



BID# 1618-111015.1

**Re-Bid of Utilities Storage Building Replacement
at City's Corporation Yard (16 Barnes Court)**

For

Department of Utilities & Environmental Services

Bids must be received no later than:

Thursday, December 8, 2016 @ 3:30 pm

Deliver response to the office of
Maria Carrillo, Purchasing Manager at
777 B Street, 3rd Floor
Hayward, CA 94541-5007

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To be completed and returned along with the bid form:

- Vendor's License Statement
- Designation of Subcontractors
- Acknowledgement of Addenda
- Signature Affidavit for Non-Collusion
- Contractor's Certificate Regarding Worker's Compensation
- Non-discriminatory Employment Practices
- Affirmative Action Provision
- Non-Nuclear Involvement

Attachments:

- General Provisions
- Contract Bonds (Labor and Materials; Faithful Performance)
- Existing building pad information (Drawing E-1410) 2 sheets

NOTE: The Table of Contents is to be made a part of the above referenced bid.

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GENERAL CONDITIONS AND INSTRUCTIONS

No bid proposals shall receive consideration by the City of Hayward unless made in accordance with the following instructions:

Deliver proposals to the Purchasing Department at the address indicated above on or before **Thursday, December 8, 2016 @ 3:30 p.m.** It is the responsibility of the bidder to assure that the bid is received at the City of Hayward prior to the bid-opening deadline date and time. Bids received beyond the bid-opening deadline will not be accepted and will be returned unopened. Late bids, unsealed bids, unlabeled bids, incomplete bids, or bids otherwise not in compliance with the General Conditions of this Invitation to Bid, will be rejected. By submitting a response, bidder acknowledges and accepts the General Conditions and all terms and conditions contained in this Invitation to Bid.

All bids must be submitted in ink on the bid form. Cover letters, additional sheets, etc. may be included.

At the time this contract is awarded, the Contractor shall possess either a contractor license.

Erasures are NOT acceptable. Changes must be lined out and corrections inserted adjacent to and initialed by the bidder's authorized representative. Use of correction fluid or tape is not acceptable.

All bids must include the company name and address and must be signed by an authorized representative of the company; signature must be an original signature, or an original signature stamp, on the Bid Form.

Alternate or incomplete bids will NOT be accepted.

City of Hayward, at its sole option, may correct arithmetic or extension errors, and obtain clarification, if necessary.

If no terms discount is to be offered, the terms portion of the bid form shall state "NET".

Bid modifications, corrections, or additions received beyond the bid deadline will NOT be considered.

Telephone or facsimile bids will NOT be accepted. PDF format via email is encouraged.

By submitting a response to this Invitation to Bid, Bidder acknowledges and accepts the City of Hayward's standard terms and conditions.

DEADLINE FOR RECEIPT OF BID

Bid proposals must be filed at the office of the Finance Department – Purchasing Division located at 777 B Street, Hayward, CA 94541 no later than **Thursday, December 8, 2016 at 3:30 p.m.**

It is the sole responsibility of the bidder to see that his/her bid is received by the City of Hayward on-time. Bids received after the scheduled closing time will be returned to the bidder unopened.

SITE INSPECTION

Bidders interested in scheduling a site inspection may do so by contacting Tay Nguyen at tay.nguyen@hayward-ca.gov or (510) 583-4715. Site inspection will only be conducted during normal business hours and the City will require a minimum of forty-eight (48) hour notice.

CONTACT

Any questions regarding administrative bidding procedures should be directed to Maria Carrillo, Purchasing Manager at (510) 583-4802; maria.carrillo@hayward-ca.gov

Any questions regarding the scope or nature of the services should be directed to Tay Nguyen, Project Manager at (510) 583-4715; tay.nguyen@hayward-ca.gov or Bert Weiss, O&M Manager at (510) 881-7901; bert.weiss@hayward-ca.gov

CLARIFICATION DEADLINE

Questions regarding documents, discrepancies, omissions, or doubts as to meaning must be submitted in writing via email to the Project Manager, Tay Nguyen at tay.nguyen@hayward-ca.gov and copy Maria Carrillo, Purchasing Manager at maria.carrillo@hayward-ca.gov, no later than **Thursday, December 1, 2016 at 3:00 p.m.**

MODIFICATIONS

Changes in or additions to the Bid Form, recapitulations of the work bid upon alternative proposals, or any other modifications of the Bid Form which is not specifically called for in the contract documents may result in the rejection of the bid as not being responsive to the Bid. No oral or telephonic modification of any bid submitted will be considered.

WITHDRAWAL OF BID PROPOSALS

Bid proposal may be withdrawn by the bidder prior to the time fixed for the opening of bids, but may not be withdrawn for a period of ninety (90) days after the opening of bids. A successful bidder shall not be relieved of the bid submitted without the City's consent or bidder's recourse to Public Contract Code sections 5100 et. seq.

ADDENDA OR BULLETINS

Any addenda or bulletins issued during the time of bidding shall form a part of the drawing and specifications issued to bidders for the preparation of their proposals and shall constitute a part of the contract documents. Initials of bidders on the bid form shall reflect receipt of all addenda prior to submittal of the bid. If an addendum or addenda have been issued by the City and not noted as being received by the bidder, the Proposal may be rejected.

AWARD OF CONTRACT

Bids will be evaluated on basis of price and compliance to the specifications. The City reserves the right to consider vendor's response time on the deliverables, qualifications, staffing, quality of work, warranty, references and any other information considered to be in the best interests of the City of Hayward.

A written purchase order mailed will be furnished to the successful bidder within time for acceptance specified, results in a binding contract without further action by either party. The contract shall be interpreted, construed and given effect in all respects according to the laws of the State of California.

The City reserves the right to reject any and all bid proposals, to contract work with whomever and in whatever manner the City decides, to abandon the work entirely and to waive any informality or non-substantive irregularity as the interest of the City may require.

The City of Hayward reserves the right to purchase quantities by necessity only regardless of approximate quantities indicated on the bid form. Bidder shall also have the right to refuse sale in reduced quantities; in such instances, the award shall go to the next lowest qualified bidder.

Award of this bid does not imply exclusive agreement with the City of Hayward.

BONDS

The successful bidder, simultaneously with the execution of the agreement, shall furnish a payment bond in the amount of 100% of the contract price and a faithful performance bond in the amount of 100% of the contract price. Bonds secured from a surety company issued by corporation duly and legally licensed to transact business in the State of California and approved by the City.

Bid bond is not required for this project.

BID PROTEST

Should any proposer question or protest the award of the contract, such question or protest must be furnished in writing to the Purchasing Manager no later than three (3) working days following the date of the bid opening. Such submittal must fully explain the basis of the objection supported by all relevant information facts and details. Letter must be signed by an authorized representative stating specific reason(s) for the protest including all relevant facts (law, rule, regulation, and criteria).

Questions or protests not furnished in writing as prescribed will not be accepted.

REJECTION OF BIDS

The City reserves the right to accept or reject any and all bids or any portion or combination thereof, or award on the basis of the total bid. The City of Hayward reserves the right to reject any and all bids, or to waive any informality or non-substantial irregularity in any bid.

RIGHTS AND REMEDIES IN THE EVENT OF DEFAULT

If the bidder defaults, the City may procure the articles or services from other sources and may recover the loss occasioned thereby from any unpaid balance due the bidder or by proceeding against a bidder's bonds, if any, or by suit against the bidder. The prices paid by the City shall be considered the prevailing market prices at the time such purchase is made.

GOVERNING LAW AND VENUE

In the event of litigation, the bid documents, specifications and related matters shall be governed by and construed in accordance with the law of the State of California. Venue shall be with the appropriate state or federal court located in Alameda County.

SUBCONTRACTORS

Pursuant to the Subletting and Subcontracting Fair Practices Act, Government Code Section 4100-4114, inclusive, every bidder shall, on the enclosed form set forth the name and location of the place of business of each subcontractor who will perform work or labor or render service to the bidder in or about the work in an amount in excess of one-half (1/2) of one percent (1%) of the bidder's total bid and the portion of the work which will be done by each subcontractor. If the bidder fails to specify a subcontractor for any portion of the work performed under the contract in excess of one-half (1/2) of one percent (1%) of the bidders total bid, bidder agrees that bidder is fully qualified to and will perform that portion of the work. The successful bidder shall not, without the consent of the City, either substitute any person as subcontractor in place of the subcontractor designated in the original bid, permit any subcontractor to be voluntarily assigned or transferred, allow the work to be performed by anyone other than the original subcontractor listed in the bid or sublet or subcontract any portion of the work in excess of one-half (1/2) of one percent (1%) of the total bid as to which the bidder's original bid did not designate a subcontractor.

CONTRACTOR'S FINANCIAL OBLIGATIONS

The work embraced herein shall be in accordance with Section 7-1.01 A, Labor Code Requirements, of the State of California Standard Specifications dated May 2006. Pursuant to Section 1770 of the Labor Code, the Director of the Department of Industrial Relations has ascertained the general prevailing rate of per diem wages applicable to the work to be performed, which rates are filed in the office of the City Engineer, and copies of which are available to any interested parties on request.

The Contractor shall have full responsibility, and subsequent liability for enforcing the general prevailing wage rate requirements upon all subcontractors utilized by the Contractor in the performance of this contract. The City reserves the right to request all certified payrolls at any time. None compliance to submittal of certified payrolls may result in termination of the contract.

The Contractor shall make prompt payments for all labor, materials, and services furnished to or for him in accordance with the Contract requirements. Prior to submitting a request for final payment, the Contractor shall provide the City with lien releases or conditional lien releases for all subcontractors and suppliers used on this project.

TRANSFER OF INTEREST

No interest in the contract shall be transferred to any other party without permission of the City.

PREVAILING WAGE

Prevailing wages must be paid to all workers employed on a public works project when the public works project is over \$1,000. Prevailing Wages: The Work is subject to the payment of not less than prevailing wages under Labor Code Section 1770 et seq. Bidders are hereby notified that the Director of Industrial Relations has ascertained the general prevailing rate of per diem wages and the rates for overtime and holiday work in the locality in which the work is to be performed for each craft, classification or type of

worker needed to perform the Work under the contract which will be awarded to the successful bidder. Copies are on file with and available upon request from the City Engineer or at <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>.

Bidders are further notified that this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Further information on Compliance Monitoring Unit requirements can be found at <https://www.dir.ca.gov/dlse/cmu/cmu.html>.

No contractor or subcontractor may be listed on a bid proposal for a public works project submitted on or after March 1, 2015 unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5, with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a).

No contractor or subcontractor may be awarded a contract for public work on a public works project awarded on or after April 1, 2015 unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

Contractor agrees to comply with all related provisions of the Labor Code, including but not limited to, the provisions of Labor Code Section 1775 relating to the payment of prevailing wages, Section 1777.5 relating to the employment of apprentices and Section 1811-1813 relating to the payment of Overtime.

Offsite Fabrication Of Materials and Components: Per the August 27, 2014 decision of the California Court of Appeals in sheet metal worker's international association, local 104 vs. Duncan, "offsite fabrication is not covered by the prevailing wage law if it takes place at a permanent, offsite manufacturing facility and the location and existence of that facility is determined wholly without regard to the particular public works project."

WORKERS' COMPENSATION

In accordance with the provisions of Section 3700 of the Labor Code, Contractor shall secure the payment of compensation to his employees. Contractor hereby acknowledges the following statement:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract documents."

The Contractor shall take out and maintain during the life of the contract, Statutory Worker's Compensation and Employer's Liability Insurance with limits not less than One Million Dollars (\$1,000,000) for all its employees to be engaged in the work on the project under the Contract. Should any work be sublet, the Contractor shall require the subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance, all in strict compliance with State laws and to fully protect the City from any and all claims arising out occurrences on the work.

PROOF OF CARRIAGE OF INSURANCE

The contractor shall take out and maintain during the life of the Agreement all the insurance required by this section and shall annually submit certificates for review and approval by the City. Acceptance of the certificates shall not relieve the contractor of any of the insurance requirements, and shall not decrease the liability of the

contractor. The City reserves the right to require the contractor to provide insurance policies for review by the City.

Contractor shall not commence work nor shall contractor allow any subcontractor to commence work under this contract until all required insurance and certificates have been delivered in duplicate to and approved by the City. Certificates and insurance policies shall include the following clause:

"This policy shall not be canceled or reduced in required limits of liability or amount of insurance until notice has been mailed to the City stating date of cancellation or reduction. Date of cancellation or reduction may not be less than ten (10) days after date of mailing notice."

Certificate of insurance shall state in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date and cancellation and reduction notice. Contractor shall be solely responsible for:

1. Compliance of subcontractors with insurance requirements; and
2. Other insurance coverage including but not limited to loss, theft, fire, property damage, and glass breakage.

COMMERCIAL GENERAL AND AUTOMOBILE LIABILITY INSURANCE

The Contractor shall take out and maintain in the name of the Contractor and as an additional insured, the City, during the life of the Contract, such Commercial General and Automobile Liability Insurance as shall protect the Contractor, the City, and its officials, officers, directors, employees and agents from claims which may arise from operations under this contract, whether such operations be by the Contractor, by the City, its officials, officers, directors, employees and agents, any subcontractors or by anyone directly or indirectly employed by any of them. Such coverage shall be at least as broad as: Insurance Service Office Commercial General Liability coverage (occurrence Form CG0001) and Insurance Service Form Number CA0001 (Ed.1/87) covering Automobile Liability, Code 1 (any auto). This liability insurance shall include but not limited to protection against claims arising from bodily and personal injury and damage to property, resulting from the Contractor's or subcontractor's operations, including the use of owned or non-owned automobiles, products and completed operations. The amounts of insurance shall not be less than the following:

- Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- Employer's Liability Insurance: \$1,000,000 per occurrence.

The following endorsements must be attached to the policy:

- **The City must be named as an additional named insured under the coverage afforded with respect to the work being performed under the contract.**
- If the insurance policy covers on an "accident" or a "claims made" basis, it must be changed to "occurrence".
- The policy must cover Personal Injury as well as Bodily Injury.
- The policy must cover complete contractual liability. Exclusions of contractual liability. Exclusions of contractual liability as to bodily injuries, personal properties and property damages. MUST BE

ELIMINATED from the basic policy endorsements. This endorsement may be satisfied by amending the definition of “incidental contract” to include written contract.

- Broad form property damage liability must be afforded. Permission is granted for deductible, which shall not exceed \$10,000 without special approval of the City.
- A certificate shall be provided which states that the coverage is PRIMARY INSURANCE and that no other insurance affected by the City will be called upon to contribute to a loss under this coverage.
- The policy must include a cross liability or severability of interest clause.
- Any failure of the Contractor to comply with the reporting provisions of the policies shall not affect coverage provided to the City, et al.
- Notice of Cancellation, non-renewal, reduction in limits, or material change, shall be sent to the City with at least **thirty (30) days** prior written notice by certified mail.
- Insurance is to be placed with California Admitted Insurers with a Best’s rating of no less than A:XI
- The policy covers use of Non-owned Autos;

Should any insurance policy be materially changed before final completion of the work, and the Contractor fail to procure other insurance as herein required, immediately, the City may procure such insurance and deduct the cost thereof from any amounts due to the Contractor.

Insurance is to be placed with insurers acceptable to the City of Hayward’s Legal Department.

LOSS OR DAMAGE

The Contractor shall take and assume all responsibility for the work. The Contractor shall bear all losses and damages which may occur to said work or any part or portion thereof and in connection therewith to persons and/or property, and shall fully indemnify the City from and against the same.

The Contractor, subject to the limitations of Civil Code Section 2782, shall assume the defense of and indemnify and save harmless the City, officers and employees from every expense, liability or payment by reason of injury (including death) to persons or damage to property suffered through any act or omission, including passive and/or active negligence, of the Contractor, or any Subcontractors or anyone directly or indirectly employed by either of them, or from the condition of the premises while in the control of the Contractor or any Subcontractors, or anyone directly or indirectly employed by either of them or arising in any way from the work called for by this contract, or any part of the premises.

SAFETY

The Contractor shall be solely and completely responsible for conditions of the job site, including safety of all persons and property during performance of the work. This requirement will apply continuously and not be limited to normal working hours.

The contractor will hold harmless, indemnify and defend the City, their officers, employees and agents from any and all liability claims, losses, or damage arising or alleged to arise from the performance of the work described herein.

All work and materials shall be in full accordance with all applicable OSHA, state and local laws and regulations. Code compliance is mandatory. Nothing in these plans and specifications is to be construed to permit work not conforming to code.

INTERPRETATION OF CONTRACT DOCUMENTS

Should any question arise concerning the intent or meaning of drawings or specification, such question(s) shall be submitted to the City for interpretation.

EXTRA AND/OR ADDITIONAL WORK AND CHANGES

The City at any time during the progress of said work, request any alterations, deviations, additions, or omissions from the said contract, specifications, or drawings, it shall be at liberty to do so and the same shall in no way affect or make void the contract, but will be added to or deducted from the amount of said contract price as the case may be, by a fair and reasonable valuation. The value of any such extra work or change shall be determined in one or more of the following ways:

- a. By estimate and acceptance in a lump sum.
- b. By unit prices named in the contract or subsequently agreed upon.
- c. Cost of labor, materials and equipment plus overhead and profit as indicated below.
 1. Work by Contractor or Subcontractors: For any portion of the changed work which is to be performed by a subcontractor, Contractor shall furnish to the City a detailed estimate prepared and signed by subcontractor of the cost to subcontractor for performing the changed work. At the option of the City, a lump sum estimate of such cost to subcontractor may be accepted in lieu of the detailed estimate. The combined costs for subcontractor's overhead, profit, taxes, supervision, and bonds **shall not exceed fifteen percent**. Contractor may add no more than fifteen percent for its overhead, profits, insurance, taxes, supervision, bonds, and any other miscellaneous costs for such work, known as overhead and profit hereafter. Estimates of the amount to be deleted from subcontractor's portion of the work shall be the gross cost of the deducted work plus at least six percent overhead, bonds, insurance, and related savings.
 2. Markup for Added Work or Credit for Deleted Work: Where changed work is performed, Contractor may add to the total cost estimate for such work no more than fifteen percent for profit, overhead, insurance, taxes, supervision, and bonds. Estimate of the amount to be deducted from the contract price shall be the gross cost of the deducted work plus at least six percent for overhead, bonds, insurance, taxes and related savings.

For proposed change orders which involve both added and omitted work, Contractor shall separately estimate the cost of the added work before markups, and separately estimate the cost of the omitted work before allowance of a credit.

If the difference between the costs results in an increase to the contract price, the markup for added work shall be applied to the difference, and if the difference in the costs results in a decrease, then the markup for deleted work shall be applied to the difference.

3. Market Values: Cost for added work shall be based on market values prevailing at the time of the change, unless Contractor can establish to the satisfaction of the City that it investigated all possible means of obtaining work at prevailing market values and that the excess cost could not be avoided by it.

When a change order deletes work from the contract, the computation of the cost thereof shall be the values which prevailed at the time bids for the work were opened.

If none of the above methods is agreed upon, the Contractor, provided he/she receives an order to do so as above, shall proceed with the work. In such case and also under case "C", he/she shall keep and present in such form as the City may direct, a correct account of the net cost of labor and materials, together with vouchers.

No extra work shall be performed or change be made unless in pursuance of a written order from the City stating that the extra work or change is authorized. No claim for an addition to the Contract sum shall be valid unless so ordered.

TERMINATION BY THE CITY FOR BREACH, ETC.

If the Contractor should be adjudged a bankrupt, or if he/she should make a general assignment for the benefit of his/her insolvency, or if he/she or any subcontractors should violate any of the provisions of the contract, or if he/she should persistently or repeatedly refuse or should fail to prosecute the work properly for failure to perform any provisions of this contract, or if he/she should fail to make prompt payment to subcontractors or for material or labor, or persistently disregard laws, ordinances or the instruction of the City, then the City may serve written notice upon the Contractor and his/her Surety of its intention to terminate the contract, such notice to contain the reasons for such intention to terminate the contract, and unless within five (5) days after the serving of such notice, such violation shall cease and satisfactory arrangements for correction thereof be made, the contract shall, upon expiration of said five (5) days, cease and terminate. In the event of any such termination, the City shall immediately serve written notice upon the Surety and the Contractor, and the Surety shall have the right to take over and perform the Contract provided, however, that if the Surety within ten (10) days after the serving upon it of notice of termination does not give the City may take over the work and prosecute the same completion by any method it may deem advisable, for the account and at the expense of the Contractor and the Contractor and occasioned the City thereby, and in such event the City may without liability for doing so, take possession of and utilize in completing the work such materials, appliances, plant and other property belonging to the Contractor as may be on the site of the work and necessary therefore. In such case the Contractor shall not be entitled to receive any further payment until the work is finished.

If unpaid balance of the contract price shall exceed the expense of finishing the work, including compensation for additional managerial and administrative services such shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the City.

ASSIGNMENT OF CONTRACT

Neither the Contract, nor any part thereof nor any moneys due of to become due hereunder may be assigned by the Contractor without the approval of the City, not without the consent of the Surety unless the Surety has waived its right to notice of assignment.

PAYMENTS WITHHELD

The City may withhold, or on account of subsequently discovered evidence, nullify the whole or part of any certificate to such extent as may be necessary to protect the City from loss on account of:

- a. Defective work not remedied.
- b. Claims filed or reasonable evidence indicating probable filing of claims.

- c. Failure of the Contractor to make payments properly to subcontractors, or for material or labor.
- d. A reasonable doubt that the contract can be completed for the balance then unpaid.
- e. Damage to another contractor.

CLAIMS

All claims of \$375,000 or less which arise between the contractor and the local agency shall be subject to the settlement an arbitration provisions set forth in Public Contract Code Sections 20103 through 20104.8, which provisions are incorporated herein by this reference.

PRICE, TERMS AND CONDITIONS

Price, terms and conditions of this bid are considered valid for sixty (60) days, from date of bid opening, unless the offering party in writing allows for a longer period of time.

Any cash discounts given to the City of Hayward must be so stated on the bid.

Prompt payment discounts offered for payment will not be considered in evaluating offers for award. However, offered discounts will be taken if payment is made within the discount period, even though not considered in the evaluation of offers.

In connection with any discount offered, time will be computed from date of complete delivery of the supplies or equipment as specified, or from date correct invoices are received, if the latter is later than the date of delivery. Payment is deemed to be made for the purpose of earning the discount on the date of mailing the warrant or check.

PERMITS AND LICENSES

Any person doing business in the City of Hayward is required by Chapter 8, Section 1 of the Municipal code to pay a business license tax. The successful bidder shall have or procure a business license and, prior to initiation of work, show evidence thereof to the Revenue Department. The successful bidder shall, in addition, procure all permits, pay all charges and fees and give all notices necessary and incidental to the due and lawful prosecution of The Work. Bidder's attention is directed to the Specifications/Scope of Work for additional permit requirements. In addition, Bidder must include Contractor's license number and date of expiration on the bid form.

WORKING HOURS

Job to start at a time designated by the City and the Contractor Regular working hours is from 8:00 a.m. to 5:00 p.m. The Contractor shall give a minimum of three (3) day notice to the Project Manager for any work scheduled outside of the regular working hours. The Contractor is responsible to schedule and coordinate its work accordingly to allow for inspections by the Project Manager or its designee as required by these specifications.

CLEAN UP

The contractor shall be responsible for necessary cleanup during progress of work, and shall take necessary safety precautions to prevent injury to the workers or the public. Upon the completion,

the contractor shall remove all of the contractor's equipment and debris, leaving the entire area clean and ready to use, all as approved by the City.

CONTRACTOR USE OF WORKSITE

Confine Worksite operations to areas permitted by law, ordinances, permits, and the Contract Documents. Consider the safety of the Work and that of people and property on and adjacent to the Worksite when determining amount, location, movement, and use of materials and equipment on Worksite. Do not load Worksite with equipment and products which would interfere with the area's normal access, traffic or flow. Only equipment, tools or materials required for this work may be stored at the Worksite.

PROJECT PHASING AND WORK SCHEDULE

The Contractor shall submit a complete and detailed schedule of the work with specific milestones for the design, procurement, installation and modification.

INTENT OF THE CONTRACT

It is the intent of this contract to obtain a finished, complete in place, fully functional, and suitable for its intended purpose workmanlike job of high quality, with all equipment properly installed and operating.

Except as otherwise specified, the Contractor shall furnish the following to the full extent as required by the Contract: Labor, superintendence, products, construction equipment, tools, machinery, materials and appurtenances as necessary. Utilities required for construction and related activities, facilities and services necessary to properly execute and complete the Work, including security, storage area, temporary safety fencing for worksite and all materials, including City furnished equipment, awaiting incorporation into the Work.

In the specifications, plans, schedules and details, information is conveyed by means of brief mention or notation which, regardless of brevity, shall be binding exactly as if presented in complete sentences employing mandatory language. Work not listed in the specifications or drawings, but clearly implied as necessary to complete the job, shall be included as though fully specified and drawn.

Titles and headings to sections and paragraphs in these specifications are introduced merely for convenience and shall not be taken as a correct or complete segregation of the several units of materials and labor. No responsibility, either direct or implied, will be assumed by the City, for omissions or duplications by the Contractor or its subcontractors due to real or alleged error in arrangement of matter in the Contract Documents.

NO PERSONAL LIABILITY

Neither the City Council, officers, employees or agents of the City of Hayward, nor any other officer or authorized assistant or agent shall be personally responsible for any liability arising from or in connection with The Work.

RESPONSIBILITY OF CITY

The City of Hayward shall not be held responsible for the care or protection of any material or parts of The Work prior to final acceptance, except as expressly provided for in these specifications.

SUCCESSFUL BIDDER NOT AN AGENT OF THE CITY OF HAYWARD

The right of general supervision of the City of Hayward shall not make the Successful Bidder an agent of the City; and the liability of the Successful Bidder for all damages to persons or to public or private property arising from the Successful Bidder's execution of The Work shall not be lessened because of such general supervision.

COOPERATION

Should work be performed by other firms, within or adjacent to The Work specified, or should work of any other nature be underway by other forces within or adjacent to said limits, the Successful Bidder shall cooperate with all such other firms or other forces to the end that any delay or hindrance to their work will be avoided. The right is reserved to perform other or additional work at or near the site (including material sources) at any time, by the use of other forces.

When two or more firms are employed on related or adjacent work, each shall conduct his operation in such a manner as not to cause any unnecessary delay or hindrance to the other. Each firm shall be responsible to the other for all damage to work, to persons or property caused to the other by his operations and for loss caused the other due to his unnecessary delays or failure to finish The Work within the time specified for completion.

PUBLIC RECORDS

All responses to the Request for Proposal will become the property of the City. Once a final award is made, all bid responses, except financial and proprietary information, become a matter of public record and shall be regarded by the City as public records. The City shall not in any way be liable or responsible for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Records Act.

GENERAL PROVISIONS FOR PURCHASES OF WORK AND SERVICES

The City of Hayward's general provisions for purchases of work and services are described in Attachment 1. The provisions are dated 11/15/1999 and include sections 1.00 Legal Relations and Responsibilities through 1.26 Recycled Materials.

DEFEND, INDEMNIFY AND HOLD HARMLESS

To the full extent permitted by law, Contractor shall defend, indemnify and hold harmless City of Hayward, its employees, agents, officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, actual attorney fees incurred by the City, court costs, interest, defense costs including expert witness fees and any other costs or expenses of any kind whatsoever incurred in relation to, as a consequence of or arising out of or in any way attributable in whole or in part to the performance of this contract and agreement. All obligations under this provision are to be paid by Contractor as the City incurs them.

Without affecting the rights of the City under any provision of this agreement or this section, Contractor shall not be required to indemnify and hold harmless City of Hayward as set forth above for liability attributable to the sole fault of City of Hayward, provided such sole fault is determined by agreement between the parties or the findings of a court of competent jurisdiction. This exception will apply only in instances where the City of Hayward is shown to have been solely at fault and not in instances where Contractor is solely or partially at

fault or in instances where City's fault accounts for only a percentage of the liability involved. In those instances, the obligation of Contractor will be all-inclusive and the City will be indemnified for all liability incurred, even though a percentage of the liability is attributable to conduct of the City.

Contractor acknowledges that its obligation pursuant to this section extends to liability attributable to City of Hayward, if that liability is less than the Sole fault of City.

ATTORNEY'S FEES

In the event suit is brought by either party in connection with this agreement, the prevailing party shall have judgment for court costs and a reasonable attorney's fee.

END OF SECTION

SCOPE OF WORK

INTRODUCTION

The City of Hayward's Utilities & Environmental Services Department (City) is soliciting quotes from qualified contractors to install, set up and disassemble the Utilities Storage Building at the City's Corporation Yard located at 16 Barnes Court, Hayward, California.

SITE INVESTIGATION

The Contractor acknowledges that it has investigated and satisfied itself as to:

- a. The conditions affecting the work, including but not limited to physical conditions of the site which may bear upon site access; handling and storage of tools and materials; and access to water, electric, or other utilities or otherwise affect performance of required activities.
- b. The character and quantity of all surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site.

Any failure by the Contractor to acquaint itself with available information will not relieve him or her from the responsibility for estimating properly the difficulty or cost of successfully performing the work. The City is not responsible for any conclusions or interpretations made by the Contractor on the basis of the information made available by the City. The contractor will not be given extra payments above the accepted prices for conditions that can be determined by examining the site and all Contract Documents.

SCOPE OF WORK

The work consists, in general, of removal & disposal of existing building and installation of new steel building and such other items or details not mentioned above that are required by the plans, standard specifications, or these special provisions shall be performed, placed, installed or constructed.

The City is requesting two quotes for a steel building with the following features.

Alternative 1A: New Building with 4" thick insulation on inside of walls and roof

Alternative 1B: New Building with walls and roof without insulation

1. Remove and dispose of existing building except for reuse building parts.
2. 60'Wx75'Lx16'H (at eave) Gable building with 1:12 roof pitch on existing foundation/slab, to meet all codes and regulations.
3. Furnish three (3) complete set of engineer sealed design specifications and plans, to include building plans, cut sheets, anchor bolt drawings and design calculations.
4. Solid steel, "I" beam construction specified to carry lighting, electrical conduit and wire and fire sprinklers.

5. Tapered rigid frame columns and rafters with red oxide primer or equivalent.
6. All frame work coated with red oxide primer or equivalent.
7. 26 ga. galvanized steel panels for roof, with mastic sealant tape or equivalent for weather seal where panels overlap.
8. 26 ga. galvanized steel panels for walls. All joints sealed including where base of wall meets slab.
9. Paint to match existing structures, approval by City forces.
10. Reinstall existing roll-up doors at existing locations.
11. Reinstall two (2) existing man doors at locations in front of building (one to left of roll-up doors and one current location on front of wall on left side of building (left side as seen when facing roll-up doors from outside building)).
12. Install two (2) – 35” power vent units with external louvers on back wall at top of wall (30” blade, ½ HP motors). Both units shall be accessible from inside the building for maintenance and repair.
13. Install gutters and downspouts on side walls.
14. Install Six (6) 3’x10’ stationary (cannot be opened) skylights with safety wire.
15. Contractor to provide all power, water and sanitary facilities. Where available on site, builder will have use of facilities. If fire hydrant is used for water, contractor shall be responsible for obtaining a construction meter.
16. Contractor responsible for all permits and inspections.
17. Ten (10) year warranty against leaks and defects to include all parts and labor.

Each quote package should include the following tasks identified below. This scope of work represents the City’s best estimate of the work needed to accomplish the objectives of this project. Bidder’s attention is directed to the attached Technical Specifications and Project Plans for additional detail and information.

General Requirements

- a. All materials shall conform to Standard Specifications.
- b. All work shall be completed within **twenty (20) working days**.
- c. Perform all work in conformance with the provisions and specifications.

END OF SECTION

BID FORM
For RFQ #1618-111015.1
Re-Bid of Utilities Storage Building Replacement
HAYWARD, CA

TO: THE CITY OF HAYWARD

FROM: _____
 (COMPANY NAME)

Pursuant and in compliance with your Instructions and Conditions and all other documents relating thereto, the undersigned offer or, having familiarized himself with the terms of the contract, the local conditions affecting the performance of the contract, the cost of the work at the place where the work is being done, and with the specifications and other contract documents, hereby proposed and agrees to perform within the time stipulated, in contract, including all of its component parts, and everything required to be performed, and to provide and furnish any and all of the labor, materials, tools, expandable equipment, applicable taxes and all utility and transportation services necessary to perform all of the work required in connection with **this bid proposal, including all costs associated with Utilities Storage Building Replacement**, all in strict conformity with the specifications and other contract documents, including any addenda issued and on file at the Office of the Purchasing Manager of the City of Hayward.

ITEM NO.	ITEM DESCRIPTION	APPROX. QUANTITY	UNIT OF MEASURE	ITEM PRICE (In Figures)	TOTAL (In Figures)
1A	Utilities Storage Building Replacement (New Building with 4" thick insulation on inside of walls and roof)	1	L.S.		
TOTAL					

ITEM NO.	ITEM DESCRIPTION	APPROX. QUANTITY	UNIT OF MEASURE	ITEM PRICE (In Figures)	TOTAL (In Figures)
1B	Utilities Storage Building Replacement (New Building without insulation)	1	L.S.		
TOTAL					

TERMS

Cash terms (if applicable) _____ % _____ Days

FOB

Destination

Project Start Date:

Within Fifteen (15) Calendar Days of Notice to Proceed from the City.

THE REPRESENTATIVES MADE HEREIN ARE MADE UNDER PENALTY OF PERJURY.

*******THE REPRESENTATIVES MADE HEREIN ARE MADE UNDER PENALTY OF PERJURY*******

CONTRACTOR'S LICENSE STATEMENT

Pursuant to the provisions of Section 7033, Chapter 9, Division III, of the Business and Professions Code (known and referred to as the Contractor's License Law), the undersigned certifies that he or the firm he represents is licensed as a contractor by the Contractors State License Board, and that the license is currently in full force and effect.

Proper Name of Bidder _____

License No. _____ Expiration Date: _____

Classification No. & Title: _____
(Example: C-10 Electrical)

DIR Registration No. _____ Expiration Date: _____

COH Bus. Lic. No. _____ Expiration Date: _____

NO BID IS VALID UNLESS SUBMITTED ON THIS FORM AND SIGNED BY AUTHORIZED AGENT FOR YOUR COMPANY.

SUBMITTED BY:

COMPANY NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

TELEPHONE: _____

EMAIL: _____

SIGNATURE: _____
(Authorized Agent)

NAME: _____
(Please Print)

TITLE: _____

DATE: _____

NOTE: If bidder is a corporation, the legal name of the corporation shall be set forth above, together with the signature of authorized officers or agents; if bidder is a partnership, the true name of the firm shall be set forth above, together with the signature of the partnership; and if bidder is an individual, his signature shall be placed above.

****THIS DOCUMENT MUST BE COMPLETED, EXECUTED AND SUBMITTED WITH THE BID FORM****

****THIS DOCUMENT MUST BE COMPLETED, EXECUTED AND SUBMITTED WITH THE BID FORM****

DESIGNATION OF SUBCONTRACTORS

In compliance with the provisions of the Government Code of the State of California each bidder shall set forth below the name and the mill, shop, or office of each subcontractor who will perform work or labor or render service to the Contractor in or about the construction of the work or improvement to be performed under these specifications and the portion of the work which will be done by each subcontractor.

If the Contractor fails to specify a subcontractor for any portion of the work to be performed under the contract, he shall be deemed to have agreed to perform such portion himself, and he shall not be permitted to subcontract that portion of the work under the conditions hereinafter set forth.

Subletting or subcontracting of any portion of the work as to which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the legislative body of the CITY.

<u>TRADE NAME</u>	<u>CONTRACTOR'S LICENSE NO.</u>	<u>EXPIRATION DATE</u>	<u>DIR REGISTRATION NO.</u>	<u>EXPIRATION DATE</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

THE REPRESENTATIONS MADE HEREIN ARE MADE UNDER PENALTY OF PERJURY

****THIS DOCUMENT MUST BE COMPLETED, EXECUTED AND SUBMITTED WITH THE BID FORM****

ACKNOWLEDGMENT OF ADDENDA

Failure to execute the following may be considered as an irregularity in the bid. Receipt of the following addenda issued during the time of bidding is acknowledged, and the information contained therein has been considered in the preparation of this bid:

- | | |
|--------------------------------|--------------------------------|
| <input type="checkbox"/> None | <input type="checkbox"/> No. 3 |
| <input type="checkbox"/> No. 1 | <input type="checkbox"/> No. 4 |
| <input type="checkbox"/> No. 2 | <input type="checkbox"/> No. 5 |

(Check Appropriate Space(s) for Addenda Received)

WARNING

If an addendum or addenda have been issued by the City and not noted above as being received by the bidder, this Proposal may be rejected.

****THIS DOCUMENT MUST BE COMPLETED, EXECUTED AND SUBMITTED WITH THE BID FORM****

NONCOLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID.

State of California)
) ss.
County of _____)

_____, being first duly sworn, deposes and says that he or she is 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 as 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 of 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.

NO BID IS VALID UNLESS SIGNED BY THE PERSON MAKING THE BID

SIGNATURE: _____

PRINT NAME: _____

DATE: _____

****THIS DOCUMENT MUST BE COMPLETED, EXECUTED AND SUBMITTED WITH THE BID FORM****

CONTRACTOR'S CERTIFICATE
REGARDING WORKER'S COMPENSATION

LABOR CODE SECTION 3700

“Every employer except the State and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:

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

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker’s compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of this contract.

SIGNATURE: _____

Print Name: _____

Date: _____

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

CITY OF HAYWARD

NONDISCRIMINATORY EMPLOYMENT PRACTICES PROVISION

In the performance of this contract the contractor or subcontractor agrees as follows:

1. **AFFIRMATIVE ACTION - GENERAL.** The contractor or subcontractor shall not discriminate against any applicant for employment or employee on the grounds of race, color, religion, national origin, ancestry, place of birth, sex, sexual orientation, age, or disability. The contractor or subcontractor will take affirmative action to ensure that its recruitment, selection, and evaluation practices do not discriminate against any applicant for employment or employee. The contractor or subcontractor shall also ensure that its personnel policies, practices and procedures, including but not limited to, the transfer, promotion, demotion, suspension, layoff, or termination, rates of pay or other forms of compensation, and the selection for training programs, apprenticeship, and on-the-job training do not discriminate against any employee. The contractor or subcontractor shall post in conspicuous places that are accessible to applicants for employment and employees notices setting forth this Nondiscriminatory Employment Practices Provision.

2. **RECRUITMENT.**
(a) **Non-union employees.** Advertising placed with any media shall include the notation, "An Equal Opportunity Employer." Advertisements shall be placed with media having large circulation among minority groups or at school placement centers having large minority student enrollments. The contractor or subcontractor will send to each source of employee referrals, other than labor unions or workers' representatives, a notice, in such form and content as shall be furnished or approved by the City, advising such source of employee referrals of its commitments under Chapter 2, Article 7, of the Hayward Municipal Code, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

Recruitment of non-union employees shall, to the maximum extent possible, utilize the services of minority organizations likely to be referral sources for minority group employees.

(b) **Union employees.** Union employees shall be recruited in accordance with applicable labor agreements. The contractor or subcontractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, in such form and content as shall be furnished or approved by the City, advising said labor union or workers' representatives of its commitments under Chapter 2, Article 7, of the Hayward Municipal Code, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor or subcontractor agrees to seek the inclusion in all union agreements to which it is a party, clauses prohibiting discrimination based upon race, color, religion, national origin, ancestry, place of birth, sex, sexual orientation, age, or disability. To the maximum extent consistent with applicable labor agreements the contractor or subcontractor will attempt to recruit applicants without regard to race, color, religion, national origin, sex, age, or disability.

3. **EQUAL EMPLOYMENT OPPORTUNITY OFFICER.** The contractor or subcontractor shall designate one of its management employees as its Equal Employment Opportunity Officer and shall assign such officer the responsibility and authority to administer and promote an active program to put the contractor's or subcontractor's nondiscriminatory employment practices commitment into practice.

4. **ACCESS TO RECORDS.** The contractor or subcontractor shall permit access during normal business hours to its records of employment, employment advertisements, completed application forms, and other pertinent data and records when requested to do so by the City Manager or any representative of the Fair Employment Practices Commission of the State of California.

5. **COMPLIANCE REVIEW PROCEDURES.**
(a) The contractor or subcontractor shall, upon request of the City Manager, submit its official payroll records together with a monthly cumulative summary of all employee hours worked in performance of its contract with or on behalf of the City identified as to minority status.

(b) The contractor or subcontractor shall submit to a formal, thorough review of its records, books, reports, and accounts concerning its employment practices for the purpose of determining whether they are nondiscriminatory. This review will be performed at intervals during the performance of the contract as may be specified by the City Manager.

Each review shall be followed within 30 days by either a written notice to the contractor or subcontractor that it is in apparent compliance with the Nondiscriminatory Employment Practices Provision of its contract or by a citation of apparent deficiency, summary of findings, and a statement of remedial commitment for signature by the contractor. If the contractor or subcontractor fails to meet the commitments it has made in executing such statement, the City Manager shall issue a notice of intent to initiate an action against the contractor or subcontractor with the Fair Employment Practices Commission for willful violation of the Nondiscriminatory Employment Practices Provision and the California Fair Employment Practices Act in not less than 30 days of such notice of intent.

6. **VIOLATIONS.** The City Manager shall deem a finding of willful violation of the Nondiscriminatory Employment Practices Provision and the California Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has investigated and determined that the contractor or subcontractor has violated the Fair Employment Practices Act and has issued an order under Labor Code Section 1426, which has become final, or obtained relief under Labor Code Sections 1429 and 1429.1, or an appropriate federal commission or agency, or a court of the State of California, or if the United States Government finds, in any action or proceeding to which the contractor or subcontractor is a party, that it discriminated against employees or applicants for employment in the performance of this contract. Upon receipt of such notice or final judgement, the City Manager shall notify the contractor or subcontractor that unless it demonstrates to the satisfaction of the City Council within a stated reasonable period that the violation has been corrected, said contractor or subcontractor shall be subject to the remedies hereinafter provided.

7. **REMEDIES FOR WILLFUL VIOLATION.** The contractor or subcontractor agrees that a finding of a willful violation of the California Fair Employment Practices Act or of this Nondiscriminatory Employment Practices Provision shall be regarded by the City Council as a basis for determining whether or not it is a responsible bidder as to future contracts for which such contractor or subcontractor may submit bids. The contractor or subcontractor further agrees that such disqualification by said City Council shall remain in effect for one year or until it demonstrates to the satisfaction of the City Manager that its employment practices are in conformity with the nondiscrimination provisions of the article.

The contractor or subcontractor further agrees that the contractor or subcontractor shall, as a penalty to the City of Hayward, forfeit for each calendar day or portion thereof an amount not to exceed \$250 or 1 percent of the total contract amount, whichever is greater. Such penalty may be deducted from any sums due to the contractor or subcontractor or recovered by the City through maintenance of an action in any court of competent jurisdiction.

Prior to making any determination with respect to reinstatement of a contractor or subcontractor as a responsible bidder, the City Council may refer the matter to the Human Relations Commission of the City of Hayward for a report and recommendation. The contractor or subcontractor agrees to cooperate to the fullest extent with said Human Relations Commission in its exercise of the authority here conferred, including, but not limited to, promptly furnishing reports requested by the commission's review of matters relating to such reinstatement.

(REV. 11/5/92)

CITY OF HAYWARD

SPECIAL AFFIRMATIVE ACTION PROVISION FOR SUPPLY AND SERVICE CONTRACTS

In accordance with section 2-7.04 of the Hayward Municipal Code (HMC), this provision shall be included in every nonconstruction contract estimated by the City to equal or exceed \$10,000 annually, where the contract has a potential for more than one delivery on City request and the Contractor employs more than ten (10) persons, and for every other nonconstruction contract equal to or in excess of \$25,000 (whether paid in one sum upon delivery or completion, or paid periodically and such periodical payments are estimated by the City to total \$25,000 or more in one year) the following requirements must be met in addition to those set out in The City of Hayward Nondiscriminatory Employment Practices Provision (Sec. 2-7.02, HMC):

1. IN THE PERFORMANCE OF THIS CONTRACT, THE CONTRACTOR AGREES AS FOLLOWS:

(a) The contractor that submits the apparent low bid shall, on behalf of itself and those of its subcontractors, if any, where the dollar amount of such subcontract exceeds \$10,000, furnish the City Manager such information concerning its employment practices and existing and projected work forces in the form and manner as may be requested by the City Manager.

(b) The contractor that submits the apparent low bid and each of its subcontractors, if any, where the dollar amount of such subcontract is \$10,000 or more, may be required to attend a conference with the City Manager at such time and place as may be fixed by the City Manager to determine whether the information earlier submitted shows compliance with the nondiscrimination requirements of this article.

In making such determination, the City Manager shall consider the following factors:

- (1) The size of the contractor's or subcontractor's existing work force;
- (2) The size of the anticipated work force necessary for the contractor or subcontractor to perform the contract or subcontract for or on behalf of the City;
- (3) The projected turnover, vacancies, or work force expansion that the contractor or subcontractor expects to occur during the term of the contract;
- (4) The specific plans of the contractor or subcontractor to recruit applicants for employment and to select, train, and promote employees hired to complete the contract with or on behalf of the City in like proportion to their numbers in the contractor's or subcontractor's typical, geographic labor market;
- (5) An analysis showing the projected work force that would be expected, after all necessary selection is completed, to perform the contract or subcontract with or on behalf of the City absent any discriminatory employment practices;
- (6) Any other qualitative or quantitative data which would assist the City Manager in determining the contractor's or subcontractor's commitment to meet the nondiscriminatory employment practices requirements of this contract.

(c) Following such conference, the apparent low bidder shall enter into a memorandum of understanding with the City in a form agreed to by such contractor and the City Manager, which memorandum of understanding shall set forth the measures that the contractor and its subcontractors who have attended the conference shall take in furthering and meeting its nondiscrimination employment practices commitment during the performance of the contract.

(d) In the event the apparent low bidder fails to submit the requested written information, appear at the conference, or enter into a memorandum of understanding that is acceptable to the City Manager, the City Manager shall, after giving notice and an opportunity to respond to the apparent low bidder,

contact the second lowest bidder for the purpose of conducting the procedure set out in subsections (a) through (c) herein.

2. IMPLEMENTING RULES AND REGULATIONS, ENFORCEMENT PROCEDURE, AND DELEGATION OF RESPONSIBILITY. (Sec. 2-7.05, HMC)

The City Manager shall promulgate all rules, regulations, and forms necessary to implement the provisions of this article. So far as is practical, such rules, regulations, and forms shall be similar to those adopted pursuant to federal Executive Order 11246 and the Fair Employment Practices Act of the State of California.

The City Manager shall monitor the performance of the contractors and subcontractors in their achievement of the nondiscriminatory employment practices requirements provided herein, conduct on-site inspection of their work forces and employment records and submit periodic reports on such performances to the City Council and Human Relations Commission for advisory review to the City Council regarding modifications of this article so as to ensure its effectiveness.

The City Manager shall designate a Contract Compliance Officer and may, at his discretion, delegate responsibility and authority for administering the provisions of this article to the Contract Compliance Officer and to such other officers or employees of the City as necessary for proper administration of this program.

3. EXEMPTIONS. (Sec. 2-7.06, HMC)

The following contracts are exempt from the provisions of this article:

- (a) Contracts with other governmental jurisdictions;
- (b) Contracts with manufacturers whose principal place of business is located outside the United States;
- (c) Contracts with the United States manufacturers whose principal place of business is located outside the State of California;
- (d) Contracts with any single or sole source supplier of any goods or service; and
- (e) Contracts resulting from exigent emergency requisitions where any delay in completion or performance of the contract would jeopardize the public health, safety, or welfare of the citizens of the City of Hayward, or where in the judgement of the City Manager the operational effectiveness of a significant City function would be significantly threatened if the contract were not entered into expeditiously.

4. CONTRACTS SUBJECT TO EXECUTIVE ORDER 11246. (Sec. 2-7.07, HMC)

No provision of this article shall be construed to apply to any federally assisted construction contract entered into by the City that is subject to Executive Order 11246 or any order amending or superseding Executive Order 11246, the rules and regulations promulgated pursuant to said order, or the Federal Equal Employment Opportunity Bid Conditions for Alameda County.

5. OTHER REMEDIES. (Sec. 2-7.08, HMC)

The provisions of this article shall not be construed to prevent the City from pursuing and obtaining any remedy or relief as may be prescribed by law.

6. CONTACT

City of Hayward Purchasing and Contract Compliance Specialist, (510) 583-4802.

(rev. 06/26/02)



CITY OF
HAYWARD
HEART OF THE BAY

AFFIRMATION ON

NON-INVOLVEMENT

IN

DEVELOPMENT OF PRODUCTION OF NUCLEAR WEAPONS

The undersigned hereby certifies:

That it understands that City of Hayward Ordinance No.87024 C.S. prohibits award of contract to, or purchase of goods or services from, "any person which is knowingly or intentionally engaged in the development or production of nuclear weapons."

That it understands the ordinance defines "Nuclear Weapon" as "any device the intended explosion of which results from the energy released by fission or fusion reactions involving atomic nuclei."

That it understands the ordinance defines "Person" as "any person, private corporation, institution or other entity..."

As the owner or company official of the firm identified below, I affirm that this company is not knowingly or intentionally engaged in such development or production.

Print/Type Company Name

Print/Type Official Name & Title

Company Address

Signature of Company Official

City/State/Zip Code

Date

CITY OF HAYWARD

GENERAL PROVISIONS FOR PURCHASES OF WORK AND SERVICES

If these general provisions are incorporated by reference into a Purchase Order for work and/or services, all references to "Bidder" or "Successful Bidder" shall be construed to mean the Seller from whom work and services are purchased by the City. The work and services described in the accompanying Request for Quotation or Purchase Order hereinafter shall be designated as "The Work".

1.00 Legal Relations and Responsibilities

1.01 Laws to be Observed: The Bidder shall keep itself fully informed of all existing and future State and Federal laws, including O.S.H.A. standards, and all municipal ordinances and regulations of the City of Hayward which in any manner affect those engaged or employed in The Work or the materials used in The Work, or which in any way affect the conduct of The Work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same.

1.02 Labor Discriminations: No discrimination shall be made in employment of persons upon The Work because of the race, color or religion of such persons, and any Successful Bidder which violates this Section is subject to all the penalties imposed for a violations of Chapter 1, Part 7, Division 2, of the Labor Code of the State of California in accordance with the provisions of Section 1735 thereof.

1.03 Prevailing Wage: The Successful Bidder hereby stipulates that Sections 1771 and 1777.5 of the Labor Code of the State of California shall be complied with and shall forfeit as a penalty to the City of Hayward not more than fifty dollars (\$50.00) for each calendar day or portion thereof for each worker paid less than the general prevailing rates of per diem wages as determined by the Department of Industrial Relations for such work or craft in which such worker is employed on The Work in violation of the Labor Code of the State of California, in particular the provisions of Sections 1770 to 1780, Inclusive, thereof.

Copies of the general prevailing wage rates are on file in the office of the City Engineer and are available to any interested parties on request.

1.03.1 Certified Payroll Records: Bidder shall maintain certified payroll records as required by Section 1776 of the Labor Code. Copies of certified payroll records shall be provided to the City of Hayward within ten (10) days of written request by the City. Failure to provide copies of certified payroll within the time prescribed by statute shall result in imposition of monetary penalties or withholding of progress payments due under the contract.

1.04 Permits and Licenses: Any person doing business in the City of Hayward is required by Chapter 8, Section 1 of the Municipal code to pay a business license tax. The successful bidder shall have or procure a business license and, prior to initiation of work, show evidence thereof to the Revenue Department. The successful bidder shall, in addition, procure all permits, pay all charges and fees and give all notices necessary and incidental to the due and lawful prosecution of The Work.

1.05 Encroachment Permit: The Successful Bidder shall obtain and/or comply with any encroachment permits as set forth in the order.

1.06 Patents: The Successful Bidder shall assume all responsibilities arising from the use of patented materials, equipment, devices, or processes used on or incorporated in The Work.

1.07 Public Convenience and Safety: Attention is directed to all applicable Sections of Chapter 7, Article 2, STREETS, "Disturbance of Streets," of the City of Hayward Municipal Code.

Traffic control procedures stated herein and traffic control standard plans shall be the MINIMUM accepted in the City of Hayward. Any variations shall be approved by the Engineer prior to use. In no way shall compliance with these specifications and standards relieve the Successful Bidder of any liability for claims or damages arising from his work.

All streets within the project limits shall remain open to traffic at all times during the construction period. Between the hours of 5:00 PM and 8:00 AM, all lanes remain open to traffic.

Adequate traffic warning and control devices shall be provided and maintained by the Successful Bidder during the construction period in accordance with the "State of California Manual of Warning Signs, Lights and Devices for Use In Performance of Work upon Highways" dated 1973. When inadequate traffic warning and control devices have been installed, the City shall provide whatever facilities are deemed necessary and will charge the Successful Bidder for the costs thereof as provided in Section 7, Article 2 of the Hayward Municipal Code.

Traffic control signs, (regulatory, warning or construction type) conforming to the State of California Standards, and any special-legend signs required, except "NO PARKING" signs, shall be furnished by the Successful Bidder as directed by the Engineer.

The Successful Bidder shall install and maintain all signs.

Any obstructions which will remain in the roadway after darkness MUST BE adequately outlined with barricades with flashers or delineators along with other warning devices. All barricades and delineators shall conform to State of California Manual of Warning Signs, Lights, and Devices for Use in Performance of Work upon Highways.

Safe and convenient pedestrian access shall be provided at all times.

Flagmen are mandatory at locations where equipment is intermittently blocking a traffic lane or where only one lane is available for two-direction traffic. One flagman is required for each direction of traffic affected where only one lane is available for over 100 feet or when required by the Engineer. When less than 20 feet of street width is available for traffic, a flagman will be required. Flagman shall wear distinctive clothing, such as a RED jacket.

All work specified herein shall be considered to be at the Successful Bidder's expense.

1.08 Responsibility for Damage: The Successful Bidder shall take all responsibility for the Work, shall bear all losses and damages directly or indirectly resulting to the Bidder, to any subcontractor, to the City, to City employees, or to parties designated in any purchase order provision, on account of the performance or character of The Work, unforeseen difficulties, accidents, occurrences or other causes predicted on active or passive negligence of the City, or of parties designated in any purchase order provisions. Said Bidder shall assume the defense of and shall indemnify and hold harmless the City, its officers, officials, directors, employees and agents from and against any or all loss, liability, expense, claim, costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance of The Work.

Approval of the insurance contract does not relieve the Successful Bidder or subcontractors from liability under this clause.

1.09 Responsibility for Work: Except as provided above, until the formal acceptance of The Work by the City, the Successful Bidder shall have the charge and care thereof and shall bear the risk of injury or damage

to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the nonexecution of The Work. The Successful Bidder shall rebuild, repair, and restore, and make good all injuries or damages to any portion of The Work occasioned by any of the above causes before final acceptance and shall bear the expense thereof, except such injuries or damages occasioned by acts of the Federal Government or of the public enemy.

1.10 No Personal Liability: Neither the City Council, officers, employees or agents of the City of Hayward, nor any other officer or authorized assistant or agent shall be personally responsible for any liability arising from or in connection with The Work.

1.11 Responsibility of City: The City of Hayward shall not be held responsible for the care or protection of any material or parts of The Work prior to final acceptance, except as expressly provided for in these specifications.

1.12 Successful Bidder Not an Agent of the City of Hayward: The right of general supervision of the City of Hayward shall not make the Successful Bidder an agent of the City; and the liability of the Successful Bidder for all damages to persons or to public or private property arising from the Successful Bidder's execution of The Work shall not be lessened because of such general supervision.

1.13 Inspection and Payments Constitute No Waiver of Order Provisions: Neither the Inspection by the City Engineer nor by an inspector or other City representative, nor any payment of money, nor acceptance of any part or whole of The Work by the City of Hayward or its agents shall operate as a waiver of any provision of the order.

1.14 Insurance Requirements: Successful Bidder shall promptly obtain, at the Bidder's own expense, all the insurance required by this section and shall submit a completed copy of Coverage Verification signed by the Successful Bidder's agent or broker to the City's Purchasing Division for review and approval by the City. Insurance requirements must be met prior to issuance of purchase order. It is highly recommended that Bidders confer with their insurance carrier or broker to determine in advance of bid submission the availability of insurance coverage and endorsements as prescribed and provided herein. If an apparent successful bidder fails to comply with the insurance requirements, that Bidder may be disqualified.

(1) The Successful Bidder shall take out and maintain during the life of the purchase order statutorily sufficient Workers' Compensation and Employer's Liability Insurance for all of the Bidder's employees to be engaged on The Work. Should any work be sublet, the Successful Bidder shall require the subcontractor similarly to provide Workers' Compensation and Employer's Liability Insurance, all in strict compliance with State laws and to fully protect the City from any and all claims arising out of occurrences on The Work.

(2) The Successful Bidder shall take out and maintain in the name of the Successful Bidder and the City as a Named Insured during the life of the purchase order, such Public Liability Insurance as shall protect itself, the City, its officials, officers, directors, employees and agents from claims which may arise from operations under the purchase order, whether such operations be the Bidder, by the City, its officials, officers, directors, employees and agents, any subcontractors, or by anyone directly or indirectly employed by either of them. This Liability Insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from the Successful Bidder's, City's or subcontractor's operations, use of owned or non-owned automobiles, products, and completed operations. The amounts of insurance shall not be less than the following:

Single Limits Coverage Applying to Bodily and Personal Injury Liability and Property Damage: \$1,000,000.

If Commercial General Liability Insurance or other form with a General Aggregate Limit is used, either the General Aggregate Limit shall apply separately to the project/location or the General Aggregate Limit shall be twice the required occurrence limit.

The following endorsements must be attached to the policy:

(a) If the Insurance policy covers on an "accident" basis, it must be changed to "occurrence".

(b) The policy must contain a Cross Liability or Severability of Interest Clause.

(c) The policy must cover complete Contractual liability. Exclusions of contractual liability as to bodily injuries, personal injuries and property MUST BE ELIMINATED from the basic policy endorsements.

(d) Broad Form property damage liability must be afforded. Permission is granted for deductible which shall not exceed \$10,000 without special approval of the City.

(e) Any failure to comply with reporting or other provisions of the policies including brochures of warranties shall not affect coverage provided to the City, its Officials, Officers, Directors, Employees, or Agents.

(f) An endorsement shall be provided which states that the coverage is PRIMARY INSURANCE and that no other insurance effected by the City will be called upon to contribute to a loss under this coverage.

(g) Cancellation, non-renewal or reduction in limits shall be sent to the City with at least 10 days prior written notice, by certified mail, return receipt requested.

(h) Insurance is to be placed with California Admitted Insurers with an A.M. Best's Rating of no less than A:XI.

Successful Bidder shall not commence work until such insurance has been approved by the City. The Successful Bidder shall not allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been obtained. Such insurance shall remain in full force and effect at all times during the prosecution of The Work and until the final completion and acceptance thereof.

1.15 Disposal of Material Outside the Public Right of Way: The Successful Bidder shall make his own arrangements for disposing of materials outside the public right of way, and he shall pay all costs involved.

1.16 Preservation of Property: Attention is directed to Section 1.08, "Responsibility for Damage." Due care shall be exercised to avoid injury to existing improvements or facilities, adjacent property and real or personal property that is not to be removed.

1.17 Cooperation: Should work be performed by other firms, within or adjacent to The Work specified, or should work of any other nature be underway by other forces within or adjacent to said limits, the Successful Bidder shall cooperate with all such other firms or other forces to the end that any delay or hindrance to their work will be avoided. The right is reserved to perform other or additional work at or near the site (including material sources) at any time, by the use of other forces.

When two or more firms are employed on related or adjacent work, each shall conduct his operation in such a manner as not to cause any unnecessary delay or hindrance to the other. Each firm shall be

responsible to the other for all damage to work, to persons or property caused to the other by his operations and for loss caused the other due to his unnecessary delays or failure to finish The Work within the time specified for completion.

1.18 Assignment: The performance of The Work may not be assigned except upon the written consent of the Purchasing Agent. Consent will not be given to any proposed assignment which would relieve the Successful Bidder or its surety of their responsibilities under the order. The Successful Bidder may assign monies due or to become due it under the order and such assignment will be recognized by the City, if given proper notice thereof, to the extent permitted by law. That any assignment of money shall be subject to all proper set-offs in favor of the City, and to all deductions provided for in the order, and particularly all money withheld, whether or not assigned, shall be subject to being used by the City for the completion of The Work, in event that the Successful Bidder should be in default therein.

1.19 Time of Completion: The Successful Bidder shall complete all or any designated portion of The Work in all parts and requirements within the time set forth in the order.

1.20 Care and Protection: The Successful Bidder shall be entirely responsible for any damage to the City's or adjacent property due to hauling materials or other causes attributable to the conduct of his work, and all such damage will be repaired by the Successful Bidder when and as directed by the City's representative, and as required to place the property in as good condition as before the commencement of The Work.

1.21 Nondiscriminatory Employment Practices: In the performance of this contract the contractor or subcontractor agrees as follows:

(1) **AFFIRMATIVE ACTION - GENERAL**

The contractor or subcontractor shall not discriminate against any applicant for employment or employee on the grounds of race, color, religion, national origin, ancestry, place of birth, sex, sexual orientation, age, or disability. The contractor or subcontractor will take affirmative action to ensure that its recruitment, selection, and evaluation practices do not discriminate against any applicant for employment or employee. The contractor or subcontractor shall also ensure that its personnel policies, practices and procedures, including, but not limited to, the transfer, promotion, demotion, suspension, layoff, or termination, rates of pay and other form of compensation, and the selection for training programs, apprenticeship, and on-the-job training do not discriminate against any employee. The contractor or subcontractor shall post in conspicuous places that are accessible to applicants for employment and employees notices setting forth this Nondiscriminatory Employment Practices Provision.

(2) **RECRUITMENT**

(a) **Non-union employees.** Advertising placed with any media shall include the notation, "An Equal Opportunity Employer." Advertisements shall be placed with media having large circulation among minority groups or at school placement centers having large minority student enrollments. The contractor or subcontractor will send to each source of employee referrals, other than labor unions or workers' representatives, a notice in such form and content as shall be furnished or approved by the City, advertising said source of employee referrals of its commitments under Chapter 2, Article 7, of the Hayward Municipal Code, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

Recruitment of non-union employees shall, to the maximum extent possible, utilize the services of minority organizations likely to be referral sources for minority group employees.

(b) **Union employees.** Union employees shall be recruited in accordance with applicable labor agreements. The

contractor or subcontractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, in such form and content as shall be furnished or approved by the City, advising said labor union or workers' representatives of its commitments under Chapter 2, Article 7, of the Hayward Municipal Code, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or sub contractor agrees to seek the inclusion in all union agreements to which it is a party, clauses prohibiting discrimination based upon race, color, religion, national origin, ancestry, place of birth, sex, sexual orientation, age, or disability. To the maximum extent consistent with applicable labor agreements, the contractor or subcontractor will attempt to recruit applicants without regard to race, color, religion, national origin, ancestry, place of birth, sex, sexual orientation, age, or disability.

(3) **EQUAL EMPLOYMENT OPPORTUNITY OFFICER**

The contractor or subcontractor shall designate one of its management employees as its Equal Employment Opportunity Officer and assign such officer the responsibility and authority to administer and promote an active program to put the contractor's or subcontractor's nondiscriminatory employment practices commitment into practice.

(4) **ACCESS TO RECORDS**

The contractor or subcontractor shall permit access during normal business hours to its records of employment, employment advertisements, completed application forms, and other pertinent data and records when requested to do so by the City Manager or any representative of the Fair Employment Practices Commission of the State of California.

(5) **COMPLIANCE REVIEW PROCEDURES**

(a) The contractor or subcontractor shall, upon request of the City Manager, submit its official payroll records together with a monthly cumulative summary of all employee hours worked in performance of its contract with or on behalf of the City identified as to minority status.

(b) The contractor or subcontractor shall submit to a formal, thorough review of its records, books, reports, and accounts concerning its employment practices for the purpose of determining whether they are nondiscriminatory. This review will be performed at intervals during the performance of the contract as may be specified by the City Manager.

Each review shall be followed within 30 days by either a written notice to the contractor or subcontractor that it is in apparent compliance with the Nondiscriminatory Employment Practices Provision of its contract or by a citation of apparent deficiency, summary of findings, and a statement of remedial commitment for signature by the contractor. If the contractor or subcontractor fails to meet the commitments it has made in executing such statement, the City Manager shall issue a notice of intent to initiate an action against the contractor or subcontractor with the Fair Employment Practices Commission for willful violation of the Nondiscriminatory Employment Practices Provision and the California Fair Employment Practices Act in not less than 30 days or such notice of intent.

(6) **VIOLATIONS**

The City Manager shall deem a finding of willful violation of the Nondiscrimination Employment Practices Provision and the California Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has investigated and determined that the contractor or subcontractor has violated the Fair Employment Practices Act and has issued an order under Labor Code Section 1426, which has become final, or obtained relief under Labor Code Sections 1429 and 1429.1, or an appropriate

federal commission or agency, or a court of the State of California, or if the United States Government finds, in any action or proceeding to which the contractor or subcontractor is a party, that it discriminated against employees or applicants for employment in the performance of this contract. Upon receipt or such notice or final judgment, the City Manager shall notify the contractor or subcontractor that unless it demonstrates to the satisfaction of the City Council within a stated reasonable period that the violation has been corrected, said contractor or subcontractor shall be subject to the remedies hereinafter provided.

(7) **REMEDIES FOR WILLFUL VIOLATION**

The contractor or subcontractor agrees that a finding of willful violation of the California State Fair Employment Practices Act or of this Nondiscriminatory Employment Practices Provision shall be regarded by the City Council as a basis for determining whether or not it is a responsible bidder as to future contracts for which such contractor or subcontractor may submit bids. The contractor or subcontractor further agrees that such disqualification by said City Council shall remain in effect for one year or until it demonstrates to the satisfaction of the City Manager that its employment practices are in conformity with the nondiscrimination provisions of the article.

The contractor or subcontractor further agrees that the contractor or subcontractor shall, as a penalty to the City of Hayward, forfeit for each calendar day or portion thereof an amount not to exceed \$250 or 1 percent of the total contract amount, whichever is greater. Such penalty may be deducted from any sums due to the contractor or subcontractor or recovered by the City through maintenance of an action in any court of competent jurisdiction.

Prior to making any determination with respect to reinstatement of a contractor or subcontractor as a responsible bidder, the City Council may refer the matter to the Human Relations Commission of the City of Hayward for a report and recommendation. The contractor or subcontractor agrees to cooperate to the fullest extent with said Human Relations commission in its exercise of the authority here conferred, including, but not limited to, promptly furnishing reports requested by the commission's review of matters relating to such reinstatement.

1.22 Acceptance and/or Rejection of Bids: The City reserves the right to reject any or all bids, or to accept separate items in a bid. In addition the City reserves the right to cancel a Request for Bids or an award at any time.

1.23 Waiving Minor Irregularities: The City may waive any minor irregularities in a bid or in the bidding process and make award accordingly.

1.24 Nuclear Affirmation Requirements: A purchase order has no force or effect until the person to which it is issued has on file with the City or executes and returns to the City of Hayward's Purchasing Manager an Affirmation Of Non-Involvement In Development Or Production Of Nuclear Weapons. City of Hayward Ordinance 87-024 C.S. defines "nuclear weapons" as "any device the intended explosion of which results from the energy released by fission or fusion reactions involving atomic nuclei." The ordinance defines "person" as "any person, private corporation, institution or other entity."

1.25 Hazardous Material Requirements: The contractor shall comply with all government laws, rules and regulations concerning the use of hazardous materials and the disposal of hazardous wastes at the job site, including but not limited to the following:

(1) The contractor shall not bring hazardous materials onto the job site or deliver hazardous materials without providing the City, in advance, the Material Safety Data Sheets for each hazardous material introduced. Where applicable, materials must be labeled in accordance with Section 5194, Title 8, of the California Administrative Code. The contractor is required to include a Material Safety Data Sheet prepared

Attachment #1
General Provisions

in accordance with Section 5194 (g) with each shipment of all such materials to the City. No hazardous material will be introduced onto the job site until the City gives written approval for each hazardous material.

(2) All hazardous material shall be stored and used in a safe manner and shall not be stored or used in any vehicular or pedestrian traffic lanes.

(3) Any hazardous products, waste or empty containers used or generated shall not be poured down any drain or sewer nor disposed of in any trash container or dumpster.

(4) The contractor will be considered to be the hazardous waste generator and will be responsible for the legal transport and disposal of all hazardous waste. No containers or trash will be left in any building or on any job site.

(5) The contractor shall not disturb or damage any existing pipe lagging or equipment insulation or other asbestos material on the job site. If any asbestos material is disturbed or damaged, the contractor shall immediately notify the City and the situation will be considered an "asbestos release" under State and Federal Regulations. The job will be shut down immediately until all appropriate State and Federal notifications have been complete and all testing completed to determine if any asbestos fibers have been released.

(6) Violation of any of the above procedures shall be sufficient cause for the City to stop all work. Any expense incurred by the City caused by the work stoppage will be borne by the contractor. These expenses will include all costs to return the job site and all other areas contaminated by the contractor to a hazard-free condition.

(7) The contractor will be solely responsible for all the costs, including fines and penalties, for the investigation and cleanups of any suspected hazardous materials the contractor used, left on the job site, or dumped down a City drain or sewer, and any damage to property and/or injury to any person.

1.26 Recycled Materials: It is the policy of the City of Hayward to encourage the use of recycled materials, reusable products, and products designed to be recycled. Contractors and suppliers shall use or provide such materials or products to the maximum extent practicable and allowable within the specifications prepared by the City, provided however, that the performance or operational effectiveness of the product or material is not detrimentally effected nor the health and safety of the citizens or employees of the City of Hayward negatively impacted by the use of such products or materials.

(REV. 01/31/13)

CONTRACT BOND
(Labor and Materials)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the City of Hayward, a municipal corporation, hereinafter designated "City" and _____ herein after designated "Principal," have entered into, each with the other, a contract dated _____, which contract was authorized to be executed for and on behalf of said City of Hayward.

WHEREAS, said Principal has agreed and is obligated by the terms of said contract to do and perform certain work and to discharge and perform and carry out certain other obligations in said contract in accordance with the terms and provisions of said contract, with the plans and specifications adopted therefore and incorporated therein and now on file with and in the office of the City Clerk of the City of Hayward, and with all applicable ordinances, rules, and regulations of the City of Hayward, and

WHEREAS, said Principal is required under the terms of said contract to furnish a bond for the payment for labor performed and materials furnished for the aforesaid work and for amounts due under the Unemployment Insurance Act of the State of California with respect to such work.

NOW THEREFORE, we, said Principal, as Principal and _____ a corporation, duly organized and existing under the laws of the State of _____, and duly authorized to transact business in the State of California, as Surety, are held and firmly bound to all persons furnishing any materials or supplies used in, upon, for, or about the performance of the aforesaid work under the aforesaid contract, and all persons performing any work or labor of any kind thereon, and all persons entitled to receive any sums of money due under the Unemployment Insurance Act of California with respect to such work or labor, and all other persons, if any, entitled to file claims under Title 15 (commencing with Section 3082), Part 4, Division 3, of the Civil Code of the State of California with respect to such materials, supplies, work or labor of said persons collectively referred to hereinafter as "Obligees," in the sum of _____ dollars (\$ _____), lawful money of the United States of America, to be paid to said Obligees, for the payment of which sum well and truly to be made we and each of us bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if said principal or his subcontractors shall fail to pay for any materials or supplies used in, upon for or about the performance of the aforesaid work under the aforesaid contract or for any work or labor of any kind thereon, or for any sums of money due under the Unemployment Insurance Act of California with respect to such work or labor, or for any sums of money due persons entitled to file claims under Title 15 (commencing with Section 3082), Part 4, Division 3, of the Civil Code of the State of California with respect to such materials, supplies, work or labor, the aforesaid Surety will pay the same in an amount not to exceed the sum of this bond specified above.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed hereunder or the plans and specifications accompanying the same shall in any wise affect its obligation on this bond, and it hereby waives notice of any such change, extension of time, alteration, or addition to the terms of the contract or to the work or to the plans and specifications.

Surety, by the execution of this bond, represents and warrants that this bond has also been duly executed by said Principal with proper authority, and Surety hereby waives any defense which it might have by reason of any failure of Principal to execute or properly execute this bond.

In the event suit is brought upon this bond and judgment is recovered by Obligees, Principal, and Surety, jointly and severally, shall be liable to Obligees for court costs and for reasonable attorney's fees as an additional obligation under this bond. In the event that the City is named as a defendant in said suit, Principal and Surety, jointly and severally, shall indemnify and defend the City, and shall be liable for court costs and attorney's fees as an additional obligation under

this bond.

IN WITNESS WHEREOF, this bond has been executed by the aforesaid Principal and Surety on _____

_____	_____
_____	_____
_____	_____
Surety	Principal

Approved as to form: _____, City Attorney

.....
Acknowledgment – Surety Company Attorney-in-Fact

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 20__, before me, _____, a Notary Public in and for said state, personally appeared _____, personally known to me (or 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 their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____
Notary Public, State of California

CONTRACT BOND
(Faithful Performance)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the City of Hayward, a municipal corporation, hereinafter designated "Obligee," and

WHEREAS, the City of Hayward, a municipal corporation, hereinafter designated "City" and _____ herein after designated "Principal," have entered into, each with the other, a contract dated _____, which contract was authorized to be executed for and on behalf of said City of Hayward.

WHEREAS, said Principal has agreed and is obligated by the terms of said contract to do and perform certain work and to discharge and perform and carry out certain other obligations in said contract in accordance with the terms and provisions of said contract, with the plans and specifications adopted therefore and incorporated therein and now on file with and in the office of the City Clerk of the City of Hayward, and with all applicable ordinances, rules, and regulations of the City of Hayward, and

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

NOW THEREFORE, we, said Principal, as Principal and _____ a corporation, duly organized and existing under the laws of the State of _____, and duly authorized to transact business in the State of California, as Surety, are held and firmly bound to all persons furnishing any materials or supplies used in, upon, for, or about the performance of the aforesaid work under the aforesaid contract, and all persons performing any work or labor of any kind thereon, and all persons entitled to receive any sums of money due under the Unemployment Insurance Act of California with respect to such work or labor, and all other persons, if any, entitled to file claims under Title 15 (commencing with Section 3082), Part 4, Division 3, of the Civil Code of the State of California with respect to such materials, supplies, work or labor of said persons collectively referred to hereinafter as "Obligees," in the sum of _____ dollars (\$ _____), lawful money of the United States of America, to be paid to said Obligees, for the payment of which sum well and truly to be made we and each of us bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the above-bounden Principal, or his successors or assigns, shall in all things stand to and abide by and well and truly keep and perform each and all of the covenants, terms, conditions, and obligations in said contract on the Principal's part to be kept and performed, and any and all alterations thereof made as therein provided, at the time and in the manner therein specified, and shall release, defend, hold harmless, and indemnify Obligee and its officers, employees, and agents as therein specified, then this obligation shall be reduced to an amount equivalent to ten percent (10%) of the original value of the bond, which amount shall warrant and guarantee the work for a period of one year from the date of acceptance of the work.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed hereunder or the plans and specifications accompanying the same shall in any wise affect its obligation on this bond, and it hereby waives notice of any such change, extension of time, alteration, or addition to the terms of the contract or to the work or to the plans and specifications.

Surety, by the execution of this bond, represents and warrants that this bond has also been duly executed by said Principal with proper authority, and Surety hereby waives any defense which it might have by reason of any failure of Principal to execute or properly execute this bond.

In the event suit is brought upon this bond and judgment is recovered by Obligees, Principal, and Surety, jointly and severally, shall be liable to Obligees for court costs and for reasonable attorney's fees.

IN WITNESS WHEREOF, this bond has been executed by the aforesaid Principal and Surety on _____

Surety Principal

Approved as to form: _____, City Attorney

Acknowledgment – Surety Company Attorney-in-Fact

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 20__, before me, _____, a Notary Public in and for said state, personally appeared _____, personally known to me (or 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 their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____
Notary Public, State of California