

**CITY OF COSTA MESA
PUBLIC WORKS AGREEMENT FOR
CITY PROJECT NO. 21-05**

THIS PUBLIC WORKS AGREEMENT (“Agreement”), dated November 16, 2021 (“Effective Date”), is made by the CITY OF COSTA MESA, a political subdivision of the State of California (“CITY”), and HORIZONS CONSTRUCTION COMPANY INTERNATIONAL, INC., a California corporation (“CONTRACTOR”).

WHEREAS, CITY desires to construct the public improvements described below under Paragraph 1, Scope of Work (the “Project”); and

WHEREAS, CITY has determined that CONTRACTOR is the lowest responsible bidder; and

WHEREAS, CITY now desires to contract with CONTRACTOR to furnish construction and related services for the Project; and

WHEREAS, CITY and CONTRACTOR desire to set forth their rights, duties and liabilities in connection with the services to be performed.

NOW, THEREFORE, for and in consideration of the covenants and conditions contained herein, the parties hereby agree as follows:

1. SCOPE OF WORK.

The scope of work generally consists of parking lot improvements, slurry seal, pavement removal and replacement, striping, excavation, backfill, compaction, concrete flatwork, Americans with Disabilities Act (ADA) curb ramps, curb, curb and gutter, electrical runs to the pull boxes for the storage building, all grading, retaining walls, fencing, lighting, irrigation, and landscaping, the rough and precise grading, foundation, construction and installation of one new storage building, all electrical and mechanical work within the building, finish grading, flat work, and all other work as depicted within the plans and as described within the specifications associated with the Project (the “Work”).

The Work is further described in the “Contract Documents” referred to below.

The Project is known as the Jack Hammett Sports Complex Parking Lot and ADA Upgrades Project, City Project No. 21-05.

2. CONTRACT DOCUMENTS.

The complete Agreement consists of the following documents relating to the Project:

- (a) This Agreement;
- (b) CONTRACTOR’s bid, attached hereto as Exhibit A and incorporated herein;

- (c) Bid package, including notice inviting bids, complete plans, profiles, detailed drawings and specifications, including general provisions and special provisions. The bid package is incorporated by this reference as if fully set forth herein;
- (d) Bid Addendum No. 1, dated September 23, 2021. The bid addendum is incorporated by this reference as if fully set forth herein;
- (e) Faithful Performance Bond and Labor and Material Bond, including agent's Power of Attorney for each bond, attached hereto as Exhibit B and incorporated herein;
- (f) Drug-Free Workplace Policy, attached hereto as Exhibit C and incorporated herein; and
- (g) Provisions of the most current edition of The Greenbook: Standard Specifications for Public Works Construction ("The Greenbook"). Provisions of The Greenbook are incorporated by this reference as if fully set forth herein.

The documents comprising the complete Agreement will be referred to as the "Contract Documents."

All of the Contract Documents are intended to complement one another, so that any Work called for in one and not mentioned in another is to be performed as if mentioned in all documents.

In the event of an inconsistency in the Contract Documents, the terms of this Agreement shall prevail over all other Contract Documents. The order of precedence between the remaining Contract Documents shall be as set forth in The Greenbook.

The Contract Documents constitute the entire agreement between the parties and supersede any and all other writings and oral negotiations.

3. CITY'S REPRESENTATIVE.

The CITY's Representative is Naz Mokarram, referred to herein as the Project Manager ("Project Manager").

4. CONTRACTOR'S PROJECT MANAGER; PERSONNEL.

(a) Project Manager. CONTRACTOR's Project Manager must be approved by City. Such approval shall be at CITY's sole discretion.

(b) Personnel. CITY has the right to review and approve any personnel who are assigned to perform work under this Agreement. CONTRACTOR shall remove personnel from performing work under this Agreement if requested to do so by CITY.

This Paragraph 4 is a material provision of the Agreement.

5. SCHEDULE.

All Work shall be performed in accordance with the schedule approved on behalf of CITY by the Project Manager, and in accordance with the time of performance set forth in Paragraph 11 (Time of Performance).

6. EQUIPMENT - PERFORMANCE OF WORK.

CONTRACTOR shall furnish all tools, equipment, apparatus, facilities, labor and materials necessary to perform and complete the Work in a good and workmanlike manner in strict conformity with the Contract Documents.

The equipment, apparatus, facilities, labor and material shall be furnished and such Work performed and completed as required in the plans and specifications to the satisfaction of the Project Manager or his or her designee, and subject to his or her approval.

7. COMPENSATION.

CITY shall pay CONTRACTOR in accordance with the fee schedule set forth in CONTRACTOR's bid. CONTRACTOR's total compensation shall not exceed Two Million One Hundred Sixty-Six Thousand Nine Hundred Twenty Dollars and Seventy Cents (\$2,166,920.70).

8. ADDITIONAL SERVICES.

CONTRACTOR shall not receive compensation for any services provided outside the scope of the Contract Documents unless such additional services, including change orders, are approved in writing by CITY prior to CONTRACTOR performing the additional services.

It is specifically understood that oral requests or approvals of such additional services, change orders or additional compensation and any approvals from CITY shall be barred and are unenforceable.

9. PAYMENTS TO CONTRACTOR.

On or before the last Monday of each and every month during the performance of the Work, CONTRACTOR shall meet with the Project Manager or his or her designee to determine the quantity of pay items incorporated into the improvement during that month. A "Progress Payment Order" will then be jointly prepared, approved, and signed by the Project Manager and the CONTRACTOR setting forth the amount to be paid and providing for a five percent (5%) retention. Upon approval of the progress payment order by the Project Manager, or his or her designee, it shall be submitted to CITY's Finance Department and processed for payment by obtaining approval from the City Council to

issue a warrant.

Within three (3) days following City Council's approval to issue a warrant, CITY shall mail to CONTRACTOR a warrant for the amount specified in the progress payment order as the amount to be paid. The retained five percent (5%) shall be paid to CONTRACTOR thirty-five (35) days after the recording of the Notice of Completion of the Work by the CITY with the Orange County Clerk-Recorder and after CONTRACTOR has furnished releases of all claims against CITY by persons who furnished labor or materials for the Work, if required by CITY.

Upon the request of CONTRACTOR and at its expense, securities equivalent to the amount withheld pursuant to the foregoing provisions may be presented to CITY for substitution for the retained funds. If CITY approves the form and amount of the offered securities it will release the retained funds and will hold the securities in lieu thereof. CONTRACTOR shall be entitled to any interest earned on the securities.

In the event that claims for property damage or bodily injury are presented to CITY arising out of CONTRACTOR's or any subcontractor's work under this Agreement, CITY shall give notice thereof to CONTRACTOR, and CONTRACTOR shall have thirty-five (35) days from the mailing of any such notice to evaluate the claim and to settle it by whole or partial payment, or to reject it, and to give notice of settlement or rejection to CITY. If CITY does not receive notice within the above-mentioned 35-day period that the claim has been settled, and if the Project Manager, after consultation with the City Attorney, determines that the claim is meritorious, CITY may pay the claim or a portion of it in exchange for an appropriate release from the claimant, and may deduct the amount of the payment from the retained funds that would otherwise be paid to CONTRACTOR upon completion of the Work; provided, however, that the maximum amount paid for any one claim pursuant to this provision shall be One Thousand Dollars (\$1,000.00), and the maximum amount for all such claims in the aggregate paid pursuant to this provision shall be Five Thousand Dollars (\$5,000.00).

10. PROMPT PAYMENT OF SUBCONTRACTORS.

CONTRACTOR agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than seven (7) days from the receipt of each payment the CONTRACTOR receives from CITY.

CONTRACTOR agrees further to release retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed.

Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the CITY.

11. TIME OF PERFORMANCE.

CONTRACTOR shall commence Work by the date specified in CITY's Notice to Proceed, unless a later date is agreed upon in writing by the parties. The Work shall be

completed within one hundred ten (110) working days from the first day of commencement of the Work.

12. TERMINATION.

(a) Termination for Convenience.

CITY may terminate this Agreement at any time, with or without cause, by providing thirty (30) days' written notice to CONTRACTOR.

(b) Termination for Breach of Contract.

- (i) If CONTRACTOR refuses or fails to prosecute the Work or any severable part of it with such diligence as will ensure its timely completion, or if CONTRACTOR fails to complete the Work on time, or if CONTRACTOR, or any subcontractor, violates any of the provisions of the Contract Documents, the Project Manager may give written notice to CONTRACTOR and CONTRACTOR's sureties of the CITY's intention to terminate this Agreement; and, unless within five (5) days after the serving of that notice, such conduct shall cease and arrangements for the correction thereof be made to the satisfaction of the CITY, this Agreement may be terminated at the option of CITY effective upon CONTRACTOR's receipt of a second notice sent by the CITY indicating that the CITY has exercised its option to terminate.
- (ii) If CONTRACTOR is adjudged bankrupt or files for any relief under the Federal Bankruptcy Code or State insolvency laws, this Agreement shall automatically terminate without any further action or notice by CITY.
- (iii) If CONTRACTOR is in breach of any material provision of this Agreement, CITY may immediately terminate this Agreement by providing written notice to CONTRACTOR of same.

13. LIQUIDATED DAMAGES.

In the event the Work is not completed, for any reason, within the time required including any approved extensions of time, and to the satisfaction of the Project Manager, CITY may, in addition to any other remedies, equitable and legal, including remedies authorized by Paragraph 12 (Termination) of this Agreement, charge to CONTRACTOR or its sureties, or deduct from payments or credits due CONTRACTOR, a sum equal to Two Thousand Three Hundred Dollars (\$2,300.00) as liquidated damages for each calendar day beyond the date provided for the completion of such Work.

The parties hereto agree that the amount set forth above, as liquidated damages constitutes a fair and reasonable estimate of the costs the CITY would suffer for each day that the CONTRACTOR fails to meet the performance schedule. The parties hereby agree and acknowledge that the delays in the performance schedule will cause CITY to incur costs and expenses not contemplated by this Agreement.

14. PERFORMANCE BY SURETIES.

In the event CONTRACTOR fails or refuses to perform the Work, CITY may provide CONTRACTOR with a notice of intent to terminate as provided in Paragraph 12 (Termination), of this Agreement. CITY shall immediately give written notice of such intent to terminate to CONTRACTOR and CONTRACTOR's surety or sureties, and the sureties shall have the right to take over and perform this Agreement; provided, however, that the sureties must, within five (5) days after CITY's giving notice of termination, (a) give the CITY written notice of their intention to take over the performance of this Agreement; (b) provide adequate assurances, to the satisfaction of the CITY, that the Work shall be performed diligently and in a timely manner; and (c) must commence performance thereof within five (5) days after providing notice to the CITY of their intention to take over the Work. Upon the failure of the sureties to comply with the provisions set forth above, CITY may take over the Work and complete it, at the expense of CONTRACTOR, and the CONTRACTOR and the sureties shall be liable to CITY for any excess costs or damages including those referred to in Paragraph 13 (Liquidated Damages), incurred by CITY. In such event, CITY may, without liability for so doing, take possession of such materials, equipment, tools, appliances, Contract Documents and other property belonging to CONTRACTOR as may be on the site of the Work and reasonably necessary therefor and may use them to complete the Work.

15. DISPUTES PERTAINING TO PAYMENT FOR WORK.

Should any dispute arise respecting whether any delay is excusable, or its duration, or the value of the Work done, or of any Work omitted, or of any extra Work which CONTRACTOR may be required to do, or respecting any payment to CONTRACTOR during the performance of this Agreement, such dispute shall be decided by the Project Manager, and his or her decisions shall be final and binding upon CONTRACTOR and its sureties.

16. SUPERINTENDENCE BY CONTRACTOR.

At all times during performance of the Work, CONTRACTOR shall give personal superintendence or have a competent foreman or superintendent on the worksite, with authority to act for CONTRACTOR.

17. INSPECTION BY CITY.

CONTRACTOR shall at all times maintain proper facilities and provide safe access for inspection by CITY to all parts of the Work and to all shops on or off-site where the Work or portions of the Work, are in preparation. CITY shall have the right of access to the premises for inspection at all times. However, CITY shall, at all times, comply with CONTRACTOR's safety requirements on the job site.

18. CARE OF THE WORK AND OFF-SITE AUTHORIZATION.

CONTRACTOR warrants that it has examined the site of the Work and is familiar with its topography and condition, location of property lines, easements, building lines

and other physical factors and limitations affecting the performance of this Agreement. CONTRACTOR, at CONTRACTOR's sole cost and expense, shall obtain any permission, and all approvals, licenses, or easements necessary for any operations conducted off the premises owned or controlled by CITY. CONTRACTOR shall be responsible for the proper care and protection of all materials delivered to the site or stored off-site and for the Work performed until completion and final inspection and acceptance by CITY. The risk, damage or destruction of materials delivered to the site or to Work performed shall be borne by CONTRACTOR.

19. CONTRACT SECURITY AND GUARANTEE.

Unless previously provided by CONTRACTOR to CITY, CONTRACTOR shall furnish, concurrently with the execution of this Agreement, the following: (1) a surety bond in an amount equal to one hundred percent (100%) of the contract price as security for the faithful performance of this Agreement, and (2) a separate surety bond in an amount equal to at least one hundred percent (100%) of the contract price as security for the payment of all persons furnishing labor or materials in connection with the Work under this Agreement. Sureties for each of the bonds and the forms thereof shall be satisfactory to CITY. In addition, such sureties must be authorized to issue bonds in California; sureties must be listed on the latest revision to the U.S. Department of the Treasury Circular 570; and must be shown to have sufficient bonding capacity to provide the bonds required by the Contract Documents.

CONTRACTOR shall provide a certified copy of the certificate of authority of the surety issued by the Insurance Commissioner; a certificate from the clerk of the county in which the court or officer is located that the certificate of authority of the surety has not been surrendered, revoked, canceled, annulled, or suspended or, in the event that it has, that renewed authority has been granted; and copies of the surety's most recent annual statement and quarterly statement filed with the Department of Insurance pursuant to Article 10 (commencing with Section 900) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

CONTRACTOR guarantees that all materials used in the Work and all labor performed shall be in conformity with the Contract Documents including, but not limited to, the standards and specifications set forth in the most current edition of The Greenbook. CONTRACTOR shall, at its own expense, make any and all repairs and replacements that shall become necessary as the result of any failure of the Work to conform to the aforementioned Contract Documents, and/or standard specifications; provided, however, that CONTRACTOR shall be obligated under this provision only to the extent of those failures or defects of which CONTRACTOR is given notice within a period of twelve (12) months from the date that the Notice of Completion is recorded.

The rights and remedies available to CITY pursuant to this provision shall be cumulative with all rights and remedies available to CITY pursuant to statutory and common law, which rights and remedies are hereby expressly reserved, and neither the foregoing guarantee by CONTRACTOR nor its furnishing of the bonds, nor acceptance thereof by CITY, shall constitute a waiver of any rights or remedies available to CITY against CONTRACTOR.

20. INDEMNIFICATION.

CONTRACTOR agrees to protect, defend, indemnify and hold harmless CITY and its elected and appointed boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury to or death of any person, and for injury or damage to any property, including consequential damages of any nature resulting therefrom, arising out of or in any way connected with the performance of this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the CONTRACTOR, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the CONTRACTOR, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the CITY, its elected officials, officers, agents and employees based upon the work performed by the CONTRACTOR, its employees, and/or authorized subcontractors under this Agreement, whether or not the CONTRACTOR, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the CONTRACTOR shall not be liable for the defense or indemnification of the CITY for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the CITY. This provision shall supersede and replace all other indemnity provisions contained either in the CITY's specifications or CONTRACTOR's proposal, which shall be of no force and effect.

CONTRACTOR shall comply with all of the provisions of the Workers' Compensation insurance laws and Safety in Employment laws of the State of California, including the applicable provisions of Divisions 4 and 5 of the California Labor Code and all amendments thereto and regulations promulgated pursuant thereto, and all similar State, Federal or local laws applicable; and CONTRACTOR shall indemnify and hold harmless CITY from and against all claims, liabilities, expenses, damages, suits, actions, proceedings and judgments, of every nature and description, including attorney fees, that may be presented, brought or recovered against CITY for or on account of any liability under or failure to comply with any of said laws which may be incurred by reason of any Work performed under this Agreement by CONTRACTOR or any subcontractor or others performing on behalf of CONTRACTOR.

CITY does not, and shall not, waive any rights against CONTRACTOR which it may have by reason of the above hold harmless agreements, because of the acceptance by CITY or the deposit with CITY by CONTRACTOR of any or all of the insurance policies described in Paragraph 21 (Insurance) of this Agreement.

The hold harmless agreements by CONTRACTOR shall apply to all liabilities, expenses, claims, and damages of every kind (including but not limited to attorneys' fees) incurred or alleged to have been incurred, by reason of the operations of CONTRACTOR or any subcontractor or others performing on behalf of CONTRACTOR, whether or not such insurance policies are applicable. CONTRACTOR shall require any and all tiers of subcontractors to afford the same degree of indemnification to the CITY OF COSTA MESA and its elected and appointed boards, officers, agents, and employees that is required of CONTRACTOR and shall incorporate identical indemnity provisions in all

contracts between CONTRACTOR and all tiers of its subcontractors.

In the event that CONTRACTOR and CITY are sued by a third party for damages caused or allegedly caused by negligent or other wrongful conduct of CONTRACTOR, or by a dangerous condition of CITY's property created by CONTRACTOR or existing while the property was under the control of CONTRACTOR, CONTRACTOR shall not be relieved of its indemnity obligation to CITY by any settlement with any such third party unless that settlement includes a full release and dismissal of all claims by the third party against the CITY.

21. INSURANCE.

(a) Minimum Scope and Limits of Insurance. CONTRACTOR shall not commence Work under this Agreement until it has obtained all insurance required under this Paragraph 21 and CITY has approved the insurance as to form, amount, and carrier, nor shall CONTRACTOR allow any subcontractor to commence any Work until all similar insurance required of the subcontractor has been obtained and approved.

CONTRACTOR shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by CITY:

- (i) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (ii) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
- (iii) Workers' compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability insurance with a limit of not less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. CONTRACTOR agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the CITY, its officers, agents, employees, and volunteers arising from work performed by CONTRACTOR for the CITY and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
- (iv) Umbrella or excess liability insurance 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, automobile liability, and employer's liability. Such policy or policies shall include the following terms and conditions:

- (1) 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;
- (2) Pay on behalf of wording as opposed to reimbursement;
- (3) Concurrency of effective dates with primary policies;
- (4) Policies shall "follow form" to underlying primary policies; and
- (5) Insureds under primary policies shall also be insureds under the umbrella or excess policies.

(b) Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (i) Additional insureds: The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the CONTRACTOR pursuant to its contract with the City; products and completed operations of the CONTRACTOR; premises owned, occupied or used by the CONTRACTOR; automobiles owned, leased, hired, or borrowed by the CONTRACTOR."
- (ii) Notice: "Said policy shall not terminate, nor shall it be canceled nor the coverage reduced, until thirty (30) days after written notice is given to CITY."
- (iii) Other Insurance: "CONTRACTOR's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."

(c) Reporting Provisions. Any failure of CONTRACTOR to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.

(d) Insurance Applies Separately. CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(e) Deductible or Self-Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by CITY. No policy of insurance issued as to which the CITY is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

(f) Proof of Insurance. Prior to commencement of the Work, CONTRACTOR shall furnish CITY, through the Project Manager, proof of compliance with the above insurance requirements in a form satisfactory to City's Risk Management.

(g) Non-Limiting. Nothing in this Paragraph 21 shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

22. PREVAILING WAGE REQUIREMENTS.

(a) Prevailing Wage Laws. CONTRACTOR is aware of the requirements of Chapter 1 (beginning at Section 1720 et seq.) of Part 7 of Division 2 of the California Labor Code, as well as Title 8, Section 16000 et seq. of the California Code of Regulations ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. This Project is a "public works" project and requires compliance with the Prevailing Wage Laws. CONTRACTOR shall defend, indemnify and hold the CITY, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

(b) Payment of Prevailing Wages. CONTRACTOR shall pay the prevailing wage rates for all work performed under this Agreement. When any craft or classification is omitted from the general prevailing wage determinations, CONTRACTOR shall pay the wage rate of the craft or classification most closely related to the omitted classification. A copy of the general prevailing wage rate determination is on file in the Office of the City Clerk and is incorporated into this Agreement as if fully set forth herein. CONTRACTOR shall post a copy of such wage rates at all times at the project site(s).

(c) Legal Working Day. In accordance with the provisions of Labor Code Section 1810 et seq., eight (8) hours is the legal working day. CONTRACTOR and any subcontractor(s) of CONTRACTOR shall comply with the provisions of the Labor Code regarding eight (8)-hour work day and 40-hour work week requirements, and overtime, Saturday, Sunday, and holiday work. Work performed by CONTRACTOR's or any subcontractor's employees in excess of eight (8) hours per day, and 40 hours during any one week, must include compensation for all hours worked in excess of eight (8) hours per day, or 40 hours during any one week, at not less than one and one-half times the basic rate of pay. CONTRACTOR shall forfeit as a penalty to CITY Twenty-Five Dollars (\$25.00), or any greater penalty set forth in the Labor Code, for each worker employed in the execution of the Work by CONTRACTOR or by any subcontractor(s) of CONTRACTOR, for each calendar day during which such worker is required or permitted to the work more than eight (8) hours in one calendar day or more than 40 hours in any one calendar week in violation of the Labor Code.

(d) Apprentices. CONTRACTOR shall comply with the provisions of Labor Code Section 1777.5 concerning the employment of apprentices on public works projects. CONTRACTOR shall be responsible for ensuring compliance by its subcontractors with Labor Code Section 1777.5.

(e) Payroll Records. Pursuant to Labor Code Section 1776, CONTRACTOR and any subcontractor(s) shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by CONTRACTOR or any subcontractor in connection with this Agreement. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following: (1) The information contained in the payroll record is true and correct; and (2) The employer has complied with the requirements of Sections 1771, 1881, and 1815 of the Labor Code for any work performed by his or her employees on this Project. The payroll records shall be certified and shall be available for inspection at all reasonable hours in accordance with the requirements of Labor Code Section 1776. CONTRACTOR shall also furnish each week to CITY's Project Administration Division a statement with respect to the wages of each of its employees during the preceding weekly payroll period.

(f) Registration with DIR. CONTRACTOR and any subcontractor(s) of CONTRACTOR shall comply with the provisions of Labor Code Section 1771 and Labor Code Section 1725.5 requiring registration with the DIR.

23. COMPLIANCE WITH ALL LAWS.

CONTRACTOR shall, at its own cost and expense, comply with all applicable local, state, and federal laws, regulations, and requirements in the performance of this Agreement, including but not limited to laws regarding health and safety, labor and employment, and wage and hours.

24. DRUG-FREE WORKPLACE POLICY.

CONTRACTOR, upon notification of the award of this Agreement, shall establish a Drug-Free Awareness Program to inform employees of the dangers of drug abuse in the workplace, the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace, and the employee assistance programs available to employees. Each employee engaged in the performance of a CITY contract must be notified of this Drug-Free Awareness Program, and must abide by its terms. CONTRACTOR shall conform to all the requirements of CITY's Policy No. 100-5, attached hereto. Failure to establish a program, notify employees, or inform the CITY of a drug-related workplace conviction will constitute a material breach of contract and cause for immediate termination of the contract by the CITY.

25. NON-DISCRIMINATION.

In performing this Agreement, CONTRACTOR will not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status or sex, or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code. Violation of this provision may result in the imposition of penalties referred to in Section 1735 of the California Labor Code.

26. PROVISIONS CUMULATIVE.

The provisions of this Agreement are cumulative and in addition to, and not in limitation of, any other rights or remedies available to CITY.

27. NOTICES.

It shall be the duty and responsibility of CONTRACTOR to notify all tiers of subcontractors and material men of the following special notice provision; namely, all preliminary 20-day notices or stop notices shall be directed only to the City Clerk and to no other department, and shall be either personally delivered or sent by certified mail, postage prepaid.

All other notices shall be in writing and delivered in person or sent by certified mail, postage prepaid. Notices required to be given to CITY pursuant to this Agreement shall be addressed as follows:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Attn: Naz Mokarram

Notices required to be given to CONTRACTOR shall be addressed as follows:

Horizons Construction Co. Int'l, Inc.
432 W. Meats Ave.
Orange, CA 92865
Attn: Kinan Kotrash

Notices required to be given to CONTRACTOR's sureties shall be addressed as follows:

Old Republic Surety Company
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833-3505
Attn: Melissa DeKoven

28. INDEPENDENT CONTRACTOR.

The parties hereto acknowledge and agree that the relationship between CITY and CONTRACTOR is one of principal and independent contractor and no other. All personnel to be utilized by CONTRACTOR in the performance of this Agreement shall be employees of CONTRACTOR and not employees of the CITY. CONTRACTOR shall pay all salaries and wages, employer's social security taxes, unemployment insurance and similar taxes relating to employees and shall be responsible for all applicable withholding taxes. Nothing contained in this Agreement shall create or be construed as creating a partnership, joint venture, employment relations, or any other relationship except as set

forth between the parties. The parties specifically acknowledge and agree that CONTRACTOR is not a partner with CITY, whether general or limited, and no activities of CITY or CONTRACTOR or statements made by CITY or CONTRACTOR shall be interpreted by any of the parties hereto as establishing any type of business relationship other than an independent contractor relationship.

29. PERS ELIGIBILITY INDEMNIFICATION.

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

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, CONTRACTOR and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by CITY, including but not limited to eligibility to enroll in PERS as an employee of CITY and entitlement to any contribution to be paid by CITY for employer contribution and/or employee contributions for PERS benefits.

30. VALIDITY.

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any of the other provisions of this Agreement.

31. GOVERNING LAW.

This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any legal action relating to or arising out of this Agreement shall be subject to the jurisdiction of the County of Orange, California.

32. NO THIRD PARTY BENEFICIARY RIGHTS.

This Agreement is entered into for the sole benefit of the CITY and CONTRACTOR and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

33. ASSIGNABILITY.

This Agreement may not be transferred or assigned by either party, or by operation of law, to any other person or persons or business entity, without the other party's written permission. Any such transfer or assignment, or attempted transfer or assignment, without written permission, may be deemed by the other party to constitute a voluntary

termination of this Agreement and this Agreement shall thereafter be deemed terminated and void.

34. WAIVER.

No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought referring expressly to this Paragraph. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

35. HEADINGS.

Section and subsection headings are not to be considered part of this Agreement, are included solely for convenience, and are not intended to modify or explain or to be a full or accurate description of the content thereof.

36. COUNTERPARTS.

This Agreement may be executed in one or more counterparts by the parties hereto. All counterparts shall be construed together and shall constitute one Agreement.

37. CORPORATE AUTHORITY.

The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

[Signatures appear on following page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,
A municipal corporation

Lori Ann Farrell Harrison
City Manager

Date: _____

CONTRACTOR

Signature

Date: _____

Name and Title

Signature

Date: _____

Name and Title

ATTEST:

Brenda Green
City Clerk

Date: _____

APPROVED AS TO FORM:

Kimberly Hall Barlow
City Attorney

Date: _____

APPROVED AS TO INSURANCE:

Ruth Wang
Risk Management

Date: _____

APPROVED AS TO PURCHASING:

Carol Molina
Finance Director

Date: _____

DEPARTMENTAL APPROVAL:

Raja Sethuraman
Public Services Director

Date: _____

Naz Mokarram
Project Manager

Date: _____

ATTACHMENT 1

EXHIBIT A
CONTRACTOR'S BID

1 | Page
Addendum No. 1
City Project No. 21-05



CITY OF COSTA MESA

P.O. BOX 12000 77 FAIR DRIVE CALIFORNIA 92628-1200
FROM THE DEPARTMENT OF PUBLIC SERVICES/ENGINEERING DIVISION

DATE: SEPTEMBER 23, 2021
TO: ALL PROSPECTIVE BIDDERS
SUBJECT: BID ADDENDUM NO. 1 – JACK HAMMETT SPORTS COMPLEX PARKING LOT AND ADA UPGRADES, CITY PROJECT NO. 21-05

Please forward this addendum to the appropriate individual as soon as possible. To assist our office in confirming the delivery of this addendum, please sign acknowledging receipt herein and e-mail a copy of this sheet to Janet.Zuazo@costamesaca.gov. **A COPY WILL NOT BE SENT BY MAIL.**

Received by: _____

Company: Horizons Construction Co. Int'l, Inc.

All bidders shall register with *PlanetBids* in order to retrieve addenda. It is the responsibility of each prospective bidder to check *PlanetBids* on a DAILY basis through the close of bids for any applicable addenda or updates.

BID OPENING DATE: _____ NO CHANGE - TUESDAY, SEPTEMBER 28, 2021

BID OPENING TIME: _____ NO CHANGE

BID OPENING PLACE: _____ NO CHANGE

This addendum, effective on this date, addresses the following items:

RESPONSES TO PRE-BID REQUESTS FOR INFORMATIONS (RFIs):

- Q1. Could you please confirm whether the above referenced project is subject to a PLA (Project Labor Agreement), a PSA (Project Stabilization Agreement), a CBA (Collective Bargaining Agreement), a CWA (Community Workforce Agreement), or anything of that nature?
- A1. *This is a Public Works Project as defined by the State of California Labor Code. See Section A - Notice Inviting Bids, Items 7 and 8, and Section B – Information For Bidders item 20 with respect to the requirements for compliance with the State of California Labor Code. Nothing in the specifications require a PLA, PSA, CBA, or CWA.*
- Q2. Just want to confirm that this project is NOT VWA or PLA.
- A2. *This is a Public Works Project as defined by the Labor Code. See Section A - Notice Inviting Bids, Items 7 and 8, and Section B – Information For Bidders Item 20 with respect to the*

- SECTION C -
PROPOSAL
FOR THE
JACK HAMMETT SPORTS COMPLEX PARKING LOT AND ADA UPGRADES
CITY PROJECT NO. 21-05

The Honorable City Council
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

Dear Council Members:

In compliance with the **NOTICE INVITING BIDS FOR THE CITY OF COSTA MESA JACK HAMMETT SPORTS COMPLEX PARKING LOT AND ADA UPGRADES PROJECT NO. 21-05**, a copy which is hereto attached, the undersigned has carefully examined the location of the proposed work, the Plans, Specifications and other Contract Documents and is therefore satisfied as to the conditions to be encountered, as to the character, quality and quantity of work to be performed and materials to be furnished and as to the requirements of the Specifications and the Contract. It is mutually agreed that the submission of a proposal shall be considered prima facie evidence that the Bidder has made such examination.

If awarded the Contract, the undersigned agrees to commence the work under the Contract **WITHIN TEN (10) DAYS AFTER THE NOTICE TO PROCEED IS ISSUED, AND COMPLETE THE WORK WITHIN ONE-HUNDRED TEN (110) WORKING DAYS** from the first day of commencement of such work unless legal extension is granted in accordance with the terms set forth in the specifications.

Furthermore, the undersigned agrees to perform and complete the work as shown on the Plans and in accordance with the Specifications and other Contract Documents, and to furnish all labor, materials, tools and equipment necessary to complete the work in-place therefor, in the manner and time herein prescribed at the following prices, to wit:

ATTACHMENT 1

City of Costa Mesa

Project and Specification No. 21-05

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ATTACHMENT 1

City of Costa Mesa

Project and Specification No. 21-05

PROPOSAL SCHEDULE BASE BID

| <u>Item</u> | <u>Description</u> | <u>Approx. Quantity</u> | <u>Unit</u> | <u>Unit Price</u> | <u>Total Amount</u> |
|-------------|---|-------------------------|-------------|-------------------|---------------------|
| 1 | Mobilization | 1 | LS | \$ <u>65,300</u> | \$ <u>65,300</u> |
| 2 | Clearing & Grubbing | 1 | LS | \$ <u>42,700</u> | \$ <u>42,700</u> |
| 3 | Traffic Control & Public Safety | 1 | LS | \$ <u>18,000</u> | \$ <u>18,000</u> |
| 4 | Water Quality Best Management Practices (BMP's) | 1 | LS | \$ <u>9,500</u> | \$ <u>9,500</u> |
| 5 | Construction Survey and Monument Preservation | 1 | LS | \$ <u>15,700</u> | \$ <u>15,700</u> |
| 6 | Utility Potholing and Ground Penetrating Radar (GPR) | 1 | LS | \$ <u>17,000</u> | \$ <u>17,000</u> |
| 7 | Remove and Dispose of Existing AC Pavement | 10,600 | SF | \$ <u>1.15</u> | \$ <u>12,190</u> |
| 8 | Remove and Dispose of Existing Chain Link Fence | 1,175 | LF | \$ <u>3.60</u> | \$ <u>4,230</u> |
| 9 | Remove Existing Tree | 14 | EA | \$ <u>892.50</u> | \$ <u>12,495</u> |
| 10 | Remove and Dispose of Existing Light Pole and Foundation | 5 | EA | \$ <u>1,680</u> | \$ <u>8,400</u> |
| 11 | Remove and Dispose of Existing Sliding Gate | 1 | EA | \$ <u>1,470</u> | \$ <u>1,470</u> |
| 12 | Remove and Dispose of Existing Chain Link Gate | 5 | EA | \$ <u>840</u> | \$ <u>4,200</u> |
| 13 | Weed Abate, Crack Seal, Remove existing striping & pavement marking and construct Slurry Seal Type II | 70,000 | SF | \$ <u>0.48</u> | \$ <u>33,600</u> |
| 14 | Construct 5" thick AC Pavement Over Compacted 8" thick CMB | 21,500 | SF | \$ <u>9.80</u> | \$ <u>210,700</u> |
| 15 | Remove and Dispose Curb and Gutter | 86 | LF | \$ <u>8.50</u> | \$ <u>731</u> |
| 16 | Construct 6" Curb and Gutter Type (C-6") (W=18") Per City of Costa Mesa Std DWG No 312 | 300 | LF | \$ <u>42</u> | \$ <u>12,600</u> |
| 17 | Remove and Dispose Concrete Curb | 1,800 | LF | \$ <u>4.14</u> | \$ <u>7,452</u> |
| 18 | Construct 6" Curb Type A1-6(150) | 2,000 | LF | \$ <u>29</u> | \$ <u>58,000</u> |

Bidder's Initials KK

ATTACHMENT 1

City of Costa Mesa

Project and Specification No. 21-05

**PROPOSAL SCHEDULE
BASE BID
(CONTINUED)**

| <u>Item</u> | <u>Description</u> | <u>Approx. Quantity</u> | <u>Unit</u> | <u>Unit Price</u> | <u>Total Amount</u> |
|-------------|---|-------------------------|-------------|-------------------|---------------------|
| 19 | Remove and Dispose Existing Curb Ramp | 2 | EA | \$ <u>1,950</u> | \$ <u>3,900</u> |
| 20 | Construct ADA Curb Ramp | 3 | EA | \$ <u>12,100</u> | \$ <u>36,300</u> |
| 21 | Construct Truncated Domes | 3 | EA | \$ <u>1,785</u> | \$ <u>5,355</u> |
| 22 | Remove and Dispose Concrete Gutter | 30 | LF | \$ <u>8.50</u> | \$ <u>255</u> |
| 23 | Construct 3' wide Concrete V-Gutter | 30 | LF | \$ <u>67.20</u> | \$ <u>2,016</u> |
| 24 | Adjust to Grade Existing Sewer Cleanout | 6 | EA | \$ <u>900</u> | \$ <u>5,400</u> |
| 25 | Furnish & Install Concrete Wheel Stop | 19 | EA | \$ <u>105</u> | \$ <u>1,995</u> |
| 26 | Sawcut and Remove PCC Sidewalk | 7,800 | SF | \$ <u>2.35</u> | \$ <u>18,330</u> |
| 27 | Construct Driveway Approach | 2 | EA | \$ <u>2,835</u> | \$ <u>5,670</u> |
| 28 | Construct 6" thick fill-in concrete over 6" CMB | 25 | SF | \$ <u>25</u> | \$ <u>625</u> |
| 29 | Furnish and Install Parking Sign | 8 | EA | \$ <u>360</u> | \$ <u>2,880</u> |
| 30 | Striping, Signing, Marking and Pavement Markers | 1 | LS | \$ <u>12,200</u> | \$ <u>12,200</u> |
| 31 | Paving 1a: Concrete Flatwork with Topcast Top-Surface Retarder Finish | 12,850 | SF | \$ <u>10.50</u> | \$ <u>134,925</u> |
| 32 | Paving 1c: Concrete Flatwork Heavy Sand Blast Finish | 120 | SF | \$ <u>12</u> | \$ <u>1,440</u> |
| 33 | Paving 1d: Interlocking Concrete Pavers | 880 | SF | \$ <u>16.50</u> | \$ <u>14,520</u> |
| 34 | Concrete Header (10" wide) | 245 | LF | \$ <u>42</u> | \$ <u>10,290</u> |

Bidder's Initials KK

ATTACHMENT 1

City of Costa Mesa

Project and Specification No. 21-05

**PROPOSAL SCHEDULE
BASE BID
(CONTINUED)**

| <u>Item</u> | <u>Description</u> | <u>Approx. Quantity</u> | <u>Unit</u> | <u>Unit Price</u> | <u>Total Amount</u> |
|-------------|---|-------------------------|-------------|-------------------|---------------------|
| 35 | Concrete Band (16" wide) | 500 | LF | \$ <u>47</u> | \$ <u>23,500</u> |
| 36 | 18' Ht. Ball Barrier Fence (6' Chain Link Fence with Attached 12' Netting) | 180 | LF | \$ <u>380</u> | \$ <u>68,400</u> |
| 37 | Chain Link Fence - 8' High | 415 | LF | \$ <u>115</u> | \$ <u>47,725</u> |
| 38 | Chain Link Fence - 4' High | 475 | LF | \$ <u>97</u> | \$ <u>46,075</u> |
| 39 | Gate - Double Swing Chain Link, 8' High (12' Opening) | 3 | EA | \$ <u>4,900</u> | \$ <u>14,700</u> |
| 40 | Double Cantilever Sliding Gates - 8' Ht. (Chain Link Fabric) With Electronic Gate Opening & Closing Operators | 1 | LS | \$ <u>59,700</u> | \$ <u>59,700</u> |
| 41 | Rolling Chain Link Gate - 8' Ht. (20' Opening) | 1 | EA | \$ <u>7,600</u> | \$ <u>7,600</u> |
| 42 | Post & Rail Fence With Precast Column | <u>530</u> | LF | \$ <u>87</u> | \$ <u>46,110</u> |
| 43 | Column 'A' (8' Ht. Masonry Column w/ Precast Column Cap) | 6 | EA | \$ <u>3,700</u> | \$ <u>22,200</u> |
| 44 | Column 'B' (4.5' Ht. Masonry Column w/ Precast Column Cap) | 4 | EA | \$ <u>2,415</u> | \$ <u>9,660</u> |
| 45 | Precast Column 'C' | 7 | EA | \$ <u>1,610</u> | \$ <u>11,270</u> |
| 46 | Precast Sphere (60 Inch Dia.) | 3 | EA | \$ <u>5,520</u> | \$ <u>16,560</u> |
| 47 | Precast Soccer Ball (36 Inch Dia.) | 12 | EA | \$ <u>1,670</u> | \$ <u>20,040</u> |
| 48 | Precast Sphere (22 Inch Dia.) | 4 | EA | \$ <u>690</u> | \$ <u>2,760</u> |
| 49 | Double Parking Lot Barrier Gates | 2 | EA | \$ <u>18,550</u> | \$ <u>37,100</u> |
| 50 | Re-Install Existing Flagpole | 1 | LS | \$ <u>3,675</u> | \$ <u>3,675</u> |
| 51 | Bike Rack | 10 | EA | \$ <u>1,740</u> | \$ <u>17,400</u> |

Bidder's Initials KK

ATTACHMENT 1

City of Costa Mesa

Project and Specification No. 21-05

**PROPOSAL SCHEDULE
BASE BID
(CONTINUED)**

| <u>Item</u> | <u>Description</u> | <u>Approx. Quantity</u> | <u>Unit</u> | <u>Unit Price</u> | <u>Total Amount</u> |
|-------------|--|-------------------------|-------------|-------------------|---------------------|
| 52 | Pedestal Mounted Bottle Filler With Bi-Level Drinking Fountain | 2 | EA | \$ <u>10,700</u> | \$ <u>21,400</u> |
| 53 | Existing Irrigation Adjustments | 1 | LS | \$ <u>17,600</u> | \$ <u>17,600</u> |
| 54 | New Irrigation System | 1 | LS | \$ <u>109,545</u> | \$ <u>109,545</u> |
| 55 | Soil Preparation and Fine Grading | 25,510 | SF | \$ <u>0.93</u> | \$ <u>23,724.30</u> |
| 56 | Weed Abatement | 25,510 | SF | \$ <u>0.16</u> | \$ <u>4,081.60</u> |
| 57 | Tree - 36" Box | 49 | EA | \$ <u>1,065</u> | \$ <u>52,185</u> |
| 58 | Shrub - #15 Container | 80 | EA | \$ <u>140</u> | \$ <u>11,200</u> |
| 59 | Shrub - #5 Container | 1,248 | EA | \$ <u>33.50</u> | \$ <u>41,808</u> |
| 60 | Shrub - #1 Container | 768 | EA | \$ <u>9.50</u> | \$ <u>7,296</u> |
| 61 | Damaged Turf Replacement | 19,600 | SF | \$ <u>1.68</u> | \$ <u>32,928</u> |
| 62 | Wood Mulch (3" thick) | 236 | CY | \$ <u>72.80</u> | \$ <u>17,180.80</u> |
| 63 | (90) Day Maintenance | 1 | LS | \$ <u>7,728</u> | \$ <u>7,728</u> |
| 64 | Storage Building, 5-Units (952 SF) | 1 | LS | \$ <u>17,600</u> | \$ <u>17,600</u> |
| 65 | Electrical - Parking Lot | 1 | LS | \$ <u>267,300</u> | \$ <u>267,300</u> |
| 66 | Electrical - Storage Building | 1 | LS | \$ <u>5,500</u> | \$ <u>5,500</u> |
| 67 | Allowance for additional work items as directed by the City | 1 | FA | \$ <u>45,000</u> | \$ <u>45,000</u> |
| 68 | Allowance for unforeseen utility conflicts | 1 | FA | \$ <u>45,000</u> | \$ <u>45,000</u> |
| 69 | Allowance for unsuitable soil conditions and additional sound mitigation | 1 | FA | \$ <u>35,000</u> | \$ <u>35,000</u> |

Bidder's Initials KK

ATTACHMENT 1

City of Costa Mesa

Project and Specification No. 21-05

PROPOSAL SCHEDULE
BASE BID
(CONTINUED)

| | |
|---|------------------------|
| TOTAL BASE BID AMOUNT (Figures): | \$ <u>2,166,920.70</u> |
| TOTAL BASE BID AMOUNT (Words): <u>Two Million One Hundred Sixty-Six Thousand Nine Hundred Twenty Dollars and Seventy Cents</u> | |

The award of the Contract shall be based on the lowest responsive Base Bid amount. The CITY also reserves the right to reject all Bids.

Bidder's Initials KK

**PROPOSAL SCHEDULE
(CONTINUED)**

NOTE:

1. The accuracy of estimate quantities as shown is not guaranteed; the Bidder shall make his/her own estimate from the drawings and field review for verification. If the unit price and the total amount are different, the unit price will control the bid. Payment shall be based on actual work done and/or actual quantities used.
2. The City reserves the right to delete one or more bid items and/or to increase or decrease bid items' quantities, at no additional cost to the City.
3. FA designates force account. Payment shall be made on a time and materials basis, only if directed by the ENGINEER.
4. (F) Designates Final Pay Item. When an item of work is designated as "FINAL PAY ITEM" in the Specifications, the estimated quantity for that item of work shall be the final pay quantity, unless the dimensions of any portion of that item are revised by the ENGINEER, or the item or any portion of the item is eliminated. If the dimensions of any portion of the item are revised, and the revisions result in an increase or decrease in the estimated quantity of that item of work, the final pay quantity for the item will be revised in the amount represented by the changes in the dimensions. If a final pay item is eliminated, the estimated quantity for the item will be eliminated. If a portion of a final pay item is eliminated, the final pay quantity will be revised in the amount represented by the eliminated portion of the item of work.

The estimated quantity for each item of work designated as "FINAL PAY ITEM" in the Specifications, shall be considered as approximate only, and no guarantee is made that the quantity which can be determined by computations, based on the details and dimensions shown on the plans, will equal the estimated quantity. No allowance will be made in the event that the quantity based on computations does not equal the estimated quantity.

In case of discrepancy between the quantity shown in the ENGINEER's Estimate for a final pay item and the quantity or summation of quantities for the same item shown on the plans, payment will be based on the quantity shown in the ENGINEER's Estimate.

KK
Bidder's Initials

ATTACHMENT 1

City of Costa Mesa

Project and Specification No. 21-05

PROPOSAL SCHEDULE
(CONTINUED)

(Please Type or Print)

Total Bid Amount (in written words) Two Million One Hundred Sixty Six Thousand Nine Hundred Twenty Dollars and Seventy Cents (\$ 2,166,920.70)
in figures

Contractor's Lawful Name: Horizons Construction Co. Int'l, Inc.

Bidder's Name: Horizons Construction Co. Int'l, Inc. Bidder's Initials: _____

Contractor's License No. 825022 Expiration: 09/30/2023

Contractor's Taxpayer I.D. Number: 14-1865687

Contractor's PWC Registration Number: 1000011017

Signature:  Date: 09/22/2021
Kinan Kotrash, V. President

Contractor's Address: 432 W. Meats Avenue, Orange, CA 92865

Telephone Number: (714) 626-0000 Mobile No.: (714) 626-0000

Fax Number: (714) 626-0006 E-mail: Yazmin@horizonscci.com

24-Hour Emergency Contacts:

Kinan Kotrash Telephone Number: (714) 626-0000
Name

Mobile No.: (714) 728-4276

Hatem Ibrahim Telephone No.: (714) 626-0000
Name

Mobile No.: (714) 417-4323

Name

Telephone No.: (_____)

Mobile No.: (_____)

KK
Bidder's Initials

**PROPOSAL SCHEDULE
(CONTINUED)**

The Contractor agrees that the City will not be held responsible if any of the approximate quantities shown in the foregoing proposal shall be found incorrect, and he shall not make any claim for damages or for loss of profits because of a difference between the quantities of the various classes of work as estimated and the work actually done. If any error, omission or misstatements shall be discovered in the estimated quantities, it shall not invalidate this contract or release the Contractor from the execution and completion of the whole or part of the work herein specified, in accordance with the specifications and the plans herein mentioned and the prices herein agreed upon and fixed therefore, or excuse him from any of the obligations or liabilities hereunder, or entitle him to any damages or compensation otherwise than as provided for in this contract.

The Contractor agrees that the City shall have the right to increase or decrease the quantity of any bid item or portion of the work or to omit portions of the work as may be deemed necessary or expedient, and that the payment for incidental items or work, not separately provided in the proposal shall be considered included in the price bid for other various items or work.

Accompanying this proposal is "Cash," "Certified Check," or "Bidder's Bond" (circle one) in the amount of 10% (\$ _____) equal to at least ten (10%) percent of the total bid price, payable to the City of Costa Mesa, to guarantee that within fourteen (14) days after written notice is deposited in the mail, or the bidder has received notice by telephone, the bidder will furnish proper Certificates of Insurance, and required bonds satisfactory to the City and execute a contract in accordance with the proposal and in the manner and form required by the contract documents.

The undersigned deposits the above-named security as a proposal guarantee and agrees that it shall be forfeited to the City of Costa Mesa as Liquidated Damages if the above requirements are not complied with.

KK
Bidder's Initials

ATTACHMENT 1

City of Costa Mesa

Project and Specification No. 21-05

Respectfully Submitted by:

Horizons Construction Co. Int'l, Inc. / Horizons Construction Co. Int'l, Inc. Vice President
Contractor's Business Name Contractor Title

432 W. Meats Avenue Kinan Kotrash Vice President
Business Address: Street By Title

Orange, CA 92865 825022 / A,B,C2,C8,C12,C20,C21,C36
City State Zip Contractor's License No. and Classification

714-626-0000 09/22/2021
Business Phone Number Date

Kinan Kotrash Vice President 432 W. Meats Avenue
Name Title Residence: Street

Orange, CA 92865 714-626-0000
City State Zip Residence phone Number

If the bid is by a corporation, state the names of the officers who can sign an agreement on behalf of the corporation and whether more than one officer must sign.

[X] Corporation

Taxpayer I.D. Number: 14-1865687

Name Hatem Ibrahim Can Sign [X] Must Sign []
Name Kinan Kotrash Can Sign [X] Must Sign []
Name _____ Can Sign [] Must Sign []

If the bid is by a partnership or a joint venture, state the names and addresses of all general partners and joint venturers.

[] Partnership or Joint Ventures

N/A

Taxpayer I.D. Number: _____

Name _____

Address _____

Name _____

Address _____

If the bidder is a sole proprietorship or another entity that does business under a fictitious name, the bid shall be in the real name of the bidder with a designation following showing "DBA (the fictitious name)"; provided, however, no fictitious name shall be used unless there is a current registration with the Orange County Recorder.

The full names and residences of all persons and parties interested in the foregoing proposal, as principals, are as follows:

NOTE: Give first and last names in full; in case of corporation, give names of President, Secretary, Treasurer and Manager, and affix corporate seal; in case of partnerships and joint ventures, give names of all the individual members.

Hatem Ibrahim, President

Kinan Kotrash, Vice President


KK Bidder's Initials

ATTACHMENT 1

City of Costa Mesa

Project and Specification No. 21-05

Bidder shall signify receipt of all Addenda here, if any:

| <u>Addendum No.</u> | <u>Date Received</u> | <u>Bidder's Signature</u> |
|---------------------|----------------------|---|
| 1 | 09/23/2021 |  |
| | | |
| | | |
| | | |

CONSTRUCTION PROJECT REFERENCES

In order to more fully evaluate your firm's background and experience for the project herein proposed, it is requested that you submit a list of similar projects completed, or in progress, within the last 36 months. This information will be used to evaluate whether the bid is responsive and or responsible to the call for bids.

| <u>Date Project Awarded</u> | <u>Awarding Agency</u> | <u>Agency's Contract Administrator</u> |
|-----------------------------|--|--|
| 04/01/2019 | City of Tustin | Jason Churchill 714-573-3355 |
| 05/01/2020 | City of Anaheim | Lorenzo Rea 714-765-6893 |
| 07/01/2020 | City of San Clemente | Masako Hennequin 949-361-6133 |
| 12/01/2020 | San Bernardino City Unfied School District | Brooke Duncan 909-388-6100 |
| 03/01/2020 | City of Huntington Beach | Danny Kaye 310-351-0138 |
| | | |
| | | |
| | | |
| | | |

KK
Bidder's Initials

ATTACHMENT 1

City of Costa Mesa

Project and Specification No. 21-05

DESIGNATION OF SUBCONTRACTORS
(Continued)

| Bid Item (s) Number | %Portion of Work | Name, Address and E-mail of Subcontractor | State License Number | Class | DIR Registration Number |
|---|---------------------|--|-------------------------|-------------------|----------------------------|
| KK | | KK | KK | KK | KK |
| KK | | KK | KK | KK | KK |
| 53,54,55 56,57,58,59 60,61,62 63 | 4.65% | EBLO Inc 14634 Hawes St. Whittier, Ca 90604 gblandscapes@yahoo.com | 1066301 | C-27 | 1000621253 |
| 30 | 0.71% | Chrissp Company 43650 Osgood Rd Fremont, Ca 94539 jhanson@chrissps.com | 374600 | A C-13 C-32 | 1000000306 |
| 42,43 44,45 33 34,35,36,37 | 5.71% | Gallardo Contractors Inc. 204 E. Flora St. Santa Ana, Ca 92707 edgallardo@earthlink.net | 926928 | B | 1000026072 |
| 65,66 | 11.44% | J. Miller Electric, Inc. P.O. Box 403639 Hesperia, Ca 92340 jmillerelectrical@gmail.com | 730588 | C-10 | 1000001878 |
| | | | | | |
| | | | | | |
| | | | | | |

KK

Bidder's Initials

ATTACHMENT 1

City of Costa Mesa

Project and Specification No. 21-05

DESIGNATION OF SUBCONTRACTORS

In compliance with the "Subletting and Subcontracting Fair Practices Act" being Sections 4100-4113 of the Public Contract Code of the State of California, and any amendments thereto, each bidder shall set forth below the name and location of the place of business of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement in an amount in excess of one-half (½) of one percent (1%) of the prime contractor's total bid or in the case of bids for the construction of streets or highways, including bridges, in excess of one-half (½) of one percent (1%) of the prime contractor's total bid or ten thousand (\$10,000) dollars, whichever is greater. Bidder shall further set forth the portion of the work which will be done by each such subcontractor. Only one subcontractor for each such portion shall be listed.

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

The CITY will be furnished copies of all subcontracts entered into by subcontractor for this project.

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

All information must be filled out and typed. Please use additional pages in this format if needed.

| Bid Item (s) Number | %Portion of Work | Name, Address and E-mail of Subcontractor | State License Number | Class | DIR Registration Number |
|---------------------|------------------|---|----------------------|-------|-------------------------|
| | | | | | |
| | | | | | |
| | | | | | |
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KK
Bidder's Initials

ATTACHMENT 1

CONTRACT ASSURANCE

The CONTRACTOR or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONTRACTOR shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the CONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as recipient deems appropriate.

The CONTRACTOR will require that the above provision is included in all subcontracts.

KK

Bidder's Initial

NONCOLLUSION AFFIDAVIT

The bidders, by its officers and agents or representatives present at the time of filing this bid, being duly sworn on their oaths say, that neither they nor any of them have in any way directly or indirectly entered into any arrangement or agreement with any other bidder, or with any public officer of such CITY OF COSTA MESA whereby such affiant or affiants or either of them has paid or is to pay to such bidder or public officer any sum of money, or has given or is to give to such other bidder or public officer anything of value whatever, or such affiant or affiants or either of them has not directly or indirectly, entered into any arrangement or agreement with any other bidder or bidders, which tends to or does lessen or destroy free competition in the letting of the contract sought for on the attached bids; that no bid has been accepted from any subcontractor or supplier through any bid depository, the By-Laws, Rules, or Regulations of which prohibit or prevent the Contractor from considering any bid from any subcontractor or supplier which is not processed through said bid depository, or which prevent any subcontractor or supplier from bidding to any Contractor who does not use the facilities or accept bids from or through such bid depository; that bidder has not bid as subcontractor to other bidders; that no inducement of any form or character other than that which appears upon the face of the bid will be suggested, offered, paid or delivered to any person of the contract, nor has this bidder any agreement or understanding of any kind whatsoever, with any person whomsoever to pay, deliver to, or share with any other person in any way or manner, any or the proceeds of the contracts sought by this bid.

Horizons Construction Co. Int'l, Inc.

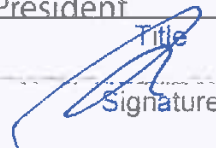
Contractor Firm Name

Kinan Kotrash

Name of Principal

Vice President

Title



Signature

Subscribed and sworn to before me by:

This See Attached day of See Attached 20See Attached

My Commission Expires: _____

Notary Public

KK
Bidder's Initials

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other offices 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 ORANGE

On September 27, 2021 before me YAZMIN BARRERA VALDES, NOTARY PUBLIC

Personally appeared KINAN KOTRASH

[X] 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.



[Handwritten Signature]
Signature of Notary

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
CORPORATE OFFICER
LIMITED
PARTNER(S)
ATTORNEY-IN-FACT
TRUSTEE(S)
GUARDIAN/CONSERVATOR
OTHER:

DESCRIPTION OF ATTACHED DOCUMENT

Noncollusion Affidavit
Job/Bid No.: 21-05

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY (IES)

Horizons Construction Co. Int'l, Inc.

ATTACHMENT 1

CONTRACTOR'S CERTIFICATION
OF
WORKERS' COMPENSATION INSURANCE REQUIREMENTS
FOR
PUBLIC WORKS PROJECTS
(Labor Code §1861)

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

Dated: 09/22/2021

CONTRACTOR


Kinan Ketrashi, V. President
Horizons Construction Co. Int'l, Inc.
Company Name

PROJECT: CITY PROJECT NO. 21-05

KK
Bidder's Initials

ATTACHMENT 1

DRUG-FREE WORKPLACE POLICY

CONTRACTOR, upon notification of contract award, shall establish a Drug-Free Awareness Program to inform employees of the dangers of drug abuse in the workplace, the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace, and the employee assistance programs available to employees. Each employee engaged in the performance of a CITY contract must be notified of this Drug-Free Awareness Program, and must abide by its terms. Failure to establish a program, notify employees, or inform CITY of a drug-related workplace conviction will constitute a material breach of contract and cause for immediate termination of the contract by CITY.

CONTRACTOR shall conform to all the requirements of CITY'S Policy No. 100-5. A copy of this policy is attached to the sample contract agreement as Attachment No. 1 in the Project Specifications.

KK

Bidder's Initials

ATTACHMENT 1

EXHIBIT B

BONDS

THE FINAL PREMIUM IS
PAID ATTACHMENT 1
FINAL CONTRACT PRICE

Bond Number WCN 5955928
(One of Three Originals)

FAITHFUL PERFORMANCE BOND
PUBLIC WORK

(The premium charge on this bond is \$ 17,502.00 , being at
the rate of \$ 10.00 1st* per thousand of the contract price)

* \$500M & \$7.50 balance

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS the CITY OF COSTA MESA, 77 Fair Drive, Costa Mesa, California 92626, has
entered into a contract dated _____, 20 _____, which is hereby incorporated by reference
herein, with Horizons Construction Company International, Inc.

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

Jack Hammett Sports Complex Parking Lot and ADA Upgrades, Project No. 21-05

_____ ; and
WHEREAS, said Principal is required by the terms of said contract to furnish a bond for the
faithful performance of said contract.

NOW, THEREFORE, We the Principal, and Old Republic Surety Company
a corporation organized and existing under the laws of the State of Wisconsin and duly
authorized to transact business under the laws of the State of California, as Surety, are held and
firmly bound unto the CITY OF COSTA MESA in the penal sum of Two Million One Hundred Sixty Six Thousand
Nine Hundred Twenty and 70/100
_____ Dollars (\$ 2,166,920.70), lawful money of the United States, for the payment of
which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and
successors, jointly and severally, firmly by these presents.

The Condition Of This Obligation Is Such, That, if the above bounden Principal, his or its heirs,
executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and
truly keep and perform the covenants, condition and agreements in the said contract and any alteration
thereof made as therein provided, or his or their part, to be kept and performed at the time and in the
manner therein specified, and in all respects according to their true intent and meaning, and shall
indemnify and save harmless the CITY OF COSTA MESA, its officers and agents, as therein stipulated,
then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue.

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

IN WITNESS WHEREOF, We have hereunto set our hands and seals this 11th
day of October, 2021.

Principal: Horizons Construction Company International, Inc.

By: _____
Kincan Kotraske, V. President
Surety: Old Republic Surety Company

By: _____
Matthew R. Dobyms, Attorney-in-Fact



OLD REPUBLIC SURETY COMPANY

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That OLD REPUBLIC SURETY COMPANY, a Wisconsin stock insurance corporation, does make, constitute and appoint:

Randy Spohn, Matthew R. Dobyns, Ashley M. Spohn of Santa Ana, CA

its true and lawful Attorney(s)-in-Fact, with full power and authority for and on behalf of the company as surety, to execute and deliver and affix the seal of the company thereto (if a seal is required), bonds, undertakings, recognizances or other written obligations in the nature thereof, (other than bail bonds, bank depository bonds, mortgage deficiency bonds, mortgage guaranty bonds, guarantees of installment paper and note guaranty bonds, self-insurance workers compensation bonds guaranteeing payment of benefits, or black lung bonds), as follows:

ALL WRITTEN INSTRUMENTS

and to bind OLD REPUBLIC SURETY COMPANY thereby, and all of the acts of said Attorneys-in-Fact, pursuant to these presents, are ratified and confirmed. This appointment is made under and by authority of the board of directors at a special meeting held on February 18, 1982.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the board of directors of the OLD REPUBLIC SURETY COMPANY on February 18, 1982.

RESOLVED that, the president, any vice-president or assistant vice president, in conjunction with the secretary or any assistant secretary, may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the company to execute and deliver and affix the seal of the company to bonds, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such attorney-in-fact or agent and revoke any Power of Attorney previously granted to such person.

RESOLVED FURTHER, that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company

- (i) when signed by the president, any vice president or assistant vice president, and attested and sealed (if a seal be required) by any secretary or assistant secretary; or
- (ii) when signed by the president, any vice president or assistant vice president, secretary or assistant secretary, and countersigned and sealed (if a seal be required) by a duly authorized attorney-in-fact or agent; or
- (iii) when duly executed and sealed (if a seal be required) by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority evidenced by the Power of Attorney issued by the company to such person or persons.

RESOLVED FURTHER that the signature of any authorized officer and the seal of the company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the company; and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, OLD REPUBLIC SURETY COMPANY, has caused these presents to be signed by its proper officer, and its corporate seal to be affixed this 18th day of May, 2021

Karen J. Haffner
Assistant Secretary



OLD REPUBLIC SURETY COMPANY

Alan Pavlic
President

STATE OF WISCONSIN, COUNTY OF WAUKESHA - SS

On this 18th day of May, 2021, personally came before me, Alan Pavlic and Karen J Haffner, to me known to be the individuals and officers of the OLD REPUBLIC SURETY COMPANY who executed the above instrument, and they each acknowledged the execution of the same, and being by me duly sworn, did severally depose and say: that they are the said officers of the corporation aforesaid, and that the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the board of directors of said corporation.



Kathryn R. Pearson
Notary Public

My Commission Expires: September 28, 2022
(Expiration of notary's commission does not invalidate this instrument)

CERTIFICATE

I, the undersigned, assistant secretary of the OLD REPUBLIC SURETY COMPANY, a Wisconsin corporation, CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolutions of the board of directors set forth in the Power of Attorney, are now in force.



74 7097

Signed and sealed at the City of Brookfield, WI this 11th day of October, 2021

Karen J. Haffner
Assistant Secretary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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 ORANGE

On October 11th, 2021 before me, ERIKA G. MORGAN, NOTARY PUBLIC,

personally appeared MATTHEW R. DOBYNS

[X] 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.

[Handwritten Signature of Erika G. Morgan]

Signature of Notary

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual options: [] INDIVIDUAL, [] CORPORATE OFFICER, [] PARTNER(S), [] LIMITED, [X] ATTORNEY-IN-FACT, [] TRUSTEE(S), [] GUARDIAN/CONSERVATOR, [] OTHER: _____

SIGNER IS REPRESENTING: NAME OF PERSON(S) OR ENTITY(IES)

ATTACHMENT 1

Bond No. WCN 5955928
(One of Three Originals)

LABOR AND MATERIALS PAYMENT BOND
TO ACCOMPANY CONTRACT PUBLIC WORK

WHEREAS, the City of Costa Mesa, State of California, has awarded to Horizons Construction Company International, Inc. hereinafter designated as the "Principal", a contract for the project known as: Jack Hammett Sports Complex Parking Lot and ADA Upgrades, Project No. 21-05 in the City of Costa Mesa, in strict conformity with the contract on file with the Costa Mesa City Clerk, which is incorporated herein by this reference.

WHEREAS, Principal has executed or is about to execute the contract and the terms thereof and California Civil Code section 9554 require the furnishing of a bond, providing that if Principal or any of Principal's subcontractors fails to pay for any materials, provisions, or other supplies used in, upon, for, or about the performance of the work agreed to be done, or for any work or labor done thereon of any kind, the Surety on this bond will pay the same to the extent hereinafter set forth.

NOW, THEREFORE, We, the undersigned Principal, and Old Republic Surety Company, duly authorized to transact business under the laws of the State of California, as Surety (referred to herein as "Surety"), are held and firmly bound unto the City of Costa Mesa, in the sum of Two Million One Hundred Sixty Six Thousand Nine Hundred Twenty and 70/100 Dollars (\$2,166,920.70) lawful money of the United States of America, said sum being equal to 100% of the estimated amount payable to the City of Costa Mesa under the terms of the contract, for which payment well and truly to be made, we bind ourselves, our heirs, executors, executors, and administrators, successors and assigns, jointly and severally, firmly by these present.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Principal or the Principal's subcontractors fail to pay for any materials, provisions, or other supplies, implements or machinery used in, upon, for, or about the performance of the work contracted to be done, or for any other work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code with respect to such work or labor, or for any amounts required to be deducted, withheld and paid over to the Employment Development Department from the wages of employees of the Principal and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, then the Surety will pay for the same, in an amount not exceeding the sum specified in this Bond, and also, in case suit is brought to enforce the obligations of this Bond, a reasonable attorneys' fees, to be fixed by the Court as required by the provisions of Section 9554 of the California Civil Code.

This bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Section 9100 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond. And the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety, on the 11th day of October, 20 21.

Horizons Construction Company International, Inc.
Name of Contractor (Principal)

Old Republic Surety Company
Name of Surety
14728 Pipeline Ave., Suite E
Chino Hills, CA 91709
Address of Surety

[Signature] V. President
Authorized Signature/Title Kinan K. R. R. R.
[Signature]
Authorized Agent Signature
Matthew R. Dobyns, Attorney-in-Fact
Print Name and Title



OLD REPUBLIC SURETY COMPANY

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That OLD REPUBLIC SURETY COMPANY, a Wisconsin stock insurance corporation, does make, constitute and appoint:

Randy Spohn, Matthew R. Dobyns, Ashley M. Spohn of Santa Ana, CA

its true and lawful Attorney(s)-in-Fact, with full power and authority for and on behalf of the company as surety, to execute and deliver and affix the seal of the company thereto (if a seal is required), bonds, undertakings, recognizances or other written obligations in the nature thereof, (other than bail bonds, bank depository bonds, mortgage deficiency bonds, mortgage guaranty bonds, guarantees of installment paper and note guaranty bonds, self-insurance workers compensation bonds guaranteeing payment of benefits, or black lung bonds), as follows:

ALL WRITTEN INSTRUMENTS

and to bind OLD REPUBLIC SURETY COMPANY thereby, and all of the acts of said Attorneys-in-Fact, pursuant to these presents, are ratified and confirmed. This appointment is made under and by authority of the board of directors at a special meeting held on February 18, 1982.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the board of directors of the OLD REPUBLIC SURETY COMPANY on February 18, 1982.

RESOLVED that, the president, any vice-president or assistant vice president, in conjunction with the secretary or any assistant secretary, may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the company to execute and deliver and affix the seal of the company to bonds, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such attorney-in-fact or agent and revoke any Power of Attorney previously granted to such person.

RESOLVED FURTHER, that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company

- (i) when signed by the president, any vice president or assistant vice president, and attested and sealed (if a seal be required) by any secretary or assistant secretary; or
- (ii) when signed by the president, any vice president or assistant vice president, secretary or assistant secretary, and countersigned and sealed (if a seal be required) by a duly authorized attorney-in-fact or agent; or
- (iii) when duly executed and sealed (if a seal be required) by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority evidenced by the Power of Attorney issued by the company to such person or persons.

RESOLVED FURTHER that the signature of any authorized officer and the seal of the company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the company; and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, OLD REPUBLIC SURETY COMPANY has caused these presents to be signed by its proper officer, and its corporate seal to be affixed this 18th day of May 2021

Karen J. Haffner
Assistant Secretary



OLD REPUBLIC SURETY COMPANY

Alan Pavlic
President

STATE OF WISCONSIN, COUNTY OF WAUKESHA - SS.

On this 18th day of May 2021, personally came before me, Alan Pavlic and Karen J Haffner to me known to be the individuals and officers of the OLD REPUBLIC SURETY COMPANY who executed the above instrument, and they each acknowledged the execution of the same, and being by me duly sworn, did severally depose and say that they are the said officers of the corporation aforesaid, and that the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the board of directors of said corporation.



Kathryn R. Pearson
Notary Public

My Commission Expires: September 28, 2022

(Expiration of notary's commission does not invalidate this instrument)

CERTIFICATE

I, the undersigned, assistant secretary of the OLD REPUBLIC SURETY COMPANY, a Wisconsin corporation, CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolutions of the board of directors set forth in the Power of Attorney, are now in force.



74 7097

Signed and sealed at the City of Brookfield, WI this 11th day of October 2021

Karen J. Haffner
Assistant Secretary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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 ORANGE

On October 11th, 2021 before me, ERIKA G. MORGAN, NOTARY PUBLIC,

personally appeared MATTHEW R. DOBYNS

[X] 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 of Erika G. Morgan]
Signature of Notary

OPTIONAL

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

Table with 2 columns: CAPACITY CLAIMED BY SIGNER and DESCRIPTION OF ATTACHED DOCUMENT. Includes checkboxes for Individual, Corporate Officer, Partner(s), Attorney-in-Fact, Trustee(s), Guardian/Conservator, Other, and Limited.

ATTACHMENT 1

EXHIBIT C

DRUG-FREE WORKPLACE POLICY

CITY OF COSTA MESA, CALIFORNIA
COUNCIL POLICY

| SUBJECT | POLICY NUMBER | EFFECTIVE DATE | PAGE |
|---------------------|----------------------|-----------------------|-------------|
| DRUG-FREE WORKPLACE | 100-5 | 8-8-89 | 1 of 3 |

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;
 - B. Establishing a Drug-Free Awareness Program to inform employees about:

ATTACHMENT 1

| SUBJECT | POLICY NUMBER | EFFECTIVE DATE | PAGE |
|---------------------|----------------------|-----------------------|-------------|
| DRUG-FREE WORKPLACE | 100-5 | 8-8-89 | 2 of 3 |

1. The dangers of drug abuse in the workplace;
 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- D. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
1. Abide by the terms of the statement; and
 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- E. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- F. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
1. Taking appropriate personnel action against such an employee, up to and including termination; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

ATTACHMENT 1

| SUBJECT | POLICY NUMBER | EFFECTIVE DATE | PAGE |
|---------------------|----------------------|-----------------------|-------------|
| DRUG-FREE WORKPLACE | 100-5 | 8-8-89 | 3 of 3 |

- G. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
- 2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
 - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
 - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
 - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
- 3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.