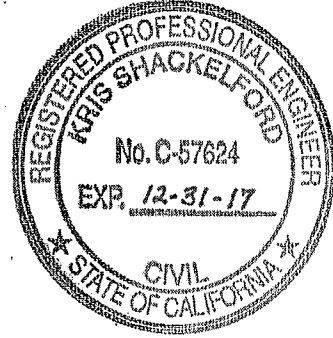


ENGINEER OF WORK

The engineering Specifications and Special Provisions contained herein have been prepared by or under the direction of the following Registered Engineer:



Kris Shackelford
For City Engineer

2-4-16
Date

Seal:

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CITY OF SAN DIEGO, CALIFORNIA

GENERAL INSTRUCTIONS

1. DESCRIPTION OF WORK:

1.1. The Work involves furnishing all labor, materials, equipment, services, and other incidental works and appurtenances for the purpose of designing and constructing this emergency project at the direction of the City Engineer.

1.2. The Work consists of the following:

Emergency Storm Drain Replacement at 2308 Langmuir Street: The work and shall include but not limited to the replacement of approximately 85 feet of damaged/deteriorated 15 inch corrugated metal storm drain pipe with new 18 inch reinforced concrete pipe (RCP) within the existing 10-foot wide easement. Installation of an energy dissipator, replacing in kind the existing curb inlet, sidewalk, curb and gutter, existing concrete driveway and patio, fencing and any disturbed landscape area. Coordinate with SDG&E to secure power pole at location. Contractor shall retain a sub consultant to design the energy dissipator and submit to the City for approval prior to Construction. Refer to figure 1 in Exhibit M which shows the modification to sheet 2 of construction drawing # D-37700 and limits of work. All staging activities would occur within the developed public right-of-way and disturbed areas. Contractor shall provide WPCP and traffic control working drawings.

Emergency Storm Drain Repairs at 1516 Acheson Street: The work and shall include but not limited to the replacement of the existing collapsed section of the storm drain pipe with a new High Density Polyethylene Pipe (HDPE)/PVC pipe within the existing 8-foot wide City easement. Replace in kind any disturbed landscaped areas, concrete patio and walkway path if needed. All staging activities would occur within the developed public right-of-way and disturbed areas. Contractor shall provide WPCP and traffic control working drawings.

1.3. This solicitation is for a “Time-and-Materials” contract in accordance with the provisions set forth in 3-2.4, “Agreed Prices” of The GREENBOOK.

1.4. A time-and-materials contract provides for acquiring labor, material, equipment and services that shall be paid for in accordance with 3-3, “EXTRA WORK” of The GREENBOOK and as modified by The WHITEBOOK.

2. CONTRACTOR REGISTRATION AND ELECTRONIC REPORTING SYSTEM:

2.1. **Prior** to the Award of the Contract or each Task Order, you and your Subcontractors and Suppliers must register with the City’s web-based vendor registration and bid management system. For additional information go to:

<http://www.sandiego.gov/purchasing/bids-contracts/vendorreg.shtml>.

- 2.2. The City may not award the contract until registration of all subcontractors and suppliers is complete. In the event this requirement is not met within the time frame specified in the Notice of Intent to Award letter, the City reserves the right to rescind the Notice of Award / Intent to Award and to make the award to the next responsive and responsible bidder / proposer.

3. EQUAL OPPORTUNITY.

- 3.1. DELETE the entire Chapter 10, Sections D and E of the WHITEBOOK and SUBSTITUTE with the following:

D. CITY'S EQUAL OPPORTUNITY COMMITMENT.

1. Nondiscrimination in Contracting Ordinance.

1. The Contractor, Subcontractors and Suppliers shall comply with requirements of the City's Nondiscrimination in Contracting Ordinance, San Diego Municipal Code §§22.3501 through 22.3517.

The Contractor shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. The Contractor shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. The Contractor understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions.

The Contractor shall include the foregoing clause in all contracts between the Contractor and Subcontractors and Suppliers.

2. Disclosure of Discrimination Complaints. As part of its Bid or Proposal, the Bidder shall provide to the City a list of all instances within the past 10 years where a complaint was filed or pending against Bidder in a legal or administrative proceeding alleging that Bidder discriminated against its employees, subcontractors, vendors, or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.
3. Upon the City's request, the Contractor agrees to provide to the City, within 60 days, a truthful and complete list of the names of all Subcontractors and Suppliers that the Contractor has used in the past 5 years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by the Contractor for each subcontract or supply contract.

4. The Contractor further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance, Municipal Code §§22.3501 through 22.3517. The Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result in remedies being ordered against the Contractor up to and including contract termination, debarment and other sanctions for violation of the provisions of the Nondiscrimination in Contracting Ordinance. The Contractor further understands and agrees that the procedures, remedies and sanctions provided for in the Nondiscrimination in Contracting Ordinance apply only to violations of the Ordinance.

E. EQUAL EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM.

1. The Contractor, Subcontractors and Suppliers shall comply with the City's Equal Employment Opportunity Outreach Program, San Diego Municipal Code §§22.2701 through 22.2707.

The Contractor shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Contractor shall provide equal opportunity in all employment practices. Prime Contractor shall ensure their subcontractors comply with this program. Nothing in this section shall be interpreted to hold a prime contractor liable for any discriminatory practice of its subcontractors.

The Contractor shall include the foregoing clause in all contracts between the Contractor and Subcontractors and Suppliers.

2. If the Contract is competitively solicited, the selected Bidder shall submit a Work Force Report (Form BB05), within 10 Working Days after receipt by the Bidder of Contract forms to the City for approval as specified in the Notice of Intent to Award letter from the City.
3. If a Work Force Report is submitted, and the City determines there are under-representations when compared to County Labor Force Availability data, the selected Bidder shall submit an Equal Employment Opportunity Plan.
4. If the selected Bidder submits an Equal Employment Opportunity Plan, it shall include the following assurances:
 1. The Contractor shall maintain a working environment free of discrimination, harassment, intimidation and coercion at all sites and in all facilities at which the Contractor's employees are assigned to work.
 2. The Contractor reviews its EEO Policy, at least annually, with all on-site supervisors involved in employment decisions.

3. The Contractor disseminates and reviews its EEO Policy with all employees at least once a year, posts the policy statement and EEO posters on all company bulletin boards and job sites, and documents every dissemination, review and posting with a written record to identify the time, place, employees present, subject matter, and disposition of meetings.
4. The Contractor reviews, at least annually, all supervisors' adherence to and performance under the EEO Policy and maintains written documentation of these reviews.
5. The Contractor discusses its EEO Policy Statement with subcontractors with whom it anticipates doing business, includes the EEO Policy Statement in its subcontracts, and provides such documentation to the City upon request.
6. The Contractor documents and maintains a record of all bid solicitations and outreach efforts to and from subcontractors, contractor associations and other business associations.
7. The Contractor disseminates its EEO Policy externally through various media, including the media of people of color and women, in advertisements to recruit, maintains files documenting these efforts, and provides copies of these advertisements to the City upon request.
8. The Contractor disseminates its EEO Policy to union and community organizations.
9. The Contractor provides immediate written notification to the City when any union referral process has impeded the Contractor's efforts to maintain its EEO Policy.
10. The Contractor maintains a current list of recruitment sources, including those outreaching to people of color and women, and provides written notification of employment opportunities to these recruitment sources with a record of the organizations' responses.
11. The Contractor maintains a current file of names, addresses and phone numbers of each walk-in applicant, including people of color and women, and referrals from unions, recruitment sources, or community organizations with a description of the employment action taken.
12. The Contractor encourages all present employees, including people of color and women employees, to recruit others.
13. The Contractor maintains all employment selection process information with records of all tests and other selection criteria.
14. The Contractor develops and maintains documentation for on-the-job training opportunities, participates in training programs, or both for all of its employees, including people of color and women, and establishes apprenticeship, trainee, and upgrade programs relevant to the Contractor's employment needs.

15. The Contractor conducts, at least annually, an inventory and evaluation of all employees for promotional opportunities and encourages all employees to seek and prepare appropriately for such opportunities.
 16. The Contractor ensures the company's working environment and activities are non-segregated except for providing separate or single-user toilets and necessary changing facilities to assure privacy between the sexes.
4. **CONTRACT TIME:** The Work shall be completed within **44 Working Days** from the date of issuance of the Notice to Proceed.
 5. **CONTRACT PRICE:** The Engineer's Estimate of the Contract Price is **\$450,000**. The Contractor shall not perform Work that exceeds the Engineer's Estimate excluding Allowances without prior written notice from the City that sufficient additional funding has been secured.
 6. **CONTRACTOR'S LICENSE CLASSIFICATION:** In accordance with the provisions of California Law, the Contractor shall possess valid appropriate license(s) at the time of award. The City has determined the following licensing classification(s) for this contract: **Class A**.
 7. **JOINT VENTURE CONTRACTORS.** Provide a copy of the Joint Venture agreement and the Joint Venture license to the City within 10 Working Days after receiving the Contract forms. See 2-1.1.2, "Joint Venture Contractors" in The WHITEBOOK for details.
 8. **PREVAILING WAGE RATES:** Pursuant Pursuant to San Diego Municipal Code section 22.3019, construction, alteration, demolition, repair and maintenance work performed under this Contract is subject to State prevailing wage laws. For construction work performed under this Contract cumulatively exceeding \$25,000 and for alteration, demolition, repair and maintenance work performed under this Contract cumulatively exceeding \$15,000, the Contractor and its subcontractors shall comply with State prevailing wage laws including, but not limited to, the requirements listed below.
 - 8.1. **COMPLIANCE WITH PREVAILING WAGE REQUIREMENTS:** Pursuant to sections 1720 through 1861 of the California Labor Code, the Contractor and its subcontractors shall ensure that all workers who perform work under this Contract are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.
 - 8.1.1. Copies of such prevailing rate of per diem wages are on file at the City and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Contractor and its subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.

8.1.2. The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Contract. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Contract in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Contract, each successive predetermined wage rate shall apply to this Contract on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Contract, such wage rate shall apply to the balance of the Contract.

8.2. PENALTIES FOR VIOLATIONS: Contractor and its subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed.

8.3. PAYROLL RECORDS: Contractor and its subcontractors shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require its subcontractors to also comply with section 1776. Contractor and its subcontractors shall submit weekly certified payroll records online via the City's web-based Labor Compliance Program. Contractor is responsible for ensuring its subcontractors submit certified payroll records to the City.

8.3.1. For contracts entered into on or after April 1, 2015, Contractor and their subcontractors shall furnish records specified in Labor Code section 1776 directly to the Labor Commissioner in the manner required by Labor Code section 1771.4.

8.4. APPRENTICES: Contractor and its subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. Contractor is held responsible for the compliance of their subcontractors with sections 1777.5, 1777.6 and 1777.7.

8.5. WORKING HOURS: Contractor and their subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to: (i) restrict working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specify penalties to be imposed on design professionals and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of California Labor Code sections 1810 through 1815.

8.6. REQUIRED PROVISIONS FOR SUBCONTRACTS: Contractor shall include at a minimum a copy of the following provisions in any contract they enter into with a subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.

8.7. LABOR CODE SECTION 1861 CERTIFICATION: Contractor in accordance with California Labor Code section 3700 is required to secure the payment of compensation of its employees and by signing this Contract, Contractor certifies that “I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Contract.”

8.8. LABOR COMPLIANCE PROGRAM: The City has its own Labor Compliance Program authorized in August 2011 by the DIR. The City will withhold contract payments when payroll records are delinquent or deemed inadequate by the City or other governmental entity, or it has been established after an investigation by the City or other governmental entity that underpayment(s) have occurred. For questions or assistance, please contact the City of San Diego’s Equal Opportunity Contracting Department at 619-236-6000.

8.9. CONTRACTOR AND SUBCONTRACTOR REGISTRATION REQUIREMENTS: This project is subject to compliance monitoring and enforcement by the DIR. As of March 1, 2015, no contractor or subcontractor may be listed on a bid or proposal for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5. As of April 1, 2015, a contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, or enter into any contract for public work, unless currently registered and qualified to perform public work pursuant to Labor Code section 1725.5. By submitting a bid or proposal to the City, Contractor is certifying that he or she has verified that all subcontractors used on this public work project are registered with the DIR in compliance with Labor Code sections 1771.1 and 1725.5, and Contractor shall provide proof of registration to the City upon request.

8.9.1. A Contractor’s inadvertent error in listing a subcontractor who is not registered pursuant to Labor Code section 1725.5 in response to a solicitation shall not be grounds for filing a bid protest or grounds for considering the bid non-responsive provided that any of the following apply: (1) the subcontractor is registered prior to bid opening; (2) within twenty-four hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in Labor Code section 1725.5; or (3) the subcontractor is replaced by another registered subcontractor pursuant to Public Contract Code section 4107.

9. REFERENCE STANDARDS: Except as otherwise noted or specified, the Work shall be completed in accordance with the following standards:

Title	Edition	Document Number
Standard Specifications for Public Works Construction (“The GREENBOOK”)	2012	PITS070112-01
City of San Diego Standard Specifications for Public Works Construction (“The WHITEBOOK”)*	2012	PITS070112-02
City of San Diego Standard Drawings*	2012	PITS070112-03
Caltrans Standard Specifications	2010	PITS070112-04

Title	Edition	Document Number
Caltrans Standard Plans	2010	PITS070112-05
California MUTCD	2012	PITS070112-06
City Standard Drawings - Updates Approved For Use (when specified)*	Varies	Varies
Standard Federal Equal Employment Opportunity Construction Contract Specifications and the Equal Opportunity Clause Dated 09-11-84	1984	769023
NOTE: Available online under Engineering Documents and References at: http://www.sandiego.gov/publicworks/edocref/index.shtml		

10. INSURANCE REQUIREMENTS:

- 10.1.** All certificates of insurance and endorsements required by the contract are to be provided upon issuance of the City’s Notice of Intent to Award letter.
- 10.2.** Refer to sections 7-3, “LIABILITY INSURANCE”, and 7-4, “WORKERS’ COMPENSATION INSURANCE” of the Supplementary Special Provisions (SSP) for the insurance requirements which must be met.

11. SUBMITTAL OF “OR EQUAL” ITEMS: See 4-1.6, “Trade Names or Equals.”

12. SUBCONTRACT LIMITATIONS: The Bidder’s attention is directed to Standard Specifications for Public Works Construction, Section 2-3, “SUBCONTRACTS” which requires the Contractor to perform not less than the amount therein stipulated with its own forces. Failure to comply with these requirements shall render the Bid non-responsive and ineligible for award.

13. PLANS AND SPECIFICATIONS: When provided by the City, questions about the meaning or intent of the Contract Documents relating to the scope of Work and technical nature shall be directed to the City’s Project Manager prior to commencement of work. Interpretations or clarifications considered necessary by the City in response to such questions will be issued in writing. Oral and other interpretations or clarifications will be without legal effect. Any questions related to this proposal shall be addressed to the, Public Works Contracts Branch, 1010 Second Avenue, Suite 1400, San Diego, California, 92101, Telephone No. (619) 533-3450.

14. SAN DIEGO BUSINESS TAX CERTIFICATE: All Contractors, including Subcontractors, not already having a City of San Diego Business Tax Certificate for the work contemplated shall secure the appropriate certificate from the City Treasurer, Civic Center Plaza, first floor, before the Contract can be executed.

15. PROPOSAL FORMS: The signature of each person signing may be in longhand or in electronic format as specified by the City. The Contractor shall furnish evidence of its corporate existence and evidence that the officer signing the Contract and bond for the corporation is duly authorized to do so.

16. **CITY'S RIGHTS RESERVED:** The City reserves the right to cancel this request for proposal at any time, and further reserves the right to reject submitted proposals, without giving any reason for such action, at its sole discretion and without liability. Costs incurred by the Contractor as a result of preparing its proposal shall be the sole responsibility of the Contractor.
17. **AWARD OF CONTRACT OR REJECTION OF PROPSALS:**
- 17.1. This contract may be awarded to a contractor selected from the City's as-needed emergency contractors list or may be awarded to another contractor in case the list of available emergency contractors list is exhausted.
- 17.2. The City reserves the right to reject the proposal from the emergency list-selected contractor and request a proposal from the next contractor on the list when such rejection is in the best interests of the City.
18. **THE CONTRACT:** The Contractor shall execute a written contract with the City of San Diego and furnish good and approved bonds and insurance documents specified in 2-4, "CONTRACT BONDS," 7-3, "LIABILITY INSURANCE," and 7-4 WORKERS' COMPENSATION INSURANCE within **1 Working Day** after receipt by the Contractor of a form of contract for execution unless an extension of time is granted to the Contractor in writing. Bonds shall be in amount of the Contract Price for the Work included in the Bid.
- The Contract shall be made in the form adopted by the City, which includes the provision that no claim or suit whatsoever shall be made or brought by Contractor against any officer, agent, or employee of the City for or on account of anything done or omitted to be done in connection with this contract, nor shall any such officer, agent, or employee be liable hereunder. If the Contractor fails to enter into the contract as herein provided, the award may be annulled. An award may be made to the next contractor on the shortlist or in the case the emergency contractor's list is exhausted to any other responsive contractor on a sole-source basis who shall fulfill every stipulation embraced herein as if it were the party to whom the first award was made.
19. **EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE OF WORK:** The Contractor shall examine carefully the Project Site, the Plans and Specifications, other materials as described in the Special Provisions, Section 2-7, and the proposal forms. The signing of the Contract shall be conclusive evidence that the Contractor has investigated and is satisfied as to the conditions to be encountered, as to the character, quality, and scope of Work, the quantities of materials to be furnished, and as to the requirements of the Contract Documents.
20. **CITY STANDARD PROVISIONS.** This contract is subject to the following standard provisions. See The WHITEBOOK for details.
- 20.1. The City of San Diego Resolution No. R-277952 adopted on May 20, 1991 for a Drug-Free Workplace.
- 20.2. The City of San Diego Resolution No. R-282153 adopted on June 14, 1993 related to the Americans with Disabilities Act.
- 20.3. The City of San Diego Municipal Code §22.3004 for Pledge of Compliance.

- 20.4.** The City of San Diego's Labor Compliance Program and the State of California Labor Code §§1771.5(b) and 1776.
- 20.5.** Sections 1777.5, 1777.6, and 1777.7 of the State of California Labor Code concerning the employment of apprentices by contractors and subcontractors performing public works contracts.
- 20.6.** The City's Equal Benefits Ordinance (EBO), Chapter 2, Article 2, Division 43 of The San Diego Municipal Code (SDMC).
- 20.7.** The City's Information Security Policy (ISP) as defined in the City's Administrative Regulation 90.63.

James Nagelvoort, Director
Public Works Department

**AGREEMENT
FOR
EMERGENCY CONSTRUCTION SERVICES
BETWEEN
THE CITY OF SAN DIEGO
AND
ORION CONSTRUCTION CORP. / BALBOA CONSTRUCTION, INC. J.V**

This Emergency Construction Services Agreement (Agreement) is made and entered into by and between The City of San Diego (City), California a municipal corporation, and **ORION CONSTRUCTION CORP. / BALBOA CONSTRUCTION, INC. J.V.** (Contractor), for the purpose of designing (when required) and performing emergency construction services at the direction of the City Engineer. The City and the Contractor are referred to herein as the “Parties.”

RECITALS

- A. The City desires to construct the emergency project identified in Section 1, Description of Work.
- B. The City desires to contract with a single entity for Emergency Construction Services, as set forth in this agreement.
- C. The City had previously issued a Request for Qualifications (RFQ), via RFQ **5753**, for on-call emergency construction services.
- D. In accordance with this RFQ, Contractors submitted Statements of Qualifications (SOQ) for these services from which the City established a pre-qualified list of the most highly qualified contractors to perform emergency construction services as directed by the City.
- E. In accordance with said RFQ, the Contractor submitted an SOQ and is prepared to enter into this agreement.
- F. The City has selected the Contractor from the City’s list of on-call contractors to perform, either directly or with Subcontracts hereinafter defined, the design, engineering, and construction services set forth in this agreement and the Contract Documents.
- G. The City has selected the Contractor through a sole-source process in accordance with Municipal Code § 22.3016 or § 22.3108 to perform, either directly or with Subcontracts hereinafter defined, the design, engineering, and construction services set forth in this agreement and the Contract Documents.
- H. The Contractor is ready, willing, and able to perform the emergency construction services required as specified in the Scope of Work and Services section of this agreement and in accordance with the terms and conditions of this agreement and under the direction of the Engineer.

In consideration of the above recitals and the mutual covenants and conditions set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby set forth their mutual covenants and understandings as follows:

AGREEMENT

THE CITY OF SAN DIEGO, a municipal corporation, herein called "City", agrees to pay **ORION CONSTRUCTION CORP. / BALBOA CONSTRUCTION, INC. J.V.**, herein called "Contractor" for its time and materials used to construct **LANGMUIR ST. AND ACHESON ST. EMERGENCY STORM DRAIN REPLACEMENT PROJECT**; in the amount not to exceed FOUR HUNDRED AND FIFTY THOUSAND DOLLARS *00/100* (\$450,000).

- A. The following are incorporated into this contract as though fully set forth herein:
1. The attached Faithful Performance and Payment Bonds.
 2. The attached Proposal included in the Bid documents by the Contractor.
 3. Reference Standards listed in the Notice Inviting Bids and the Supplementary Special Provisions (SSP).
 4. That certain documents entitled **Langmuir St. and Acheson St. Emergency Storm Drain Replacement Project**, on file in the office of the Public Works Department as Document No. **B12091 / B16127**, as well as all matters referenced therein.
- B. The Contractor shall perform and be bound by all the terms and conditions of this contract and in strict conformity therewith shall perform and complete in a good and workmanlike manner Project Title **Langmuir St. and Acheson St. Emergency Storm Drain Replacement Project**, Bid Number **K-16-6678-EMR-2**, San Diego, California.
- C. For such performances, the City shall pay to Contractor the amounts set forth at the times and in the manner and with such additions or deductions as are provided for in this contract, and the Contractor shall accept such payment in full satisfaction of all claims incident to such performances.
- D. No claim or suit whatsoever shall be made or brought by Contractor against any officer, agent, or employee of the City for or on account of anything done or omitted to be done in connection with this contract, nor shall any such officer, agent, or employee be liable hereunder.
- E. This contract is effective as of the date that the Mayor or designee signs the agreement.
- F. The above referenced recitals are true and correct and are incorporated into this agreement by this reference.
- G. Exhibits referenced in this agreement are incorporated into the Agreement by this reference.
- H. The Contractor, including Subcontractors, not already having a City of San Diego Business Tax Certificate for the work contemplated shall secure the appropriate certificate from the City Treasurer, Civic Center Plaza, first floor, before the Agreement can be executed.
- I. Upon award, amendment, renewal, or extension of such contracts, the Contractors shall complete a Pledge of Compliance attesting under penalty of perjury that they complied with the requirements of City Municipal Code §22.3004.
- J. The Contractor shall ensure that the Subcontractors whose subcontracts are greater than \$50,000 in value complete a Pledge of Compliance attesting under penalty of perjury that they complied with the requirements of this section. The Contractor shall include in each

subcontract agreement, language which requires Subcontractors to abide by the provisions of City Municipal Code §22.3004. A sample provision is as follows:

“Subcontractor acknowledges that it is familiar with the requirements of San Diego Municipal Code §22.3004 (“Contractor Standards”), and agrees to comply with requirements of that section. The Subcontractor further agrees to complete the Pledge of Compliance, incorporated herein by reference.”

- K. Pledge of Compliance may be downloaded at:

http://www.sandiego.gov/purchasing/pdf/contractor_standards_questionnaire.pdf
- L. The City received initial approval as a Labor Compliance Program on August 11, 2003. The limited exemption from prevailing wages pursuant to Labor Code §1771.5(a) does not apply to contracts under jurisdiction of the Labor Compliance Program. Inquiries, questions, or assistance about the Labor Compliance Program should be directed to: Equal Opportunity Contracting Program, 1200 Third Ave., Suite 200 MS56P, San Diego, CA 92101, Tel. 619-236-6000.
- M. The Contractor's attention is directed to the provisions of the State of California Labor Code §1776 (Stats. 1978, Ch. 1249). The Contractor shall be responsible for the compliance with these provisions by Subcontractors.
- N. The Contractor shall complete the work to be performed under this agreement and shall achieve Acceptance within the allowed number of Working Days from the NTP as specified in the Notice of Award, unless authorized otherwise by the Engineer. Time is of essence for the completion of the Work and the Project has critical milestones to be met as listed in the Notice of Award.
- O. During the final design process (if any), if the Contractor modifies the Project such that a revision of the environmental document is required, the Contractor shall be responsible for all work required for implementing a revision, including preparation of revised documentation and coordination with City staff. Work shall not proceed on the project until the environmental requirements are met to the satisfaction of the City. There shall be no additional time allowed in the contract for processing and approval of revised permit documents.


IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting by and through its Mayor or designee, pursuant to the emergency contract provisions of City Charter §94 authorizing such execution, and by the Contractor.

THE CITY OF SAN DIEGO

APPROVED AS TO FORM

By: 
Rosa Isela Riego
Contract Specialist
Public Works Contracts

Jan I. Goldsmith, City Attorney

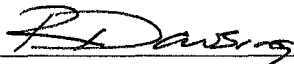
By: 

Print Name: Kathryn F. Kriozere
Deputy City Attorney

Date: 03/23/16

Date: 3/24/16

CONTRACTOR

By: 

Print Name: Richard Dowsing

Title: President

Date: 2/16/16

City of San Diego License No.: Orion: B1992002970
Balboa: B1998008128

State Contractor's License No.: 788132

AGREEMENT (continued)
PERFORMANCE BOND AND LABOR AND MATERIALMEN'S BOND

FAITHFUL PERFORMANCE BOND AND LABOR AND MATERIALMEN'S BOND:

Orion Construction Corporation/Balboa Construction, Inc. J.V., a corporation, as principal, and Western Surety Company, a corporation authorized to do business in the State of California, as Surety, hereby obligate themselves, their successors and assigns, jointly and severally, to The City of San Diego a municipal corporation in the sum of FOUR HUNDRED AND FIFTY THOUSAND AND ZERO CENTS (\$450,000.00) for the faithful performance of the annexed contract, and in the sum of FOUR HUNDRED AND FIFTY THOUSAND AND ZERO CENTS (\$450,000.00) for the benefit of laborers and materialmen designated below.

Conditions:

If the Principal shall faithfully perform the annexed contract **Langmuir St. and Acheson St. Emergency Storm Drain Replacement Project**, Bid Number: **K-16-6678-EMR-2**, San Diego, California then the obligation herein with respect to a faithful performance shall be void; otherwise it shall remain in full force.

If the Principal shall promptly pay all persons, firms and corporations furnishing materials for or performing labor in the execution of this contract, and shall pay all amounts due under the California Unemployment Insurance Act then the obligation herein with respect to laborers and materialmen shall be void; otherwise it shall remain in full force.

The obligation herein with respect to laborers and materialmen shall inure to the benefit of all persons, firms and corporations entitled to file claims under the provisions of Article 2. Claimants, (iii) public works of improvement commencing with Civil Code Section 9100 of the Civil Code of the State of California.

Changes in the terms of the annexed contract or specifications accompanying same or referred to therein shall not affect the Surety's obligation on this bond, and the Surety hereby waives notice of same.

AGREEMENT (continued)
PERFORMANCE BOND AND LABOR AND MATERIALMEN'S BOND

The Surety shall pay reasonable attorney's fees should suit be brought to enforce the provisions of this bond.

Dated 16th of February, 2016

Approved as to Form

Orion Construction Corporation/Balboa
Construction, Inc. J.V.

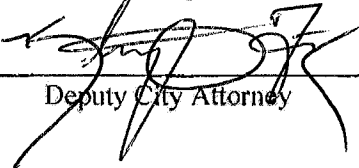
Principal

By 

Richard Dowsing, President


Printed Name of Person Signing for Principal

Jan I. Goldsmith, City Attorney

By 
Deputy City Attorney

Western Surety Company

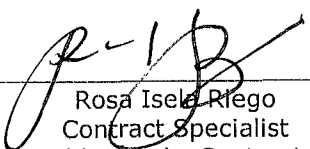
Surety

By 
Attorney-in-fact
Janice Martin

Approved:

1455 Frazee Road, Suite 300

Local Address of Surety

By: 
Rosa Isele Riego
Contract Specialist
Public Works Contracts

Specialist

San Diego, CA 92108

Local Address (City, State) of Surety

(619) 682-3510

Local Telephone No. of Surety

Premium \$5,400.00

Premium is for contract term and subject to adjustment based on final contract price.

Bond No. 58733186

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 FEB 16 2016 before me, C.Aquino, Notary Public,
Date Insert Name of Notary exactly as it appears on the official seal

personally appeared Janice Martin

Name(s) of Signer(s)

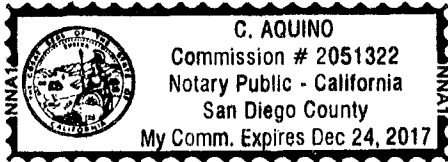
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s),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

Signature

Signature of Notary Public



Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

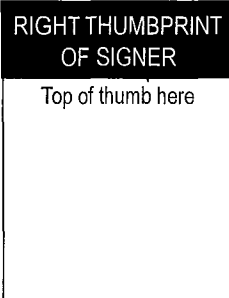
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

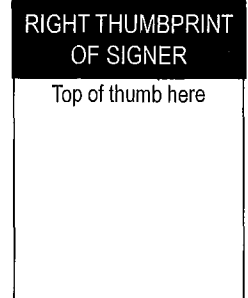
- Individual
- Corporate Officer — Title(s): _____
- Partner Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing:
Surety Company

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing:

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Lawrence F Mc Mahon, James Baldassare Jr, Sarah Myers, Maria Guise, Lilia Robinson, Charlotte Aquino, Jennifer L Clampert, Janice Martin, Individually

of San Diego, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 16th day of June, 2015.



WESTERN SURETY COMPANY

Paul T. Bruflat

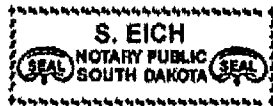
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 16th day of June, 2015, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

February 12, 2021



S. Eich

S. Eich, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 16th day of February, 2016.



WESTERN SURETY COMPANY

L. Nelson

L. Nelson, Assistant Secretary

EXHIBIT A

DRUG-FREE WORKPLACE CERTIFICATION

EXHIBIT A

DRUG-FREE WORKPLACE

PROJECT TITLE: Langmuir St. and Acheson St. Emergency Storm Drain Replacement Project

I hereby certify that I am familiar with the requirements of San Diego City Council Policy No. 100-17 regarding Drug-Free Workplace as outlined in the WHITEBOOK, Section 7-13.3, "Drug-Free Workplace", of the project specifications, and that;

ORION CONSTRUCTION CORP. /BALBOA CONSTRUCTION, INC.J.V.

(Name under which business is conducted)

has in place a drug-free workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the subcontractor's agreement to abide by the provisions of subdivisions a) through c) of the policy as outlined.

Signed *R. Dawsing*

Printed Name Richard Dawsing

Title President

EXHIBIT B

AMERICAN WITH DISABILITIES ACT (ADA) COMPLIANCE CERTIFICATION

EXHIBIT B

AMERICAN WITH DISABILITIES ACT (ADA) COMPLIANCE CERTIFICATION

PROJECT TITLE: Langmuir St. and Acheson St. Emergency Storm Drain Replacement Project


I hereby certify that I am familiar with the requirements of San Diego City Council Policy No. 100-4 regarding the American With Disabilities Act (ADA) outlined in the WHITEBOOK, Section 7-13.2, "American With Disabilities Act", of the project specifications, and that;

ORION CONSTRUCTION CORP. /BALBOA CONSTRUCTION, INC.J.V.

(Name under which business is conducted)

has in place workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the subcontractor's agreement to abide by the provisions of the policy as outlined.

Signed



Printed Name

Richard Dowsing

Title

President

EXHIBIT C

CONTRACTOR STANDARDS – PLEDGE OF COMPLIANCE

EXHIBIT C


CONTRACTOR STANDARDS – PLEDGE OF COMPLIANCE

PROJECT TITLE: Langmuir St. and Acheson St. Emergency Storm Drain Replacement Project

I declare under penalty of perjury that I am authorized to make this certification on behalf of **Orion Construction Corp. /Balboa Construction, Inc.J.V.**, as Contractor, that I am familiar with the requirements of City of San Diego Municipal Code § 22.3004 regarding Contractor Standards as outlined in the WHITEBOOK, Section 7-13.4, "Contractor Standards", of the project specifications, and that Contractor has complied with those requirements.

I further certify that each of the Contractor's subcontractors whose subcontracts are greater than \$50,000 in value has completed a Pledge of Compliance attesting under penalty of perjury of having complied with City of San Diego Municipal Code § 22.3004.

Dated this 16th Day of February, 2016.

Signed 

Printed Name Richard Dowsing

Title President

EXHIBIT D

AFFIDAVIT OF DISPOSAL

EXHIBIT D

AFFIDAVIT OF DISPOSAL

WHEREAS, on the _____ DAY OF _____, _____, the undersigned entered into and executed a contract with the City of San Diego, a municipal corporation, for:

Langmuir St. and Acheson St. Emergency Storm Drain Replacement Project

(Name of Project)

as particularly described in said contract and identified as Bid No. **K-16-6678-EMR-2**; SAP No. (WBS/IO/CC) **B-12091 & B-16127**; and **WHEREAS**, the specification of said contract requires the Contractor to affirm that "all brush, trash, debris, and surplus materials resulting from this project have been disposed of in a legal manner"; and **WHEREAS**, said contract has been completed and all surplus materials disposed of:

NOW, THEREFORE, in consideration of the final payment by the City of San Diego to said Contractor under the terms of said contract, the undersigned Contractor, does hereby affirm that all surplus materials as described in said contract have been disposed of at the following location(s)

and that they have been disposed of according to all applicable laws and regulations.

Dated this _____ DAY OF _____, _____.

_____ Contractor

by

ATTEST:

State of _____

County of _____

On this _____ DAY OF _____, 2____, before the undersigned, a Notary Public in and for said County and State, duly commissioned and sworn, personally appeared _____ known to me to be the _____ Contractor named in the foregoing Release, and whose name is subscribed thereto, and acknowledged to me that said Contractor executed the said Release.

Notary Public in and for said County and State

EXHIBIT E

**NON-COLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND SUBMITTED
WITH BID UNDER 23 UNITED STATES CODE 112 AND PUBLIC CONTRACT CODE 7106**

EXHIBIT E

NON-COLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND
SUBMITTED WITH BID UNDER 23 UNITED STATES CODE 112 AND PUBLIC
CONTRACT CODE 7106

State of California)
County of San Diego) ss.

Richard Dowsing, being first duly sworn, deposes and
says that he or she is President of 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.

Signed: R Dowsing
Title: President

Subscribed and sworn to before me this 16 day of February, 2016
Robert B. Wilson
Notary Public

(SEAL)

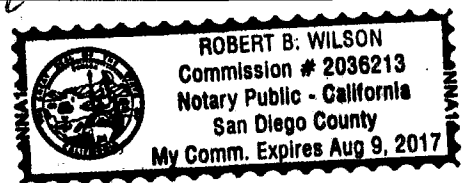


EXHIBIT F

CONTRACTORS CERTIFICATION OF PENDING ACTIONS

EXHIBIT F

CONTRACTORS CERTIFICATION OF PENDING ACTIONS

As part of its bid or proposal (Non-Price Proposal in the case of Design-Build contracts), the Bidder shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against the Bidder in a legal or administrative proceeding alleging that Bidder discriminated against its employees, subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

CHECK ONE BOX ONLY.

- The undersigned certifies that within the past 10 years the Bidder has NOT been the subject of a complaint or pending action in a legal administrative proceeding alleging that Bidder discriminated against its employees, subcontractors, vendors or suppliers.

- The undersigned certifies that within the past 10 years the Bidder has been the subject of a complaint or pending action in a legal administrative proceeding alleging that Bidder discriminated against its employees, subcontractors, vendors or suppliers. A description of the status or resolution of that complaint, including any remedial action taken and the applicable dates is as follows:

DATE OF CLAIM	LOCATION	DESCRIPTION OF CLAIM	LITIGATION (Y/N)	STATUS	RESOLUTION/REMEDIAL ACTION TAKEN

Contractor Name: Orion Construction Corp. / Balboa Construction Inc. J.V.
 Certified By Richard Dowsing Title President
Name
R. Dowsing Date 2/16/2016
Signature

USE ADDITIONAL FORMS AS NECESSARY

EXHIBIT G

EQUAL BENEFITS ORDINANCE CERTIFICATION OF COMPLIANCE

EXHIBIT G

**EQUAL BENEFITS ORDINANCE
CERTIFICATION OF COMPLIANCE**



For additional information, contact:
CITY OF SAN DIEGO
EQUAL BENEFITS PROGRAM
 202 C Street, MS 9A, San Diego, CA 92101
 Phone (619) 533-3948 Fax (619) 533-3220

COMPANY INFORMATION	
Company Name: <i>Orion Construction Corp./Balboa J.V.</i>	Contact Name: <i>Robert B. Wilson</i>
Company Address: <i>2195 La Mirada Drive Vista, CA 92081</i>	Contact Phone: <i>(760) 597-9660</i>
	Contact Email: <i>Rob@OrionConstruction.com</i>

CONTRACT INFORMATION	
Contract Title: <i>Langmuir + Acheson St. Emergency Storm Drain Rep.</i>	Start Date: <i>2/1/16</i>
Contract Number (if no number, state location): <i>K-16-6678-EMR-2</i>	End Date: <i>6/1/16</i>

SUMMARY OF EQUAL BENEFITS ORDINANCE REQUIREMENTS

The Equal Benefits Ordinance [EBO] requires the City to enter into contracts only with contractors who certify they will provide and maintain equal benefits as defined in SDMC §22.4302 for the duration of the contract. To comply:

- Contractor shall offer equal benefits to employees with spouses and employees with domestic partners.
 - Benefits include health, dental, vision insurance; pension/401(k) plans; bereavement, family, parental leave; discounts, child care; travel/relocation expenses; employee assistance programs; credit union membership; or any other benefit.
 - Any benefit not offer an employee with a spouse, is not required to be offered to an employee with a domestic partner.
- Contractor shall post notice of firm's equal benefits policy in the workplace and notify employees at time of hire and during open enrollment periods.
- Contractor shall allow City access to records, when requested, to confirm compliance with EBO requirements.
- Contractor shall submit *EBO Certification of Compliance*, signed under penalty of perjury, prior to award of contract.

NOTE: This summary is provided for convenience. Full text of the EBO and Rules Implementing the EBO are available at www.sandiego.gov/administration.

CONTRACTOR EQUAL BENEFITS ORDINANCE CERTIFICATION

Please indicate your firm's compliance status with the EBO. The City may request supporting documentation.

- I affirm **compliance** with the EBO because my firm (*contractor must select one reason*):
 - Provides equal benefits to spouses and domestic partners.
 - Provides no benefits to spouses or domestic partners.
 - Has no employees.
 - Has collective bargaining agreement(s) in place prior to January 1, 2011, that has not been renewed or expired.
- I request the City's approval to pay affected employees a cash equivalent in lieu of equal benefits and verify my firm made a reasonable effort but is not able to provide equal benefits upon contract award. I agree to notify employees of the availability of a cash equivalent for benefits available to spouses but not domestic partners and to continue to make every reasonable effort to extend all available benefits to domestic partners.

It is unlawful for any contractor to knowingly submit any false information to the City regarding equal benefits or cash equivalent associated with the execution, award, amendment, or administration of any contract. [San Diego Municipal Code §22.4307(a)]

Under penalty of perjury under laws of the State of California, I certify the above information is true and correct. I further certify that my firm understands the requirements of the Equal Benefits Ordinance and will provide and maintain equal benefits for the duration of the contract or pay a cash equivalent if authorized by the City.

Richard Dawson / President _____ *R Dawson* _____ *2/16/16* _____
 Name/Title of Signatory Signature Date

FOR OFFICIAL CITY USE ONLY

Receipt Date:	EBO Analyst:	<input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved – Reason:
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rev 02/15/2011

EXHIBIT H

FORMS

LIST OF SUBCONTRACTORS

In accordance with the requirements of the "Subletting and Subcontracting Fair Practices Act", Section 4100, of the California Public Contract Code (PCC), the Bidder is to list below the name, address and license number of each Subcontractor who will perform work, labor, render services or specially fabricate and install a portion [type] of the work or improvement, in an amount of or in excess of 0.5% of the Contractor's total Bid. Failure to comply with this requirement may result in the Bid being rejected as non-responsive. The Contractor is to list only one Subcontractor for each portion of the Work. The Bidder's attention is directed to the Special Provisions - General; Paragraph 2-3 Subcontracts, which stipulates the percentage of the Work to be performed with the Bidder's own forces. The Bidder is to also list all SLBE, ELBE, DBE, DVBE, MBE, WBE, OBE, SDB, WoSB, HUBZone, and SDVOSB Subcontractors for which the Bidders are seeking recognition towards achieving any mandatory, voluntary, or both subcontracting participation percentages.

NAME, ADDRESS AND TELEPHONE NUMBER OF SUBCONTRACTOR	CONSTRUCTOR OR DESIGNER	SUBCONTRACTOR LICENSE NUMBER	TYPE OF WORK	DOLLAR VALUE OF SUBCONTRACT	MBE, WBE, DBE, DVBE, OBE, ELBE, SLBE, SDB, WoSB, HUBZone, OR SDVOSBO	WHERE CERTIFIED ②	CHECK IF JOINT VENTURE PARTNERSHIP
Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ Email: _____	S						
Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ Email: _____							

① As appropriate, Bidder shall identify Subcontractor as one of the following and shall include a valid proof of certification (except for OBE, SLBE and ELBE):

Certified Minority Business Enterprise	MBE	Certified Woman Business Enterprise	WBE
Certified Disadvantaged Business Enterprise	DBE	Certified Disabled Veteran Business Enterprise	DVBE
Other Business Enterprise	OBE	Certified Emerging Local Business Enterprise	ELBE
Certified Small Local Business Enterprise	SLBE	Small Disadvantaged Business	SDB
Woman-Owned Small Business	WoSB	HUBZone Business	HUBZone
Service-Disabled Veteran Owned Small Business	SDVOSB		

② As appropriate, Bidder shall indicate if Subcontractor is certified by:

City of San Diego	CITY	State of California Department of Transportation	CALTRANS
California Public Utilities Commission	CPUC	State of California's Department of General Services	CADoGS
City of Los Angeles	LA	State of California	CA
U.S. Small Business Administration	SBA		

The Bidder will not receive any subcontracting participation percentages if the Bidder fails to submit the required proof of certification.

NAMED EQUIPMET/MATERIAL SUPPLIER LIST

The Bidder seeking the recognition of equipment, materials, or supplies obtained from Suppliers towards achieving any mandatory, voluntary, or both subcontracting participation percentages is to list the Supplier(s) on the Named Equipment/Material Supplier List. The Named Equipment/Material Supplier List, at a minimum, is to have the name, locations (City) and the **DOLLAR VALUE** of the Suppliers. The Bidder will be credited up to 60% of the amount to be paid to the Suppliers for such materials and supplies unless vendor manufactures or substantially alters materials and supplies in which case 100% will be credited. The Bidder is to indicate (Yes/No) whether listed firm is a supplier or manufacturer. In calculating the subcontractor participation percentages, vendors/suppliers will receive 60% credit of the listed **DOLLAR VALUE**, whereas manufacturers will receive 100% credit. If no indication provided, listed firm will be credited at 60% of the listed dollar value for purposes of calculating the Subcontractor Participation Percentage, Suppliers will receive 60% credit of the listed **DOLLAR VALUE**, whereas manufacturers will receive 100% credit. If no indication provided, listed firm will be credited at 60% of the listed **DOLLAR VALUE** for purposes of calculating the subcontractor participation percentages.

NAME, ADDRESS AND TELEPHONE NUMBER OF VENDOR/SUPPLIER	MATERIALS OR SUPPLIES	DOLLAR VALUE OF MATERIAL OR SUPPLIES (MUST BE FILLED OUT)	SUPPLIER (Yes/No)	MANUFACTURER (Yes/No)	MBE, WBE, DBE, DVBE, OBE, ELBE, SLBE, SDB, WoSB, HUBZone, OR SDVOSB	WHERE CERTIFIED
Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ Email: _____						
Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ Email: _____						

① As appropriate, Bidder shall identify Vendor/Supplier as one of the following and shall include a valid proof of certification (except for OBE, SLBE and ELBE):

- | | | | |
|---|--------|--|---------|
| Certified Minority Business Enterprise | MBE | Certified Woman Business Enterprise | WBE |
| Certified Disadvantaged Business Enterprise | DBE | Certified Disabled Veteran Business Enterprise | DVBE |
| Other Business Enterprise | OBE | Certified Emerging Local Business Enterprise | ELBE |
| Certified Small Local Business Enterprise | SLBE | Small Disadvantaged Business | SDB |
| Woman-Owned Small Business | WoSB | HUBZone Business | HUBZone |
| Service-Disabled Veteran Owned Small Business | SDVOSB | | |

② As appropriate, Bidder shall indicate if Vendor/Supplier is certified by:

- | | | | |
|--|------|--|----------|
| City of San Diego | CITY | State of California Department of Transportation | CALTRANS |
| California Public Utilities Commission | CPUC | State of California's Department of General Services | CADoGS |
| City of Los Angeles | LA | State of California | CA |
| U.S. Small Business Administration | SBA | | |

The Bidder will not receive any subcontracting participation percentages if the Bidder fails to submit the required proof of certification.

EXHIBIT I

SUPPLEMENTARY SPECIAL PROVISIONS (SSP)

SUPPLEMENTARY SPECIAL PROVISIONS

The following Supplementary Special Provisions (SSP) modifies the following documents:

- 1) Standard Specifications for Public Works Construction (The GREENBOOK) currently in effect.
 - 2) The City of San Diego Standard Specifications for Public Works Construction (The WHITEBOOK).
-

SECTION 1 – TERMS, DEFINITIONS, ABBREVIATIONS, UNITS OF MEASURE, AND SYMBOLS

1-2 TERMS AND DEFINITIONS.

Normal Working Hours. To the City Supplement, ADD the following:

The Normal Working Hours are **7:30 AM to 4:30 PM.**

SECTION 2 - SCOPE AND CONTROL OF WORK

2-3.2 Self Performance. DELETE in its entirety and SUBSTITUTE with the following:

1. You must perform, with your own organization, Contract work amounting to at least 50% of the base bid alone or base bid and any additive or deductive alternate(s) that together when added or deducted form the basis of award.

2-5.3.1 General. To the City Supplement, ADD the following:

7. For products for which an AML is available, products listed in the AML shall be used. A submittal review will be conducted for products not identified on an AML on a case-by-case basis when:
 - a) The product type or category is not in the AML.
 - b) The AML does not list at least two available manufacturers of the product.
 - c) The material or manufacturer listed in the AML is no longer available. Documentation to substantiate the product is no longer available or in production is required as part of the submittal.

In the case of conducting a submittal review when required by the Plans or Special Provisions, or when requested by the Engineer, all submittals shall be accompanied by the City's submittal form.

The Product Submittal Form is available for download at:

<http://www.sandiego.gov/publicworks/edocref/index.shtml>

2-9.1 Permanent Survey Markers. To the City Supplement, DELETE in its entirety and SUBSTITUTE with the following:

1. Pursuant to Division 3, Chapter 15 of the Business and Professions Code, you shall not disturb survey monuments that “control the location of subdivisions, tracts, boundaries, roads, streets, or highways, or provide horizontal or vertical survey control” until they have been tied out by a Registered Land Surveyor or Registered Civil Engineer authorized to practice land surveying within the State of California.
2. Monument Preservation shall be performed by the City’s Construction Management and Field Services (CMFS) Division on all Projects, unless permission is obtained for these services in writing by CMFS.
3. You shall submit to the Engineer a minimum of 7 Days prior to the start of the Work a list of controlling survey monuments which may be disturbed. CMFS shall do the following:
 - a) Set survey points outside the affected Work area that reference and locate each controlling survey monument that may be disturbed.
 - b) File a Corner Record or Record of Survey with the County Surveyor after setting the survey points to be used for re-establishment of the disturbed controlling survey monuments.
 - c) File a Corner Record of Record of Survey with the County Surveyor after re-establishment of the disturbed controlling survey monuments.

SECTION 4 – CONTROL OF WORK

4-1.3.6 Preapproved Materials. To the City Supplement, ADD the following:

3. You shall submit in writing a list of all products to be incorporated in the Work that are on the AML.

SECTION 5 – UTILITIES

5-2 PROTECTION. ADD the following:

1. You shall repair or replace traffic signal and lighting system equipment within 72 hours after notification of defects by the Engineer.
2. While working in or around meter boxes, you shall protect in place all Advanced Metering Infrastructure (AMI) devices attached to the water meter or located in or near water meter boxes, coffins, or vaults. This includes any antenna installed through the meter box lid.
 - a) Avoid damaging the antenna, cable, and endpoints when removing the meter box lid and when disconnecting AMI endpoints from the register on top of the water meter.

- b) If meters or AMI devices need to be removed or relocated, the AMI endpoints shall be reinstalled with the Encoder/Receiver/Transmitter (ERT) pointing upwards.
- c) Because the AMI equipment is uniquely matched to each service location and to specific meter serial numbers, any AMI devices that are removed or disconnected shall be reinstalled on the same service lateral as well as to the same meter serial number it was attached to originally.
- d) Do not change or modify the lid if the lid has an antenna drilled through it.
- e) If you encounter damaged, disconnected, buried, or broken AMI endpoints, cables between the registers, antennae, lids, or ERTs, notify the Engineer within 24 hours.
- f) Any AMI equipment damaged by you shall be repaired or replaced by City Forces at your expense.

SECTION 7 - RESPONSIBILITIES OF THE CONTRACTOR

7-3 **LIABILITY INSURANCE.** DELETE in its entirety and SUBSTITUTE with the following:

The insurance provisions herein shall not be construed to limit your indemnity obligations contained in the Contract.

7-3.1 **Policies and Procedures.**

1. You must procure the insurance described below, at its sole cost and expense, to provide coverage against claims for loss including injuries to persons or damage to property, which may arise out of or in connection with the performance of the Work by you, your agents, representatives, officers, employees or Subcontractors.
2. Insurance coverage for property damage resulting from your operations is on a replacement cost valuation. The market value will not be accepted.
3. You shall maintain this insurance for the duration of this Contract and at all times thereafter when you are correcting, removing, or replacing Work in accordance with this Contract. Your liabilities under the Contract, e.g., your indemnity obligations, is not deemed limited to the insurance coverage required by this Contract.
4. The payment for insurance shall be included in the Contract Price as bid by you. Except as specifically agreed to by the City in writing, you are not entitled to any additional payment. Do not begin any Work under this Contract until you have provided and the City has approved all required insurance.

5. Policies of insurance shall provide that the City is entitled to 30 Days (10 Days for cancellation due to non-payment of premium) prior written notice of cancellation or non-renewal of the policy. Maintenance of specified insurance coverage is a material element of the Contract. Your failure to maintain or renew coverage or to provide evidence of renewal during the term of the Contract may be treated by the City as a material breach of the Contract.

7-3.2 Types of Insurance.

7-3.2.1 Commercial General Liability Insurance.

1. Commercial General Liability Insurance must be written on the current version of the ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad.
2. The policy shall cover liability arising from premises and operations, XCU (explosions, underground, and collapse), independent contractors, products/completed operations, personal injury and advertising injury, bodily injury, property damage, and liability assumed under an insured’s contract (including the tort liability of another assumed in a business contract).
3. There shall be no endorsement or modification limiting the scope of coverage for either “insured vs. insured” claims or contractual liability. You shall maintain the same or equivalent insurance for at least 10 years following completion of the Work.
4. All costs of defense shall be outside the policy limits. Policy coverage shall be in liability limits of not less than the following:

<u>General Annual Aggregate Limit</u>	<u>Limits of Liability</u>
Other than Products/Completed Operations	\$2,000,000
Products/Completed Operations Aggregate Limit	\$2,000,000
Personal Injury Limit	\$1,000,000
Each Occurrence	\$1,000,000

7-3.2.2 Commercial Automobile Liability Insurance.

1. You shall provide a policy or policies of Commercial Automobile Liability Insurance written on the current version of the ISO form CA 00 01 12 90 or later version or equivalent form providing coverage at least as broad in the amount of \$1,000,000 combined single limit per accident, covering bodily injury and property damage for owned, non-owned, and hired automobiles (“Any Auto”).
2. All costs of defense shall be outside the limits of the policy.

7-3.3 Rating Requirements. Except for the State Compensation Insurance Fund, all insurance required by this Contract as described herein shall be carried only by responsible insurance companies with a rating of, or equivalent to, at least “A-, VI” by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State, and that have been approved by the City.

7-3.3.1 Non-Admitted Carriers. The City will accept insurance provided by non-admitted, “surplus lines” carriers only if the carrier is authorized to do business in the State and is included on the List of Approved Surplus Lines Insurers (LASLI list).

All policies of insurance carried by non-admitted carriers shall be subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

7-3.4 Evidence of Insurance. Furnish to the City documents e.g., certificates of insurance and endorsements evidencing the insurance required herein, and furnish renewal documentation prior to expiration of this insurance. Each required document shall be signed by the insurer or a person authorized by the insurer to bind coverage on its behalf. We reserve the right to require complete, certified copies of all insurance policies required herein.

7-3.5 Policy Endorsements.

7-3.5.1 Commercial General Liability Insurance.

7-3.5.1.1 Additional Insured.

- a) You shall provide at your expense policy endorsement written on the current version of the ISO Occurrence form CG 20 10 11 85 or an equivalent form providing coverage at least as broad.
- b) To the fullest extent allowed by law e.g., California Insurance Code §11580.04, the policy shall be endorsed to include the City and its respective elected officials, officers, employees, agents, and representatives as additional insured.
- c) The additional insured coverage for projects for which the Engineer’s Estimate is \$1,000,000 or more shall include liability arising out of:
 - a) Ongoing operations performed by you or on your behalf,
 - b) your products,
 - c) your Work, e.g., your completed operations performed by you or on your behalf, or
 - d) premises owned, leased, controlled, or used by you.
- d) The additional insured coverage for projects for which the Engineer’s Estimate is less than \$1,000,000 shall include liability arising out of:
 - a) Ongoing operations performed by you or on your behalf,
 - b) your products, or
 - c) premises owned, leased, controlled, or used by you.

7-3.5.1.2 Primary and Non-Contributory Coverage. The policy shall be endorsed to provide that the coverage with respect to operations, including the completed operations, if appropriate, of the Named Insured is primary to any insurance or self-insurance of the City and its elected officials, officers, employees, agents and representatives. Further, it shall provide that any insurance maintained by the City and its elected officials, officers, employees, agents and representatives shall be in excess of your insurance and shall not contribute to it.

- 7-3.5.1.3 Project General Aggregate Limit.** The policy or policies shall be endorsed to provide a Designated Construction Project General Aggregate Limit that will apply only to the Work. Only claims payments which arise from the Work shall reduce the Designated Construction Project General Aggregate Limit. The Designated Construction Project General Aggregate Limit shall be in addition to the aggregate limit provided for the products-completed operations hazard.
- 7-3.5.2 Commercial Automobile Liability Insurance.**
- 7-3.5.2.1 Additional Insured.** Unless the policy or policies of Commercial Auto Liability Insurance are written on an ISO form CA 00 01 12 90 or a later version of this form or equivalent form providing coverage at least as broad, the policy shall be endorsed to include the City and its respective elected officials, officers, employees, agents, and representatives as additional insured, with respect to liability arising out of automobiles owned, leased, hired or borrowed by you or on your behalf. This endorsement is limited to the obligations permitted by California Insurance Code §11580.04.
- 7-3.6 Deductibles and Self-Insured Retentions.** You shall pay for all deductibles and self-insured retentions. You shall disclose deductibles and self-insured retentions to the City at the time the evidence of insurance is provided.
- 7-3.7 Reservation of Rights.** The City reserves the right, from time to time, to review your insurance coverage, limits, deductibles and self-insured retentions to determine if they are acceptable to the City. The City will reimburse you, without overhead, profit, or any other markup, for the cost of additional premium for any coverage requested by the Engineer but not required by this Contract.
- 7-3.8 Notice of Changes to Insurance.** You shall notify the City 30 Days prior to any material change to the policies of insurance provided under this Contract.
- 7-3.9 Excess Insurance.** Policies providing excess coverage shall follow the form of the primary policy or policies e.g., all endorsements.
- 7-3.10 Architects and Engineers Professional Insurance (Errors and Omissions Insurance).**
1. For Contracts with required engineering services (e.g., Design-Build, preparation of engineered Traffic Control Plans (TCP), and etc) by you, you shall keep or require all of your employees or Subcontractors, who provide professional engineering services under this contract, Professional Liability coverage with a limit of **\$1,000,000** per claim and **\$2,000,000** annual aggregate in full force and effect.
 2. You shall ensure the following:
 - a) The policy retroactive date is on or before the date of commencement of the Project.
 - b) The policy will be maintained in force for a period of 3 years after completion of the Project or termination of this Contract, whichever occurs last. You agree that for the time period specified above, there

will be no changes or endorsements to the policy that affect the specified coverage.

3. If professional engineering services are to be provided solely by the Subcontractor, you shall:
 - a) Certify this to the City in writing and
 - b) Agree in writing to require the Subcontractor to procure Professional Liability coverage in accordance with the requirements set forth above.

7-4 WORKERS' COMPENSATION INSURANCE. DELETE in its entirety and SUBSTITUTE with the following:

7-4.1 Workers' Compensation Insurance and Employers Liability Insurance.

1. In accordance with the provisions of §3700 of the California Labor Code, you shall provide at your expense Workers' Compensation Insurance and Employers Liability Insurance to protect you against all claims under applicable state workers compensation laws. The City, its elected officials, and employees will not be responsible for any claims in law or equity occasioned by your failure to comply with the requirements of this section.
2. Limits for this insurance shall be not less than the following:

<u>Workers' Compensation</u>	<u>Statutory Employers Liability</u>
Bodily Injury by Accident	\$1,000,000 each accident
Bodily Injury by Disease	\$1,000,000 each employee
Bodily Injury by Disease	\$1,000,000 policy limit

3. By signing and returning the Contract you certify that you are aware of the provisions of §3700 of the Labor Code which requires 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 you shall comply with such provisions before commencing the Work as required by §1861 of the California Labor Code.

7-4.1.1 Waiver of Subrogation. The policy or policies shall be endorsed to provide that the insurer will waive all rights of subrogation against the City and its respective elected officials, officers, employees, agents, and representatives for losses paid under the terms of the policy or policies and which arise from Work performed by the Named Insured for the City.

7-8.6 Water Pollution Control. ADD the following:

1. Based on a preliminary assessment by the City, the Contract is subject to **WPCP**.

7-10.5.3 Steel Plate Covers. Table 7-10.5.3 (A), REVISE the plate thickness for 5'-3" trench width to read 1¼".

7-15 INDEMNIFICATION AND HOLD HARMLESS AGREEMENT. To the City Supplement, Paragraph (4), Sentence (3), DELETE in its entirety and SUBSTITUTE with the following:

Your duty to indemnify and hold harmless does not include any claims or liability arising from the established active or sole negligence, or willful misconduct of the City, its officers, or employees.

7-16 COMMUNITY LIAISON. To the City Supplement, DELETE in its entirety and SUBSTITUTE with the following:

ADD:

7-16 COMMUNITY OUTREACH.

7-16.1 General.

1. To ensure consistency with the City’s community outreach plan for the project, the City shall work with you to inform the public (which includes, but shall not be limited to, property owners, renters, homeowners, business owners, recreational users, and other community members and stakeholders) of construction impacts. Your efforts to mitigate construction impacts by communicating with the public require close coordination and cooperation with the City.
2. You shall perform the community outreach activities required throughout the Contract Time. You shall assign a staff member who shall perform the required community outreach services.
3. You shall closely coordinate the Work with the businesses, institutions, residents, and property owners impacted by the Project.
4. Your example duties include notifying businesses, institutions, and residents of the commencement of construction activities not less than 5 Days in advance, coordinating access for vehicular and pedestrian traffic to businesses, institutions, and residences impacted by the Project, reporting activities at all Project progress meetings scheduled by the Engineer, attending the Project Pre-construction meeting, attending 2 community meetings, responding to community questions and complaints related to your activities, and documenting, in writing, as well as logging in all inquiries and complaints received into the City’s internal public contact tracking system.
5. You shall execute the Information Security Policy (ISP) Acknowledgement Form - For Non-City Employees within 15 Days of the award of the Contract if any of the following apply:
 - a) Your contact information is made available on any outreach materials.
 - b) You will be the primary point of contact to resolve project related inquiries and complaints.
6. Electronic Communication.
 - a) All inquiries and complaints shall be logged in to the City’s internal public contact tracking system within 24 hours of receipt of inquiries and complaints.

- b) Any updates or a resolution of inquiries and complaints shall be documented in the City's internal public contact tracking system within 24 hours.
- c) Copies of email communications shall be saved individually on to the City's internal public contact tracking system in an Outlook Message Format (*.msg).
- d) All graphics, photos, and other electronic files associated with inquiries and/or complaints shall be saved into the individual records, located within the City's internal public contact tracking system.

7-16.1.1 Quality Assurance.

1. During the course of community outreach, you shall ensure that the character of all persons that conduct community outreach (distributing door hangers, attending community meetings, interacting with the public, and etc.) on your behalf shall:
 - a) Have the ability to speak and comprehend English and/or Spanish, as appropriate for the community or public they are informing.
 - b) Possess and display easily verifiable and readable personal identification that identifies the person as your employee.
 - c) Have the interpersonal skills to effectively, professionally, and tactfully represent you, the project, and the City to the public.

7-16.1.2 Submittals.

1. You shall submit to the Resident Engineer, for review and approval, all drafts of letters, notices, postcards, door hangers, signs, mailing lists, proposed addresses for hand-delivery, and any other notices and letters that are to be mailed and or distributed to the public.
 - a) Prior to distributing or mailing, you shall submit final drafts of letters, notices, postcards, door hangers, signs, and any other notices and letters to the Resident Engineer for final review and approval. Submit a PDF copy of the approved door hangers to the Engineer.
 - b) After distributing or mailing, you shall submit verification of delivery and any copies of returned notices to the Resident Engineer. Submit a PDF copy of the approved letters and notices to the Engineer.
2. You shall use the City's internal public contact tracking system to identify and summarize communications (via phone, in person, and email) with the public within 24 hours of receipt, even if your response to the individual is still incomplete. You shall upload to the City's internal public contact tracking system copies of all written, electronic, and verbal communications and conversations with the public.

7-16.2 Community Outreach Services.

7-16.2.1 Public Notice by Contractor.

1. Post Project Identification Signs in accordance with 7-10.6.2, "Project Identification Sign".

2. Notify businesses, institutions, property owners, residents or any other impacted stakeholders, within a minimum 300 feet (90 m) radius of the Project, of construction activities and utility service interruptions not less than 5 Days in advance.
3. Furnish and distribute public notices in the form of door hangers using the City's format to all occupants and/or property owners along streets:
 - a) Where Work is to be performed at least 5 Days before starting construction or survey activities or impacting the community as approved by the Resident Engineer.
 - b) Within 5 Days of the completion of your construction activities where Work was performed, you shall distribute public notices in the form of door hangers, which outlines the anticipated dates of Asphalt Resurfacing or Slurry Seal.
 - c) No less than 48 hours in advance and no more than 72 hours in advance of the scheduled resurfacing.
4. Leave the door hanger notices on or at the front door of each dwelling and apartment unit and at each tenant of commercial buildings abutting each of the street block segments. Where the front doors of apartment units are inaccessible, distribute the door hanger notices to the apartment manager or security officer.
5. Door Hanger Material: You shall use Blanks/USA brand, Item Number DHJ5B6WH, 1¼ inch (31.8 mm) Holes (removed), 2-up Jumbo Door Hanger in Bristol White, or approved equal.
6. Mailed Notice Material: You shall use Cougar by Domtar, Item Number 2834, or approved equal.
7. For all Work on private property, contact each owner and occupant individually a minimum of 15 Days prior to the Work. If the Work has been delayed, re-notify owners and occupants of the new Work schedule, as directed by the Resident Engineer.
8. A sample of public notices is included in the Contract Appendix.

7-16.2.2

Communications with the Public.

1. Coordinate access for vehicular and pedestrian traffic to businesses, institutions, and residences impacted by the Project.
2. You shall provide updates on construction impacts to the Resident Engineer. You shall notify the Resident Engineer in advance about time-sensitive construction impacts and may be required to distribute construction impact notices to the public on short notice.
3. You shall incorporate community outreach activities related to construction impacts in the baseline schedule and update the Resident Engineer with each week's submittal of the Three-Week Look Ahead Schedule.
4. At the request of the Resident Engineer, you shall attend and participate in project briefings at community meetings.

5. You shall coordinate with the Resident Engineer on all responses and actions taken to address public inquiries and complaints within the 24 hours that they are received.

7-16.2.3

Communications with Media.

1. The City may allow members of the media access to its construction site(s) on a case-by-case basis only.
2. Occasionally, uninvited members of the media may show up at construction Sites. Members of the media (including, but not limited to newspapers, magazines, radios, television, bloggers, and videographers) do not have the legal right to be in the construction Site without the City's permission.
3. In the event that media representatives arrive near or on the construction Site(s), you shall keep them off the Site(s) in a courteous and professional manner until a Public Information Officer is available to meet them at an approved location.
4. You shall report all visits from members of the media to the Resident Engineer as quickly as possible so that the City's Public Information Officer can meet with the members of the media at the construction Site(s).
5. If the City allows members of the media to access a construction Site, you shall allow the City to escort the media representatives while they are on the construction Site and shall ensure their safety.
6. You shall require media representatives to sign in and out of the Site Visitor Log and to use personal protective equipment.
7. You have a right to speak to members of the media about your company and its role on the project. All other questions shall be referred to the City.

SECTION 9 - MEASUREMENT AND PAYMENT

9-3.2.5

Withholding of Payment. To the City Supplement, item 1, subsection i), DELETE in its entirety and SUBSTITUTE with the following:

- i) Your failure to comply with 7-2.3, "PAYROLL RECORDS" and 2-16, "CONTRACTOR REGISTRATION AND ELECTRONIC REPORTING SYSTEM".

ADD:

9-3.7

Compensation Adjustments for Price Index Fluctuations. To the City Supplement, subsection c), item 2, DELETE in its entirety and SUBSTITUTE with the following:

- 2) In the event of an overrun of Contract time, adjustment in compensation for asphalt binder included in estimates during the overrun period shall be determined using the California Statewide Crude Oil Price Index in effect on the first business day of the month within the pay period in which the overrun began.

ADD the following:

- e) This Contract is subject to the provisions of The WHITEBOOK for Compensation Adjustments for Price Index Fluctuations for the paving asphalt.

SECTION 203 – BITUMINOUS MATERIALS

203-15 RUBBER POLYMER MODIFIED SLURRY (RPMS). To the City Supplement, CORRECT section numbering as follows:

OLD SECTION NUMBER	TITLE	NEW SECTION NUMBER
203-15	RUBBER POLYMER MODIFIED SLURRY (RPMS)	203-16
203-15.1	General	203-16.1
203-15.2	Materials	203-16.2
203-15.3	Composition and Grading	203-16.3
203-15.4	Mix Design	203-16.4

ADD the following:

RPMS shall be used on this contract.

ADD:

212-3.2.2.3 Trench Marker Tape. To the City Supplement, DELETE in its entirety and SUBSTITUTE with the following:

1. Trench marker tape shall be installed in accordance with Standard Drawing SDM-105, "Warning/Identification Tape Installation".

SECTION 302 – ROADWAY SURFACING

302-3 PREPARATORY REPAIR WORK. To the City Supplement, DELETE in its entirety and SUBSTITUTE with the following:

302-3 PREPARATORY REPAIR WORK.

1. Prior to the placement of asphalt concrete or the application of slurry, you shall complete all necessary preparation and repair Work to the road segment.
2. Unless otherwise specified, preparatory Work shall include tree trimming, weed spray, weed abatement, crack sealing, asphalt repair, mill and pave, hump removal, miscellaneous asphalt patching, removal of raised pavement markers, and removal of pavement markings.
3. You shall repair areas of distressed asphalt concrete pavement by milling or removing damaged areas of pavement to a minimum depth of 2 inches (50.8 mm) for residential streets and a minimum depth of 3 inches (76.2 mm) for all others to expose firm and unyielding pavement.

4. You shall prepare subgrade as needed and install a minimum of 2 inches (50.8 mm) for residential streets and a minimum of 3 inches (76.2 mm) for all other streets of compacted asphalt concrete pavement over compacted native material as directed by the Engineer.
5. If the base material is exposed in order to achieve the minimum specified depth, the material shall be compacted to 95% relative compaction (dig out). Compaction tests shall be made to ensure compliance with the specifications.
6. The Engineer shall determine when and where the test shall occur. The City will pay for the soils testing required by the Engineer which meets the required compaction. You shall reimburse the City for the cost of retesting failing compaction tests. If additional base material is required, you shall use Class 2 Aggregate Base in accordance with 200-2.2, "Crushed Aggregate Base".
7. Recycled base material shall conform to crushed miscellaneous base material in accordance with 200-2.4, "Crushed Miscellaneous Base".
8. Prior to replacing asphalt, the area shall be cleaned by removing all loose and damaged material, moisture, dirt, and other foreign matter and shall be tack coated in accordance with 302-5.4, "Tack Coat".
9. You shall install new asphalt within the repair area or for patches in accordance with 302-5, "Asphalt Concrete Pavement". Asphalt concrete shall be C2-PG 64-10 in compliance with 400-4, "Asphalt Concrete".
10. No preparatory asphalt Work shall be done when the atmospheric temperature is below 50° F (10° C) or during unsuitable weather.
11. Following the asphalt placement, you shall roll the entire area of new asphalt in both directions at least twice. The finished patch shall be level and smooth in compliance with 302-5.6.2, "Density and Smoothness". After placement and compaction of the asphalt patch, you shall seal all finished edges with a 4 inch (101.6 mm) wide continuous band of SS-1H.
12. The minimum dimensions for each individual repair shall be 4 feet by 4 feet (1.2 m by 1.2 m) and shall be subject to the following conditions:
 - a) If the base material is exposed to achieve the required minimum removal thickness, the base material shall be prepared conforming to 301-1, "SUBGRADE PREPARATION".
 - b) When additional base material is required, then you shall use Class 2 Aggregate Base in accordance with 200-2.2, "Crushed Aggregate Base". Recycled base material shall conform to crushed miscellaneous aggregate base material in accordance with 200-2.4, "Crushed Miscellaneous Base".
 - c) You may use grinding as a method for removal of deteriorated pavement when the areas indicated for removal are large enough (a minimum of the machine drum width) and when approved by the Engineer.

- d) For both scheduled and unscheduled base repairs, failed areas may be removed by milling or by excavation provided that the edges are cut cleanly with a saw. The areas shall be cleaned and tack coated in accordance with 302-5.4, "Tack Coat" before replacing the asphalt. The areas for scheduled repairs have been marked on the street.
- e) Base Repairs with RAC. Areas where failed paving is removed either by cold milling or by excavation shall be restored to existing pavement grade with ¾ inch (19.1 mm) RAC at 8 inch (203.2 mm) depth unless otherwise directed by the Engineer. These areas have been marked on the street as "DO". The asphalt concrete shall be B3-PG 64-10 as specified in 400-4, "Asphalt Concrete". Preliminary quantities are identified in the Contract Appendix but may need to be increased and approved by the Engineer at the time of construction. Base repairs shall not exceed 15% RAP in content.
- f) Unscheduled Base Repair with RAC. If paving operations cause damage outside of your control and require additional base repair, the areas shall be removed either by cold milling or by excavation and shall be restored to existing pavement grade with ¾ inch (19.1 mm) RAC at 8 inch (203.2 mm) depth unless otherwise directed by the Engineer. The asphalt concrete shall be B3-PG 64-10 as specified in 400-4, "Asphalt Concrete". Unscheduled base repairs shall not exceed 15% RAP.
- g) A base repair is considered unscheduled when it is not identified on the pavement with a "DO" or when you are directed by the Engineer to perform a base repair for the proper placement of an asphalt overlay.

302-3.1 Asphalt Patching.

1. Asphalt patching shall consist of patching potholes, gutter-line erosions, and other low spots in the pavement that are deeper than ½ inch (12.7 mm) in accordance with 302-5.6.2, "Density and Smoothness".
2. The areas requiring patching have been identified in the Contract Documents, marked on the streets, or as directed by the Engineer. You shall identify any new areas that may require patching prior to slurry Work to ensure the smoothness and quality of the finished product.
3. You shall identify and repair any areas that may require patching prior to the placement of slurry seal for a smooth and finished product.
4. Asphalt overlay shall not be applied over deteriorating pavement. Preparatory asphalt Work shall be completed and approved by the Engineer before proceeding with asphalt overlay.
5. You shall remove distressed asphalt pavement either by saw cutting or milling to expose firm and unyielding pavement, prepare subgrade (as needed), and install compacted asphalt concrete pavement over compacted native material as directed by the Engineer.

6. Prior to replacing asphalt, the area shall be cleaned and tack coated in accordance with 302-5.4, "Tack Coat".
7. Following the asphalt placement, you shall roll the entire patch in both directions and shall cover the patch at least twice.
8. After placement and compaction of the asphalt patch, you shall seal all finished edges with a 4 inch (101.6 mm) wide continuous band of SS-1H.
9. Base repairs shall not exceed 15% RAP in content.

302-5.1.1 Damaged AC Pavement Replacement. To the City Supplement, DELETE in its entirety.

SECTION 306 – UNDERGROUND CONDUIT CONSTRUCTION

306-1 OPEN TRENCH OPERATIONS. To the City Supplement, CORRECT section numbering as follows:

OLD SECTION NUMBER	TITLE	NEW SECTION NUMBER
306-1.8	House Connection Sewer (Laterals) and Cleanouts	306-1.9
306-1.7.1	Payment	306-1.9.1
306-1.7.2	Sewer Lateral with Private Replumbing	306-1.9.2
306-1.7.2.1	Location	306-1.9.2.1
306-1.7.2.2	Permits	306-1.9.2.2
306-1.7.2.3	Submittals	306-1.9.2.3
306-1.7.2.4	Trenchless Construction	306-1.9.2.4
306-1.7.2.5	Payment	306-1.9.2.5
306-1.7.3.6	Private Pump Installation	306-1.9.2.6
306-1.7.3.7	Payment	306-1.9.2.7

SECTION 705 – WATER DISCHARGES

705-2.6.1 General. To the City Supplement, item 3, CORRECT reference to Section 803 to read "Section 703".

705-2.6.3 Community Health and Safety Plan. To the City Supplement, DELETE in its entirety and SUBSTITUTE with the following:

705-2.6.3 Community Health and Safety Plan. See 703-2, "Community Health and Safety Plan."

SECTION 707 – RESOURCE DISCOVERIES

ADD:
707-1.1

Environmental Document. The City of San Diego Public Works Department has prepared **Notice of Exemptions** for **Langmuir St. Emergency Storm Drain Replacement Project** and **Acheson St. Emergency Storm Drain Replacement Project** as referenced in the Contract Exhibits. You must comply with all requirements of the **Notice of Exemptions** as set forth in the Contract **Exhibit L**.

Compliance with the City's environmental document shall be included in the Contract Price, unless bid items has been provided.

END OF SUPPLEMENTARY SPECIAL PROVISIONS (SSP)

EXHIBIT J

PROPOSAL

EXHIBIT J

PROPOSAL

To the City of San Diego:

In accordance with the RFQ, the Contractors proposal, the specifications and requirements on file with the City Clerk and the Contract documents, and subject to all provisions of the Charter and Ordinances of the City of San Diego and applicable laws and regulations of the United States and the State of California, the undersigned hereby proposes to furnish to the City of San Diego, complete at the prices stated herein, the items or services hereinafter mentioned. The undersigned further warrants that this 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.

The undersigned bidder(s) further warrants that bidder(s) has thoroughly examined and understands the entire Contract Documents (plans and specifications) and the Bidding Documents therefore, and that by submitting said Bidding Documents as its bid proposal, bidder(s) acknowledges and is bound by the entire Contract Documents, including any addenda issued thereto, as such Contract Documents incorporated by reference in the Bidding Documents.

IF A SOLE OWNER OR SOLE CONTRACTOR SIGN HERE:

- (1) Name under which business is conducted _____
- (2) Signature (Given and surname) of proprietor _____
- (3) Place of Business (Street & Number) _____
- (4) City and State _____ Zip Code _____
- (5) Telephone No. _____ Facsimile No. _____

IF A PARTNERSHIP, SIGN HERE:

- (1) Name under which business is conducted _____

(2) Name of each member of partnership, indicate character of each partner, general or special (limited):

(3) Signature (Note: Signature must be made by a general partner)

Full Name and Character of partner

(4) Place of Business (Street & Number) _____

(5) City and State _____ Zip Code _____

(6) Telephone No. _____ Facsimile No. _____

IF A CORPORATION, SIGN HERE:

(1) Name under which business is conducted Orion Construction Corp./Balboa Construction

Inc. J.V.

(2) Signature, with official title of officer authorized to sign for the corporation:

RD Dowsing
(Signature)

Richard Dowsing
(Printed Name)

President
(Title of Officer)

(Impress Corporate Seal Here)

(3) Incorporated under the laws of the State of California

(4) Place of Business (Street & Number) 2185 La Mirada Drive

(5) City and State Vista, CA Zip Code 92081

(6) Telephone No. (760) 597-9660 Facsimile No. (760) 597-9661

THE FOLLOWING SECTIONS MUST BE FILLED IN BY ALL PROPOSERS:

In accordance with the terms set forth herein, the bidder holds a California State Contractor's license for the following classification(s) to perform the work described in these specifications:

LICENSE CLASSIFICATION A

LICENSE NO. 788132 EXPIRES 11/30/2016

This license classification must also be shown on the front of the bid envelope. Failure to show license classification on the bid envelope may cause return of the bid unopened.

TAX IDENTIFICATION NUMBER (TIN): [REDACTED]

E-Mail Address: Rob@orionconstruction.com

THIS PROPOSAL MUST BE NOTARIZED BELOW:

I certify, under penalty of perjury, that the representations made herein regarding my State Contractor's license number, classification and expiration date are true and correct.

Signature R. Dossing Title President

SUBSCRIBED AND SWORN TO BEFORE ME, THIS 16 DAY OF February, 2016

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

Robert B. Wilson
(NOTARIAL SEAL)

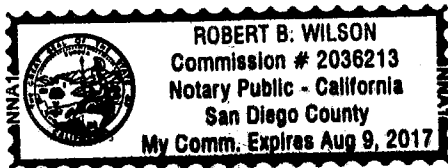


EXHIBIT K

CONTRACTOR'S COMPENSATION RATE SCHEDULE

EXHIBIT K

CONTRACTOR'S COMPENSATION RATE SCHEDULE

The following Compensation Rate Schedule shall constitute the maximum rates (e.g., labor, direct costs, etc.) for Extra Work, if any, provided by the Contractor during the term of this agreement.

These rates are being specified as the Contractor's standard established rates for calculating labor costs without allowance for overhead and profits. For markup provisions and allowable charges refer to 3-2.4, "Agreed Prices."



Langmuir St. & Acheson Street Emergency Storm Drain Repairs Project

COMPENSATION RATE SCHEDULE

ORION CONSTRUCTION			
Title/Classification	Standard Rate (\$)/hour	Overtime Rate (\$)/hour	Double-time Rate (\$)/Hour
Superintendent	125	187	250
Foreman	110	165	220
Operator Group 8	103	154	206
Group 1 Oiler/Grade Checker	94	141	188
Truck Driver	79	118	158
Laborer/Pipelayer	81	121	162
Carpenter	86	129	172
Mechanic	91	136	182
Project Manager	150	N/A	N/A
Project Staff Engineer	110	N/A	N/A
Engineering Project Director	220	N/A	N/A
Engineer (PE) QA/QC	190	N/A	N/A
PM/Design Engineer	190	N/A	N/A
Sr. CADD Tech	125	N/A	N/A
CADD Tech	100	N/A	N/A
Admin/Office	85	N/A	N/A
Environmental Engineer/SWPPP Coordinator	175	N/A	N/A

2185 La Mirada Drive, Vista, CA 92081, (760) 597-9860 Phone (760) 597-9661 Fax

EXHIBIT L

NOTICE OF EXEMPTIONS

NOTICE OF EXEMPTION

(Check one or both)

TO: X RECORDER/COUNTY CLERK
P.O. BOX 1750, MS A-33
1600 PACIFIC HWY, ROOM 260
SAN DIEGO, CA 92101-2422

FROM: CITY OF SAN DIEGO
PUBLIC WORKS DEPARTMENT
525 B STREET, SUITE 750, MS 908A
SAN DIEGO, CA 92101

 OFFICE OF PLANNING AND RESEARCH
1400 TENTH STREET, ROOM 121
SACRAMENTO, CA 95814

WBS No.: B-12091.02.06

PROJECT TITLE: Langmuir Street Storm Drain Emergency Replacement

PROJECT LOCATION-SPECIFIC: Project is located at 2308 Langmuir Street within the Linda Vista Community Plan Area (Council District 7).

PROJECT LOCATION-CITY/COUNTY: San Diego/San Diego

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: An existing 15-inch corrugated metal storm drain pipe is severely deteriorated and segments of the pipe have collapsed causing sink holes within the property located at 2308 Langmuir Street. Unless the storm drain is repaired immediately there is the potential for further property damage. This project will replace the existing 15-inch corrugated metal storm drain pipe with a new 18-inch reinforced concrete pipe within the existing pipe/trench alignment located within an existing 10-foot wide City utility easement using an open trench construction method. The depth of the pipe ranges between two and six feet. The project will also include installation of an energy dissipater and replacement of the existing curb inlet, sidewalk, curb and gutter, concrete driveway and patio, fencing and landscaped areas. No previously undisturbed soils would be impacted. The project site is adjacent to the City’s Multi-Habitat Planning Area (MHPA). However, no night work or night-time lighting will occur, construction best management practices will prevent discharges to the MHPA, and the project is anticipated to be completed prior to the breeding season for coastal California gnatcatcher (CAGN) (March 1- August 15). If construction would occur at any time during the CAGN breeding season, noise attenuation measures (e.g., noise walls) shall be implemented under the direction of a qualified acoustician and biologist to ensure that noise levels resulting from construction activities will not exceed 60 db(a) hourly average at the edge of occupied or assumed occupied habitat. Only non-native, ornamental vegetation on the residential property has the potential to be impacted during construction, which would require a nesting survey to be conducted by a qualified biologist prior to any vegetation trimming and/or removal occurring during the general bird breeding season (February 1 – September 15). All staging and construction activities would occur within the developed public right-of-way and the developed residential property.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: City of San Diego, Public Works Dept/Kris Shackelford
525 B Street, Suite 750 (MS 908A)
San Diego, CA 92101
619-533-4121

EXEMPT STATUS:

(X) Emergency Project - Sec. 21080(b)(4); 15269 (b)(c)

REASONS WHY PROJECT IS EXEMPT: The emergency repairs are required in order to protect public health, safety and property. This determination is supported by the expert opinion of the City Engineer. The City of San Diego conducted an environmental review which determined that the project meets the statutory exemption criteria set forth in CEQA State Guidelines, Section (SEC. 21080(b)(4); 15269 (b)(c)).

LEAD AGENCY CONTACT PERSON: Carrie Purcell

TELEPHONE: 619-533-5124

IF FILED BY APPLICANT:

- 1. ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.
- 2. HAS A NOTICE OF EXEMPTION BEEN FILED BY THE PUBLIC AGENCY APPROVING THE PROJECT?
 YES NO

CARRIE PURCELL, PRINCIPAL PLANNER DATE

CHECK ONE:

- SIGNED BY LEAD AGENCY
- SIGNED BY APPLICANT

DATE RECEIVED FOR FILING AT OPR:

NOTICE OF EXEMPTION

(Check one or both)

TO: X RECORDER/COUNTY CLERK
P.O. BOX 1750, MS A-33
1600 PACIFIC HWY, ROOM 260
SAN DIEGO, CA 92101-2422

FROM: CITY OF SAN DIEGO
PUBLIC WORKS DEPARTMENT
525 B STREET, SUITE 750, MS 908A
SAN DIEGO, CA 92101

 OFFICE OF PLANNING AND RESEARCH
1400 TENTH STREET, ROOM 121
SACRAMENTO, CA 95814

PROJECT NO.: WBS# TBD

PROJECT TITLE: EMERGENCY REPAIR AT 1516 ACHESON ST.

Project Location-Specific: 1516 Acheson St. in the Linda Vista Community Planning Area Council District 7

Project Location-City/County: San Diego/San Diego

Description of nature and Purpose of the Project: A deteriorated 8 foot section of 20 inch corrugated metal storm drain pipe has caused erosion and a sink hole at 1516 Acheson Street. Unless the storm drain is repaired immediately there is the potential for property damage. This project will replace the existing section of the storm drain pipe with a new 20" High Density Polyethylene Pipe (HDPE) within the existing trench and 8-foot wide City easement. This will utilize an open trench construction method. The dimension of the trench will be approximately 8' long x 4' wide x 5' deep. All staging activities would occur within the developed public right-of-way and disturbed areas. The project is not located within or adjacent to the MHPA and no biological impacts are anticipated.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: City of San Diego, Public Works Dept/Mike Fakhoury
525 B Street, Suite 750 (MS 908A)
San Diego, CA 92101
619-533-3894

EXEMPT STATUS:
 EMERGENCY PROJECT - SEC. 21080(b)(4); 15269 (b)(c)

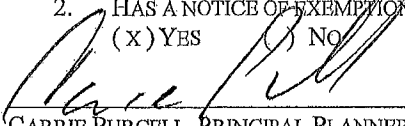
REASONS WHY PROJECT IS EXEMPT: The emergency repairs are required in order to protect public health, safety and property. This determination is supported by the expert opinion of the City Engineer. The City of San Diego conducted an environmental review which determined that the project meets the statutory exemption criteria set forth in CEQA State Guidelines, Section (SEC. 21080(b)(4); 15269 (b)(c)).

LEAD AGENCY CONTACT PERSON: CARRIE PURCELL

TELEPHONE: 619-533-5124

IF FILED BY APPLICANT:

- 1. ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.
- 2. HAS A NOTICE OF EXEMPTION BEEN FILED BY THE PUBLIC AGENCY APPROVING THE PROJECT?
 YES NO


CARRIE PURCELL, PRINCIPAL PLANNER 1/25/14 DATE

CHECK ONE:

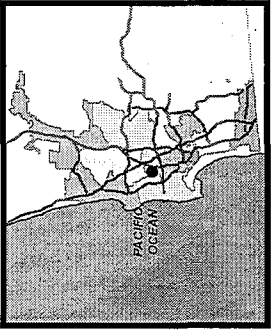
- SIGNED BY LEAD AGENCY
- SIGNED BY APPLICANT

DATE RECEIVED FOR FILING AT OPR:

EXHIBIT M

FIGURE 1, LOCATION MAPS AND AS-BUILT DRAWINGS

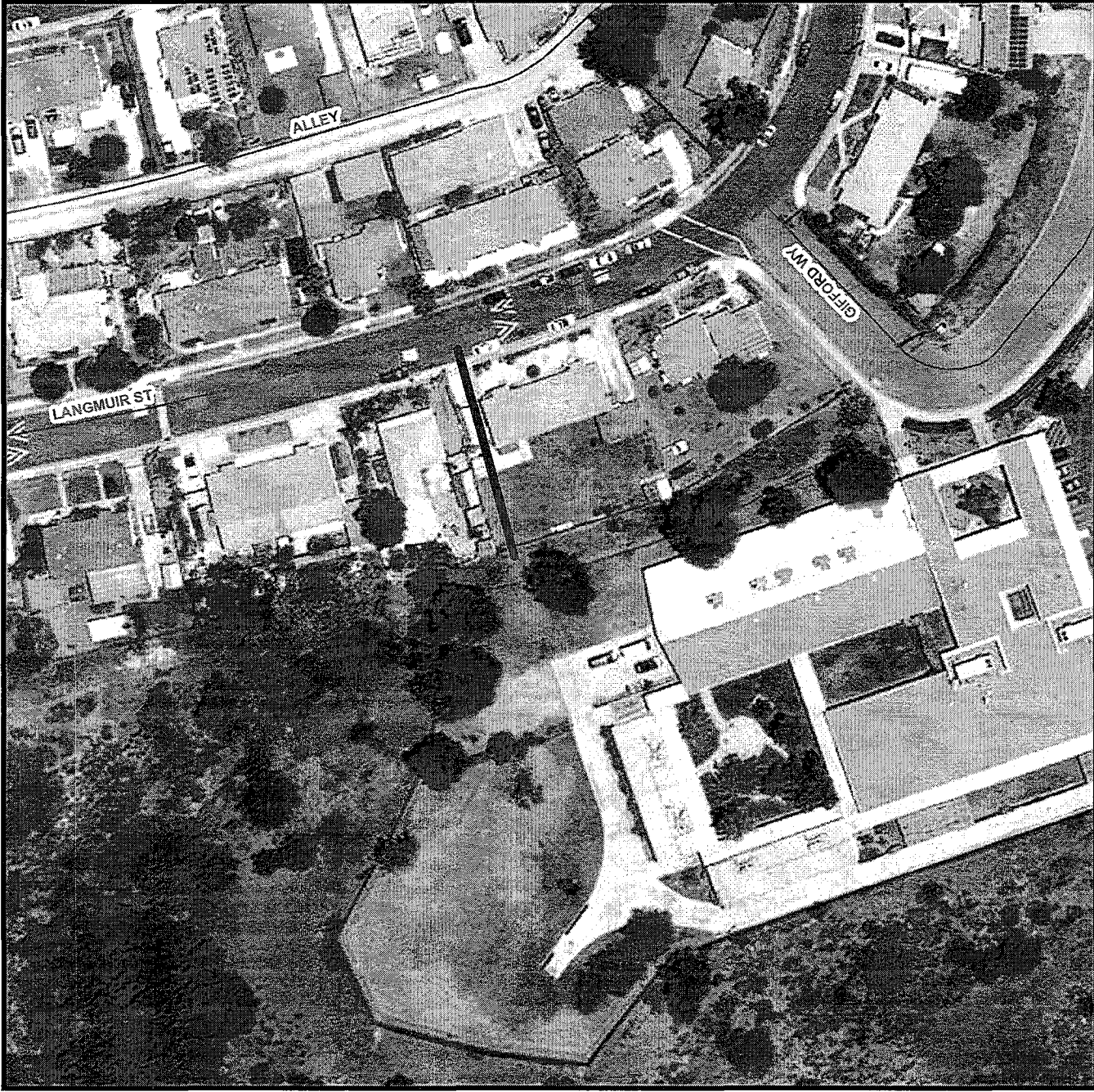
Langmuir St Storm Drain Emergency Replacement



SENIOR ENGINEER
Kris Shackelford
619-533-4121

PROJECT MANAGER
Mike Fakhoury
619-533-3884

CONSTRUCTION PROJECT
INFORMATION LINE
(619) 533-4207



Legend

— Storm Drain to be Replaced

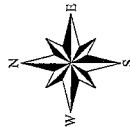
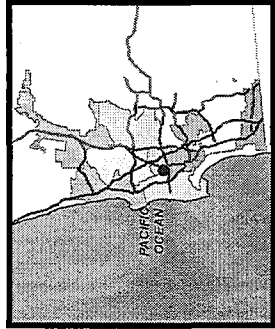


Exhibit M – Figure 1, Location Maps and As-built Drawings Langmuir St. and Acheson St. Emergency Storm Drain Replacement Project
COMMUNITY NAME: Linda Vista
COUNCIL DISTRICT: 7

Date: January 20, 2015





Emergency Repair at 1516 Acheson Street

SENIOR ENGINEER
Kris Shackelford
619-533-4121


PROJECT MANAGER
Jeff Cramoline
619-533-3156

CONSTRUCTION PROJECT
INFORMATION LINE
(619) 533-4207



Legend

Exhibit M - Figure 1, Location Maps and As-built Drawings Langmuir St. and Acheson St. Emergency Storm Drain Replacement Project
 Storm Drain to be Replaced

 Existing Storm Drain

COMMUNITY NAME: Linda Vista

Date: January 12, 2015

COUNCIL DISTRICT: 7



Page 68

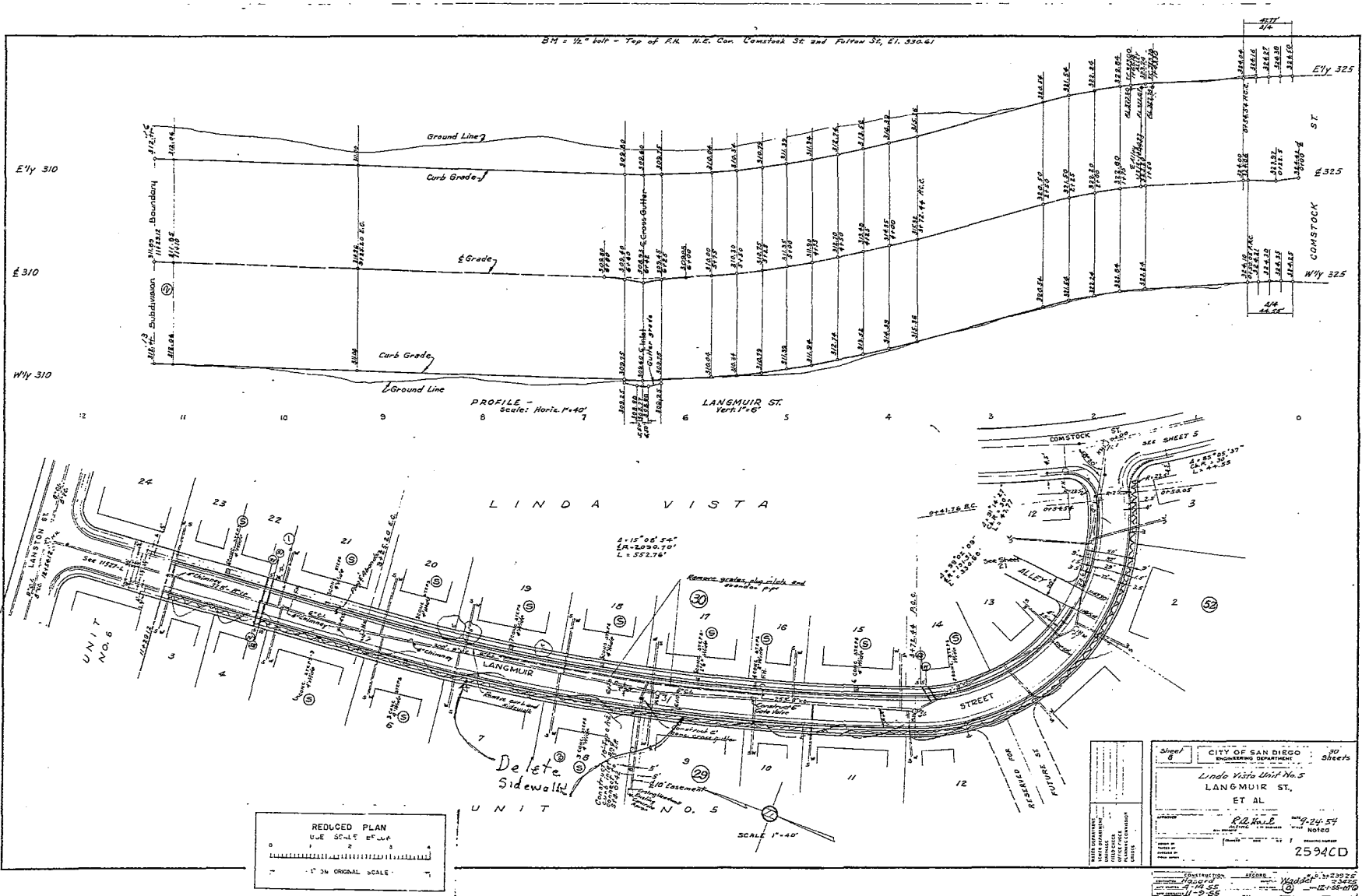


Exhibit M - Figure 1. Location Maps and As-built Drawings Langmuir St. and Acheson St. Emergency Storm Drain Replacement Project

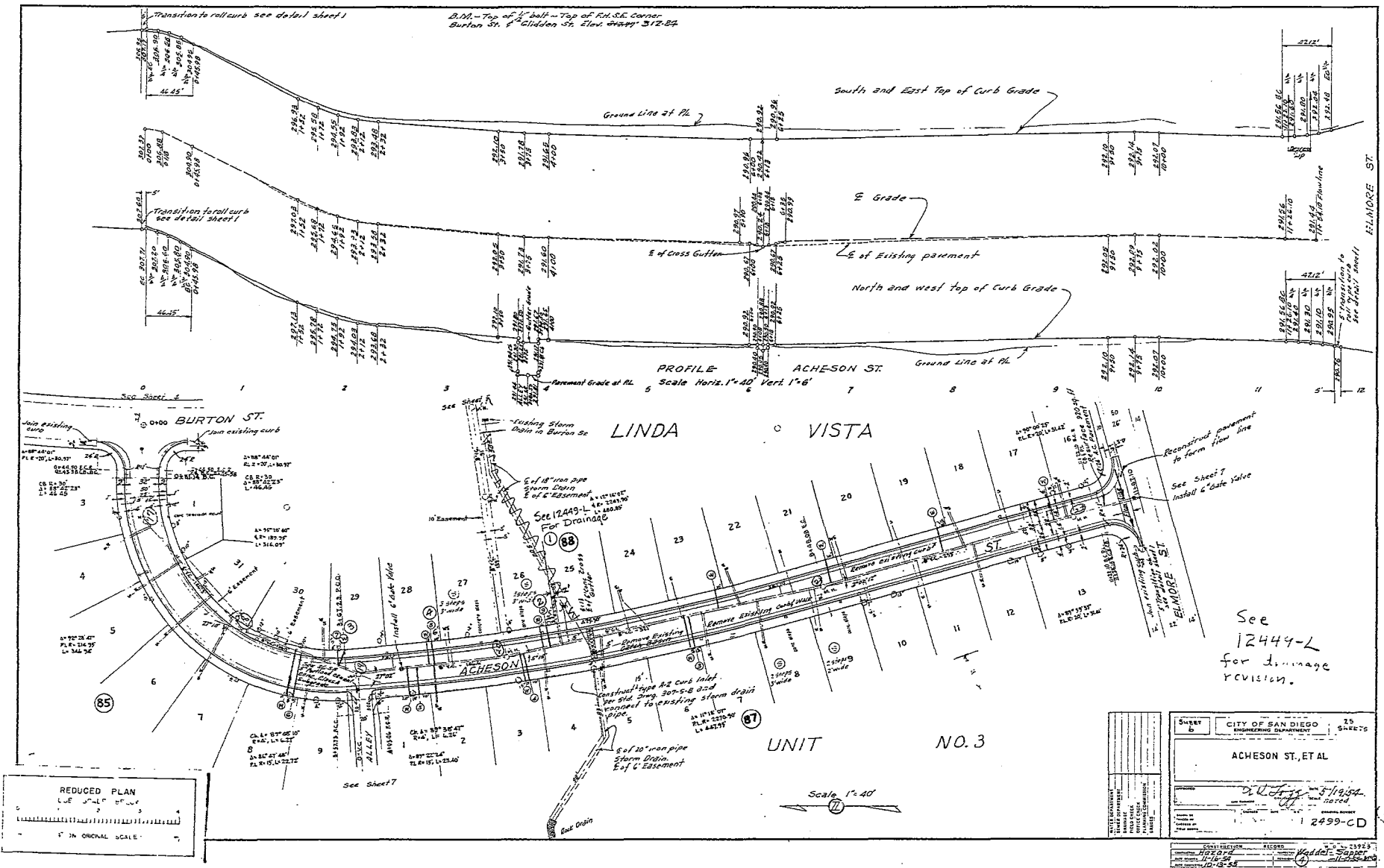


Exhibit M - Figure 1. Location Maps and As-built Drawings
Langmuir St. and Acheson St. Emergency Storm Drain Replacement Project

16, April 2014

JOINT VENTURE AGREEMENT

BY & BETWEEN

ORION CONSTRUCTION CORPORATION

&

BALBOA CONSTRUCTION, INC.

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JOINT VENTURE AGREEMENT

THIS AGREEMENT is made, effective as of the 16th day of April 2014, by and between Orion Construction Corporation (hereinafter "ORION"), a corporation organized and existing under the laws of the State of California, with its corporate office at 2185 La Mirada Drive, Vista, CA 92081 and Balboa Construction, Inc. (hereinafter "BALBOA"), a corporation organized and existing under the laws of the State of California, with its corporate office at 2647 Gateway Road Suite 105, #395 Carlsbad, CA 92009.

WHEREAS, the City of San Diego (hereinafter "Client") has issued Bid No. K-14-6236-EMR-1-C Crown Point Drive Storm Drain Emergency Replacement Project (hereinafter "Project");

WHEREAS, the Parties wish to form a joint venture to submit Proposals for the Projects related to the design and construction ("Services"), and if selected by Client, to negotiate, enter and perform such Services (hereinafter "Contract" or "Contracts") including all changes, modifications or amendments to such Contract or Contracts: and

WHEREAS, the parties desire to define their respective scopes of work, and their duties, responsibilities, rights and obligations with respect to one another for the Contract or Contracts, and the Administration of a Joint Venture formed for the sole and exclusive purpose of performance and completion of the Contract or Contracts in accordance with its/their requirements; and,

WHEREAS, the parties agree to name the Joint Venture, ORION-BALBOA, JOINT VENTURE, and as detailed in the following sections, agree to the following:

- ORION will be the Managing Partner for the Joint Venture. ORION's responsibilities as managing partner include the financial and tax management of the JV, utilizing ORION's contract management and support systems, including procedures for acquisition and subcontracting, reporting, and small business support. In addition, ORION will be responsible for implementation of the Project's Safety and Health (S&H) and Quality Control (QC) programs consistent with ORION's established programs.
- The roles of the member entities and significant subcontractors are as follows:
 - Construction: ORION 75%, BALBOA 25%
- Authority to bind the Joint Venture rests with the JV Management Committee, consisting of one member from each of the entities. Management Committee voting is equal between the parties; For dispute resolution, the ORION Senior Officer has a 75% vote; and the BALBOA Senior Officer has a 25% vote. Authority to bind the JV can be delegated to the Project Manager by vote of the Management Committee.

NOW, THEREFORE, in consideration of the premises and mutual covenants set forth herein, and other good and valuable consideration, the parties hereby agree as follows:

ARTICLE 1 - DEFINITIONS

For the purposes of this Agreement, the following words and phrases shall mean:

- 1.1 "Affiliate" of a Member shall mean any entity which directly or indirectly controls or is controlled by or is under common control with such Member;
- 1.2 "Agreement" shall mean this document and all of its appendices;
- 1.3 "Joint Venture" shall mean the limited association of the Members as defined herein for the purpose of submitting Cost and Technical Proposals to the Client for the Projects; for the purpose of entering into the Contract or Contracts with the Client; Administration of the Joint Venture; and performing services and all other work, including provision of materials, equipment, supplies or products of any nature as may be required by the Contract or Contracts issued thereunder.
- 1.4 "Managing Partner" shall mean the Member selected to act as such pursuant to the terms of this Agreement. The Managing Partner is responsible for the financial and tax management of the Joint Venture. The Managing Partner will also be the sole point-of-contact with the Client. ORION is the Managing Partner of the Joint Venture
- 1.5 "Contract" shall mean the document or documents executed by and between the Joint Venture and the Client reflecting the inclusion of the Joint Venture within the Contract or Contracts.
- 1.6 "Members" shall mean the parties executing this Agreement.
- 1.7 "Qualifications Proposal" shall mean presentation of the capabilities, experience and technical competence of the Joint Venture to the Client.
- 1.8 Joint Venture "Expenses" or "Costs" shall mean payment obligations of the Joint Venture for all direct and indirect costs associated with materials, supplies, equipment, products and services to be obtained on behalf of, or provided by, the Joint Venture to complete the Contract or Contracts. Such expenses include (i) each Member's invoice to the Joint Venture for work performed pursuant to an assigned scope including all direct and indirect costs of each Member as established by either DCAA audit or an acceptable financial review by an accounting firm in accordance with government cost accounting standards and as allowable under the Contract or Contracts and (ii) all other Joint Venture expenses not otherwise covered by the Contract or Contracts that are by written or oral contract payable by the Joint Venture yet attributable only to the Joint Venture and not otherwise attributable to a Member; but that a distribution of earnings is

not to be considered an expense payment obligation. Joint Venture Costs do not include any profit of any type or nature due the Joint Venture from its Contract or Contracts.

- 1.9 "Cost & Pricing Proposal" shall mean the Joint Venture offer detailing charges to the Client with respect to the Contract or Contracts including all direct and indirect costs and profit of each of the Members.
- 1.10 "Technical Proposal" shall mean the Joint Venture offer to the client that details the qualifications, scope, nature and extent of services, materials, equipment, supplies or products to be provided to the Client with respect to a request from the Client pursuant to the Contract or Contracts.
- 1.11 "Scope of Work" shall mean the materials, equipment, supplies or products and services to be provided by the Joint Venture under the Contract or Contracts.

ARTICLE 2 - RELATIONSHIPS OF THE MEMBERS

2.1 FORMATION OF JOINT VENTURE

- 2.1.1 The Members hereby associate themselves as a Joint Venture for the sole and limited purpose of (i) preparing and submitting Proposals to the Client for the Projects, (ii) jointly negotiating and executing a Contract or Contracts with the Client based on the Proposal or Proposals being accepted by the Client, (iii) performing such Contract or Contracts and (iv) defining the rights, duties, responsibilities and obligations between the Members in connection with the performance of the Contract or Contracts and any amendments issued thereunder. The Members, and each of them, hereby agree to perform all work for such Contract or Contracts in accordance with the terms of this Agreement on an exclusive basis, including all extensions, changes and amendments thereto.
- 2.1.2 The interests of the members for all purposes including (i) allocating Joint Venture owned property upon termination of the Joint Venture, (ii) capital contributions to the Joint Venture, (iii) distribution of profits/earnings of the Joint Venture from projects for all design/build work and all construction work, and (iv) allocation of losses from projects for all design/build work and all construction work, of the Joint Venture shall be 75% for ORION and 25% for BALBOA; however, the Members may by a written consent that shall become an addendum to this Agreement allocate prospectively or retroactively the respective interests of the Members as to a particular right, benefit, obligation, or liability on any percentage basis as to which the Members so agree.

2.2 COMMENCEMENT AND TERMINATION

This Joint Venture will commence on the date of signing of this Agreement by all Members and contributions to working capital for the Contingency Account as

provided by Article 4.2.2 herein. This Agreement shall remain in full force and effect until terminated by written Agreement of all the Members or until all of the purposes for which this Joint Venture has been undertaken have been accomplished and completed, whichever is later. In no event shall this Joint Venture be terminated until all rights and liabilities of this Agreement have been determined and satisfied.

2.3 JOINT VENTURE RESPONSIBILITY

- 2.3.1 The Members, and each of them, shall be and remain jointly and severally liable to the Client for performance and satisfactory completion of the Contract or Contracts including any contractual, statutory or applicable common law provisions that by their nature survive completion and final acceptance of all work performed by the Joint Venture pursuant to the Project or Projects. All parties to the Joint Venture will complete the intended performance of the Contract or Contracts and any amendment issued thereunder, and the Joint Venture shall complete performance despite the withdrawal of any Member.
- 2.3.2 This agreement contemplates that the Client shall issue Requests for Proposal for work to be performed. The Joint Venture shall provide to the Client a technical proposal and cost and pricing proposal for the work contemplated under each solicitation. The cost and pricing proposal as to the Contract(s) shall include (i) the direct and indirect cost to be charged by each Member for the scope of work identified by the client to be included in the Contract or Contracts and (ii) a Joint Venture profit as to that scope of work. Upon issuance of the Contract or Contracts by the Client, the Joint Venture shall assign to each of the Members their scope of work.
- 2.3.3 Each assigned Joint Venture Member shall be entitled to be paid the actual direct and indirect costs for its scope of work (and related change orders) contained in the Contract or Contracts. The Joint Venture's sole obligation for payment to each Joint Venture Member is the actual direct and indirect costs incurred as defined in this Agreement and related change orders unless so modified by joint agreement. Any amount received by the Joint Venture over and above the actual direct and indirect costs incurred by the Members in executing the project(s) are earnings of the Joint Venture and shall be used, retained or distributed as determined by the Management Committee.

2.4 MANAGEMENT COMMITTEE

- 2.4.1 Upon the signing of this Agreement, the Members will establish a Committee ("Management Committee") to provide policy decisions on all matters affecting the relationship between the Joint Venture as a whole and the Client or third parties and shall resolve any disputes among the Members with respect to this Agreement, the Project or Projects, the Contract or Contracts, and its or their amendments. The Management Committee shall be comprised of two

representatives of each Member. Each of the parties hereby appoints the following representatives to act for it in all such matters with full and complete authority to act on its behalf in relation to any and all matters in connection with, arising out of, or in relation to any and all matters, questions and things involving the Joint Venture, this Agreement, and the Contract or Contracts.:

PARTY	REPRESENTATIVES
ORION	Richard Dowsing
BALBOA	Fia Dowsing

- 2.4.2 The Management Committee will be chaired by a chairperson designated by the Managing Partner
- 2.4.3 Should any of the foregoing representatives die, become disabled, resign, or for any reason cease to be connected with the Member which nominated him, such Member shall promptly, by written notice served upon the other Members, name his successor. Any of the Members hereto may at any time replace either the representative(s) designated by it by a notice in writing served upon the other Members. Such notice shall be executed by an authorized corporate signatory for the Member providing the notice.
- 2.4.4 The Management Committee shall meet quarterly or as requested by any member of the Management Committee, subject to ten (10) days written or oral notice (or such lesser period upon which the members of the Management Committee may agree), to act on matters within the mandate of the Management Committee. Joint Venture meetings shall be held at such locations as the members may agree upon or via electronic means such as by phone, video conference, etc. The Leader shall convene and preside over such Joint Venture meetings and shall cause minutes to be taken. Within ten (10) working days following each meeting, the Leader will cause to be delivered copies of the minutes by email transmission, other electronic transmission means, or hard copy to the Management Committee members. If a Management Committee member does not give notice to the Leader of an objection to the minutes within fourteen (14) days of receipt thereof, such member shall be deemed to have approved such minutes.
- 2.4.5 Notwithstanding the allocation of each Joint Venture Member's interest, the voting right of each member of the Management Committee shall be equal. Decisions shall be taken by resolution with each of the representatives of each party having one vote. A resolution in writing in lieu of a meeting, signed by all of the members of the Management Committee shall be as valid as if it had been passed at a meeting of the Management Committee.
- 2.4.6 The parties acknowledge that it is their wish that all decisions of the Management Committee shall be unanimous. However, in the event that the Management

Committee is unable to reach a unanimous decision, then such decision shall be determined by majority vote. Notwithstanding the foregoing, decisions on the following issues shall be by unanimous decision of the Management Committee.

- i) major extension or termination of the Contract or Contracts scope of the work;
- ii) alteration to this Joint Venture Agreement;
- iii) disposition of the plant, equipment, tools or salvageable materials of the Joint Venture;
- iv) insurance coverage, including deductible amounts, and bonding to be obtained and maintained by the JV in connection with the Contract or Contracts;
- v) any decision to pay or return capital, contributions, or Joint Venture profit to the parties prior to the completion of the Joint Venture;
- vi) any decision to initiate or settle significant claims against the Owner, any subcontractors or suppliers, or other third parties;
- vii) any decision for which any other provision of this Agreement specifies unanimous approval of the parties.

2.4.7 In case the parties fail to reach a majority decision or unanimous decision where required, the matter in question at the election of any party hereto shall be referred to the Senior Officers of the Member companies for resolution. In this circumstance, ORION's Senior Officer, Richard Dowsing, shall have a 75% vote and BALBOA's Senior Officer, Fia Dowsing, shall have a 25% vote.

2.4.8 Every decision of the Management Committee upon any of the matters within its mandate under this Agreement shall be binding upon the parties as if the same had been included in the provisions of this Agreement at the time of the execution hereof.

2.4.9 If a representative of a party does not attend a duly convened meeting of the Management Committee, the meeting shall proceed so long as one representative of the Member is present. If both representatives of a Member do not attend a duly convened meeting of the Management Committee, the meeting shall be adjourned and requested again, giving notice as aforesaid. Should both representatives of a member not attend the re-noticed meeting, then the meeting shall proceed in their absence.

2.4.10 The Management Committee shall have the mandate to deal with all decisions, commitments, agreements, understandings and all other matters pertaining to negotiations with the Owner or any sureties subsequent to the submission of the bid or bids and pertaining to performance of the Contract or Contracts.

2.4.11 The Management Committee shall have power and authority:

- i) to assign a Member its scope of work for the Project or Projects;

- ii) to exercise control and make decisions on general policy matters related to the Joint Venture which are not specifically delegated to a Member who has been assigned a Contract;
- iii) to delegate the authority to act for and bind the parties to this Agreement in connection with all or any part of the performance of the Contract or Contracts or a Contract issued thereunder. Said delegation of authority to either one of the parties, or to any other person or persons may be revoked at any time;
- iv) to receive and review reports on the progress of the work from a Member. The contents and timing of reports shall be determined by the Management Committee. The Project Manager shall meet with the Management Committee when requested by said Committee;
- v) to determine the amount of any reserves required for any warranty period in respect of any unsettled claims, demands or other contingent liabilities of the Joint Venture relating to the Contract or Contracts;
- vi) to set the financial reporting period year end for the Joint Venture (unless changed by resolution the financial reporting year shall be the end of each calendar year).

2.4.11 The Management Committee with the unanimous consent of all Members may delegate in writing to any person authority to take or decline action on behalf of the Joint Venture that is necessary to the performance of the Contract or Contracts. The scope of such delegation shall be restricted to that which is expressly contained in the writing. Any ambiguity that may arise as to any particular purported delegation of authority shall be interpreted so as to deny such delegation. The method of the delegation of authority may be (i) in a written document addressing the subject of the purported delegation of authority or (ii) in the minutes of the Management Committee meeting provided that the minutes expressly state that the Members concur in the purported delegation. The Management Committee may withdraw such designated authority through either method listed above.

2.5 NO PARTNERSHIP

Nothing contained in this Agreement shall be construed as creating a partnership among the Members, nor is anything contained in this Agreement to be construed as creating or requiring any continuing relationship or commitment between the Members except as set forth in this Agreement. Notwithstanding the foregoing, the Joint Venture shall elect to be taxed as a partnership and ORION shall be appointed the tax partner pursuant to the regulations of the United States Treasury.

2.6 MEMBER'S PROPERTY

Any individually-owned property that any member may provide for use in connection with the performance of its respective scope of work shall remain the individual property of said Member and shall not be the property of the Joint Venture, subject, however, to the terms of Article 6.6, and Article 7.1, below.

2.7 NO AGENCY

- 2.7.1 Nothing contained in this Agreement shall be construed as creating any agency, or employment relationship between any Members.
- 2.7.2 Nothing contained in this Agreement shall be construed as creating any fiduciary relationship of any nature between any Members as individual corporations. The Members agree that each shall exercise good faith and fair-dealing with regards to the other Member.
- 2.7.3 No Member shall have the authority or right, nor shall any Member hold itself out as having the authority or right, to assume, create or undertake any obligation of any kind whatsoever, expressed or implied, on behalf of or in the name of any other Member of its obligations under the Contract or Contracts.
- 2.7.4 No member shall have the authority or right, nor shall any Member hold itself out as having the authority or right, to accept service of any legal process addressed to or intended for any other member.
- 2.7.5 No Member shall have the authority or right to borrow money on behalf of or in the name of any other Member, nor shall any Member pledge the credit of any other Member as regards any matter whatsoever unrelated to the performance of the Joint Venture of its obligations under the Contract or Contracts.
- 2.7.6 Nothing herein contained shall in any manner limit the Members, or any of them, in the conduct of their respective business or corporate activities in the making of other contracts or the performance of other work, except as specifically provided herein.
- 2.7.7 No Member shall have the authority or right, nor shall any Member hold itself out as having the authority or right, to assume, create or undertake any obligation of any kind whatsoever, expressed or implied, on behalf of or in the name of the Joint Venture without the express prior written consent of the other Member. The form of the consent may be (i) a separate written document, (ii) an agreement reached during Management Committee meetings and expressly documented in the meeting minutes (or as resolved by the Senior Officers of the Member Companies – as described in Section 2.4 in case the parties fail to reach

unanimous decision or (iii) as otherwise specifically provided for in this Agreement. Absent such prior written consent, no action is authorized.

- 2.7.8 Unless otherwise agreed upon, the Joint Venture shall have no employees. All necessary personnel shall be provided from the staffs of the Members.
- 2.7.9 Records of the Joint Venture that are required to be kept pursuant to the provisions of law subsequent to the termination of the Joint Venture shall be kept at the ORION offices with a secondary copy at the BALBOA offices. The expenses for this record retention shall be borne by the respective Members solely without regard to the interests of the Members delineated in paragraph 2.1. Upon termination of the Joint Venture, all facilities and Joint Venture property shall be disposed of at the best possible price and the proceeds shared based upon the respective Member's interest delineated in paragraph 2.1.

ARTICLE 3 - SCOPE OF WORK

3.1 MEMBER RESPONSIBILITIES

It is the goal of the Joint Venture to divide and allocate work, responsibilities and requirements for performance of the Contract or Contracts among the Members based upon delivering the best value to the Client. The intended participation of the Members and significant subcontractors is as follows:

- Construction: ORION 75%, BALBOA 25%

It is acknowledged and agreed by each Member that allocations of work may temporarily depart from intended participation objectives because of the nature of particular work scope requirements or specific directives of the Client. It shall be the responsibility of the Management Committee to make such allocation and division. Such division and allocation for each Member shall constitute Member assignments. Each Member's assignments are subject to and are to be performed strictly in accordance with the terms and conditions of the Contract or Contracts and this Agreement.

ORION will be the Managing Partner for the Joint Venture. ORION will provide the Project Manager. Both ORION and BALBOA will provide construction services and staff including site supervisors, quality control staff, safety and health staff, onsite and office labor; subcontractor supervision, and process equipment, construction equipment, supplies and material for the Project or Projects.

3.2 MEMBER ASSIGNMENT DISPUTES

The Assignment of work scope to each Member shall be by unanimous decision of the Management Committee. Any dispute among the Members regarding the

matter of an assignment of the scopes of each Member shall be resolved pursuant to the Dispute Resolution Mechanism set forth in Section 2.4.7 of this Agreement regarding disputes where the parties fail to reach a unanimous decision.

ARTICLE 4 - JOINT VENTURE COSTS AND SERVICES

4.1 DEFINITIONS

4.1.1 Joint Venture revenue shall mean the amount received from the Client pursuant to the Contract or Contracts for activities and related change orders.

4.1.2 Joint Venture expenses or costs shall mean payment obligations of the Joint Venture for all direct and indirect costs associated with materials, supplies, equipment, products and services to be obtained on behalf of, or provided by, the Joint Venture to complete the Contract or Contracts. Such expenses include (i) each Member's invoice to the Joint Venture for work performed pursuant to an assigned Project including all direct and indirect costs of each Member as established by either DCAA audit or an acceptable financial review prepared by an accounting firm in accordance with government cost accounting standards and as allowable under the Contract or Contracts and (ii) all other Joint Venture expenses not otherwise covered by the Contract or Contracts that are by written or oral contract payable by the Joint Venture yet attributable only to the Joint Venture and not otherwise attributable to a Member; but that a distribution of earnings is not to be considered an expense payment obligation. Joint Venture costs do not include any profit of any type or nature due the Joint Venture from its Contract or Contracts.

Joint Venture costs shall mean Joint Venture expenses and in addition thereto any payment obligation not otherwise covered by the Contract or Contracts that arises by virtue of the application of law and is attributable only to the Joint Venture and not otherwise attributable to a Member as provided in this Agreement.

4.1.3 Joint Venture earnings shall mean that amount remaining for the distribution to Members when the amount of revenue received exceeds the amount of Joint Venture costs paid.

4.1.4 Joint Venture loss(es) shall mean that amount remaining owed by the Joint Venture to a creditor when the amount of Joint Venture costs as defined in 4.1.2 above exceeds the amount of Joint Venture revenue.

4.2 JOINT VENTURE OBLIGATION FOR PAYMENT OF COSTS AND SERVICES

4.2.1 Joint Venture revenue that exceeds the amount of the invoices submitted by a Member to the Joint Venture for that Member's performance of an assigned scope shall be continuously used first to pay Joint Venture expenses not otherwise

covered by the Contract or Contracts if so agreed to by the Joint Venture Management Committee. Moreover, except as provided in herein, should a Member incur an expense of any type or nature (direct or otherwise, including a Member's employee salaries, burden and overhead) before award of a Contract or Contracts, then such expenses shall be borne by that Member only and shall not be considered a reimbursable obligation of the Joint Venture or the other Member. Should a Member, however, incur a Joint Venture expense (direct or otherwise, including a Member's employee salaries, burden and overhead) as defined in paragraph 4.1.2 after the awarding of a Contract or Contracts but before the Joint Venture receives revenue from the client, then the Member becomes entitled to reimbursement of such expenses from the Joint Venture after the Joint Venture receives revenue and upon application to the Management Committee. The Management Committee can deny reimbursement of all or a portion of the reimbursement request only if the particular expense to be denied is attributed solely to the Member's activity in the effort to procure award of the Contract or Contracts.

In the event Joint Venture costs are less than Joint Venture revenue resulting in the existence of Joint Venture earnings then, upon the unanimous consent of the Management Committee, such earnings shall be available for distribution to the Members in accord with their respective interest in the Joint Venture as defined in paragraph 2.1. The Management Committee in the exercise of its discretion may make distribution from time to time of all or some of the Joint Venture earnings; provided that the Management Committee shall distribute annually a mandatory distribution to the extent of the existing Joint Venture earnings to the Members in accord with their interests delineated in paragraph 2.1 a sum sufficient to cover the Member's respective income tax obligation on Joint Venture earnings. When the Members of the Management Committee cannot reach a unanimous agreement on a request by a Member for a discretionary distribution of some or all of the existing Joint Venture earnings, then the matter shall be resolved in accordance with paragraph 2.4.7.

In the event that the actual amount of Joint Venture costs incurred during the performance of the Program Contract or Contracts is more than the amount received in revenue such that there is a Joint Venture loss, the Members will either contribute to a Contingency Account as described in more detail below or otherwise reimburse the Joint Venture amounts sufficient to cover the loss as determined by the Members respective interests delineated in paragraph 2.1. To the extent such costs are later recovered in a claim against the Client or any responsible third parties, the Joint Venture Management Committee shall subsequently distribute same among the Members as provided herein. Any reimbursement shall require the unanimous agreement of the Management Committee.

The Joint Venture shall maintain an accurate accounting of all distributions and/or losses, including any contributions of the Members to the Contingency Account

discussed below or for the payment of Joint Venture losses upon the completion of work and the closeout of the Contract or Contracts. Such accounting shall reflect distributions and contributions to the Joint Venture based upon the Members interest in the Joint Venture as delineated in paragraph 2.1.

- 4.2.2 The Joint Venture will maintain a Contingency Account on its books with a balance deemed by the Management Committee to be sufficient for the purposes identified, but in no event shall such balance be less than \$3,000.00. The Contingency Account shall include such amounts as may be determined necessary by the Management Committee to cover costs expended or to be expended by the Joint Venture that the Client or Management Committee determines are (i) not otherwise covered under the Contract or Contracts, (ii) not otherwise covered by an obligation of a Member arising out of an agreement in writing or recorded in the Management Committee meeting minutes for the Member to cover such costs or (iii) not otherwise covered by Joint Venture earnings. Such costs shall include expenses reasonably incurred which result from, are uniquely attributable to, or are caused by, the Joint Venture contemplated by this Agreement, such as, but not limited to, any reporting of Joint Venture activities, revenues or other information to cognizant Federal, State, Municipal authorities or agencies by outside organizations; Joint Venture stationery and logo materials; Joint Venture bank and other necessary financial expenses; Joint Venture licensing and legal fees not otherwise attributable to any of the Members as provided herein; record retention expenses; and any other expenses uniquely relating to Joint Venture operations as provided herein. Members of the Joint Venture shall, from time to time, contribute such sums to the Contingency Account as determined to be necessary by the Management Committee.
- 4.2.3 At any time should the Leader notify the Management Committee that adequate funds are not available to fund the Contingency Account and provides reasonable documentation that such a shortfall exists and contingency funds are necessary to cover the Joint Venture expenses then outstanding, the Management Committee shall assess the Members for the amount of the deficiency based upon the respective members interest delineated in paragraph 2.1 If any Member should fail to timely deliver such funds, such Member shall be in default under this Agreement. Unless otherwise agreed, the other Member shall provide the defaulting Member's funds and shall be then entitled to interest on the funds so advanced at one percent (1%) above the prime rate of interest charged from time to time by the Bank of America (but not exceeding the maximum rate of interest then allowed by law) accruing from the date of said advance. The rights of a Member to recoup funds so advanced plus interest are delineated in Article 8 hereafter.
- 4.2.4 The Joint Venture shall deposit the Contingency Account funds in the Joint Venture checking account established and approved by the Management Committee, and thereafter shall invest excess Contingency Account funds as directed by the Management Committee. Any interest earned on the deposit or

investment of Contingency Account funds shall remain in the Contingency Account or a contractor retention escrow account unless otherwise directed by the Management Committee but shall be allocated among the Members based upon the respective members interests delineated in paragraph 2.1. Each Member shall be responsible for any income taxes attributable to the portion of such interest that is allocated to it.

- 4.2.5 The Members shall contribute an initial amount to the Contingency Account, \$2,250 from ORION and \$750 from BALBOA.
- 4.2.6 Professional and technical services may be retained by the Joint Venture. If it becomes necessary or advisable for the Joint Venture to obtain any professional or technical services (including, without limitation those provided by law, accounting, or tax firms), such services shall be performed for the Members jointly and the cost therefore shall be borne by the Joint Venture. If any fault or mistake or neglect of any firm performing such services results in rework, additional work, or increased costs of any Member, the resulting liabilities and costs shall be borne by the Joint Venture to the extent costs for such fault, mistake or neglect cannot be recovered from said firm or the Client and to the extent such costs were not caused or contributed to by the Member. Nothing herein shall relieve any firm of any responsibility or liability for such fault or neglect, or restrict any Member's right to seek redress from such firm if such Member decides to seek redress.

ARTICLE 5 - PROPOSAL PHASE AND CONTRACT NEGOTIATION

5.1 PROPOSAL PHASE

- 5.1.1 The Members will jointly prepare the Proposals with ORION taking the lead. The Proposals shall be in the name of Joint Venture on behalf of the Members, each of whom shall sign the Proposal unless so otherwise specified in writing by both Members. Each Member shall bear its own costs for (i) the preparation of its qualifications, individual prices, and its technical scope of work to be included in the Proposals (ii) participating in the preparation and submittal of the Proposals, and (iii) any resulting negotiations with the Client or any third party in connection with said Proposals.
- 5.1.2 Each Member shall promptly, when requested by any other Member, submit such data and answer such questions as may be required by the requesting Member in the preparation of its pricing except that no Member shall be required to reveal proprietary information whether of a technical or financial nature, except as may be required by the Client, in which event, such proprietary information shall be submitted by the Member of whom the request was made, directly to the Client with appropriate confidentiality notations including, but not limited to protection afforded by FAR 52.215-12, Restriction on Disclosure and Use of Data.

- 5.1.3 The Members shall establish a Proposal preparation schedule. In accordance with such schedule, each Member will provide information and details as required and will be present at the appointed time and place with its final technical, cost and pricing and Proposal segment for collation into the overall Proposals to the Client.
- 5.1.4 Each Member will establish its cost and pricing included in the Cost Proposals for its respective scope of work. Each Member will establish its cost and pricing in good faith and in accordance with its approved federal indirect rates as audited by DCAA or as established by an accounting firm in accordance with federal government cost accounting standards.

No Member, however, shall be required to change its cost and pricing at the vote or demand of any other Member and no Member shall withdraw from the Joint Venture solely because of dissatisfaction with any other Member's cost and pricing. However, each Member concurs that cost and pricing clarifications and/or justifications may be required if requested in accordance with Contract or Contracts and/or Client requirements.

- 5.1.5 The Members acknowledge that each Member may desire or be required by law to make certain qualifications in the Proposals; and the Members shall discuss the nature of any such qualifications. There shall be unanimous agreement on the Proposals and their qualifications prior to any submittal to the Client. In the event that there is no unanimous agreement, no Proposals shall be submitted by the Joint Venture, and this Agreement shall immediately terminate in accordance with Article 9.9, below.
- 5.1.6 The Joint Venture shall not incur any sales commissions or representation expenses with respect to the Contract or Contracts. If a Member incurs sales commissions or representation expenses for its scope of work, the cost thereof will be borne solely by such Member.
- 5.1.7 The Members will jointly determine the fee to be established for the work to be performed under the Contract or Contracts.

5.2 CONTRACT NEGOTIATION

- 5.2.1 If the Proposal or Proposals are accepted, the resulting Contract or Contracts between the Joint Venture and the Client shall be signed by all of the Members unless so otherwise indicated in writing by both members. In the event that the Client requires one of the Members to sign the Contract or Contracts on behalf of all Members, each non-signing Member shall provide authorization to the signing Member to sign the Proposals and the Contract or Contracts on the Joint Venture's behalf. Additionally, the non-signing Member shall evidence its agreement to the Contract or Contracts by initiating and signing a conformed copy of such Contract or Contracts prior to or simultaneously with the signing of the original Contract or Contracts.

- 5.2.2 The Members shall jointly negotiate the Contract or Contracts with the Client and each Member shall have its representative present at the pre-Contract meetings and discussions with the Client; however, the Project Manager pursuant to paragraph 6.1.3 shall be the spokesman for the Joint Venture unless he designates someone else. No Member shall be authorized to make commitments for any other Member without the prior written approval of such other Member.
- 5.2.3 Any Member shall have the right to refuse to lower its price or to accept terms and conditions, other than those contained in the Proposals, and which said Member, in good faith, determines shall expose it to unacceptable risks and liabilities. In such event the Members covenant not to sue or seek redress from each other for any damages or losses that may result.

ARTICLE 6 - CONTRACT PERFORMANCE PHASE

6.1 JOINT VENTURE MANAGEMENT

- 6.1.1 The Managing Partner shall appoint a Project Manager for the term of this Agreement. The Project Manager established for the Joint Venture is Rob Wilson.
- 6.1.2 The Project Manager will attend meetings of the Joint Venture Management Committee; The Project Manager will not have a vote. The Project Manager will carry out the decisions of the Members reached at Joint Venture Meetings. The Project Manager will not take any action or make any commitments with regard to any assignments without the prior approval of the Management Committee.
- 6.1.3 The ministerial functions of the Project Manager shall include but not be limited to:
- a. Signature authority as delegated by the Management Committee to include submittal of the Proposals and Contract or Contracts signing and authorization to accept contract document, terms and conditions and amendments;
 - b. Acting as spokesman for the Joint Venture in negotiations with the Client, and arranging meetings between the Members and the Client or third parties;
 - c. Transmitting to Members copies of all correspondence and documents between the Client and the Joint Venture;
 - d. Implementation of all actions, directives and instructions of the Management Committee;

e. Reporting to the Management Committee, as requested, on the status of the Project or Projects.

6.1.4 All Members shall give the Project Manager their utmost support in the implementation of its functions, and, in particular, all documents required by the Project Manager for the proper implementation of the Contract or Contracts shall be made available to the Project Manager in the form and at the time reasonably requested by the Project Manager.

6.1.5 The Managing Partner shall open and maintain the Joint Venture bank account and maintain complete, accurate, and current records and books of account pertaining to the Program, including such as pertain to Joint Venture Costs, and shall present such records and books to the scheduled Joint Venture Meetings, and shall make such records and books, or true copies thereof, available to the Members at all reasonable times. Such records and books of account shall clearly separate the business of the Joint Venture from all other business of the Members.

At the end of each calendar year, or at such other times as the Management Committee shall direct, a year end report shall be prepared and issued to each Member. The report shall include an accurate accounting of all income, liabilities and disbursements of the Joint Venture.

6.1.6 The Joint Venture designates ORION as the Member assigned the responsibility to maintain the Joint Venture books. The cost to maintain the Joint Venture books of account is a Joint Venture cost. The Joint Venture shall pay ORION for its direct and indirect costs associated with financial management of the Joint Venture; such costs shall not exceed \$50,000 unless approved by the Management Committee. ORION shall invoice the Joint Venture monthly for such services with payment due within 30 days of the date of the invoice.

6.2 CASH MANAGEMENT

The Managing Partner shall deposit all Capital Contributions and all sums received from the Client or any source in the Joint Venture checking account. Amounts in the Joint Venture checking account shall be withdrawn by check or wire only, signed by two persons, one from each Member, who shall be designated by the Management Committee. The initial personnel authorized to withdraw funds from the Joint Venture Checking Account are Fia Dowsing from BALBOA and Richard Dowsing from ORION. Checks or wires in excess of \$100,000 or more must be signed by one member of the Management Committee as well as the individual from the other Member designated to sign checks or wires.

6.3 TAXES

Each Member shall have full and sole responsibility for the payment of any taxes, duties, fees or assessments of any nature whatsoever levied upon it individually in connection with its assignments and any subcontracts entered into by it, including, but not limited to, any personal income taxes levied or imposed on any of its employees or personnel or any of its subcontractor's employees or personnel. Each Member shall arrange its financial affairs and tax reporting procedures to enable inclusion of its respective share of its profit or loss hereunder in its federal, state, municipal or other required tax returns as required by applicable laws and regulations.

6.4 PATENTS

If an invention is made exclusively by the employees of one Member in connection with this Contract or Contracts, then title to said invention and to any patent issuing thereon shall be in said Member's name. Jointly made inventions shall be owned jointly by both Members. Any ownership rights provided for by this paragraph shall survive the termination of this Agreement. No license under any patents of either Member is granted by this Agreement or by any disclosure of proprietary information hereunder. Each Member shall be solely responsible for any claim or damages due to infringement which arises out of or is connected with its Member assignments and shall indemnify and save harmless the other Members against any loss or damage that may result from such claims to the extent more fully set forth in Article 8 below.

6.5 BANKRUPTCY

The following provisions shall, in any event, be given effect solely in accordance with the relevant laws of the United States of America:

In the event that any Member ("Insolvent Member") (i) makes an assignment for the benefit of creditors, or petitions or applies for or arranges for the appointment of a trustee, liquidator or receiver, or commences any proceeding relating to itself under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation or similar law of any jurisdiction, now or hereafter in effect or otherwise, or shall be adjudicated bankrupt or insolvent; or (ii) permits or acquiesces in the filing against it of any petition or application for the appointment of a trustee, liquidator or receiver, or any proceeding relating to it as debtor under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation or similar law of any jurisdiction now or hereafter in effect, or the entry of an order appointing any such trustee, liquidator or receiver then:

- a. The Insolvent Member (and/or its receiver, trustee, liquidator or custodian) shall cease to have any further decision making authority or

vote under this Agreement and the Joint Venture shall not require the vote, approval or authority of Insolvent Member as otherwise may have been required under this Agreement;

- b. The other Member shall have the right to take over and complete Insolvent Member's assignments and in so doing, the other Member shall be entitled to and have assigned to them all of Insolvent Member's accounts receivable and payments in connection with the Project except to the extent any court of competent jurisdiction shall direct that such accounts receivable and payments due such Insolvent Member be paid to others;
- c. The other Member shall have an exclusive non-revocable license to use and possess for the duration of the Contract or Contracts all of Insolvent Member's equipment, (excluding manufacturing facilities) temporary works, materials and all other things used or supplied by Insolvent Member in connection with the Contract or Contracts. Insolvent Member shall also provide all related information and intellectual property pertinent to the Contract or Contracts and/or Project or Projects to the remaining Member.
- d. Insolvent Member shall be fully responsible for and shall remain liable for all additional costs that are in excess of receipts paid by the Client for such completed work incurred in the completion of its assignments.

6.6 PAYMENTS

- 6.6.1 Each Member shall submit to the Project Manager its statements for payment, including all direct and indirect costs, consistent with the payment provisions provided in the Contract or Contracts in order to permit the Project Manager to submit statements to the Client on behalf of the Members. Each Member shall include in the statement for payment percent completion of each delivery order and the associated costs. The Project Manager shall compile the percent completion and the associated costs for all active Delivery Orders under the Contract or Contracts in a statement or statements to the Client and submit the statement or statements to the Client in the form required by the Client. Upon receipt of the payments from the Client, the Managing Partner shall promptly distribute to each Member the amounts received from the Client relating to their respective applications for payment.
- 6.6.2 In the event that the Client should pay a lump-sum in connection with the termination of a Project or Projects, the total amount of such payments including payments already received from the Client shall be divided among the Members in accordance with the termination provisions of the Contract or Contracts to equitably reflect an apportionment of such payment based upon the actual termination costs and expenses incurred by each member.

6.7 INSURANCE & BONDS

- 6.7.1 Each Member shall be responsible for arranging the insurance coverage for its firm as described in the applicable solicitation/contract. Each member shall take all necessary steps to have the Joint Venture named as an additional insured on that Member's General Liability Policy, Workers Compensation, Automobile/Vehicle Policy and excess liability policy.
- 6.7.2 The Joint Venture shall be responsible for subcontracting the design and the design engineer of record for the Joint Venture shall provide professional liability insurance for the professional design services it provides to the Joint Venture. All other design subcontractors will also be required to provide professional liability insurance. The Management Committee will consider whether to add a project specific professional liability insurance policy for the project.
- 6.7.3 Should joint insurance coverage be deemed necessary by the Management Committee or required by Client or other applicable law or regulation, the insurance premiums shall be a Joint Venture cost paid by the Joint Venture in accord with Article 4 above unless the Members by unanimous consent agree otherwise.
- 6.7.4 Each Member hereby waives and shall obtain from all of its insurance carriers, to the extent permissible by the carrier, a waiver of any rights of subrogation against the other Members and their directors, agents, employees, assignees, and subcontractors with respect to any insurance covering risks associated with the Contract or Contracts.
- 6.7.5 Bonds. Each Member agrees to execute all applications and indemnity agreements required by the sureties issuing any bonds in connection with the Contract or Contracts. The cost of any such bonds obtained by the Joint Venture shall constitute a Joint Venture cost.

ARTICLE 7 - MATERIAL BREACH; DEFAULT

7.1 DEFAULTING MEMBER

In the event any Member ("Defaulting Member") is in material breach or default under this Agreement or the Contract or Contracts and cure of such material breach or default is not initiated within 30 days, and cured within sixty days after written notice thereof from the other Member not in default under this Agreement or the Contract or Contracts, or reasonable action to cure has not been diligently initiated and pursued in the event that a cure cannot be effected within sixty days, the other Member shall have the right to take over and complete the Defaulting Member's assignments. In such event, the other Member shall automatically have the right to receive any and all payments, including fees, which would otherwise

be due the Defaulting Member and apply the proceeds thereof (i) to cover all expenses incurred by the other Member in taking over and completing (by subcontracting or otherwise) the Defaulting Member's assignments and (ii) to establish a contingency fund to cover any and all outstanding warranties or other obligations of the Defaulting Member. In addition, the other Member (iii) shall have a non-revocable exclusive license to use and possess for the duration of the Contract or Contracts all the Defaulting Member's equipment (excluding manufacturing facilities), temporary works, materials and all other things in connection with the Contract or Contracts. Defaulting Member shall also provide all related information and intellectual property pertinent to the Contract or Contracts and Project or Projects to the remaining Member.

7.2 INDEMNITY

In the event of a material breach or default as described above, the Defaulting Member shall indemnify and hold the other Member harmless from any and all liability, including but not limited to fines or penalties of whatever nature and to excess costs and expenses associated with completing the Defaulting Member's assignments, incurred by the other Member as a result of such material breach or default as more fully described in Article 8 below.

7.3 ALLOCATION

Allocation of costs and expenses under Article 7.1, above, and of Defaulting Member's indemnity and reimbursement under Article 7.2, above, shall be in proportion to the respective interest of the remaining Member in accordance with paragraph 2.1.

ARTICLE 8 - LIABILITY AND INDEMNIFICATION

8.1 The Members' obligation under the Contract or Contracts shall be joint and several. As between the Members, any liability which the Joint Venture or any Member may incur arising out of the Contract or Contracts, the performance of Services (irrespective of which Member has been assigned to perform them or if they are subcontracted by the Joint Venture), or arising out of this Agreement shall be allocated between the Members in accordance with the interest of the Members as stated in Section 2.1.2, except as set forth below:

- (a) Liability or related losses to the extent covered by insurance carried by the Joint Venture (or by the Client if the Contract or Contracts provide for wrap-up insurance) shall not be apportioned between the Members; provided, however, any deficiency therein shall first be allocated between the Members in accordance with subsections (b) through (e) below, if applicable, otherwise in accordance with the Members' interest as stated in Section 2.1.2.
- (b) In accordance with Section 7.2, liability or losses sustained by the surviving member or incurred by the Joint Venture as a result of a default

shall be assumed solely by the Defaulting Member.

- (c) Liability or related losses resulting from claims made by an employee of the Member, including but not limited to work related injuries or death, or in any way arising out of matters based on the employee-employer relationship, including without limitation the payment of unemployment taxes, withholding taxes, and employment benefits will be solely assumed by the Member by whom such person is employed.
- (d) Liability for false statements or certifications shall be borne by the Member submitting such statements or certifications.
- (e) Liability or related losses arising out of the gross negligence or willful misconduct of a Member or a Member's employee shall be assumed by that Member.

- 8.2 Except as set forth in subsections (a) through (e) above, each Member agrees to defend, indemnify and hold harmless the other Member from any and all claims, losses and liabilities (including those to a surety or letter of credit provider, costs and attorneys' fees) of the Joint Venture arising under the Contract or Contracts, the performance of Services or this Agreement which are in excess of such other Member's interest as stated in Section 2.1.2. irrespective of such Member's fault, negligence or strict liability. With respect to the liabilities allocated in Subsections (a) through (e), the Member to whom such liability is allocated shall defend, indemnify and hold harmless the JV and the other Member from any and all such claims, losses or liabilities set forth in such subsections (including without limitation, those to a surety or letter of credit provider, costs, and attorneys' fees).
- 8.3 Except as set forth in subsections (a) through (e) above, if a Member discharges liabilities or pays any related losses which are in excess of its Participation percentage, each other Member shall promptly reimburse such Member the amount of such losses paid and/or liabilities discharged thereby which are in excess of such Member's interest as stated in Section 2.1.2. so that each Member will then have paid its proportionate share of such losses and/or liabilities to the full extent of its interest as stated in Section 2.1.2.
- 8.4 If a Member discharges liabilities or pays any losses which have been allocated to another Member pursuant to subsections (a) through (e) above, the Member responsible for such liabilities and losses shall promptly reimburse each other Member the amount of such losses paid and/or liabilities discharged.

ARTICLE 9 - GENERAL PROVISIONS

9.1 PROPER BUSINESS PRACTICES

No Member shall pay, promise, offer or authorize payment of anything of value in any form to any person or organization, either directly or indirectly, through an agent, representative, subcontractor or other third party, to obtain or retain

business, where such payment, promise, offer or authorization is contrary to applicable law.

9.2 CONFIDENTIALITY

No Member shall use any confidential or proprietary information supplied by any other Member for any purpose other than that intended, nor disclose any such information in any form, to any third party without the prior written consent of the Member who supplied the information. With respect to such information, the Members agree as follows:

- a. In order for information to be protected in accordance with this Agreement, it must be (i) in writing or promptly reduced to writing if the disclosure is verbal; (ii) clearly identified as Proprietary Information by each page thereof being marked with the legend "Proprietary Information of (furnishing party)", and (iii) delivered to a designated individual as provided in "d" below.

The exception to the above provisions is that all cost and pricing information of each Member shall be Proprietary Information regardless of any markings on the information and each Member shall treat the other Member's cost and pricing information as proprietary and confidential and shall not disclose it outside its company.

- b. No Member shall identify as proprietary information any information which is not in good faith believed by the party to be entitled to such marking.
- c. Each Member shall use the same degree of care to prevent disclosure or unauthorized use of the other Member's proprietary data that is used to prevent disclosure or unauthorized use of its own proprietary data.
- d. Each Member will designate in writing one or more individuals within its organization as the person(s) authorized to receive proprietary information exchanged between the Members pursuant to this Agreement.

The obligation with respect to handling and using proprietary information, as set forth in this Agreement, is not applicable to the following:

- (1) Information that is or becomes available to third parties, to the Client, or to the general public without restriction and without breach of this Agreement by the receiving Member.
- (2) Information that was in possession of the receiving Member prior to receipt from the disclosing Member or becomes known to the

receiving Member independently of the disclosing Member, without breach of this Agreement by the receiving Member.

- (3) Information that is independently developed or becomes available to any Member by inspection or analysis of products offered for sale.
- (4) Information disclosed after expiration of this Agreement.
- (5) In the event that a Member is served with process or subpoena, or served with an order by a court or governmental agency, requiring the disclosure of confidential or proprietary information, such Member shall promptly give notice of the same to the other Member and shall, at such other Member's expense, use its reasonable efforts to oppose the disclosure of such confidential or proprietary information. The Member receiving process or an order shall not oppose any application of the other Member to intervene in any such proceeding provided, however, that the intervention of such other member in such proceeding shall relieve the receiving Member of its obligations under the immediately preceding sentence.

9.3 DUTY TO INFORM

Each Member shall keep the other Members fully and promptly informed of all progress, events and matters affecting or relating to the other Members' Contract performance and scopes of work and shall, without delay, provide all relevant information and cooperation reasonably requested by the other Members as relates to such contract performance, scope of work to be completed and any other reasonably required coordination and communication required to professionally and expeditiously complete the work as set out in the Contract or Contracts.

9.4 NOTICES

All notices to be given pursuant to this Agreement shall be in writing, and in the English language and may be given by registered or certified mail or by telegram, telex, facsimile, or e-mail at the addresses above set forth, and shall be effective upon receipt.

9.5 WAIVER

No member shall be deemed to have waived any provision of this Agreement unless such waiver shall be in writing and signed by such Member. No waiver shall be deemed to be a continuing waiver unless so stated writing.

9.6 ADDITIONAL MEMBERS

No third party shall become a Member of the Joint Venture under this Agreement without the prior written consent of all the Members.

9.7 ASSIGNMENT

No Member may assign or delegate this Agreement or any of its rights or obligations under this Agreement or the Contract or Contracts, without prior written consent of the other Members, provided, however, any Member shall be free to assign or subcontract any part or the whole of its assignments to any Affiliate. Nothing herein shall prevent any Member from placing or permitting the placing of orders to others for the supply of materials, equipment, supplies, products or services within such Member's assignments, provided the placing of such orders shall not in any way relieve such Member from any of its obligations under this Agreement or the Contract or Contracts or any Task Order issued thereunder.

9.8 APPLICABLE LAW

This Agreement shall be governed by and construed in accordance with the Laws of the State of California, County of San Diego.

9.9 TERM OF AGREEMENT

9.9.1 This Agreement shall be effective as of the date first set forth above upon the execution by all the Members, and shall terminate upon the occurrence of any of the events listed below:

- a. The Client provides notification that the Joint Venture has not been selected for negotiation of a Contract or Contracts; or
- b. The Client advises that no award to any offeror will be made; or
- c. The Contract or Contracts with the Client have been fully performed and closed out in accordance with its/their terms and conditions, full and complete payment has been made thereon and all rights and liabilities with respect to the Client or third parties have terminated, been released, or expired and there are no liabilities to be adjusted between the Members; or
- d. The Contract or Contracts have been terminated by the Client or by mutual agreement with the Client provided there are no liabilities to be adjusted between the Members; or
- e. The Members, with the concurrence of the Client, agree in writing to terminate this Agreement; or

f. The Members, following good faith negotiations, are unable to agree upon mutually acceptable Proposals to, or Contract or Contracts with, the Client.

9.9.2 Termination of this Agreement shall not terminate rights and obligations of the Members that arose prior to such termination, but nothing in this Article 9.9.2 shall confer, create, or expand any rights on behalf of the Client or in any other third parties.

9.10 CONSEQUENTIAL DAMAGES EXCLUDED

Notwithstanding anything to the contrary elsewhere in this Agreement, no Member shall, in any event, be liable to any other Member for any indirect, incidental, special or consequential damages, including but not limited to, loss of revenue, cost of capital, loss of business reputation or opportunity whether such liability arises out of contract, tort (including negligence), strict liability or otherwise. This consequential damage waiver excludes payment of consequential damages that are otherwise included as recoverable damages by the Client or third parties in an action brought by them as to which one Member owes an indemnity pursuant to Paragraph 8.1 above to the other Member.

9.11 OFFICE

The principal office of the Joint Venture will be located at 2185 La Mirada Drive, Vista, CA 92081, or such other location as the Management Committee shall designate.

9.12 CERTIFICATES AND DOCUMENTS

The Members shall execute and file whatever certificates and documents are required to form and operate a joint venture under the laws of California.

9.13 NOTICES

ORION

Richard Dowsing, President
Orion Construction Corporation
2185 La Mirada Drive
Vista, CA 92081

BALBOA

Fia Dowsing, President
Balboa Construction, Inc.
2647 Gateway Road Suite 105, #395
Carlsbad, CA 92009

With copy to:

With copy to:

General Counsel
Orion Construction Corporation
2185 La Mirada Drive
Vista, CA 92081

9.14 PUBLICITY

The Management Committee shall establish a protocol with respect to public relations and media contacts related to the Contract or Contracts. The Members agree to comply, and to require their respective employees and subcontractors to comply with such protocol. No Member shall issue any press releases or statements to the Press or conduct media interviews in contravention of such protocol without the prior consent of the Management Committee.

9.15 ENTIRE AGREEMENT

This Agreement contains the entire Agreement among the Members with respect to the subject matter hereof and supersedes any and all prior understandings, correspondence and agreements, oral or written, among the Members other than those agreements that may be attached hereto and made a part hereof. The rights and remedies of the Members as slated in this Agreement are to the exclusion of any other rights or remedies that may be available at law or in equity.

9.16 SEVERABILITY

Every part, term or provision of this Agreement is severable from others. Notwithstanding any possible future finding by duly constituted authority or court of competent jurisdiction that a particular part, term or provision is invalid, void or unenforceable, this Agreement has been made with the clear intention that the validity and enforceability of the remaining parts, terms and provisions shall not be affected thereby. The validity and effect of this Agreement, its interpretation, operation and all questions arising with respect to performance under it shall be determined by the Management Committee. Any unresolved disputes shall be decided in accordance with the provisions of Article 2.4.7 herein.

9.17 AMENDMENTS

No change, amendment or modification of this Agreement shall be valid or binding upon the Members unless such change, amendment or modification shall be in writing and duly executed by all Members.

9.18 TITLES

Heading titles contained herein shall in no way be construed as limited the intent of the subject matter they introduce and shall not be used in construing this Agreement.

9.19 NUMBER OF ORIGINALS

This Agreement shall be executed in four (4) counterparts, each of which shall be deemed an original: one for the each Member, one for the Joint Venture, and one for the Client.

9.20 GENDER AND TENSE

Whenever required by the context hereof, the singular shall be deemed to include the plural, and the plural shall be deemed to include the singular, and the masculine, feminine and neuter genders shall each be deemed to include the other. The term "person" shall include corporation, firm, joint venture, partnership, trust or estate.

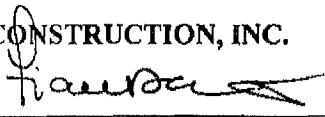
IN WITNESS WHEREOF, the Members hereto have caused this Agreement to be executed by their respective authorized representatives as of the dates set forth below.

ORION CONSTRUCTION CORPORATION

By: 

Date: 4/16/14

BALBOA CONSTRUCTION, INC.

By: 

Date: 4/16/14

City of San Diego

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Workshops

Company Keyword Search >> Orion Construction Corporation

Company Information

Name: Orion Construction Corporation
 Phone: 760-597-9660 x305
 Fax: 760-597-9661
 URL:
 Market Area:
 Business Unit:
 Date Established:
 No. of Employees: 0
 Race/Ethnicity:
 Gender:

Contact Information

Name: Rob Wilson
 Phone: 760-597-9660 x305
 Email: rob@orionconstruction.com
 Primary Address: 2185 La Mirada Drive, Vista, CA, 92081

Certification Information

Agency	Certificate Type	Issued Date	Recertification Date	Expiration Date
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Product/Service Description: Construction

Industries and Services Information

Industry

221 Utilities
 236 Construction of Buildings
 236 Construction of Buildings
 237 Heavy and Civil Engineering Construction
 237 Heavy and Civil Engineering Construction
 237 Heavy and Civil Engineering Construction
 906 ARCHITECTURAL SERVICES, PROFESSIONAL
 906 ARCHITECTURAL SERVICES, PROFESSIONAL
 906 ARCHITECTURAL SERVICES, PROFESSIONAL
 909 BUILDING CONSTRUCTION SERVICES, NEW (INCL. MAINTENANCE AND REPAIR SERVICES)
 910 BUILDING MAINTENANCE, INSTALLATION AND REPAIR SERVICES
 912 CONSTRUCTION SERVICES, GENERAL (INCL. MAINTENANCE AND REPAIR SERVICES)
 913 CONSTRUCTION SERVICES, HEAVY (INCL. MAINTENANCE AND REPAIR SERVICES)
 913 CONSTRUCTION SERVICES, HEAVY (INCL. MAINTENANCE AND REPAIR SERVICES)
 961 MISCELLANEOUS SERVICES, NO. 1 (NOT OTHERWISE CLASSIFIED)
 968 PUBLIC WORKS AND RELATED SERVICES
 968 PUBLIC WORKS AND RELATED SERVICES
 968 PUBLIC WORKS AND RELATED SERVICES

Service/Product

221310 Water Supply and Irrigation Systems
 236210 Industrial Building Construction
 236220 Commercial and Institutional Building Construction
 237110 Water and Sewer Line and Related Structures Construction
 237310 Highway, Street, and Bridge Construction
 237990 Other Heavy and Civil Engineering Construction
 90680 Sewage Collection, Treatment, and Disposal - Architectural
 90692 Utilities (Gas, Steam, Electric) - Architectural
 90694 Water Supply, Treatment and Distribution - Architectural
 90900 BUILDING CONSTRUCTION SERVICES, NEW (INCL. MAINTENANCE AND REPAIR SERVICES)
 91063 Public Utilities: Water, Sewer and Gas Maintenance and Repair
 91200 CONSTRUCTION SERVICES, GENERAL (INCL. MAINTENANCE AND REPAIR SERVICES)
 91300 CONSTRUCTION SERVICES, HEAVY (INCL. MAINTENANCE AND REPAIR SERVICES)
 91350 Construction, Street (Major and Residential)(Includes Reconstruction)
 96185 Utility Services, Water
 96800 PUBLIC WORKS AND RELATED SERVICES
 96863 Relocation and/or Removal Services for Utility Works
 96885 Wastewater Treatment Plant, Operations, and Testing

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Company Keyword Search >> Balboa Construction, Inc.

Company Information

Name: Balboa Construction, Inc.
 Phone: 760-598-2160 x304
 Fax: 760-598-2162
 URL:
 Market Area:
 Business Unit:
 Date Established:
 No. of Employees: 21
 Race/Ethnicity:
 Gender:

Contact Information

Name: Fia Dowsing
 Phone: 760-598-2160 x304
 Email: fia@balboaconstruction.com
 Primary Address: 2647 Gateway Road, Suite 105, #395, Carlsbad, CA, 92009

Certification Information

Agency	Certificate Type	Issued Date	Recertification Date	Expiration Date
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Product/Service Description: Construction

Industries and Services Information

Industry

221 Utilities
 237 Heavy and Civil Engineering Construction
 237 Heavy and Civil Engineering Construction
 906 ARCHITECTURAL SERVICES, PROFESSIONAL
 910 BUILDING MAINTENANCE, INSTALLATION AND REPAIR SERVICES
 913 CONSTRUCTION SERVICES, HEAVY (INCL. MAINTENANCE AND REPAIR SERVICES)
 918 CONSULTING SERVICES

Service/Product

221310 Water Supply and Irrigation Systems
 237110 Water and Sewer Line and Related Structures Construction
 237310 Highway, Street, and Bridge Construction
 90992 Utilities (Gas, Steam, Electric) - Architectural
 91063 Public Utilities: Water, Sewer and Gas Maintenance and Repair
 91350 Construction, Street (Major and Residential)(Includes Reconstruction)
 91897 Utilities: Gas, Water, Electric Consulting

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