

HEBER PUBLIC UTILITY DISTRICT

REPORT TO BOARD OF DIRECTORS

MEETING DATE: May 21, 2015

FROM: Laura Fischer, General Manager

SUBJECT: Authorize the General Manager to Award the Construction Contract for the construction of a Basketball Court at Margarito "Tito" Huerta Park.

ISSUE:

Shall the Board of Directors authorize the General Manager to award the Construction Contract for the Basketball Court at Tito Park?

GENERAL MANAGER'S RECOMMENDATION:

It is recommended that the Board of Directors authorize the General Manager to award the construction contract for the improvements to the Basketball Court at Tito Park.

FISCAL IMPACT:

The bids for the project are to be opened on Wednesday, May 20th. The information from the bid opening will be presented to the Board at the meeting.

BACKGROUND:

At the March 2014 Board Meeting the Board authorized the General Manager to award a construction contract to install the basketball court at Tito Huerta Park. The project cost was not to exceed \$30,000. The project is required to be advertised for bid and the bids must include current legal requirements, such as prevailing wage regulations, payment bonds, and registration with the California Department of Industrial Relations.

DISCUSSION:

Staff was delayed in submitting the request for proposals and in April 2015, the Request for Proposals was prepared and advertised. A copy of the Request for Proposal and project schedule is attached for your review. The project is included in the current Capital Improvement Project Budget in the amount of \$30,000 in FY 2014-15.

CONCLUSION:

Staff will present the bid tabulation at the Board Meeting and recommends awarding the contract to the lowest bidder.

ALTERNATIVES:

- 1) Award contract to low bidder and move the project forward according to the schedule.
- 2) Do not award the contract, which will delay the project.

- 3) Provide additional instructions to ² staff to rebid the project or to reprogram the project in the CIP for future development.

Respectfully Submitted,

Laura Fischer,
General Manager

Attachment: Request for Proposal – Basketball Court
Project Schedule – Basketball Court

**HEBER PUBLIC UTILITY DISTRICT –
BASKETBALL COURT – MARGARITO “TITO” HUERTA PARK**

APRIL 21, 2015

SECTION I -- INVITATION FOR PROPOSALS

**HEBER PUBLIC UTILITY DISTRICT
BASKETBALL COURT AT MARGARITO "TITO" HUERTA PARK**

Sealed proposals will be received by the **Heber Public Utility District at 1078 Dogwood Road, Suite 103, Heber, California 92249** until **10:00 a.m.**, prevailing local time, **Wednesday, May 20, 2015** for the construction of the Heber Public Utility District –Basketball Court at Margarito "Tito" Huerta Park. At such time proposals will be publicly opened and read aloud.

General Work Location: The work is located at the Heber Public Utility District's Margarito "Tito" Huerta Park. The park is located at the corner of Hawk Avenue and Palm Avenue, Heber, CA 92249. The basketball court will be constructed at the location of the existing cement slab.

General Work Description: The work includes: Repair existing 40' X 80' slab, clean and seal all cracks, saw cut joint, mill (grind) high areas, and restore with 1/4" topping and seal cement; Extend existing 40' X 80' slab to the final dimension of 60' X 100" by extending a 20' X 100' slab on the north side of existing and a 20' X 40' slab to the west end of existing; excavate 11" of subgrade for 5" concrete; 6" class 2 base, 6 mil visqueen No. 3 rebar at 18" on center, each way; No. 4 steel dowels into existing concrete for a depth of 8 inches at 36" on center; 16" thicken edge outside footing with 2 No. 5 rebar; remove and replace entry sidewall measuring 6'6" X 13' level with existing slab; saw cut 36" sq. and demo for basketball pole mounts; set (2) 36" diam. X 4' deep set pole in concrete; equipment and poles for professional full size basketball court; basketball court stripping.

Proposals shall conform to the requirements of this Invitation for Proposals and other documents listed herein and any addenda thereto issued in advance of the proposal opening date.

The specifications setting forth requirements and the work to be performed are comprised of the following:

Section I	Invitation for Proposals
Section II	Instructions to Bidders
Section III	Proposal Forms
Section IV	Contract and Bond Forms
Section V	General Conditions
Section VI	Special Conditions
Section VII	Technical Conditions
Section VIII	Design Plan (layout)
and all addendum(a).	

Only those firms who have received the bid documents will be provided any addendum (a) that may be issued for this project prior to the bid opening date.

Inquiries or questions based on alleged patent ambiguity of the Bid package must be communicated as a bidder inquiry prior to bid opening. Any such inquiries or questions, submitted after bid opening, will not be treated as a bid protest.

The successful bidder shall furnish a payment bond and a performance bond, both equal to 100% of the contract amount.

Minimum wage rates for this project as predetermined by State of California are set forth in the Instruction for Bidders section of the specifications.

Pursuant to Section 1773 of the Labor Code, the general prevailing rate of wages in the County in which the work is to be done has been determined by the Director of the California Department of Industrial Relations and are listed in the Instruction for Bidders section of the Specifications.

Bidders are encouraged to visit the Project Site located at **the corner of Hawk Avenue and Palm Avenue, Heber, CA 92249.**

Withdrawal of bids shall not be permitted for a period of sixty (60) days after the date set for the opening thereof.

Monies withheld by the Heber Public Utility District to ensure performance under the contract may be released in accordance with Government Code Section 4590 and these contract documents.

The bidder's attention is directed to the section entitled "List of Proposed Subcontractor" in Section III, Proposal Forms, regarding the requirement that proposed subcontractors be listed in the bidder's proposal. All subcontractors shall be listed in the bid proposal for items of work or portions thereof to be subcontracted in excess of one-half of one percent of the total bid or \$10,000.00, whichever is the lesser amount.

In the case where a bidder claims an inadvertent clerical error in listing subcontractors, a notice of the claim must be submitted to the General Manager in writing within two (2) working days after the time of the bid opening and copies sent to the subcontractors involved.

No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 01, 2015) unless registered with the California Department of Industrial Relations pursuant to the California Labor Code section 1725.5 [with limited exception from this requirement for bid purposes only under California Labor Code section 1771.1(a)].

No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 01, 2015) unless registered with the California Department of Industrial Relations pursuant to California Labor Code section 1725.5.

This project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

Copies of the Bid Package are available for examination without charge during normal business hours at the office of the Heber Public Utility District:

Heber Public Utility District
1078 Dogwood Road, Suite 103
Heber, CA 92249
(760) 482-2440

Technical questions shall be addressed to Laura Fischer. Copies of the Bid Package may be obtained from The Heber Public Utility District, 1078 Dogwood Road, Suite 103, Heber, CA, 92249, (760) 482-2440 by requesting a copy of the Bid Package.

Dated: April 21, 2015

Raquel R. Carrillo, Clerk of the Board

Published: Imperial Valley Press

Wednesday, May 6, 2015
Friday, May 8, 2015

SECTION II -- INSTRUCTIONS TO BIDDERS

A. Bidding Procedures:

Each bidder, by submitting its bid, represents that it understands the scope of work and its obligation with respect to performance. All bidders must submit their proposals on the forms provided. To be valid, a bid must be received at the place and before the time designated, or prior to any extension granted by an addendum. No bidder may withdraw, adjust or modify its bid for a period of sixty (60) days after the acceptance of bids. Addenda will be provided to each bidder of record and will be placed on file at the location for bidding documents. Should there be reasons why the contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the Owner and the bidder.

In conformance with Public Contract Code Section 7106, a Noncollusion Affidavit is included in the Proposal. Signing the Proposal shall also constitute signature of the Noncollusion Affidavit.

B. Examination of Bidding Documents:

1. All interpretations and/or corrections of the bidding documents shall be in writing by Heber Public Utility District in the form of addenda. No other interpretations or corrections shall be considered valid for bidding purposes. Any bidder planning to submit a proposal is responsible for examining with appropriate care the complete specifications and all addenda, and is also responsible for informing itself with respect to all conditions which might in any way affect the performance of any work.
2. The Contract Documents contain the provisions required for the construction of the project. Information obtained from an officer, agent, or employee of the Owner or any other person shall not affect the risks or obligations assumed by the Contractor or relieve the Contractor from fulfilling any of the conditions of the contract.

C. Qualification of Bidders:

1. Each bidder, by submitting its bid, represents that it is qualified to perform the scope of the work for which it submits its proposal. It further represents that it can do so in the time specified. Each bidder shall submit with its proposal an experience statement substantially in the form included in Proposal Forms. The Owner may make such investigations as deemed necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of such bidder fails to satisfy the Owner that such bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional or qualified bids will not be accepted.

D. Preparation and Submission of Proposals:

1. Proposals shall be submitted on the unbound copy of the forms provided with the bound specifications. The copy shall be properly executed as described above, and any interlineations, alterations, or erasures shall be formally explained and initialed by the bidder. Failure to comply with this requirement may be cause for rejection of the proposal. Each proposal shall show the full legal name and business address of the bidder, including its street address, and shall be signed with the usual signature of the

person or persons authorized to bind the bidder and shall be dated. Proposals by a partnership or joint venture shall list the full names and addresses of all partners or joint venturers. The State of Incorporation shall be stated in the proposal when the corporation is a party as a bidder. The name of each signatory shall be typed or otherwise clearly imprinted below each signature. When requested by the Owner, satisfactory evidence of the authority of any signatory on behalf of the bidder shall be furnished. The proposal shall be enclosed in a sealed envelope, distinctly marked "proposal" and bearing the project title as given and the name and address of the bidder.

2. All bids must be made on the required bid form. All blank spaces for bid prices must be filled in, in ink or typewritten, and the bid form must be completed and executed when submitted. Only one copy of the bid form is required.

E. Site Inspection and Conditions:

1. In addition to examination of the specification, each prospective bidder shall make whatever other arrangements are necessary to become fully informed regarding all existing and expected conditions and matters which could affect any work or performance of any work in any way, and especially the cost of performing any work. Arrangements may be made for visiting the project area by contacting the Heber Public Utility District. Any failure to fully investigate the site or the foregoing conditions shall not relieve the bidder from the responsibility for estimating properly the difficulty or cost of successfully performing any work. Neither the Owner nor any of its representatives or agents assume the responsibility for any understanding or representation made by the Owner or any of its representatives or agents prior to the execution of a contract pursuant to the specification.
2. Bidders must satisfy themselves of the accuracy of the estimated quantities on the drawings by examination of the site and a review of the drawings and specifications including addenda. After bids have been submitted, the bidder shall not assert that there was a misunderstanding concerning the quantities of work or of the nature of the work to be done.

F. Proposal Openings and Award of Contracts:

Proposals will be kept unopened until the time stated for opening of proposals. At such time, the contents of the proposals will be made public. No responsibility shall be attached to the Owner or any of its officers, employees or representative for the premature opening of proposals. All bidders or their authorized representatives are invited to be present at the proposal opening. The successful bidder will be notified in writing by the Owner of the award of contract within sixty (60) calendar days after opening of proposals. Accompanying the Owner's Notice of Award will be the contract which the successful bidder will be required to sign and return, together with the performance bond, payment bond, and insurance documents. All of the above documents shall be returned to the Owner within ten (10) calendar days following receipt of the Notice of Award. The Owner will promptly determine whether such contract, bonds, certificates of insurance and other required documents are as required by the specifications, and upon such determination will forward a fully signed copy of the contract and a Notice to Proceed to the successful bidder, provided that the Owner reserves the right to issue a Notice to Proceed at any time prior to forwarding such contract. The failure of any bidder to whom the Owner may award the contract as aforesaid to properly sign and return to the Owner the contract, together with the required performance bond, payment bond, certificates of insurance and other documents within the specified time period, shall entitle the Owner to declare a breach of contract by such bidder, to award the contract to another bidder in accordance with the provisions of the specifications, and to

declare a forfeiture of the bidders proposal security accompanying its proposal. In the event of such failure, the Owner will suffer damage, the amount of which is difficult, if not impossible, to ascertain, and the Owner shall therefore be entitled to retain the amount of such cashier's or certified check, or to enforce the provisions of said bid bond in the amount thereof, as liquidated damages for such breach of contract.

The Owner will return the bonds of all except the three lowest responsible bidders. When the agreement is executed, the bonds of the two remaining unsuccessful bidders will be returned. The bid bond of the successful bidder will be retained until the performance bond, payment bond and insurance documents have been executed and approved, after which it will be returned. A cashier's check may be used in lieu of a bid bond.

G. Acceptance or Rejection of Bids:

The contract will be awarded to the lowest, responsive, responsible bidder, provided that all bidders acknowledge the right of the Owner to accept or reject any and all bids and to waive any informality or irregularity in any bid received.

H. Worker's Compensation Notice:

1. As required by §1860 of the California Labor Code and in accordance with the provisions of §3700 of said Labor Code, every Contractor shall be required to secure worker's compensation insurance to protect its employees.
2. In accordance with §1861 of the California Labor Code, the Contractor shall furnish the Owner a notarized statement as follows" "I am aware of the provisions of §3700 of the Labor Code which requires every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of the code, and I will comply with such provisions before commencing the performance of the work of this contract."

I. Proposal Security:

No proposal will be considered unless it is accompanied by a proposal security in the form of a certified check or a cashier's check, payable to the order of the Owner for a sum not less than ten percent (10%) of the total bid as set forth in the bidder's proposal, or a bidder's bond in the same amount executed as surety by a corporation acceptable to the Owner and authorized to issue such surety bond in the State of California. Such bond shall be in substantial conformity with the form included in Section III, Proposal Forms, of the specifications.

J. Bonds and Insurance Policies:

The bidder to whom the contract award is made shall furnish to the Owner a performance bond and a payment bond, executed as surety by a corporation acceptable to the Owner and authorized to issue surety bonds in the State of California. Such bonds shall be substantially in the form included in Section IV of the specifications. Such performance bond and payment bond shall be for one hundred percent (100%) of the total bid as set forth in the bidder's proposal. The entire cost of these bonds shall be borne by the successful bidder. The successful bidder shall, at the time of execution of the contract, deliver to the Owner two (2) copies of the certificates, on the carrier's forms, attesting to the fact that the required policies of insurance have been obtained.

K. Identification of Subcontractors:

In accordance with §4104 of the California Government Code, each bidder, in its bid, shall set forth: (1) The name and location of the place of business of each subcontractor who will perform work or labor, or render services to the Contractor in or about the construction of the work or improvement, in an amount in excess of one-half of one percent (0.50%) of the Contractor's total bid; and (2) The portion of the work which will be done by each such subcontractor. In accordance with §4107 of the California Government Code, no Contractor whose bid is accepted shall without consent of the Owner either: (a) Substitute any person as a subcontractor in place of the subcontractor designated in the original bid; or (b) Permit any such subcontract to be assigned or transferred, or allow it to be performed by anyone other than the original subcontractor listed in the bid; or (c) Sublet or subcontract any portion of the work in excess of one half of one percent (0.50%) of the Contractor's total bid as to which his original bid did not designate a subcontractor. Penalties for failure to comply with the foregoing sections of the California Government Code are set forth in §§4106, 4110, and 4111 of the Government Code. In the case where a bidder claims an inadvertent clerical error in listing subcontractors, a notice of the claim must be submitted to the Engineer in writing within two (2) working days after the time of the bid opening, and copies sent to the subcontractors involved.

L. Posting Requirements:

The Contractor shall be required to provide all signs and posters as required by this document. The Contractor shall place all posters in a conspicuous location at the project site prior to mobilization. The posters shall be securely placed on a billboard. The Contractor shall ensure the posters are maintained at the project site throughout the duration of the project.

M. Wage Rates:

Notice is hereby given that pursuant to §2774 of the Labor Code of the State of California, the Owner has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holidays and overtime work for each craft, classification, or type of worker required to execute the contract. A copy of said prevailing rate of per diem wages is on file in the principal office of the Owner, to which reference is hereby made for further particulars. Said prevailing wage rate of per diem wages will be made available to any interested party upon request, and a copy thereof shall be posted at each job site. The California prevailing wage decisions may be found at the following web site:

http://www.dir.ca.gov/DLSR/statistics_Research.html

During the performance of this contract the Contractor shall comply with the wage guidelines listed after Item S, Specific Wage Rates for the Project.

N. Statutory Penalty for Failure to Pay Minimum Wages:

In accordance with §1775 of the California Labor Code, the Contractor shall as a penalty to the State or political subdivision on whose behalf a contract is made and awarded, forfeit twenty-five dollars (\$25.00) for each calendar day or portion thereof, for each worker paid less than the stipulated prevailing rates for any public work done under the contract by the Contractor or by any subcontractor under the Contractor.

O. Statutory Penalty for Unauthorized Overtime Work:

In accordance with §1813 of the California Labor Code, the Contractor shall as a penalty to the State or political subdivision on whose behalf a contract is made or awarded, forfeit

twenty-five dollars (\$25.00) for each worker employed in the execution of the contract by the Contractor or by any subcontractor for each calendar day during which said worker is required or permitted to work more than eight hours in any one (1) calendar day and forty (40) hours in any one (1) calendar week in violation of §§1810-1815 of the California Labor Code.

P. Apprenticeship Requirements:

Contractor agrees to comply with §§1777.5, 1777.6 and 1777.7 of the California Labor Code relating to the employment of apprentices. The responsibility for compliance with these provisions is fixed with the prime Contractor for all apprenticeable occupations, where journeymen in the craft are employed on the public work, in a ratio of not less than one (1) apprentice for each five (5) journeymen (unless an exemption is granted in accordance with §1777.5) and Contractors and subcontractors shall not discriminate among otherwise qualified employees as indentured apprentices on any public work solely on the ground of race, religious creed, color, national origin, ancestry, sex, or age, except as provided in §3077 of the Labor Code. Only apprentices, as defined in §3077, who are in training under apprenticeship standards and who have signed written apprentice agreements will be employed on public works in apprenticeable occupations.

Q. Labor Compliance Documentation Requirements:

It is the prime contractors' responsibility to provide all labor compliance documentation completely and accurately in a timely manner.

It is the prime contractors' responsibility to provide all labor compliance documentation from its subcontractors completely and accurately in a timely manner. The prime contractor is responsible to review promptly and then forward on all required documentation to the awarding agency per the time schedules in the Labor Compliance Handout. Included with the Labor Compliance Handout, the awarding agency will provide training, documentation requirements, forms, etc. at the preconstruction conference or at a time designated by the awarding agency.

In the event, during the review process of labor compliance documentation from the awarding agencies labor compliance monitor, inaccurate, missing or incomplete information was provided, the labor compliance monitor will request from the prime contractor the items, revisions and documentation needed. The cost of this additional labor compliance enforcement will be borne by the prime contractor.

R. Public Works Projects Required Bid Language:

Required contract language for all state Public Works construction contracts between an awarding agency and the prime contractor; and subcontractor contracts with the prime contractor is as follows:

This Public Works project is funded by Agencies in California and requires compliance with the California Labor Standards, California Code of Regulations pertaining to Public Works projects, California Labor Codes and the California prevailing wage requirements with special attention to CLC 1720, CLC 1727, CLC 1729, CLC 1770, CLC 1777.5, CLC 1776, CLC 1810 through 1815 and CLC 3700.

CLC Section 1720; State prevailing wage rates shall apply when the State wage rate is higher than the Federal wage rate. All contractors and subcontractors are subject to the application of Section 1720 et seq. of the California Labor Code which details the regulations and procedures governing the payment of State prevailing wages.

CLC Section 1727; (a) Before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain there from all amounts required to satisfy any civil wage and penalty assessment issued by the Labor Commissioner under this chapter. The amounts required to satisfy a civil wage and penalty assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

CLC Section 1729; It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the subcontractor's failure to comply with the terms of this chapter, and if payment has already been made to the subcontractor the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

CLC Section 1770; The Director of the Department of Industrial Relations shall determine the general prevailing rate of per diem wages in accordance with the standards set forth in Section 1773, and the director's determination in the matter shall be final except as provided in Section 1773.4. Nothing in this article, however, shall prohibit the payment of more than the general prevailing rate of wages to any workman employed on public work. Nothing in this act shall permit any overtime work in violation of Article 3 of this chapter.

CLC Section 1777.5; All contractors and subcontractors are subject to the provisions of Section 1777.5 of the California Labor Code which requires that every employer employ registered apprentices and deduct training contributions from all journeymen and apprentices prevailing wage rates and submit these contributions to and approved apprenticeship training facility in accordance with the provisions of the code.

CLC Section 1776; (a) Each contractor and subcontractor 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 him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- (1) The information contained in the payroll record is true and correct.
- (2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

CLC Sections 1810-1814; All contractors and subcontractors are subject to the provisions of Sections 1810-1814 of the California Labor Code which provide that the maximum hours a worker is to be employed is limited to eight hours a day and 40 hours a week and the contractor or subcontractor shall forfeit, as a penalty, \$25 for each worker employed in the execution of the contract for each calendar day during which a worker is required or permitted to labor more than eight hours in any calendar day or more than 40 hours in any calendar week and is not paid overtime.

CLC Section 1815 of the California Labor Code requires that notwithstanding the provisions of Sections 1810-1814, employees of contractors who work in excess of eight hours per day and 40 hours per week shall be compensated for all hours worked in excess of eight hours per day at not less than 1-1/2 times the basic rate of pay.

CLC Section 1860; The awarding body shall cause to be inserted in every public works contract a clause providing that, in accordance with the provisions of Section 3700 of the Labor Code, every contractor will be required to secure the payment of compensation to his employees.

CLC Section 1861; Each contractor to whom a public works contract is awarded shall sign and file with the awarding body the following certification prior to performing the work of the contract: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

CLC Section 3700; All contractors and subcontractors are subject to the provisions of Section 3700 of the California Labor Code which requires that every employer be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the code.

S. Specific Wage Rates for the Project:

SEE FOLLOWING PAGES

SECTION III -- PROPOSAL FORMS

1 -- PROPOSAL FORMS

CONTRACTOR

The undersigned hereby proposes to the Heber Public Utility District to furnish all labor, technical and professional services, supervision, materials, and equipment and to perform all operations necessary and required to complete the **HEBER PUBLIC UTILITY DISTRICT BASKETBALL COURT AT MARGARITO "TITO" HUERTA PARK PROJECT**.

The work shall be completed in accordance with the provisions of this document and the associated drawings, and at the prices stated opposite the respective items set forth in the Schedule of Items and Prices attached hereto.

The undersigned agrees that this Proposal constitutes a firm offer to the Owner which cannot be withdrawn for sixty (60) calendar days from and after the date set for opening of proposals, or until a contract is fully executed by the Owner and a third party, whichever is earlier.

The undersigned certifies that it has examined and is fully familiar with all of the provisions of this document, the drawings and any addenda thereto; that it has carefully checked all of the words and figures shown in its Schedule of Items and Prices; that it has carefully reviewed the accuracy of all statements in this proposal and attachments hereto; and it understands and agrees that the Owner will not be responsible for any errors or omissions on the part of the undersigned in preparing this proposal.

The undersigned represents that it has made careful examination of this document and the drawings and by examination of the actual site conditions has satisfied itself as to the nature and location of all work, the general and local conditions to be encountered in the performance of any work and all other matters which can in any way affect the work or the cost thereof.

If awarded a contract, the undersigned agrees to execute and deliver to the Heber Public Utility District within ten (10) calendar days, a signed contract, bonds, the necessary insurance certificates, and all other required documents. Upon receipt of a notice to proceed, the undersigned shall complete all work within sixty (60) calendar days. Liquidated damages in the amount of Two Hundred Dollars (\$200.00) per calendar day shall be assessed after the designated sixty (60) calendar days have expired.

The undersigned certifies that it is now licensed in the appropriate trade in accordance with the provisions of the Contractor's License Law of the State of California, and the number of said license is _____ and that said license expires _____, 20_____.

Bidder:_____

(SEAL)By:_____

Title

(Type or print name)

BIDDER'S BUSINESS ADDRESS

Dated:

NOTE: If bidder or other interested person is a corporation, state legal name of corporation, also names of the president, secretary, treasurer, and manager thereof; if a co-partnership, state true name of firm, also names of all individual copartners composing firm; if bidder or other interested person is an individual, state first and last names in full.

SECTION III -- PROPOSAL FORMS

2 -- SCHEDULE OF ITEMS AND PRICES

**PROPOSAL
FOR
HEBER PUBLIC UTILITY DISTRICT
BASKETBALL COURT AT MARGARITO "TITO" HUERTA PARK**

TO THE HEBER PUBLIC UTILITY DISTRICT, AS OWNER

In accordance with the OWNER'S INVITATION FOR PROPOSALS, the undersigned BIDDER hereby proposes to furnish all materials, equipment, tools, labor and incidentals new and free from defect required for the above stated project as set forth in the Plans, Specifications and contract documents and any addenda, thereto, and to perform all work in the manner and time prescribed therein.

BIDDER declares that this proposal is based upon careful examination of the work site, Plans, Specifications, INSTRUCTIONS TO BIDDERS, Addendum(a), and all other contract documents. If this proposal is accepted for award, BIDDER agrees to enter into a contract with the Owner at the unit and/or lump sum prices set forth in the following BID SCHEDULE. The Bidder shall include all costs associated with all items contained within the specifications or any issued addenda. In the event items are identified within the contents of the specifications which are not clearly designated within the bid schedule, those items shall be regarded as incidental and the associated costs shall be assigned to the most appropriate Bid Item. The BIDDER understands that failure to enter into a contract in the manner and time prescribed will result in forfeiture to the Owner of the BIDDER'S BOND accompanying this proposal.

BIDDER understands that a bid is required for the entire work that the estimated quantities set forth in the BID SCHEDULE are solely for the purpose of comparing bids, and that final compensation under the contract will be based upon the actual quantities of work satisfactorily completed. THE OWNER RESERVES THE RIGHT TO INCREASE OR DECREASE THE AMOUNT OF ANY QUANTITY ILLUSTRATED AND TO DELETE ANY ITEM FROM THE CONTRACT. If the amount of a bid quantity is decreased more than twenty-five percent (25%) for an item with a value greater than \$10,000.00, then the unit price of that item is subject to negotiation. The Contractor shall substantiate the increase in unit price by demonstrating the impact in terms of costs resultant from the decreased quantities. It is agreed that the unit and/or lump sum prices bid include all appurtenant expenses, bonds, insurance, taxes, royalties, transportation, permits, and fees.

In case of discrepancies in the amounts bid, unit prices shall govern over extended amounts, and the accurate and mathematically correct summation of the total bid item amounts shall govern over the total for comparison summation figure and words listed on the proposal form.

If awarded the Contract, the undersigned further agrees that in the event of the BIDDER'S default in executing the required contract and filing the necessary performance bond, payment bond and insurance certificates within ten (10) calendar days after the date of the issuance of the notice of award to the BIDDER, the proceeds of the security accompanying this bid shall become the property of the Owner and this bid and the acceptance hereof may, at the Owner's option, be considered null and void.

The Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addendum(a), receipt of which is hereby acknowledged.

<u>Addendum No.</u>	<u>Addendum Date</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

SECTION III - PROPOSAL FORMS

BID SCHEDULE

COMPLETION OF ALL SCOPE OF WORK FOR THIS PROJECT IN FULL ENTIRETY

\$ _____
(FIGURES)

(WORDS)

SECTION III -- PROPOSAL FORMS

3 -- BIDDER'S BOND

KNOW ALL MEN BY THESE PRESENTS, that we _____

as Principal, and _____

as Surety, are firmly held and bound unto the Heber Public Utility District, organized and existing under the laws of the State of California, sometimes referred to as the Owner, in the sum of \$_____ (which is a sum no less than ten percent (10%) of the amount of the total bid) 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, whereas the Principal has submitted to the Owner the accompanying Proposal dated _____, 2015, for the construction of:

**HEBER PUBLIC UTILITY DISTRICT
BASKETBALL COURT AT MARGARITO "TITO" HUERTA PARK**

NOW, THEREFORE, if the Principal withdraws said proposal within the period specified in said Proposal, or if the Principal shall not, within ten (10) calendar days after the receipt from the Owner of Notice of Award of the Contract for any reason whatsoever except the fault of the Owner, enter into the Contract with the Owner in accordance with the Principal's Proposal, and furnish the certificates of insurance and bonds as stated in said Proposal, then the above obligation shall be and remain in full force and effect; otherwise it shall be null and void.

In the event suit is brought upon this Bond by the Owner and judgment is recovered, the surety and sureties shall pay all costs incurred by the Owner in such suit, including attorney's fees to be fixed by the court.

Dated: _____, 2015

(Principal)

(Business Address)

In presence of:

(Address)

(Seal)

(Surety)

(Business Address)

In presence of:

(Address)

SECTION III -- PROPOSAL FORMS

4 -- LIST OF PROPOSED SUBCONTRACTORS

If awarded the contract, the bidder proposes to employ the following subcontractors which will perform work or labor or render service to the bidder in or about the construction of the work in an amount in excess of one-half of one percent (0.50%) of the total amount bid. The bidder shall not be allowed to substitute another subcontractor for the subcontractor listed below without the written approval of the Owner. If no subcontract work is proposed, except within the one-half of one percent (0.50%) limit set forth above, the bidder shall so state.

Name and Address of Subcontractor	Description of Work to be Subcontracted	Subcontractor's License No.
1. _____ Name _____ _____ Address	_____ _____ _____	_____ _____ _____
2. _____ Name _____ _____ Address	_____ _____ _____	_____ _____ _____
3. _____ Name _____ _____ Address	_____ _____ _____	_____ _____ _____
4. _____ Name _____ _____ Address	_____ _____ _____	_____ _____ _____
5. _____ Name _____ _____ Address	_____ _____ _____	_____ _____ _____

SECTION III -- PROPOSAL FORMS

5 -- MAJOR MATERIAL SUPPLIERS INFORMATION

The bidder shall indicate opposite each item of equipment or material listed below the name of the manufacturer and supplier of the equipment or material proposed to be furnished under the bid.

	MANUFACTURER	SUPPLIER
1. Basketball Poles	_____	_____
_____	_____	
_____	_____	
2. Basketball Boards	_____	_____
_____	_____	
_____	_____	
3. Basketball Goals	_____	_____
_____	_____	
_____	_____	
4. Basketball Nets	_____	_____
_____	_____	
_____	_____	
5. Concrete	_____	_____
_____	_____	
_____	_____	
6. _____	_____	_____
_____	_____	
_____	_____	
7. _____	_____	_____
_____	_____	
_____	_____	

Awarding of a contract under this bid will not imply approval by the Owner of the manufacturers or suppliers listed by the bidder. No substitution will be permitted after the bid opening unless equipment or material of the listed manufacturer or suppliers cannot meet the specifications.

SECTION III -- PROPOSAL FORMS

6 -- EXPERIENCE STATEMENT

The bidder shall submit, as a part of its proposal, the following statements as to its experience qualifications. The bidder certifies that all statements and information set forth are true and accurate.

- a. The bidder has been engaged in the contracting business under its present business name for _____ years.
- b. Experience in work of nature similar in type and magnitude to that set forth in the specification extends over a period of _____ years.
- c. The bidder, as Contractor, has satisfactorily completed all contracts awarded to it, except as follows: (Name any and all exceptions and reasons therefore. Bidder should attach additional pages if necessary).
 - 1. _____
 - 2. _____
- d. The following contracts covering work similar in type and magnitude to that set forth in the specification have been satisfactorily completed within the last five (5) years for the following owners (person, firms or authorities): It is acceptable to provide an attached list of projects in lieu of the form below

	Name Owner	Tel. No.	Year Completed	Type of Work	Contract Amount (Rounded to Closest Thousand Dollars)
1.					
2.					
3.					
4.					
5.					
6.					

SECTION III -- PROPOSAL FORMS

7-- CERTIFICATION OF NONSEGREGATED FACILITIES

The construction Contractor certifies that he/she does not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she does not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The construction Contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom or otherwise. The construction Contractor agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000.00 which are not exempt from the provisions of the Equal Opportunity Clause, and that he/she will retain such certifications in his/her files.

Signature

Date

Name and Title of Signer

(Please Type)

SECTION III -- PROPOSAL FORMS

8 -- CONTRACTOR'S CERTIFICATION OF PREVAILING WAGE REQUIREMENTS

I hereby certify that I have reviewed the construction contract requirements imposed on the Contractor and fully understand all my obligations if the project is awarded to me, including the necessity to pay prevailing wage rates and provide certified payroll forms. I hereby fully understand State of California Department of Industrial Relations Wage Determinations apply to this project. The pertinent requirements and wage rates are on file at the office of the Engineer, The Holt Group, Inc., 1601 N. Imperial Avenue, El Centro, California 92243 and also included within this document. In addition, it is the Contractor's responsibility to review the works' classifications and wage rates to insure inclusion of the Contractor's workers' classifications. If the workers' classifications are not included within the aforementioned wage rates, the Contractor shall notify the awarding agency immediately to obtain the adequate classifications and wage rates prior to mobilization.

**HEBER PUBLIC UTILITY DISTRICT
BASKETBALL COURT AT MARGARITO "TITO" HUERTA PARK**

Name of Contractor

Signature

Address

Date

SECTION III -- PROPOSAL FORMS

9 -- CONTRACTOR'S CERTIFICATE OF WORKER'S COMPENSATION

Labor Code Section 3700 in relevant part provides:

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

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

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his/her employees."

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

**HEBER PUBLIC UTILITY DISTRICT
BASKETBALL COURT AT MARGARITO "TITO" HUERTA PARK**

Name of Contractor

Address

Signature

Date

(In accordance with Article 5 {commencing at Section 1860}, Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this contract.)

10 -- NONCOLLUSION AFFIDAVIT

(Title 23 United States Code Section 112 and
Public Contract Code Section 7106)

To the Heber Public Utility District

In accordance with Title 23 United States Code Section 112 and Public Contract Code 7106 the bidder declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Note: The above Noncollusion Affidavit is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Noncollusion Affidavit. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

Name of Contractor

Address

Signature: _____

Date: _____

SECTION IV -- CONTRACT AND BOND FORMS

1 -- NOTICE OF AWARD

TO:

ATTENTION:

PROJECT DESCRIPTION:

**HEBER PUBLIC UTILITY DISTRICT
BASKETBALL COURT AT MARGARITO "TITO" HUERTA PARK**

The Owner has considered the bid submitted by you for the above described work in response to its Advertisement for bids dated _____, and Information for Bidders.

You are hereby notified that your bid has been accepted as listed on the Schedule of Items and Prices contained within the proposal in the amount of \$_____.

You are required by the Information for Bidders to execute the Agreement and furnish the required Certificates of Insurance, Performance Bond and Payment Bond within ten (10) calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said Certificates of Insurance and Bonds within ten (10) Calendar days from the date of this Notice, said Owner will be entitled to consider all your rights arising out of the Owner's acceptance of your bid as abandoned. The Owner will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of the Notice of Award to the **OWNER**.

Dated this _____ day of _____, 2015.

Heber Public Utility District

By: _____

Title: _____

SECTION IV -- CONTRACT AND BOND FORMS

2 -- ACCEPTANCE OF NOTICE

Receipt of the above Notice of Award is hereby acknowledged by _____, this ____
_____ day of _____, 2015.

By: _____

Title: _____

SECTION IV -- CONTRACT AND BOND FORMS

3 -- PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address): SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

CONSTRUCTION CONTRACT

Date:
Amount:
Description (Name and Location):

BOND

Date (Not earlier than Construction Contract Date):
Amount:
Modifications to this Bid Form:

CONTRACTOR AS PRINCIPAL
Company: (Corp. Seal)

SURETY
Company: (Corp. Seal)

Signature: _____
Name and Title:

Signature: _____
Name and Title:

CONTRACTOR AS PRINCIPAL
Company: (Corp. Seal)

SURETY
Company: (Corp. Seal)

Signature: _____
Name and Title:

Signature: _____
Name and Title:

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conference as provided in Subparagraph 3.1.
3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
 - 3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and
 - 3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and
 - 3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract accordance with the terms of the contract with the Owner.
4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or
 - 4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or
 - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or
 - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
 1. After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or
 2. Deny liability in whole or in part and notify the Owner citing reasons therefor.

5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
6. After the Owner has terminated the Contractor's right to complete Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:
 - 6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and
 - 6.3 Liquidation damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.
8. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in the Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed

incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12. Definitions.

- 12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
- 12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform and complete or comply with the other terms thereof.
- 12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.
2. With respect to the Owner, this obligation shall be null and void if the Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2 Defends, indemnifies and holds harmless the Owner from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
4. The Surety shall have no obligation to Claimants under this Bond until:
 - 4.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2 Claimants who do not have a direct contract with the Contractor:
 1. Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
 2. Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
 3. Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.
5. If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.
6. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:
 - 6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

- 6.2 Pay or arrange for payment of any undisrupted amounts.
7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
 8. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
 9. The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
 10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
 11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2 (iii), or (2) on which the last labor or service was performed by any one or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
 12. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
 13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is, that this Bond shall be construed as a statutory bond and not as a common law bond.
 14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
 15. DEFINITIONS:
 - 15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials, or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items

for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

SECTION IV -- CONTRACT AND BOND FORMS

5 -- INSURANCE REQUIREMENTS

The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Contractor's execution of the work whether such execution be by himself or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Such claims shall include:

- a. Claims under workmen's compensation, disability benefits and other similar employee benefit acts.
- b. Claims for damages because of bodily injury, occupational sickness or disease, or death of his/her employees.
- c. Claims for damages because of bodily injury, sickness or disease, or death of any person other than his/her employees.
- d. Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person.
- e. Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom.

Certificates of Insurance acceptable to the owner shall be filed with the owner prior to commencement of the work. These Certificates shall contain a provision that coverages afforded under the policies will not be canceled unless at least fifteen (15) days prior written notice has been given to the owner.

The Contractor shall procure and maintain, at his/her own expense, during the contract time, liability insurance as hereinafter specified.

Contractor's General Public Liability and Property Damage Insurance including vehicle coverage issued to the Contractor and protecting him from all claims for destruction of or damage to property, arising out of or in connection with any operations under the contract documents, whether such operations be by himself or by any subcontractor under him or anyone directly or indirectly employed by the Contractor or by a subcontractor under him. Insurance shall be written with a limit of liability of not less than \$1,000,000.00 for all damages arising out of bodily injury, including death, at any one time resulting therefrom, sustained by any one person in any one accident; and a limit of liability of not less than \$1,000,000.00 aggregate for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$1,000,000.00 for all property damage sustained by any one person in any one accident; and a limit of liability of not less than \$1,000,000.00 for all aggregate for any such damage sustained by two or more persons in any one accident. The Policy shall name as the insured the Contractor, the Heber Public Utility District and The Holt Group.

The Contractor shall acquire and maintain Extended Coverage insurance upon the project to the full insurable value thereof for the benefit of the owner, the Contractor, and subcontractors as their interest may appear. This provision shall in no way release the Contractor from obligation under the Contract Documents to fully complete the project.

The Contractor shall procure and maintain at his/her own expense, during the contract time, in accordance with the provisions of the laws of the state in which the work is performed, Worker's Compensation Insurance, including occupational disease provisions for all of his/her employees at the site of the project and in case any work is sublet, the Contractor shall require such subcontractor similarly to provide Worker's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this contract at the site of the project are not protected under the Worker's Compensation statute, the Contractor shall provide adequate and suitable insurance for the protection of his/her employees not otherwise covered.

SECTION IV -- CONTRACT AND BOND FORMS

6 -- CERTIFICATE OF OWNER'S ATTORNEY

I, the undersigned, Steve Walker, the duly authorized and acting legal representative of Heber Public Utility District, do hereby certify as follows:

I have examined the attached Payment Bond, Performance Bond and Insurance Certificates and the manner of execution thereof, and I am of the opinion that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions, and provisions thereof. I also am of the opinion that the Contractor's insurance coverage complies with the requirements of the contract.

Steve Walker, HPUD District Attorney

Date

SECTION IV -- CONTRACT AND BOND FORMS

7 -- AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 2015 by and between the Heber Public Utility District hereinafter called the Owner, and _____, doing business as a corporation _____, hereinafter called CONTRACTOR.

Witnesseth: that for and in consideration of the payments and agreements hereinafter mentioned:

1. The Contractor will commence and complete the construction of the **HEBER PUBLIC UTILITY DISTRICT BASKETBALL COURT AT MARGARITO "TITO" HUERTA PARK PROJECT**.
2. The Contractor will furnish all of the materials, supplies, tools, equipment, labor, and other services necessary for the construction and completion of the project described herein.
3. The Contractor will commence the work required by the Contract Documents within ten (10) calendar days after the date of the Notice to Proceed and will complete the same within sixty (60) calendar days unless the period for completion is extended otherwise by the Contract Documents.
4. The Contractor agrees to perform all of the work described in the Contract Documents and comply with the terms therein for the sum of \$_____.
5. The term "Contract Documents" means and includes the following:
 - a. Invitation to Proposals
 - b. Instruction to Bidders
 - c. Proposal Forms
 - d. Contract and Bond Forms
 - e. General Conditions
 - f. Special Conditions
 - g. Technical Conditions
 - h. Insurance Requirements
 - i. Addendum(a)

7 -- AGREEMENT

- 6. The Owner will pay to the Contractor such amounts as required by the Contract Documents.
- 7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement which shall be deemed an original on the date first above written.

Owner: [SEAL]

Heber Public Utility District
1078 Dogwood Road, Ste 103
Heber, CA 92249

By: _____
Laura Fischer

Title: General Manager
Heber Public Utility District

ATTEST:

Title: _____
Raquel Carrillo, Clerk of the Board

CONTRACTOR:

By: _____

Name:

Address:

Employer Identification Number:

Telephone Number: _____

License Number: _____

SECTION IV -- CONTRACT AND BOND FORMS

8 -- NOTICE TO PROCEED

TO:

DATE:

**PROJECT: HEBER PUBLIC UTILITY DISTRICT -
BASKETBALL COURT AT MARGARITO
"TITO" HUERTA PARK**

You are hereby notified to commence work in accordance with the Agreement dated _____, within 10 days of the receipt of this document on or before _____, and you are to complete the work within thirty (30) consecutive calendar days thereafter. The date of completion of all work is therefore _____. Liquidated damages in the amount of Two Hundred Dollars (\$200.00) per calendar day shall be assessed after the thirty (30) calendar days have expired.

OWNER: Heber Public Utility District

(signature)

By: Laura Fischer
Title: General Manager, Heber Public Utility District

SECTION V- GENERAL CONDITIONS

1 -- DEFINITIONS

Wherever used in the **CONTRACT DOCUMENTS**, the following terms shall have the meanings indicated and shall be applicable to both the singular and plural thereof:

- 1.01 **ADDENDA** -- Written or graphic instruments issued prior to the Agreement which modify or interpret the Contract Documents, drawings and specifications, by additions, deletions, clarifications, or corrections.
- 1.02 **BID** -- The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the work to be performed.
- 1.03 **BIDDER** -- Any person, firm, or corporation submitting a bid for the work.
- 1.04 **BONDS** -- Bid, Performance, and Labor & Material Bonds and other instruments of surety, furnished by the Contractor and the Contractor's surety in accordance with the Contract Documents.
- 1.05 **CHANGE ORDER** -- A written order to the Contractor authorizing an addition, deletion, or revision in the work within the general scope of the Contract Documents, or authorizing any adjustments in the contract price or contract time.
- 1.06 **CONTRACT DOCUMENTS** -- The contract, including information for bidders, Notice of Award, Agreement, Labor and Material Bond, Performance Bond, Notice to Proceed, General Conditions, Special Conditions, Technical Conditions, Drawings, Insurance Requirements and Addenda.
- 1.07 **CONTRACT PRICE** -- The total moneys payable to the Contractor under the terms and conditions of the Contract Documents.
- 1.08 **CONTRACT TIME** -- The number of calendar days stated in the Contract Documents for the completion of the work.
- 1.09 **CONTRACTOR** -- The person, firm or corporation with whom the Owner has executed the Agreement for any one or multiple bid divisions.
- 1.10 **DRAWINGS** -- The parts of the Contract Documents which show the characteristics and scope of the work to be performed and which have been prepared or approved by the Engineer.
- 1.11 **ENGINEER** -- The Holt Group, Inc.
- 1.12 **FIELD ORDER** -- A written order effecting a change in the work not involving an adjustment in the contract price or an extension of the contract time, issued by the Engineer to the Contractor during construction.
- 1.13 **NOTICE OF AWARD** -- Written notice of the acceptance of the bid from the Owner to the successful bidder.

- 1.14 **NOTICE TO PROCEED** -- Written communication issued by the Owner to the Contractor authorizing him/her to proceed with the work and establishing the date for commencement of the work.
- 1.15 **OWNER** – Heber Public Utility District
- 1.16 **PROJECT** -- The undertaking to be performed as provided in the Contract Documents.
- 1.17 **RESIDENT PROJECT REPRESENTATIVE** -- The authorized representative of the Owner who is assigned to the project site or any part thereof.
- 1.18 **SHOP DRAWINGS** -- All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a Subcontractor, manufacturer, supplier or distributor, which illustrate how specific portions of the work shall be fabricated or installed.
- 1.19 **SPECIFICATIONS** -- A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship and including the General Conditions, Technical Conditions and Special Conditions.
- 1.20 **SUBCONTRACTOR** -- An individual, firm, or corporation having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the work at the site.
- 1.21 **SUBSTANTIAL COMPLETION** -- That date certified by the Engineer when the construction of the project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the project or specified part can be utilized for the purposes for which it is intended.
- 1.22 **SPECIAL AND TECHNICAL CONDITIONS** -- Additions to the General Conditions. In the event of a discrepancy, the General Conditions shall govern over the Special Conditions and Technical Conditions.
- 1.23 **SUPPLIERS** -- Any person or organization who supplies materials or equipment for the work, including that fabricated to a special design, but who does not perform labor at the site.
- 1.24 **WORK** -- All labor necessary to produce the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in the project.
- 1.25 **WRITTEN NOTICE** -- Any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party or their authorized representative on the work.

SECTION V -- GENERAL CONDITIONS

2 -- ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

- 2.1 The Contractor may be furnished additional instructions and detail drawings, by the Engineer, as necessary to carry out the work required by the Contract Documents.
- 2.2 The additional drawings and instructions thus supplied will become part of the Contract Documents. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions.

SECTION V -- GENERAL CONDITIONS

3 -- CONSTRUCTION SCHEDULE

- 3.1 Within ten (10) calendar days after the date of receipt by the Contractor of the Award, the Contractor shall submit to the Engineer a progress schedule showing the proposed sequence of the work and the estimated dates of starting and finishing each work item. Issuance of Notices informing affected Residential and Commercial Establishments and the Owner will be listed as separate items on the Schedule. The progress schedule shall conform to the specified time for the completion of the work; shall show a reasonable and orderly work sequence that will preclude excessive times for completion of any part thereof; shall show and be in accordance with the order and delivery dates for equipment and materials requiring special fabrication or otherwise not readily available for purchase and affecting, or critical with respect to, such time of completion; and shall be subject to the approval of, and modification by, the Engineer. The Engineer shall be advised in advance by the Contractor when construction work is scheduled and the days when no construction work will be completed. Contractor will be charged the cost of inspection for that day or days when construction work was scheduled but not completed and the contractor failed to notify the Engineer and Owner. The effects of weather or Acts of God are excusable events to which advance notification to the Owner or Engineer of the inability to complete scheduled work are not required. When, in the judgment of the Engineer, it is necessary to accelerate any part of the work ahead of schedule, the Contractor shall, when directed, concentrate his/her efforts on such part of the work. Within seven (7) calendar days after the submission of the original schedule, the Contractor shall participate with the Engineer in the review and establishment of critical completion dates within the total contract time which will relate to the successful and timely completion of the project. Any revisions necessary as a result of this review and evaluation process shall be made by the Contractor and resubmitted to the Engineer for approval within seven (7) calendar days. The Contractor shall, at monthly intervals, evaluate work progress with the Engineer by review of actual accomplishments since the previous update. The schedule shall be jointly revised by the Contractor and Engineer to show all changes in network logic, work items sequence, duration of activities, and critical completion dates since the previous update. Data furnished to the Engineer shall include a description of the problem area, current and anticipated delaying factors and their impact, and an explanation of the corrective action to be taken. The Contractor shall participate in weekly construction meetings to be conducted at a time and place as stipulated by the Engineer.

SECTION V -- GENERAL CONDITIONS

4 -- DRAWINGS AND SPECIFICATIONS

- 4.1 The intent of the drawings and specifications is that the Contractor shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the work in accordance with the Contract Documents and all incidental work necessary to complete the project in an acceptable manner, ready for use, occupancy or operation by the Owner.
- 4.2 In case of conflict between the drawings and specifications, the specifications shall govern. Figure dimensions on drawings shall govern over scaled dimensions on drawings.
- 4.3 Any discrepancies found between the drawings and specifications and site conditions or any inconsistencies or ambiguities in the drawings or specifications shall be immediately reported to the Engineer, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. Work done by the Contractor after discovery of such discrepancies, inconsistencies or ambiguities, shall be done at the Contractor's risk.

SECTION V - GENERAL CONDITIONS

5 - SHOP DRAWINGS

- 5.1 The Contractor shall provide shop drawings as may be necessary for the prosecution of the work as required by the Contract Documents. The Engineer shall promptly review all shop drawings. The Engineer's approval of any shop drawings shall not release the Contractor from responsibility for deviations from the Contract Documents. The approval of any shop drawings which substantially deviates from the requirement of the Contract Documents shall be evidenced by a Change Order.
- 5.2 When submitted for the Engineer's review, shop drawings shall bear the Contractor's certification that he has reviewed, checked and approved the shop drawings and that they are in conformance with the requirements of the Contract Documents. The Contractor shall submit six (6) copies of the shop drawings.
- 5.3 Portions of the work requiring a shop drawing or sample submission shall not begin until the shop drawings or submission has been approved by the Engineer. A copy of each approved shop drawing and each approved sample shall be kept in good order by the Contractor at the site and shall be available to the Engineer.

SECTION V -- GENERAL CONDITIONS

6 -- MATERIALS, SERVICES AND FACILITIES

- 6.1 It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the work within the specified time.
- 6.2 Material and equipment shall be so stored as to insure the preservation of their quality and fitness for the work. Stored materials and equipment to be incorporated in the work shall be located so as to facilitate prompt inspection.
- 6.3 Construction site, equipment, materials, tools or other items must be secured away from the public park at the end of each workday. The construction site must be made safe to the public at all times during construction, before and after each workday.
- 6.4 Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.
- 6.5 Materials, supplies, or equipment to be incorporated into the work shall not be purchased by the Contractor or the subcontractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

SECTION V -- GENERAL CONDITIONS

7 -- INSPECTION AND TESTING

- 7.1 All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with generally accepted standards, as required and defined in the Contract Documents.
- 7.2 The Contractor shall provide all inspection and testing services unless specified to be provided by the Owner.
- 7.3 The Engineer shall provide at the Contractor's expense the testing and inspection services required by the Contract Documents should the Contractor fail to perform required inspection and testing services.
- 7.4 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any work to specifically be inspected, tested, or approved by someone other than the Engineer, the Contractor will give the Engineer timely notice of readiness. The Contractor will then furnish the Engineer the required certificates of inspection, testing or approval.
- 7.5 Inspections, tests, or approvals by the Engineer or others shall not relieve the Contractor from the obligations to perform the work in accordance with the requirements of the Contract Documents.
- 7.6 The Engineer and the Engineer's representative will at all times have access to the work. In addition, authorized representatives and agents of any participating Federal or State agency shall be permitted to inspect all work, materials, payrolls, records on personnel, invoices of materials, and other relevant data and records. The Contractor will provide proper facilities for such access and observation of the work and also for any inspection or testing thereof.
- 7.7 If any work requiring testing or inspection is covered prior to inspection by the Engineer it must, if requested by the Engineer, be uncovered for the Engineer's observation and replaced at the Contractor's expense.
- 7.8 If the Engineer considers it necessary or advisable that covered work be inspected or tested by others, the Contractor, at the Engineer's request, will uncover, expose or otherwise make available for observation, inspection or testing as the Engineer may require, that portion of the work in question, furnishing all necessary labor, materials, tools, and equipment. If it is found that such work is defective, the Contractor will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction.
- 7.9 A prefinal inspection of the work will be made by the Owner, Engineer, project inspector and representatives of the agencies involved in project financing. Such inspection shall be made as soon as practical after the Contractor has notified the Owner in writing that the work is ready for such inspection. The prefinal inspection shall be made prior to acceptance of any portion of the work as being substantially complete and prior to filing of the Notice of Completion.
- 7.10 A final inspection of all the work will be made by the Owner, Engineer, Contractor and representatives of the agencies involved in project financing.

SECTION V -- GENERAL CONDITIONS

8 -- SUBSTITUTIONS

- 8.1 Whenever a material, article, or piece of equipment is identified on the drawings or specifications by reference to brand name or catalogue numbers, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered. The Contractor may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the Contract Documents by reference to brand name or catalogue number, and if, in the opinion of the Engineer, such material, article, or piece of equipment is of equal substance and function to that specified, the Engineer may approve its substitution and use by the Contractor. Any cost differential shall be deductible from the contract price and the Contract Documents shall be appropriately modified by the change order. The Contractor warrants that if substitutes are approved, no major changes in the function or general design of the project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the Contractor without change in the contract price or contract time.

SECTION V -- GENERAL CONDITIONS

9 -- SURVEYS, PERMITS, AND REGULATIONS

- 9.1 The Contractor shall furnish all staking and layout points as required for the excavation of the existing material and for construction of the cement basketball court, installation of the Class 2 base and cement.
- 9.2 The Contractor shall obtain a Building Permit from the County of Imperial if deemed necessary.

SECTION V -- GENERAL CONDITIONS

10 -- PROTECTION OF WORK, PROPERTY AND PERSONS

- 10.1 The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. He will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to, all employees on the work and other persons who may be affected thereby, all the work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, sidewalks, pavements, roadways, structures, p.c.c. curb and gutter, p.c.c. cross-gutters, irrigation facilities and utilities not designated for removal, relocation or replacement in the course of construction.
- 10.2 The Contractor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. He will erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection. He will notify the Engineer of adjacent utilities when prosecution of the work may affect them. The Contractor will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.
- 10.3 In emergencies affecting the safety of persons or the work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Engineer or Owner shall act to prevent threatened damage, injury or loss. He will give the Engineer prompt written notice of any significant changes in the work or deviations from the Contract Documents caused thereby, and a change order shall thereupon be issued covering the changes and deviations involved.
- 10.4 The Contractor shall maintain all portions of the work in a neat, clean and sanitary condition at all times. Toilets shall be furnished by the Contractor where needed for use by all employees and their use shall be strictly enforced. The Contractor shall also be responsible for furnishing and maintaining a potable water supply.
- 10.5 The Contractor shall keep adequate first-aid facilities and supplies available at the project site.
- 10.6 The Contractor shall assure that his/her Subcontractors of all tiers shall comply with the foregoing provisions.

SECTION V -- GENERAL CONDITIONS

11 -- SUPERVISION BY CONTRACTOR

- 11.1 The Contractor will supervise and direct the work. He will be solely responsible for the means, methods, techniques, sequences and procedures of construction. The Contractor will employ and maintain on the work a qualified supervisor or superintendent who shall have been designated within 10 days after the Notice to Proceed in writing by the Contractor as the Contractor's representative at the site. If a supervisor or superintendent is replaced during the project, the name of the new supervisor or superintendent shall be forwarded in writing to the Engineer. The supervisor shall have full authority to act on behalf of the Contractor, including the signature of payment requests, and all communications given to the supervisor shall be as binding as if given to the Contractor. The supervisor shall be present on the site at all times to perform adequate supervision and coordination of the work. If the supervisor is not at the project site, the Engineer shall have the authority to suspend and/or terminate construction activities until the supervisor returns to the project site.
- 11.2 The Contractor shall act as an independent Contractor in performing work under the Contract Documents, maintaining complete control over his/her employees and all of his/her Subcontractors. The Contractor shall perform all work in an orderly and workmanlike manner, enforce strict discipline and order among his/her employees and assure strict discipline and order by his/her Subcontractors.
- 11.3 The Contractor shall employ only competent and skilled men to perform any work. The Contractor shall be responsible for maintaining satisfactory conduct of his/her employees.
- 11.4 The Contractor shall be responsible for maintaining labor relations in such manner and by such methods as will provide for harmony among workmen, and, to the extent permissible under federal and state law, shall be bound by the terms and provisions of the Agreement creating the National Joint Board for Settlement of Jurisdictional Disputes, and the Contractor agrees that any decision or interpretation by such Joint Board shall be immediately accepted. The Contractor shall assure that his/her Subcontractors of all tiers comply with the provisions set forth above.
- 11.5 The Contractor shall provide and use on any work only such construction plant and equipment as are capable of producing the quality and quantity of work and materials required by the Contract Documents and within the time or times specified. Before proceeding with any facilities including but not limited to temporary structures, pipelines, equipment, grading and permanent structures, the Contractor shall, at his/her expense, furnish the Engineer with such information and drawings relative to such equipment, plant and facilities as the Engineer may request. Upon written order of the Engineer, the Contractor shall promptly remove unsatisfactory or unsafe equipment and facilities from the site.

SECTION V -- GENERAL CONDITIONS

12 -- CHANGES IN WORK

- 12.1 The Owner may at any time, as the need arises, order changes within the scope of the work without invalidating the Agreement. If such changes increase or decrease the amount due under the Contract Documents, or in the time required for performance of the work, an equitable adjustment shall be authorized by a Change Order.
- 12.2 The Engineer also may at any time by issuing a Field Order make changes in the details of the work. The Contractor shall proceed with the performance of any changes in the work so ordered by the Engineer unless the Contractor believes that such Field Order entitles him to a change in Contract Price or Time, or both, in which event he shall give the Engineer written notice thereof within seven (7) days after the receipt of the ordered change. Thereafter the Contractor shall document the basis for the change in Contract Price or Time within thirty (30) calendar days. The Contractor shall execute such changes upon the receipt of an executed Change Order or further instructions from the Owner.
- 12.3 In the event of any emergency which the Engineer determines endangers life or property, any work required by reason of such an emergency shall be performed in accordance with verbal orders from the Engineer. These orders will be confirmed in writing as soon as practicable. Any such authorization, whether written or verbal, may be accompanied by drawings and data as are necessary to show the extent of such change or extra work. In the event of ordered emergency work, the Contractor shall keep accurate records of actual costs in accordance with Subparagraph 13.2 (c) until such time as Agreement of compensation is reached. Keeping of such records shall not be construed as an indication that this method of compensation is necessarily acceptable for such emergency work and shall not preclude the possibility of an Agreement to pay for such emergency work on a unit-price or lump-sum basis. Upon determination as to the compensation due the Contractor for performing any emergency work, the Contract Documents will be amended in writing by a Change Order.

SECTION V -- GENERAL CONDITIONS

13 -- CHANGES IN CONTRACT PRICE

- 13.1 All changes which affect the cost or time of the construction of the project must be authorized by means of a Change Order. The Change Order will include extra work, or work for which quantities have been dramatically altered from those shown in the bidding schedule. All changes should be recorded on a Change Order Form as they occur. Each Change Order Form must contain complete and detailed justification for all items addressed by the Change Order.
- 13.2 The value of any work covered by a Change Order or of any claim for increase or decrease in the Contract Price shall be determined by one or more of the following methods in the order of precedence listed below:
- a. An agreed lump sum.
 - b. The actual cost of labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the work. In addition, there shall be added an amount to be agreed upon but not to exceed fifteen percent (15%) of the actual cost of the work to cover the cost of general overhead and profit.
 - c. Unit prices previously approved.

SECTION V -- GENERAL CONDITIONS

14 -- TIME FOR COMPLETION AND LIQUIDATED DAMAGES

- 14.1 The date of beginning and the time for completion of the work are essential conditions of the Contract Documents, and the work embraced shall be commenced on the date specified in the Notice to Proceed.
- 14.2 The Contractor will proceed with the work at such rate of progress to insure full completion within contract time. It is expressly understood and agreed, by and between the Contractor and the Owner, that the contract time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work.
- 14.3 If the Contractor shall fail to complete the work within the contract time, or extension of time granted by the Owner, then the Contractor will pay to the Owner the amount for liquidated damages as specified in the bid for each calendar day that the Contractor shall be in default after the time stipulated in the Contract Documents.
- 14.4 The Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to the following and the Contractor has promptly given written notice of such delay to the Owner or Engineer.
 - 14.4.1 To any preference, priority or allocation order duly issued by the Owner.
 - 14.4.2 To unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to: acts of God, or of the public enemy, acts of Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather.
 - 14.4.3 To any delays of subcontractors occasioned by any of causes specified in Paragraphs 14.4.1 and 14.4.2 of this article.

SECTION V -- GENERAL CONDITIONS

15 -- CORRECTION OF WORK

- 15.1 The Contractor shall promptly remove from the premises all work rejected by the Engineer for failure to comply with the Contract Documents, whether incorporated in the construction or not, and the Contractor shall promptly replace and re-execute the work in accordance with the Contract Documents and without expense to the Owner and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.
- 15.2 All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected work within ten (10) days after receipt of written notice, the Owner may remove such work and store the materials at the expense of the Contractor.

SECTION V -- GENERAL CONDITIONS

16 -- SUBSURFACE CONDITIONS

- 16.1 The Contractor shall promptly, and before such conditions are disturbed except in the event of an emergency, notify the Owner by written notice of:
- 16.1.1 Subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents; or
 - 16.1.2 Unknown physical condition at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.
- 16.2 The Owner shall promptly investigate the conditions, and if it is found that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the time required for, performance of the work, an equitable adjustment hereunder shall be made and the Contract Documents shall be modified by a Change Order. Any claim of the Contractor for adjustment hereunder shall not be allowed unless the required written notice has been given; provided that the Owner may, if the Owner determines the facts so justify, consider and adjust any such claims asserted before the date of final payment.

SECTION V -- GENERAL CONDITIONS

17 -- SUSPENSION OF WORK, TERMINATION, AND DELAY

- 17.1 The Owner may suspend the work or any portion thereof for a period of not more than ninety (90) days or such further time as agreed upon by the Contractor, by written notice to the Contractor and the Engineer which shall fix the date on which work shall be resumed. The Contractor will resume that work on the dates so fixed. The Contractor will be allowed an increase in the Contract Price or an extension of the contract time, or both, directly attributed to any suspension.
- 17.2 If the Contractor is adjudged as bankrupt or insolvent, or makes a general assignment for the benefit of its creditors, or if a trustee or receiver is appointed for the Contractor or for any of its property, or if the Contractor files a petition to take advantage of any debtor's act, or to re-organize under the bankruptcy or applicable laws, or repeatedly fails to supply sufficient skilled workmen, or suitable material, or equipment, or repeatedly fails to make prompt payments to subcontractors or for labor, materials or equipment, or disregards the authority of the Engineer, or otherwise violates any provision of the Contract Documents, then the Owner may, without prejudice to any other right or remedy, and after giving the Contractor and its surety a minimum of ten (10) days from delivery or a written notice, terminate the services of the Contractor and take equipment and machinery thereon owned by the Contractor, and finish the work by whatever method the Owner may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such costs exceed unpaid balance, the Contractor will pay the difference to the Owner. Such costs incurred by the Owner will be determined by the Engineer and incorporated in a Change Order.
- 17.3 Where the Contractor's services have been so terminated by the Owner, said termination shall not affect any right of the Owner against the Contractor then existing or which may thereafter accrue. Any retention or payment of moneys by the Owner due the Contractor will not release the Contractor from compliance with the Contract Documents.
- 17.4 After ten (10) days from delivery of a written notice to the Contractor and the Engineer, the Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the project and terminate the Contract. In such case the Contractor shall be paid for all work executed and any expense sustained plus reasonable profit.

- 17.5 If, through no act or fault of the Contractor, the work is suspended for a period of more than ninety (90) days by the Owner, or under an order of court or other public authority, or the Engineer fails to act on any request for payment within sixty (60) days after it is submitted, or the Owner fails to pay the Contractor substantially the sum approved by the Engineer or awarded by arbitrators within sixty (60) days after its approval and presentation, then the Contractor may, after ten (10) days from delivery of a written notice to the Owner and the Engineer, terminate the contract and recover from the Owner payment for all work executed and all expenses sustained. In addition and in lieu of terminating the contract, if the Engineer has failed to act on a request for payment or if the Owner has failed without good cause to make any payment as aforesaid, the Contractor may, upon ten (10) days written notice to the Owner and the Engineer, stop the work until paid all amounts then due, in which event and upon resumption of the work, Change Orders shall be issued for adjusting the contract price or extending the contract time or both to compensate for the costs and delays attributable to the stoppage of the work.
- 17.6 If the performance of all or any portion of the work is suspended, delayed, or interrupted as a result of a failure of the Owner or Engineer to act within the time specified in the Contract Documents, or if no time is specified, within a reasonable time, an adjustment in the contract price or extension of the contract time, or both, shall be made by Change Order to compensate the Contractor for the costs and delays necessarily caused by the failure of the Owner or Engineer.

SECTION V- GENERAL CONDITIONS

18 -- PAYMENT TO CONTRACTOR

- 18.1 At least ten (10) days before each progress payment falls due (but not more often than every thirty-one (31) calendar days), the Contractor will submit to the Engineer a partial payment estimate filled out and signed by the Contractor covering the work performed during the period covered by the partial payment estimate and supported by such data as the Engineer may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the work but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting data, such as paid invoices, or other written evidence satisfactory to the Owner, as will establish the Owner's interest therein, including applicable insurance. The Engineer within ten (10) days after receipt of each partial payment estimate, shall either indicate in writing approval of payment and present the partial payment estimate to the Owner, or return the partial payment estimate to the Contractor indicating in writing the reasons for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and resubmit the partial payment estimate. The Owner will, within fifteen (15) days of presentation of an approved partial payment estimate, pay the Contractor a progress payment on the basis of the approved partial payment estimate less the retainage. The retainage shall be an amount equal to ten (10%) of said estimate.
- 18.2 All progress payments and the final payment shall be processed on a "Partial Payment Estimate" form similar to A.I.A. Document G702.
- 18.3 Prior to substantial completion, the Owner, with approval of the Engineer and with the concurrence of the Contractor, may use any completed or substantially completed portions of the work.
- 18.4 The Owner shall have the right to enter the premises for the purpose of doing work not covered by the Contract Documents. This provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the work, or the restoration of any damaged work except such as may be caused by agents or employees of the Owner.
- 18.5 Upon completion and acceptance of the work, the Engineer shall issue a certificate attached to the final payment request that the work has been accepted under the conditions of the Contract Documents. The entire balance will be due the Contractor forty-five (45) days after the timely recording of a Notice of Completion, or ninety (90) days after completion and acceptance of the work, whichever is earlier.
- 18.6 The Contractor will indemnify and save the Owner or the Owner's agents harmless from all claims growing out of the lawful demand of subcontractors, laborers, workmen, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, tools, and all supplies incurred in the furtherance of the performance of the work. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the Contractor fails to do so, the Owner may, after having notified the Contractor, either pay unpaid bills or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed in accordance with terms of the Contract Documents, but in no event shall the provisions of this sentence be construed to impose any obligations

upon the Owner to either the Contractor, the Contractor's Surety, or any third party. In paying any unpaid bills of the Contractor, any payment so made by the Owner shall be considered as a payment made under the Contract Documents by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any such payments made in good faith.

- 18.7 The Engineer may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any approved partial payment estimate to such extent as may be necessary to protect the Owner from loss on account of:
- a. Defective work not remedied.
 - b. Claims filed or reasonable evidence indicating probable filing of claims.
 - c. Failure of Contractor to make payments properly to Subcontractors or for material or labor.
 - d. A reasonable doubt that the work can be completed for the balance then unpaid.
 - e. Damage to another Contractor.
 - f. Performance of work in violation of the terms of the Contract Documents.
- 18.9 Where work on lump sum or unit price items is substantially complete but lacks clean-up and/or corrections ordered by the Engineer, amounts shall be deducted from lump sum items in partial payment estimates to amply cover such clean-up and corrections.
- 18.10 Public Contract Code Section 22300 allows for an escrow in lieu of retention provision which may be enacted at the discretion of the Contractor.
- 18.11 On lump sum projects the Contractor shall present a comprehensive breakdown of the contract price as a basis for payment for review and approval by the Engineer. The comprehensive breakdown shall be submitted to the Engineer within ten (10) days of the issuance of the Notice to Proceed.

SECTION V -- GENERAL CONDITIONS

19 -- ACCEPTANCE OF FINAL PAYMENT AS RELEASE

- 19.1 The acceptance of the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically accepted by the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others relating to or arising out of this work. Any payment, however, final or otherwise, shall not release the Contractor or its sureties from any obligations under the Contract Documents or the Performance and Payment Bonds.

SECTION V -- GENERAL CONDITIONS

20 -- INSURANCE

- 20.1 The Contractor shall purchase and maintain such insurance as will protect it from claims set forth below which may arise out of, or result from, the Contractor's execution of the work, whether such execution be by the Contractor and Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

The insurance requirement provisions are contained in Section IV, the Contract and Bond Forms Section of the specifications.

SECTION V -- GENERAL CONDITIONS

21 -- CONTRACT SECURITY

- 21.1 The Contractor shall within ten (10) calendar days after the receipt of the Notice of Award furnish the Owner with a Performance Bond and a Payment Bond in penal sums equal to the amount of the Contract Price, conditioned upon the performance by the Contractor of all undertakings, covenants, terms, conditions and agreements of the Contract Documents, and upon the prompt payment by the Contractor to all persons supplying labor and materials in the prosecution of the work provided by the Contract Documents. Such bonds shall be executed by the Contractor and a corporate bonding company licensed to transact such business in the State of California and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Treasury Department Circular Number 570. The expense of these bonds shall be borne by the Contractor. If at any time a surety on any such bond is declared bankrupt, or loses its right to do business in the state in which the work is to be performed, or is removed from the list of Surety Companies accepted on Federal Bonds, Contractor shall within ten (10) days after notice from the Owner to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums on such bonds shall be paid by the Contractor. No further payment shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable bond to the Owner.
- 21.2 The Performance Bond and the Payment Bond to be furnished by the Contractor shall be executed on the forms provided in this document.
- 21.3 The contract security provisions are contained in Section IV, The Contract and Bond Forms Section of the specifications.

SECTION V -- GENERAL CONDITIONS

22 -- ASSIGNMENTS

- 22.1 Neither the Contractor nor the Owner shall sell, transfer, assign or otherwise dispose of the Contract or any portion thereof, or of any right, title or interest therein, or any obligation thereunder, without written consent of the other party.

SECTION V -- GENERAL CONDITIONS

23 -- INDEMNIFICATION

- 23.1 The Contractor will indemnify and hold harmless the Owner and the Engineer and their agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the Work, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use therefrom; and is caused in whole or in part by any negligent or will act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.
- 23.2 In any and all claims against the Owner or the Engineer, or any of their agents or employees, by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under worker's compensation acts, disability benefit acts or other employee benefit acts.
- 23.3 The obligation of the Contractor under this paragraph shall not extend to the liability of the Engineer, its agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications.

SECTION V -- GENERAL CONDITIONS

24 -- SEPARATE CONTRACTS

- 24.1 The Owner reserves the right to enter into other contracts in connection with this project. The Contractor shall afford other Contractor's reasonable opportunity for the introduction and storage of their materials and the execution of their Work, and shall properly connect and coordinate the Work with theirs. If proper execution or results of any part of the Contractor's Work depends upon the Work of any other Contractor, the contractor shall inspect and promptly report to the Engineer any defects in such Work that renders it unsuitable for such proper execution and results.
- 24.2 The Owner may perform additional Work related to the Project or the Owner may enter into other Contracts containing provisions similar to these. The Contractor shall afford the other Contractors who are parties to such Contracts (or the Owner, if the Owner is performing the additional Work) reasonable opportunity of the introduction and storage of materials and equipment and the execution of Work, and shall properly connect and coordinate the Work with theirs.
- 24.3 If the performance of additional Work by other Contractors or the Owner is not noted in the Contract Documents prior to the execution of the Contract, written notice thereof shall be given to the Contractor prior to starting any such additional Work. If the Contractor believes that the performance of such additional Work by the Owner or others involves an additional expense or entitles it to an extension of the Contract Time, the Contractor may make a claim thereof as provided in Section V Items 12.1, 12.2, 13.1, 13.2.

SECTION V -- GENERAL CONDITIONS

25 -- SUBCONTRACTING

- 25.1 The Contractor may utilize the services of specialty Subcontractors on those parts of the Work which, under normal contracting practices, are performed by specialty Subcontractors.
- 25.2 The Contractor shall not award Work to Subcontractor(s), in excess of fifty percent (50%) of the Contract price, without prior written approval of the Owner.
- 25.3 The Contractor shall be fully responsible to the Owner for the acts and omissions of its Subcontractors, and persons either directly or indirectly employed by them, as the Contractor is for the acts and omissions of persons directly employed by it.
- 25.4 The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the Work of Subcontractors and give the Contractor the same power with regard to terminating any subcontract that the Owner may exercise over the Contractor under any provision of the Contract Documents.
- 25.5 Nothing contained in this Contract shall create any contractual relation between any Subcontractor and the Owner.

SECTION V -- GENERAL CONDITIONS

26 -- ENGINEER'S AUTHORITY

- 26.1 The Engineer shall act as the Owner's representative during the construction period, shall decide questions which may arise as to quality and acceptability of materials furnished and Work performed, and shall interpret the intent of the Contract Documents in a fair and unbiased manner.
- 26.2 The Contractor shall be held strictly to the intent of the Contract Documents in regard to the quality of materials, workmanship, and execution of the Work. Inspections may be at the factory or fabrication plant of the source of material supply.
- 26.3 The Engineer shall not be responsible for the construction means, controls, techniques, sequences, procedures or construction safety unless specified otherwise in these specifications.
- 26.4 The Engineer shall promptly make decisions relative to interpretation of the Contract Documents.

SECTION V - GENERAL CONDITIONS

27 - LAND AND RIGHT-OF-WAY

- 27.1 Prior to issuance of the Notice to Proceed, the Owner shall obtain all land and right-of-way necessary for the completion of the Work to be performed pursuant to the Contract Documents, unless otherwise mutually agreed.
- 27.2 The Owner shall provide to the Contractor information which delineate and describes the lands owned and right-of-way acquired.
- 27.3 The Contractor shall provide at its own expense and without liability to the Owner any additional land and access thereto that the Contractor may desire for temporary construction facilities; or for storage of materials.

SECTION V -- GENERAL CONDITIONS

28 -- GUARANTEE

- 28.1 The Contractor shall guarantee all materials and equipment furnished and Work performed for a period of one (1) year from the date of Substantial Completion. The Contractor warrants and guarantees for a period of one (1) year from the date of Substantial Completion of the system that the completed system is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of the damage of other parts of the system resulting from such defects. The Owner shall give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the Owner may do so and charge the Contractor the cost thereby incurred.

SECTION V -- GENERAL CONDITIONS

29 -- ARBITRATION

- 29.1 All claims, disputes, and other matters in question arising out of, or relating to, the Contract Documents or the breach thereof, except for claims which have been waived by the acceptance of final payment as provided by subsection 18, may be decided by arbitration if the parties mutually agree. Any agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. If this is a "public works contract" as defined in Section 4600 of the California Government Code, the arbitration shall be conducted pursuant to Sub-section 10240 - 10240.13 of the California Public Contract Code. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction thereof.
- 29.2 Notice of the request for arbitration shall be filed in writing with the other party to the Contract Documents and a copy shall be filed with the Engineer. Request for arbitration shall in no event be made on any claim, dispute, or other matter in question which would be barred by the applicable statute of limitations.
- 29.3 The Contractor shall carry on the Work and maintain the progress schedule during any arbitration proceedings, unless otherwise mutually agreed in writing.

SECTION V -- GENERAL CONDITIONS

30 -- TAXES

- 30.1 The Contractor shall pay all sales, consumer, use and other similar taxes required by the laws of the Heber Public Utility District, State of California, United States of America.

SECTION V -- GENERAL CONDITIONS

31 -- CONFLICT OF INTEREST

- 31.1 No member of or delegate to Congress or Board Member shall be admitted to any share or part of this contract or to any benefit that may arise therefrom.
- 31.2 No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with construction of the project, shall become directly or indirectly involved personally in this contract or in any part thereof. No officer, employee, architects, attorney, engineer or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner who is in any legislative, executive, supervisory or other similar functions in connection with the construction of the project shall become directly or indirectly involved personally in this Contract or in any part thereof, any material supply contract, subcontract, insurance contract or any other contract pertaining to the project.

SECTION V -- GENERAL CONDITIONS

32 - PRE-CONSTRUCTION CONFERENCE

- 32.1 Prior to the start of construction, the Engineer will conduct a pre-construction conference. At the conference, the Engineer will review the project with the Contractor, HPUD Officials, and other interested parties.

SECTION V -- GENERAL CONDITIONS

33 -- AFFIRMATIVE ACTION

- 33.1 Each Contractor shall be required to have an affirmative action plan which declares that it does not discriminate on the basis of race, color, creed, national origin, sex, martial status, or age and which specifies goals and target dates to assure compliance with this requirement by contractors and to assure that suspected or reported violations are promptly investigated.

SECTION V -- GENERAL CONDITIONS

34 -- CLEAN UP

- 34.1 The Contractor shall at all times keep the premises occupied by him and access to such premises in a neat, clean and safe condition. Upon completion of any Work, the Contractor shall promptly remove all his equipment, temporary structures, and surplus construction and other materials not to be used at or near the same location during later stages of work. At the completion of every work day, the contractor shall secure all equipment, tools, material and supplies in a safe manner to ensure public safety. The contractor shall ensure that the work site is safe for the public at all times. Upon completion of any work and before final payment is made, the Contractor shall, at his expense, satisfactorily dispose of all plants, buildings, rubbish, unused materials, concrete forms and other equipment and materials belonging to him or used in the performance of work and the Contractor shall leave the premises in a neat, clean and safe condition. In the event of the Contractor's failure to comply with any of the foregoing, the same may be accomplished by the Owner at the Contractor's expense.

SECTION V -- GENERAL CONDITIONS

35 -- FIRE PREVENTION

- 35.1 The Contractor shall not permit unauthorized fires either within or adjacent to the limits of the Project and shall be liable for all damage from fire due directly or indirectly to its own activities, or those of its employees or of its Subcontractor or their employees. The contractor shall conform to all state and local laws and regulations pertaining to burning, fire prevention and control within or adjacent to the Project. A copy of each required permit shall be furnished to the Engineer.

SECTION V -- GENERAL CONDITIONS

36 -- TITLE TO MATERIALS FOUND

- 36.1 Unless otherwise provided in the Contract, the title and interest in the right to use all water, and the title to all soil, stone, gravel, sand materials, timber, and all other materials, developed or obtained in the excavation or other operations by the Contractor or any of his Subcontractors, or any of their representatives or employees, and the right to use or dispose of the same are hereby expressly reserved by the Owner and neither the Contractor nor any of his Subcontractors, not any of their representatives or employees, shall have any right, title or interest in or to any part thereof; neither shall they, nor any of them assert to make any claim thereto.
- 36.2 In the event that any Indian relics or items with archeological or historical value are discovered by the Contractor or any of his Subcontractors or any of their representatives or employees, the Contractor shall immediately notify the Engineer and await the Engineer's decision before proceeding with any Work. Such relics and items shall be the property of the Owner.

SECTION V -- GENERAL CONDITIONS

37 -- MOBILIZATION

- 37.1 Mobilization shall consist of preparatory work and operations including, but not limited to, those necessary for the movement of personnel, equipment, supplies and incidentals to the Project site for all other work and operations that must be performed or costs incurred before beginning work on the various Contract items on the Project site.
- 37.2 Mobilization shall include, but not be limited to, the following items, all as required for the proper performance and completion of the Work:
1. Obtaining all permits, licenses, insurance, and bonds. Providing copies to the ENGINEER;
 2. Moving onto the Jobsite all of CONTRACTOR'S supplies and equipment as required;
 3. Submitting all required Subcontractor insurance certificates and bonds;
 4. Posting all CAL/OSHA required notices and establishment of safety programs;
 5. Having the CONTRACTOR'S representative at the Jobsite full time;
 6. Furnishing of Construction Schedule, Contract Price Breakdown (Schedule of Values) and Submittal Schedules and Submittal Documents; and
 7. Paying other miscellaneous fees

All costs incurred for the mobilization and the associated work shall be included in the Bid Item for the Mobilization cost and no additional compensation shall be provided therefore.

SECTION VI - SPECIAL CONDITIONS

1. AS-BUILT DRAWINGS

The Contractor shall maintain a set of drawings at the site showing all “as-built” changes made to date. A marked-up set of drawings shall be delivered to the Engineer upon completion of the work which shall reflect all “as-built” modifications.

2. SUBMITTALS

The contractor shall submit the following shop drawings or submittal information to the Engineer for review and approval prior to commencing construction work at the project site. A total of three (3) sets of submittal documents shall be forwarded to the Engineer. Two (2) reviewed submittal documents shall be forwarded to the contractor. This list is not intended to be all inclusive and the Engineer reserves the right to demand shop drawings and submittal information associated with any other items at its discretion.

1. Basketball Poles
2. Basketball Backboards
3. Basketball Goals
4. Steel Basketball Nets
5. Concrete
6. Class II Base
7. Paint for Concrete Slab and Striping

The Contractor shall not initiate construction until all Submittals are approved by the Engineer. The Contractor shall obtain approvals on submittals for this project.

3. CONTRACTOR’S LICENSE

The Contractor shall have a Class C-8 California Contractor’s license.

SECTION VII - TECHNICAL CONDITIONS

PROTECTION OF EXISTING UTILITIES

Unless otherwise illustrated on the plans or stated in the specifications, all utilities, both underground and overhead, shall be maintained in continuous service throughout the entire contract period. The Contractor shall be responsible and liable for any damages to or interruption of service caused by the construction.

If the Contractor desires to simplify his operation by temporarily or permanently relocating or shutting down any utility or appurtenance, the Contractor shall make the necessary arrangements and agreements with the Utility Purveyor and shall be completely responsible for all costs concerned with the relocation or shutdown and reconstruction. All property shall be reconstructed in its original or new location as soon as possible and to a condition at least as good as its previous condition. This period of relocation or shutdown and reconstruction shall be subject to inspection and approval by both the Engineer and the Utility Purveyor.

The Contractor shall be entirely responsible for safeguarding and maintaining all conflicting utilities that are illustrated on the plans. This includes overhead wires and cables and their supporting poles whether they are inside or outside of the open trench. If, in the course of work, a conflicting utility line that was not illustrated on the plans is discovered, the developer shall either negotiate with the Utility Purveyor for relocation, relocate the utility or change the alignment and grade of the trench.

CONCRETE REQUIREMENTS

The concrete shall contain 7 sacks of cement per cubic yard and attain a compressive strength of 5,000 PSI after 28 days of curing.

After concrete placement a continuous wet cure of 5 days (minimum) shall be conducted.

The maximum temperature of concrete shall not exceed 90-degrees Fahrenheit immediately before placement.

Fly ash shall not be allowed as a substitute for cement.

Contractor shall be responsible for providing concrete sampling and compressive strength test from a geotechnical testing consultant.

CLASS 2 BASE REQUIREMENTS

The class 2 base shall be compacted to 95 percent of maximum density per ASTM D-1557.

Contractor shall be required to obtain (or test) a maximum density at optimum water content value from the class 2 base supplier. Contractor shall be responsible for providing maximum density testing of class 2 base from a geotechnical testing consultant.

BASKETBALL EQUIPMENT REQUIREMENTS

There shall be two (2) Basketball Poles.

Basketball Poles shall be Mega -Duty Pole with 6 feet Gooseneck Extension. Pole shall be 5-9/16" O.D., hot dip galvanized steel pipe with 72" safe play area with goal mounts directly through backboard to pole.

Basket Poles shall be model no. BA780 as manufactured by Bison, Inc., or an approved equal.

There shall be two (2) Stainless Replacement Fasteners for the Basketball Poles. Fasteners shall be model no. BA70SSH as manufactured by Bison, Inc., or an approved equal.

There shall be two (2) Basketball Backboards.

Basketball Boards shall be rectangular 42" X 60" with safety rolled edges 12 gage steel with white powder coated finish.

Basketball Boards shall be model no. BA47 as manufactured by Bison, Inc., or an approved equal.

There shall be two (2) Basketball Goals.

Basketball Goals shall be double 5/8" steel rim with 3/16" thick steel box style backplate and rim supports accepts nylon or chain nets.

Basketball Goals shall be model no. BA39U as manufactured by Bison, Inc., or an approved equal.

There shall be two (2) Steel Basketball Nets for the Basketball Goals.

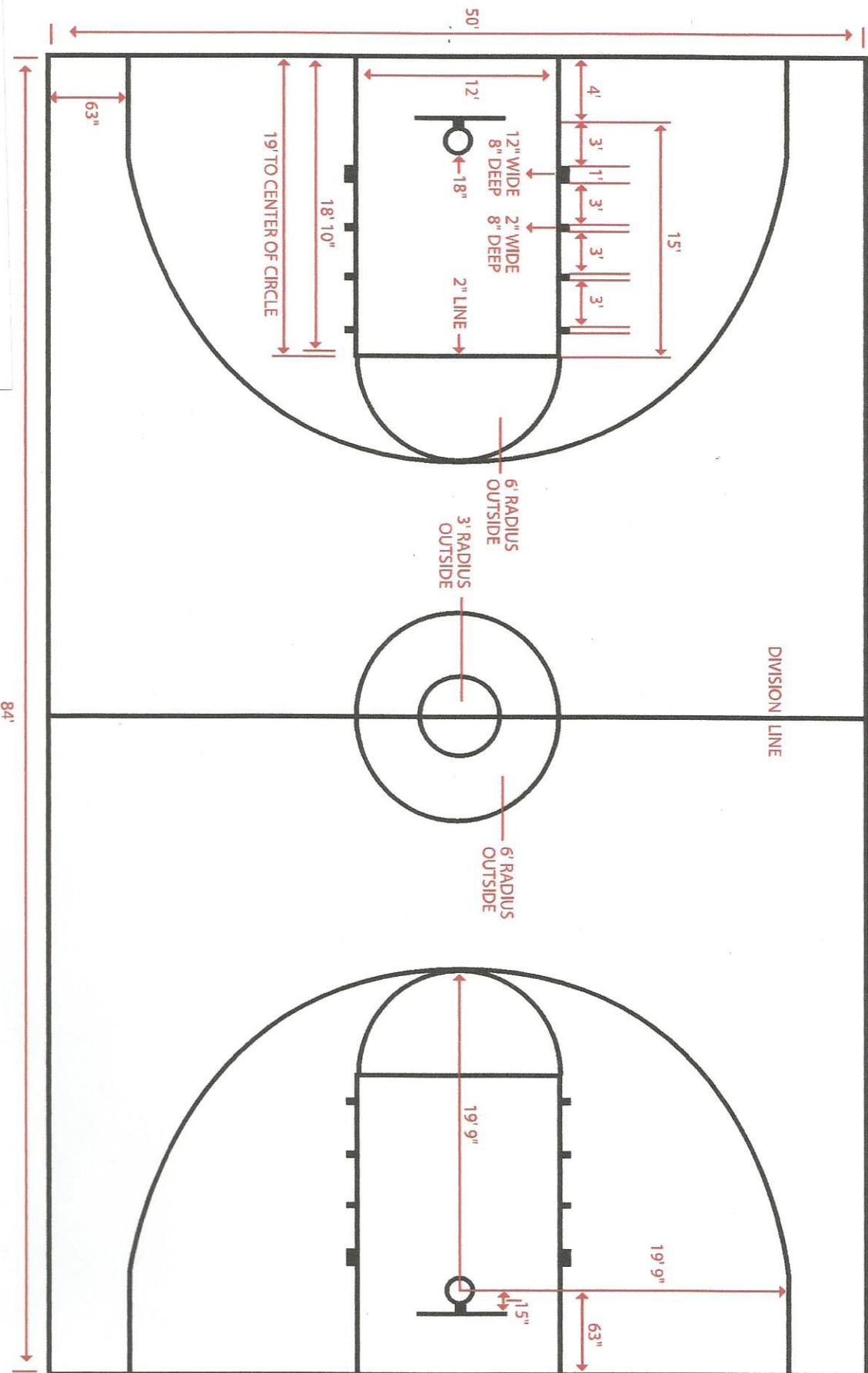
Basketball Nets shall be Premium Steel Playground Safety Net.

Basketball Goals shall be model no. BA50 as manufactured by Bison, Inc., or an approved equal.

SECTION VIII - DESIGN PLANS

- 1) Repair Phase of existing 40-foot X 80-foot concrete slab. Repair structural cracks found on the court surface with concrete repair compound and/or a two-component, non-sag, elastomeric polyurethane sealant. Repair low spots and depressions in concrete slab with cement skim coats. For the entire 40-foot X 80-foot concrete slab, mill (grind) high spots and sand to a smooth finish.
- 2) Extend existing 40-foot X 80-foot concrete slab to a finished size of 60-foot X 100-foot by extending a 20-foot X 100-foot (2,000 sq. ft.) slab on the north side of existing and a 20-foot X 40-foot (800 sq. ft.) slab to the west end of existing. For the area of new concrete; excavate 11-inches of existing native soil; place and compact a 6-inch thick section of class 2 base; and place and finish a 5-inch thick concrete slab. Contractor shall install 6 mil visqueen below concrete slab. Concrete slab shall have No. 3 rebar at 18 inches on center, each way, embedded at midpoint of slab thickness; No. 4 steel dowels into existing concrete at 36 inches on center for a depth of 8 inches; 16 inch thickened edge outside footing with two (2) No. 5 steel rebar.
- 3) Remove and re-place entry P.C.C. sidewalk measuring 6.5-foot X 13-foot level with existing slab.
- 4) Install Basketball backboard support poles according to product engineering requirements, with a minimum of 36-inch diameter X 48-inch in-ground footing. The support poles should be installed according to the high school/college basketball court layout provided to contractor. The poles have a 72-inch safe play area under the basket.
- 5) Apply anti-slip acrylic concrete coating to the entire new basketball court, which reseals the court, insulates and disguises the repair work, and restores surface texture while providing a uniform court color scheme. Color chart to be provided as a submittal to Heber Public Utility District for color selection.
- 6) Install the basketball backboards and nets as directed by the product manufacturer.
- 7) Paint court stripping according to layout provided.
- 8) Attached is a Design Plan (layout) for the "BASKETBALL COURT (High School or College).

BASKETBALL COURT (High School or College)



**HEBER PUBLIC UTILITY DISTRICT
BASKETBALL COURT – MARGARITO “TITO” HUERTA PARK**

Schedule of Events

Date: April 22, 2015

<u>NO.</u>	<u>ITEM</u>	<u>SCHEDULE</u>
1.	Heber Public Utility District to approve Design and Advertisement of Project for Bidding.	Friday, May 1, 2015
2.	Prepare Cover Letter transmitting Legal Advertisement to the Imperial Valley Press. The Imperial Valley Press requires the Legal Advertisement 72 hours or 3 business days prior to the Advertising of the Project.	Friday, May 1, 2015
3.	Complete printing of bid documents.	Friday, May 1, 2015
4.	Advertise Project for Bidding in the Imperial Valley Press.	Wednesday, May 6, 2015 And Friday, May 8, 2015
	Advertise Project for Bidding on the Heber Public Utility District and Imperial Valley Economic Development Websites.	Monday, May 4, 2015
5.	Contact local contractors, subcontractors and material suppliers regarding the project.	Friday, May 8, 2015
6.	Conduct Bid Opening at 10:00 a.m. at HPUD Office (1078 Dogwood Road, Suite 103, Heber, CA 92249).	Wednesday, May 20, 2015
7.	Award Contract for Construction of Project at a regularly scheduled Heber Public Utility District Board Meeting.	Thursday, May 21, 2015
8.	Process Contract Documents. Receive Insurance Certificates, Performance Bond and Payment Bond from Contractor. Review of Insurance and Bond Documents by Heber Public Utility District. Execution of Agreement and Notice to Proceed after approval of Insurance and Bond Documents by Heber Public Utility District Counsel.	Friday, May 22, 2015 To Friday, June 5, 2015

<u>NO.</u>	<u>ITEM</u>	<u>SCHEDULE</u>
9.	Preparation and review Project Submittal Documents.	Friday, May 22, 2015 To Friday, June 5, 2015
10.	Conduct Pre-Construction Conference at Heber Public Utility District Office at 10:00 a.m.	Friday, June 5, 2015
11.	Issue Notice to Proceed to Contractor. Start project construction within 10 days after issuance of Notice to Proceed.	Friday, June 19, 2015
12.	Project Construction (30 calendar days).	Monday, June 22, 2015 To Thursday, July 22, 2015
13.	Conduct Final Project Inspection with Contractor and Heber Public Utility District Staff.	Thursday, July 22, 2015
14.	File Notice of Completion at County of Imperial Recorder's Office.	Friday, July 23, 2015