOR or subcontractor to a subcontractor, the CONTRACTOR or subcontractor may withhold no more than 150 percent of the disputed amount.
  - (b) Any violation of this section shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subcontractor, of 2 percent of the amount due per month for every month that payment is not made.
  - (c) In any action for the collection of funds wrongfully withheld pursuant to this section, the prevailing party shall be entitled to his or her attorney's fees and costs.
  - (d) The sanctions authorized under this section shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal.
  - (e) This section applies to all private works of improvement and to all public works of improvement, except where Section 10262 of the Public Contract Code applies.

Pursuant to Civil Code §9358, the City shall have the right to perform the following:

On receipt of a stop payment notice, withhold from the CONTRACTOR sufficient funds due or to become due to the CONTRACTOR to pay the claim stated in the stop payment notice and to provide for the City's reasonable cost of any litigation pursuant to the stop payment notice.

Further, the City reserves the right to demand from the CONTRACTOR proof of any and all payments made by CONTRACTOR or subcontractors to any subcontractors, and investigate complaints of non-payment to subcontractors.

37. **RELEASE OF CLAIMS.** Pursuant to Civil Code § 3262, the CITY reserves the right to require CONTRACTOR to execute a release(s) of claims for any undisputed payments.

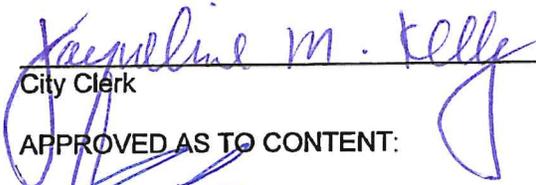
**[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]**

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

CITY OF IMPERIAL BEACH,  
a municipal corporation.

  
\_\_\_\_\_  
City Manager

OUT-019943  
\_\_\_\_\_  
City of Imperial Beach  
Business License No.

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO CONTENT:  
  
\_\_\_\_\_  
Director of Public Works

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
City Attorney

CONTRACTOR  
Fordyce Construction, Inc.

  
\_\_\_\_\_  
Brian Fordyce, President

Council Date: 11/15/2023  
Item #: 8.f  
Resolution No. 2023-101

CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)

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CORPORATE CERTIFICATE

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I, Krista Fordyce certify that I am the Secretary of the Corporation named as Contractor in the foregoing Contract; that Brian Fordyce who signed said Contract on behalf of the Contractor, was then President of said Corporation; that said Contract was duly signed for and in behalf of said Corporation by authority of its governing body and is within the scope of its corporate powers.

Krista Fordyce Corporate Seal  
Krista Fordyce, Secretary



CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)

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CONTRACTOR'S CERTIFICATE REGARDING WORKERS' COMPENSATION

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Section 3700 of the Labor Code provides in part as follows:

"Every employer except the state shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state.
- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure ..., which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees. ..."

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 of that code, and I will comply with such provisions before commencing the performance of the work of this Contract.

Fordyce Construction, Inc.



Brian Fordyce, President

(In accordance with Article 5, commencing at Section 1860, Chapter 1, Part 7, Division 2, of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this Contract.)

CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, the City Council of the City of Imperial Beach, by resolution, passed November 15, 2023 as awarded to Fordyce Corporation, Inc. hereinafter designated as the "Principal."

CITY OF IMPERIAL BEACH  
10th Streetscape Enhancements (S22107)

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

NOW, THEREFORE, we, the Principal and The Ohio Casualty Insurance Company

as surety, are held and firmly bound unto the City Council of the City of Imperial Beach, hereinafter called the "Council", in the penal sum of One Million, One Hundred Seventy-One Thousand, Six Hundred Eighty-Five Dollars (\$1,171,685.00) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrator's and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT if the above bounden Principal; his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the said Contract any alteration thereof made as therein provides, on his or their part, to be kept and performed at the time and in the amount therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Council, its officers and agents, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any wise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or additions to the terms of the Contract or to the work or to the specifications.

In the event suit is brought upon this bond by the Council and judgment is recovered, the surety shall pay all costs incurred by the Council in such suit, including a reasonable attorney's fee to be fixed by the Court.

IN WITNESS WHEREOF One identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the 7th day of December, 2023

The Ohio Casualty Insurance Company (SEAL) Fordyce Construction, Inc. (SEAL)

[Signature] (SEAL)

Bart Stewart - Attorney-in-Fact (SEAL) [Signature] (SEAL)

Surety Brian Fordyce, President Principal







This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8206236 - 969556

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Bart Stewart

all of the city of Encinitas state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 3rd day of September, 2021.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA
County of MONTGOMERY ss

On this 3rd day of September, 2021 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 7th day of December, 2023.



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

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

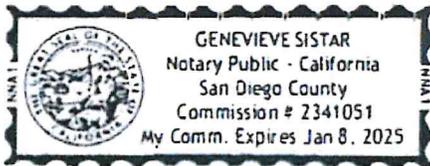
State of California )  
County of San Diego )

On December 7, 2023 before me, Genevieve Sistar, Notary Public,  
*Date Here Insert Name and Title of the Officer*  
personally appeared Bart Stewart  
*Name(s) of Signer(s)*

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

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

WITNESS my hand and official seal.



*Genevieve Sistar*

Signature \_\_\_\_\_

*Signature of Notary Public*

*Place Notary Seal Above*

**OPTIONAL**

*Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

**CITY OF IMPERIAL BEACH**  
**STATE OF CALIFORNIA**  
**10th Streetscape Enhancements (S22107)**

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**BOND FOR MATERIALS AND LABOR**

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KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, the City of Imperial Beach City Council, hereinafter designated as "Public Entity", by resolution passed November 15, 2023, has awarded Fordyce Corporation, Inc.

hereinafter designated as the "Principal", a Contract for the work described as follows:

**CITY OF IMPERIAL BEACH**  
**10th Streetscape Enhancements (S22107)**

WHEREAS, said Principal is required by Chapter 5 (commencing at Section 3225) and Chapter 7 (commencing at Section 3247), Title 15, Part 4, Division 3 of the California Civil Code to furnish a bond in connection with said Contract;

NOW THEREFORE, we, the Principal and **The Ohio Casualty Insurance Company** as Surety, are held and firmly bound unto the Public Entity in the penal sum of One Million, One Hundred Seventy-One Thousand, Six Hundred Eighty-Five Dollars (\$1,171,685.00) lawful money of the United States of America for the payment of which sum will and truly be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by their presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in Section 3181 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Contractor and his subcontractors pursuant to Section 18806 of the Revenue and Taxation Code, with respect to such work and labor the Surety will pay for the same in an amount not exceeding the sum hereinafter specified, and also, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the Court.

This Bond shall inure to the benefit of any of the persons named in Section 3181 of the California Civil

Code, so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any Contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described or pertaining or relating to the furnishing of labor, materials, or equipment therefor, not by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement hereinabove described, nor by any rescission or attempted rescission of the Contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such Contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those

for whose benefit such bond has been given, by reason of any breach of Contract between the owner of Public Entity and original Contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 3110 or 3112 of the California Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF this instrument has been duly executed by the Principal and Surety above named, on the 7th day of December, 20 23.

NOTE: Signature of those executing for Surety must be properly acknowledged.

**Fordyce Construction, Inc.**

*Brian Fordyce* (SEAL)

Brian Fordyce, President **Principal**

NOTE: The Attorney-in-fact must attach a certified copy of the Power of Attorney.

**The Ohio Casualty Insurance Company**

By *Bart Stewart* (SEAL)

**Bart Stewart - Attorney-in-Fact**

\_\_\_\_\_  
 (SEAL)  
**Surety**

\_\_\_\_\_  
(SEAL)  
**Attorney-in-Fact**





This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8206236 - 969556

POWER OF ATTORNEY

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all of the city of Encinitas state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 3rd day of September, 2021.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 3rd day of September, 2021 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

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ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

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I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 7th day of December, 2023.



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

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

State of California )  
County of San Diego )

On December 7, 2023 before me, Genevieve Sistar, Notary Public,  
*Date Here Insert Name and Title of the Officer*  
personally appeared Bart Stewart  
*Name(s) of Signer(s)*

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

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

WITNESS my hand and official seal.



*Genevieve Sistar*

Signature \_\_\_\_\_  
*Signature of Notary Public*

*Place Notary Seal Above*

**OPTIONAL**

*Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

**SECTION IV**

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*SPECIAL PROVISIONS*

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**CITY OF IMPERIAL BEACH  
STATE OF CALIFORNIA  
10th Streetscape Enhancements (S22107)**

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**SPECIAL PROVISIONS**

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**1. GENERAL REQUIREMENTS**

**1.1 Specifications**

All work and materials will conform to the Special Provisions, Project Plans, and Standard Specifications in the priority sequence so indicated:

- A. Special Provisions
- B. Project Plans
- C. Standard Specifications
  - 1. The Standard Specifications for Public Works Construction (“Green Book”) 2018 Edition
  - 2. The California Manual on Uniform Traffic Control Devices (CAMUTCD) latest edition
  - 3. San Diego Regional Standard Drawings (SDRSD)

**1.2 Description of Work**

The project shall include furnishing of all labor, materials, tools and equipment to construct street improvements and repairs including, but not limited to, the construction of site demolition; asphalt paving; landscaping and irrigation, decorative features, cold milling; concrete curb, gutter, sidewalk, curb ramps, spandrels, and cross gutters; traffic control; adjusting manholes and utility covers; and water pollution control measures.

Contractor shall be required to self-perform 50% of the work per section 3-2 of the Standard Specifications, as modified below:

The Contractor shall perform, with its own organization, Contract work amounting to at least 50 percent of the Contract Price except that any designated “Specialty Items” may be performed by subcontract and the amount of any such “Specialty Items” so performed will be deducted from the Contract Price before computing the amount required to be performed by the Contractor with its own organization. The following items will qualify as “Specialty Items,” provided the total cost of all “Specialty” items does not exceed fifty percent (50%) of the total contract cost:

Decorative Paving Feature, and Decorative Seat Wall.

**1.3. Records**

Each Contractor and subcontractor is required to comply with Section 1776 of the Labor Code of the State of California, which includes, but is not limited to, the following obligations: to keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice or worker employed by him in connection with this project; the Contractor's and subcontractor's certified copies of payroll records shall be available for inspection at all reasonable hours, and a copy shall be made available to the employee or his authorized representative, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards.

1.4. Construction Initiation

The Contractor shall begin construction by Monday January 8th, 2024.

1.5. Time for Completion

The Contractor shall diligently prosecute to completion before the expiration of 85 (eighty five) working days from the date of the Notice to Proceed.

1.6. Progress Schedule

- A. The Contractor, shall, prior to starting work, submit a schedule of his proposed operations to the Public Works Representative for approval. The schedule shall outline start and completion dates of work, including procurement of materials and equipment. Upon approval of this schedule by the Public Works Representative, the Contractor may begin work.
- B. If any changes in the progress schedule is to be made or becomes necessary due to unforeseen circumstances, the Contractor shall so notify the Public Works Representative in writing no less than forty-eight (48) hours in advance, and may, upon approval by the Public Works Representative, change his Order of Work or schedule of operations.

1.7. Partial Payments

- A. Partial payments will be made to the Contractor in accordance with Section 7-3.2 of the Standard Specifications.
- B. The City shall retain five percent 5% of the total project costs for thirty-five (35) days following final inspection, acceptance and recording of Notice of Completion by the City.

1.8. Inspections

The Contractor will be responsible for issuing calls for inspection in an orderly sequence as the work progresses.

1.9. Contractor's Responsibility for Work

Until the formal acceptance of the work by the City Representative, the Contractor shall have the charge and care by the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof.

1.10. Inspection

The Public Works Department will be responsible for all inspections.

1.11. Finance Administration

- A. A City business license must be obtained by the Contractor and all subcontractors (if applicable). The lead contractor shall be responsible for ensuring that its subcontractors obtain a subcontractor's business license.
- B. An IRS W-9 form (Request for Tax I.D.) must be completed and submitted to the City to establish the Contractor as a new vendor in the City's Accounts Payable system.
- C. All invoices submitted for payment to the City must contain the six-digit project number and six-digit purchase order number on the face of the invoice to expedite processing.
- D. All progress payments must be accompanied by a "Conditional Waiver & Release" form (for the dollar value of the progress payment) from the Contractor and a separate form for each subcontractor (if applicable).
- E. Invoices submitted for progress payments shall include all documentation required by the City of the Contractor along with the progress invoice. The City will make progress payments within 30 days after receipt of an undisputed and properly submitted payment request, and in accordance with Public Contract Code section 20104.50.

1.12. Construction Best Management Practices (BMPs)

Water resulting from construction activities including wash water and groundwater, shall be prevented from entering the storm drain conveyance system. Water from construction activities shall be managed and disposed as necessary to prevent urban runoff or groundwater contamination. Additionally, BMPs need to be implemented to prevent debris, liquids, or other wastes from entering the storm drain conveyance system. All spills or discharges into the storm drain conveyance system will be contained and recovered to prevent entry into the receiving waters adjacent to the City. Disposal of such materials shall be in accordance with current disposal standards and the responsibility of the contractor.

1. The Contractor shall prepare a Storm Water Management Plan for approval by the City. The Plan shall contain at a minimum:
  - a. Site map(s) which shows the construction site perimeter, existing and proposed buildings, lots, roadways, storm water collection and discharge points, general topography both before and after construction, drainage patterns across the project, and BMP locations.
  - b. List of BMPs the discharger will use to protect storm water runoff and the placement of those BMPs.
  - c. Incorporate the use of Best Available Technology for BMPs to prevent and/or control storm water and non-storm water runoff.
  
2. The contractor shall implement the Storm Water Management Plan and maintain the Plan and documentation records on-site in accordance to the City's Urban Runoff Management and Discharge Control Ordinance IBMC 8.30. The contractor shall:
  - a. Implement erosion and sediment control BMPs that effectively protect the site from wind and storm water runoff.
  - b. Control site perimeter with BMPs to provide storm water run-on and runoff protections.
  - c. Minimize disturbed areas and preserve existing vegetation.
  - d. Stabilize all disturbed soil.
  - e. Provide stockpile protection.
  - f. Implement good housekeeping BMPs that prevent potential discharges related to material storage, cleaning, and disposal.
  - g. Prevent the tracking of sediment from vehicles and equipment offsite.
  - h. Maintain streets around construction area free of silt, sediment, and other construction materials.
  - i. Provide and maintain storm drain inlet protection. Inlet filter fabric covers shall be temporarily removed prior to forecast rain events to prevent flooding.
  - j. Provide and maintain any additional BMPs that may be necessary to prevent non-storm water from entering the storm drain system or from damaging adjacent properties.
  - k. Provide storm water BMP training to all job site employees including subcontractor employees before each employee begins work on the job site.
  - l. Verify proper implementation and maintenance of installed BMPs daily.
  - m. Inspect entire project site prior to forecast rain events.
  - n. Development and implementation of the Storm Water Management Plan is the Contractors responsibility. No separate payment will be made.
  
3. Designate a trained staff member responsible for Storm Water Management Plan compliance, including requirements for inspection, monitoring, and reporting.
  - a. Inspect all Storm Water Management Plan aspects before and after a storm event to maximize effective control.

- b. Daily verify proper implementation and continued maintenance of installed BMPs.

The Contractor shall obtain and monitor all required storm water / urban runoff permit requirements within the proposal. Development and implementation of the Storm Water Management Plan is the Contractors responsibility. No separate payment will be made.

The Contractor shall obtain and monitor all storm water permitting requirements within the proposal. No separate payment will be made.

#### 1.13. Water for Construction

The Contractor shall obtain a construction meter for water utilized during the construction under this contract, if needed. The Contractor shall contact California American Water for requirements for a water meter. No separate payment will be made.

#### 1.14. Construction and Demolition Debris Recycling

City of Imperial Beach Municipal Code, Chapter 8.38 promotes the recycling or reuse of construction and demolition debris in order to protect public health, safety, and welfare and to meet the City's obligation under AB 939 and its Alternative Diversion Debris Requirement approved by the California Integrated Waste Management Board.

All construction, demolition and renovation projects sponsored by the City or Redevelopment Agency are included in Chapter 8.38 of the City of Imperial Beach Municipal Code. As such, the successful bidder of this project must complete and submit a Waste Management Plan form (WMP), approved by the City for this purpose. The WMP is to be submitted to the WMP Compliance Official for review and approval. A Notice to Proceed will not be issued until the WMP has been approved. A minimum of 50% diversion or reuse of construction and demolition-generated waste from this project is required.

#### 1.15. Sanitary Facility

Sanitary facility (chemical toilet) shall conform to the specifications attached hereto and made a part of these special provisions. This includes providing and maintaining a toilet designed to collect human waste in a holding tank for the duration of the construction work for construction workers. The toilet shall be self-contained with a hand wash station and shall be movable and not be connected to a hole in the ground, nor plumbed into a municipal sanitary sewer system. The holding tank shall be emptied regularly in accordance with local health codes and the facility shall be maintained in a clean and sanitary condition that includes odor controls.

Placement of the facility will be near the jobsite, or in another location acceptable to the City.

#### 1.16. As-Built Drawings

The Contractor shall prepare final As-Built drawings and submit them for approval by the City Engineer and deliver them to the City prior to payment of the retained amounts.

#### 1.17. Internet Based Construction Management System

The Engineer and Contractor shall utilize Virtual Project Manager (<http://www.virtual-pm.com/>), herein after called VPM, for submission of all data and documents throughout the duration of the Contract. VPM is an electronic project management system accessible through the Internet used to create, share, and review construction management documentation. VPM is provided by the Engineer at no cost to the Contractor. VPM will be made available to all Contractors' personnel, subcontractor personnel, suppliers, consultants, Engineer, and any of Engineer's representatives or agents. The joint use of this system is to facilitate electronic exchange of information, automation of key processes, electronic notification of project activity, and overall management of contract documentation. VPM shall be the primary means of project information submission and management.

The Engineer will establish the Contractor's access to VPM by enabling access and assigning user profiles to Contractor personnel, including subcontractors and suppliers, as requested by Contractor. All authorized personnel shall have an individual user profile; no joint-use or shared user profiles will be allowed. Each user profile shall be assigned to a user group and have specific permission settings and privileges based on the user's need within VPM. Entry of information exchanged and transferred between the Contractor and its subcontractors and suppliers on VPM shall be the responsibility of the Contractor.

Contractor shall provide a list of key VPM personnel for the Engineer's acceptance. The list shall include the following information: first name, last name, address, title, office phone number, cell phone number, and email address. The Engineer is responsible for adding and removing users from the system and establishing read, write, and approval permission levels.

#### 1.18. Contract Price

The contract price for the items in Sections 1.1 through 1.17 above are included in the unit price bid for the items on the Bid Form in Section II of the Contract Documents. No additional compensation will be made therefor.

### 1. MOBILIZATION (BID ITEM #1)

Mobilization shall conform to Sections 7-2 & 7-3.4, Mobilization, of the Standard Specifications.

Mobilization shall include mobilization, demobilization, final project clean-up, bonds, insurance, financing, moving equipment to and from the job site, and restoration of any laydown or staging sites to their original condition.

The contract unit price paid per lump sum for "Mobilization" shall be considered the full compensation for furnishing all labor, materials, tools, and equipment, and for all work involved in mobilization and demobilization and no additional compensation will be made therefor. Fifty percent (50%) of the lump sum price for mobilization shall be submitted for payment with the first progress payment invoice and fifty percent (50%) shall be submitted for payment with the final progress payment invoice.

### 2. TRAFFIC CONTROL AND PEDESTRIAN CONTROL (BID ITEM #2)

Traffic control shall conform to *Part 6 – Temporary Traffic Control* of the Standard Specifications, the Traffic Control Plans in Appendix A of the San Diego Regional Standard Drawings (SDRSD), the State of California Manual on Uniform Traffic Control Devices (CA-MUTCD) (latest edition) and the following Special Provisions:

- A. The Contractor shall maintain streets open to traffic smooth and usable during construction and avoid excessive dust or unnecessary inconvenience to the public.
- B. Work in streets, shall be performed between the hours of 7:00 a.m. and 5:00 p.m. during which time one twelve-foot (12') traffic lane shall be kept open for each direction of traffic. The total traveled way shall remain open to traffic at all other times.
- C. The Contractor shall be responsible for the maintenance of necessary barricades, signs, etc., at all times, including Saturdays, Sundays, holidays, and other normal nonworking hours.
- D. A traffic control plan shall be submitted to the Public Works Representative a minimum of 7 working days before the start of street work. The Contractor must receive The Public Works Representative's approval of the traffic control plan before the start of street work.
  - The City's review shall be limited to general compliance with CAMUTCD and Regional Standards.
  - The Contractor is responsible and liable for design utilized and for all alterations necessary due to unexpected field conditions, as they occur.

The contract unit price paid per lump sum for “*Traffic Control and Pedestrian Control*” shall include full compensation for furnishing all labor, materials, tools, and equipment, and for all work involved in providing traffic control per the provisions of this section and no additional compensation will be allowed therefor.

### **3. SURVEYING AND CONSTRUCTION STAKING (BID ITEM #3)**

Surveying and Construction Staking shall conform to Section 3-10 of the Standard Specifications. The Contractor is responsible for providing project construction staking or station control. The Contractor shall notify the Engineer five (5) days in advance of conducting the construction staking or station control.

The Contractor shall be responsible to ensure and verify that that all temporary and finished sidewalk, ramp, entry access grades, and travel paths strictly meet ADA requirements, including using a 2-foot long electronic smart level or other approved measuring device. General construction tolerances are unacceptable. If these requirements cannot be met with the existing grades or other physical or practical limitations, Contractor shall immediately notify City for direction before work takes place. Contractor shall be responsible for the costs of any corrective work due to Contractor’s failure to meet these requirements.

The contract unit price paid per lump sum for “*Surveying and Construction Staking*” shall include full compensation for providing all labor, materials, tools, equipment, and incidentals, and for doing all work involved in construction surveying and complying with the requirements of this section and no additional compensation will be allowed therefor.

### **4. CLEARING AND GRUBBING (BID ITEM #4)**

Clearing and grubbing shall include, but shall not be limited to: saw cutting and removal of asphalt and concrete paving; removal and disposal of concrete subgrade that may be encountered; removal and disposal of pavement fabrics that may be encountered; removal of curb, gutter and sidewalk; removal of concrete cross gutters; removal of ribbon gutters, the removal of vegetation; and, removal, relocation, adjusting, salvaging and replacing signs, poles, sidewalks, fences, gates, sewer and storm drain pipes, retaining curbs, and other existing improvements and materials that may be in conflict with the new improvements and that are not specified under any other bid item. All removed materials not indicated for salvage shall become the property of the Contractor and shall be disposed of offsite at a legal site or recycling facility.

Clearing and grubbing shall conform to Section 300-1 of the Standard Specifications.

Materials that can be re-used or re-cycled, such as concrete and asphalt concrete, shall not be disposed in the landfill system but shall be processed for such re-use or re-cycling. All such materials to be recycled will be weighed before disposal at recycling facilities.

Existing improvements, adjacent property, utility and other facilities, and trees and plants that are not to be removed shall be protected from injury or damage as provided for in 400-1 of the Standard Specifications.

Additionally, the Contractor shall be responsible for:

- Clearing and providing temporary graded driveways and continued maintenance thereof to provide for safe, smooth, stable and continuous all-weather access to all residences and businesses within the project area and as directed by the Engineer.
- Capping and removing private sprinkler lines and sprinkler heads that are within the project limits. The Contractor shall mark locations of capped lines with lath so that private Owner may locate them later.
- Removing and disposing of interfering portions of, making modifications to, and maintaining existing public and private sprinkler systems in working order. This includes water supply, water distribution, electrical supply, and electrical control elements of the existing sprinkler system.

- Protection of all existing structures and improvements which fall within or are adjacent to the limits of work specified under this Contract in accordance with Sections 402 and of the Standard Specifications.
- Removal and disposal of any additional items not specifically mentioned which may be found within the work limits as directed by the Engineer.
- Removal and disposing of interfering portions of, making modifications to, and maintaining existing lighting systems in working order. This includes conduit, wiring, service pedestals, and pull boxes of the existing lighting system. At no time shall the lighting systems be inoperable outside of daylight hours.

The contract unit price paid per lump sum for “*Clearing and Grubbing*”, shall include preservation of property, and removal of: existing curb ramps, sidewalk, curb and gutter, ribbon gutter and/or cross gutter, vegetation as shown on the Plans, shall include full compensation for all labor, materials, tools, equipment, incidentals and for doing all work involved in the removal and disposal of existing concrete structures, asphalt pavement, pavement subgrade, the removal of vegetation and removal, relocation, adjusting, salvaging and replacing signs, poles, sewer and storm drain pipes, retaining curbs, fences and gates as shown on the Plans; and no additional compensation will be allowed therefor.

**5. CONSTRUCT 4” INTEGRAL COLORED PCC SIDEWALK (BID ITEM #5)**

Concrete sidewalk shall be constructed in accordance with Sections 201 and 303-5 of the Standard Specifications and the SDRSDs G-07, G-09, and G-10.

Coloring for concrete shall be Integral Color. Integrally Colored PCC Sidewalk color shall be San Diego Buff (160) per Davis Colors, or approved equal, to match existing concrete color and finish or as specified on the Plans. All proposed colored concrete shall be colored using the Bomanite process or equal. Contractor to provide one 4-ft x 4-ft test panel for approval by the Engineer prior to pouring integrally colored PCC sidewalk as shown on the Plans.

Contractor to provide expansion felt against back of sidewalk abutting existing buildings, walls, sidewalk and other concrete structures with joints per SDRSD standards.

New concrete shall be doweled to existing concrete in accordance with San Diego Regional Standard Drawing G-10, with 18-inch-long number 4 rebars epoxied and spaced at 24” on center.

The contract unit price paid per square foot for “*Construct 4” Integrally Colored PCC Sidewalk*” shall include full compensation for all labor, materials (including aggregate), tools, equipment, concrete, integral color, dowels, test panels, subgrade preparation, finishing, curing, incidentals, and for doing all work involved in providing the concrete sidewalks as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**6. CONSTRUCT 6” TYPE G CURB AND GUTTER (BID ITEM #6)**

6” Type G curb and gutter shall be constructed in accordance with SDRSD G-02.

Coloring for curb and gutter concrete shall be Integral Color. Integrally Colored PCC Sidewalk color shall be San Diego Buff (160) per Davis Colors, or approved equal, to match existing concrete color and finish or as specified on the Plans. All proposed colored concrete shall be colored using the Bomanite process or equal.

New concrete shall be doweled to existing concrete in accordance with San Diego Regional Standard

Drawing G-10, with 18-inch-long number 4 rebars epoxied and spaced at 24" on center.

The contract unit price paid per linear foot for "*Construct 6" Type G Curb and Gutter*" shall include full compensation for all labor, materials, tools, equipment, concrete, finishing, curing, incidentals, and for doing all work involved in providing the Curb and Gutter and Curb and Gutter Transition as specified on the Plans, in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**7. CONSTRUCT 6" CURB (BID ITEM #7)**

6" Curb including transition shall be constructed in accordance with SDRSD G-01.

Coloring for curb concrete shall be Integral Color. Integrally Colored 6" Curb color shall be San Diego Buff (160) per Davis Colors, or approved equal, to match existing concrete color and finish or as specified on the Plans. All proposed colored concrete shall be colored using the Bomanite process or equal.

The contract unit price paid per linear foot for "*Construct 6" Curb*" shall include full compensation for all labor, materials, tools, equipment, concrete, integral color, finishing, curing, incidentals, and for doing all work involved in providing the Curb and Curb Transition as specified on the Plans, in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**8. CONSTRUCT 8" TYPE H CURB AND GUTTER (BID ITEM #8)**

8" Curb and gutter shall be constructed in accordance with SDRSD G-02.

Coloring for curb concrete shall be natural grey finish.

The contract unit price paid per linear foot for "*Construct 8" Type H Curb and Gutter*" shall include full compensation for all labor, materials, tools, equipment, concrete, finishing, curing, incidentals, and for doing all work involved in providing the Curb and Gutter and Curb and Gutter Transition as specified on the Plans, in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**9. CONSTRUCT 5.5" THICK INTEGRAL COLORED RESIDENTIAL CONCRETE DRIVEWAY (BID ITEM #9)**

5.5" Thick integral colored residential concrete driveway shall be constructed in accordance with SDRSD G-14B.

Coloring for concrete shall be Integral Color. Integrally Colored Concrete Driveway color shall be San Diego Buff (160) per Davis Colors, or approved equal, to match existing concrete color and finish or as specified on the Plans. All proposed colored concrete shall be colored using the Bomanite process or equal. Integral colored sidewalk test panel to be approved prior to pouring integrally colored concrete driveway as shown on the Plans.

A complete schedule of each individual driveway must be provided prior to beginning any work showing the total time impact and detail from removal, placement of underground sleeving or conduits, grade, forming and pouring, and curing or until full use is available. This timeline shall not exceed 3 working days. The Contractor may consider the use of high early strength concrete or steel plates to achieve these timelines. At no time shall the Contractor remove or replace more than half of any driveway or apron, without placing temporary devices such as steel plates to allow traffic to enter and exit areas under construction after normal working hours. Once any portion of concrete driveway or apron has been replaced, the Contractor must place temporary plates to always allow full vehicular movement with normal traffic flows until fully cured. If the Contractor can provide alternate access points to any driveway scheduled to be removed, full removal of that driveway may take place if prior approval is received by the Engineer.

The contract unit price paid per square foot for “Construct 5.5” Thick Integral Colored Residential Concrete Driveway” includes wings, approach, curb and gutter, driveway, and shall include full compensation for all labor, materials, tools, equipment, concrete, integral color, test panels, dowels, subgrade preparation, finishing, curing, incidentals, subgrade preparation and for doing all work involved in providing the concrete driveways as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**10. CONSTRUCT 7.5” THICK INTEGRAL COLORED COMMERCIAL CONCRETE DRIVEWAY (BID ITEM #10)**

7.5” Thick integral colored commercial concrete driveway shall be constructed in accordance with SDRSD G-14B.

Coloring for concrete shall be Integral Color. Integrally Colored Concrete Driveway color shall be San Diego Buff (160) per Davis Colors, or approved equal, to match existing concrete color and finish or as specified on the Plans. All proposed colored concrete shall be colored using the Bomanite process or equal. Integral colored sidewalk test panel to be approved prior to pouring integrally colored concrete driveway as shown on the Plans.

A complete schedule of each individual driveway must be provided prior to beginning any work showing the total time impact and detail from removal, placement of underground sleeving or conduits, grade, forming and pouring, and curing or until full use is available. This timeline shall not exceed 3 working days. The Contractor may consider the use of high early strength concrete or steel plates to achieve these timelines. At no time shall the Contractor remove or replace more than half of any driveway or apron, without placing temporary devices such as steel plates to allow traffic to enter and exit areas under construction after normal working hours. Once any portion of concrete driveway or apron has been replaced, the Contractor must place temporary plates to always allow full vehicular movement with normal traffic flows until fully cured. If the Contractor can provide alternate access points to any driveway scheduled to be removed, full removal of that driveway may take place if prior approval is received by the Engineer.

The Contractor shall also provide a minimum of two (2) “Businesses Open During Construction” signs for each business impacted during construction.

All driveway removal and replacement must be coordinated with the business and property owner, emergency services and Engineer prior to removal and replacement. The Contractor may also use high-early strength concrete to achieve the above timeline at no additional cost to the Owner.

The contract unit price paid per square foot for “Construct 7.5” Thick Integral Colored Commercial Concrete Driveway” includes wings, approach, curb and gutter, driveway, and shall include full compensation for all labor, materials, tools, equipment, concrete, integral color, test panels, dowels, subgrade preparation, finishing, curing, incidentals, subgrade preparation and for doing all work involved in providing the concrete driveways as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**11. CONSTRUCT CURB RAMP (BID ITEM #11)**

Curb ramp shall be constructed in accordance with SDRSD G-27.

Coloring for concrete shall be Integral Color. Integrally Colored Curb Ramp color shall be San Diego Buff (160) per Davis Colors, or approved equal, to match existing concrete color and finish or as specified on the Plans. All proposed colored concrete shall be colored using the Bomanite process or equal.

This work includes wet casting prefabricated engineered polymer detectable warning surface tiles (truncated domes) at the locations shown on the Plans, and as specified in these Special Provisions.

Detectable warning surface tiles must be:

- A. Yellow color complying with Federal Standard 595B, Color No. 33538
- B. Prefabricated
- C. Raised truncated domes

Detectable warning surfaces shall be manufactured by Armor Tile, Access Tile, ADA Solutions, Inc., or approved equal, and shall be of the type that may be set in freshly-placed concrete. Surface-applied detectable warning surface tiles will not be allowed.

The manufacturer(s) must provide a written 5-year warranty for detectable warning surface, guaranteeing replacement when there is defect in the dome shape, color fastness, sound-on-cane acoustic quality, resilience, or attachment. The warranty period will begin upon acceptance of the contract work.

Installation of detectable warning surfaces shall comply with the manufacturer's recommendations.

The contract unit price paid per each for "*Construct Curb Ramp*" shall include full compensation for all labor, materials, tools, equipment, concrete, integral color, materials, finishing, curing, incidentals, subgrade preparation and for doing all work involved in providing curb ramps, spandrel, and truncated domes, as specified on the Plans, per the SDRSD, in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

## **12. CONSTRUCT CROSS GUTTER (BID ITEM #12)**

Cross gutter shall be constructed in accordance with SDRSD G-12.

Coloring for concrete shall be Integral Color. Integrally Colored Cross Gutter color shall be San Diego Buff (160) per Davis Colors, or approved equal, to match existing concrete color and finish or as specified on the Plans. All proposed colored concrete shall be colored using the Bomanite process or equal.

New concrete shall be doweled to existing concrete in accordance with San Diego Regional Standard Drawing G-10, with 18-inch-long number 4 rebars epoxied and spaced at 24" on center.

The contract unit price paid per square foot for "*Construct Cross Gutter*" shall be made at the contract unit price shown on the Bid Schedule and shall include full compensation for all labor, materials, tools, equipment, concrete, integral color, dowels, subgrade preparation, finishing, curing, incidentals, and for doing all work involved in providing the concrete cross gutters as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

## **13. CLASS II AGGREGATE BASE (BID ITEM #13)**

Aggregate for recycled class II aggregate base shall be free from organic matter and other deleterious substances and shall be of such nature that it can be compacted readily under watering and rolling to form a firm, stable base.

Class II Aggregate base shall be deposited in a uniform thickness as shown on the drawings in maximum 6" compacted lifts over a single layer of stabilizing grid material such as Tensar TX-7 geogrid or approved equal. Requires a minimum relative compaction of 95%.

The contract unit price paid per ton for "*Class II Aggregate Base*" shall include full compensation for furnishing labor, materials, equipment, tools, and incidentals, for doing all work involved in the spreading, compaction, and installation of the aggregate complete in place and to correct grade, as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.

**14. CONSTRUCT ASPHALT CONCRETE PAVEMENT (BID ITEM #14)**

Asphalt shall be Type PG 64-10 conforming to Section 203-1 and 302.-5 of the Standard Specifications. All base paving shall be Type B, Dense Medium Coarse. All finish or top course paving shall be Type C2, Dense Medium (per table 203-6.4.4) with a maximum RAP content of 10%.

Tack coat shall conform to section 302-5.4 and shall be applied to the existing pavement and vertical joints, concrete surfaces and asphalt concrete base course if asphalt concrete wear course is placed after 24 hours.

Asphalt concrete pavement shall be placed in maximum 3-inch compacted lifts and shall be placed during the day with minimum atmospheric temperature of 45-degrees F and a maximum relative humidity of 80%. ¾" AC Mix shall be placed with a minimum of a 2-inch thick compacted lift. ½" AC Mix shall be placed with a minimum of a 1 ½ – inch thick compacted lift. Requires a minimum 95% of the HVEEEM density. The temperature of the mixture directly behind the paving machine, before the breakdown roller, shall not be lower than 270-degrees F or higher than 320-degrees F, the lower limit to be approached in warm weather and the higher limit in cold weather.

The contract unit price paid per ton for "*Construct Asphalt Concrete Pavement*" shall include full compensation for all labor, all materials including tack coat, tools, and equipment for doing all work involved in completing Asphalt Concrete Pavement to the depths shown on the Plans, including any adjustments of utility valve covers, as specified in these Special Provisions, the Greenbook, and as directed by the Engineer, and no additional payment will be made therefor.

**15. 2" MILL AND OVERLAY (BID ITEM #15)**

Asphalt Overlay shall be Type III-C2-PG 64-10 conforming to Section 203-1 and 302-5 of the Standard Specifications.

Tack coat shall conform to section 302-5.4 and shall be applied to the existing pavement and vertical joints, concrete surfaces and asphalt concrete base course if asphalt concrete wear course is placed after 24 hours.

The contract unit price paid per square foot for "*2" Mill and Overlay*" shall include full compensation for furnishing all labor, tools, materials including tack coat, and equipment necessary for cold milling and asphalt concrete overlay to the depths shown on the Project Plans for all sawcut locations per Detail A on Sheet 03, including any adjustments of utility valve covers, as specified in these Special Provisions, the Standard Specifications, and as directed by the Engineer, and no additional payment will be made therefor.

**16. CONSTRUCT ASPHALT CONCRETE DRIVEWAY (BID ITEM #16)**

Asphalt shall be Type III-C2-PG 64-10 conforming to Section 203-1 and 302-5 of the Standard Specifications. Asphalt shall be a minimum of 2" thick. Contractor to mill existing asphalt pavement to achieve required minimum thickness.

Tack coat shall conform to section 302-5.4 and shall be applied to the existing pavement and vertical joints, concrete surfaces and asphalt concrete base course if asphalt concrete wear course is placed after 24 hours.

The contract unit price paid per lump sum for "*Construct Asphalt Concrete Driveway*" shall be made at the contract unit price shown on the Bid Schedule and shall include full compensation for all labor, materials, tools, and equipment for doing all work involved in completing Asphalt Concrete Driveways as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**17. CONSTRUCT VARIABLE HEIGHT CURB AND GUTTER (BID ITEM #17)**

Coloring for concrete shall be Integral Color. Integrally Colored Variable Height Curb and Gutter color shall be San Diego Buff (160) per Davis Colors, or approved equal, to match existing concrete color and finish or as specified on the Plans. All proposed colored concrete shall be colored using the Bomanite process or equal.

The contract unit price paid linear foot for "*Construct Variable Height Curb and Gutter*" shall include full compensation for all labor, materials, tools, equipment, concrete, finishing, curing, incidentals, and for doing all work involved in providing the Curb and Gutter and Curb and Gutter Transition as specified on the Plans, in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**18. ADJUST EXISTING GATE GUIDE RAIL AND INSTALL NEW TRACK TO MEET PROPOSED ELEVATIONS (BID ITEM #18)**

New track to be inverted V track, material to be approved by the Engineer prior to installation. Adjustment to guide rail must be of like existing material or approved equal.

The contract unit price paid per lump sum for "*Adjust Existing Gate Guide Rail and Install New Track to Meet Proposed Elevations*" shall include full compensation for all labor, materials, tools and equipment and for doing all the work involved in adjusting gate guide rail and installing new track to meet proposed elevations and must be approved by the Engineer and no additional compensation will be allowed therefor.

**19. FURNISH AND INSTALL PEDESTRIAN PROTECTIVE RAILING AND GRIPPING SURFACE (BID ITEM #19)**

Pedestrian protective railing, handrail, and gripping surface shall conform to SDRSD M-24 and M-25, CBC 11B-505.7.1, the Plans, and Section 304-2, "Metal Hand Railings," of the Standard Specifications.

Galvanizing of the protective pedestrian railing and handrail shall conform to the requirements of Section 210-3, "Galvanizing," of the Standard Specifications.

The Contractor shall submit shop drawings for pedestrian railing and handrail to the Engineer for review and approval prior to commencing fabrication work.

The contract unit price paid per linear foot for "*Furnish and Install Pedestrian Protective Railing And Gripping Surface*" shall include full compensation for all labor, materials, tools, equipment, posts, rail, welding, grinding, mounting, brackets, cold galvanization, incidentals, and for doing all work involved in providing the pedestrian protective railing as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**20. CONSTRUCT ACCESSIBLE RAMP WITH 4" PCC SIDEWALK (BID ITEM #20)**

Coloring for concrete shall be Integral Color. Integrally Colored Accessible Ramp with 4" PCC Sidewalk color shall be San Diego Buff (160) per Davis Colors, or approved equal, to match existing concrete color and finish or as specified on the Plans. All proposed colored concrete shall be colored using the Bomanite process or equal.

Concrete pedestrian ramps shall be constructed in accordance with Section 303-5 of the Standard Specifications and in accordance with the Plans.

The contract unit price paid per square foot for "*Construct Accessible Ramp with 4" PCC Sidewalk*" shall include full compensation for demolition, removal and disposal of existing surface improvements and

incidental material and work, excavation, subgrade preparation, forming and constructing the new accessible pedestrian ramp of the type indicated on the Project Plans, and furnishing all labor, materials, tools and equipment and for providing all the work required for the construction of new pedestrian ramps and no additional compensation will be allowed therefor.

**21. CONSTRUCT 4" STANDARD GREY PCC SIDEWALK (BID ITEM #21)**

Concrete sidewalk shall be constructed in accordance with Sections 201 and 303-5 of the Standard Specifications and the SDRSDs G-07, G-09, and G-10.

New concrete shall be doweled to existing concrete in accordance with San Diego Regional Standard Drawing G-10, with 18-inch-long number 4 rebars epoxied and spaced at 24" on center.

The contract unit price paid per square foot for "*Construct 4" Standard Grey PCC Sidewalk*" shall include full compensation for all labor, materials (including aggregate), tools, equipment, concrete, dowels, test panels, subgrade preparation, finishing, curing, incidentals, and for doing all work involved in providing the concrete sidewalks as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**22. CONSTRUCT 4" INTEGRAL COLORED PCC SIDEWALK (JOINTING AND SCORING TO MATCH EXISTING ADJACENT SIDEWALK IMPROVEMENTS) (BID ITEM #22)**

Concrete sidewalk shall be constructed in accordance with Sections 201 and 303-5 of the Standard Specifications and the SDRSDs G-07, G-09, and G-10.

Coloring for concrete shall be Integral Color. Integrally Colored PCC Sidewalk color shall be San Diego Buff (160) per Davis Colors, or approved equal, to match existing concrete color, scoring, jointing and finish or as specified on the Plans. All proposed colored concrete shall be colored using the Bomanite process or equal. Contractor to provide one 4-ft x 4-ft test panel for approval by the Engineer prior to pouring Integrally Colored PCC Sidewalk with jointing and scoring to match existing adjacent sidewalk improvements as shown on the Plans.

Provide expansion felt against back of curb, back of sidewalk abutting existing buildings, walls, sidewalk and other concrete structures with jointing and scoring to match existing adjacent sidewalk and per SDRSD standards.

New concrete shall be doweled to existing concrete in accordance with San Diego Regional Standard Drawing G-10, with 18-inch-long number 4 rebars epoxied and spaced at 24" on center.

The contract unit price paid per square foot for "*Construct 4" Integral Colored PCC Sidewalk (Jointing and Scoring to Match Existing Adjacent Sidewalk Improvements)*" shall be made at the contract unit price shown on the Bid Schedule and shall include full compensation for all labor, materials (including aggregate), tools, equipment, concrete, dowels, test panels, subgrade preparation, finishing, curing, incidentals, and for doing all work involved in providing the concrete sidewalks as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**23. CONSTRUCT 7.5" THICK GREY COMMERCIAL CONCRETE DRIVEWAY SLAB (BID ITEM #23)**

7.5" Thick commercial grey concrete driveway slab shall be constructed with 560-C-3250 concrete with jointing per SDRSD G-2 and G-10. No concrete shall be placed until forms and subgrade are inspected by the City of Imperial Beach. Limits of work, grades and elevations to be confirmed by City of Imperial Beach prior to the start of work.

A complete schedule of each individual driveway must be provided prior to beginning any work showing the total time impact and detail from removal, placement of underground sleeving or conduits, grade, forming and pouring, and curing or until full use is available. This timeline shall not exceed 3 working days. The Contractor may consider the use of high early strength concrete or steel plates to achieve these timelines. At no time shall the Contractor remove or replace more than half of any driveway or apron, without placing temporary devices such as steel plates to allow traffic to enter and exit areas under construction after normal working hours. Once any portion of concrete driveway or apron has been replaced, the Contractor must place temporary plates to always allow full vehicular movement with normal traffic flows until fully cured. If the Contractor can provide alternate access points to any driveway scheduled to be removed, full removal of that driveway may take place if prior approval is received by the Engineer.

The Contractor shall also provide a minimum of two (2) "Businesses Open During Construction" signs for each business impacted during construction.

All driveway removal and replacement must be coordinated with the business and property owner, emergency services and Engineer prior to removal and replacement. The Contractor may also use high-early strength concrete to achieve the above timeline at no additional cost to the Owner.

The contract unit price paid per square foot for "*Construct 7.5" Thick Grey Commercial Concrete Driveway Slab*" includes tapered edges, approach slab, driveway slab, and shall include full compensation for all labor, materials, tools, equipment, concrete, test panels, dowels, finishing, curing, incidentals, subgrade preparation and for doing all work involved in providing the concrete driveways as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

#### **24. UNSUITABLE SUBGRADE (ALLOWANCE) (BID ITEM #24)**

Unsuitable material shall be removed at the direction of the City Representative and disposed of as specified in Section 300-2.2 of the Standard Specifications and these Special Provisions. Removal of unsuitable materials shall include subgrade excavation to the depth as directed by the City Representative and shall include offsite disposal of the excavated material.

If required subgrade compaction cannot be reached after true compaction effort is placed, unsuitable subgrade shall be removed, true compaction effort shall be placed on the new subgrade to reach 90% (sidewalk) or 95% (roadway) of the maximum dry density in accordance with ASTM D1557 near to slightly above its optimum moisture content, recycled class 2 base shall be placed in 4" lifts and compacted to 90% (sidewalk) or 95% (roadway). This bid item provides a \$15,000 allowance at a unit price of \$300 per cubic yard.

The contract unit price paid per cubic yard for "*Unsuitable Subgrade*" shall be considered as full compensation for furnishing all labor, materials, tools and equipment and for providing all work required for performing removal and disposal of unsuitable materials and installing recycled class 2 base and no additional compensation will be allowed therefor.

#### **25. INSTALL TENSAR TX-7 (BID ITEM #25)**

A single layer of stabilizing grid material Tensar TX-7 or approved equal is to be placed as shown on the Plans. Along all edges of the stabilizing grid material, an overlap of 12" is required.

The contract unit price paid per square foot for "*Install Tensar TX-7*" shall include full compensation for all labor, materials, tools, equipment, subgrade preparation, incidentals and for doing all work involved in providing and installing the Tensar TX-7 or approved equal.

## 26. SIGNING AND MARKING (BID ITEM #26)

Installation of all signs, striping, and pavement markers shall conform to the following standard plans and specifications:

1. Latest edition of the California Manual on Uniform Traffic Control Devices (MUTCD)
2. 2018 Standard Specification for Public Works Construction ("Greenbook"), including all current supplements.
3. 2018 San Diego Regional Standard Drawings

The final location of all signs, striping, pavement markings and pavement markers are subject to the approval of the City Representative prior to installation and/or removal.

Contractor shall submit product manual and specifications for paint materials for approval by the City Representative.

Contractor shall clearly "mark-out" the locations of all new striping and pavement markings prior to installation. The Contractor shall notify the City Representative a minimum of 1 week in advance to schedule an inspection of the "mark-outs".

Contractor shall remove the pavement paint stripes, markings and thermoplastic in a way that does not damage the underlying asphalt greater than 1/16" in depth that are not to be overlaid. Special care shall be taken on existing rubberized asphalt and the Contractor shall employ a waterblasting technology method (see [waterblastingtechnologies.com](http://waterblastingtechnologies.com) for example) to remove the cross walks that does not damage the asphalt. Alternative methods must be pre-approved by the City Representative.

Surfaces which are to receive new striping, pavement markings, and pavement markers shall be thoroughly cleaned of all dirt and loose materials prior to installation.

All limit lines/stop bars, crosswalk lines, and lines shall be thermoplastic, unless otherwise specified. All striping to be thermoplastic except over concrete.

Two (2) coats of traffic rated paint shall be applied to striping over concrete.

"STOP" pavement markings shall be installed 8 feet in advance of the limit line/stop bar, consistent with the latest edition of the California MUTCD.

Contractor shall install blue retroreflective raised pavement markers to designate the location of all fire hydrants, consistent with the latest edition of the California MUTCD.

Standard striping and pavement marker details, and dimensions/spacing for pavement markings shall conform to the latest edition California MUTCD.

All signs shall conform to the standards provided in the latest edition of the California MUTCD, including sign size, shape, color, symbols, retro reflectivity, vertical and lateral mounting offsets, etc. All sign face reflective sheets shall be high intensity grade with a clear protective overlay film (i.e. anti-graffiti coating).

All pedestrian crossing signs, pedestrian advanced warning signs and supplemental plaques shall be fluorescent green in color.

All sign posts shall be 2-inch square, perforated galvanized steel with a 2 1/4-inch break-away base, unless otherwise specified.

All signposts shall be installed behind the face of curb, per SDRSD or City preference, unless otherwise specified.

Contractor is responsible for repainting all curb markings within the project limits.

Contractor shall notify the City Representative a minimum of 1 week prior to completion of all signing and striping work to schedule a final inspection.

Contractor shall be responsible for replacing existing striping, pavement markers, raised reflectors and botts' dots damaged during construction.

The contract unit price paid per lump sum for "*Signing and Marking*" shall include removal of all existing pavement stripes and markings and replacement with new traffic striping, thermoplastic markings, and curb marking and removal, adjustment, relocation, and salvaging of existing signage and furnishing and installation of new permanent signing and appurtenances, and shall include full compensation for furnishing all labor, materials, including pedestrian barricades, tools, equipment, salvaging and disposal, supplying and installing permanent signing, as shown on the Plans, as specified in the Standard Specification and these Special Provisions, and as directed by the Engineer and there shall be no additional costs to the City.

**27. CONSTRUCT 3' INTEGRAL COLOR RIBBON GUTTER (INCLUDES TRANSITION) (BID ITEM #27)**

Coloring for concrete shall be Integral Color. Integrally Colored PCC Sidewalk color shall be San Diego Buff (160) per Davis Colors, or approved equal, to match existing concrete color and finish or as specified on the Plans. All proposed colored concrete shall be colored using the Bomanite process or equal. Integral colored sidewalk test panel to be approved prior to pouring integrally colored 3' Ribbon Gutter as shown on the Plans.

The contract unit price paid per linear foot for "*Construct 3' Integral Color Ribbon Gutter (Includes Transition)*" shall include full compensation for all labor, materials, tools, equipment, concrete, integral color, test panels, dowels, subgrade preparation, finishing, curing, incidentals, and for doing all work involved in providing the concrete ribbon gutters as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**28. CONSTRUCT TRENCH DRAIN WITH 24" GRATE (BID ITEM #28)**

The trench drain system shall be installed in accordance with, and strict adherence to, the manufacturer's installation instructions and recommendations.

P.C.C. for u-channel with integral trench drain shall attain a minimum compressive strength of 4,500 psi at 28 days per the Plans.

Where trench drains are specified on the Plans, they shall be cast with the u-channel per the details shown on the Plans and per manufacturer's specifications. Additional Information of Trench Drain and Grate Requirements may be found in "Urban Accessories Materials and Finishes," and "Trench Grate & Type S frame for 24 Inch, 42 Inch and 48 Inch Title Wave."

Grates are manufactured from cast grey iron and shall be light duty traffic rated. Cast grey iron shall conform to ASTM A48 – class 35b or better and shall be hot dip galvanized. After removal of grates, there shall be uninterrupted access to the trench to aid maintenance.

The contract unit price paid per linear foot for "*Construct Trench Drain with 24" Grate*" shall include full compensation for constructing the concrete U-channel for the trench drain and subgrade preparation, furnishing and installing the trench drain, and all labor, materials, tools, equipment and incidentals necessary for a complete installation, and no additional compensation will be allowed therefor.

**29. CONSTRUCT 1' INTEGRAL COLOR RIBBON GUTTER (BID ITEM #29)**

Coloring for concrete shall be Integral Color. Integrally Colored 1' Ribbon Gutter color shall be San Diego Buff (160) per Davis Colors, or approved equal, to match existing concrete color and finish or as specified

on the Plans. All proposed colored concrete shall be colored using the Bomanite process or equal.

The contract unit price paid per linear foot for *“Construct 1' Integral Color Ribbon Gutter”* shall include full compensation for all labor, materials, tools, equipment, concrete, test panels, dowels, subgrade preparation, finishing, curing, incidentals, and for doing all work involved in providing the concrete ribbon gutters as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**30. CONSTRUCT TRENCH DRAIN WITH 18” GRATE (BID ITEM #30)**

The trench drain system shall be installed in accordance with, and strict adherence to, the manufacturer’s installation instructions and recommendations.

P.C.C. for monolithic asymmetrical u-channel with integral trench drain shall attain a minimum compressive strength of 4,500 psi at 28 days per the Plans.

Where trench drains are specified on the Plans, they shall be cast with the u-channel per the details shown on the Plans and per manufacturer’s specifications. Additional Information of Trench Drain and Grate Requirements may be found in, “Urban Accessories Materials and Finishes,” and “Trench Grate & Type S frame for 24 Inch, 42 Inch and 48 Inch Title Wave.”

Grates are manufactured from cast grey iron and shall be light duty traffic rated. Cast grey iron shall conform to ASTM A48 – class 35b or better and shall be hot dip galvanized. After removal of grates, there shall be uninterrupted access to the trench to aid maintenance.

The contract unit price paid per linear foot for *“Construct Trench Drain with 18” Grate”* shall include full compensation for constructing the concrete U-channel for the trench drain and subgrade preparation, furnishing and installing the trench drain, and all labor, materials, tools, equipment and incidentals necessary for a complete installation, and no additional compensation will be allowed therefor.

**31. FURNISH AND INSTALL SIDEWALK UNDERDRAIN (BID ITEM #31)**

Underdrain pipe shall conform to SDRSD D-27. Pipe material shall be schedule 80 PVC.

Furnish and install the NDS Spee-D Basin Single Outlet Round Polished Brass Kit or approved equal.

The contract unit price paid per lump sum for *“Furnish and Install Sidewalk Underdrain”* shall include full compensation for all labor, materials, tools, equipment, reinforcement, dowels, incidentals and for doing all the work involved in constructing the sidewalk underdrain PCC pavement section, and furnishing and installing the sidewalk underdrain pipe and catch basin as shown on the Plans, as specified in these Special Provisions and no additional payment shall be made therefor

**32. RIP RAP (BID ITEM #32)**

Rip Rap crushed stone shall consist of providing stone in accordance with the provisions of SECTION 200 – *Rock Materials* and the details shown on the Plans.

The contract unit price paid per cubic yard for *“Rip Rap”* shall be made at the contract unit price paid as shown on the Bid Schedule and shall include full compensation for furnishing all labor, materials, tools, equipment, transportation and incidentals for doing all the work involved in installing rip-rap, excavation, backfill, and disposal of excavated materials, necessary for a complete installation and no additional compensation shall be allowed therefor.

**33. 8" BIORETENTION SOIL (BID ITEM #33)**

Bioretention soil shall conform to the following:

1. Coarse Sand: Washed Concrete Sand per ASTM C33
2. Lassenite Rotary Kiln Fired Pozzolan: ASTM 330 # 14, ASTM C29 Dry Weight (37 pcf – 46 pcf, Specific Gravity 1.35 – 1.68, ASTM F 726-99 Absorbency 92 – 102%, ASTM F 1815 Capillary Porosity, Non-Capillary 17.7%, Saturated Hydraulic Conductivity 10.9 in/hr, Water Holding at 30 cm 62.1%
3. Reed Sedge Peat Moss.
4. Tri C Humate blended at the rate of 4 lbs per ton
5. Tri C Endo 120 blended at the rate of 4 lbs per ton
6. Mix Proportions: 85% sand: 10% Lassenite Pozzolan: 5% Reed Sedge Peat Moss
7. Blending: Material shall be blended prior to delivery by a twin-screw pug mill or equal. Bucket blending is not equal.
8. Supplier: Gail Materials (951) 279-1095 and Tri-C (909) 590-1790, or approved equal.
9. Permeability: less than 5 inches per hour

Provide topsoil and bioretention planter soil material submittals, sample of material data sheet of material properties components and blended material amounts. Submittal shall conform to guidelines outlined on the Plans and in these Special Provisions.

The contract unit price paid per cubic yard for "8" *Bioretention Soil*" shall be made at the contract unit price shown on the Bid Schedule and shall include full compensation for furnishing all labor, materials, tools, equipment, transportation, first-year maintenance activities, and incidentals for doing all the work involved in installing the 8" Bioretention Soil, trenching, trench shoring, bedding, backfill, and disposal of excavated materials necessary to complete the 8" Bioretention Soil installation, and no additional compensation will be allowed therefor.

**34. IMPERMEABLE LINER (BID ITEM #34)**

Impermeable Liner shall be a 30-mil single-ply construction Polyvinyl Chloride (PVC) geomembrane material made with virgin resins and meeting the requirements of ASTM D7176. Attachment hardware shall consist of an aluminum bar with stainless steel anchor bolts and washers per the dimensions shown on the Plans. Edging between concrete and aluminum bar shall be sealed with Silkflex-1A construction sealer or approved equal.

The contract unit price paid per square foot for "*Impermeable Liner*" shall include full compensation for furnishing all labor, materials, tools, equipment, transportation, and incidentals for doing all the work involved in installing Impermeable Liner, trenching, trench shoring, bedding, backfill, and disposal of excavated materials necessary to complete the Impermeable Liner installation, and no additional compensation will be allowed therefor.

**35. CONSTRUCT BMP CURB AND GUTTER EDGE TREATMENT (BID ITEM #35)**

Coloring for concrete shall be Integral Color. Integrally Colored BMP Curb and Gutter Edge Treatment color shall be San Diego Buff (160) per Davis Colors, or approved equal, to match existing concrete color and finish or as specified on the Plans. All proposed colored concrete shall be colored using the Bomanite process or equal.

The contract unit price paid per linear foot for "*Construct BMP Curb and Gutter Edge Treatment*" shall include full compensation for furnishing all labor, materials, tools, equipment, transportation, and incidentals for doing all the work involved in constructing and installing the green gutter areas, bedding, backfill, and disposal of excavated materials, necessary to complete the BMP Curb and Gutter Edge Treatment installation and no additional compensation will be allowed therefor.

**36. CONSTRUCT BMP SIDE EDGE TREATMENT (BID ITEM #36)**

Coloring for concrete shall be Integral Color. Integrally Colored BMP Side Edge Treatment color shall be San Diego Buff (160) per Davis Colors, or approved equal, to match existing concrete color and finish or as specified on the Plans. All proposed colored concrete shall be colored using the Bomanite process or equal.

The contract unit price paid per linear foot for "*Construct BMP Side Edge Treatment*" shall include full compensation for furnishing all labor, materials, tools, equipment, transportation, and incidentals for doing all the work involved in constructing and installing the green gutter areas, trenching, trench shoring, bedding, backfill, and disposal of excavated materials, necessary to complete the BMP Side Edge Treatment installation and no additional compensation will be allowed therefor.

**37. FURNISH AND INSTALL SOLAR LED PEDESTRIAN LIGHTS AND FOUNDATION (BID ITEM #37)**

"*Furnish and Install Solar LED Pedestrian Lights and Foundation*" shall be measured for payment for each solar light installed.

The contract unit price paid per each for "*Furnish and Install Solar LED Pedestrian Lights and Foundation*" shall include full compensation for all labor, materials, tools, equipment, incidentals necessary to construct solar lighting foundations per manufacturer's foundation details and to install poles, luminaires, and solar panels for a complete installation as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer, and no additional payment will be made therefor.

**38. FURNISH AND INSTALL 36" BOX TREE (BID ITEM #38)**

Trees supplied to the Project shall meet the minimum standards established by the American Association of Nurseryman and the following criteria.

1. Trees shall meet the size (caliper, canopy, rootball, etc.) as stated in the current edition of ANZI Z-60.1 – American Standard for Nursery Stock.
2. All single trunk trees shall have a straight trunk with symmetrical crown.
3. All single trunk trees shall have a substantial, single, central leader.
4. Tree bark shall not be discolored, sunken or swollen. Cuts or scrapes measuring 1/8 of the trunk circumference or greater will not be accepted.
5. Trees showing gashes, sun scald, or frost damage will not be accepted.
6. The caliper of the tree shall be in proportion to the rootball.
7. No branches shall extend from the trunk at a vertical angle greater than 45 degrees.
8. Trees with girdling roots wrapping around the trunk will not be accepted.
9. Tree trunks more than 10% off center will not be accepted.
10. Trees shall be free of crossing branches and branches growing too close to one another.
11. Freshly pruned trees will not be accepted.

Trees shall not be planted within five (5) feet of irrigation heads (excluding bubblers) for all slope applications.

Trees must be approved by the City Representative prior to installation.

The contract unit price paid for each "*Furnish and Install 36 " Box Tree*" shall include full compensation for furnishing all labor, materials, tools, equipment, plant establishment and incidentals, and for doing all work involved in planting 36" box tree, complete in place, including weed removal, soil preparation, fertilizer, soil amendments, deep watering pipes, stakes, augering holes as necessary, as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.

**39. FURNISH AND INSTALL 5 GALLON SHRUB / FURNISH AND INSTALL 1 GALLON SHRUB (BID ITEM #39 & BID ITEM #40)**

The Contractor shall take a soil samples at locations approved by the Engineer to determine the optimum soil amendments to be added. Contractor to coordinate this effort with final replacement backfill of the site soils to final grades.

When required by the City Representative, the Contractor shall furnish a Certificate of Compliance stating that the material substantially meets the specifications.

Once grading operations are completed and prior to landscape installation work commencement, the Contractor shall conduct a landscape soil test (utilizing a minimum of 3 separate location samples – locations to be approved by Engineer). The tests shall be evaluated by an independent soils testing laboratory specializing in landscape soil amendment evaluations.

Tests must be in accordance with laboratory procedures including protocols for taking the samples and depth requirements.

- 1) Soil analysis must include as a minimum:
- 2) Soil texture
- 3) Infiltration rate
- 4) pH
- 5) Total soluble solids
- 6) Sodium
- 7) Percent organic matter
- 8) Soil amendment and fertilizer recommendations

Contractor shall submit soil testing results to City Representative for approval prior to construction.

Topsoil for this project shall be designated as Class A (imported), as specified herein.

All fertilizing shall be performed in accordance with the American National Standard Industry - A300 standards.

The Contractor shall cultivate the surface of all areas to be planted or hydroseeded by discing, ripping or scarifying the finish grade. After cultivation the Contractor shall clear the planting areas of stones to the depth of cultivation and shall be rake the planting areas to a smooth friable and plantable surface. The Contractor shall cultivate all planting areas, except slopes steeper than 3-1/2:1 (horizontal to vertical), to a depth of 12". The planting areas that are slopes steeper than 3-1/2:1, shall be cultivated to a depth of 6".

Planted areas shall be provided with positive drainage.

The Contractor shall prepare the finish grade in hydroseed slope areas with a moderately rough texture to provide a suitable surface for adherence of the hydroseed mix.

The Contractor shall perform actual planting during those periods when weather and soil conditions are suitable and in accordance with locally accepted horticultural practice and as approved by the City Representative. No planting shall be done in any area until it has been satisfactorily prepared in accordance with these specifications. Soil moisture level prior to planting shall be no less than 75 percent of field capacity. The Contractor shall obtain the City Representative's approval of planting pits before planting operations begin. For pit planted vegetation when the soil moisture level is found to be insufficient for planting, the Contractor shall fill the planting pits with water and allow them to drain before starting planting operations. No more plants shall be distributed in the planting area on any day than can be planted and watered on that day. The Contractor shall plant and water all plants as herein specified immediately

after removal from their containers. Containers shall not be cut prior to placing the plants in the planting area.

All plant material shall meet the minimum standards set by the American Association of Nurseryman and these specifications.

The Contractor shall submit a sheltered and secure location for on-site plant storage area for the City Representative's approval prior to the delivery of any plant materials. Any plant determined by the City Representative to be wilted, broken, or otherwise damaged shall be rejected at any time during the project, whether in the ground or not. All plants shall be handled by their containers. Any plant that has been handled by its trunk or stem shall be rejected. All rejected plants shall be removed from the site immediately.

Planting areas shall be staked by the Contractor and the Contractor shall obtain the City Representative's approval of the planting layout before planting operations begin. Shrubs shall not be planted within five (5) feet of irrigation heads (excluding bubblers) for all slope applications.

The contract unit price paid for each "*Furnish and Install 5 Gallon Shrub*" and "*Furnish and Install 1 Gallon Shrub*" includes full compensation for furnishing all labor, materials, tools, equipment, plant establishment and incidentals, and for doing all work involved in planting 5 Gallon and 1 Gallon Shrubs, complete in place, including weed removal, soil preparation, fertilizer, soil amendments, as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the City Representative.

**40. [ LEFT INTENTIONALLY BLANK ]**

**41. FURNISH AND INSTALL WOOD BARK MULCH (BID ITEM #41)**

Mulch shall be as designated in accordance with the requirements herein. Mulch shall be from a bulk source approved by the City Representative or their designated representative in advance of delivery to the Work site.

Bark Mulch: Do not use diseased plant materials, wood, plywood, recycled or painted pieces. Submit source of recycled chipped arbor wood mulch. Do not obtain wood mulch from eucalyptus, pine, bay laurel, oak or tanoak trees. Do not use Gorilla or angel hair mulch. Mulch to be natural dark brown in color. Source to be a local organic product from recycled chipped arbor wood waste.

Install a 3-inch layer of bark mulch per the Plans in planted areas (as called out on the drawings) up to edges of pavement, curbs, headers, and project limits. Keep mulch eight (8) inches away from tree trunks.

Wood Bark Mulch shall be installed in all as noted on the Plans and shall be installed for 100% complete coverage.

The contract unit price paid per square foot for "*Furnish and Install Wood Bark Mulch (3" Depth)*" shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all work involved in placing Wood Bark Mulch, complete in place, including grading along curbs, weed removal and control, furnishing and placing sheet mulching, as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.

**42. FURNISH AND INSTALL CRUSHED ROCK (BID ITEM #42)**

Crushed Rock shall be installed as noted on the Plans and shall be installed for 100% complete coverage.

Crushed Rock shall be 1"-3" in size "Baja Cresta Rubble" By Southwest Boulder and Stone or approved equal. Contractor shall submit a 5 lb. sample of the Crushed Rock for approval by the Engineer prior to delivery of material to the site.

The contract unit price paid per ton for "*Furnish and Install Crushed Rock*" shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all work involved in installing Crushed Rock, complete in place, including weed removal, soil preparation, shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the City Representative.

**43. FURNISH AND INSTALL TREE GRATE (BID ITEM #43)**

Tree Grate: Ironsmith 9618-2 Starburst Series 2, Size 60" x 92", material, color and finish to match existing.

The contract unit price paid per each for "*Furnish and Install Tree Grate*" shall include full compensation for all labor, materials, tools, equipment, mounting and accessories, incidentals, and for doing all work involved in furnishing and installing the tree grate as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**44. FURNISH AND INSTALL ROOT CONTROL BARRIER (BID ITEM #44)**

Root Control Barrier: UB 24-2 Root Barrier. By. DeepRoot Green Infrastructure, LLC. (1-800-452-7662) or approved equal.

The contract unit price paid per linear foot for "*Furnish and Install Root Control Barrier*" shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all work involved in installing root barrier, complete in place, including excavation and backfill, as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.

**45. FURNISH AND INSTALL BENCH (BID ITEM #45)**

Bench: Forms and Surfaces, 6-foot Camber Bench w/ Clear Anodized Extruded Aluminum Slats and Intermediate Arm Rests, Bench to be surface mounted via stainless steel anchors and mounting bolts.

Exposed Surfaces shall be Polished, sanded, or otherwise finished; all surfaces smooth, free of burrs, barbs, splinters, and sharpness; all edges and ends rolled, rounded or capped.

Assemble components in the factory to greatest extent possible to minimize field assembly. Clearly mark units for assembly in the field.

Noticeable variations in same piece are not acceptable. Variations in appearance of adjoining components are acceptable if they are within the range of approved Samples and are assembled or installed to minimize contrast.

Examine areas and conditions, with Installer present, for compliance with requirements for correct and level finish grade, mounting surfaces, installation tolerances, and other conditions affecting performance of the Work.

Proceed with installation only after unsatisfactory conditions have been corrected.

Comply with manufacturer's written installation instructions unless more stringent requirements are indicated. Complete field assembly where required.

Unless otherwise indicated, install site furnishings after landscaping and paving have been completed.

Install site furnishings level, plumb, true, and securely anchored, and positioned at locations indicated on the Plans.

If the manufacturer recommends anchoring or footing details, submit copies of the details to the City Representative for review and approval prior to construction.

The contract unit price paid per each for "Furnish and Install Bench" shall include full compensation for all labor, materials, tools, equipment, mounting and accessories, incidentals, and for doing all work involved in furnishings and installing the bench as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer and no additional payment will be made therefor.

**46. FURNISH AND INSTALL TRASH RECEPTACLE (BID ITEM #46)**

Trash Receptacle: QCP, California Round (QR-CAL2436W-A19) Latte Color, Gray (GY) Hover Lid with custom wave pattern to match existing.

The contract unit price paid per each for "*Furnish and Install Trash Receptacle*" shall include full compensation for all labor, materials, tools, equipment, mounting and accessories, incidentals, and for doing all work involved in furnishings and installing the trash receptacle as shown on the Plans, as specified in these Special Provisions, and as directed by the City Representative and no additional payment will be made therefor.

**47. CONSTRUCT SEAT WALL (BID ITEM #47) - Specialty Item**

Furnish materials, labor, transportation, services, and equipment necessary to furnish and install decorative, multi-layered architectural seat walls as indicated on the Plans and as specified herein.

Specifications and recommended practices of the American Concrete Institute (ACI), the Portland Cement Association (PCA), American Society for Testing and Materials (ASTM), and the Uniform Building Code (UBC) referred to in this Specification with their individual designations are to be considered part of this Specification.

Design and Control of Concrete Mixtures – Thirteenth Edition; Portland Cement Association.

Quality control to be maintained by licensed installers of specialty decorative, multi-layered concrete architectural walls throughout duration of project.

Concrete Subcontractor Qualifications: Provide evidence to indicate successful experience in providing walls similar to those specified herein and demonstrate successful experience.

Demonstration of experience: Provide a minimum of 2 projects within a 250-mile radius of the project site. A reference list of each of these projects including job address, phone number of project architect, contractor, and/or owner, along with 8 ½" x 11" photos of the project. One close-up to show detail and one from a distance showing the overall project. Contractor shall have installed a minimum of 2,000 LF of similar walls.

Failure to submit the information and photos shall be considered a non-responsive bid and, therefore, the bidder shall be considered non-responsive.

Supervision: On-site superintendent must have a minimum of 2-years of experience installing similar walls.

Report major discrepancies between Plans and field dimensions to Engineer prior to commencing work.

Product Data: Submit to the Engineer no later than 30 days after contract award a typed list of products specified in this Section.

Shop Drawings:

- A. Submit shop drawings for reinforcing steel and accessories in accordance with ACI standards.
- B. Architectural Cast-in-Place Jointing and Placement Sequencing Plan: Submit scaled drawings indicating the following:
  - a. Proposed sedimentary layers and vertical dimensions of each layer.
  - b. List of each material to be used and clearly indicated on elevation shop drawing.
  - c. Method(s) of assuring complete bonding of the seeded and embedded aggregate and shells to the concrete so as to provide a uniform and durable wall face and surface, free of voids, rock pockets, and loose materials, after removing cement paste to expose decorative features and layers.

Statement of Mix Design: Submit (1) copy of Statement of Mix Design prepared by batchplant servicing Project for each load delivered to Project. Statement of Mix Design to contain the following information:

- a. Name, address, and telephone number of batch plant preparing statement of mix design.
- b. Date of mix design.
- c. Project location.
- d. Contractor requesting load delivery.
- e. Mix design number.
- f. Integral color used.
- g. Gradations for sand and aggregate.
- h. Material weights, specific gravity, and absolute volumes.
- i. Basis of testing, i.e., UBC 2605 D4 and Title 24 2604 D4.
- j. Water/cement ratio.
- k. PSI rating.
- l. Signature of testing laboratory manager.

Seeded Aggregate and Shells (extra stock):

- a. One 1-pound sample of each aggregate specified.
- b. One 5-pound sample of 2" to 3" cobble
- c. One 5-pound sample of 1" to 2" cobble
- d. One 1-pound sample of pebble and shell blend ("seashore blend")

No substitutions will be allowed unless approved in writing by City Representative.

A testing agency may be designated by the City Representative. Testing personnel to meet ASTM E329 requirements.

Prior to construction, provide (1) 5-foot-long full-scale mockup as specified on Drawings. Locate mock-ups in a conveniently accessible and protected place. Approved mock-ups will be standard for future wall installation review. Do not remove mock-ups from site until project completion and approval by City Representative.

Store materials in a dry and protected location. Protect reinforcing steel and dowels from rusting, deformation, staining, and moisture damage. Keep aggregate and shells dry at all times prior to installation.

MATERIALS

A. Portland Cement

- a) Type I, IA, II, IIA, III, IIIA, IV, and V cements to conform to ASTM C150.

- b) Use same brand of cement from single source throughout entire project.
  - c) Refer to Drawings for cement type specified.
  - d) Sedimentary wall colors to be formulated by installer.
  - e) Special colors and textures are achieved with consent of the design intent of the project.
- B. Washed Concrete Sand
- a) Clean, hard, and durable washed concrete sand, conforming to ASTM C33.
  - b) Use same sand from single source throughout entire project.
- C. Coarse Aggregate
- a) Clean, hard, and durable coarse aggregate, conforming to ASTM C33.
  - b) Use same aggregate from single source throughout entire project.
- D. Aggregate and Shells
- a) Refer to Plans for specified aggregate and shell types, sizes, colors, and distribution percentages.
  - b) Aggregate and shells may vary but must be consistent with shop drawings.
- E. Water
- a) Free from deleterious materials such as oils, acids, and organic matter.
- F. Admixtures
- a) Integral Concrete Coloring Admixture: Refer to project Shop Drawings for color type. All walls incorporate project specific color systems and shall be referenced in the project submittal package after contract and verified in the close-out package to ownership.
  - b) Air Entrainment Admixtures: Conforming to ASTM C260.
  - c) Water-Reducing Admixtures: Conforming to ASTM C494.
- G. Ready Mixed Concrete
- a) Batched mixed and transported in accordance with ASTM C94 - "Specifications for Ready Mixed Concrete."
- H. Reinforcing
- a) Reinforcing Steel: Conforming to ASTM A615, clean and free of rust, dirt, grease or oils.
  - b) Tie Wire: 16-gauge plain cold-drawn steel conforming to ASTM A82, clean, and free of rust, dirt, grease or oils.
  - c) Supports for Reinforcement:
    - i. Provide supports for reinforcement including bolsters, chairs, spacers and other devices for spacing, supporting and fastening reinforcing bars in place.
    - ii. Polypropylene Fiber Reinforcement: 100% virgin multifilament polypropylene fibers, complying with ASTM C 1116 - Type III.
- I. Forming: Form materials for structural components
- a) Forms for Exposed Finish Concrete: Unless otherwise indicated, construct formwork with plywood, panel type materials to provide continuous, straight, smooth, exposed surfaces.
  - b) Furnish in largest practicable sizes to minimize number of joints and to conform to joint system shown on Contract Drawings.
  - c) Provide form material with sufficient thickness to withstand pressure of newly placed concrete without bow or deflection.

- J. Form Release Agents: Form release agents or materials that could interfere with the bond of seeded and embedded aggregates and shells will not be allowed. Contractor shall submit alternate method to assure that decorative elements (shells, aggregates, and architectural concrete) are not damaged by the removal of forms.
- K. Set Retarders, Bonding Agents, etc.: Set retarders, bonding agents, and similar materials shall be used, as necessary, between horizontal layers and on exposed surfaces to allow for bonding of successive layers of concrete and embedded and/or seeded materials to assure a durable and uniform surface, free of surface voids, rock pockets, and defects after removal of forms and exposing decorative features, including but not limited to aggregates and shells.

Skate Deterrent to be as specified on the Plans and installed per manufacturer's recommendations.

L. Design Of Mixes And Proportioning

- a) Proportion and mix of cement, aggregate, admixture and water to attain required plasticity and strength in accordance with current edition of ACI Manual of Concrete Practice and PCA "Design and Control of Concrete Mixtures."
- b) Concrete mixtures to be designed by an approved commercial testing laboratory, using approved materials to obtain specified minimum compressive strength, by owner.
- c) Concrete Mix Criteria:
  - i. Slump: minimum of 3 inch, max 8 inch to match mockup.
  - ii. Minimum PSI Rating at 28 days: 3,500.
  - iii. Maximum Water/cement ratio: 0.45.
  - iv. Coarse aggregates depending on desired appearance may vary from 1" to 3/8".
  - v. Admixtures:
    - 1. Air entrainment: 4% +/- 1%
    - 2. Fly Ash: ASTM C618 – Type F.
    - 3. Non-Chloride Accelerators: Do not use corrosive accelerators such as calcium chloride.
  - vi. Concrete Delivery: Use of concrete loads exceeding 90 minutes from time of batch plant must be approved by Engineer.
    - 1. Ensure that batch plant guarantees single source supply for cement, sand, and aggregate for the entire project.

PLACEMENT

- A. Concrete shall be placed in successive, non-uniform layers as approved by the City Representative to provide the appearance of geologic sedimentary layers, as shown on the Plans.
- B. Seeded aggregate and shells shall be placed along the outer 3" of the wall's faces and ends and gently worked into the concrete to achieve full embedment of the aggregates and the shells into the concrete layer. Work seeded and embedded aggregate toward the outer portion of the forms to assure aggregate will be visible when the wall is completed and without surface voids/rock pockets.
- C. The inner portions of the concrete layers not seeded with aggregates or shells shall be consolidated by rodding so as not to disturb the exposed layering and other decorative features.

FORM REMOVAL

- A. Upon form removal, cement past shall be removed by means approved by the City Representative to expose decorative features and geologic layering.

SURFACE REPAIRS

- A. Surface repairs shall be by means and methods proposed by the Contractor and as approved by the City Representative.

CURING

- A. After initial wall installation, cure for minimum 7 days.

SEALING

- A. Seal surface of wall surface using approved wall sealer.

Payment for all work shall be made at the contract linear foot price paid for "Construct Seat Wall" as shown on the Bid Schedule, Plans and these Specifications for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all work involved in constructing decorative seat walls, complete in place, including excavation and backfill, as shown on the plans, as specified in the Standard Specifications and these special provisions, and as directed by the City Representative.

**48. CONSTRUCT DECORATIVE PAVING FEATURE (BID ITEM #48) - Specialty Item**

Only experienced Architectural Cast-in-place Concrete installers, certified to install Lithomosaic are acceptable for this project. Acceptance of certification will be based on proof of certification & experience to be provided within 30 days after Notice to proceed. If timeframe is exceeded, or suitable certification/experience is not provided – installer will not be eligible to install project. For certified Lithomosaic installers contact Lithocrete at 800-899-9921.

Quality control to be maintained by licensed installers of LithoMosaic throughout duration of project.

Paving Subcontractor Qualifications: provide evidence to indicate successful experience in providing Lithocrete similar to that specified herein and demonstrate successful experience.

As part of the bid submittal the General Contractor shall submit background information/qualifications on his Architectural Cast-in-place Contractor certified for Lithomosaic installation. This information shall provide evidence to indicate successful experience in providing concrete work identical to that specified herein. A listing of projects shall be provided and shall be reviewed and approved as comparable projects to the specified work by the Owner or Architect prior to award of bid. Failure to provide this information or the submittal of incomplete or inaccurate information shall give cause to reject the entire bid as non-responsive and incomplete. The submittal shall provide the Owner and Architect with evidence of successful experience in Lithocrete similar to that specified herein and can demonstrate successful experience through past project documentation and references.

Demonstration of experience: provide a minimum of three (3) projects of installed Lithomosaic® totaling at least 5,000 square feet with a reference list of each containing address of installation, contact person and phone number of project's architect or owner's representation. Minimum size of each individual installation shall be 200 square feet. Provide two (2) color photos, 8" x 10" size, of each installation listed above representing the installation. Photo #1 shall show the approximate size of the installation. Photo #2 shall be taken approximately 2 to 3 feet from the paving surface. See submittals portion of this section for additional information.

Supervision: On site superintendent must have a minimum of 10 years' experience installing Architectural Cast-in-place concrete. See submittals portion of this section for additional information.

Slip Resistance: provide a finish with a slip resistance of equal or greater than 0.65 when tested by the owner in accordance with ASTM F 489.

## SUBMITTALS

- A. Product Data: Submit no later than 10 days after contract award a typed list of products specified in this Section.
- B. Submit evidence of installer qualifications, demonstration of square footage installed, number of projects, and contact information to verify experience; evidence of supervisor experience as indicated in Quality Control Section of this specification.
- C. Shop Drawings:
  - a. Paving Jointing and Pour Sequence Plan - submit six blueprints indicating the following:
    - i. Proposed layout of contraction, construction, and isolation joints. Clearly delineate the three different joint types.
    - ii. Layout of paving types as indicated on Drawing Paving Schedule. Give overall dimensions of each paving type.
- D. Statement of Mix Design: Submit (1) copy of Statement of Mix Design prepared by batch plant servicing Project for each load delivered to Project. Statement of Mix Design to contain following information:
  - a. Name, address, and telephone number of batch plant preparing statement of mix design.
  - b. Date of mix design.
  - c. Project location.
  - d. Contractor requesting load delivery.
  - e. Mix design number.
  - f. Integral color used.
  - g. Gradation for sand and aggregate.
  - h. Material weights, specific gravity, and absolute volumes.
  - i. Basis of testing, i.e. UBC 2605 D4 and Title 24 2604 D4.
  - j. Water/cement ratio.
  - k. PSI rating.

No substitutions are allowed unless approved in writing by City Representative.

A testing agency may be designated by City Representative. Testing personnel to meet ASTM E329 requirements.

Notify Owner's Authorized Representative and contractors performing work related to installation of Contractor's Work in ample time, so as to allow sufficient time for them to perform their portion of work.

Concrete pour sequence plan to be generated during preconstruction phase.

## MATERIALS

Store materials in a dry and protected location. Protect reinforcing steel and dowels from rusting, deformation, staining, and moisture damage.

Always keep Lithocrete aggregate dry prior to installation.

Use same brand of cement from single source throughout entire project.

### M. Washed Concrete Sand

- b) Clean, hard, and durable washed concrete sand, conforming to ASTM C33.
- c) Use same sand from single source throughout entire project.

### N. Coarse Aggregate

- a) Clean, hard, and durable coarse aggregate, conforming to ASTM C33.
  - b) Use same aggregate from single source throughout entire project.
- O. Water
- a) Free from deleterious materials such as oils, acids, and organic matter.
- P. Admixtures
- a) Integral Concrete Coloring Admixture: Refer to Drawings for color type and manufacturer.
  - b) Air Entrainment Admixtures: Conforming to ASTM C260.
  - c) Water Reducing Admixtures: Conforming to ASTM C494, Type A.
- Q. Ready Mixed Concrete
- a) Batched, mixed and transported in accordance with ASTM C94 - "Specifications for Ready Mixed Concrete."
- R. Reinforcing
- a) Reinforcing Steel: Conforming to ASTM A615, clean and free of rust, dirt, grease or oils.
  - b) Tie Wire: 16-gauge plain cold-drawn steel conforming to ASTM A82, clean and free of rust, dirt, grease or oils.
  - c) Supports for Reinforcement:
    - i. Provide supports for reinforcement including bolsters, chairs, spacers and other devices for spacing, supporting and fastening reinforcing bars in place.
  - d) Polypropylene Fiber Reinforcement: 100% virgin multifilament polypropylene fibers, complying with ASTM C 1116 - Type III.
    - i. Application Rate: 1/2 lb. /cy of mix.
- S. Construction Joint Dowels
- a) Construct Diamond Dowel Construction joints at modules no larger than 20'-0" x 20'-0".
  - b) Dowel schedule to match rebar schedule at a minimum spacing of 24-30"o.c.
  - c) 1/4-inch-thick diamond shaped load plate, free of dirt, grease, and oils.
- T. Fly Ash
- a) ASTM C618 - Type F.
- U. Curing Compound
- a) Concrete Curing Compound
  - b) Acceptable Manufacturers
  - c) Admixtures Inc.; Colorful Clear Curing Compound
  - d) Cure & Sealer Lithocrete® Sealer or HLQ 125.

## EXECUTIONS

- A. Subgrade
- a) Subgrade to meet requirements of project's soil report.
  - b) Ensure that a minimum 4-inch layer of FREE DRAINING graded washed aggregate or clean washed and graded concrete sand compacted to 95 percent relative compaction is placed over subgrade prior to placing concrete.
  - c) Place all aggregate base material to a smooth plane ensuring proper slab design thickness to a tolerance plus or minus 1/2".
  - d) Ensure that utilities, including irrigation lines are buried and compacted below bottom of sand layer.
  - e) Keep sand damp prior to placing concrete.
- B. Forming
- a) Be responsible for design and engineering of formwork as well as its construction.
  - b) Ensure that Work conforms to recommended practice for concrete formwork (ACI 347),

latest edition.

- c) Do not exceed 20-feet by 20-feet in a formed construction area.
- d) Ensure that form lumber is new #2 or better grade wood. Do not use used form lumber.
- e) Perform form layout with a digital electronic transit for line layout accuracy.
- f) Allow forms to remain in place long enough to allow concrete to set properly. Remove forms when appropriate.

### C. Design Of Mixes And Proportioning

- a) Proportion and mix of cement, aggregate, admixture and water to attain required plasticity and strength in accordance with current edition of ACI Manual of Concrete Practice and PCA "Design and Control of Concrete Mixtures."
- b) Concrete mixtures to be designed by an approved commercial testing laboratory, using approved materials to obtain specified minimum compressive strength.
- c) Concrete Mix Criteria:
  - a. Slump: 5-inch, with a 1/2-inch slump differential between successive batches. Obtain approval from Owner's Authorized Representative if slump is outside these parameters.
  - b. Minimum PSI Rating at 28 days: 4,000 or per soils report.
  - c. Sand: 50-55% of total mix.
  - d. Blended Gravel: 45-50% of total mix
  - e. Admixtures:
    - i. Air entrainment: Per local standards
    - ii. Shrinkage Reducing: Do not exceed 2% by weight of cement.
    - iii. Fly ash: Use only when seeding reactive Lithocrete™ aggregates such as glass and seashells or per item 2.11 above. If fly ash is not available, utilize approved equal to mitigate alkali silica reaction.
    - iv. Non-Chloride Accelerators: Do not use corrosive accelerators such as calcium chloride.
  - f. Concrete Delivery: Use of concrete loads exceeding 90 minutes from time of batch plant must be approved by Owner's Authorized Representative.
    - i. Ensure that batch plant guarantees single source supply for cement, sand, and aggregate for the entire project.
    - ii. Final mix designs shall be based on criteria above and meet critical minimum points stipulated in items 2,4, and 7 above. Other items may vary by geographical region and required certain modifications shall in no way compromise the strength and integrity of the mix design stipulated.
- d) Architectural Cast-in-Place Concrete mixes are based on Architect's design intent. The mix designs involve different Architectural Cast-in-place Lithocrete finishes as indicated in Drawings.

### LITHOMOSAIC INSTALLATION

- A. LithoMosaic® is a patented paving process. Installation of LithoMosaic must be performed by a licensed LithoMosaic installer only.
- B. Contact Lithocrete at 800-899-9921 for a licensed LithoMosaic installer in project area.

### JOINTING

- A. Refer to ACI 302 "Guide for Concrete Floor and Slab Construction" for work under this section.
- B. Construction and Contraction Joints:
  - a. Saw-cut construction and contraction joints in locations indicated on Drawings.
  - b. Perform jointing with a new diamond tip circular saw.
  - c. Joint Width: Per Drawings. Do not exceed 3/16-inch in width.

- d. Depth of sawcuts: 1/4th depth of slab.
- e. Decorative Saw-cut Joints: Per Drawing.
- f. Saw-cut joints in a straight line with no over-cutting.
- g. Use a hand tool to saw-cut up to vertical edges such as walls, steps, curbs and columns. No cutting into vertical surfaces will be allowed nor shall saw-cuts be allowed to stop short of vertical surfaces and allowed to crack at the end.
- h. All saw-cuts shall be further treated with a Soft-Cut beveled blade or sealed with structural silicone joint sealant.

#### CONSTRUCTION JOINT DOWELS

- A. Construct Diamond Dowel Construction Joints and Dowel Basket Joints at modules no larger than 20'-0" x 20'-0".
- B. Dowel schedule to match rebar schedule at a minimum spacing of 24-30"o.c.
- C. 1/4-inch-thick diamond shaped load plate, free of dirt, grease, and oils. Contact PNA Construction Technologies at (800)542-0214 or [http://www.pna-inc.com/products/square\\_dowel\\_basket/](http://www.pna-inc.com/products/square_dowel_basket/) or contact local suppliers such as White Cap.
- D. Isolation Joint Caulking:
  - a. Install isolation joint caulking to be installed under Section 07900 – Joint Sealers.

#### CURING

After LithoMosaic exposure, cure concrete for a minimum of seven (7) days without foot traffic and a minimum thirty (30) days without vehicular traffic. If a curing compound is required, refer to Section 2.12 of this specification for acceptable curing compounds for use with Lithocrete or install a moisture retaining, non-staining, non-woven, curing cover and maintain sufficient moisture under cover to provide for 100% humidity conditions at Lithocrete surface for a minimum of 7 days. Cover shall be reflective in nature to prevent excessive heat buildup under cover and allow for optimal curing conditions.

#### SEALING

- A. Seal surface of paving using Lithocrete. Sealer also apply Semco Natural Shield.
- B. Final cleaning, staining, caulking, and sealing operations shall not commence until Lithocrete surfaces have been completely and properly cured or 28 days whichever is later.
- C. Follow Lithocrete Sealer directions when applying.

The contract unit price paid per lump sum for "Decorative Paving Feature" shall include full compensation for all materials, labor, transportation, services, and equipment necessary to furnish and install Lithomosaic architectural concrete paving incorporating the patented Lithocrete process as indicated on Drawings and as specified herein and no additional payment will be made therefor.

#### **49. FURNISH AND INSTALL IRRIGATION SYSTEM (BID ITEM #49)**

Brass pipe shall be IPS standard weight 125 LB 85 percent copper and 15 percent zinc, trade designation seamless red brass pipe conforming to the requirements of ASTM B43-91. Brass pipe fittings and connections shall be Standard 125 LB class 85 percent red brass fittings and connections.

All valve boxes shall be marked "RCV", "BV" or "QC", "PB" respectively. In addition, remote control valves shall be branded with 2" station numbers. RCV boxes shall have locking covers. Other boxes such as pull boxes, etc., shall be marked with appropriate identification.

Valve box size for any particular application shall be per plan or as approved by the City Engineer, or designee.

Ball valves in sizes of 2 inches and smaller shall be all brass wedge type with integral taper seats and non-rising stem.

Ball valve sizes greater than 2 inches shall be resilient wedge, brass construction, as manufactured by Clow.

Ball valves shall have bottom-loaded pressure-retaining stems, glass-reinforced seats, and reinforced TFE stem packing seals. Valves sizes 13 mm (½") to 50 mm (2") shall be pressure rated at 4140 kPa (600 PSI) WOG and 1030 kPa (150 PSI) saturated steam. Each valve shall be tested, air under water, in the opened and closed position by the manufacturer. Ball valve must conform to Federal Specification WW V 35B, Type II, Class A, Style 3, End Connection A or C.

Pressure regulating valves for the drip irrigation system shall conform to the following:

1. Regulate and maintain constant outlet pressure between 15 and 100 psi (1.0 to 6.9 bars) within +/- 3 psi (+/- 0.2 bars).
2. Have an adjustment knob which permits fine-tune setting in 1/3 psi (0,02 bars) increments.
3. Have an ergonomic design with snap-tight cover to prevent vandalism.
4. Have a waterproof dial cartridge to eliminate fogging and binding.
5. Corrosion-resistant glass-filled nylon for rugged performance.
6. Operate in up to 200 psi (13.8 bars) and temperatures up to 150°F (66°C).
7. Regulate pressure from 15 psi to 100 psi (1,0 to 6,9 bars).
8. Be accurate to +/- 3 psi (+/- 0,2 bars).
9. Plastic housing with 150 mesh stainless steel screen.

Free standing drip emitters for the drip irrigation system shall conform to the following:

1. Device to deliver water with an outlet pressure at approximately 20 psi.
2. Have PE or vinyl body material with flow control.
3. Have PE or PVC riser emitter with flexible tubing
4. Emitter to be HE-B with IH-Riser-12 by Hunter or approved equal.

All electrical materials shall conform to the requirements of the National Electrical Code in effect at time of bid.

Low voltage electric wiring running from controller to the automatic control valves shall be no smaller than No. 14 solid single conductor, copper wire, 0.015 mm (60 mil) insulation, 0.015 mm (60 mil) neoprene jacket, style UF (Direct Burial), or equal, color code wires to each valve. Neutral wires shall be white, no smaller than No. 12 solid single conductor wire, 0.015 mm (60 mil) insulation, 0.015 mm (60 mil) neoprene jacket, style UF (Direct Burial).

Progress inspections will be performed by the City Representative for planting and irrigation system work at the designated stages during the life of the contract.

Progress inspections will not relieve the Contractor of responsibility for installation in conformance with provision in the Plans and Specifications. Work within an area shall not progress beyond each stage until the inspection has been completed, corrective work has been performed, and the work is approved, unless otherwise permitted by the Engineer.

The requirements for progress inspections will not preclude additional inspections of work by the Engineer at other times during the life of the contract.

The Contractor shall notify the City Representative, in writing, at least 4 days prior to completion of the work for each stage of an area and shall allow a minimum of 3 working days for the inspection.

Progress Inspections will be performed at the following stages of work:

1. During pressure testing of the pipelines on the supply side of control valves.
2. During testing of low voltage conductors.
3. Before planting begins and after completion of the earthwork work.
4. Before plant establishment work begins and after completion of work specified for planting in
5. At intervals of one month during the plant establishment period.

The Contractor shall not backfill any lines until such time as they have been tested and inspected and approved by the City Representative for tightness, quality of workmanship, and materials.

The Contractor shall store all pipe and fittings under cover until used, and all pipe and fittings shall be transported in a vehicle with a bed long enough to allow the length of pipe to lay flat so as not to be subjected to undue bending or concentrated external load at any point. Pipe ends and fittings shall be wiped with MEK, or equal, before welding solvent is applied. Welded joints shall be given a minimum of 15 minutes to set before moving or handling. All field cuts shall be beveled to remove burrs and excess before fitting and gluing together. The Contractor shall center load pipe with small amount of backfill to prevent arching and slipping under pressure. Joints shall be exposed for inspection during testing. Plastic-to-plastic joints shall be solvent-welded, using only solvent recommended by pipe manufacturer.

The Contractor shall cut brass piping by power hacksaw, circular cutting machine using an abrasive wheel, or hand hacksaw. No piping shall be cut with metallic wheel cutter of any description. The Contractor shall ream and remove rough edges or burrs on all pipe so that smooth and unobstructed flow is obtained, place Teflon tape, Teflon dope, or approved equal on male threads only, and tighten to prevent any leakage. The Contractor shall tighten screwed joints with tongs or wrenches. Caulking is not permitted.

The Contractor shall install each control valve in a separate valve box with a minimum of 12" separation between valves and 6" from any fixed object or structure.

The Contractor shall install no more than one valve per box.

All valve box lids shall be marked with 2" letters/numbers by "branding" method identifying the type of valve and the controller station number.

In accordance with the requirements of Section 801-5.6, all mains, laterals and irrigation lines, including risers, shall be flushed and pressure tested before installing sprinkler heads and drip emitters, after which a water coverage test shall be performed.

Sprinkler head and drip emitter spacing shall not exceed the maximum shown on the drawings or recommended by the manufacturer.

Sprinkler heads shall be installed 4 inches from adjacent vertical elements projecting above grade such as walks, planter boxes, curbs, and fences.

Sprinkler heads projecting above finish grade shall be at least 12 inches from adjacent curbs, walks, paving, and similar improvements.

Drip Irrigation tubing shall be placed subsurface to finish grade and shall be tested and inspected before being covered with soil and stabilized decomposed granite mulch.

The Contractor shall flush and adjust all irrigation heads, drip emitters, and valves for optimum performance and to prevent overspray onto walks, roadways buildings, walls, and other structures.

The Contractor shall install all portions of the electrical installation with materials and methods conforming to the requirements of the edition of the National Electrical Code in effect at time of bid. The Contractor shall provide no less than one control wire and one common ground wire to service each valve in system.

The contract unit price paid per lump sum for "*Furnish and Install Irrigation System*" shall include all items associated with the installation of a complete, functioning, tested and approved irrigation system with all appurtenances, extra parts, controllers, manuals, utility services, service cabinets, meters, valve boxes, valves, piping, permits, etc. and no additional payment shall be made therefor. Contractor shall provide a schedule of values for all irrigation materials for review by the Engineer within 10 days of notification of award of bid. The schedule of values shall include, but is not limited to, each separate item of work specified on the Plans and listed in the table below and must include type, size, and installation method for each item of work. The schedule of values shall provide the basis of payment for work beyond what is shown on the Plans. Unit prices for each type of work shall be included in the schedule of values submitted. Unit of measure on a lump sum basis shall not be included in the schedule of values.

**50. PROVIDE LANDSCAPE MAINTENANCE AND ESTABLISHMENT PERIOD (180 DAYS) (BID ITEM #50)**

After planting is completed, a field notification will be issued to the Contractor to establish the effective beginning date of the plant establishment period the plant establishment period shall be for a period of 180 calendar days and shall be extended by the City Representative if the planted areas are improperly maintained as determined at the sole discretion of the City Representative, appreciable plant replacement is required, or other corrective work becomes necessary.

The contract unit price paid per lump sum for "*Provide Landscape Maintenance and Establishment Period (180 Days)*" includes full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all work involved in maintaining the plantings and mulch areas, complete in place, as shown on the plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the City Representative.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**BLANKET ADDITIONAL INSURED**  
**(Includes Products-Completed Operations If Required By Contract)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**PROVISIONS**

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that you agree in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only:

- a. With respect to liability for "bodily injury" or "property damage" that occurs, or for "personal injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement and while that part of the contract or agreement is in effect; and
- b. If, and only to the extent that, such injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the written contract or agreement applies. Such person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.

The insurance provided to such additional insured is subject to the following provisions:

- a. If the Limits of Insurance of this Coverage Part shown in the Declarations exceed the minimum limits required by the written contract or agreement, the insurance provided to the additional insured will be limited to such minimum required limits. For the purposes of determining whether this limitation applies, the minimum limits required by the written contract or agreement will be considered to include the minimum limits of any Umbrella or Excess liability coverage required for the additional insured by that written contract or agreement. This provision will not increase the limits of insurance described in Section III – Limits Of Insurance.
- b. The insurance provided to such additional insured does not apply to:

- (1) Any "bodily injury", "property damage" or "personal injury" arising out of the providing, or failure to provide, any professional architectural, engineering or surveying services, including:

- (a) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and

- (b) Supervisory, inspection, architectural or engineering activities.

- (2) Any "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the written contract or agreement specifically requires you to provide such coverage for that additional insured during the policy period.

- c. The additional insured must comply with the following duties:

- (1) Give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

- (a) How, when and where the "occurrence" or offense took place;

- (b) The names and addresses of any injured persons and witnesses; and

- (c) The nature and location of any injury or damage arising out of the "occurrence" or offense.

- (2) If a claim is made or "suit" is brought against the additional insured:

COMMERCIAL GENERAL LIABILITY

- (a) Immediately record the specifics of the claim or "suit" and the date received; and
  - (b) Notify us as soon as practicable and see to it that we receive written notice of the claim or "suit" as soon as practicable.
- (3) Immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- (4) Tender the defense and indemnity of any claim or "suit" to any provider of other insurance which would cover such additional insured for a loss we cover. However, this condition does not affect whether the insurance provided to such additional insured is primary to other insurance available to such additional insured which covers that person or organization as a named insured as described in Paragraph 4., Other Insurance, of Section IV – Commercial General Liability Conditions.

# COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

## SECTION I – COVERAGES

### COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

#### 1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
  - (2) The "bodily injury" or "property damage" occurs during the policy period; and
  - (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
  - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
  - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

COMMERCIAL GENERAL LIABILITY

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

**2. Exclusions**

This insurance does not apply to:

**a. Expected Or Intended Injury**

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

**b. Contractual Liability**

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided that the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured will be deemed to be damages because of "bodily injury" or "property damage", provided that:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
  - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

**c. Liquor Liability**

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

**d. Workers' Compensation And Similar Laws**

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

**e. Employer's Liability**

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or
  - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

**f. Pollution**

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
  - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
    - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that

is used to heat, cool or dehumidify the building, or produced by or originating from equipment that is used to heat water for personal use by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) If such "pollutants" are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
  - (i) Any insured; or
  - (ii) Any person or organization for whom you may be legally responsible;
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
  - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed

to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or
- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are or were at any time performing operations to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
  - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

COMMERCIAL GENERAL LIABILITY

- (b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

**g. Aircraft, Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) 50 feet long or less; and
  - (b) Not being used to carry any person or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily injury" or "property damage" arising out of:
  - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify as "mobile equipment" under the definition of "mobile equipment" if such land vehicle were not subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged; or

- (b) The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or

**(6) An aircraft that is:**

- (a) Chartered with a pilot to any insured;
- (b) Not owned by any insured; and
- (c) Not being used to carry any person or property for a charge.

**h. Mobile Equipment**

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

**i. War**

"Bodily injury" or "property damage" arising out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**j. Damage To Property**

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;

- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "premises damage". A separate limit of insurance applies to "premises damage" as described in Paragraph 6. of Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

**k. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**l. Damage To Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

**m. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and

accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**n. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**o. Personal And Advertising Injury**

"Bodily injury" arising out of "personal and advertising injury".

**p. Electronic Data**

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

However, this exclusion does not apply to liability for damages because of "bodily injury".

**q. Unsolicited Communication**

"Bodily injury" or "property damage" arising out of any actual or alleged violation of any law that restricts or prohibits the sending, transmitting or distributing of "unsolicited communication".

**r. Access Or Disclosure Of Confidential Or Personal Information**

"Bodily injury" or "property damage" arising out of any access to or disclosure of any person's or organization's confidential or personal information.

**s. Asbestos**

(1) "Bodily injury" or "property damage" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the "bodily injury" or "property damage" is caused or contributed to by the hazardous properties of asbestos.

COMMERCIAL GENERAL LIABILITY

(2) "Bodily injury" or "property damage" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, and that are part of any claim or "suit" which also alleges any "bodily injury" or "property damage" described in Paragraph (1) above.

(3) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, asbestos, asbestos fibers or products containing asbestos; or

(b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, asbestos, asbestos fibers or products containing asbestos.

**t. Employment-Related Practices**

"Bodily injury" to:

(1) A person arising out of any:

(a) Refusal to employ that person;

(b) Termination of that person's employment; or

(c) Employment-related practice, policy, act or omission, such as coercion, demotion, evaluation, reassignment, discipline, failure to promote or advance, harassment, humiliation, discrimination, libel, slander, violation of the person's right of privacy, malicious prosecution or false arrest, detention or imprisonment applied to or directed at that person, regardless of whether such practice, policy, act or omission occurs, is applied or is committed before, during or after the time of that person's employment; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the

employment-related practices described in Paragraph (a), (b), or (c) above is directed.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the "bodily injury".

Exclusions c. through n. do not apply to "premises damage". A separate limit of insurance applies to "premises damage" as described in Paragraph 6. of Section III – Limits Of Insurance.

**COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY**

**1. Insuring Agreement**

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

**2. Exclusions**

This insurance does not apply to:

**a. Knowing Violation Of Rights Of Another**

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

This exclusion does not apply to "personal injury" caused by malicious prosecution.

**b. Material Published With Knowledge Of Falsity**

"Personal and advertising injury" arising out of oral or written publication, including publication by electronic means, of material, if done by or at the direction of the insured with knowledge of its falsity.

**c. Material Published Or Used Prior To Policy Period**

(1) "Personal and advertising injury" arising out of oral or written publication, including publication by electronic means, of material whose first publication took place before the beginning of the policy period; or

(2) "Advertising injury" arising out of infringement of copyright, "title" or "slogan" in your "advertisement" whose first infringement in your "advertisement" was committed before the beginning of the policy period.

**d. Criminal Acts**

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

**e. Contractual Liability**

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages:

(1) That the insured would have in the absence of the contract or agreement; or

(2) Because of "personal injury" assumed by you in a contract or agreement that is an "insured contract", provided that the "personal injury" is caused by an offense committed subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed by you in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured will be deemed to be damages because of "personal injury", provided that:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed by you in the same "insured contract"; and

(b) Such attorneys' fees and litigation expenses are for defense of that party

against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

**f. Breach Of Contract**

"Advertising injury" arising out of a breach of contract.

**g. Quality Or Performance Of Goods – Failure To Conform To Statements**

"Advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

**h. Wrong Description Of Prices**

"Advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

**i. Intellectual Property**

"Personal and advertising injury" arising out of any actual or alleged infringement or violation of any of the following rights or laws, or any other "personal and advertising injury" alleged in any claim or "suit" that also alleges any such infringement or violation:

(1) Copyright;

(2) Patent;

(3) Trade dress;

(4) Trade name;

(5) Trademark;

(6) Trade secret; or

(7) Other intellectual property rights or laws.

This exclusion does not apply to:

(1) "Advertising injury" arising out of any actual or alleged infringement or violation of another's copyright, "title" or "slogan" in your "advertisement"; or

(2) Any other "personal and advertising injury" alleged in any claim or "suit" that also alleges any such infringement or violation of another's copyright, "title" or "slogan" in your "advertisement".

**j. Insureds In Media And Internet Type Businesses**

"Personal and advertising injury" caused by an offense committed by an insured whose business is:

(1) Advertising, "broadcasting" or publishing;

COMMERCIAL GENERAL LIABILITY

(2) Designing or determining content of websites for others; or

(3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs a.(1), (2) and (3) of the definition of "personal injury".

For the purposes of this exclusion:

(1) Creating and producing correspondence written in the conduct of your business, bulletins, financial or annual reports, or newsletters about your goods, products or services will not be considered the business of publishing; and

(2) The placing of frames, borders or links, or advertising, for you or others anywhere on the Internet will not, by itself, be considered the business of advertising, "broadcasting" or publishing.

**k. Electronic Chatrooms Or Bulletin Boards**

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts or owns, or over which the insured exercises control.

**l. Unauthorized Use Of Another's Name Or Product**

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

**m. Pollution**

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

**n. Pollution-Related**

Any loss, cost or expense arising out of any:

(1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(2) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or

neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

**o. War**

"Personal and advertising injury" arising out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**p. Unsolicited Communication**

"Personal and advertising injury" arising out of any actual or alleged violation of any law that restricts or prohibits the sending, transmitting or distributing of "unsolicited communication".

**q. Access Or Disclosure Of Confidential Or Personal Information**

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information.

**r. Asbestos**

(1) "Personal and advertising injury" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the "personal and advertising injury" is caused or contributed to by the hazardous properties of asbestos.

(2) "Personal and advertising injury" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, and that are part of any claim or "suit" which also alleges any "personal and advertising injury" described in Paragraph (1) above.

(3) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or

assess the effects of, asbestos, asbestos fibers or products containing asbestos; or

- (b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, asbestos, asbestos fibers or products containing asbestos.

**s. Employment-Related Practices**

"Personal injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practice, policy, act or omission, such as coercion, demotion, evaluation, reassignment, discipline, failure to promote or advance, harassment, humiliation, discrimination, libel, slander, violation of the person's right of privacy, malicious prosecution or false arrest, detention or imprisonment applied to or directed at that person, regardless of whether such practice, policy, act or omission occurs, is applied or is committed before, during or after the time of that person's employment; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal injury" to that person at whom any of the employment-related practices described in Paragraph (a), (b), or (c) above is directed.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the "personal injury".

**COVERAGE C – MEDICAL PAYMENTS**

**1. Insuring Agreement**

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
  - (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or

- (3) Because of your operations; provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
- (b) The expenses are incurred and reported to us within one year of the date of the accident; and
- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

**2. Exclusions**

We will not pay expenses for "bodily injury":

- a. **Any Insured**  
To any insured, except "volunteer workers".
- b. **Hired Person**  
To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. **Injury On Normally Occupied Premises**  
To a person injured on that part of premises you own or rent that the person normally occupies.
- d. **Workers' Compensation And Similar Laws**  
To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- e. **Athletics Activities**  
To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.
- f. **Products-Completed Operations Hazard**  
Included within the "products-completed operations hazard".
- g. **Coverage A Exclusions**  
Excluded under Coverage A.

COMMERCIAL GENERAL LIABILITY

**SUPPLEMENTARY PAYMENTS**

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$2,500 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
- e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been

assumed by the insured in the same "insured contract";

- d. The allegations in the "suit" and the information we know about the "occurrence" or offense are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
  - (1) Agrees in writing to:
    - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
    - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
    - (c) Notify any other insurer whose coverage is available to the indemnitee; and
    - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
  - (2) Provides us with written authorization to:
    - (a) Obtain records and other information related to the "suit"; and
    - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverages – Coverage A – Bodily Injury And Property Damage Liability or Paragraph 2.e. of Section I – Coverages – Coverage B – Personal And Advertising Injury Liability, such payments will not be deemed to be damages for "bodily injury", "property damage" or "personal injury", and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

**SECTION II – WHO IS AN INSURED**

- 1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
  - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

- 2. Each of the following is also an insured:
  - a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

- (1) "Bodily injury" or "personal injury":
  - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer

workers" while performing duties related to the conduct of your business;

- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

- (2) "Property damage" to property:
  - (a) Owned, occupied or used by;
  - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;
    - you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
- b. Any person (other than your "employee" or "volunteer worker"), or any organization, while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only:
  - (1) With respect to liability arising out of the maintenance or use of that property; and
  - (2) Until your legal representative has been appointed.

COMMERCIAL GENERAL LIABILITY

- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
  - e. Any person or organization that, with your express or implied consent, either uses or is responsible for the use of a watercraft that you do not own that is:
    - (1) 50 feet long or less; and
    - (2) Not being used to carry any person or property for a charge.
3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
  - b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph 1. of Section II – Who Is An Insured, each such organization will be deemed to be designated in the Declarations as:

- a. An organization, other than a partnership, joint venture or limited liability company; or
  - b. A trust;
- as indicated in its name or the documents that govern its structure.
4. Any person or organization that is a premises owner, manager or lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that:
- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement; and

- b. Arises out of the ownership, maintenance or use of that part of any premises leased to you.

The insurance provided to such premises owner, manager or lessor is subject to the following provisions:

- a. The limits of insurance provided to such premises owner, manager or lessor will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such premises owner, manager or lessor does not apply to:
  - (1) Any "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or
  - (2) Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, manager or lessor.

5. Any person or organization that is an equipment lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" that:
- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement; and
  - b. Is caused, in whole or in part, by your acts or omissions in the maintenance, operation or use of equipment leased to you by such equipment lessor.

The insurance provided to such equipment lessor is subject to the following provisions:

- a. The limits of insurance provided to such equipment lessor will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such equipment lessor does not apply to any "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense that is committed, after the equipment lease expires.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint

venture or limited liability company that is not shown as a Named Insured in the Declarations. This paragraph does not apply to any such partnership, joint venture or limited liability company that otherwise qualifies as an insured under Section II – Who Is An Insured.

### SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
  - a. Medical expenses under Coverage C;
  - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
  - c. Damages under Coverage B.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal injury" and "advertising injury" sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
  - a. Damages under Coverage A; and
  - b. Medical expenses under Coverage C;

because of all "bodily injury" and "property damage" arising out of any one "occurrence".

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".
6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "premises damage" to any one premises. The Damage To Premises Rented To You Limit will be:

- a. The amount shown for the Damage To Premises Rented To You Limit in the Declarations of this Coverage Part; or
  - b. \$300,000 if no amount is shown for the Damage To Premises Rented To You Limit in the Declarations of this Coverage Part.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

#### 1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

#### 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
  - (1) How, when and where the "occurrence" or offense took place;
  - (2) The names and addresses of any injured persons and witnesses; and
  - (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against any insured, you must:
  - (1) Immediately record the specifics of the claim or "suit" and the date received; and
  - (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. You and any other involved insured must:
  - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

COMMERCIAL GENERAL LIABILITY

- (2) Authorize us to obtain records and other information;
  - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
  - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.
- e. The following provisions apply to Paragraph a. above, but only for purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph 1. or 2. of Section II – Who Is An Insured:
- (1) Notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known to you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture, or limited liability company), any of your trustees who is an individual (if you are a trust) or any "employee" authorized by you to give notice of an "occurrence" or offense.
  - (2) If you are a partnership, joint venture, limited liability company or trust, and none of your partners, joint venture members, managers or trustees are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by:
    - (a) Any individual who is:
      - (i) A partner or member of any partnership or joint venture;
      - (ii) A manager of any limited liability company;

(iii) An executive officer or director of any other organization; or

(iv) A trustee of any trust;

that is your partner, joint venture member, manager or trustee; or

(b) Any employee authorized by such partnership, joint venture, limited liability company, trust or other organization to give notice of an "occurrence" or offense.

(3) Notice to us of such "occurrence" or offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraph e.(1) or (2) above discovers that the "occurrence" or offense may result in sums to which the insurance provided under this Coverage Part may apply.

However, if this policy includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its abrupt commencement, this Paragraph e. does not affect that requirement.

**3. Legal Action Against Us**

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured, and the claimant or the claimant's legal representative.

**4. Other Insurance**

If valid and collectible other insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as described in Paragraphs **a.** and **b.** below.

As used anywhere in this Coverage Part, other insurance means insurance, or the funding of losses, that is provided by, through or on behalf of:

- (i) Another insurance company;
- (ii) Us or any of our affiliated insurance companies, except when the Non cumulation of Each Occurrence Limit provision of Paragraph **5.** of Section **III – Limits Of Insurance** or the Non cumulation of Personal and Advertising Injury Limit provision of Paragraph **4.** of Section **III – Limits of Insurance** applies because the Amendment – Non Cumulation Of Each Occurrence Limit Of Liability And Non Cumulation Of Personal And Advertising Injury Limit endorsement is included in this policy;

(iii) Any risk retention group; or

(iv) Any self-insurance method or program, in which case the insured will be deemed to be the provider of other insurance.

Other insurance does not include umbrella insurance, or excess insurance, that was bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

As used anywhere in this Coverage Part, other insurer means a provider of other insurance. As used in Paragraph **c.** below, insurer means a provider of insurance.

**a. Primary Insurance**

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below, except when Paragraph **d.** below applies.

**b. Excess Insurance**

(1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
  - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(ii) That is insurance for "premises damage";

(iii) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to any exclusion in this Coverage Part that applies to aircraft, "autos" or watercraft;

(iv) That is insurance available to a premises owner, manager or lessor that qualifies as an insured under Paragraph **4.** of Section **II – Who Is An Insured**, except when Paragraph **d.** below applies; or

(v) That is insurance available to an equipment lessor that qualifies as an insured under Paragraph **5.** of Section **II – Who Is An Insured**, except when Paragraph **d.** below applies.

(b) Any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured, or is any other insured that does not qualify as a named insured, under such other insurance.

(2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) The total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

COMMERCIAL GENERAL LIABILITY

**c. Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**d. Primary And Non-Contributory Insurance If Required By Written Contract**

If you specifically agree in a written contract or agreement that the insurance afforded to an insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such insured which covers such insured as a named insured, and we will not share with that other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal and advertising injury" for which coverage is sought is caused by an offense that is committed;

subsequent to the signing of that contract or agreement by you.

**5. Premium Audit**

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

**6. Representations**

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

**7. Separation Of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

**8. Transfer Of Rights Of Recovery Against Others To Us**

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

**9. When We Do Not Renew**

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

**SECTION V – DEFINITIONS**

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
  - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
  - b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

2. "Advertising injury":
  - a. Means injury caused by one or more of the following offenses:
    - (1) Oral or written publication, including publication by electronic means, of material in your "advertisement" that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that the claim is made or the "suit" is brought by a person or organization that claims to have been slandered or libeled, or that claims to have had its goods, products or services disparaged;
    - (2) Oral or written publication, including publication by electronic means, of material in your "advertisement" that:
      - (a) Appropriates a person's name, voice, photograph or likeness; or
      - (b) Unreasonably places a person in a false light; or
    - (3) Infringement of copyright, "title" or "slogan" in your "advertisement", provided that the claim is made or the "suit" is brought by a person or organization that claims ownership of such copyright, "title" or "slogan".
  - b. Includes "bodily injury" caused by one or more of the offenses described in Paragraph a. above.
3. "Auto" means:
  - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
  - b. Any other land vehicle that is subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".
4. "Bodily injury" means:
  - a. Physical harm, including sickness or disease, sustained by a person; or
  - b. Mental anguish, injury or illness, or emotional distress, resulting at any time from such physical harm, sickness or disease.
5. "Broadcasting" means transmitting any audio or visual material for any purpose:
  - a. By radio or television; or
  - b. In, by or with any other electronic means of communication, such as the Internet, if that material is part of:
    - (1) Radio or television programming being transmitted;
    - (2) Other entertainment, educational, instructional, music or news programming being transmitted; or
    - (3) Advertising transmitted with any of such programming.
6. "Coverage territory" means:
  - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
  - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
  - c. All other parts of the world if the injury or damage arises out of:
    - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
    - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
    - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication; provided the insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in Paragraph a. above, or in a settlement we agree to.
7. "Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.

COMMERCIAL GENERAL LIABILITY

**10.** "Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.

**11.** "Hostile fire" means a fire which becomes uncontrollable or breaks out from where it was intended to be.

**12.** "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.

**13.** "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for "premises damage" is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury", "property damage" or "personal injury" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle,

tracks, roadbeds, tunnel, underpass or crossing;

(2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (2) above and supervisory, inspection, architectural or engineering activities.

**14.** "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

**15.** "Loading or unloading" means the handling of property:

a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

b. While it is in or on an aircraft, watercraft or "auto"; or

c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

**16.** "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

b. Vehicles maintained for use solely on or next to premises you own or rent;

c. Vehicles that travel on crawler treads;

- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
- (1) Power cranes, shovels, loaders, diggers or drills; or
  - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
- (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
  - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.
- However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
- (1) Equipment designed primarily for:
    - (a) Snow removal;
    - (b) Road maintenance, but not construction or resurfacing; or
    - (c) Street cleaning;
  - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
  - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
- However, "mobile equipment" does not include any land vehicle that is subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged. Such land vehicles are considered "autos".
17. "Occurrence" means:
- a. An accident, including continuous or repeated exposure to substantially the same general harmful conditions; or
  - b. An act or omission committed in providing or failing to provide first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.
18. "Personal and advertising injury" means "personal injury" or "advertising injury".
19. "Personal injury":
- a. Means injury, other than "advertising injury", caused by one or more of the following offenses:
    - (1) False arrest, detention or imprisonment;
    - (2) Malicious prosecution;
    - (3) The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, provided that the wrongful eviction, wrongful entry or invasion of the right of private occupancy is committed by or on behalf of the owner, landlord or lessor of that room, dwelling or premises;
    - (4) Oral or written publication, including publication by electronic means, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that the claim is made or the "suit" is brought by a person or organization that claims to have been slandered or libeled, or that claims to have had its goods, products or services disparaged; or
    - (5) Oral or written publication, including publication by electronic means, of material that:
      - (a) Appropriates a person's name, voice, photograph or likeness; or
      - (b) Unreasonably places a person in a false light.
  - b. Includes "bodily injury" caused by one or more of the offenses described in Paragraph a. above.
20. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

COMMERCIAL GENERAL LIABILITY

**21. "Premises damage" means:**

a. With respect to the first paragraph of the exceptions in Exclusion j. of Section I – Coverage A – Bodily Injury And Property Damage Liability, "property damage" to any premises while rented to you for a period of seven or fewer consecutive days, including the contents of such premises; or

b. With respect to the exception to Exclusions c. through n. in the last paragraph of Paragraph 2. of Section I – Coverage A – Bodily Injury And Property Damage Liability, "property damage" to any premises while rented to you for a period of more than seven consecutive days, or while temporarily occupied by you with permission of the owner, caused by:

- (1) Fire;
- (2) Explosion;
- (3) Lightning;
- (4) Smoke resulting from fire, explosion or lightning; or
- (5) Water.

But "premises damage" under this Paragraph b. does not include "property damage" to any premises caused by:

- (1) Rupture, bursting, or operation of pressure relief devices;
- (2) Rupture or bursting due to expansion or swelling of the contents of any building or structure caused by or resulting from water; or
- (3) Explosion of steam boilers, steam pipes, steam engines or steam turbines.

**22. "Products-completed operations hazard":**

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
  - (a) When all of the work called for in your contract has been completed.
  - (b) When all of the work to be done at the job site has been completed if your

contract calls for work at more than one job site.

(c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

**23. "Property damage" means:**

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use will be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use will be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, "electronic data" is not tangible property.

**24. "Slogan":**

- a. Means a phrase that others use for the purpose of attracting attention in their advertising.
- b. Does not include a phrase used as, or in, the name of:
  - (1) Any person or organization, other than you; or
  - (2) Any business, or any of the premises, goods, products, services or work, of any person or organization, other than you.

- 25.** "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
  - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
- 26.** "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- 27.** "Title" means a name of a literary or artistic work.
- 28.** "Unsolicited communication" means any communication, in any form, that the recipient of such communication did not specifically request to receive.
- 29.** "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
- 30.** "Your product":
- a. Means:
    - (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
      - (a) You;
      - (b) Others trading under your name; or
      - (c) A person or organization whose business or assets you have acquired; and
    - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
  - b. Includes:
    - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
    - (2) The providing of or failure to provide warnings or instructions.
  - c. Does not include vending machines or other property rented to or located for the use of others but not sold.
- 31.** "Your work":
- a. Means:
    - (1) Work or operations performed by you or on your behalf; and
    - (2) Materials, parts or equipment furnished in connection with such work or operations.
  - b. Includes:
    - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
    - (2) The providing of or failure to provide warnings or instructions.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DESIGNATED PERSON OR ORGANIZATION – NOTICE OF CANCELLATION PROVIDED BY US**

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

	<b>SCHEDULE</b>	
<b>CANCELLATION:</b>	<b>Number of Days Notice:</b>	<b>30</b>

**PERSON OR ORGANIZATION:**  
ANY PERSON OR ORGANIZATION  
CONTINUED ON IL T8 03

**ADDRESS:**  
CONTINUED ON IL T8 03

SANTEE  
CA  
92071-4378

### **PROVISIONS**

If we cancel this policy for any legally permitted reason other than nonpayment of premium, and a number of days is shown for Cancellation in the Schedule above, we will mail notice of cancellation to the person or organization shown in such Schedule. We will mail such notice to the address shown in the Schedule above at least the number of days shown for Cancellation in such Schedule before the effective date of cancellation.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **BUSINESS AUTO EXTENSION ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### **BUSINESS AUTO COVERAGE FORM**

**GENERAL DESCRIPTION OF COVERAGE** – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li><b>A. BROAD FORM NAMED INSURED</b></li> <li><b>B. BLANKET ADDITIONAL INSURED</b></li> <li><b>C. EMPLOYEE HIRED AUTO</b></li> <li><b>D. EMPLOYEES AS INSURED</b></li> <li><b>E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS</b></li> <li><b>F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS</b></li> <li><b>G. WAIVER OF DEDUCTIBLE – GLASS</b></li> </ul> | <ul style="list-style-type: none"> <li><b>H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT</b></li> <li><b>I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT</b></li> <li><b>J. PERSONAL PROPERTY</b></li> <li><b>K. AIRBAGS</b></li> <li><b>L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS</b></li> <li><b>M. BLANKET WAIVER OF SUBROGATION</b></li> <li><b>N. UNINTENTIONAL ERRORS OR OMISSIONS</b></li> </ul> |
|---|---|

### **PROVISIONS**

#### **A. BROAD FORM NAMED INSURED**

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

#### **B. BLANKET ADDITIONAL INSURED**

The following is added to Paragraph **c.** in **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which

this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

#### **C. EMPLOYEE HIRED AUTO**

1. The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. The following replaces Paragraph **b.** in **B.5., Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

**b.** For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1)** Any covered "auto" you lease, hire, rent or borrow; and
- (2)** Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your

COMMERCIAL AUTO

permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

**D. EMPLOYEES AS INSURED**

The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

**E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS**

1. The following replaces Paragraph A.2.a.(2), of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph A.2.a.(4), of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

**F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS**

The following replaces Subparagraph (5) in Paragraph B.7., **Policy Period, Coverage Territory**, of SECTION IV – BUSINESS AUTO CONDITIONS:

(5) Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or within such country or jurisdiction, for Covered Autos Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

(a) With respect to any claim made or "suit" brought outside the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada:

(i) You must arrange to defend the "insured" against, and investigate or settle any such claim or "suit" and keep us advised of all proceedings and actions.

(ii) Neither you nor any other involved "insured" will make any settlement without our consent.

(iii) We may, at our discretion, participate in defending the "insured" against, or in the settlement of, any claim or "suit".

(iv) We will reimburse the "insured" for sums that the "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, that the "insured" pays with our consent, but only up to the limit described in Paragraph C., **Limits Of Insurance**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE.

(v) We will reimburse the "insured" for the reasonable expenses incurred with our consent for your investigation of such claims and your defense of the "insured" against any such "suit", but only up to and included within the limit described in Paragraph C., **Limits Of Insurance**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE, and not in addition to such limit. Our duty to make such payments ends when we have used up the applicable limit of insurance in payments for damages, settlements or defense expenses.

(b) This insurance is excess over any valid and collectible other insurance available to the "insured" whether primary, excess, contingent or on any other basis.

(c) This insurance is not a substitute for required or compulsory insurance in any country outside the United States, its territories and possessions, Puerto Rico and Canada.

You agree to maintain all required or compulsory insurance in any such country up to the minimum limits required by local law. Your failure to comply with compulsory insurance requirements will not invalidate the coverage afforded by this policy, but we will only be liable to the same extent we would have been liable had you complied with the compulsory insurance requirements.

- (d) It is understood that we are not an admitted or authorized insurer outside the United States of America, its territories and possessions, Puerto Rico and Canada. We assume no responsibility for the furnishing of certificates of insurance, or for compliance in any way with the laws of other countries relating to insurance.

**G. WAIVER OF DEDUCTIBLE – GLASS**

The following is added to Paragraph **D.**, **Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

**H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT**

The following replaces the last sentence of Paragraph **A.4.b.**, **Loss Of Use Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

However, the most we will pay for any expenses for loss of use is \$65 per day, to a maximum of \$750 for any one "accident".

**I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT**

The following replaces the first sentence in Paragraph **A.4.a.**, **Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

**J. PERSONAL PROPERTY**

The following is added to Paragraph **A.4.**, **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

**Personal Property**

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

- (1) Owned by an "insured"; and

- (2) In or on your covered "auto".

This coverage applies only in the event of a total theft of your covered "auto".

No deductibles apply to this Personal Property coverage.

**K. AIRBAGS**

The following is added to Paragraph **B.3.**, **Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion **3.a.** does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs **A.1.b.** and **A.1.c.**, but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

**L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS**

The following is added to Paragraph **A.2.a.**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (a) You (if you are an individual);
- (b) A partner (if you are a partnership);
- (c) A member (if you are a limited liability company);
- (d) An executive officer, director or insurance manager (if you are a corporation or other organization); or
- (e) Any "employee" authorized by you to give notice of the "accident" or "loss".

**M. BLANKET WAIVER OF SUBROGATION**

The following replaces Paragraph **A.5.**, **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

**5. Transfer Of Rights Of Recovery Against Others To Us**

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by

COMMERCIAL AUTO

such contract. The waiver applies only to the person or organization designated in such contract.

**N. UNINTENTIONAL ERRORS OR OMISSIONS**

The following is added to Paragraph B.2., **Concealment, Misrepresentation, Or Fraud**, of SECTION IV – BUSINESS AUTO CONDITIONS:

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**BLANKET ADDITIONAL INSURED – PRIMARY AND  
NON-CONTRIBUTORY WITH OTHER INSURANCE –  
CONTRACTORS**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

**PROVISIONS**

1. The following is added to Paragraph c. in A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

This includes any person or organization who you are required under a written contract or agreement, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that person's or organization's liability for the conduct of another "insured".

2. The following is added to Paragraph B.5., **Other Insurance** of SECTION IV – BUSINESS AUTO CONDITIONS:

Regardless of the provisions of paragraph a. and paragraph d. of this part 5. **Other Insurance**, this insurance is primary to and non-contributory with applicable other insurance under which an additional insured person or organization is a named insured when a written contract or agreement with you, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.

THE CITY  
OF  
IMPERIAL  
BEACH

(619) 628-1423  
FAX (619) 424-3481

825 IMPERIAL BEACH BOULEVARD ♦ IMPERIAL BEACH, CA ♦ 91932



## WORKER'S COMPENSATION DECLARATION

I hereby affirm, under penalty of perjury, one of the following declarations:

       I have and will maintain a certificate of consent to self insure for worker's compensation, as provided by Section 3700, for the duration of any business activities conducted for which this license is issued.

  X   I have and will maintain worker's compensation insurance, as required by Section 3700, for the duration of any business activities conducted for which this license is issued.

My worker's compensation insurance carrier and policy number are:

Carrier: Travelers Indemnity Company

Policy Number: UB3T414750

       I certify in the performance of any business activities for which this license is issued I shall not employ any person in any manner so as to become subject to the worker's compensation laws of California, and agree if I should become subject to worker's compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with the provisions of Section 3700.

Date: 12/05/2023

Applicant:   
Brian Fordyce, President

**WARNING:** FAILURE TO SECURE WORKER'S COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO \$100,000.00 IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

**Roberta Otero**

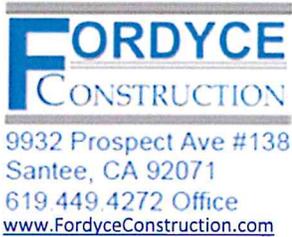
---

**Subject:** FW: City of Imperial Beach 10th Streetscape Enhancement bid

**From:** Brian Fordyce <bfordyce@fordyceconstruction.com>  
**Sent:** Thursday, November 2, 2023 3:42 PM  
**To:** Roberta Otero <rotero@imperialbeachca.gov>; Admin <admin@fordyceconstruction.com>  
**Cc:** Paul Macias <pmacias@imperialbeachca.gov>; Juan Larios <jlarios@imperialbeachca.gov>  
**Subject:** RE: City of Imperial Beach 10th Streetscape Enhancement bid

We agree to the correction in the total as described below.

Thanks,  
Brian Fordyce



**From:** Roberta Otero <rotero@imperialbeachca.gov>  
**Sent:** Thursday, November 2, 2023 3:37 PM  
**To:** Admin <admin@fordyceconstruction.com>  
**Cc:** Paul Macias <pmacias@imperialbeachca.gov>; Juan Larios <jlarios@imperialbeachca.gov>  
**Subject:** City of Imperial Beach 10th Streetscape Enhancement bid

Good Afternoon,

In Reviewing your bid for the 10<sup>th</sup> Streetscape project we did find one calculation discrepancy on line item 32; please see as follows:

32	0.50 CY	Rip Rap at <u>four hundred thirty dollars</u> per CY	\$ <u>430</u> per CY	\$ <u>2,150</u>
----	---------	--	-------------------------	-----------------

The correct calculation for the total price would be: .50 x \$430 = \$215.00

**This change would bring your total bid price from \$1,173,620 to \$1,171,685.**

Please confirm that Fordyce is in agreement with the change in bid price with the correction to the calculation to line item 32.

Thank you,



Bobbi Otero  
Senior Management Analyst  
City of Imperial Beach Public Works Department  
495 10<sup>th</sup> St.  
Imperial Beach, CA 91932

Mailing Address:  
City of Imperial Beach  
825 Imperial Beach Blvd.  
Imperial Beach, CA 91932

(619) 423-3728 direct | (619) 429-4861 fax  
[rotero@imperialbeachca.gov](mailto:rotero@imperialbeachca.gov) | [www.ImperialBeachCA.gov](http://www.ImperialBeachCA.gov)

Bids/RFP's/RFQ's:

[www.ImperialBeachCA.gov/cip\\_projects](http://www.ImperialBeachCA.gov/cip_projects)



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