

## SERVICE AGREEMENT BY AND BETWEEN

COUNTY OF SAN DIEGO

AND

CITY OF SAN DIEGO

FOR

## LONE QUAIL ROAD ROADWAY RESURFACING

This Service Agreement for the Lone Quail Road Roadway Resurfacing ("Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by and between the County of San Diego, a political subdivision of the State of California (hereinafter "COUNTY"), and the City of San Diego, a municipal corporation, (hereinafter "CITY") for Roadway Resurfacing of Lone Quail Road, located within the jurisdictional boundaries of CITY. The COUNTY and CITY are sometimes hereinafter referred to individually as the "PARTY" and collectively as the "PARTIES".

- A. Pursuant to Government Code section 54981 the legislative body of the CITY is authorized to contract with the legislative body of the COUNTY for the performance of municipal services within the territory of the CITY.
- B. The COUNTY currently has a Resurfacing project, comprising of segments of Lone Quail Road, which total approximately 0.28 miles ("COUNTY PROJECT").
- C. The COUNTY AND CITY jurisdictional boundary bisects portions of Lone Quail Road whereby the CITY currently has jurisdiction over portions of this segment, which total approximately 0.17 miles, adjacent to the COUNTY PROJECT.
- D. COUNTY and CITY have mutually agreed that the CITY portion of Lone Quail Road is in need of roadway resurfacing (0.17 miles).
- E. The CITY limit is the western side of the COUNTY PROJECT "Exhibit A". All improvements being proposed within CITY limits shall be referred to as CITY PROJECT.
- F. The Roadway Resurfacing project will consist of asphalt concrete mill and inlay. The existing surface will be milled to a depth of 2 inches to remove surface distresses and irregularities. Two inches of polymer modified asphalt concrete will then be placed within the milled section. Incidental work will include and not be limited to repair of base failures (digouts), utility coordination and striping the roadway.
- G. COUNTY and CITY desire to have one agency take the lead role in the implementation of the roadway improvements in an interest to coordinate the improvements located in the two jurisdictions and to reduce overall costs by processing the two separate jurisdictional improvements as one project.
- H. COUNTY will provide the administrative, technical, managerial, and support services necessary for the implementation of the CITY PROJECT. The CITY will fund project work up to an amount of two hundred sixty-eight thousand, one hundred eighty-six dollars and eighty-one cents (268,186.81) as well as changes to the CITY PROJECT completed with prior CITY approval. COUNTY will fund one hundred percent (100%) of the cost of the COUNTY PROJECT.
- I. COUNTY and CITY desire to define herein the terms and conditions under which said CITY PROJECT is to be administered, engineered, coordinated, and constructed.

**AGREEMENT**

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

**SECTION 1 • COUNTY AGREES:**

1. To act as the lead agency on behalf of the CITY for the overall development and implementation of the CITY PROJECT. The COUNTY is providing services for which the CITY will reimburse COUNTY as shown on Exhibit "B", which is attached hereto and incorporated by this reference.
2. To prepare, or cause to be prepared, detailed plans, specifications and estimates documents ("PS&E") for CITY PROJECT and submit to CITY for review and approval at appropriate stages of development. Final plans for improvements shall be prepared to COUNTY standards and signed by a Civil Engineer registered in the State of California. Deviations from standards shall be coordinated with and approved by CITY.
3. To identify and locate all utility facilities within the limits of the CITY PROJECT as part of its design responsibility. If any existing public and/or private utility facilities conflict with CITY PROJECT construction, CITY and COUNTY shall coordinate and cooperate in good faith to make all necessary arrangements with the owners of such facilities for their protection, adjustment, relocation, or removal. CITY and COUNTY shall, in good faith, coordinate and cooperate to require the utility owner and/or its contractors performing the relocation work within CITY's right of way to obtain a CITY encroachment permit prior to the performance of said relocation work. CITY and COUNTY shall, in good faith, coordinate and cooperate in the effort to establish prior rights related to utility encroachments into each jurisdiction's right-of-way. In the case that any utility companies are determined to have prior rights, the cost of relocating utilities shall be borne by the CITY.
4. To make written application to CITY for a Public Right-of-Way Permit authorizing entry into CITY's right of way for the purposes of constructing CITY PROJECT.
5. In accordance with Exhibit "C", Agreement Designating Lead Agency, to act as the Lead Agency under the California Environmental Quality Act ("CEQA") for the CITY PROJECT. To advertise, award and administer a public works contract for the construction of the CITY PROJECT in accordance with all applicable federal, state or County statutes, ordinances, orders, governmental requirements, laws or regulations, including but not limited to the COUNTY public construction codes, California Labor Code, and California Public Contract Code.
6. To furnish a representative to perform the function of Resident Engineer during construction of CITY PROJECT.
7. To furnish qualified support staff to assist the Resident Engineer; such assistance shall include, but not be limited to, construction surveys, soils and compaction tests, measurement and computation of quantities, testing of construction materials, checking submittals, preparation of estimates and reports, preparation of as-built drawings, and other inspection and staff services necessary to assure that the construction is performed in accordance with the PS&E documents.
8. To construct the CITY PROJECT in accordance with approved PS&E documents.
9. To submit any contract change order that causes the amount of the CITY PROJECT improvements to exceed \$268,186.81 (as shown in Exhibit B) to CITY for review and approval prior to final authorization by COUNTY.

10. To furnish CITY as-built plans, within one hundred and eighty (180) days following the completion and acceptance of the CITY PROJECT construction contract.
11. To furnish CITY a final reconciliation of project expenses within ninety (90) days following the completion and acceptance of the CITY PROJECT construction contract. If final costs associated with the CITY's improvements are in excess of the deposit provided in Section 2, COUNTY shall include a final bill with the financial reconciliation. If final costs associated with the CITY's improvements are less than the deposit provided in Section 2, COUNTY shall reimburse CITY for the difference with the financial reconciliation.

**SECTION 2 • CITY AGREES:**

1. To fund one hundred percent (100%) of the cost of the CITY PROJECT. CITY agrees that should unforeseen circumstances arise which result in an increase of any costs over those shown in "Exhibit B", CITY will in good faith amend this Agreement to include any such costs under this Agreement, subject to City Council approval if applicable.
2. To deposit with COUNTY, within 30 days of executing this agreement, full value (\$268,186.81) (the "Deposit"), as provided in "Exhibit B".
3. CITY agrees to approve the COUNTY or its contractors Public Right-of-Way Permit application authorizing entry onto CITY's right of way to perform all surveys and other field activities required for preparation of the PS&E, utility coordination, and construction of the CITY PROJECT, if the proposed work meets CITY design and access requirements, within 45 days of the application being deemed complete. CITY agrees to reimburse COUNTY for COUNTY, or its contractor's, cost to obtain such permit and for any requirements of said permit not required by COUNTY's construction contract.
4. CITY agrees to waive permits (except for Public Right-of-Way Permit) including, but not limited to, private development applications for COUNTY activities required for resurfacing within CITY boundaries.
5. Provide a representative to coordinate with the COUNTY's Project Manager during the development and the construction of CITY PROJECT, and to verify facilities are constructed as required by this Agreement, if applicable.
6. To provide oversight of the CITY PROJECT, to provide reviews and approvals, as appropriate, of submittals by COUNTY, and to cooperate in processing of the CITY PROJECT.
7. To pay within 45 days of receipt, the invoice for final reconciled cost in excess of the deposit amount for CITY PROJECT submitted by COUNTY for services rendered in accordance with this Agreement, subject to City Council approval if applicable.
8. CITY agrees that it shall be legally obligated to pay the full cost of the CITY PROJECT, including any costs associated with change orders reasonably necessary to complete the project, and that this liability shall not be reduced, excused or defensed on the basis of the failure or refusal of the City Council to approve an amendment to this Agreement or budget necessary funds to pay the liability.
9. CITY agrees that COUNTY shall not be liable to CITY for any cost increases or liabilities resulting from any alleged errors or omissions in site investigation, utility coordination, engineering review, or other activities associated with, use in, and including the PSE for the CITY PROJECT and that COUNTY makes no representations or warranties regarding quality of work or materials for the CITY PROJECT. CITY is a third-party beneficiary of the CITY PROJECT work to be included

in the COUNTY contract per Section 1 and COUNTY agrees to assign any warranties or other contractual rights it may have to CITY for the CITY PROJECT portion of the work.

**SECTION 3 • IT IS MUTUALLY AGREED AS FOLLOWS:**

1. The total cost to CITY to complete PS&E documents, construction, including construction survey, inspection and a material testing for CITY PROJECT, including soft costs and contingency, is estimated to be, two hundred and sixty-eight thousand, one hundred and eighty-six dollars and eighty-one cents (\$268,186.81) as detailed in "Exhibit B".
2. COUNTY shall not be obligated to commence construction of the CITY PROJECT until after receipt of CITY's deposit as required in Section 2.
3. During any portion of the CITY PROJECT, if a cost overrun exceeding ten percent (10%) of the COUNTY Construction Cost Estimate is identified, COUNTY and CITY shall endeavor to agree upon a course of action in a timely manner to avoid construction delay, contractor mobilization or similar costs.
4. Construction by COUNTY of improvements referred to herein which lie within CITY rights of way shall not be commenced until a Public Right-of-Way Permit to COUNTY, or COUNTY's contractor, authorizing such work has been issued by CITY.
5. Parties shall obtain and/or cause any agent, subcontractor or other representative of that Party to maintain insurance at its own cost and expense and keep in force and effect during the term of this Agreement, including all extensions, policies of insurance or programs of self-insurance with policy limits in sufficient amounts to cover any and all potential liability of such Party hereunder. COUNTY shall ensure that any contractor or subcontractors working on the CITY PROJECT will name City of San Diego, its respective elected officials, officers, employees, agents, and representatives as additional insureds under all policies of insurance, and that additional insured certificates be provided to CITY as specifically set forth in Exhibit D, City of San Diego Insurance Requirements. COUNTY shall also ensure that any contractor or subcontractor working on the CITY PROJECT will agree to defend and indemnify City of San Diego, its respective elected officials, officers, employees, agents, and representatives against any claims arising out of the CITY PROJECT, with the exception of claims arising out of the CITY'S sole negligence or willful misconduct. Ownership and title to all materials, equipment, and appurtenances installed as part of this Agreement will be automatically vested with the jurisdiction in which the improvements reside and no further agreement will be necessary to transfer ownership. COUNTY shall have no liability for any claims within the scope of insurance provided by the COUNTY's contractor, and any insurance or self-insurance maintained by COUNTY shall not be obligated for any such insured claims.
6. CITY shall be responsible for the maintenance of the improvements provided by CITY PROJECT. COUNTY shall be responsible for the maintenance of the improvements provided by COUNTY PROJECT. CITY shall accept responsibility for maintenance of CITY PROJECT upon receipt of a notice of completion from COUNTY.
7. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by all parties and no oral understanding or agreement not incorporated herein shall be binding on each party hereto.

8. In the event that either party defaults in the performance of any of its obligations under this Agreement or materially breaches any of the provisions of this Agreement, the other party shall have the option to terminate this Agreement for default. Termination by CITY for default after the award of a construction contract shall not excuse CITY from paying for the CITY PROJECT work completed prior to termination. If COUNTY's contractor has the legal right to complete work per the awarded contract, CITY's termination for default shall not excuse the CITY from liability to the contractor for completion or damages for failure to allow completion of the CITY PROJECT.
9. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the same shall be deemed severable from the remainder of this Agreement, and the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.
10. This Agreement is to be construed in accordance with the laws of the State of California.
11. Neither the CITY nor COUNTY shall assign this Agreement without the written consent of the other party.
12. Any action at law or in equity brought by any of the parties hereto for the purpose of enforcing a right or rights provided by this Agreement shall be tried in a court of competent jurisdiction in the City and County of San Diego, State of California, and the parties hereto waive all provisions of law providing for a change of venue in such proceedings to any other county.
13. This Agreement is the result of negotiations between the parties hereto, and the advice and assistance of their respective counsel. The fact that this Agreement was prepared as a matter of convenience by CITY or COUNTY shall have no importance or significance. Any uncertainty or ambiguity in this Agreement shall not be construed against the party that prepared it in its final form.
14. Any waiver by COUNTY or CITY of any breach by any other party of any provision of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or any other provision hereof. Failure on the part of COUNTY or CITY to require from any other party exact, full and complete compliance with any of the provisions of this Agreement shall not be construed as in any manner changing the terms hereof, or stopping COUNTY or CITY from enforcing this Agreement.
15. This Agreement and the Exhibits herein contain the entire agreement between the Parties, and are intended by the Parties to completely state the Agreement in full. Any agreement or representation respecting the matters dealt with herein or the duties of any party in relation thereto, not expressly set forth in this Agreement, is null and void.
16. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not a party to this Agreement or affect the legal liability of any party to the Agreement by imposing any standard of care with respect to the maintenance of roads different from the standard of care imposed by law.
17. CITY and COUNTY shall retain or cause to be retained for audit, all records and accounts relating to CITY PROJECT for a period of minimum three (3) years from the date of Notice of Completion of the CITY PROJECT.
18. The CITY PROJECT shall be awarded and completed in conformity with all applicable federal, State, and COUNTY laws, rules, and regulations, current and hereinafter enacted, including facility and professional licensing and/or certification laws and keep in effect any and all

licenses, permits, notices and certificates as are required. The COUNTY as the Party responsible for overseeing the contract work shall ensure compliance with all laws applicable to wages and hours of employment, occupational safety, and to fire safety, health and sanitation. In addition to any applicable federal or State laws, rules, or regulations, COUNTY shall comply with CITY requirements imposed for access to CITY right-of-way and design requirements included in the PSE at the request of the CITY.

19. Any party may propose amendments to this Agreement by providing written notice of such amendments to the other party. This Agreement may only be amended by a written amendment signed by each party's administrator.
20. This Agreement only applies to the CITY PROJECT described herein and does not set forth any additional current or future obligations or agreements between the parties, except that the parties may by written amendment amend the scope of this Agreement.
21. This Agreement shall become effective on the date all of the parties have signed this Agreement and be in force until the latter of two years from the execution date or the completion and final payment by CITY for CITY PROJECT, but shall not exceed five years without City Council approval.
22. The COUNTY or CITY may, by written notice stating the extent and effective date, terminate this Agreement for convenience in whole or in part, at any time prior to the award of a construction contract for the CITY PROJECT by COUNTY.
23. This Agreement may be executed in any number of separate counterparts, each of which shall be deemed an original but all of which when taken together shall constitute one and the same instrument.
24. All notices, demands, invoices, and other communications required or permitted hereunder shall be in writing and delivered to the following addresses or such other address as the Parties may designate:

**COUNTY:**

County of San Diego, Department of Public Works  
Attn: Samir Nuhaily, Deputy Director of Public Works  
5510 Overland Ave, Suite 370  
San Diego, CA 92123  
Phone: (619) 507-7754

**CITY:**

San Diego  
Naomi Chavez, Interim Director  
Transportation Department  
2781 Caminito Chollas, MS#44  
San Diego, CA 92105

**Attachments:**

1. EXHIBIT A – PROJECT MAP
2. EXHIBIT B – CITY ESTIMATED PROJECT COSTS
3. EXHIBIT C – AGREEMENT DESIGNATING THE COUNTY OF SAN DIEGO AS THE LEAD AGENCY FOR PROJECT
4. EXHIBIT D – SAN DIEGO INSURANCE REQUIREMENTS

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego and the County of San Diego, acting by and through their authorized officers.

COUNTY OF SAN DIEGO

BY: \_\_\_\_\_  
ANDREW POTTER  
Executive Officer/ Clerk of the Board of Supervisors  
DATE: \_\_\_\_\_

Approved as to form this \_\_\_\_\_ day of  
\_\_\_\_\_, 2025.

BY: \_\_\_\_\_  
THOMAS BOSWORTH  
County Counsel

CITY OF SAN DIEGO

BY: Beric Doringo  
BERRIC DORINGO  
Deputy Director  
DATE: 12/10/2025

Approved as to form this 10<sup>th</sup> day of  
DECEMBER 2025.

HEATHER HERBERT, City Attorney

BY: Ryan Gerrity  
RYAN GERRITY  
Deputy City Attorney 12/10/2025

## **Exhibit A- Project Map**

# County DPW Resurfacing Exhibit

## Lone Quail Rd



## **Exhibit B- City Estimated Project Costs**

**ATTACHMENT B**

SUPERVISORIAL DISTRICT 2											
County Planning Group	Road Name	FROM	TO	# LANES	Area (SY)	Treatment	PCI	Est Construction Cost	Est Total Cost (Const + 28% Soft Cost)	Encroachment Permit Development	City Length (MI)
SAN DIEGUITO	LONE QUAIL RD	CAMINO DEL NORTE	DEL SUR RIDGE RD	2	2,864	2" Mill/Inlay	43	\$131,396	\$268,186.81	\$100,000.00	0.14
				2	2,864			\$131,395.94	\$268,186.81	\$100,000.00	0.14

Mill Inlay						
No.	Code	Item Description	Qty	Unit	Cost	Total
1		Prepare Water Pollution Control Program	1	LS	\$1,500	\$1,500
2		Construction Site Management	1	LS	\$7,500	\$7,500
3		Plane Asphalt Concrete Pavement (Full Width)	2,864	SY	\$4.75	\$13,604
4		Replace Asphalt Concrete Surfacing	64	CY	\$275	\$17,502
5		Tack Coat	1.0	TON	\$800	\$837
6		HMA Type A	445	TON	\$145	\$64,553
7		Pavement Delineation	1	LS	\$2,000.00	\$2,000
8		Field Orders	1	DLR	\$2,000	\$2,000
Base Subtotal					\$109,497	
Contingency (20%)					\$21,899	
Base Total					<b>\$131,396</b>	

\$45.88

## **Exhibit C- Agreement Designating the County of San Diego as the Lead Agency for Project**

Attachment C

**AGREEMENT DESIGNATING THE COUNTY OF SAN DIEGO AS THE LEAD AGENCY FOR PROJECT**

This agreement is made between the County of San Diego (County) and City of San Diego (City) under Title 14 California Code of Regulations 15051(d), designating the County as the lead agency under the California Environmental Quality Act (CEQA) for the City Project.

WHEREAS, the County and City desire the County to carry out the City Project pursuant to Lone Quail Road Resurfacing project;

WHEREAS, the City currently has jurisdiction over a portion of the roadway where the City Project is located, and the City will fund one hundred percent (100%) of the City Project;

WHEREAS, both parties are public agencies that may each carry out or approve portions of the project, and both may have substantial claim to act as lead agency under CEQA;

NOW THEREFORE, the parties agree that the County will act as the CEQA lead agency for the environmental review of the project and will have all discretion to fulfill the obligations of a CEQA lead agency with respect to the project.

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego and the County of San Diego, acting by and through their authorized officers.

COUNTY OF SAN DIEGO

BY: \_\_\_\_\_

ANDREW POTTER

Executive Officer/ Clerk of the Board of Supervisors

DATE: \_\_\_\_\_

Approved as to form this \_\_\_\_\_ day of  
\_\_\_\_\_, 2025.

BY: \_\_\_\_\_

THOMAS BOSWORTH

County Counsel

CITY OF SAN DIEGO

BY: Berric Doringo

BERRIC DORINGO

Purchasing & Contracting Department

Deputy Director

DATE: 12/12/2025

Approved as to form this 12 day of  
DECEMBER 2025.

12/12/2025

HEATHER FERBERT, City Attorney

BY: Ryan Gerrity

RYAN GERRITY

Deputy City Attorney

## **Exhibit D- City of San Diego Insurance Requirements**

**Exhibit D – City of San Diego Insurance Requirements**

The City of San Diego Insurance Requirements are as follows:

The **2021 Edition** of the Standard Specifications for Public Works Construction (The “GREENBOOK”).

**SECTION 5 – LEGAL RELATIONS AND RESPONSIBILITIES**

**5-4** **INSURANCE.** To the “GREENBOOK”, DELETE in its entirety and SUBSTITUTE with the following:

**5-4** **INSURANCE.**

1. The insurance provisions herein shall not be construed to limit your indemnity and defense duties set forth in the Contract.

**5-4.1** **Policies and Procedures.**

1. You shall procure the insurance described below, at your sole cost and expense, to provide coverage against claims for loss including injuries to persons or damage to property, which may arise out of or in connection with the performance of the Work by you, your agents, representatives, officers, employees or Subcontractors.
2. Insurance coverage for property damage resulting from your operations is on a replacement cost valuation. The market value will not be accepted.
3. You shall maintain this insurance as required by this Contract and at all times thereafter when you are correcting, removing, or replacing Work in accordance with this Contract. Your duties under the Contract, including your indemnity obligations, are not limited to the insurance coverage required by this Contract.
4. If you maintain broader coverage or higher limits than the minimums shown below, City requires and shall be entitled to the broader coverage or the higher limits maintained by you. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.
5. Your payment for insurance shall be included in the Contract Price you bid. You are not entitled to any additional payment from the City to cover your insurance, unless the City specifically agrees to payment in writing. Do not begin any Work under this Contract or allow any Subcontractors to begin work, until you have provided, and the City has approved, all required insurance.
6. Policies of insurance shall provide that the City is entitled to 30 days advance written notice of cancellation or non-renewal of the policy or 10 days advance written notice for cancellation due to non-payment of premium. Maintenance of specified insurance coverage is a material element of the Contract. Your failure to maintain or renew coverage and to provide evidence of renewal during the term of the Contract may be treated by the City as a material breach of the Contract.

**5-4.2 Types of Insurance.****5-4.2.1 General Liability Insurance.**

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

<u>General Annual Aggregate Limit</u>	<u>Limits of Liability</u>
Other than Products/Completed Operations	\$10,000,000
Products/Completed Operations Aggregate Limit	\$10,000,000
Personal Injury Limit	\$5,000,000
Each Occurrence	\$5,000,000

**5-4.2.2 Commercial Automobile Liability Insurance.**

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

**5-4.2.3 Workers' Compensation Insurance and Employers Liability Insurance.**

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

2. Statutory Limits shall be provided for Workers' Compensation Insurance as required by the state of California, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.
3. By signing and returning the Contract, you certify that you are aware of the provisions of California's Workers' Compensation laws, including Labor Code section 3700, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance, and that you will comply with these provisions before commencing the Work..

**5-4.2.4****Contractors Pollution Liability Insurance.**

1. You shall procure and maintain at your expense or require your Subcontractor, as described below, to procure and maintain Contractors Pollution Liability Insurance applicable to the Work being performed, with a limit no less than \$2,000,000 per claim or occurrence and \$4,000,000 aggregate per policy period of one year.
2. All costs of defense shall be outside the limits of the policy.
3. You shall obtain written approval from the City for any insurance provided by your Subcontractor instead of you.
4. For approval of a substitution of your Subcontractor's insurance, you shall certify that all activities for which the Contractors Pollution Liability Insurance will provide coverage will be performed exclusively by the Subcontractor providing the insurance. The deductible shall not exceed \$25,000 per claim unless the City has provided prior, written approval.
5. Occurrence based policies shall be procured before the Work commences. Claims Made policies shall be procured before the Work commences, shall be maintained for the Contract Time, and shall include a 12-month extended Claims Discovery Period applicable to this contract or the existing policy or policies that shall continue to be maintained for 12 months after the completion of the Work without advancing the retroactive date.

**5-4.2.5****Contractors Hazardous Transporters Pollution Liability Insurance.**

1. You shall procure and maintain at your expense or require your Subcontractor, as described below, to procure and maintain Contractors Hazardous Transporters Pollution Liability Insurance, including contractual liability coverage to cover liability arising out of transportation of hazardous or toxic, materials, substances, or any other pollutants by you or any Subcontractor in an amount no less than \$2,000,000 limit per occurrence and \$4,000,000 aggregate per policy period of one year.
2. All costs of defense shall be outside the limits of the policy.
3. You shall obtain written approval from the City from any insurance provided by a Subcontractor instead of you.

4. To obtain City approval of a Subcontractor's insurance coverage in lieu of the Contractor's insurance, the Contractor shall certify that all activities under the Contractor's Hazardous Transporters Pollution Liability Insurance will be performed exclusively by the Subcontractor providing the insurance. The deductible shall not exceed \$25,000 per claim without prior approval of the City.
5. Occurrence based policies shall be procured before the Work commences. Claims Made policies shall be procured before the Work commences, shall be maintained for the duration of this contract, and shall include a 12-month extended Claims Discovery Period applicable to this Contract or the existing policy or policies that shall continue to be maintained for 12 months after the completion of the Work under this Contract without advancing the retroactive date.

**5-4.3** **Rating Requirements.** Except for the State Compensation Insurance Fund, all insurance required by this Contract shall be carried only by responsible insurance companies with a rating of, or equivalent to, at least "A-, VI" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the state of California, and that have been approved by the City.

**5-4.3.1** **Non-Admitted Carriers.** The City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the state of California and is included on the List of Approved Surplus Lines Insurers (LASLI list).

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

**5-4.4** **Evidence of Insurance.** You shall furnish the City with original Certificates of Insurance, including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause), prior to your commencement of Work under this Contract. In addition, The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

**5-4.5** **Policy Endorsements.**

**5-4.5.1** **Commercial General Liability Insurance.**

**5-4.5.1.1** **Additional Insured.** To the fullest extent permitted by law and consistent with the limiting provisions set forth at California Civil Code section 2782, California Insurance Code section 11580.04, and any applicable successor statutes limiting indemnification of public agencies that bind the City, the policy or policies shall be endorsed to include as an Additional Insured the City and its respective elected officials, officers, employees, agents, and representatives, with respect to liability arising out of:

1. Ongoing operations performed by you or on your behalf,
2. your products,
3. your work, e.g., your completed operations performed by you on your behalf, or
4. premises owned, leased, controlled, or used by you.

**5-4.5.1.2 Primary and Non-Contributory Coverage.** The policy shall be endorsed to provide that the coverage with respect to operations, including the completed operations, if appropriate, of the Named Insured is primary to any insurance or self-insurance of the City and its elected officials, officers, employees, agents and representatives. Further, it shall provide that any insurance maintained by the City and its elected officials, officers, employees, agents and representatives shall be in excess of your insurance and shall not contribute to it.

**5-4.5.1.3 Project General Aggregate Limit.** The policy or policies shall be endorsed to provide a Designated Construction Project General Aggregate Limit that will apply only to the Work. Only claims payments which arise from the Work shall reduce the Designated Construction Project General Aggregate Limit. The Designated Construction Project General Aggregate Limit shall be in addition to the aggregate limit provided for the products-completed operations hazard.

**5-4.5.2 Workers' Compensation Insurance and Employers Liability Insurance.**

**5-4.5.2.1 Waiver of Subrogation.** The policy or policies shall be endorsed to provide that the insurer will waive all rights of subrogation against the City and its respective elected officials, officers, employees, agents, and representatives for losses paid under the terms of the policy or policies and which arise from Work performed by the Named Insured for the City.

**5-4.5.3 Contractors Pollution Liability Insurance Endorsements.**

**5-4.5.3.1 Additional Insured.** To the fullest extent permitted by law and consistent with the limiting provisions set forth at California Civil Code section 2782, California Insurance Code section 11580.04, and any applicable successor statutes limiting indemnification of public agencies that bind the City, the policy or policies shall be endorsed to include as an Additional Insured the City and its respective elected officials, officers, employees, agents, and representatives, with respect to liability arising out of:

1. Ongoing operations performed by you or on your behalf,
2. your products,
3. your work, e.g., your completed operations performed by you on your behalf, or
4. premises owned, leased, controlled, or used by you.

**5-4.5.3.2 Primary and Non-Contributory Coverage.** The policy or policies shall be endorsed to provide that the insurance afforded by the Contractors Pollution Liability Insurance policy or policies is primary to any insurance or self-insurance of the City and its elected officials, officers, employees, agents and representatives with respect to operations including the completed operations of the Named Insured. Any insurance maintained by the City and its elected officials, officers, employees, agents and representatives shall be in excess of your insurance and shall not contribute to it.

**5-4.5.3.3 Severability of Interest.** For Contractors Pollution Liability Insurance, the policy or policies shall provide that your 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 and shall provide cross-liability coverage.

**5-4.5.4 Contractors Hazardous Transporters Pollution Liability Insurance Endorsements.**

**5-4.5.4.1 Additional Insured.** To the fullest extent permitted by law and consistent with the limiting provisions set forth at California Civil Code section 2782, California Insurance Code section 11580.04, and any applicable successor statutes limiting indemnification of public agencies that bind the City, the policy or policies shall be endorsed to include as an Additional Insured the City and its respective elected officials, officers, employees, agents, and representatives, with respect to liability arising out of:

1. Ongoing operations performed by you or on your behalf,
2. your products,
3. your work, e.g., your completed operations performed by you on your behalf, or
4. premises owned, leased, controlled, or used by you.

**5-4.5.4.2 Primary and Non-Contributory Coverage.** The policy or policies shall be endorsed to provide that the insurance afforded by the Contractors Pollution Liability Insurance policy or policies is primary to any insurance or self-insurance of the City and its elected officials, officers, employees, agents and representatives with respect to operations including the completed operations of the Named Insured. Any insurance maintained by the City and its elected officials, officers, employees, agents and representatives shall be in excess of your insurance and shall not contribute to it.

**5-4.5.4.3 Severability of Interest.** For Contractors Hazardous Transporters Pollution Liability Insurance, the policy or policies shall provide that your 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, and shall provide cross-liability coverage.

**5-4.6 Deductibles and Self-Insured Retentions.** You shall disclose deductibles and self-insured retentions to the City at the time the evidence of insurance is provided. The City may require you to purchase coverage with a lower retention or provide proof of

ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

**5-4.7** **Reservation of Rights.** The City reserves the right, from time to time, to review your insurance coverage, limits, deductibles, and self-insured retentions to determine if they are acceptable to the City. The City will reimburse you, without overhead, profit, or any other markup, for the cost of additional premium for any coverage requested by the Engineer, but not required by this Contract.

**5-4.8** **Notice of Changes to Insurance.** You shall notify the City, in writing, 30 days prior to any material change to the policies of insurance provided under this Contract. This written notice is in addition to the requirements of paragraph 6 of Section 5-4.1.

**5-4.9** **Excess Insurance.** Policies providing excess coverage shall follow the form of the primary policy or policies, including, all endorsements.