

**NON-PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF SAN LEANDRO AND
GARLAND/ DBS, INC.
FOR
PUBLIC WORKS SERVICE CENTER AND HISTORY MUSEUM ROOF REPAIRS**

THIS AGREEMENT for Public Works Service Center and History Museum Roof Repair services is made by and between the City of San Leandro ("City") and Garland/ DBS, Inc. ("Contractor") (together sometimes referred to as the "Parties") as of August 7, 2024 | 9:01:45 AM PDT (the "Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on June 30, 2025, the date of completion specified in Exhibit A, and Contractor shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Contractor to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as referenced in Section 8.
- 1.2 Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Subsection 1.2 above and to satisfy Contractor's obligations hereunder.
- 1.5 City of San Leandro Living Wage Rates.** This contract may be covered by the City of San Leandro Living Wage Ordinance (LWO). Contractor's attention is directed to the San Leandro Municipal Code, Title 1, Chapter 6, Article 6. Contractor must submit completed self-certification form and comply with the LWO if covered.
- 1.6 Public Works Contractor Registration.** Contractor agrees, in accordance with Section 1771.1 of the California Labor Code, that Consultant or any subconsultant shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104

of the Public Contract Code, or engage in the performance of any contract for public work, as defined in Chapter 1 of Part 7 of Division 2 of the California Labor Code, unless currently registered and qualified to perform public work pursuant to California Labor Code section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to California Labor Code section 1725.5. Contractor agrees, in accordance with Section 1771.4 of the California Labor Code, that if the work under this Agreement qualifies as public work, it is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

Section 2. COMPENSATION. City hereby agrees to pay Contractor a sum not to exceed \$1,159,072, notwithstanding any contrary indications that may be contained in Contractor's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Contractor's proposal, attached as Exhibit B, regarding the amount of compensation, the Agreement shall prevail. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Contractor shall not bill City for duplicate services performed by more than one person.

Contractor and City acknowledge and agree that compensation paid by City to Contractor under this Agreement is based upon Contractor's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Contractor. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Contractor and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the

hours spent by each person, a brief description of the work, and each reimbursable expense;

- The total number of hours of work performed under the Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing services hereunder;
- The Contractor's signature;
- Contractor shall give separate notice to the City when the total number of hours worked by Contractor and any individual employee, agent, or subcontractor of Contractor reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Contractor and City. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Contractor and City, if applicable.

2.2 Monthly Payment. City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.

2.3 Final Payment. City shall pay the last 10% of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.

2.4 Total Payment. City shall pay for the services to be rendered by Contractor pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Contractor submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

2.5 Hourly Fees. Fees for work performed by Contractor on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit B.

2.6 Reimbursable Expenses. Reimbursable expenses are not included in this contract.

2.7 Payment of Taxes. Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

2.8 Payment upon Termination. In the event that the City or Contractor terminates this Agreement pursuant to Section 8, the City shall compensate the Contractor for all

outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination plus demobilization costs. Contractor shall maintain adequate logs and timesheets to verify costs incurred to that date.

2.9 Authorization to Perform Services. The Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

2.10 Liquidated Damages. Failure of Contractor to respond to problems referred to it by City within the time limits established in Subsection 1.2 of this Agreement shall result in liquidated damages as set forth in Exhibit A.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Contractor only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein. Contractor shall make a written request to City to use facilities or equipment not otherwise listed herein.

3.1 Safety Requirements. In accordance with generally accepted construction practices and state law, Contractor shall be solely and completely responsible for conditions on the jobsite, including safety of all persons and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours.

Contractor shall take all necessary precautions and provide all necessary safeguards to prevent personal injury and property damage. Contractor shall provide protection for all persons including, but not limited to, its employees and employees of its subcontractors; members of the public; and employees, agents, and representatives of the City and regulatory agencies that may be on or about the work.

The services of the City in conducting review and inspection of Contractor's performance is not intended to include review of the adequacy of Contractor's work methods, equipment, bracing or scaffolding, or safety measures, in, on, or near any Contractor jobsite.

All work and materials shall be in strict accordance with all applicable state, city, county, and federal rules, regulations and codes, with specific attention to the United States Department of Labor Occupational Health and Safety Administration (OSHA) requirements. Contractor shall be solely responsible for compliance with all city, county, and state explosive transport, storage, and blasting requirements and for any damages caused by such operations.

Contractor is hereby informed that work on City property could be hazardous. Contractor shall carefully instruct all personnel working on City property that all conditions of the property are potentially hazardous work areas as to potential dangers and shall provide such necessary safety equipment and instructions as are necessary to prevent injury to personnel and damage to property. Special care shall be exercised relative to work underground.

In addition to complying with all other safety regulations, Contractor shall abide by any and all other City requirements contained in any specifications, special conditions or manuals, which shall be made available by City upon request.

Contractor shall provide and maintain all necessary safety equipment such as fences, barriers, signs, lights, walkways, guards, and fire prevention and fire-fighting equipment and shall take such other action as is required to fulfill its obligations under this section. It is the intent of the City to provide a safe working environment under normal conditions. CONTRACTOR IS ADVISED THAT CITY'S OPERATIONS AND PROPERTY ARE INHERENTLY HAZARDOUS BECAUSE OF CONDITIONS SUCH AS CONFINED SPACES, POTENTIALLY EXPLOSIVE ATMOSPHERES, AND POSSIBLE EXPOSURE TO PATHOGENS.

Contractor shall maintain all portions of the jobsite in a neat, clean, and sanitary condition at all times. If required by the City, toilets shall be furnished by Contractor where needed for use of its employees and their use shall be strictly enforced. Contractor shall not use the City's existing sanitary facilities, unless previously authorized by the City.

Contractor shall keep adequate first aid facilities and supplies available and instruction in first aid for its employees shall be given.

City reserves the right to require that Contractor bring onto the project or engage the services of a licensed safety engineer at any time during the term of this Agreement. If Contractor does not have a licensed safety engineer on staff, then City may require that Contractor engage a subcontractor or subconsultant as the project's safety engineer. Contractor shall bear all costs in connection with meeting the requirements of this section.

Section 4. INSURANCE REQUIREMENTS. Before fully executing this Agreement, Contractor, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Contractor shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Contractor's bid. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence to City that such insurance is in effect. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Contractor shall maintain all required insurance listed herein for the duration of this Agreement.

4.1 Workers' Compensation.

4.1.1 General Requirements. Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$1,000,000 per accident. In the alternative, Contractor may rely on a self-insurance program to meet these requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

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

4.1.2 Submittal Requirements. To comply with Subsection 4.1, Contractor shall submit the following:

- a. Certificate of Workers' Compensation Insurance in the amounts specified in the section; and
- b. Waiver of Subrogation Endorsement as required by the section.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General Requirements. Contractor, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than \$5,000,000 and automobile liability insurance for the term of this Agreement in an amount not less than \$5,000,000 per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 Minimum Scope of Coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

4.2.3 Additional Requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. City, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Contractor; or automobiles owned, leased, hired, or borrowed by the Contractor.
- c. Contractor hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Contractor agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.
- d. For any claims related to this Agreement or the work hereunder, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- e. Builders' Risk Insurance (see section 4.3, below)

4.2.4 Submittal Requirements. To comply with Subsection 4.2, Contractor shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
- b. Additional Insured Endorsement as required by the section;
- c. Waiver of Subrogation Endorsement as required by the section; and
- d. Primary Insurance Endorsement as required by the section.

4.3 Builders' Risk Insurance

4.3.1 General Requirements. Contractor shall cause to be taken out and maintain in the name of the City and the Contractor until final completion and acceptance of the project: All Builder's Risk Insurance, including but not limited to coverage against loss or damage to the project by fire and lightning, extended coverage, vandalism, malicious mischief, flood, earthquake, and collapse; said extended coverage shall cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke, and other such hazards as are normally covered by such coverage. Such insurance (except the earthquake and flood coverage in the event that they are not fully or reasonably available) shall be in an amount equal to the replacement cost (without deduction for depreciation and subject to stipulated value in lieu of average clause) of all structures constituting any part of the work, excluding the cost of excavations, of grading, and

of filling of the land, and except that such insurance (except earthquake and flood insurance) may be subject to deductible clauses not to exceed \$10,000 for any one loss. Earthquake and flood insurance may be subject to deductible clauses not to exceed five percent (5%) of such replacement cost for any one loss. Such insurance will not cover loss or damage to the Contractor's equipment, scaffolding, or other materials not to be consumed in the construction of the project.

The Contractor shall obtain from the insurer a waiver of subrogation endorsement for losses caused by fire or other perils to the extent covered by this insurance. Contractor shall pay any extra premium required therefore.

4.4 All Policies Requirements.

4.4.1 Acceptability of Insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.2 Verification of Coverage. Prior to beginning any work under this Agreement, Contractor shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Contractor by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability Insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Contractor beginning work, it shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

4.4.3 Deductibles and Self-Insured Retentions. Contractor shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4.4.4 Wasting Policies. No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

4.4.5 Endorsement Requirements. Each insurance policy required by Section 4 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City.

4.4.6 Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.5 Submittal of Proof of Insurance Coverage. All certificates of insurance and original endorsements effecting coverage required in this Section 4 must be electronically submitted through the City's online insurance document management program. Contractor shall comply with all requirements provided by City related to the online insurance document program.

4.6 Remedies. In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES. Contractor shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Contractor's performance of the Services or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of City.

Contractor shall also indemnify, defend and hold harmless the City from all suits or claims for infringement of any patent rights, copyrights, trade secrets, trade names, trademarks, service marks, or any other proprietary rights of any person or persons because of the City or any of its officers, employees, volunteers, or agents use of articles, products things, or services supplied in the performance of Contractor's services under this Agreement, however, the cost to defend charged to Contractor shall not exceed Contractor's proportionate percentage fault.

The Contractor's obligation to defend and indemnify shall not be excused because of the Contractor's inability to evaluate Liability or because the Contractor evaluates Liability and determines that the Contractor is not liable to the claimant. The Contractor must respond within 30 days, to the tender of any claim for defense and indemnity by the City, unless this time has been extended by the City. If the Contractor fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Contractor under and by virtue of this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the claim or suit for damages, or until the Contractor accepts or rejects the tender of defense, whichever occurs first.

Notwithstanding the forgoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of Contractor to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

If this Agreement involved construction or maintenance then all provisions of this Agreement pursuant to which Contractor agrees to indemnify the City against liability for damages arising out of bodily injury to persons or damage to property relative to the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, road, or other structure, project, development, or improvement attached to real estate, shall not apply to damages caused by or resulting from the active or sole negligence or willful misconduct of the City. The indemnifications provided herein shall not be limited to damages, compensation or benefits payable under insurance policies, workers' compensation acts, disability benefit acts, or other employees' benefit acts.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. STATUS OF CONTRACTOR.

6.1 Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.3; however, otherwise City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

6.2 Contractor Not an Agent. Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

7.1 Governing Law. The laws of the State of California shall govern this Agreement.

- 7.2 Compliance with Applicable Laws.** Contractor and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Contractor and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 Nondiscrimination and Equal Opportunity.** Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

Contractor shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 Termination.** City may cancel this Agreement at any time and without cause upon written notification to Contractor.

Contractor may cancel this Agreement upon 60 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or the City in connection with this Agreement. If City terminates this Agreement, the Contractor shall also be entitled to demobilization costs.

- 8.2 Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Contractor understands and agrees that, if City grants such an extension, City shall have no obligation to provide Contractor with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Contractor for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.4 Assignment and Subcontracting.** City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, and fails to remedy such breach within five (5) days after written notice from the City's remedies shall include, but not be limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
 - 8.6.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
 - 8.6.3** Retain a different contractor to complete the work described in Exhibit A not finished by Contractor; or
 - 8.6.4** Charge Contractor the difference between the reasonable cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Contractor hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Contractor agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both Parties.
- 9.2 Contractor's Books and Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of 3 years after final payment under the Agreement.

Section 10. MISCELLANEOUS PROVISIONS.

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Contractor shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Section 1090 *et seq.*

Contractor hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Contractor was an employee, agent, appointee, or official of the City in the previous 12 months, Contractor warrants that it did not participate in any manner in the forming of this Agreement. Contractor understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Contractor will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Contractor will be required to reimburse the City for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of California Government Code Section 1090 *et seq.*, and, if applicable, will be disqualified from holding public office in the State of California.

- 10.7 Solicitation.** Contractor agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.8 Contract Administration.** This Agreement shall be administered by Gary Sclafani ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 10.9 Notices.** Any written notice to Contractor shall be sent to:
Doug Clark
Territory Manager
Garland/DBS, Inc.
(925) 784-6701
dclark@garlandind.com

Any written notice to City shall be sent to:
Gary Sclafani
Building Supervisor
City of San Leandro

(510) 421-2108
gsclafani@sanleandro.org

With a copy to:
City of San Leandro
Department of Finance
c/o Purchasing Agent
835 East 14th Street
San Leandro, CA 94577

- 10.10 Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, B, C, D, E, and F represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

<u>Exhibit A</u>	Scope of Services
<u>Exhibit B</u>	Compensation Schedule & Reimbursable Expenses
<u>Exhibit C</u>	COVID-19 Compliance Requirements
<u>Exhibit D</u>	California Labor Code Section 1720 Information
<u>Exhibit E</u>	Special Provisions
<u>Exhibit F</u>	Community Workforce Agreement

- 10.11 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.


- 10.12 Certification per Iran Contracting Act of 2010.** In the event that this contract is for one million dollars (\$1,000,000.00) or more, by Contractor's signature below Contractor certifies that Contractor, and any parent entities, subsidiaries, successors or subunits of Contractor are not identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5 of the California Public Contract Code, as applicable.

SIGNATURES ON FOLLOWING PAGE


The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

CITY OF SAN LEANDRO

GARLAND/DBS, INC.


DocuSigned by:

CE8D93C8F684488...
City Manager

August 5, 2024 | 5:07:03 PM PDT

DocuSigned by:

5E8F67C6BFFF47E...
Brian Lambert, President

July 25, 2024 | 2:21:22 PM PDT

Attest:


DocuSigned by:

F21D2C8C87F54D8...
City Clerk

August 7, 2024 | 9:01:45 AM PDT

Consultant's DIR Registration Number
(if applicable)

Budget Approved:


Approved as to Fiscal Authority:

DocuSigned by:

BEC4DE84D67F444...
Finance Director

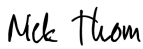
August 2, 2024 | 11:50:51 AM PDT

687-18-001; 210-18-155; 210-18-142; 210-18-147; 210-18-149; 210-18-157
Account Number

Approved as to Form:

DocuSigned by:

27A588FA545A485...
City Attorney

August 1, 2024 | 12:02:21 PM PDT

DocuSigned by:

33F18B855EE54EC...
Director, Public Works Department

August 1, 2024 | 9:00:23 AM PDT

EXHIBIT A

SCOPE OF SERVICES

Contractor shall follow the provisions of the City's Community Workforce Agreement attached as exhibit F.

Contractor shall apply for and obtain permits from the San Leandro Building Department. City will pay permit fees including inspection costs, if any.

City of San Leandro
Public Works
14200 Chapman Rd
San Leandro, California 94578

Scope of Work: Replacement

1. Remove and dispose of all roofing, edge material, counter flashing, coping, and associated material.
2. Inspect deck and perform repairs as necessary.
3. Install fixed gas line supports every 20" where not currently present.
4. Mechanically fasten 1 3/4" Polyiso and 1/2" Densdeck prime per manufacturers ASCE-7 wind uplift calcs. Install tapered crickets between drains providing 1/4 slope.
5. Apply SA primer at 0.5 gallons per square
6. Install HPR SA FR Base sheet.
7. Install Kee-Stone FB in Kee-Lock splatter spray.
8. Install all new lead flashing and detail flashing on roof level details.
9. Build up at curb details that are not at least 6" to a minimum 8" height.
10. Any units currently installed on sleepers are to be reworked for a new curb providing 8" flashing height.
11. Install new 22 GA. Kynar coated coping metal.

Public Works Service Center Optional Task: If required by Union Trade Council and authorized by the City the Contractor shall use sheet metal union workers for flashing work.

City of San Leandro
History Museum
320 W Estudillo Ave
San Leandro, California 94577

Scope of Work:

1. Remove and dispose of all base flashings with shingles currently installed. Remove and dispose of shingles on vertical wall at entrance of building.
2. Install new base flashings where shingles were located with Stressbase 80 Plus and KEE-Stone FB in Green-Lock Flashing Adhesive and KEE Spatter Spray.
3. Install new shingles to interior vertical wall at front of building. Install R-Mer Seal and 30 year dimensional shingles.
4. Patch and repair all blisters, mole runs, unadhered seams, and damaged membrane areas.
5. Patch in removed areas using Stressbase 80 Plus and Versiply Mineral in Green-Lock Flashing Adhesive.
6. Cut out caulking along counterflashing's and penetration details. Install new Green-Lock Sealant XL.
7. Powerwash entire roof system with simplegreen or tsp and water solution.
8. Apply Liquitec at 3 gallons per square to all details and membrane seams. Immediately roll grip polyester soft into the coating. Allow to cure.
9. Apply base coat of Liquitec Base coat at 2 gallons per square over entire roof surface.
10. Apply top coat of Liquitec at 2 gallons per square over entire roof surface.
11. Install new cleated coping and edge metal in 22 ga. Kynar coated metal.
12. Apply Uni-Bond 6" tape to all duct seams and apply Liquitec in 2 coats of 1.5 gallons per 100 square feet.
13. All wood blocking to be replaced with new Dura-Block Supports.

EXHIBIT B

COMPENSATION SCHEDULE & REIMBURSABLE EXPENSES

The City shall compensate the Contractor an amount not to exceed \$891,732 to complete the Public Works Service Center Roof Repair, as described in Exhibit A.

The City shall compensate the Contractor \$11,000 for the work of the Public Works Service Center Optional Task, if used.

The City shall compensate the Contractor an amount not to exceed \$256,340 to complete the History Museum Roof Repair, as described in Exhibit A.

The City shall compensate the contractor an amount not to exceed a total of \$1,159,072 for the work on the two locations outlined separately above.

EXHIBIT C

REQUIREMENTS RELATED TO THE COVID-19 PANDEMIC AND THE CITY OF SAN LEANDRO'S EMERGENCY DECLARATION

The novel coronavirus ("COVID-19") has been declared a worldwide pandemic by the World Health Organization. The City of San Leandro is currently in a local emergency and state of emergency due to the COVID-19 pandemic.

COVID-19 is extremely contagious, and is believed to spread mainly from person-to-person contact, through touched surfaces, and in airborne particles. As a result, federal, state, and local governments, including the City of San Leandro, and federal, state, county, and local health agencies recommend social distancing and additional cleaning protocols to limit the spread of the disease. The City has taken steps and put in place preventative measures recommended by federal, state, county, and local health agencies to reduce the spread of COVID-19. These measures include steps each person must take to prevent the spread of COVID-19 and include, but are not limited to, requiring face coverings, frequent hand washing and/or use of hand sanitizer, social distancing where possible, limiting of person-to-person contact, frequent cleanings of high-touch surfaces, and avoiding entering any building if they have COVID-19 symptoms.

Contractor shall obey all local orders and abide by all applicable preventative measures recommended by federal, state, county and local health agencies and any preventative measures specifically implemented by the City. This includes, but is not limited to, the guidance for best construction practices published by California Department of Public Health and Cal OSHA, Alameda County Order 20-14a Appendix B1 (Updated Small Construction Safety Protocol), and Appendix B2 (Updated Large Construction Safety Protocol), and all other applicable orders and guidance promulgated by federal, state, and local government agencies. In addition, Contractor agrees when entering any City buildings, Contractor will follow all COVID-19 related signage, wear a face covering, follow all social distancing protocols, and abide by any other COVID-19 preventative measure that are in place when performing the services described in this Agreement. Contractor shall also adhere to any subsequently communicated COVID-19 preventative measures as directed by City staff. The COVID-19 preventative measures are subject to change over time, and Contractor shall maintain knowledge of and adhere to the current COVID-19 preventative measures when interacting with City employees, officials, volunteers, agents, and representatives, when entering City buildings, and while performing the services described in this Agreement.

EXHIBIT D

PROVISIONS REQUIRED FOR PUBLIC WORKS CONTRACTS PURSUANT TO CALIFORNIA LABOR CODE SECTION 1720 *ET SEQ.*

HOURS OF WORK:

- A. In accordance with California Labor Code Section 1810, 8 hours of labor in performance of the services described in Exhibit A shall constitute a legal day's work under this contract.
- B. In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the services described in Exhibit A is limited to 8 hours during any one calendar day, and 40 hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of 8 hours during any one calendar day and 40 hours during any one calendar week is permitted upon compensation for all hours worked in excess of 8 hours during any one calendar day and 40 hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.
- C. The Contractor and its subcontractors shall forfeit as a penalty to the City \$25 for each worker employed in the performance of the services described in Exhibit A for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day, or more than 40 hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 and following.

WAGES:

- A. In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the services described in Exhibit A are to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the City Public Works Office and shall be made available on request. The Contractor and subcontractors engaged in the performance of the services described in Exhibit A shall pay no less than these rates to all persons engaged in performance of the services or work.
- B. In accordance with California Labor Code Section 1775, the Contractor and any subcontractors engaged in performance of the services described in Exhibit A shall comply with California Labor Code Section 1775, which establishes penalties per day for each worker engaged in the performance of the services described in Exhibit A that the Contractor or any subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Contractor or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Contractor or subcontractor in meeting applicable prevailing wage obligations, or the willful failure by the Contractor or subcontractor to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Contractor or subcontractor had knowledge of their

obligations under the California Labor Code. The Contractor or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the services described in Exhibit A is not paid the general prevailing per diem wages by the subcontractor, the Contractor is not liable for any penalties therefore unless the Contractor had knowledge of that failure or unless the Contractor fails to comply with all of the following requirements:

1. The contract executed between the Contractor and the subcontractor for the performance of part of the services described in Exhibit A shall include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
 2. The Contractor shall monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
 3. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the services described in Exhibit A.
 4. Prior to making final payment to the subcontractor, the Contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages for employees engaged in the performance of the services described in Exhibit A and any amounts due pursuant to California Labor Code Section 1813.
- C. In accordance with California Labor Code Section 1776, the Contractor and each subcontractor engaged in performance of the services described in Exhibit A shall keep accurate payroll records showing the name, address, social security number, work, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in performance of the services described in Exhibit A. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
1. The information contained in the payroll record is true and correct.
 2. The employer has complied with the requirements of California Labor Code Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project.

The payroll records required pursuant to California Labor Code Section 1776 shall be certified and sent directly to the Labor Commissioner, and available for inspection by the Owner and its authorized representatives, the Division of Labor Standards Enforcement, the Division of

Apprenticeship Standards of the Department of Industrial Relations and shall otherwise be available for inspection in accordance with California Labor Code Section 1776.

- D. In accordance with California Labor Code Section 1777.5, the Contractor, on behalf of the Contractor and any subcontractors engaged in performance of the services described in Exhibit A, shall be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.
- E. In case it becomes necessary for the Contractor or any subcontractor engaged in performance of the services described in Exhibit A to employ for the services described in Exhibit A any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Contractor or subcontractor shall pay the minimum rate of wages specified therein for the classification which most nearly corresponds to services described in Exhibit A to be performed by that person. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

3551152.1

EXHIBIT E

SPECIAL PROVISIONS

ACCESSIBILITY: The contractor shall fully inform himself regarding any peculiarities and limitations of the spaces available for the performance of work under their contract. He shall exercise due and particular caution to determine that all parts of their work are made quickly and easily accessible.

AUTHORITY OF THE CITY OF SAN LEANDRO: Subject to the power and authority of the City as provided by law in their contract, the City shall in all cases determine the quantity, quality, and acceptability of the work, materials and supplies for which payment is to be made under their contract. The City shall decide questions that may arise relative to the fulfillment of the contract or the obligations of the contractor hereunder.

BONDS – MAINTENANCE BOND. A Maintenance Bond shall be delivered to the City prior to the City's acceptance of the work. The bond shall be executed by a surety company or companies satisfactory to the City in the amount of ten percent (10%) of the contract price, or \$1,000.00, whichever is greater. The bond shall remain in force for one year after the acceptance of the work. The Maintenance Bond must be in substantially the same form as set forth in these contract documents.

BONDS - PAYMENT BOND (Labor & Materials). Successful Bidder shall furnish within ten (10) consecutive calendar days after written notice, a Payment Bond in an amount equal to one hundred percent (100%) of the total amount of the contract.

BONDS - PERFORMANCE BOND. Successful Bidder shall furnish within ten (10) consecutive calendar days after written notice, a Performance Bond in an amount equal to one hundred percent (100%) of the total amount of the contract.

CHANGES IN WORK: The City may, at any time work is in progress, by written order and without notice to the sureties, make alterations in the terms of work as shown in the specifications, require the performance of extra work, decrease the quantity of work, or make such other changes as the City may find necessary or desirable. The contractor shall not claim forfeiture of contract by reasons of such changes by the City. Changes in work and the amount of compensation to be paid to the contractor for any extra work as so ordered shall be determined in accordance with the unit prices quoted.

COMMENCEMENT OF WORK: After the contract agreement has been executed by the City, a pre-construction conference will be scheduled and the Notice to Proceed shall be issued. The pre-construction conference will be held at the Public Works Services Center between the City and the Contractor. The purpose of this meeting shall be to discuss the scope of work, the plans and specifications, existing conditions, materials to be ordered, equipment to be used, and all essential matters pertaining to the prosecution of and satisfactory completion of the project as required. The Contractor shall not begin work until the Notice to Proceed is issued by the City.

COMPLIANCE WITH FAIR EMPLOYMENT PRACTICE ACT: Contractor agrees in accordance with Section 1735 and 1777.6 of California Labor Code, and the California Fair Employment Practice Act (Sections 1410-1433) that in the hiring of common or skilled labor for the performance of any work under their contract or any subcontract hereunder, no contractor, material supplier or vendor shall, by reason of race, color, national origin or ancestry, or religion, discriminate against any person who is qualified and available to perform the work to which such employment relates.

CONTRACT INCORPORATION: Their contract and the accompanying Non-Professional Services Agreement (NPSA) embody the entire contract between the City and the Contractor. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein. No changes, amendments, or modifications of any of the terms or conditions of the contract shall be valid unless reduced to writing and signed by both parties.

COOPERATION BETWEEN CONTRACTORS: The City reserves the rights to contract for and perform other or additional work on or near the work covered by these specifications. When separate contracts

are let within the limits of any one project, each contractor shall conduct their work so as not to interfere with or hinder the progress or completion of the work being performed by other contractors. Contractors working on the same project shall cooperate with each other as directed. Each contractor involved shall assume all liability, financial or otherwise, in connection with their contract and shall protect and save harmless the City from any and all damages or claims that may arise because of inconvenience, delays, or loss experienced by him because of the presence and operations of other contractors working within the limits of the same project.

COORDINATION WITH AGENCIES: The contractor shall coordinate their activities with the proper regulatory agencies and have their representative on site at the proper times.

DAMAGE: The contractor shall be held responsible for any breakage, loss of the City's equipment or supplies through negligence of the contractor or their employee while working on the City's premises. The contractor shall be responsible for restoring or replacing any equipment, facilities, etc. so damaged. The contractor shall immediately report to the City any damages to the premises resulting from services performed under their contract. Failure or refusal to restore or replace such damaged property will be a breach of their contract.

DAYS OF WORK. All work shall be done Monday through Friday between the hours of 7:00 a.m. to 4:00 p.m. excluding designated City holidays, unless otherwise directed by a City official.

The following are the designated City holidays:

- January 1 (New Year's Day).
- The third Monday in January (Martin Luther King's Birthday).
- February 12 (Lincoln's Birthday).
- The third Monday in February (Washington's Birthday).
- The last Monday in May (Memorial Day).
- June 19 (Juneteenth)
- July 4 (Independence Day).
- The first Monday in September (Labor Day).
- November 11 (Veterans' Day).
- The fourth Thursday in November (Thanksgiving Day).
- The day after Thanksgiving Day.
- December 24 (Christmas Eve).
- December 25 (Christmas Day).
- December 31 (New Year's Eve).

EXAMINATION OF SPECIFICATION AND SITE: Contractor is expected to carefully examine the site of the proposed work and all project specifications, documents, and forms. He shall satisfy himself as to the character, quality, and quantities of work to be performed, materials to be furnished and the requirements of the proposed specifications.

INDEPENDENT CONTRACTOR: In accepting their contract, Contractor covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. Contractor further covenants that, in the performance of their contract, no subcontractor or person having such an interest shall be employed. Contractor certifies that to the best of their knowledge, no one who has or will have any financial interest under their contract is an officer or employee of City. It is expressly agreed by Contractor that in the performance of the services required under their contract, Contractor, and any of its subcontractors or employees, shall at times be considered independent contractors and not agents of City.

INSURANCE REQUIREMENTS: Within ten (10) consecutive calendar **days** of award of contract, Contractor must furnish the City with the Certificates of Insurance proving coverage as specified in the attachment labeled Non-Professional Services Agreement and naming the City of San Leandro, its officers and agents, Additional Insured by endorsement.

LAWS - ADHERENCE TO ALL LOCAL, STATE, AND FEDERAL LAWS AND REQUIREMENTS: The contractor shall adhere to all applicable health and safety laws and regulations including, but not limited to, those promulgated by CAL-OSHA, FED-OSHA, EPA, the California State Department of Health Services, and County Environmental Health Department.

LIQUIDATED DAMAGES: Not Used.

LICENSES: Contractor must possess current California Contractors License and DIR Registration for duration of contract.

MEASUREMENTS: It is the responsibility of the Contractor to make all measurements to determine their proposed price. The City will not be responsible for determining the quantities of materials necessary to complete the work specified.

PERMITS: Unless otherwise specified herein, Contractor shall at their expense, obtain all permits and licenses and pay all charges and fees necessary for the performance of the contract, and shall give all public notices necessary for the lawful performance of the contract. City shall pay permit and inspection fees for a roofing permit from the City Building Department, Contractor shall apply for and pull the permit.

Contractor shall pay all taxes, levies, duties and assessments of every nature due in connection with any work under the contract, shall make any and all payroll deductions required by law, and shall indemnify and hold harmless the City from any liability on account of any and all such taxes, levies, duties, assessments and deductions.

PROTECTION OF PUBLIC: Adequate warning devices, barricades, guards, flagmen or other necessary precautions shall be taken by the contractor to give advised and reasonable protection, safety and warning to persons and vehicular traffic concerned in the area.

REJECTION OF WORK: Contractor agrees that the City has the right to make all final determinations as to whether the work has been satisfactorily completed.

UNKNOWN OBSTRUCTIONS: Should any unknown obstruction be encountered during the course of their contract the Contractor immediately bring it to the attention of the City. The contractor shall be responsible for the protection of all existing equipment, furniture, or utilities encountered within the work area.

WAGES: This contract requires the payment of **prevailing wages for the State of California** or the City of San Leandro Living Wage whichever is higher.

CITY OF SAN LEANDRO
STATE OF CALIFORNIA

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the **City of San Leandro**, State of California, has awarded to **GARLAND/DBS, INC.**, hereinafter designated as the "Principal," a contract for **Public Works Service Center and History Museum Roof Repairs.**; and,

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

NOW, THEREFORE, we the Principal, and Surety, are held and firmly bound unto the City of San Leandro in the penal sum of **One million, one hundred forty two thousand, five hundred and sixty two dollars (\$1,142,562)**, lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns jointly and severally, firmly by these presents.

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

And the Surety, for value received hereby stipulates and agrees that, in accordance with the Plans, Standard Specifications, Special Provisions, and other contract documents, no change, extension of time, alteration, or addition to the terms of the contract, or to the work to be performed hereunder, or to the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration of additions to the terms of the Contract to the work, or to the specifications.

The City reserves the right to refuse use of any Contractor assigned by any surety to complete the work.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their seals this _____ day of _____, the name and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal)

Principal _____

By _____

Title _____

(Attach Notarial Acknowledgment)

(Corporate Seal)

Surety _____

Address _____

Phone No.: () _____ Fax No.: () _____

By _____

Attorneys-in-Fact

Title _____

(Attach Notarial Acknowledgment)

NOTE TO SURETY COMPANY: There must be submitted a certified copy of unrevoked resolution of authority for the attorneys-in-fact.

(Seal)

Witness _____

Approved as to form:

Risk Manager

END OF PERFORMANCE BOND

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the **City of San Leandro**, a municipal corporation, has awarded to **GARLAND/DBS, INC.**, hereinafter designated as the "Principal", a contract for **Public Works Service Center and History Museum Roof Repairs**; and

WHEREAS, said Principal is required to furnish a bond in connection with said contract, to secure payment of claims of laborers, mechanics, or materialmen employed on work under said contract, as provided by law.

NOW, THEREFORE, we the undersigned Principal and Surety are held and firmly bound unto the City of San Leandro in the sum of **One million, one hundred and forty two thousand, five hundred and sixty two dollars (\$1,142,562)**, said sum being equal to the estimated amount payable by said City of San Leandro under the terms of the contract, for which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that if said Principal, or Principal's heirs, executors, administrators, successors, or assigns, or subcontractors shall fail to pay for any material, provisions, provender, or other supplies, implements, or machinery used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code with respect to such work or labor, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from these wages of employees of the Contractor and Contractor's subcontractors pursuant to the Revenue and Taxation Code, with respect to such work and labor, the Surety or Sureties hereon will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In case suit is brought upon this bond, said Surety will pay a reasonable attorney's fee to be fixed by the court.

This bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Section 3138 of the Civil Code of the State of California so as to give a right of action to them or their assigns in any suit brought upon this bond.

Said Surety, for value received, hereby stipulates and agrees that, in accordance with the Plans, Standard Specifications, Special Provisions, and other Contract Documents, no change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed there under, or to the specifications accompanying the same, shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work, or to the specifications.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their seals this _____ day of _____, the name and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal)

Principal _____

By _____

Title _____

(Attach Notarial Acknowledgment)

(Corporate Seal)

Surety _____

Address _____

Phone No.: () _____ Fax No.: () _____

By _____

Attorneys-in-Fact

Title _____

(Attach Notarial Acknowledgment)

NOTE TO SURETY COMPANY: There must be submitted a certified copy of unrevoked resolution of authority for the attorneys-in-fact.

(Seal)

Witness _____

Approved as to form:

Risk Manager

END OF PAYMENT BOND

CITY OF SAN LEANDRO
STATE OF CALIFORNIA

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the **City of San Leandro**, State of California, has awarded to **GARLAND/DBS, INC.**, hereinafter designated as the "Principal," a contract for **Public Works Service Center and History Museum Roof Repairs**; and

Whereas, said Principal is required under the terms of said contract to furnish a bond for the correction of any defects due to defective materials or workmanship in the work performed under said contract.

NOW, THEREFORE, we the Principal, and Surety, are held and firmly bound unto the City of San Leandro in the penal sum of **One hundred and fourteen thousand, two-hundred and fifty-six dollars (\$114,256)**, lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if, during a maintenance period of one (1) year from the date of recordation of the Notice of Completion by the City, the Contractor upon receiving written notice of a need for repairs which are directly attributable to defective materials or workmanship, shall diligently take the necessary steps to correct said defects within seven (7) days from the date of said notice, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

If any action shall be brought by City upon this bond, a reasonable attorney's fee, to be fixed by the court, shall be and become a part of City's judgment in any such action.

No right of action shall accrue on this bond to, or for the use of, any person or corporation other than the City named herein or the heirs, executors, administrator, or successor of the City.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their seals this _____ day of _____, the name and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal) **Principal** _____
By _____
Title _____

(Attach Notarial Acknowledgment)

(Corporate Seal) **Surety** _____
Address _____
Phone No.: () _____ Fax No.: () _____
By _____
Attorneys-in-Fact
Title _____

(Attach Notarial Acknowledgment)

NOTE TO SURETY COMPANY: There must be submitted a certified copy of unrevoked resolution of authority for the attorneys-in-fact.

(Seal) **Witness** _____

Approved as to form:

Risk Manager

END OF MAINTENANCE BOND

EXHIBIT F

COMMUNITY WORKFORCE AGREEMENT

For the City of San Leandro

This Agreement is made and entered into this _____ day of _____, by and between the City of San Leandro ("City") together with contractors and sub-contractors of all tiers, who shall become parties to this Agreement by signing the "**Agreement to be Bound**" (**Attachment A**), and the Alameda County Building & Construction Trades Council and its affiliated local Unions who have executed this Agreement.

PURPOSE

The purpose of this Agreement is to support the efforts of the City to increase employment opportunities for workers who reside in San Leandro, to help increase training and employment opportunities for the City's students in the construction trades through apprenticeship and pre-apprentice programs as the students graduate from the City's schools, to promote efficiency of construction operations performed for and within the City of San Leandro and to provide for peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the projects.

RECITALS

WHEREAS, the successful completion of the City's construction projects is of the utmost importance to the City of San Leandro; and

WHEREAS, the interests of the general public, the City, the Unions and Contractor(s) would be best served if the construction work proceeded in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractor(s) and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on construction work for and within the City of San Leandro by the Contractor(s), and further, to encourage close cooperation among the Contractor(s) and the Union(s) to the end that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement; and

WHEREAS, the parties agree that one of the primary purposes of this Agreement is to avoid the tensions that might arise on the Project if Union and non-union workers of different employers were to work side by side on the Project, thereby leading to labor disputes that could delay completion of the Project; and

WHEREAS, this Agreement is not intended to replace, interfere with, abrogate, diminish or modify existing local or national collective bargaining agreements in effect during the duration of the Project, insofar as a legally binding agreement exists between the Contractor(s)/Employer(s) and the affected Union(s), except to the extent that the provisions of this Agreement are inconsistent with said collective bargaining agreements, in which event, the provisions of this Agreement shall prevail; and

WHEREAS, contracts for construction work within the City of San Leandro will be awarded in accordance with the applicable provisions of the Charter of the City of San Leandro, the California State Public Contract Code and the Labor Code, including but not limited to competitive bidding and payment of prevailing wages; and

WHEREAS, the City of San Leandro has the absolute right to select the lowest responsive and responsible bidder for the award of the construction contracts for the Projects; and

WHEREAS, the parties signatory to this Agreement pledge their full good faith and trust to work towards a mutually satisfactory completion of the Projects.

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES HERETO, AS FOLLOWS:

ARTICLE 1

DEFINITIONS

1.1 “Agreement” means this Community Workforce Agreement.

1.2 “Agreement to be Bound” means the agreement (attached hereto and incorporated herein as Exhibit A) which shall be executed by each and every Contractor(s)/Employer(s) as a condition of performing Project Work.

1.3 “Alameda County Residents” shall include any residents living in any city or unincorporated section of Alameda County six months prior to the award of a Project.

1.4 “San Leandro Resident” means any individual who six months prior to the award of a Project can certify through a utility bill, or other similar means acceptable to the parties to this Agreement that the individual resides within the boundaries of the San Leandro City Limits.

1.5 “City” means the City of San Leandro.

1.6 “Completion” means that point at which there is Final Acceptance by the City of a Construction Contract. For this definition of “Completion”, “Final Acceptance” shall mean that point in time at which the engineer for the City has determined upon final inspection that the work has been completed in all respects and all required contract documents, contract drawings, warranties, certificates, manuals and data have been submitted and training completed in accordance with the contract documents and the City Council has accepted the work.

1.7 “Contractor(s)” or “Contractor(s)/Employer(s)” means any individual, firm, partnership or corporation, or other business entity, or combination thereof, including joint ventures that is an independent business enterprise, and their successors and assigns that has entered into a contract with the City with respect to the construction work necessary for any part of a Project, under contract terms and conditions approved by the City and which incorporate this Agreement, and any of its contractors or subcontractors of any tier.

1.8 “Construction Contract(s)” means all of the contract(s) for construction of any Project.

1.9 “Council” means the Alameda County Building and Construction Trades Council, AFL- CIO

1.10 “New Apprentice” means a San Leandro Resident who is indentured in a State of California approved apprenticeship program that is a joint labor-management apprentice program for no more than twenty-four months.

1.11 “Project” means any construction project awarded by the City, by and through its City Council, and paid for in whole or in part out of City General Fund or City Enterprise Fund monies, the value of which, either estimated by the City or bid by the Contractor, exceeds \$1,000,000.00. The City and the Council may mutually agree in writing to add additional components to a Project’s Scope of Work that is covered under this Community Workforce Agreement.

1.12 “Union” or “Unions” means the Council and any affiliated labor organization signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations, whose names are subscribed hereto and who have through their officers executed this Agreement.

1.13 “Project Manager” means the person or persons or business entity designated by the City to oversee all phases of construction on the Projects.

1.14 “Schedule A Agreement” or “Master Labor Agreement” means the local master labor agreement of a Union signatory to this Agreement.

ARTICLE 2

SCOPE OF AGREEMENT

2.1 Parties: This Agreement shall apply and is limited to all Contractors/Employers (including subcontractors at any tier) performing work under Construction Contracts necessary for the Projects, the City, the Council and any affiliated labor organization signatory to this Agreement, acting in their own behalf and on behalf of their respective affiliates and member organizations, whose names are subscribed hereto and who have through their officers executed this Agreement.

2.2 Project Description: This Agreement shall apply to the award of all of the Construction Contracts identified by the City as part of the Projects. The City has the absolute right to combine, change, consolidate, suspend or cancel Construction Contract(s) or portions of Construction Contract(s) identified as part of the Projects. Should the City suspend or remove any individual project from the Projects and thereafter authorize that construction work be commenced on such project, then such project shall be performed under the terms of this Agreement. Once a Construction Contract is completed it is no longer covered by this Agreement except when a Contractor is directed to engage in repairs, warranty work or modifications required by its Construction Contract with the City.

2.3 Covered work:

2.3.1 This Agreement covers, without limitation, all on-site preparation, surveying, construction, alteration,

demolition, installation, improvement, painting or repair of buildings, structures and other works, and related activities for the Project that is within the craft jurisdiction of one of the Unions and which is directly part of the Project, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, pipelines (including those in linear corridors built to serve the project), pumps, pump stations, and modular furniture installation. On-site work includes work done for the Project in temporary yards, dedicated sites, or areas adjacent to the Project, and at any on-site or off-site batch plant constructed solely to supply materials to the Project. Covered work includes all soils and materials testing and inspection where such testing and inspection is a classification in which a prevailing wage determination has been published.

2.3.2 This Agreement shall apply to any start-up, calibration, commissioning, performance testing, repair, maintenance, and operational revisions to systems and/or subsystems performed after Completion unless it is a new contract and falls below the threshold identified in section 1.11, or is performed by City Employees.

2.3.3 This Agreement covers all on-site fabrication work over which the City or Contractor(s)/ Employer(s) possess the right of control (including work done for the Project in any temporary yard or area established for the Project). Additionally, this Agreement covers any off-site work, including fabrication necessary for the Project defined herein, that is covered by a current Schedule A Agreement or local addenda to a National Agreement of the applicable Union(s) that is in effect as of the execution date of this Agreement.

2.3.2 The furnishing of supplies, equipment or materials which are stockpiled for later use shall not be covered by this Agreement. However, construction trucking work such as the delivery of ready-mix, asphalt, aggregate, sand or other fill material which are directly incorporated into the construction process as well as the off-hauling of debris and excess fill, material and/or mud, shall be covered by the terms and conditions of this Agreement. Employers, including brokers, of persons providing construction trucking work shall provide certified payroll records to the City within ten (10) days of written request or as required by bid specifications.

2.3.3 The on-site installation or application of all items shall be performed by the craft having jurisdiction over such work as set forth under the provisions of this Agreement; provided, however, it is recognized that installation of specialty items which may be furnished by the owner of the Project or a Contractor shall be performed by construction persons employed under this Agreement who may be directed by other personnel in a supervisory role; provided, however, in limited circumstances requiring special knowledge of the particular item(s), work may be performed by construction persons of the vendor or other companies where necessary to protect a manufacturer's warranty. The issue of whether it is necessary to use construction persons of the vendor or other companies to protect the manufacturer's warranty shall be subject to the grievance and arbitration clause of this Agreement.

2.4 Exclusions: The following shall be excluded from the scope of this Agreement:

2.4.1 This Agreement is not intended to, and shall not affect or govern the award of public works contracts by the City that are outside the identified scope of work of the Projects.

2.4.2 This Agreement shall not apply to a Contractor or subcontractor's non-craft executives, managerial employees, engineering employees, design employees, supervisors (except those covered by existing building and construction trades collective bargaining agreements), office and clerical employees.

2.4.3 This Agreement shall not apply to any work performed on or near or leading to the site of work covered by this Agreement that is undertaken by state, county or other governmental bodies or their contractors; or by public or private utilities or their contractors; or by the City or its contractors for work not part of the scope of the Projects. Further, this Agreement shall not be construed to prohibit or restrict the City or its employees from performing work on or around the Project construction sites or from entering Project sites for any purposes deemed necessary or appropriate by the City.

2.4.4 This Agreement shall not apply to the off-site maintenance of leased equipment or the on-site supervision of such work.

2.4.5 In the event that the City becomes aware or is made aware that this Agreement or portions thereof are inconsistent with the terms and conditions of any grant, loan, or contract with any Federal, State, or regional agency or with the instructions or directions of an authorized representative of a Federal, State or regional agency to which the City is applying for or has received grant funds, the City shall notify the Council. Within 24 hours of notification, the parties shall meet and confer to attempt to modify the Agreement to avoid the forfeiture of any funding or to otherwise resolve the issue. Should the parties be unable to come to an accord, this Agreement or any inconsistent provision shall be modified, subject to the approval of the City Council, to remain in compliance with the requirements of the applicable funding source.

2.5 Termination, Suspension and/or Delay of Work: It is understood and agreed that the City, at its sole option, may change, terminate, delay and/or suspend any and all portions of Covered Work at any time. Further, the City may prohibit some or all work on certain days or during certain hours of the day to comply with applicable codes, laws or regulations, permits or to accommodate the ongoing operations of the City's facilities and/or to mitigate the effects of the ongoing Projects' work on the businesses and residents in the neighborhoods of the Project sites; and/or require such other operational or schedule changes that may be deemed necessary, in its sole judgment, to effectively maintain the primary purpose of the City's facilities and to remain a good neighbor to the residents and businesses in the immediate area of any Projects. In order to permit the Contractors and Unions to make appropriate scheduling plans, the City will provide the affected Contractor with reasonable notice of any changes, beyond what was stated in the bid documents, that it requires pursuant to this Section.

2.6 Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the NTL Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, and the National Agreement of Elevator Constructors, and any instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Technicians, with the exception that Articles IV, XI and XII of this Agreement shall apply to such work.

2.7 The parties are hereby notified that any Projects funded in whole or in part by HUD Section 3

financial assistance must provide employment, registered apprenticeship, training, contracting, or other economic opportunities to Section 3 residents and businesses in a manner that is consistent with Section 3 of the Housing and Urban Development Act of 1968. The parties shall meet and confer to modify this agreement when and where necessary to comply with HUD regulations.

ARTICLE 3

EFFECT OF AGREEMENT/SUBCONTRACTORS

3.1 By executing this Agreement, the Unions and the City agree to be bound by each and every provision of this Agreement.

3.2 By accepting the award of a Construction Contract for a Project, whether as contractor or subcontractor at any tier thereunder, the Contractor/Subcontractor agrees to be bound by each and every provision of this Agreement.

3.3 This Agreement shall only be binding on the signatory parties hereto, their successors and assigns, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party unless performing work within the scope of the Project(s).

3.4 The provisions of this Agreement, including the Schedule A agreements, which are incorporated herein by reference and which are the local Master Agreements of the Signatory Unions having jurisdiction over the work on the Project, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. It is understood that this Agreement, together with the referenced Schedule A Agreements, constitute an integrated, self-contained, stand-alone agreement, and that by virtue of having become bound to this Agreement, the Contractor will not be obligated to sign any other local, area, or national agreement as a condition of performing work within the scope of this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a Schedule A, the provisions of this Agreement shall prevail. Where a subject is covered by the provisions of a Schedule A and is not covered by this Agreement, the provisions of the Schedule A shall prevail.

3.5 In addition, it is understood and agreed that all grievances and disputes involving the interpretation or application of this Agreement, including the Schedule A Agreements, shall be resolved according to the procedures set forth in Article 11 of this Agreement; provided, however, that should a dispute involve a single Schedule A Agreement and a Contractor signatory thereto, and not involve interpretation or application of this Agreement, then such dispute shall be processed and resolved pursuant to the grievance provisions of that Schedule A Agreement. Should there be a dispute in the first instance as to whether the provisions of Article 11 of this Agreement or the grievance procedures of a Schedule A Agreement apply, the dispute shall be presented initially to an arbitrator who shall be selected pursuant to the method described in Article 11. Such referral of a dispute as to the applicable procedures shall be done by an immediate conference call among the parties and the arbitrator, and be heard and decided within three (3) calendar days. Should the arbitrator hold that Article 11 applies, the parties may, by mutual agreement, submit the issue to the same arbitrator pursuant to the provisions of Article 11, or, absent mutual agreement, commence processing the dispute at Step 1 of that Article.

3.6 Subcontractors: At the time that any Contractor enters into a subcontract with any subcontractor of any tier—for the performance of construction or construction trucking work within the scope of this Agreement, the Contractor shall provide a copy of this Agreement, as it may from time to time be modified by the negotiating parties, to said subcontractor and shall require the subcontractor, as a part of accepting an award of a construction subcontract, to agree to be bound by each and every provision of the Agreement prior to the commencement of work.

3.6.1 Each Contractor and Subcontractor shall evidence their agreement to be bound to this Agreement by executing the **Agreement To Be Bound** form attached hereto as **Exhibit A**. A copy of the Agreement To Be Bound executed by the Contractors and Subcontractors shall be submitted to the Council and the Union(s) prior to both the commencement of work and the Pre-Job Conference and will be a required submittal within the City's bid packages. If the Contractor or Subcontractor refuses to execute the Agreement To Be Bound, then such Contractor or Subcontractor shall not be awarded a Construction Contract to perform work on the Projects. A Contractor or Subcontractor who executes the Agreement to Be Bound shall be considered a signatory party to this Agreement.

3.6.2 It is understood that the liability of each Contractor and Subcontractor and the liability of each Union under this Agreement shall be several and not joint. Any dispute between the Union(s) and the Contractor/Employer respecting compliance with the terms of the Agreement shall not affect the rights, liabilities, obligations and duties between the signatory Union(s) and other Contractor(s)/Employer(s) party to this Agreement. Any alleged breach of this Agreement by a signatory Union shall not affect the rights, liabilities, obligations and duties between the signatory Contractor(s)/Employer(s) and the other Union(s) party to this Agreement. The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the City and/or any Contractor or Subcontractor.

3.6.3 With regard to any Contractor or subcontractor that is independently signed to any Schedule A Agreement, this Agreement shall in no way supersede or prevent the enforcement of any subcontracting clause contained in such Schedule A Agreement. Any such subcontracting clause in a Schedule A Agreement shall remain and be fully enforceable between each craft union and its signatory employers and no provision of this Agreement shall be interpreted and/or applied in any manner that would give this Agreement precedence over subcontracting obligations and restrictions that exist between craft Unions and their respective signatory employers under a Schedule A Agreement. To the extent that the provisions of this Agreement are inconsistent with any other provisions contained in a Schedule A Agreement, the provisions of this Agreement shall prevail.

ARTICLE 4

WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS

4.1 The Unions, City and Contractor agree that for the duration of the Projects:

4.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, hand billing or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or construction persons employed on the Projects, at a job site of the Projects or at any other facility of the City because of a dispute on the Projects. Nor shall the Unions or construction persons employed on the Projects participate in any strikes, sympathy strikes, work stoppages, picketing, hand billing, slowdowns, or

otherwise advising the public that a labor dispute exists at a Project jobsite because of a dispute between Unions and Contractor(s) on any other project.

4.1.2 As to construction persons employed on the Projects, there shall be no lockout of any kind by a Contractor covered by this Agreement

4.1.3 If a Schedule A Agreement between a Contractor and the Union expires before the Contractor completes the performance of a Construction Contract and the Union or Contractor gives notice of demand for a new or modified Schedule A Agreement, the Union agrees that it will not strike, picket, hand-bill, slowdown or engage in any other disruptive activity against the Contractor and the Contractor will not lock out construction persons of the Union on said Construction Contract for work covered under this Agreement and the Union and the Contractor agree that the expired Schedule A Agreement shall continue in full force and effect for work covered under this Agreement until a new or modified Schedule A Agreement is reached. If the new or modified Schedule A Agreement provides that any terms of the new Schedule A Agreement shall be retroactive, the Contractor agrees to comply with any retroactive terms of the new or modified Schedule A Agreement applicable to construction persons employed on the Projects within seven (7) days.

4.1.4 It shall not be considered a violation of this article for a Union to withhold labor (but not picket) from any Contractor/Employer who fails to make its timely payment of Trust Fund contributions or fails to meet its weekly payroll. The affected Union shall give seventy-two (72) hours written notice to the City and to the Contractor/Employer prior to withholding labor due to a Contractor's failure to make timely payment of Trust Fund contributions and twenty-four (24) hours written notice to the City and to the Contractor/Employer when a Contractor/Employer fails to make weekly payroll or when paychecks are determined to be nonnegotiable by a financial institution normally recognized to honor such paychecks, during which time the Contractor/Employer shall have the opportunity to correct the default.

4.1.5 If the City contends that any Union has violated this Article, it will notify in writing (including email) the Secretary-Treasurer/Business Manager/Senior Executive of the Council and the Senior Executive of the Union, setting forth the facts alleged to violate the Article, prior to instituting the expedited arbitration procedure set forth below. The Council will immediately use its best efforts to cause the cessation of any violation of this Article. The leadership of the Union will immediately notify the membership of its obligations under this Article.

4.2 **Expedited Arbitration:** Any party to this Agreement shall institute the following procedure, in lieu of or prior to any other action at law or equity, when a breach of this Article 4 is alleged to have occurred:

4.2.1 A party invoking this procedure shall notify Robert Hirsch whom the parties agree shall be the permanent arbitrator under this procedure. In the event that the permanent arbitrator is unavailable at any time, William Riker shall be the alternate arbitrator. If neither is available, then the arbitrator shall be chosen from the list provided in Article XI. Notice to the arbitrator shall be by the most expeditious means available, with notices by facsimile, electronic mail or telephone to the party alleged to be in violation, to the City, to the Council and to the involved local Union if a Union is alleged to be in violation of this Agreement.

4.2.2 Upon receipt of said notice, the arbitrator shall convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

4.2.3 The Arbitrator shall notify the parties by facsimile, electronic mail or telephone of the place and time for the hearing. Said arbitration shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.

4.2.4 The sole issue at the hearing shall be whether or not a violation of Article 4, Section 4.1 of this Agreement has occurred. The arbitrator's decision shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) calendar days, but its issuance shall not delay compliance with or enforcement of the award. The arbitrator may order cessation of the violation of this Article 4 and other appropriate relief and such award shall be served on all parties by hand or the most expedient means allowed by law that meets the timelines set forth herein.

4.2.5 Such award may be enforced by any Court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner: Written notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's decision as issued under Section 4.2.4 of this Article 4, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The Court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or the most expedient means allowed by law that meets the timelines set forth herein.

4.2.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance are waived by the parties.

4.2.7 The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this Article and the party alleged to be in breach of its obligations under this article.

4.3 Liquidated Damages: If the arbitrator determines that a violation of Section 4.1 has occurred, the breaching party shall, within eight (8) hours of the issuance of the decision take all steps necessary to immediately cease such activities and return to work. If the breaching party involved does not cease such activities by the beginning of the next regularly scheduled shift following the expiration of the eight (8) hour period after the arbitrator's issuance of the decision, then the breaching party shall pay the sum of ten thousand dollars (\$10,000) as liquidated damages to the City per shift until the breach is remedied. The arbitrator shall retain jurisdiction for the sole purpose of determining compliance with this obligation and determining the amount of liquidated damages, if any; but such retention shall not prevent the moving party from seeking judicial enforcement of the initial decision.

ARTICLE 5

PRE-JOB CONFERENCE

5.1 A mandatory pre-job conference shall be held after the award of the Construction Contract and prior to the commencement of work. Such conference shall be attended by a representative from the participating Contractor(s), including all sub-contractors, and Union(s) and the Project Manager. All efforts will be made to hold the pre-job conference in sufficient time to ensure all parties the ability to properly raise and resolve any issue that may arise out of such meeting, with a goal that such conferences will be held at least ten (10) days before the work commences. Unless otherwise agreed to by the parties, all pre-job conferences will be held at San Leandro City Hall.

ARTICLE 6

NO DISCRIMINATION

6.1 The Contractors and Unions agree not to engage in any form of discrimination based on any protected class, including but not limited to race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation or disability against any person, or applicant for employment on the Projects.

ARTICLE 7

UNION SECURITY

7.1 The Contractors recognize the Union(s) as the sole bargaining representative of all construction persons working within the scope of this Agreement.

7.2 All construction persons who are employed by the Contractor(s) shall, as a condition of employment, on or before the eighth (8th) day of consecutive or cumulative employment on the Projects, be responsible for the payment of the applicable monthly working dues and any associated fees uniformly required for union membership in the applicable local union which is signatory to this Agreement. Further, there is nothing in this Agreement that would prevent non-union construction persons from joining the local union.

7.3 Authorized representatives of the Unions shall have access to the Projects whenever work covered by this Agreement is being performed on the Project.

ARTICLE 8

REFERRAL AND LOCAL HIRE PROGRAM

8.1 Referral:

8.1.1 Contractor(s) performing construction work on the Projects described in the Agreement shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto ("Job Referral System"). Such Job Referral System will be

operated in a non-discriminatory manner and in full compliance with all federal, state, and local laws and regulations, including those which require equal employment opportunities and nondiscrimination.

8.1.2 The Contractor(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement.

8.1.3 The Contractor(s) shall have the unqualified right to select and hire directly all supervisors above general foreman it considers necessary and desirable, without such persons being referred by the Unions(s).

8.1.4 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor(s) for employees within a seventy-two (72) hour period after such requisition is made by the Contractor(s), the Contractor(s) shall be free to obtain employees from any source. Contractor(s) shall promptly notify the Union(s) of any applicants hired from other sources. This provision does NOT affect core employees as defined below.

8.1.5 Unions shall exert their utmost efforts to recruit sufficient numbers of skilled craft persons to fulfill the requirements of the Contractor(s).

8.2 Local Hire:

8.2.1 All parties agree to make a good faith effort to refer on a priority basis, consistent with the non-discriminatory referral procedures of the hall, qualified and available, and bona-fide San Leandro residents and if no San Leandro residents are available, then Alameda County Residents, for Project work.

8.2.2 The parties also recognize and support the City's commitment to provide opportunities for participation on the Projects to San Leandro businesses through the City's Local Business Preference Ordinance. In furtherance of this commitment, the parties agree that such San Leandro contractors and subcontractors awarded work on the Projects may request by name, and the local will honor, referral of persons who have applied to the local union for Project work and who demonstrate the following qualifications:

- (1) possess any license required by state or federal law for the Project work to be performed;
- (2) have worked a total of at least one thousand (1,000) hours in the construction craft during the prior three (3) years;
- (3) were on the Contractor's active payroll for at least sixty (60) out of the one hundred and twenty (120) calendar days prior to the contract award;
- (4) have the ability to perform safely the basic functions of the applicable trade, and
- (5) are San Leandro residents.

The Union will refer to such Contractor one journeyman employee from the hiring hall out-of- work list for the affected trade or craft, and will then refer one of such Contractor's "core" employees as a journeyman and shall repeat the process, one and one, until such Contractor's crew requirements are met or until

such Contractor has hired five (5) "core" employees, whichever occurs first. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the hiring hall out-of-work list(s). For the duration of the Contractor's work the ratio shall be maintained and when the Contractor's workforce is reduced, employees shall be reduced in the same ratio of core employees to hiring hall referrals as was applied in the initial hiring.

8.2.3 The Contractor shall notify the appropriate Union of the name and social security number of each direct hire and each direct hire shall register with the Union's hiring hall before commencing Project work. If there is any question regarding an employee's eligibility under this Subsection, the City Representative, at a Union's request, shall obtain satisfactory proof of such from the Contractor.

8.2.4 To the extent allowed by law and consistent with the non-discriminatory referral procedures of the Union hiring halls, the Parties agree to a goal that San Leandro Residents shall perform a minimum of 30% of the hours worked, on a craft by craft basis, on the Projects. In the event that no San Leandro residents are available to fulfill the 30% local hire requirement, the next tier of residents shall come from anywhere in Alameda County. The Contractor(s) shall make good faith efforts to reach this goal through the utilization of the Unions' hiring hall procedures. The Unions shall exercise their best efforts in their recruiting and training of San Leandro Resident workers and in their hiring hall procedures to facilitate this 30% goal.

8.2.5 Should any Contractor performing work on the Projects exceed the 30% local hire goal as set forth in this Agreement, they shall be acknowledged by the City Council for their efforts.

8.3 **Apprenticeship Provision:**

8.3.1 Consistent with the requirements of California Labor Code §§ 1776, 1777.5 and 1777.6, Prime Contractor(s), and or their sub-contractors shall hire 1 San Leandro resident as a New Apprentice for the first 1 million dollars of the total bid amount. Thereafter, for every 5 million dollars of the total bid amount the Prime Contractor and their Sub-contractors will be required to hire one additional New Apprentice. The New Apprentice(s) must work a minimum of 10% of the project's work hours. The contractor may employ the apprentice on a different concurrent project in order to meet the minimum hours, and those hours will be counted towards the total hours of the craft on the San Leandro project. Certified Payrolls must reflect the hours worked by persons that fall under this Subsection.

8.3.2 There shall be no more than 1 entry-level apprentice for each craft, provided said crafts have apprenticeship openings and the general contractor is able to include entry-level apprentices hired by their subcontractors to meet this requirement. The City, upon request, will refer names of graduates of workforce development programs to the Unions and Contractors and the Unions will agree to cooperate with Contractor(s) to furnish apprentices as requested. The hiring of apprentices will be in accordance with the Apprenticeship provisions of the applicable Master Agreements and the standards and procedures of the applicable JATC program approved by the division of apprenticeship standards. Apprentices shall be properly supervised and paid in accordance with provisions contained within the Master Agreements.

8.3.4 The intent of this provision is to utilize San Leandro Resident First Period Apprentices to the fullest extent permissible by state law and the Master Agreements. Failure of Contractor(s) and their subcontractors to maintain qualified apprentices on the job will be subject to Division of Apprenticeship Standards penalties, and further penalties as determined by the Joint Administrative Committee.

8.4 Should any of the contractors performing work on the Projects fail to meet this 30% local goal and the apprenticeship requirements set forth in this article or fail to demonstrate "good faith" efforts to do so, through a specific submittal process to be included in their contractual requirements, the City reserves the right to withhold the 5% retention on current progress payments until such time that this failure is remedied, but not longer than ninety (90) days after the date of substantial completion of the Projects or as required by law. However, Enforcement of this Article will be through the Grievance Procedure set forth in Article 11.

ARTICLE 9

GRIEVANCE PROCEDURE

9.1 All disputes involving discipline and/or discharge of employees working on the Project shall be resolved through the grievance and arbitration provision contained in the Master Agreement for the craft of the affected employee. No employee working on the Project shall be disciplined or dismissed without just cause.

ARTICLE 10

JOINT ADMINISTRATIVE COMMITTEE

10.1 The parties to this Agreement shall establish a five (5) person Joint Administrative Committee. This Committee shall be comprised of two (2) representatives selected by the City; two (2) representatives of the signatory Unions and Alameda County Building and Construction Trades Council; and one (1) industry representative, mutually selected by the City and the Alameda County Building and Construction Trades Council. Each representative shall designate an alternate who shall serve in his or her absence for any purpose contemplated by this Agreement.

10.2 The Joint Administrative Committee shall meet as required, but not less than once each quarter, to review the implementation of the Agreement and the progress of the Projects including, but not limited to, compliance with Article 8, prevailing wage, safety, craft workforce levels and construction progress. Requests for certified payrolls from the Joint Labor/Management Committee to which the Union(s) signatory to this Agreement are a party shall be provided as required by law.

ARTICLE 11

GRIEVANCE ARBITRATION PROCEDURE

11.1 The parties understand and agree that in the event any dispute arises out of the meaning, interpretation or application of the provisions of this Agreement, the same shall be settled by means of the procedures set forth herein. No grievance shall be recognized unless the grieving party provides notice in writing to the signatory party with whom it has a dispute within seven (7) calendar days after becoming aware of the dispute, but in no event more than thirty (30) calendar days after it reasonably should have become aware of the event causing the dispute. The time limits in this Article 11 may be extended by mutual written agreement of the parties.

11.2 Grievances shall be settled according to the following procedures:

Step 1: Within seven (7) calendar days after the receipt of the written notice of grievance, the necessary parties to the grievance, including but not limited to the Business Representative of the involved Local Union, or the City's authorized representative or his/her designee, or the representative of the construction person, or the representative of the involved Contractor shall confer and attempt to resolve the grievance.

Step 2: In the event that the representatives are unable to resolve the dispute within seven (7) calendar days after its referral to Step 1, either involved party may submit the dispute within three (3) calendar days to a subcommittee of the Joint Administrative Committee consisting of one (1) person selected by the City and one (1) person selected by the Council, which shall meet within seven (7) calendar days after such referral (or such longer time as mutually agreed upon by all representatives of the subcommittee), to confer in an attempt to resolve the grievance. If there is a unanimous decision by the subcommittee, the decision will be binding on all parties. The Union(s) shall notify its International Union representative(s), which shall advise both parties if it intends on participating in a Step 2 meeting. If the dispute is not resolved within such time (seven (7) calendar days after its referral or such longer time as mutually agreed upon) it may be referred within seven (7) calendar days by either party to Step 3.

Step 3: In the event the matter is not settled or otherwise resolved in a final and binding manner by the Committee, either party may demand arbitration. The parties shall provide a list to each other of their preferred arbitrators. The parties shall flip a coin to determine who shall strike the first name and shall then alternatively strike names from the list and the last remaining name shall be the neutral third party arbitrator who shall have the power to resolve the dispute in a final and binding manner. The costs of the arbitration shall be evenly split by the parties with each bearing the cost of their own legal counsel. Upon mutual agreement of the parties, the matter may be heard on an expedited basis, by telephone or other electronic means, and the arbitrator may render a "bench decision".

11.3 The Arbitrator shall arrange for a hearing no later than fourteen (14) calendar days after the matter has been submitted to arbitration. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the Arbitrator. The time limits specified in any step of the Grievance Procedure set forth in Section 11.2 may be extended by mutual agreement of the parties initiated by the written request of one party to the other, at the appropriate step of the Grievance Procedure. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without the request for an extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes.

11.4 The decision of the Arbitrator shall be binding upon all parties. The Arbitrator shall not have authority to change, amend, add, or detract from any of the provisions of the Agreement. The expenses of the Arbitrator shall be borne equally by both parties.

11.5 In order to encourage the resolution of disputes and grievances at Step 1 and 2 of this Grievance Procedure, the parties agree that such settlements shall not be precedent setting.

11.6 Retention: At the time a grievance is submitted under this Agreement or any Master Agreement,

the Union(s) may request that the City withhold and retain an amount from what is due and owing to the Contractor(s) against whom the grievance is filed, sufficient to cover the damages alleged in the grievance, should the Union(s) prevail. The amount shall be retained by the City until such time as the underlying grievance giving rise to the retention is withdrawn, settled, or otherwise resolved, and the retained amount shall be paid to whomever the parties to the grievance shall decide, or to whomever an Arbitrator shall so order.

ARTICLE 12

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

12.1 The assignment of Covered Work will be solely the responsibility of the Contractor/Employer(s) performing the work involved. However, such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

12.2 All jurisdictional disputes on the Projects between or among the Union(s) shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department, or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractor/Employer(s) and Union(s) parties to this Agreement.

12.2.1 If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an Arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch and Thomas Pagan and the Arbitrator's hearing on the dispute shall be held at the offices of the California State Building and Construction Trades Council in Sacramento, California, within fourteen (14) calendar days of the selection of the Arbitrator. All other procedures shall be as specified in the Plan.

12.3 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor/Employer(s)' assignment shall be adhered to until the dispute is resolved. Individuals violating this Section shall be subject to immediate discharge.

12.4 Each Contractor/Employer(s) shall conduct a Pre-Job Conference with the Council prior to commencing Covered Work. Pre-job conferences for different Contractor(s) may be held together.

ARTICLE 13

APPRENTICES

13.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, the Contractor/Employer(s) shall employ apprentices from California State- approved Joint Apprenticeship Programs in the respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured.

13.2 Contractors shall at all times comply with the applicable provisions of the California Labor Code, the payment of prevailing wages, the registration of contractors and subcontractors, and the hiring of apprentices, in addition to the requirements of Article 8.

13.3 The apprentice ratios will be in compliance with the applicable provisions of the California Labor Code and Prevailing Wage Rate Determinations.

13.4 HELMETS TO HARDHATS:

13.4.1 The Contractor(s)/Employer(s) and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Contractor(s)/ Employer(s) and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center) and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

13.4.2 The Unions and Contractor(s)/Employer(s) agree to coordinate with the Center to participate in an integrated database of veterans interested in working on the Projects and of apprenticeship and employment opportunities for the Projects. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

ARTICLE 14

MANAGEMENT RIGHTS

14.1 The Contractor shall retain full and exclusive authority for the management of its operations, including the right to direct its work force in its sole discretion except as otherwise limited by the terms of this agreement and/or Schedule A Agreements. No roles, customs or practices shall be permitted or observed that limit or restrict production, or limit or restrict the working efforts of construction persons except that the lawful provisions of the Schedule A Agreements shall be recognized.

ARTICLE 15

WAGES/BENEFITS

15.1 All Contractor(s)/Employer(s) agree to pay contributions to the vacation, pension and other form of deferred compensation plan, apprenticeship, worker protection and assistance, and health benefit funds established by the applicable Master Agreement for each hour worked on the Project in the amounts designated in the Master Agreements of the appropriate local Unions.

15.2 By signing this Agreement, the Contractor(s)/Employer(s) adopt and agree to be bound by the written terms of the legally established trust agreements and which may from time to time be amended, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractors authorize the parties to such local trust agreements to appoint trustees and successor trustees to administer the trust funds and hereby ratify and accept the trustees so appointed as

if made by the Contractor(s). The Contractor(s) agrees to execute a separate Subscription Agreement(s) for Trust Funds when such Trust Fund(s) requires such document(s).

15.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on the Project shall be governed by the Master Agreement of the respective crafts, to the extent such Master Agreement is not inconsistent with this Agreement. Where a subject is covered by the Master Agreement and not covered by this Agreement, the Master Agreement will prevail. When a subject is covered by both the Master Agreement and this Agreement, to the extent there is any inconsistency, this Agreement will prevail.

15.4 Holidays: Holidays shall be established as set forth in the applicable Schedule A.

15.5 If a contractor fails to pay wages, the City agrees to honor a properly submitted, legally enforceable Stop Notice.

ARTICLE 16

MODIFIED SCHEDULE A AGREEMENTS

16.1 Certain Provisions Shall Not Apply. Provisions negotiated into the new or modified Schedule A Agreements which are less favorable to the Contractor than those uniformly required of employers for construction work normally covered by those agreements or which may be construed to apply exclusively or predominantly to work covered by this Agreement shall not apply to work covered by this Agreement. Any disagreement between the parties regarding the application of the provisions of any new or modified collective bargaining agreement to work covered by this Agreement shall be resolved under the dispute and grievance arbitration procedures set forth in Article 12 hereof.

ARTICLE 17

SAVINGS CLAUSE

17.1 The parties agree that in the event any article, provision, clause, sentence or word of this Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by a court of competent jurisdiction, the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or word which will meet the objections to its validity and which will be in accordance with the intent and purpose of the article, provision, clause, sentence or word in question.

17.2 The parties also agree that in the event that a decision of a court of competent jurisdiction materially alters the terms of this Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void.

ARTICLE 18

ENTIRE AGREEMENT

18.1 This Agreement, together with the referenced Schedule A Agreements, represents the complete understanding of the parties: The provisions of this Agreement, including the Schedule A Agreements, shall apply to the work covered by this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a Schedule A Agreement, the provisions of this Agreement shall prevail. Where a subject is covered by the provisions of a Schedule A Agreement and is not covered by this Agreement, the provisions of the Schedule A Agreement shall prevail. Nothing contained in a Schedule A Agreement, working rule, by-law, constitution or other similar document of the Unions shall in any way affect, modify or add to this Agreement unless otherwise specifically set forth in this Agreement or mutually agreed to in a writing executed by the parties.

18.2 The parties agree that this Agreement covers all matters affecting wages, hours, and other terms and conditions of employment and that during the term of this Agreement the parties will not be required to negotiate on any further matters affecting these or any other subjects not specifically set forth in this Agreement except by mutual agreement of the parties.

18.3 This Agreement may be executed in counterparts, such that original signatures may appear on separate pages and when bound together all necessary signatures shall constitute an original. Facsimile and PDF signature pages transmitted to the other parties to this Agreement shall be deemed the equivalent to original signatures.

ARTICLE 19

TERM

19.1 The Agreement shall be included as a condition of the award of the Construction Contracts.

19.2 The Agreement shall be effective as of January 1, 2016 ("Effective Date").

19.3 The Agreement shall continue in full force and effect for a term of three years from the Effective Date and shall be applicable to all Projects bid during the term until completion.

ARTICLE 20

COMPLIANCE

20.1 It shall be the responsibility of the Contractor(s) and Unions to investigate and monitor compliance with the provisions of this agreement contained in Article 15. Nothing in this agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent Trust Fund contributions from Contractors on the Project. The City shall monitor compliance with the prevailing wage requirements of the state, and the Contractors/Employers' compliance with this Agreement.

20.2 DRUG & ALCOHOL TESTING:

20.2.1 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited.

20.2.2 Drug and alcohol testing shall be conducted in accordance with the Substance Abuse Prevention Policies set forth in each applicable Schedule A.

City of San Leandro

By: _____ Date: _____

Alameda County Building & Construction Trades Council, AFL-CIO

By: _____ Date: _____

Signatory Unions

Asbestos Workers, Local 16 Boilermakers, Local 549

By: _____

By: _____ Bricklayers & Allied Craftsmen, Local 300 Cement Masons, Local 300

By: _____

By: _____ Electrical Workers, Local 595 Elevator Constructors, Local 8

By: _____

By: _____

Hod Carriers, Local 166 Iron Workers, Local 378

By: _____

By: _____

Laborers, Local 67 Laborers, Local 304

By: _____

By: _____

Operating Engineers, Local 3 Plasterers, Local 66

By: _____

By: _____ Roofers, Local 81 Sheet Metal Workers, Local 104

By: _____

By: _____ Sign Display, Local 510 Sprinkler Fitters, Local 483

By: _____ By: _____

Teamsters, Local 853

United Association of Journeymen and Apprentices

Fitting Industry, Underground Utility & Landscape, Local 355

By: _____

By: _____ United Association of Steamfitters, Plumbers, & Gas Fitters,
Local 342

By: _____

Council No. 16 Northern California Painters &

Allied Trades (On behalf of Painters, Local 3;

Carpet & Linoleum Layers, Local 12; Glass

Workers, Local

169; Auto& Marine Painters, Local 1176) By: _____

Northern California Carpenters

Regional Council (on behalf of Carpenters, Local

713; Carpenters, Local 2236; Lathers, Local 68L;

Millwrights, Local 102; Pile Drivers, Local 34)

By: _____

COMMUNITY WORKFORCE AGREEMENT - EXHIBIT A

City of San Leandro Community Workforce Agreement

AGREEMENT TO BE BOUND

The undersigned, as a Contractor or Subcontractor ("Contractor") on a City Project ("Project"), for and in consideration of the award to it of a contract to perform work on said Project, and in further consideration of the mutual promises made in the Project's Community Workforce Agreement ("Agreement"), a copy of which was received and is acknowledged, hereby:

1. Accepts and agrees to be bound by the terms and conditions of the Agreement, together with any and all amendments and supplements now existing or which are later made to said Agreement.

2. Certifies that it has no commitments or agreements which would preclude its full and complete compliance with the terms and conditions of said Agreement;

3. Agrees to secure from any Contractor (as defined in said Agreement) which is or becomes a subcontractor (of any tier) to it, and from any successors, a duly executed Agreement to be bound in form identical to this document.

4. Contractor agrees that it shall be bound by all applicable trust agreements and plans for the provision of such fringe benefits as accrue to the direct benefit of the construction persons, including Health and Welfare, Pension, Training, Vacation, and/or other direct benefits provided pursuant to the appropriate craft's Schedule "A" Agreement as set forth in Article 15, as they may from time to time be amended, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds, and ratifies and accepts the trustees appointed by the parties to such trust funds. The undersigned party agrees to execute a separate Subscription Agreement(s) when such Trust Fund(s) requires such document(s).

This letter shall constitute a subscription agreement, to the extent of the terms of the letter. Date: _

Company Name: _____

Name of Prime Contractor or Higher-Level Subcontractor:

Name of Project: _____

Signature: _____

Print Name: _____

Title: _____

Contractor's License # or Motor Carrier (CA) Permit Number: _____

2426806.1

2447392.1