

**CONTRACT**

for the Construction of:  
**2022 CONCRETE REPAIRS PROJECT**  
**SPECIFICATION NO. PW 2022-07**

**THIS AGREEMENT**, made and entered into this **25th day of July 2023**, by and between the **CITY OF ARROYO GRANDE**, a municipal corporation of the State of California, hereinafter designated City, party of the first part, and **JJ Fisher Construction, Inc** hereinafter designated as Contractor, party of the second part,

**WITNESSETH:** That the parties hereto do mutually agree as follows:

**Recitals.**

- A. The City does not have the personnel able and/or available to perform the services required under this agreement.
- B. The City desires to contract out for consulting & construction services certain projects relating to the construction of street repairs.
- C. The Contractor warrants to the City that it has the qualifications, experience and facilities to perform properly and timely the services under this Agreement.
- D. On July 18, 2023, 4 bids were received on the 2022 CONCRETE REPAIRS PROJECT ("Project"). The bids were from JJ Fisher Construction, Inc. for \$520,538, DOD Construction Ltd for \$735,665.00, RCH Construction for \$1,103,926.00 and Brough Construction, Inc. for \$845,981.00. There are sufficient funds in the Project budget to move forward on the Project with the lower apparent bidder by awarding the Base Bid only and not the Add Alt Bids.
- G. The City enters into this Agreement in compliance with Public Contract Code 22050.
- H. The City desires to contract with the Contractor to perform the services as described herein.

**ARTICLE I. Scope of Work.** The City of Arroyo Grande requested bids for the following scope of work. In general, the project consists of the removal of existing and installation of new paver bands in sidewalks, paver crosswalks, curb ramps, curb, gutter, and sidewalk, the installation of exposed aggregate concrete sidewalks, removal and replacement of lifted and/or broken sidewalks, and curb/gutter sections.

For and in consideration of the payments and agreements described herein, Contractor agrees to furnish all materials, equipment and labor and construct all necessary facilities for City required for Project, and to perform and complete in a good and workmanlike manner all the work pertaining thereto shown on the plans and described in the

specifications incorporated by reference, and to furnish at his own proper cost and expense all tools, equipment, labor, and materials necessary therefore, except such materials as in the said specifications stipulated to be furnished by City, and to do everything required by this Contract and the said specifications and plans, and the requirements of the Engineer under them, to wit:

**BID ITEM LIST FOR  
2022 CONCRETE REPAIRS PROJECT  
SPECIFICATION NO. PW 2022-07**

Item No.	SS <sub>(1)</sub>	Item Description	Unit of Measure	Estimated Quantity	Item Price (in figures)	Total (in figures)
<b>BASE BID – See Plans</b>						
1	3-1.20	Mobilization, Bonds & Insurance	LS	1	\$19,200.00	\$19,200.00
2	12-1.04	Traffic Control	LS	1	\$18,300.00	\$18,300.00
3	13-1.04	Water Pollution Control Program	LS	1	\$1,600.00	\$1,600.00
4	73-1.04	Paver Band (16" Wide)	SF	1,656	\$21.00	\$34,776.00
5	73-1.04	Paver Crosswalk	SF	2,505	\$46.00	\$115,230.00
6	73-1.04	Tree Well	EA	53	\$675.00	\$35,775.00
7	73-1.04	Flush Concrete Curb (12" Wide)	LF	525	\$67.00	\$35,175.00
8	39-3.02D	Remove and Replace 4" HMA	SF	161	\$18.00	\$2,898.00
9	39-3.02D	Remove and Replace 5" HMA	SF	780	\$22.00	\$17,160.00
10	73-1.04	Concrete Curb Ramp (Caltrans Case A)	SF	88	\$56.00	\$4,928.00
11	73-1.04	Concrete Curb Ramp (Caltrans Case C)	SF	317	\$59.00	\$18,703.00
12	73-1.04	Rolled Curb (AG Std. 4040)	LF	75	\$80.00	\$6,000.00
13	73-1.04	Curb (AG Std. 4030)	LF	37	\$85.00	\$3,145.00
14	73-1.04	Sidewalk (AG Std 4110)	SF	1,206	\$28.00	\$33,768.00
15	73-1.04	New Curb and Gutter (AG Std 4030)	LF	16	\$83.00	\$1,328.00
16	73-1.04	Sidewalk Underdrain (24") (AG Std. 3420)	LF	37	\$1,155.00	\$42,735.00
17	73-1.04	Detectable Warning Surface	SF	60	\$45.00	\$2,700.00
18	15-1.04	Adjust Utility Cover to Finished Grade	EA	2	\$975.00	\$1,950.00
19	87-1.04	Install Push Button Assembly	EA	1	\$2,980.00	\$2,980.00
<b>Base Bid Total</b>					<b>\$398,351.00</b>	

<b>ADD ALTERNATE NO. 1 – East Branch and Mason Street</b>						
20	3-1.20	Mobilization, Bonds & Insurance	LS	1	\$4,600.00	\$4,600.00
21	12-1.04	Traffic Control	LS	1	\$4,300.00	\$4,300.00
22	13-1.04	Water Pollution Control Program	LS	1	\$400.00	\$400.00
23	73-1.04	Paver Crosswalk	SF	920	\$46.00	\$42,320.00
24	73-1.04	Flush Concrete Curb (12" Wide)	LF	230	\$67.00	\$15,410.00
25	39-3.02D	Remove and Replace 5" HMA (Digout)	SF	400	\$22.00	\$8,800.00
26	15-1.04	Adjust Utility to Finished Grade	EA	2	\$975.00	\$1,950.00
27	87-1.04	Traffic Loops	LF	180	\$28.00	\$5,040.00
28	73-1.04	Concrete Curb Ramp (Caltrans A88A Case C) Village Concrete	SF	107	\$59.00	\$6,313.00
29	73-1.04	Curb and Gutter	LF	5	\$83.00	\$415.00
30	73-1.04	Sidewalk - Village Concrete	SF	58	\$28.00	\$1,624.00
31	73-1.04	Curb and Gutter - 2ft Gutter	LF	20	\$84.00	\$1,680.00
32	73-1.04	Detectable Warning Surfaces	SF	15	\$45.00	\$675.00
<b>Add Alternate No. 1</b>					<b>\$93,527.00</b>	

(1) refers to section in the Standard Specifications, with modifications in the Special Provisions, that describe required work.

<b>ADD ALTERNATE NO. 2 – Alder and Farroll Sidewalks</b>						
33	3-1.20	Mobilization, Bonds & Insurance	LS	1	\$1,400.00	\$1,400.00
34	12-1.04	Traffic Control	LS	1	\$1,300.00	\$1,300.00
35	13-1.04	Water Pollution Control Program	LS	1	\$200.00	\$200.00
36	73-1.04	Sidewalk	SF	920	\$28.00	\$25,760.00
<b>Add Alternate No. 2</b>					<b>\$28,660.00</b>	

## **BID SUMMARY**

<b>BASE BID</b>	<b>\$398,351.00</b>
<b>ADD ALTERNATE NO. 1</b>	Not included in Award
<b>ADD ALTERNATE NO. 2</b>	Not included in Award
<b>TOTAL PROJECT BID = (Base Bid + Alternate Bids)</b>	<b>\$398,351.00</b>
<b>Company Name: JJ Fisher Construction, Inc.</b>	

**ARTICLE II. Compensation and Payment.** For furnishing all said equipment, materials and labor, performing demolition as required, and doing all the work required by this Contract; and for all loss and damage arising out of the nature of the work aforesaid, or from the action of the elements or from any unforeseen difficulties which may arise or be encountered in the prosecution of the work until its acceptance by City, and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work, except such as in the said specifications are expressly stipulated to be borne by City; and for well and faithfully completing the work and the whole thereof, in the manner shown and described in the said plans and specifications and in accordance with the requirements of the City Engineer under them and this Contract, City will pay and Contractor shall receive as full compensation therefore the amounts for such work as installed for the unit prices bid therefore in accordance with the proposal of Contractor, memorialized by the Bid Item List above.

Final payment, constituting the entire unpaid balance of the Agreement Sum, shall be paid by the City to the Contractor no sooner than thirty-five (35) days after a Notice of Completion has been recorded, unless otherwise stipulated in the Notice of Completion, provided the work has then been completed, the Agreement fully performed, and a final Certificate for Payment has been issued by the City.

This Agreement is subject to the provisions of Article 1.7 (commencing at Section 20104.50) of Division 2, Part 3 of the Public Contract Code regarding prompt payment of contractors by local governments. Article 1.7 mandates certain procedures for the payment of undisputed and properly submitted payment requests within 30 days after receipt, for the review of payment requests, for notice to Contractor of improper payment requests, and provides for the payment of interest on progress payment requests which are not timely made in accordance with that Article. This Agreement hereby incorporates the provisions of Article 1.7 as though fully set forth herein.

**ARTICLE III. Full Performance.** City hereby promises and agrees with said Contractor to employ, and does hereby employ, said Contractor to provide the materials and to do the work according to the terms and conditions herein contained and referred to, for the prices aforesaid, and hereby contracts to pay the same at the time, in the manner and upon the conditions set forth in the specifications; and the said parties for themselves, their heirs, executors, administrators, successors, and assigns, do hereby agree to full performance of the covenants herein contained.

**ARTICLE IV. Contract Documents.** Contract Documents shall consist of The Notice to Bidders, the Statement of Prevailing Wages, the Bid Requirements, the Contract Bid, the Bond for Faithful Performance, the Bond for Materials and Laborers, the Contract Agreement, the Standard Specifications & Engineering Standards, the Special Provisions and the Project Plans mentioned therein and titled “**2022 CONCRETE REPAIRS PROJECT PW 2022-07**” all of which are either incorporated by reference into or attached to this Contract.

**ARTICLE V. Bonds.** Contractor shall forthwith furnish in triplicate, a faithful performance bond in an amount equal to 100% of the contract price and a labor and materials bond in an amount equal to 100% of the contract price, both bonds to be written by a surety company acceptable to City and in the form prescribed by law.

**ARTICLE VI. Time for Completion and Term.** All of Contractor's work on the Project shall be completed within durations established for the individual activities as set forth in the Project Schedule, attached hereto as Attachment 1 ("Work shall commence ten (10) working days from the start of "contract time," as shown in the Notice to Proceed. Contractor shall refer to the invitations for bids, and Project Plans and Specifications, all of which, as set forth below, are incorporated herein by reference, for contractual obligations regarding individual activity durations. The aggregate sum total work of all individual Prime Contractors to the City comprises the entire "Project" and shall be commenced and completed in conformance with the Project Schedule. The entire Project shall be completed within the dates and durations provided in the Project Schedule (Attachment 1). If the Project is not completed within the timelines of this article, the Agreement shall automatically terminate, unless extended in writing by the parties.

**ARTICLE VII. Liquidated Damages.** Pursuant to Government Code Section 53069.85, if work is not completed within the contract time or in strict accordance with the Project Schedule, it is understood, acknowledged and agreed that the City will suffer damage. It is therefore agreed that the Contractor shall pay to the City the sum of two thousand and two hundred dollars (\$2,200.00) for each and every calendar day of delay beyond the Contract Time, or beyond any completion schedule, construction schedule or Project milestones established in or pursuant to the Project Schedule, or beyond the time indicated in the Project Schedule for any individual Contract activity.

Contractor expressly understands, acknowledges and agrees that such liquidated damages can and shall be imposed if the Contractor does not meet each and every aspect of any activity schedule, completion schedule, construction schedule or Project milestones established in or pursuant to the Project Schedule. If the City accepts work or makes any payment under this Agreement after a default by reason of delays, the acceptance of such work and/or payment(s) shall in no respect constitute a waiver or modification of any provisions regarding Contract Time, a completion schedule, the Project Schedule or the accrual of liquidated damages. In the event the same is not paid, the Contractor further agrees that the City may deduct the amount thereof from any money due or that may become due the Contractor under the Agreement. This paragraph does not exclude recovery of damages under provisions of the Contract Documents, and is expressly in addition to the City's ability to seek other damages.

Contractor is to refer to the Project Construction Schedule for duration of individual activities. Liquidated damages may be assessed if any individual activity duration exceeds the time indicated for that activity on the Project Construction Schedule.

**ARTICLE VIII. Insurance and Indemnity.**

## **GENERAL**

You must obtain and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work by you, your agents, representatives, employees or subcontractors.

Contractor shall indemnify, defend with legal counsel approved by City, and hold harmless City, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Contractor's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in this agreement, except such loss or damage which is caused by the sole or active negligence or willful misconduct of the City. Should conflict of interest principles preclude a single legal counsel from representing both City and Contractor, or should City otherwise find Contractor's legal counsel unacceptable, then Contractor shall reimburse the City its costs of defense, including without limitation reasonable legal counsels fees, expert fees and all other costs and fees of litigation. The Contractor shall promptly pay any final judgment rendered against the City (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of the Contractor's negligent, reckless or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

Contractor obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of City under any provision of this agreement, Contractor shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City active negligence accounts for only a percentage of the liability involved, the obligation of Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of City.

## **CITY CONTRACT**

Without limiting Contractor's indemnification of City, and prior to commencement of Work, Contractor shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City.

## **MINIMUM SCOPE OF INSURANCE**

Coverage must be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage ("Occurrence," Form CG-0001).
2. Insurance Services Office Commercial General Liability Endorsement Form (ISO CG 20 10 85 OR CG 20 10 (ongoing operations) & CG 2037 (completed operations)).
3. Insurance Services Office Form Number CA-0001 (ED. 1/78), covering Automobile Liability, Code 1, "Any Auto," and endorsement CA-0025.
4. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance;
5. Course of Construction insurance covering for all risks of loss.

## **MINIMUM LIMITS OF INSURANCE**

Minimum limits of insurance must be no less than:

1. General Liability: Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage, and a \$2,000,000 completed operations aggregate. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.
2. Automobile Liability: Contractor shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Contractor arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.
3. Umbrella or excess liability insurance: Contractor shall obtain and maintain an umbrella or excess liability insurance policy that will provide bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability and employer's liability. Such policy or policies shall include the following terms and conditions:
  - A drop down feature requiring the policy to respond in the event that any primary insurance that would otherwise have applied proves to be uncollectable in whole or in part for any reason;
  - Pay on behalf of wording as opposed to reimbursement;
  - Concurrence of effective dates with primary policies; and
  - Policies shall "follow form" to the underlying primary policies.
  - Insureds under primary policies shall also be insureds under the umbrella or excess policies. As required by the State of California;
4. Workers' compensation insurance. Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000) for Contractor's employees in accordance with the laws of the State of California, Section 3700 of the Labor Code. In addition, Contractor shall require each subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with

the laws of the State of California, Section 3700 for all of the subcontractor's employees.

Contractor shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees and volunteers.

If required by projects Special Provisions provide:

1. Builder's risk insurance. Upon commencement of construction and with approval of City, Contractor shall obtain and maintain builder's risk insurance for the entire duration of the Project until only the City has an insurable interest. The Builder's Risk coverage shall include the coverages as specified below.

The named insureds shall be Contractor and City, including its officers, officials, employees, and agents. All Subcontractors (excluding those solely responsible for design Work) of any tier and suppliers shall be included as additional insureds as their interests may appear. Contractor shall not be required to maintain property insurance for any portion of the Project following transfer of control thereof to City. The policy shall contain a provision that all proceeds from the builder's risk policy shall be made payable to the City. The City will act as a fiduciary for all other interests in the Project.

Policy shall be provided for replacement value on an "all risk" basis for the completed value of the project. There shall be no coinsurance penalty or provisional limit provision in any such policy. Policy must include: (1) coverage for any ensuing loss from faulty workmanship, Nonconforming Work, omission or deficiency in design or specifications; (2) coverage against machinery accidents and operational testing; (3) coverage for removal of debris, and insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures and all other properties constituting a part of the Project; (4) Ordinance or law coverage for contingent rebuilding, demolition, and increased costs of construction; (5) transit coverage (unless insured by the supplier or receiving contractor), with sub-limits sufficient to insure the full replacement value of any key equipment item; (6) Ocean marine cargo coverage insuring any Project materials or supplies, if applicable; (7) coverage with sub-limits sufficient to insure the full replacement value of any property or equipment stored either on or off the Site or any staging area. Such insurance shall be on a form acceptable to City to ensure adequacy of terms and sublimits and shall be submitted to the City prior to commencement of construction.

## **OTHER INSURANCE PROVISIONS**

Proof of insurance. Contractor shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by City's risk manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this

contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by Contractor, his agents, representatives, employees or subcontractors. Contractor must maintain general liability and umbrella or excess liability insurance for as long as there is a statutory exposure to completed operations claims. City and its officers, officials, employees, and agents shall continue as additional insureds under such policies.

Primary/noncontributing. Coverage provided by Contractor shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

City's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these requirements or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Contractor or City will withhold amounts sufficient to pay premium from Contractor payments. In the alternative, City may cancel this Agreement.

Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Contractor or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

Enforcement of contract provisions (non estoppel). Contractor acknowledges and agrees that any actual or alleged failure on the part of the City to inform Contractor of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

Requirements not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Notice of cancellation. Contractor agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

Separation of Insureds. A severability of interests provision must apply for all additional insureds ensuring that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass Through Clause. Contractor agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Contractor, provide the same minimum insurance coverage and endorsements required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Contractor agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to City for review.

City's right to revise requirements. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Contractor a ninety (90)-day advance written notice of such change. If such change results in substantial additional cost to the Contractor, the City and Contractor may renegotiate Contractor's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered,

or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by City.

Timely notice of claims. Contractor shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Contractor's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. Contractor shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the Work.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a Best Rating of no less than A: V, and who are admitted to write policies in the State of California and contribute to the state guaranty fund.

### **VERIFICATION OF COVERAGE**

Contractors shall furnish the City with certificates of insurance and with original endorsements affecting coverage required by this Section (actual policy). The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by the City and are to be received and approved in writing by the City before work commences. The City reserves the right to require complete, certified copies of all insurance policies, including endorsements affecting the coverage required by these Special Provisions at any time.

### **SUBCONTRACTORS**

The Contractor shall include all Subcontractors as named insured under his policies, or shall furnish separate certificates and endorsements for each Subcontractor. All coverage for Subcontractors shall be subject to all of the requirements stated herein.

### **PRIVATE CONTRACT**

A certificate of liability insurance with at least \$1 million in general liability coverage and a CG 2012 additional insured endorsement attached to it.

**ARTICLE IX. Governing Documents.** It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal therefore, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said bid or proposal conflicting herewith.

**ARTICLE XII. Compliance with Statutes and Regulations.** Contractor will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

**ARTICLE XIII. Notice.** All notices or other official correspondence relating to contractual matters between the parties hereto shall be made by personal service or by first class mail, postage prepaid, addressed to the parties as follows:

City: City Clerk  
City of Arroyo Grande  
300 East Branch Street  
Arroyo Grande, California 93420

Contractor: Jayson J Fisher  
JJ Fisher Construction, Inc.  
261 W. Dana St, Suite 102  
Nipomo, CA 93444

**ARTICLE XIV. Severability.** If any part of this Contract is held invalid by a court of competent jurisdiction, the balance shall retain its full force and effect.

**ARTICLE XV. Governing Law; Jurisdiction.** This Contract will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Contract will be in San Luis Obispo County, California.

**ARTICLE XVI. Authorization.** All officers and individuals executing this and other documents on behalf of the respective parties hereby certify and warrant that they have the capacity and have been duly authorized to execute said documents on behalf of the entities indicated.

**ARTICLE XVII. Provisions Required by Law.** Each and every provision of law and clause required by law to be inserted in this Contract, including but not limited to the following statutorily required provisions, shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

**ARTICLE XVIII. Familiarity With Work.** By executing this Agreement, Contractor represents that Contractor has (a) thoroughly investigated and considered the scope of services to be performed; (b) carefully considered how the services should be performed; and (c) understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.

**ARTICLE XIX. Key Personnel.** Contractor's key person assigned to perform work under this Agreement is Jacob P. Treder. Contractor shall not assign another person to be in charge of the work contemplated by this Agreement without the prior written authorization of the City which shall not be unreasonably withheld.

**ARTICLE XX. Changes.** City may order changes in the services within the general scope of this Agreement, consisting of additions, deletions, or other revisions, and the contract sum and the contract time will be adjusted accordingly. All such changes must be authorized in writing, executed by Contractor and City. The cost or credit to City resulting from changes in the services will be determined in accordance with written agreement between the parties.

**ARTICLE XXI. Termination.** Except as otherwise provided, City may terminate this Contract at any time with or without cause. Notice of termination shall be provided in writing.

In the event of such termination, the Contractor shall cease services as of the date of termination, all finished or unfinished documents, data, drawings, maps, and other materials prepared by Contractor shall, at City's option, become City's property, and Contractor will receive just and equitable compensation for any work satisfactorily completed up to the effective date of notice of termination. Any reuse of any document for other than their intended use shall be at the sole risk and liability of the City.

Should the Agreement be terminated pursuant to this Section, City may procure on its own terms services similar to those terminated.

**ARTICLE XXII. Assignability.** This Agreement is for Contractor's professional services. Contractor's attempts to assign the benefits or burdens of this Agreement without City's written approval are prohibited and will be null and void.

**ARTICLE XXIII. Permits and Licenses.** Contractor will obtain and maintain during the term of this Agreement all necessary permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

**ARTICLE XXIV. Independent Contractor.** City and Contractor agree that Contractor will act as an independent contractor and will have control of all work and the manner in which it is performed. Contractor will be free to contract for similar service to be performed for other employers while under contract with City. Contractor is not an agent or employee of City and is not entitled to participate in any pension plan, insurance, bonus or similar benefits City provides for its employees. Any provision in this Agreement that may appear to give City the right to direct Contractor as to the details of doing the work or to exercise a measure of control over the work means that Contractor will follow the direction of the City as to end results of the work only.

**ARTICLE XXV. Audit of Records.** Contractor agrees that City, or designee, has the right to review, obtain, and copy all records pertaining to the performance of this Agreement. Contractor agrees to provide City, or designee, with any relevant information requested and will permit City, or designee, access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of

determining compliance with this Agreement. Contractor further agrees to maintain such records for a period of three (3) years following final payment under this Agreement.

Contractor will keep all books, records, accounts and documents pertaining to this Agreement separate from other activities unrelated to this Agreement.

**ARTICLE XXVI. Corrective Measures.** Contractor will promptly implement any corrective measures required by City regarding the requirements and obligations of this Agreement. Contractor will be given a reasonable amount of time as determined by the City to implement said corrective measures. Failure of Contractor to implement required corrective measures shall result in immediate termination of this Agreement.

**ARTICLE XXVII. Final Payment Acceptance Constitutes Release.** The acceptance by the Contractor of the final payment made under this Agreement shall operate as and be a release of the City from all claims and liabilities for compensation to the Contractor for anything done, furnished or relating to the Contractor's work or services. However, approval or payment by the City shall not constitute, nor be deemed, a release of the responsibility and liability of the Contractor, its employees, sub-Contractors and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by the City for any defect or error in the work prepared by the Contractor, its employees, sub-Contractors and agents.

**ARTICLE XXVIII. Rules of Construction.** Each Party had the opportunity to independently review this Agreement with legal counsel. Accordingly, this Agreement will be construed simply, as a whole, and in accordance with its fair meaning; it will not be interpreted strictly for or against either Party.

**ARTICLE XXIX. Authority/Modification.** The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written amendment with signatures of all parties to this Agreement. City Manager, or designee, may execute any such amendment on behalf of City.

**ARTICLE XXX. Force Majeure.** Should performance of this Agreement be impossible due to fire, flood, explosion, war, embargo, government action, civil or military authority, the natural elements, or other similar causes beyond the Parties' control, then the Agreement will immediately terminate without obligation of either party to the other.

**ARTICLE XXXI. Time is of the Essence.** Time is of the essence to comply with dates and schedules to be provided.

**ARTICLE XXXII. Record Audit.** In accordance with Government Code section 8546.7, records of both the City and the Contractor shall be subject to examination and audit by the Auditor General for a period of three (3) years after final payment.

**ARTICLE XXXIII. Retention of Securities.** Public Contract Code Section 22300 permits the substitution of securities for any monies withheld by a public agency to ensure performance under a contract, at the request and expense of the Contractor.

**ARTICLE XXXIV. Claims.** In accordance with the requirements of Public Contract Code Section 9204(e), a copy of Public Contract Code Section 9204 is attached hereto and incorporated into this Agreement herein.

**ARTICLE XXXV. Prevailing Wages and DIR Registration.** In accordance with California Labor Code Section 1725.5, Contractors and Subcontractors (as defined by California Labor Code Section 1722.1) bidding on or engaging in the performance of any Public Works contracts in California shall be registered with the Department of Industrial Relation.

In accordance with California Labor Code Section 1770 and 1773, the City has determined that prevailing wage rates apply to this project. Copies of the prevailing rates of per diem wages applicable to this Contract are available from the California Division of Labor Statistics and Research at [www.dir.ca.gov/dslr/PWP/index.htm](http://www.dir.ca.gov/dslr/PWP/index.htm) or 455 Golden Gate Ave. 9th Floor, San Francisco, CA 94102. Any employee whose type of work is not covered by any of the classified wage rates shall be paid not less than the rate of wage listed for the classification which most nearly corresponds to the type of work performed.

Pursuant to California Labor Code Section 1775, the Contractor shall forfeit no more than \$200 per calendar day, or portion of a day, for each worker paid less than the prevailing rates for such work or craft, and the penalty shall be imposed and distributed pursuant to Section 1775.

The following Labor Code sections are hereby referenced and incorporated into this Agreement herein:

1. Section 1775 - Penalty for Failure to Comply with Prevailing Wage Rates.
3. Section 1777.5 - Apprenticeship Requirements.
4. Section 1813 - Penalty for Failure to Pay Overtime.
5. Sections 1810 and 1811 - Working Hour Restrictions.
6. Section 1776 - Payroll Records.
7. Section 1773.8 - Travel and Subsistence Pay.

The City will not recognize any claims for additional compensation because of the payment of the wages set forth in the Contract.

In accordance with the requirements of Labor Code Section 1771.4(a)(1), this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

In accordance with the provisions of the California Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Section 1777.1 or Section 1777.17 of the California Labor Code. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid or may have been paid to a debarred subcontractor by a contractor on the Project shall be returned to the Agency. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.

**IN WITNESS WHEREOF:** The parties hereto have caused this Contract to be executed the day and year first above written.

CITY OF ARROYO GRANDE

CONTRACTOR

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_

\_\_\_\_\_  
Title

ATTEST:

\_\_\_\_\_  
Director of Legislative & Information  
Services / City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**-- END OF CONTRACT --**

**ATTACHMENTS TO CONTRACT FOR THE CONSTRUCTION OF:  
2022 CONCRETE REPAIRS PROJECT  
SPECIFICATION NO. PW 2022-07**

ATTACHMENT 1 – PROJECT SCHEDULE

ATTACHMENT 2 – BOND FOR MATERIALS AND LABORERS

ATTACHMENT 3 – BOND FOR FAITHFUL PERFORMANCE

ATTACHMENT 4 – NOTICE TO BIDDERS, BID BOOK, SPECIAL PROVISIONS,  
TECHNICAL PROVISIONS

ATTACHMENT 5 – BID ADDENDA

ATTACHMENT 6-PLANS

ATTACHMENT 7 – PUBLIC CONTRACT CODE SECTION 9204

ATTACHMENT 8 - CDBG PROOVISIONS



**2022 CONCRETE REPAIRS PROJECT, PW 2022-07**  
**EXHIBIT 1 - PROJECT SCHEDULE**

1. This Project Schedule is outlines Contract dates and/or durations for the project.
2. Pursuant to the Standard Specifications Section 8-1.02B the Contractor shall, before or at the preconstruction conference, submit their own Critical Path Method (CPM) BaselineSchedule.

Contract Item	Date	Description
Contract Award	7/25/2023	Council approve awarding Contract at City Council Meeting
Notice of Award	8/1/2023	Anticipated
Notice to Proceed (NTP)	8/8/2023	This is the anticipated date for NTP - if this dates changes the dates below will change accordingly. Defines the start of "Contract Time".
Start of "Contract Time"	8/15/2023	1 week after NTP
Date For Final Completion	10/26/2023	Contract Time is established as 50 working days for the BASE BID. The Date for Completion includes for State Holidays.

## **ATTACHMENT 1 – PROJECT SCHEDULE**

## **ATTACHMENT 2 – BOND FOR MATERIALS AND LABORERS**

Bond will be added once received from Contractor after Award

**PAYMENT BOND (FOR LABOR AND MATERIAL)**

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_, as Principal, and

as Surety, are held and firmly bound unto the City of Arroyo Grande, in the sum of \_\_\_\_\_ Dollars

(\$\_\_\_\_\_) lawful money of the United States, for the payment of which sum, well and truly to be made, we bind ourselves, jointly and severally, firmly by these presents.

The condition of the above obligation is such that whereas said Principal has been awarded and is about to enter into a written contract with the City of Arroyo Grande for the work described in CONTRACT DOCUMENTS FOR THE CONSTRUCTION OF, **"2022 CONCRETE REPAIRS PROJECT - PW 2022-07"** which is attached hereto, made a part hereof, and to which reference is hereby made for all particulars, and is required by said City to give this bond in connection with the execution of said contract;

NOW THEREFORE, if said Principal, as Contractor in said contract, or Principal's Subcontractor, fail to pay any of the persons referred to in Section 3181 of the Civil Code of the State of California for labor performed, skills or other necessary services bestowed, site improvement made, equipment leased, or appliances, equipment implements, machinery, materials, power, provender, provisions, teams, or trucks furnished or used in, upon, for, or about the performance of the work contracted to be done, or for amounts due under the employment Insurance Act with respect to work or labor performed by any such claimant, said Surety shall pay for the same. In an amount not exceeding the sum specified above; and if suit is brought upon this bond, a reasonable attorney's fee to be fixed by the court. This bond is pursuant to the provisions of Ch 7 Div 3, Pt 4, Tit 15, of the Civil Code of the State of California, and shall insure to the benefit of any of the persons referred to in said Civil Code Section 3181, as it now exists or may hereafter be amended, so as to give a right of action to such persons or their assigns in any suit brought upon this bond. No premature payment by said City to said Principal shall exonerate any Surety unless the City Council of said City shall have actual notice that such payment is premature at the time and it is ordered by said Council, and then only to the extent that such payment shall result in loss to such Surety, but in no event more than the amount of such premature payment.

It is agreed, that any alterations in the work to be done, or increase or decrease of the material to be furnished, which may be made pursuant to the terms of said contract shall not in any way release either the Principal or Surety hereunder, nor shall any extension of time granted under the provisions of said contract release either the Principal or Surety, and notice of such alterations or extensions of the contract is hereby waived by the surety.

WITNESS our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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Surety

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Principal

ALL SIGNATURES MUST BE WITNESSED BY NOTARY (Attach appropriate jurats)

**-- END OF PAYMENT BOND --**

## **ATTACHMENT 3 – BOND FOR FAITHFUL PERFORMANCE**

Bond will be added once received from Contractor after Award

### FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_, as Principal, and

\_\_\_\_\_  
as Surety, are held and firmly bound unto the City of Arroyo Grande, in the sum of \_\_\_\_\_ Dollars

(\$\_\_\_\_\_) lawful money of the United States, for the payment of which sum, well and truly to be made, has been awarded and is about to enter into a written contract with the City of Arroyo Grande for the work described in the CONTRACT DOCUMENTS FOR THE CONSTRUCTION OF THE **"2022 CONCRETE REPAIRS PROJECT - PW 2022-07"** which is attached hereto, made a part hereof, and to which reference is hereby made for all particulars, and is required by said City to give this bond in connection with the execution of said contract;

NOW, THEREFORE, if said Principal shall well and truly do and perform all of the covenants and obligations of said contract on Principal's part to be done and performed at the times and in the manner specified therein, then this obligation shall be null and void, otherwise it shall be and remain in full force and effect. No premature payment by said City to said Principal shall exonerate any Surety unless the City Council of said City shall have actual notice that such payment is premature at the time it is ordered by said Council, and then only to the extent that such payment shall result in loss to such Surety, but in no event more than the amount of such premature payment.

It is agreed, that any alterations in the work to be done, or increase or decrease of the material to be furnished, which may be made pursuant to the terms of said contract shall not in any way release either the Principal or Surety hereunder, nor shall any extensions of time granted under the provisions of said contract release either the principal or surety, and notice of such alterations or extensions of the contract is hereby waived by the Surety.

WITNESS our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Surety

\_\_\_\_\_  
Principal

ALL SIGNATURES MUST BE WITNESSED BY NOTARY (Attach appropriate jurats)

**-- END OF FAITHFUL PERFORMANCE BOND --**

**ATTACHMENT 4 - NOTICE TO BIDDERS, SPECIAL PROVISIONS, TECHNICAL  
PROVISIONS, BID BOOK**

# **NOTICE TO BIDDERS SPECIAL PROVISIONS BID BOOK**

**FOR**

## **2022 CONCRETE REPAIRS PROJECT**

**SPECIFICATION NO. PW 2022-07**

**APPROVAL DATE: June 13, 2023**

**ENGINEERING STANDARDS AND SPECIFICATIONS DATED: APRIL 2016**



**PUBLIC WORKS DEPARTMENT  
1375 ASH STREET  
ARROYO GRANDE, CA 93420**

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## 2022 CONCRETE REPAIRS PROJECT

Specification No. PW 2022-07

Approval Date: June 13, 2023



  
Jeffrey A. van den Eikhof

9/15/2023  
Date

**Recommended for Approval:**

  
Capital Improvement Project Manager

06/19/2023  
Date

**Approved for Construction:**

  
Director of Public Works

6/20/23  
Date

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## NOTICE TO BIDDERS

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### BID SUBMISSION

CITY OF ARROYO GRANDE, CALIFORNIA

Sealed bids will be received by the City of Arroyo Grande at the Public Works Administration Office located at 1375 Ash Street, Arroyo Grande, California 93420, until

**2:00 P.M. on July 18, 2023**

at which time they will be publicly opened and read aloud. Submit bid in a sealed envelope plainly marked:

**2022 CONCRETE REPAIRS PROJECT  
SPECIFICATION NO. PW 2022-07**

Any bid received after the time and date specified will not be considered and will be returned to the bidder unopened. Bids received by Fax or Email will not be considered.

By submission of bid you agree to comply with all instructions and requirements in this notice and the contract documents.

All bids must be submitted on the Bid Item List form(s) provided and submitted with all other Bid Forms included in these Special Provisions.

Each bid must be accompanied by either a:

1. certified check
2. cashier's check
3. bidder's bond

made payable to the City of Arroyo Grande for an amount equal to ten percent of the bid amount as a guaranty. Guaranty will be forfeited to the City Arroyo Grande if the bidder, to whom the contract is awarded, fails to enter into the contract.

The City of Arroyo Grande reserves the right to accept or reject any or all bids or waive any informality in a bid.

All bids are to be compared on the basis of the Public Works Director's estimate of the quantities of work to be done, as shown on the Bid Item List.

Bids will only be accepted from bidders that are licensed in compliance with the provisions of Chapter 9, Division III of Business and Professions Code.

The award of the contract, if awarded, will be to the lowest responsive bid submitted by a responsible contractor whose bid complies with the requirements prescribed herein. If the contract is awarded, the contract will be awarded within 60 calendar days after the opening of the bids.

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## NOTICE TO BIDDERS

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Failure to raise defects in the notice to bidders or bid forms prior to bid opening constitute a waiver of those defects.

### BID DOCUMENTS

A copy of the plans and specifications may be downloaded, free of charge, from the City's website at: <http://www.arroyogrande.org/Bids.aspx>. Plans and specifications are available for viewing at the following plan rooms:

1. Central California Builders Exchange
2. Santa Maria Valley Contractors Association
3. Central Coast Builders Association
4. San Luis Obispo County Builders Exchange

A printed copy of the plans and specifications may be obtained by contacting:

Blueprint Express  
618 East Grand Avenue  
Arroyo Grande, CA 93420  
(805) 481-1655

for a non-refundable fee of the cost of duplication.

Standard Specifications and Engineering Standards referenced in the Special Provisions may be downloaded, free of charge, from the City's website at: <http://www.arroyogrande.org/DocumentCenter/Home/View/3151>.

A printed copy of the Standard Specifications and Engineering Standards may be obtained by contacting:

Blueprint Express  
618 East Grand Avenue  
Arroyo Grande, CA 93420  
(805) 481-1655

for a non-refundable fee of the cost of duplication.

You are responsible to obtain all issued addenda prior to bid opening. Addenda will be available to download at the City's website listed above or at the office of the Public Works Director. Contact the Capital Improvement Project Manager, Jill McPeck at (805) 473-5444 or the Public Works Department at (805) 473-5460 prior to bid opening to verify the number of addenda issued.

You are responsible to verify your contact information is correct on the plan holders list located on the City's website at: <http://www.arroyogrande.org/Bids.aspx>.

### PROJECT INFORMATION

In general, the project consists of the removal of existing and installation of new paver bands in sidewalks, paver crosswalks, curb ramps, curb, gutter, and sidewalk, the installation of exposed aggregate concrete sidewalks, removal and replacement of lifted and/or broken sidewalks, and curb/gutter sections.

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## NOTICE TO BIDDERS

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The project estimated construction cost for the Base Bid is \$375,000.

Contract time is established as 50 working days.

- A pre-bid meeting will be held on **Tuesday, June 27, 2023 at 2:00 P.M. Meet at Arroyo Grande City Hall. 300 East Branch Street, Arroyo Grande, CA. in the Upstairs Main Conference Room. After the meeting, there will be a job walk on the East Branch Street to see locations of installation of Pavers in crosswalks, sidewalks and tree wells. Attendance at this meeting is highly recommended.**

### PREVAILING WAGES

In accordance with the provisions of California Labor Code Sections 1770, 1773, 1773.1, 1773.6 and 1773.7 as amended, the Director of the Department of Industrial Relations has determined the general prevailing rate of per diem wages in accordance with the standards set forth in Section 1773 for the locality in which the work is to be performed. A copy of said wage rates is on file at the office of the Owner. It shall be mandatory upon the contractor to whom the work is awarded and upon any subcontractor under the contractor to pay not less than said specified rates to all workmen employed by them in the execution of the work.

### Contractor Registration with Department of Industrial Relations

In accordance with California Labor Code Section 1725.5, Contractors and Subcontractors (as defined by California Labor Code Section 1722.1) bidding on Public Works contracts in California shall be registered with the Department of Industrial Relations prior to bidding. Failure to provide proof of Contractor's registration as part of the Bid shall deem the Bid as non-responsive and will therefore be rejected by Owner.

### Compliance Monitoring and Enforcement

In accordance with the requirements of Labor Code Section 1771.4(a)(1), Bidders are hereby notified that this project is subject to compliance monitoring and enforcement by the Department of Industrial Relation.

### QUALIFICATIONS

In accordance with the provisions of California Public Contract Code Section 3300, the City has determined that the contractor shall possess a valid Class A or C8 at the time of bid issuance. Failure to possess the specified license shall render the Bid as non-responsive and shall act as a bar to award of the Contract to any bidder not possessing said license at the time of award. In the event of dispute over classification of the license required, the opinion of the Contractor's State License Board shall prevail.

You must have experience constructing projects similar to the work specified for this project. Provide three similar reference projects completed as either the prime or subcontractor. One of the three reference projects must have been completed under contract with a City, County, State or Federal Government agency as the prime

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## NOTICE TO BIDDERS

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contractor. All referenced projects must be completed within the last five years from this project's bid opening date.

All referenced projects must be for installation of concrete sidewalk facilities, concrete grinding/slicing, tree removal and replacement, and minor irrigation repair work.

Failure to provide reference projects as specified in this section and as required on the qualification form may be cause to reject a bid as being non-responsive.

It is the City of Arroyo Grande's intent to award the contract to the lowest responsive bid submitted by a responsible bidder. If in the bidder's opinion the contract has been or may be improperly awarded, the bidder may protest the contract award.

Protests must be filed no later than five working days after either:

1. bid opening date
2. notification of rejected bid.

Protest must be in writing and received by the project manager located at:

1375 Ash Street  
Arroyo Grande, CA 93420.

Valid protests must contain the following information:

1. the reasons for the protest
2. any supporting documentation
3. the ruling expected by the City to remedy the protest.

Any protest not containing all required information will be deemed invalid and rejected.

The City will consider additional documentation or other supporting information regarding the protest if submitted in compliance with the specified time limits. Anything submitted after the specified time limit will be rejected and not be considered.

The Director of Public Works or Designee may request additional information to be submitted within three days of the request, unless otherwise specified, and will notify the protester of the ruling within ten days of the determination.

Pursuant to the Public Records Act (Government Code, §6250, et seq.), the City will make public records available upon request.

## AWARD

The lowest bidder will be determined using the BASE BID. The City may, at its discretion, add one, all, or none of the Add Alternates.

The City intends to award a contract to the responsive and responsible bidder with the lowest base bid price. All bids submitted shall be in accordance with the provisions of the contract documents. The City specifically reserves the right, in its sole discretion, to reject any or all bids, to re-bid, or to waive inconsequential defects in bidding not involving time,

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## NOTICE TO BIDDERS

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price or quality of the work. City may waive any minor irregularities in the bids. Any bid may be withdrawn prior to bid opening but not afterward.

As a condition to executing a contract with the City, two bonds each equal to one hundred percent of the total contract price are required in compliance with Section 3-1.05 of the Standard Specifications.

### **Deposit of Securities in Lieu of Retainage.**

The Contractor may elect to receive 100 percent of payment due under the Contract Documents from time to time, without retention of any portion of the payment by the City, by depositing securities of equivalent value with the City in accordance with the provisions of Section 22300 of the California Public Contract Code. Such securities, if deposited by the Contractor, shall be valued by the City, whose decision on valuation of the securities shall be final. Securities eligible for investment under this provision shall be limited to those listed in Section 16430 of the California Government Code or bank or savings and loan certificates of deposit.

### **Agreement to Assign.**

In accordance with Section 4552 of the California Government Code, the bidder shall conform to the following requirements: In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act 15 U.S.C. 15, or under the Cartwright Act, Chapter 2.

### **ACCOMMODATION**

If any accommodations are needed to participate in the bid process, please contact the Public Works Department at (805) 473-5460. Requests should be made as soon as possible to allow time for accommodation.

## NOTICE TO BIDDERS

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## **BID BOOK**

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All bid forms must be completed and submitted with your bid. Failure to submit these forms and required bid bond will be cause to reject the bid as nonresponsive. Staple all bid forms together.

THE UNDERSIGNED, agrees that they have carefully examined:

1. the location of the proposed work
2. the plans and specifications
3. read the accompanying instructions to bidders
4. any supplemental project information

and propose to furnish all:

5. materials
6. labor

to complete all the required work satisfactorily in compliance with

7. plans
8. specifications
9. special provisions

for the prices set forth in the bid item list:

# BID BOOK

## BID ITEM LIST FOR 2022 CONCRETE REPAIRS PROJECT SPECIFICATION NO. PW 2022-07

Item No.	SS <sub>(1)</sub>	Item Description	Unit of Measure	Estimated Quantity	Item Price (in figures)	Total (in figures)
<b>BASE BID – See Plans</b>						
1	3-1.20	Mobilization, Bonds & Insurance	LS	1	\$ 19,200.00	\$ 19,200.00
2	12-1.04	Traffic Control	LS	1	\$ 18,300.00	\$ 18,300.00
3	13-1.04	Water Pollution Control Program	LS	1	\$ 1,600.00	\$ 1,600.00
4	73-1.04	Paver Band (16" Wide)	SF	1,656	\$ 21.00	\$ 34,776.00
5	73-1.04	Paver Crosswalk	SF	2,505	\$ 46.00	\$ 115,230.00
6	73-1.04	Tree Well	EA	53	\$ 675.00	\$ 35,775.00
7	73-1.04	Flush Concrete Curb (12" Wide)	LF	525	\$ 67.00	\$ 35,175.00
8	39-3.02D	Remove and Replace 4" HMA	SF	161	\$ 18.00	\$ 2,898.00
9	39-3.02D	Remove and Replace 5" HMA	SF	780	\$ 22.00	\$ 17,160.00
10	73-1.04	Concrete Curb Ramp (Caltrans Case A)	SF	88	\$ 56.00	\$ 4,928.00
11	73-1.04	Concrete Curb Ramp (Caltrans Case C)	SF	317	\$ 59.00	\$ 18,703.00
12	73-1.04	Rolled Curb (AG Std. 4040)	LF	75	\$ 80.00	\$ 6,000.00
13	73-1.04	Curb (AG Std. 4030)	LF	37	\$ 85.00	\$ 3,145.00
14	73-1.04	Sidewalk (AG Std 4110)	SF	1,206	\$ 28.00	\$ 33,768.00
15	73-1.04	New Curb and Gutter (AG Std 4030)	LF	16	\$ 83.00	\$ 1,328.00
16	73-1.04	Sidewalk Underdrain (24") (AG Std. 3420)	LF	37	\$ 1,155.00	\$ 42,735.00
17	73-1.04	Detectable Warning Surface	SF	60	\$ 45.00	\$ 2,700.00
18	15-1.04	Adjust Utility Cover to Finished Grade	EA	2	\$ 975.00	\$ 1,950.00
19	87-1.04	Install Push Button Assembly	EA	1	\$ 2,980.00	\$ 2,980.00
<b>Base Bid Total</b>					<b>\$ 398,351.00</b>	

## BID BOOK

<b>ADD ALTERNATE NO. 1 – East Branch and Mason Street</b>						
20	3-1.20	Mobilization, Bonds & Insurance	LS	1	\$ 4,600.00	\$ 4,600.00
21	12-1.04	Traffic Control	LS	1	\$ 4,300.00	\$ 4,300.00
22	13-1.04	Water Pollution Control Program	LS	1	\$ 400.00	\$ 400.00
23	73-1.04	Paver Crosswalk	SF	920	\$ 46.00	\$ 42,320.00
24	73-1.04	Flush Concrete Curb (12" Wide)	LF	230	\$ 67.00	\$ 15,410.00
25	39-3.02D	Remove and Replace 5" HMA (Digout)	SF	400	\$ 22.00	\$ 8,800.00
26	15-1.04	Adjust Utility to Finished Grade	EA	2	\$ 975.00	\$ 1,950.00
27	87-1.04	Traffic Loops	LF	180	\$ 28.00	\$ 5,040.00
28	73-1.04	Concrete Curb Ramp (Caltrans A88A Case C) Village Concrete	SF	107	\$ 59.00	\$ 6,313.00
29	73-1.04	Curb and Gutter	LF	5	\$ 83.00	\$ 415.00
30	73-1.04	Sidewalk - Village Concrete	SF	58	\$ 28.00	\$ 1,624.00
31	73-1.04	Curb and Gutter - 2ft Gutter	LF	20	\$ 84.00	\$ 1,680.00
32	73-1.04	Detectable Warning Surfaces	SF	15	\$ 45.00	\$ 675.00
<b>Add Alternate No. 1</b>					<b>\$ 93,527.00</b>	

(1) refers to section in the Standard Specifications, with modifications in the Special Provisions, that describe required work.

<b>ADD ALTERNATE NO. 2 – Alder and Farroll Sidewalks</b>						
33	3-1.20	Mobilization, Bonds & Insurance	LS	1	\$ 1,400.00	\$ 1,400.00
34	12-1.04	Traffic Control	LS	1	\$ 1,300.00	\$ 1,300.00
35	13-1.04	Water Pollution Control Program	LS	1	\$ 200.00	\$ 200.00
36	73-1.04	Sidewalk	SF	920	\$ 28.00	\$ 25,760.00
<b>Add Alternate No. 2</b>					<b>\$ 28,660.00</b>	

### BID SUMMARY

<b>BASE BID</b>	<b>\$ 398,351.00</b>
<b>ADD ALTERNATE NO. 1</b>	<b>\$ 93,527.00</b>
<b>ADD ALTERNATE NO. 2</b>	<b>\$ 28,660.00</b>
<b>TOTAL PROJECT BID = (Base Bid + Alternate Bids)</b>	<b>\$ 520,538.00</b>
<b>Company Name: JJ Fisher Construction, Inc.</b>	



**NONCOLLUSION DECLARATION**

I, JAYSON J FISHER, declare that  
I am CEO of JJ FISHER CONSTRUCTION, INC,  
the party making the foregoing bid that the bid is not made in the interest of, or on behalf  
of, any undisclosed person, partnership, company, association, organization, or  
corporation; that the bid is genuine and not collusive or sham; that the bidder has not  
directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and  
has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or  
anyone else to put in a sham bid, or that anyone refrained from bidding; that the bidder has  
not in any manner, directly or indirectly, sought by agreement, communication, or  
conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any  
overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure  
any advantage against the public body awarding the contract of anyone interested in the  
proposed contract; that all statements contained in the bid are true; and, further, that the  
bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof,  
or the contents thereof, or divulged information or data relative thereto, or paid, and will not  
pay, any fee to any corporation, partnership, company association, organization, bid  
depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Executed on JULY 18, 2023, in NIPOMO  
I declare under penalty of perjury under the laws of the State of California that the foregoing  
is true and correct.

(SEAL)

\_\_\_\_\_  
(Signature and Title of Declarant)

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

Company Name: JJ FISHER CONSTRUCTION, INC

SEE ATTACHED FOR  
NOTARY CERTIFICATE

## NON-COLLUSION AFFIDAVIT

The undersigned bidder or agent, being duly sworn on oath, says that he/she has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to include anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He/She further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee gift, commission or thing of value on account of such sale.

## OATH AND AFFIRMATION

I HEREBY AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FACTS AND INFORMATION CONTAINED IN THE FOREGOING BID FOR PUBLIC WORKS ARE TRUE AND CORRECT.

Dated this 18 day of July, 2023

J J Fisher Construction, Inc  
(Name of Organization)

CEO

(Title of Person Signing)

[Signature]  
(Signature)

## ACKNOWLEDGEMENT

STATE OF CA

COUNTY OF San Luis Obispo

) SS



Before me, a Notary Public, personally appeared the above named and swore that the statements contained in the foregoing document are true and correct.

Subscribed and sworn to me this 18 day of July, 2023

Stephanie Lynn Lowry  
Notary Public Signature

My Commission Expires: March 12, 2027

**CERTIFICATE OF WORKERS' COMPENSATION INSURANCE**

PROJECT: 2022 CONCRETE REPAIRS PROJECT, PW 2022-07

I, JAYSON J FISHER the CEO of  
(Name) (Title)

JJ FISHER CONSTRUCTION, INC, declare, state and certify that:  
(Contractor Name)

1. I am aware that California Labor Code §3700(a) and (b) provides:

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

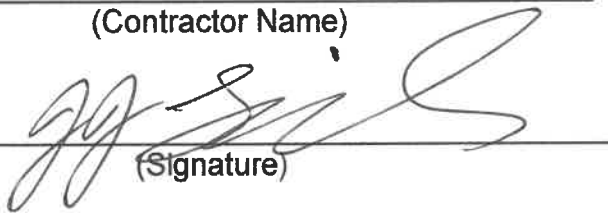
(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees."

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

JJ FISHER CONSTRUCTION, INC  
(Contractor Name)

By:

  
(Signature)

JAYSON J FISHER  
(Typed or Printed Name)

## BID BOOK

### ***Bidder Acknowledgements***

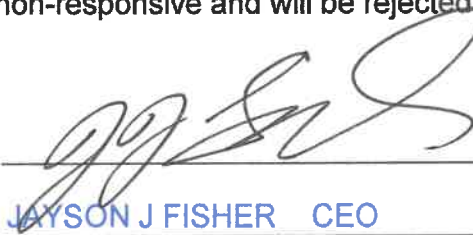
By signing below, the bidder acknowledges and confirms that this bid is based on the information contained in the contract documents, including the notice to bidders, plans, specifications, special provisions, and addendum number(s) 1,2.  
**(Note: You are responsible to verify the number of addenda prior to the bid opening.)**

The undersigned further agrees that in case of default in executing the required contract, with necessary bonds, within eight days, (not including Saturdays, Sundays, and legal holidays), after having received a mailed notice that the contract is ready for signature, the proceeds of the check or bond accompanying his bid will become the property of the City of Arroyo Grande.

Licensed in accordance with an act providing for the registration of contractors, License No. 939644, Expiration Date 4/30/2024.

The above statement is made under penalty of perjury, and any bid not containing this information "will be considered non-responsive and will be rejected" by the City.

Signature of Bidder



JAYSON J FISHER CEO

(Print Name and Title of Bidder)

Business Name (DBA): JJ FISHER CONSTRUCTION, INC

Owner/Legal Name: JJ FISHER CONSTRUCTION, INC

Indicate One: ☐ Sole-proprietor ☐ Partnership ☒ Corporation

List Partners/Corporate

Officers:

JAYSON J FISHER

CEO

Name

Title

Mark Sczbecki

CFO

Name

Title

Name

Title

Name

Title

---

## BID BOOK

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Business Address 261 W. DANA ST. SUITE 102

City, State, Zip Code NIPOMO, CA. 93444

Mailing Address PO BOX 2219

City, State, Zip Code NIPOMO, CA. 93444

Phone Number 805-723-5220

Fax Number 805-723-5221

Email Address JJ@JJFISHERCONSTRUCTION.COM

DIR Number 1000003980

Date JULY 18, 2023

## BID BOOK

### Qualifications

Failure to furnish complete reference information, as specified in this project's Notice to Bidders, is cause to reject the bid.

### Reference Number 1

<b>Customer Name &amp; Contact Individual</b> CITY OF GROVER BEACH - MEASURE K REHABILITATION & REPAIR PROJECT NEWPORT AVE., N. 4TH ST TO OAK PARK BLVD AARON HILTON	
<b>Telephone &amp; Fax Number</b> 805-279-6864	
<b>Street Address, City, State, Zip Code</b> 154 S. 8TH ST. GROVER BEACH, CA. 93433	
<b>Is this similar to the project being bid?</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Describe the services provided and how this project is similar to that which is being bid:</b>  CONSTRUCTION COORDINATION, GRADING, PAVING, UNDERGROUND, REMOVAL AND REPLACEMENT OF CONCRETE CURB, GUTTER, SIDEWALK, ROADWAY EXCAVATION, SIGNAGE  Date project completed: 2020
<b>Was this contract for a public agency?</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	

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**BID BOOK**

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**Reference Number 2**

Customer Name & Contact Individual	
CITY OF SOLVANG 5TH STREET SIDEALK <span style="float: right;">MATT VAN DER LINDEN</span>	
Telephone & Fax Number	
805-688-5575	
Street Address, City, State, Zip Code	
411 SECOND ST. SOLVANG, CA. 93463	
Is this similar to the project being bid? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Describe the services provided and how this project is similar to that which is being bid:  CONSTRUCTION COORDINATION, STORMWATER MANAGEMENT, CONCRETE CURB, GUTTER, SIDEWALK, ASPHALT PATCH  Date project completed: 2021
Was this contract for a public agency? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	

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**BID BOOK**

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**Reference Number 3**

Customer Name & Contact Individual	
CITY OF SANTA MARIA SURFACE IMPROVEMENTS                      CHRIS PETRO	
Telephone & Fax Number	
805-925-0951 EXT 481	
Street Address, City, State, Zip Code	
110 E. COOK ST. SANTA MARIA, CA. 93454	
Is this similar to the project being bid? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Describe the services provided and how this project is similar to that which is being bid:  REMOVE & REPLACE ASPHALT, CONCRETE CURB, GUTTER, SIDEWALK, SPANDREL, ADA RAMPS, CROSS GUTTER   Date project completed: 2019
Was this contract for a public agency? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	

**BID BOOK**

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**ATTACH BIDDER'S BOND TO ACCOMPANY BID**

Know all men by these presents:

That we JJ FISHER CONSTRUCTION, INC., AS PRINCIPAL,  
and THE OHIO CASUALTY INSURANCE COMPANY, AS SURETY,

are held and firmly bound unto the City of Arroyo Grande in the sum of:

TEN PERCENT OF AMOUNT BID Dollars

( 10% OF BID ) to be paid to said City or its certain attorney, its successors and assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by these presents:

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the certain bid of the  
above bounden JJ FISHER CONSTRUCTION, INC.

to construct 2022 CONCRETE REPAIRS PROJECT SPECIFICATION NO. PW 2022-07  
(insert name of street and limits to be improved or project)

dated JULY 18TH, 2023 is accepted by the City of Arroyo Grande, and if the

above bounden JJ FISHER CONSTRUCTION, INC., his heirs, executors, administrators, successors, and assigns shall duly enter into and execute a contract for such construction and shall execute and deliver the two bonds described within ten (10) days (not including Saturdays, Sundays, or legal holidays) after the above bounden, JJ FISHER CONSTRUCTION, INC., has received notice by and from the said City of Arroyo Grande that said contract is ready for execution, then this obligation shall become null and void; otherwise, it shall be and remain in full force and virtue.

IN WITNESS WHEREOF, we hereunto set our hands and seals this 14TH day of  
JULY, 2023.

**BID BOOK**

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**Bidder Principal:**

JJ FISHER CONSTRUCTION, INC.

Signature

Date

Printed Name: Jayson J Fisher  
Title: CEO

July 18, 2023

**Surety:**

THE OHIO CASUALTY INSURANCE COMPANY

By:

BRITTON CHRISTIANSEN, ATTORNEY-in-FACT

Bidder's signature is not required to be notarized. Surety's signature must be notarized.  
Equivalent form may be substituted



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

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

Certificate No: **8201903-969577**

## POWER OF ATTORNEY

**KNOWN ALL PERSONS BY THESE PRESENTS:** That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, \_\_\_\_\_ Britton Christiansen, Myrna Smith, Philip E. Vega, Kevin E. Vega

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

**IN WITNESS WHEREOF**, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 15th day of August, 2019.



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

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

State of PENNSYLVANIA ss  
County of MONTGOMERY

On this 15th day of August, 2019 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

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



COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Teresa Pastella, Notary Public  
Upper Merion Twp., Montgomery County  
My Commission Expires March 28, 2021  
Member, Pennsylvania Association of Notaries

By: Teresa Pastella  
Teresa Pastella, Notary Public

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

### ARTICLE IV – OFFICERS: Section 12. Power of Attorney.

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

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

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

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

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

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

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed the seals of said Companies this 14TH day of JULY, 2023.



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

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

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

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

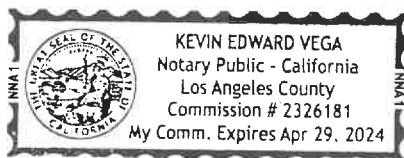
State of California )

County of LOS ANGELES )On JUL 14 2023 before me, Kevin Edward Vega, Notary Public,  
Date Here Insert Name and Title of the Officerpersonally appeared Britton Christiansen, Attorney-in-Fact  
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

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

Place Notary Seal Above

**OPTIONAL**

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

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

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

Signer's Name: \_\_\_\_\_

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

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

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

Signer Is Representing: \_\_\_\_\_

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## SPECIAL PROVISIONS

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### ORGANIZATION

Special provisions are under headings that correspond with the main section heading of the Standard Specifications. Each special provision begins with a revision clause that describes or introduces a revision to the Standard Specifications. Any paragraph added or deleted by a revision clause does not change the paragraph number of the Standard Specifications for any other reference to a paragraph of the Standard Specifications.

### DIVISION I GENERAL PROVISIONS

#### 1 GENERAL

##### **Add to Section 1-1.01 GENERAL**

The work must be done in compliance with the City of Arroyo Grande, Department of Public Works:

1. 2022 Concrete Repairs Project, PW 2022-07 Special Provisions
2. City of Arroyo Grande Engineering Standards and Standard Specifications – 2016 edition
3. State of California, Department of Transportation Standard Specifications and Standard Plans – 2015 edition

In case of conflict between documents, governing ranking must comply with section 5-1.02 of the City of Arroyo Grande's Standard Specifications.

Failure to comply with the provisions of these sections is a material breach of contract:

1. Sections 6 through 8 of the Standard Specifications
2. Section 12 through 15 of the Standard Specifications
3. Section 77-1 of the Standard Specifications
4. Section 81 of the Standard Specifications
5. authorized working hours
6. OSHA compliance

**Replace Holiday in Section 1-1.07B Glossary with:**

**Holiday:** Holiday shown in the following table for 2023:

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## SPECIAL PROVISIONS

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### 2022 Holidays

Holiday	Date observed
New Year's Day	January 1 <sup>st</sup>
Martin Luther King Day	January 16 <sup>th</sup>
Lincoln's Birthday	February 13 <sup>th</sup>
President's Day	February 20 <sup>th</sup>
Memorial Day	May 29 <sup>th</sup>
Independence Day	July 4 <sup>th</sup>
Labor Day	September 4 <sup>th</sup>
Veterans Day	November 11 <sup>th</sup>
Thanksgiving Day	November 23 <sup>rd</sup>
Day Following Thanksgiving	November 24 <sup>th</sup>
Day Before Christmas	December 24 <sup>th</sup>
Christmas	December 25 <sup>th</sup>
New Year's Eve	December 31 <sup>st</sup>

**Replace Section 1-1.12 with:**

**1-1.12 MISCELLANY**

Make checks and bonds payable to the City of Arroyo Grande.

### 3 CONTRACT AWARD AND EXECUTION

**Add to Section 3-1.20 PAYMENT**

Payment for Mobilization, Bonds, and Insurance is on a lump sum basis as indicated in the Bid Schedule.

### 4 SCOPE OF WORK

**Add to Section 4-1.03 WORK DESCRIPTION**

The work should be in compliance with the City Standards and the special provision for general, material, construction, and payment specifics. The reference to specific sections does not relieve the Contractor from compliance with State and local statutes, City Standards, and the Contract Documents.

### 5 CONTROL OF WORK

**Add to Section 5-1.36D Nonhighway Facilities**

Existing third-party (non-City-owned) utilities are shown on project plans for information purposes only. It is your responsibility to contact "Underground Service Alert USA" and have site marked prior to start of excavation or sawcutting. The City of Arroyo Grande is not responsible for any:

- damages
- costs
- delay
- expenses

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## SPECIAL PROVISIONS

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resulting from a third-party underground facility operator's failure to comply with stipulations as set forth in 4216.7.(c) of California Government Code.

### **Add to Section 5-1.43A General**

Potential claim forms are located on the Caltrans' website:

<http://www.dot.ca.gov/hq/construc/forms.htm>

Effective January 1, 2017, the provisions of Public Contract Code Section 9204 govern claims by the Contractor to the City.

## **7 LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC**

### **Delete from 6<sup>th</sup> paragraph of Section 7-1.03 PUBLIC CONVENIENCE**

Delete "in Arroyo Grande" from the phrase, "Of two individuals in Arroyo Grande,".

### **Add to Section 7-1.03B Traffic Control Plan**

Work hours are restricted to 8:00 a.m. to 5:00 p.m. on all streets.

Provide traffic control plan at or before the preconstruction meeting. Traffic control plan must be drawn to scale. Upon approval of the traffic control plan, the City will issue a no-fee Encroachment Permit. Permittee (Contractor) is responsible to comply with all conditions of the traffic control plan. Complete work using due diligence in order to restore free flowing of traffic in a safe manner.

## **DIVISION II GENERAL CONSTRUCTION**

### **13 WATER POLLUTION CONTROL**

#### **Add to 2<sup>nd</sup> paragraph in Section 13-1.01A Summary**

A minor WPCP plan form may be obtained on the City's website:

<https://www.arroyogrande.org/DocumentCenter/View/3155/Water-Pollution-Control-Plan-for-Minor-Projects>

### **15 EXISTING FACILITIES**

#### **Add to Section 15-1.03 CONSTRUCTION**

The Contractor shall preserve any existing utility facilities within the project area unless otherwise noted.

Before construction, city trash cans will be moved to the side and protected. Existing business outdoor dining areas will be temporarily moved and protected. Post-construction, return city trash cans and outdoor dining areas to their original position and state.

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## SPECIAL PROVISIONS

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### **Add to Section 15-1.04 Payment**

Protection and Replacement of existing city and private facilities shall be included in the price paid for various items of work.

## **DIVISION III EARTHWORK AND LANDSCAPE**

### **17-2 CLEARING AND GRUBBING**

#### **Add to Section 17-2.01 General**

Comply with City of Arroyo Grande Municipal Code Chapter 12.16- Community Tree Program.

All tree removal work is to be overseen by an International Society of Arboriculture Certified Arborist following best management practices as established by the International Society of Arboriculture (ISA) and Tree Care Industry Association ANSI A300 standards.

#### **Add to Section 17-2.03A General**

Mark all trees to be removed with a dot of red paint on the trunk side facing the street. City Staff must verify all trees for removal before work.

Submit a Traffic Control Plan for approval by the City Engineer in advance of any work that impacts a travel way.

Notify and coordinate with the utility company for the removal of branches extending through power and/or telephone lines, so removal operations will not be delayed.

Protect sidewalks, curbs, streets, other public and private facilities, housing property, and automobiles from damage.

The Contractor shall locate, protect and preserve all existing landscape irrigation adjacent to the project areas and is responsible for repairing or replacing any existing landscape irrigation damaged during construction activities.

#### **Add to Section 17-2.03B Clearing**

Clear trees indicated for removal on the plans.

#### **Replace Section 17-2.03C Grubbing with the following:**

Grub all construction areas around trees to be removed to a minimum depth of 12-inches in a 3-foot radius around the existing tree or as necessary to remove all trees, existing stumps, roots, buried logs, root barriers, and other objectionable material. All such items visible on the surface will be removed. Grubbing and tree root grinding is required to a minimum depth of 24-inches within 1.5 feet of the existing tree or as necessary to allow for a new tree to be planted in the exact location as the existing tree. Do not leave any "hump" or mounds in the parkway area adjacent to the tree removal area.

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## SPECIAL PROVISIONS

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Backfill all parkway areas with native topsoil to provide a level surface that is flush with the new and existing facilities.

**Replace Section 17-2.03D Disposal of Materials with the following:**

Dispose of all objectionable materials resulting from clearing and grubbing activities.

**Replace Section 17-2.04 Payment with the following:**

Payment for tree removal is paid on a unit cost basis as identified in the Bid Schedule.

## 19 EARTHWORK

**Replace Section 19-2.04 Payment with the following:**

Payment for "Grading of Hillside and Removal of Excess Material" is on a lump sum basis. It includes excavating, grading, and removing all excess materials within the defined project limits. The Contractor is responsible for verifying and adjusting estimated quantities as necessary.

## 20 LANDSCAPE

**Add the following to Section 20-3.01B(2)(b)(ii) Carpobrotus and Delosperma Cuttings**

When removing ice plant, use the following to make ice plant plugs to be replanted in jute netting after construction:

Carpobrotus Cuttings - Take tip cuttings from healthy, vigorous Carpobrotus and Delosperma plants that are free of pests and disease.

Carpobrotus cuttings must be 10 inches or more in length and not have roots. Plant ground cover plants 1 foot on center.

## DIVISION IV SUBBASES AND BASES

### 26 AGGREGATE BASES

**Replace Section 26-1.04 Aggregate Bases with the following:**

Unless specifically called out in the Bid Schedule, measurement and payment for aggregate base shall be made as a part of the types of work in which they are utilized.

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## SPECIAL PROVISIONS

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### DIVISION V SURFACING AND PAVEMENTS

#### 39 ASPHALT CONCRETE

**Replace Section 39-3.02D Replace Asphalt Concrete Surfacing with the following:**  
Payment for removal and replacement of hot mix asphalt is included in the price for the work unless specifically called out in the Bid Schedule.

### DIVISION VIII MISCELLANEOUS CONSTRUCTION

#### 73 CONCRETE CURBS AND SIDEWALKS

**Add to Section 73-1.03A General**

Remove tile bands and install new brick paver bands.

Comply with Section 73-5 Village Style Sidewalk – Exposed Aggregate for sidewalks and ramps in the Village area.

**Add Section 73-4.03C Brick Pavers**

Remove existing tiles where shown on the plans.

Use Bear Path Pavers by Pacific Clay Products, Inc or approved equivalent (carried by Air Vol Block).

- Color – Red Flash
- Thickness
  - Pedestrian Area – 2-1/4"
  - Vehicular Area – 2-5/8"

Install per the plans and manufacturer's recommendations.

For tree wells, submit paver edging specifications for approval.

**Add to Section 73-1.04 PAYMENT**

Payment for Pavers will be on a unit-cost basis as indicated in the Bid Schedule. The price includes aggregate base, bedding sand, and paver edging for the tree wells.

Payment for Sidewalk Underdrain is on a linear foot basis.

#### 87 ELECTRICAL SYSTEMS

**Add Section 87-1.04 PAYMENT**

Payment for Inductive Loop Detector is on a linear foot basis measured from one end of the loop to the other.

Payment for Push Button Assemblies is on a unit cost basis.

## **SPECIAL PROVISIONS**

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## APPENDICES

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### **APPENDIX A – EXAMPLE FORM OF AGREEMENT**

#### **CONTRACT**

for the Construction of:  
**2022 CONCRETE REPAIRS PROJECT**  
**SPECIFICATION NO. PW 2022-07**

**THIS AGREEMENT**, made and entered into this day of \_\_\_\_\_, 2023, by and between the **CITY OF ARROYO GRANDE**, a municipal corporation of the State of California, hereinafter designated City, party of the first part, and **<CONTRACTORS NAME>**, hereinafter designated as Contractor, party of the second part,

**WITNESSETH:** That the parties hereto do mutually agree as follows:

#### **Recitals.**

- A. The City does not have the personnel able and/or available to perform the services required under this agreement.
- B. The City desires to contract out for consulting & construction services certain projects relating to the construction of street repairs.
- C. The Contractor warrants to the City that it has the qualifications, experience and facilities to perform properly and timely the services under this Agreement.
- D. On MM/DD/YYYY, 0 bids were received on the 2022 CONCRETE REPAIRS PROJECT ("Project"). The bids were from Bidder A, Inc. For \$000,000.00, Bidder B, Inc. For \$000,000.00, Bidder C, Inc. For \$000,000.00, and Bidder D, Inc. For \$000,000.00. There are sufficient funds in the Project budget to move forward on the Project with the lower apparent bidder.
- G. The City enters into this Agreement in compliance with Public Contract Code 22050.
- H. The City desires to contract with the Contractor to perform the services as described herein.

**ARTICLE I. Scope of Work.** In general, the project consists of the removal of existing and installation of new paver bands in sidewalks, paver crosswalks, curb ramps, curb, gutter, and sidewalk, the installation of exposed aggregate concrete sidewalks, removal and replacement of lifted and/or broken sidewalks, and curb/gutter sections.

For and in consideration of the payments and agreements described herein, Contractor agrees to furnish all materials, equipment and labor and construct all necessary facilities for City required for Project, and to perform and complete in a good and workmanlike manner all the work pertaining thereto shown on the plans and described in the

## APPENDICES

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specifications incorporated by reference, and to furnish at his own proper cost and expense all tools, equipment, labor, and materials necessary therefore, except such materials as in the said specifications stipulated to be furnished by City, and to do everything required by this Contract and the said specifications and plans, and the requirements of the Engineer under them, to wit:

### **BASE BID ITEM LIST FOR 2022 CONCRETE REPAIRS PROJECT 2022-07**

**<Insert Completed Bid Item List Here>**

NOTE: In case of error in extension of price into the total price column, the unit price will govern.

NOTE: SS refers to section in the Standard Specifications, with modifications in the Special Provisions, that describe required work.

**ARTICLE II. Compensation and Payment.** For furnishing all said equipment, materials and labor, performing demolition as required, and doing all the work required by this Contract; and for all loss and damage arising out of the nature of the work aforesaid, or from the action of the elements or from any unforeseen difficulties which may arise or be encountered in the prosecution of the work until its acceptance by City, and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work, except such as in the said specifications are expressly stipulated to be borne by City; and for well and faithfully completing the work and the whole thereof, in the manner shown and described in the said plans and specifications and in accordance with the requirements of the City Engineer under them and this Contract, City will pay and Contractor shall receive as full compensation therefore the amounts for such work as installed for the unit prices bid therefore in accordance with the proposal of Contractor, memorialized by the Bid Item List above.

Final payment, constituting the entire unpaid balance of the Agreement Sum, shall be paid by the City to the Contractor no sooner than thirty-five (35) days after a Notice of Completion has been recorded, unless otherwise stipulated in the Notice of Completion, provided the work has then been completed, the Agreement fully performed, and a final Certificate for Payment has been issued by the City.

This Agreement is subject to the provisions of Article 1.7 (commencing at Section 20104.50) of Division 2, Part 3 of the Public Contract Code regarding prompt payment of contractors by local governments. Article 1.7 mandates certain procedures for the payment of undisputed and properly submitted payment requests within 30 days after receipt, for the review of payment requests, for notice to Contractor of improper payment requests, and provides for the payment of interest on progress payment requests which are not timely made in accordance with that Article. This Agreement hereby incorporates the provisions of Article 1.7 as though fully set forth herein.

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**ARTICLE III. Full Performance.** City hereby promises and agrees with said Contractor to employ, and does hereby employ, said Contractor to provide the materials and to do the work according to the terms and conditions herein contained and referred to, for the prices aforesaid, and hereby contracts to pay the same at the time, in the manner and upon the conditions set forth in the specifications; and the said parties for themselves, their heirs, executors, administrators, successors, and assigns, do hereby agree to full performance of the covenants herein contained.

**ARTICLE IV. Contract Documents.** Contract Documents shall consist of The Notice to Bidders, the Statement of Prevailing Wages, the Bid Requirements, the Contract Bid, the Bond for Faithful Performance, the Bond for Materials and Laborers, the Contract Agreement, the Standard Specifications & Engineering Standards, the Special Provisions and the Project Plans mentioned therein and titled **“2022 CONCRETE REPAIRS PROJECT PW 2022-07”** all of which are either incorporated by reference into or attached to this Contract.

**ARTICLE V. Bonds.** Contractor shall forthwith furnish in triplicate, a faithful performance bond in an amount equal to 100% of the contract price and a labor and materials bond in an amount equal to 100% of the contract price, both bonds to be written by a surety company acceptable to City and in the form prescribed by law.

**ARTICLE VI. Time for Completion and Term.** All of Contractor's work on the Project shall be completed within durations established for the individual activities as set forth in the Project Schedule, attached hereto as Attachment 1 (“Work shall commence ten (10) working days from the start of “contract time,” as shown in the Notice to Proceed. Contractor shall refer to the invitations for bids, and Project Plans and Specifications, all of which, as set forth below, are incorporated herein by reference, for contractual obligations regarding individual activity durations. The aggregate sum total work of all individual Prime Contractors to the City comprises the entire “Project” and shall be commenced and completed in conformance with the Project Schedule. The entire Project shall be completed within the dates and durations provided in the Project Schedule (Attachment 1). If the Project is not completed within the timelines of this article, the Agreement shall automatically terminate, unless extended in writing by the parties.

**ARTICLE VII. Liquidated Damages.** Pursuant to Government Code Section 53069.85, if work is not completed within the contract time or in strict accordance with the Project Schedule, it is understood, acknowledged and agreed that the City will suffer damage. It is therefore agreed that the Contractor shall pay to the City the sum of two thousand and two hundred dollars (\$2,200.00) for each and every calendar day of delay beyond the Contract Time, or beyond any completion schedule, construction schedule or Project milestones established in or pursuant to the Project Schedule, or beyond the time indicated in the Project Schedule for any individual Contract activity.

Contractor expressly understands, acknowledges and agrees that such liquidated damages can and shall be imposed if the Contractor does not meet each and every aspect of any activity schedule, completion schedule, construction schedule or Project

## **APPENDICES**

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milestones established in or pursuant to the Project Schedule. If the City accepts work or makes any payment under this Agreement after a default by reason of delays, the acceptance of such work and/or payment(s) shall in no respect constitute a waiver or modification of any provisions regarding Contract Time, a completion schedule, the Project Schedule or the accrual of liquidated damages. In the event the same is not paid, the Contractor further agrees that the City may deduct the amount thereof from any money due or that may become due the Contractor under the Agreement. This paragraph does not exclude recovery of damages under provisions of the Contract Documents, and is expressly in addition to the City's ability to seek other damages.

Contractor is to refer to the Project Construction Schedule for duration of individual activities. Liquidated damages may be assessed if any individual activity duration exceeds the time indicated for that activity on the Project Construction Schedule.

### **ARTICLE VIII. Insurance and Indemnity.**

#### **GENERAL**

You must obtain and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work by you, your agents, representatives, employees or subcontractors.

Contractor shall indemnify, defend with legal counsel approved by City, and hold harmless City, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Contractor's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in this agreement, except such loss or damage which is caused by the sole or active negligence or willful misconduct of the City. Should conflict of interest principles preclude a single legal counsel from representing both City and Contractor, or should City otherwise find Contractor's legal counsel unacceptable, then Contractor shall reimburse the City its costs of defense, including without limitation reasonable legal counsels fees, expert fees and all other costs and fees of litigation. The Contractor shall promptly pay any final judgment rendered against the City (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of the Contractor's negligent, reckless or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

Contractor obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of City under any provision of this agreement, Contractor shall not be required to indemnify and hold harmless City for liability

## **APPENDICES**

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attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City active negligence accounts for only a percentage of the liability involved, the obligation of Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of City.

### **CITY CONTRACT**

Without limiting Contractor's indemnification of City, and prior to commencement of Work, Contractor shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City.

### **MINIMUM SCOPE OF INSURANCE**

Coverage must be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage ("Occurrence," Form CG-0001).
2. Insurance Services Office Commercial General Liability Endorsement Form (ISO CG 20 10 85 OR CG 20 10 (ongoing operations) & CG 2037 (completed operations)).
3. Insurance Services Office Form Number CA-0001 (ED. 1/78), covering Automobile Liability, Code 1, "Any Auto," and endorsement CA-0025.
4. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance;
5. Course of Construction insurance covering for all risks of loss.

### **MINIMUM LIMITS OF INSURANCE**

Minimum limits of insurance must be no less than:

1. General Liability: Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage, and a \$2,000,000 completed operations aggregate. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.
2. Automobile Liability: Contractor shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Contractor arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.
3. Umbrella or excess liability insurance: Contractor shall obtain and maintain an umbrella or excess liability insurance policy that will provide bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability and employer's liability. Such policy or policies shall include the following terms and conditions:

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- A drop down feature requiring the policy to respond in the event that any primary insurance that would otherwise have applied proves to be uncollectable in whole or in part for any reason;
  - Pay on behalf of wording as opposed to reimbursement;
  - Concurrence of effective dates with primary policies; and
  - Policies shall "follow form" to the underlying primary policies.
  - Insureds under primary policies shall also be insureds under the umbrella or excess policies. As required by the State of California;
4. Workers' compensation insurance. Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000) for Contractor's employees in accordance with the laws of the State of California, Section 3700 of the Labor Code. In addition, Contractor shall require each subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California, Section 3700 for all of the subcontractor's employees.

Contractor shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees and volunteers.

If required by projects Special Provisions provide:

1. Builder's risk insurance. Upon commencement of construction and with approval of City, Contractor shall obtain and maintain builder's risk insurance for the entire duration of the Project until only the City has an insurable interest. The Builder's Risk coverage shall include the coverages as specified below.

The named insureds shall be Contractor and City, including its officers, officials, employees, and agents. All Subcontractors (excluding those solely responsible for design Work) of any tier and suppliers shall be included as additional insureds as their interests may appear. Contractor shall not be required to maintain property insurance for any portion of the Project following transfer of control thereof to City. The policy shall contain a provision that all proceeds from the builder's risk policy shall be made payable to the City. The City will act as a fiduciary for all other interests in the Project.

Policy shall be provided for replacement value on an "all risk" basis for the completed value of the project. There shall be no coinsurance penalty or provisional limit provision in any such policy. Policy must include: (1) coverage for any ensuing loss from faulty workmanship, Nonconforming Work, omission or deficiency in design or specifications; (2) coverage against machinery accidents and operational testing; (3) coverage for removal of debris, and insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures and all other properties constituting a part of the Project; (4) Ordinance or law coverage for contingent rebuilding, demolition, and increased costs of construction; (5) transit coverage (unless insured by the supplier or receiving contractor), with sub-limits sufficient to insure the full replacement value of any key equipment item; (6)

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Ocean marine cargo coverage insuring any Project materials or supplies, if applicable; (7) coverage with sub-limits sufficient to insure the full replacement value of any property or equipment stored either on or off the Site or any staging area. Such insurance shall be on a form acceptable to City to ensure adequacy of terms and sublimits and shall be submitted to the City prior to commencement of construction.

### **OTHER INSURANCE PROVISIONS**

Proof of insurance. Contractor shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by City's risk manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by Contractor, his agents, representatives, employees or subcontractors. Contractor must maintain general liability and umbrella or excess liability insurance for as long as there is a statutory exposure to completed operations claims. City and its officers, officials, employees, and agents shall continue as additional insureds under such policies.

Primary/noncontributing. Coverage provided by Contractor shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

City's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these requirements or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Contractor or City will withhold amounts sufficient to pay premium from Contractor payments. In the alternative, City may cancel this Agreement.

Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

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Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Contractor or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

Enforcement of contract provisions (non estoppel). Contractor acknowledges and agrees that any actual or alleged failure on the part of the City to inform Contractor of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

Requirements not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Notice of cancellation. Contractor agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

Separation of Insureds. A severability of interests provision must apply for all additional insureds ensuring that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass Through Clause. Contractor agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Contractor, provide the same minimum insurance coverage and endorsements required of Contractor. Contractor agrees to monitor and review all such

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coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Contractor agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to City for review.

City's right to revise requirements. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Contractor a ninety (90)-day advance written notice of such change. If such change results in substantial additional cost to the Contractor, the City and Contractor may renegotiate Contractor's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by City.

Timely notice of claims. Contractor shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Contractor's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. Contractor shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the Work.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a Best Rating of no less than A: V, and who are admitted to write policies in the State of California and contribute to the state guaranty fund.

### **VERIFICATION OF COVERAGE**

Contractors shall furnish the City with certificates of insurance and with original endorsements affecting coverage required by this Section (actual policy). The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by the City and are to be received and approved in writing by the City before work commences. The City reserves the right to require complete, certified copies of all insurance policies, including endorsements affecting the coverage required by these Special Provisions at any time.

### **SUBCONTRACTORS**

The Contractor shall include all Subcontractors as named insured under his policies, or shall furnish separate certificates and endorsements for each Subcontractor. All coverage for Subcontractors shall be subject to all of the requirements stated herein.

### **PRIVATE CONTRACT**

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A certificate of liability insurance with at least \$1 million in general liability coverage and a CG 2012 additional insured endorsement attached to it.

**ARTICLE IX. Governing Documents.** It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal therefore, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said bid or proposal conflicting herewith.

**ARTICLE XII. Compliance with Statutes and Regulations.** Contractor will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

**ARTICLE XIII. Notice.** All notices or other official correspondence relating to contractual matters between the parties hereto shall be made by personal service or by first class mail, postage prepaid, addressed to the parties as follows:

City: City Clerk  
City of Arroyo Grande  
300 East Branch Street  
Arroyo Grande, California 93420

Contractor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ARTICLE XIV. Severability.** If any part of this Contract is held invalid by a court of competent jurisdiction, the balance shall retain its full force and effect.

**ARTICLE XV. Governing Law; Jurisdiction.** This Contract will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Contract will be in San Luis Obispo County, California.

**ARTICLE XVI. Authorization.** All officers and individuals executing this and other documents on behalf of the respective parties hereby certify and warrant that they have the capacity and have been duly authorized to execute said documents on behalf of the entities indicated.

**ARTICLE XVII. Provisions Required by Law.** Each and every provision of law and clause required by law to be inserted in this Contract, including but not limited to the following statutorily required provisions, shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

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**ARTICLE XVIII. Familiarity With Work.** By executing this Agreement, Contractor represents that Contractor has (a) thoroughly investigated and considered the scope of services to be performed; (b) carefully considered how the services should be performed; and (c) understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.

**ARTICLE XIX. Key Personnel.** Contractor's key person assigned to perform work under this Agreement is Jacob P. Treder. Contractor shall not assign another person to be in charge of the work contemplated by this Agreement without the prior written authorization of the City which shall not be unreasonably withheld.

**ARTICLE XX. Changes.** City may order changes in the services within the general scope of this Agreement, consisting of additions, deletions, or other revisions, and the contract sum and the contract time will be adjusted accordingly. All such changes must be authorized in writing, executed by Contractor and City. The cost or credit to City resulting from changes in the services will be determined in accordance with written agreement between the parties.

**ARTICLE XXI. Termination.** Except as otherwise provided, City may terminate this Contract at any time with or without cause. Notice of termination shall be provided in writing.

In the event of such termination, the Contractor shall cease services as of the date of termination, all finished or unfinished documents, data, drawings, maps, and other materials prepared by Contractor shall, at City's option, become City's property, and Contractor will receive just and equitable compensation for any work satisfactorily completed up to the effective date of notice of termination. Any reuse of any document for other than their intended use shall be at the sole risk and liability of the City.

Should the Agreement be terminated pursuant to this Section, City may procure on its own terms services similar to those terminated.

**ARTICLE XXII. Assignability.** This Agreement is for Contractor's professional services. Contractor's attempts to assign the benefits or burdens of this Agreement without City's written approval are prohibited and will be null and void.

**ARTICLE XXIII. Permits and Licenses.** Contractor will obtain and maintain during the term of this Agreement all necessary permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

**ARTICLE XXIV. Independent Contractor.** City and Contractor agree that Contractor will act as an independent contractor and will have control of all work and the manner in which it is performed. Contractor will be free to contract for similar service to be performed for other employers while under contract with City. Contractor is not an agent or employee of City and is not entitled to participate in any pension plan, insurance, bonus or similar

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benefits City provides for its employees. Any provision in this Agreement that may appear to give City the right to direct Contractor as to the details of doing the work or to exercise a measure of control over the work means that Contractor will follow the direction of the City as to end results of the work only.

**ARTICLE XXV. Audit of Records.** Contractor agrees that City, or designee, has the right to review, obtain, and copy all records pertaining to the performance of this Agreement. Contractor agrees to provide City, or designee, with any relevant information requested and will permit City, or designee, access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this Agreement. Contractor further agrees to maintain such records for a period of three (3) years following final payment under this Agreement.

Contractor will keep all books, records, accounts and documents pertaining to this Agreement separate from other activities unrelated to this Agreement

**ARTICLE XXVI. Corrective Measures.** Contractor will promptly implement any corrective measures required by City regarding the requirements and obligations of this Agreement. Contractor will be given a reasonable amount of time as determined by the City to implement said corrective measures. Failure of Contractor to implement required corrective measures shall result in immediate termination of this Agreement.

**ARTICLE XXVII. Final Payment Acceptance Constitutes Release.** The acceptance by the Contractor of the final payment made under this Agreement shall operate as and be a release of the City from all claims and liabilities for compensation to the Contractor for anything done, furnished or relating to the Contractor's work or services. However, approval or payment by the City shall not constitute, nor be deemed, a release of the responsibility and liability of the Contractor, its employees, sub-Contractors and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by the City for any defect or error in the work prepared by the Contractor, its employees, sub-Contractors and agents.

**ARTICLE XXVIII. Rules of Construction.** Each Party had the opportunity to independently review this Agreement with legal counsel. Accordingly, this Agreement will be construed simply, as a whole, and in accordance with its fair meaning; it will not be interpreted strictly for or against either Party.

**ARTICLE XXIX. Authority/Modification.** The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written amendment with signatures of all parties to this Agreement. City Manager, or designee, may execute any such amendment on behalf of City.

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**ARTICLE XXX. Force Majeure.** Should performance of this Agreement be impossible due to fire, flood, explosion, war, embargo, government action, civil or military authority, the natural elements, or other similar causes beyond the Parties' control, then the Agreement will immediately terminate without obligation of either party to the other.

**ARTICLE XXXI. Time is of the Essence.** Time is of the essence to comply with dates and schedules to be provided.

**ARTICLE XXXII. Record Audit.** In accordance with Government Code section 8546.7, records of both the City and the Contractor shall be subject to examination and audit by the Auditor General for a period of three (3) years after final payment.

**ARTICLE XXXIII. Retention of Securities.** Public Contract Code Section 22300 permits the substitution of securities for any monies withheld by a public agency to ensure performance under a contract, at the request and expense of the Contractor.

**ARTICLE XXXIV. Claims.** In accordance with the requirements of Public Contract Code Section 9204(e), a copy of Public Contract Code Section 9204 is attached hereto and incorporated into this Agreement herein.

**ARTICLE XXXV. Prevailing Wages and DIR Registration.** In accordance with California Labor Code Section 1725.5, Contractors and Subcontractors (as defined by California Labor Code Section 1722.1) bidding on or engaging in the performance of any Public Works contracts in California shall be registered with the Department of Industrial Relation.

In accordance with California Labor Code Section 1770 and 1773, the City has determined that prevailing wage rates apply to this project. Copies of the prevailing rates of per diem wages applicable to this Contract are available from the California Division of Labor Statistics and Research at [www.dir.ca.gov/dslr/PWP/index.htm](http://www.dir.ca.gov/dslr/PWP/index.htm) or 455 Golden Gate Ave. 9th Floor, San Francisco, CA 94102. Any employee whose type of work is not covered by any of the classified wage rates shall be paid not less than the rate of wage listed for the classification which most nearly corresponds to the type of work performed.

Pursuant to California Labor Code Section 1775, the Contractor shall forfeit no more than \$200 per calendar day, or portion of a day, for each worker paid less than the prevailing rates for such work or craft, and the penalty shall be imposed and distributed pursuant to Section 1775.

The following Labor Code sections are hereby referenced and incorporated into this Agreement herein:

1. Section 1775 - Penalty for Failure to Comply with Prevailing Wage Rates.
3. Section 1777.5 - Apprenticeship Requirements.
4. Section 1813 - Penalty for Failure to Pay Overtime.

## **APPENDICES**

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5. Sections 1810 and 1811 - Working Hour Restrictions.
6. Section 1776 - Payroll Records.
7. Section 1773.8 - Travel and Subsistence Pay.

The City will not recognize any claims for additional compensation because of the payment of the wages set forth in the Contract.

In accordance with the requirements of Labor Code Section 1771.4(a)(1), this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

In accordance with the provisions of the California Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Section 1777.1 or Section 1777.17 of the California Labor Code. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid or may have been paid to a debarred subcontractor by a contractor on the Project shall be returned to the Agency. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.

**APPENDICES**

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**IN WITNESS WHEREOF:** The parties hereto have caused this Contract to be executed the day and year first above written.

CITY OF ARROYO GRANDE

CONTRACTOR

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_

\_\_\_\_\_  
Title

ATTEST:

\_\_\_\_\_  
Director of Legislative & Information  
Services / City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**-- END OF CONTRACT --**

## **APPENDICES**

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### **ATTACHMENTS TO CONTRACT FOR THE CONSTRUCTION OF: 2022 CONCRETE REPAIRS PROJECT SPECIFICATION NO. PW 2022-07**

ATTACHMENT 1 – PROJECT SCHEDULE

ATTACHMENT 2 – BOND FOR MATERIALS AND LABORERS

ATTACHMENT 3 – BOND FOR FAITHFUL PERFORMANCE

ATTACHMENT 4 – NOTICE TO BIDDERS, BID BOOK, SPECIAL PROVISIONS,  
TECHNICAL PROVISIONS

ATTACHMENT 5 – PLANS

ATTACHMENT 6 – PUBLIC CONTRACT CODE SECTION 9204

## **APPENDICES**

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### **ATTACHMENT 1 – PROJECT SCHEDULE**

## **APPENDICES**

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### **ATTACHMENT 2 – BOND FOR MATERIALS AND LABORERS**

## APPENDICES

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### PAYMENT BOND (FOR LABOR AND MATERIAL)

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_, as Principal, and

\_\_\_\_\_ as Surety, are held and firmly bound unto the City of Arroyo Grande, in the sum of \_\_\_\_\_ Dollars

(\$\_\_\_\_\_) lawful money of the United States, for the payment of which sum, well and truly to be made, we bind ourselves, jointly and severally, firmly by these presents.

The condition of the above obligation is such that whereas said Principal has been awarded and is about to enter into a written contract with the City of Arroyo Grande for the work described in CONTRACT DOCUMENTS FOR THE CONSTRUCTION OF, **"2022 CONCRETE PROJECT - PW 2022-07"** which is attached hereto, made a part hereof, and to which reference is hereby made for all particulars, and is required by said City to give this bond in connection with the execution of said contract;

NOW THEREFORE, if said Principal, as Contractor in said contract, or Principal's Subcontractor, fail to pay any of the persons referred to in Section 3181 of the Civil Code of the State of California for labor performed, skills or other necessary services bestowed, site improvement made, equipment leased, or appliances, equipment implements, machinery, materials, power, provender, provisions, teams, or trucks furnished or used in, upon, for, or about the performance of the work contracted to be done, or for amounts due under the employment Insurance Act with respect to work or labor performed by any such claimant, said Surety shall pay for the same. In an amount not exceeding the sum specified above; and if suit is brought upon this bond, a reasonable attorney's fee to be fixed by the court. This bond is pursuant to the provisions of Ch 7 Div 3, Pt 4, Tit 15, of the Civil Code of the State of California, and shall insure to the benefit of any of the persons referred to in said Civil Code Section 3181, as it now exists or may hereafter be amended, so as to give a right of action to such persons or their assigns in any suit brought upon this bond. No premature payment by said City to said Principal shall exonerate any Surety unless the City Council of said City shall have actual notice that such payment is premature at the time and it is ordered by said Council, and then only to the extent that such payment shall result in loss to such Surety, but in no event more than the amount of such premature payment.

It is agreed, that any alterations in the work to be done, or increase or decrease of the material to be furnished, which may be made pursuant to the terms of said contract shall not in any way release either the Principal or Surety hereunder, nor shall any extension of time granted under the provisions of said contract release either the Principal or Surety, and notice of such alterations or extensions of the contract is hereby waived by the surety.

WITNESS our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**APPENDICES**

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Surety

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Principal

ALL SIGNATURES MUST BE WITNESSED BY NOTARY (Attach appropriate jurats)

**-- END OF PAYMENT BOND --**

## **APPENDICES**

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### **ATTACHMENT 3 – BOND FOR FAITHFUL PERFORMANCE**

## APPENDICES

### FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_, as Principal, and

\_\_\_\_\_  
as Surety, are held and firmly bound unto the City of Arroyo Grande, in the sum of \_\_\_\_\_ Dollars

(\$\_\_\_\_\_) lawful money of the United States, for the payment of which sum, well and truly to be made, has been awarded and is about to enter into a written contract with the City of Arroyo Grande for the work described in the CONTRACT DOCUMENTS FOR THE CONSTRUCTION OF THE **"2022 CONCRETE PROJECT - PW 2022-07"** which is attached hereto, made a part hereof, and to which reference is hereby made for all particulars, and is required by said City to give this bond in connection with the execution of said contract;

NOW, THEREFORE, if said Principal shall well and truly do and perform all of the covenants and obligations of said contract on Principal's part to be done and performed at the times and in the manner specified therein, then this obligation shall be null and void, otherwise it shall be and remain in full force and effect. No premature payment by said City to said Principal shall exonerate any Surety unless the City Council of said City shall have actual notice that such payment is premature at the time it is ordered by said Council, and then only to the extent that such payment shall result in loss to such Surety, but in no event more than the amount of such premature payment.

It is agreed, that any alterations in the work to be done, or increase or decrease of the material to be furnished, which may be made pursuant to the terms of said contract shall not in any way release either the Principal or Surety hereunder, nor shall any extensions of time granted under the provisions of said contract release either the principal or surety, and notice of such alterations or extensions of the contract is hereby waived by the Surety.

WITNESS our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Surety

\_\_\_\_\_  
Principal

ALL SIGNATURES MUST BE WITNESSED BY NOTARY (Attach appropriate jurats)

**-- END OF FAITHFUL PERFORMANCE BOND --**

## **APPENDICES**

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### **ATTACHMENT 4 - NOTICE TO BIDDERS, SPECIAL PROVISIONS, TECHNICAL PROVISIONS, BID BOOK**

Attachment to be added prior to contract execution.

## **APPENDICES**

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### **ATTACHMENT 5 – BID ADDENDA**

## **APPENDICES**

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### **ATTACHMENT 6 – PLANS**

**ATTACHMENT 7 – PUBLIC CONTRACT CODE SECTION 9204**

9204.

- (a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.
- (b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.
- (c) For purposes of this section:
  - (1) “Claim” means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:
    - (A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.
    - (B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.
    - (C) Payment of an amount that is disputed by the public entity.
  - (2) “Contractor” means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.
  - (3)
    - (A) “Public entity” means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.
    - (B) “Public entity” shall not include the following:

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## APPENDICES

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- (i) The Department of Water Resources as to any project under the jurisdiction of that department.
  - (ii) The Department of Transportation as to any project under the jurisdiction of that department.
  - (iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.
  - (iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.
  - (v) The Military Department as to any project under the jurisdiction of that department.
  - (vi) The Department of General Services as to all other projects.
  - (vii) The High-Speed Rail Authority.
- (4) “Public works project” means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.
- (5) “Subcontractor” means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.
- (d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.
- (B) The claimant shall furnish reasonable documentation to support the claim.
- (C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified

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## APPENDICES

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mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

- (D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.
- (2) (A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.
- (B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.
- (C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

## APPENDICES

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- (D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.
  - (E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.
- (3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.
  - (4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.
  - (5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.
- (e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.
  - (f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe

## APPENDICES

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reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

- (g) This section applies to contracts entered into on or after January 1, 2017.
- (h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.
- (i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2027, deletes or extends that date.

## APPENDICES


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## APPENDICES

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### 1360 EAST GRAND AVENUE

 REMOVE AND REPLACE  
EXISTING CONCRETE




20 SF OF SIDEWALK PANEL REPLACEMENT PER CITY STANDARD 4110

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## APPENDICES

### 135 SOUTH HALCYON ROAD

 REMOVE AND REPLACE  
EXISTING CONCRETE




26 SF OF SIDEWALK PANEL REPLACEMENT PER CITY STANDARD 4110

## APPENDICES

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### 239 ELM STREET (1)

 REMOVE AND REPLACE  
EXISTING CONCRETE




8 SF OF SIDEWALK PANEL REPLACEMENT PER CITY STANDARD 4110

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## APPENDICES


### 239 ELM STREET (2)

 REMOVE AND REPLACE  
EXISTING CONCRETE



68 SF OF SIDEWALK PANEL REPLACEMENT PER CITY STANDARD 4110

239 ELM STREET (3)

 REMOVE AND REPLACE  
EXISTING CONCRETE




14 SF OF SIDEWALK PANEL REPLACEMENT PER CITY STANDARD 4110

## APPENDICES

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### 239 ELM STREET (4)

 REMOVE AND REPLACE  
EXISTING CONCRETE




90 SF OF SIDEWALK PANEL REPLACEMENT PER CITY STANDARD 4110

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## APPENDICES

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### 1200 EAST GRAND AVE (1)

 REMOVE AND REPLACE  
EXISTING CONCRETE



29 SF OF SIDEWALK PANEL REPLACEMENT PER CITY STANDARD 4110

1200 EAST GRAND AVE (2)

REMOVE AND REPLACE  
EXISTING CONCRETE



252 SF OF SIDEWALK PANEL REPLACEMENT PER CITY STANDARD 4110

1200 EAST GRAND AVE (3)

REMOVE AND REPLACE  
EXISTING CONCRETE



16 SF OF SIDEWALK PANEL REPLACEMENT PER CITY STANDARD 4110

1200 EAST GRAND AVE (4)

REMOVE AND REPLACE  
EXISTING CONCRETE




16 SF OF SIDEWALK PANEL REPLACEMENT PER CITY STANDARD 4110

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## APPENDICES

### RANCHO PARKWAY AT PALOS SECOS

 REMOVE AND REPLACE  
EXISTING CONCRETE




12 LF OF SIDEWALK UNDERDRAIN REPLACEMENT PER CITY STANDARD 3420  
40 SF OF SIDEWALK PANEL REPLACEMENT PER CITY STANDARD 4110

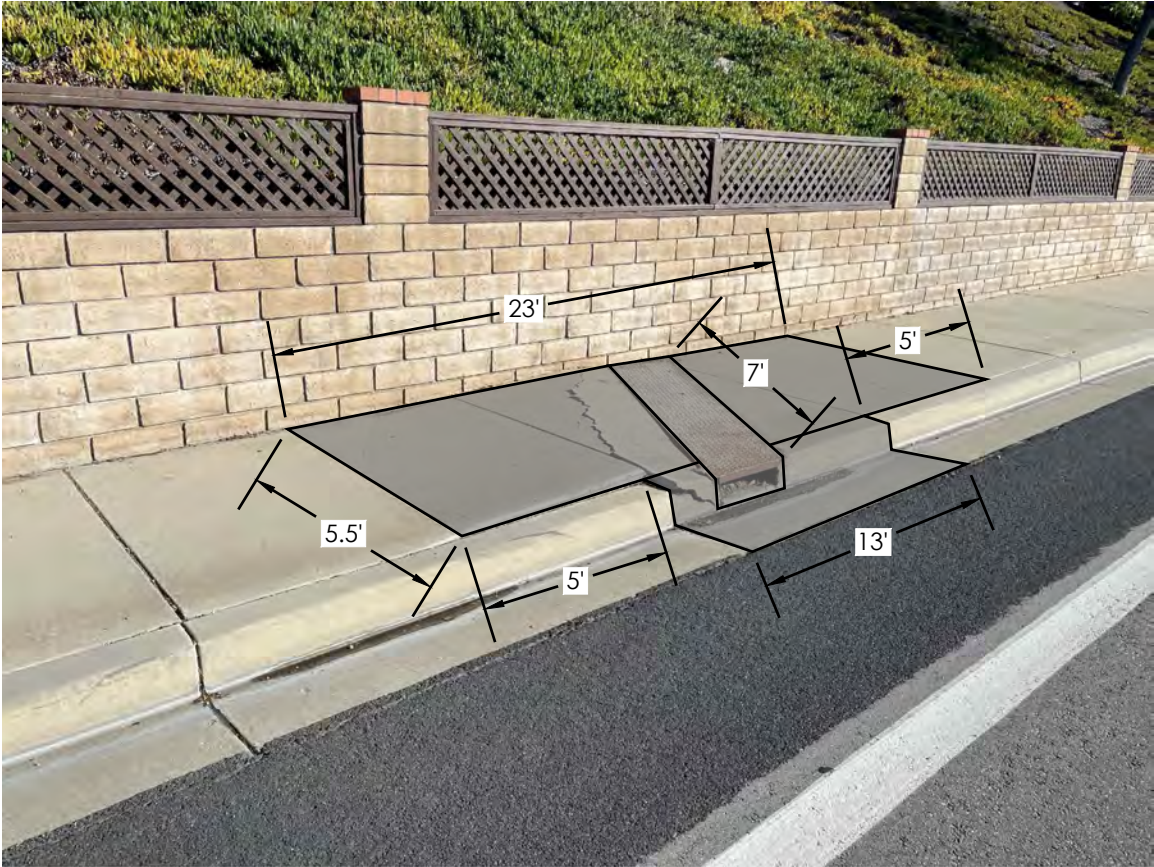
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## APPENDICES

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### JAMES WAY JUST EAST OF RODEO

 REMOVE AND REPLACE  
EXISTING CONCRETE




13 LF OF CURB AND GUTTER REPLACEMENT PER CITY STANDARD 4030  
12 LF OF SIDEWALK UNDERDRAIN REPLACEMENT PER CITY STANDARD 3420  
40 SF OF SIDEWALK PANEL REPLACEMENT PER CITY STANDARD 4110

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## APPENDICES

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### 388 AVENIDA DE DIAMONTE

 REMOVE AND REPLACE  
EXISTING CONCRETE




3 LF OF CURB AND GUTTER REPLACEMENT PER CITY STANDARD 4030  
6 LF OF SIDEWALK UNDERDRAIN REPLACEMENT PER CITY STANDARD 3420

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## APPENDICES

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### 785 VIA BANDELERO

 REMOVE AND REPLACE  
EXISTING CONCRETE



6 LF OF SIDEWALK UNDERDRAIN REPLACEMENT PER CITY STANDARD 3420

724 ASILO

 REMOVE AND REPLACE  
EXISTING CONCRETE



6 LF OF SIDEWALK UNDERDRAIN REPLACEMENT PER CITY STANDARD 3420

**ATTACHMENT 5 – BID ADDENDA**

# ADDENDUM NO. 1

Date: July 7, 2023

To: All Plan Holders

From: Paul Henderson  
Capital Improvement Project Manager (Interim)

Subject: **2022 Concrete Repairs Project, PW 2022-07**



**Receipt of this Addendum must be acknowledged by writing “Addendum No. 1” on the outside of the bid envelope.**

This addendum forms a part of the Contract Documents and modifies the original plans and/or Special Provisions dated June 13, 2023, as noted herein. This addendum contains the following information:

<b>Add. Item</b>	<b>Clarifications / Questions / Answers</b>
1.01	<p><b>Clarification 01: Basis of Award</b></p> <ul style="list-style-type: none"> <li>a. The Notice to Bidders, Page IV, AWARD section is hereby changed as follows: <ul style="list-style-type: none"> <li>i. Change from: <del>The lowest bidder will be determined using the BASE BID. The City may, at its discretion, add one, all, or none of the Add Alternates.</del></li> <li>ii. Change to: <i>The lowest bidder will be determined using the sum of the BASE BID, ADD ALTERNATE NO. 1 and ADD ALTERNATE NO. 2. The City may, at its discretion, add one, all, or none of the Add Alternates.</i></li> </ul> </li> </ul>
1.02	<p><b>Clarification 02: Timing of Contract Award &amp; Construction of Ramps Near School</b></p> <ul style="list-style-type: none"> <li>a. It is the City’s intention to award the contract to the lowest responsible bidder at the 07/25/2023 City Council meeting, to provide the Contractor with the opportunity to complete ramps before school returns on 08/17/2023 (Harloe Elementary)</li> </ul>
1.03	<p><b>Clarification 03: Traffic Control on East Grand</b></p> <ul style="list-style-type: none"> <li>a. The City requires a minimum of 1-way through traffic on East Branch Street throughout construction</li> <li>b. Parking lanes will be available to the contractor to use for traffic movement, including the outdoor dining parklets, which will be removed by others prior to the Contractor commencing onsite work</li> <li>c. Prior to commencing onsite work, the Contractor shall submit a plan for construction and traffic management, including sequencing, for the crosswalks. The Contractor shall allow 1 week for the City to review this plan and provide comments.</li> <li>d. The crosswalk work shall be as short of a duration as possible, the City desires a 2-week maximum window for start to completion of the crosswalk work</li> <li>e. When crosswalks are closed for construction the Contractor shall provide a temporary crossings, including ramps that meet ADA requirements</li> </ul>

1.04	<b>Clarification 04: Surface Mounted Flashing Beacons</b> <ol style="list-style-type: none"> <li>The existing surface mounted flashing beacons (in-roadway lights) shall be salvaged by the Contractor and delivered to the City Corporation Yard.</li> </ol>
1.05	<b>Clarification 05: Material for Tree Surrounds</b> <ol style="list-style-type: none"> <li>Tree wells to be finished with 100% black plastic tree grate, meeting ADA requirements, cut to size, finished flush with adjacent bricks and secured in place.</li> <li>Tree grate mounting shall be per the manufacturer specification.</li> <li>Example product is the Poly-Grate II manufactured by Structural Plastics Corp, or approved equivalent.</li> <li>Contractor shall submit tree grate manufacturer specification for approval.</li> <li>Tree grates payment included in Bid Item 6.</li> </ol>
1.06	<b>Clarification 06: Changes to Special Provisions</b> <ol style="list-style-type: none"> <li>SPECIAL PROVISIONS, DIVISION III EARTHWORK AND LANDSCAPE is hereby changed as provided in Addendum 1, Attachment 1.</li> </ol>
1.07	<b>Clarification 07: Tree Removal Clarification</b> <ol style="list-style-type: none"> <li>No trees are to be removed as part of this project.</li> <li>If the Contractor requires tree trimming for Traffic Control, or other purposes, 10 working days notification shall be provided to the City Project Manager who will coordinate with the City Arborist. The Contractor is not responsible for tree trimming costs.</li> </ol>
1.04	<b>Clarification 08: Pre-Bid Meeting Sign In Sheet</b> <ol style="list-style-type: none"> <li>The Pre-Bid meeting sign in sheet is included as Addendum 1, Attachment 2.</li> </ol>

Please contact Paul Henderson at (805) 468-9927, [phenderson@arroyogrande.org](mailto:phenderson@arroyogrande.org), if you have any questions.

# ***Attachment 1 – Special Provisions Changes***

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## SPECIAL PROVISIONS

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### **Add to Section 15-1.04 Payment**

Protection and Replacement of existing city and private facilities shall be included in the price paid for various items of work.

## **DIVISION III EARTHWORK AND LANDSCAPE**

### **17-2 CLEARING AND GRUBBING**

#### **Add to Section 17-2.01 General**

Comply with City of Arroyo Grande Municipal Code Chapter 12.16- Community Tree Program.

~~All tree removal work is to be overseen by an International Society of Arboriculture Certified Arborist following best management practices as established by the International Society of Arboriculture (ISA) and Tree Care Industry Association ANSI A300 standards.~~

#### **Add to Section 17-2.03A General**

~~Mark all trees to be removed with a dot of red paint on the trunk side facing the street. City Staff must verify all trees for removal before work.~~

Submit a Traffic Control Plan for approval by the City Engineer in advance of any work that impacts a travel way.

~~Notify and coordinate with the utility company for the removal of branches extending through power and/or telephone lines, so removal operations will not be delayed.~~

Protect sidewalks, curbs, streets, other public and private facilities, housing property, and automobiles from damage.

The Contractor shall locate, protect and preserve all existing landscape irrigation adjacent to the project areas and is responsible for repairing or replacing any existing landscape irrigation damaged during construction activities.

#### ~~**Add to Section 17-2.03B Clearing**~~

~~Clear trees indicated for removal on the plans.~~

#### ~~**Replace Section 17-2.03C Grubbing with the following:**~~

~~Grub all construction areas around trees to be removed to a minimum depth of 12 inches in a 3 foot radius around the existing tree or as necessary to remove all trees, existing stumps, roots, buried logs, root barriers, and other objectionable material. All such items visible on the surface will be removed. Grubbing and tree root grinding is required to a minimum depth of 24 inches within 1.5 feet of the existing tree or as necessary to allow for a new tree to be planted in the exact location as the existing tree. Do not leave any "hump" or mounds in the parkway area adjacent to the tree removal area.~~

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## SPECIAL PROVISIONS

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~~Backfill all parkway areas with native topsoil to provide a level surface that is flush with the new and existing facilities.~~

~~**Replace Section 17 2.03D Disposal of Materials with the following:**~~

~~Dispose of all objectionable materials resulting from clearing and grubbing activities.~~

~~**Replace Section 17 2.04 Payment with the following:**~~

~~Payment for tree removal is paid on a unit cost basis as identified in the Bid Schedule.~~

## 19 EARTHWORK

~~**Replace Section 19 2.04 Payment with the following:**~~

~~Payment for "Grading of Hillside and Removal of Excess Material" is on a lump sum basis. It includes excavating, grading, and removing all excess materials within the defined project limits. The Contractor is responsible for verifying and adjusting estimated quantities as necessary.~~

## 20 LANDSCAPE

~~**Add the following to Section 20 3.01B(2)(b)(ii) Carpobrotus and Delosperma Cuttings**~~

~~When removing ice plant, use the following to make ice plant plugs to be replanted in jute netting after construction:~~

~~-~~

~~Carpobrotus Cuttings Take tip cuttings from healthy, vigorous Carpobrotus and Delosperma plants that are free of pests and disease.~~

~~Carpobrotus cuttings must be 10 inches or more in length and not have roots. Plant ground cover plants 1 foot on center.~~

## DIVISION IV SUBBASES AND BASES

### 26 AGGREGATE BASES

~~**Replace Section 26-1.04 Aggregate Bases with the following:**~~

~~Unless specifically called out in the Bid Schedule, measurement and payment for aggregate base shall be made as a part of the types of work in which they are utilized.~~

## ***Attachment 2 – Pre Bid Meeting Sign In Sheet***

# PRE-BID CONFERENCE ATTENDEES

OWNER: City of Arroyo Grande

PROJECT: 2022 Concrete Repairs Project

PROJECT NO.: PW 2022-07

LOCATION: City Hall 300 East Branch Street Arroyo Grande, CA 93420

DATE/TIME: Tuesday, June 27, 2023 2pm



ID	Name	Organization	Role	Email	Phone
1	Shannon Sweeney	City of Arroyo Grande	City Engineer	ssweeney@arroyogrande.org	
1	Steve Kahn	City of Arroyo Grande	City Engineer (Previous Interim)	skahn@arroyogrande.org	
2	Ron Simpson	City of Arroyo Grande	Public Works Manager	rsimpson@arroyogrande.org	
3	Chuck McConnon	City of Arroyo Grande	City Inspector	cmccnonn@arroyogrande.org	
4	Jeff van den Eikhof	Eikhof Design Group	Engineer of Record	jeff@eikhofdesigngroup.com	
5	Cristian Zarate	Brough Construction, Inc.	PM	Estimators@broughconstruction.com	805-486-7779
6	Dylan Sweet	SFWILL CO.	PM	andrew@sfwillco.com	805-354-2730
7	DAN KIES	CITY OF AG	STREETS SUPERVISOR	DKIES@ARROYOGRANDE.ORG	805-260-2025
8					

## ADDENDUM NO. 2

Date: July 13, 2023  
To: All Plan Holders  
From: Paul Henderson  
Capital Improvement Project Manager (Interim)  
Subject: **2022 Concrete Repairs Project, PW 2022-07**



**Receipt of this Addendum must be acknowledged by writing “Addendum No. 2” on the outside of the bid envelope.**

This addendum forms a part of the Contract Documents and modifies the original plans and/or Special Provisions dated June 13, 2023, as noted herein. This addendum contains the following information:

<b>Add. Item</b>	<b>Clarifications / Questions / Answers</b>
2.01	<b>Clarification 01: Engineer’s Estimate</b> a. The Engineer’s Estimate for the Project is \$395,000
2.02	<b>Clarification 02: Project Layout</b> a. Surveying and/or layout is not provided by the City b. The Contractor is responsible for layout, which will be reviewed by the City Inspector
2.03	<b>Clarification 03: Bid Question Period</b> a. The City will not respond to Bidder questions received after 5pm 07/13/2023.

Please contact Paul Henderson at (805) 468-9927, [phenderson@arroyogrande.org](mailto:phenderson@arroyogrande.org), if you have any questions.

## **ATTACHMENT 6 – PLANS**

**ATTACHMENT 7 – PUBLIC CONTRACT CODE SECTION 9204**

9204.

- (a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.
- (b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.
- (c) For purposes of this section:
  - (1) “Claim” means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:
    - (A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.
    - (B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.
    - (C) Payment of an amount that is disputed by the public entity.
  - (2) “Contractor” means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.
  - (3) (A) “Public entity” means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.
    - (B) “Public entity” shall not include the following:

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- (i) The Department of Water Resources as to any project under the jurisdiction of that department.
  - (ii) The Department of Transportation as to any project under the jurisdiction of that department.
  - (iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.
  - (iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.
  - (v) The Military Department as to any project under the jurisdiction of that department.
  - (vi) The Department of General Services as to all other projects.
  - (vii) The High-Speed Rail Authority.
- (4) “Public works project” means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.
- (5) “Subcontractor” means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.
- (d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.
- (B) The claimant shall furnish reasonable documentation to support the claim.
- (C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified

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mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

- (D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.
- (2) (A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.
- (B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.
- (C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

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- (D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.
- (E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.
- (3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.
- (4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.
- (5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.
- (e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.
- (f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe

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reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

- (g) This section applies to contracts entered into on or after January 1, 2017.
- (h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.
- (i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2027, deletes or extends that date.