

CITY OF POMONA
POMONA WATER RESOURCES DEPARTMENT
CORPORATE YARD FACILITY – PROJECT NO. 575-93135
DESIGN-BUILD CONTRACT

1.1 Contract for Design and Construction.

This Design-Build Contract is effective as of the 1st day of September, 2021, by and between City of Pomona, a charter city organized and existing under the laws of the State of California ("City"), and **KEMP BROS. CONSTRUCTION, INC.** ("Design-Build Entity").

The parties agree as follows:

- A. Design-Build Entity, for and in consideration of the payment to be made to Design-Build Entity as hereinafter provided, shall furnish all plant, labor, technical and professional design services, supervision, materials and equipment, other than such materials and equipment as may be specified to be furnished by City, and perform all operations necessary to complete the Work in strict conformance with the Contract Documents (defined below) for the public work of improvement titled:

CORPORATE YARD FACILITY - PROJECT NO. 575-93135

Design-Build Entity is an independent contractor and not an agent of City. The Design-Build Entity and its surety shall be liable to City for any damages arising as a result of the Design-Build Entity's failure to comply with this obligation.

The Design-Build Entity is the entity with whom the City is contracting for performance of the Work. The DBE is **KEMP BROS. CONSTRUCTION, INC.** (License No. **149816 A & B LICENSE NUMBER**), which shall function as the general contractor for the Project and provide all construction services for the Project together with its chosen subcontractors. For purposes of this Contract, **GREGORY S. SOLAAS is CEO of the entity and the D/B ENTITY SIGNATORY** who shall execute the Contract on behalf of the Design-Build Entity and shall have the authority to make all decisions necessary on behalf of the Design-Build Entity. Notwithstanding the foregoing, City may accept bonds naming the Design-Build Entity as principal and professional liability insurance naming the member of the Design-Build Entity designated for design/architectural services as named insured.

- B. The Architect for the Project is the Design Builder's hired consultant who is a licensed Design Professional. The Design Professional is **SILLMAN WRIGHT ARCHITECTS (LICENSE No. 31087)**, which shall function as the Architect/Engineer of Record for the Project and provide all Architectural/Engineering design services for the project.

The Design-Build Entity shall perform all services required under the Contract Documents in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals qualified to perform such services in the same discipline in the State of California.

- C. Time is of the essence in the performance of the Work. The Work shall be commenced on or around the date stated in the City's Notice to Proceed. The Design-Build Entity shall complete all Work required by the Contract Documents within **613 WORKING DAYS** from the commencement date stated in the Notice to Proceed, which is anticipated for issuance on or around **September 1, 2021**. Working Days is defined as Monday – Friday excluding certain holidays. The Contract Schedule (5 A Attachment) includes a total of 42 days of float, based upon 21 days of weather related float per calendar year, plus 20 days of City honored Holidays per year, based upon 10 days of Holidays per calendar year.

By its signature hereunder, Design-Build Entity agrees the Project Completion Date is adequate and reasonable to complete the Work, but such Project Completion Date assumes and is subject to the City of Pomona's active involvement and cooperation in the design approval process as set forth in the Design-Build project schedule included herein under Attachment 5a. Design approval delays by the City of Pomona, or subsequent changes made to the approved project design by the City of Pomona may cause delays in the completion of the Project and such delays will be compensable if they impact the DBE's ability to complete the project on the Project Completion Date.

- D. City shall pay to the Design-Build Entity as full compensation for the performance of the Contract, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs, the Guaranteed Maximum Price ("GMP") of **Twenty Eight Million, Eight Hundred and Sixty One Thousand, Six Hundred and Fourteen Dollars (\$28,861,614.00)**. Payment shall be made as set forth in the General Conditions. Unless otherwise stated in the Contract Documents, the GMP shall pay for all costs and expenses required to design and construct the Project as scheduled, but such GMP assumes and is subject to the City of Pomona's active involvement and cooperation in the design approval process as set forth in the attached Design-Build project schedule.

Specifically included within the GMP is a City owned contingency in the amount of **Two Hundred and Eighty Eight Thousand, Six Hundred and Sixteen Dollars (\$288,616.00)** ("City Owned Contingency") which is equal to 1% of the contract amount. City Owned Contingency shall be for the exclusive use of City as needed to pay for unforeseen conditions and/or City added scope of work for the Project. City must authorize any use of these contingency funds in writing before the Design-Build Entity shall be entitled to any compensation from City Owned Contingency. Design-Build Entity shall be responsible at all times for tracking and accounting for any expenditure of City Owned Contingency. Any City Owned Contingency remaining at Project completion shall remain the sole property of City. Other than City Owned Contingency, the rest of the GMP is the sum payable to the Design-Build Entity to design and construct the Project.

- E. Design-Build Entity shall provide indemnification and defense as set forth in the General Conditions.
- F. No oral agreement or conversation with any representative or employee of City, either before or after the execution of the Contract shall affect or modify any of the terms or obligations herein contained. This Contract constitutes the entire agreement between

the parties hereto and no changes, alterations or modifications hereof shall be effective unless in writing and signed by City.

- G. The "Contract Documents" include only the following documents, each of which is incorporated into this Contract by reference

City's Request for Qualifications ("RFQ")

Design-Build Entity's Statement of Qualifications in response to City's Request for Qualifications ("RFQ")

City's Request for Proposal ("RFP")

Design-Build Entity's ("RFP") response to City's Request for Proposal

DBE's latest, current and accepted preliminary Design-Build Drawings, with related Basis of Design Descriptions and preliminary Project Specifications attached hereto.

Design-Build Contract and all Addenda, Attachments and Exhibits

General Conditions

Special Conditions

General Requirements

City approved Change Orders

Attachment 1 to this Contract - Design Professional's Rate Schedule for Extra Work

Attachment 2 to this Contract - Performance Bond

Attachment 3 to this Contract – Labor and Material Bond

Attachment 4 to this Contract – NOT USED (Escrow Agreement for Security)

Attachment 5 to this Contract – Design-Build Entity's Proposed Design and Construction Schedule for Project Completion. Design-Build Entity's Monthly Rate Schedule for Project General Conditions.

Attachment 6 to this Contract – Inclusions, Exclusions and Possible Additive Alternates for the Scope of Work by the Design-Build Entity

Completed and approved Construction Documents developed in accordance with the Design-Build Contract and General Conditions

The Design-Build Entity shall complete the Work in strict accordance with all the Contract Documents.

All the Contract Documents are intended to be complementary. Work required by one of the Contract Documents and not by others shall be done as if required by all. In the event of a conflict, the various Contract Documents will be given effect in the order set forth in the General Conditions.

- H. Each and every provision of law required to be included in these Contract Documents shall be deemed to be included in these Contract Documents. The Design-Build Entity

shall comply with all requirements of applicable federal, state and local laws, rules and regulations, including, but not limited to, the provisions of the California Labor Code and California Public Contract Code which are applicable to this Work.

- I. By my signature hereunder, as Design-Build Entity, I certify that 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 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.
- J. The parties do for themselves, their heirs, executors, administrators, successors, and assigns agree to the full performance of all of the provisions contained in this Contract. The Design-Build Entity may not either voluntarily or by action of law, assign any obligation assumed by the Design-Build Entity hereunder without the prior written consent of City.
- K. All notices hereunder and communications regarding interpretation of the terms of the Contract or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

CITY:
City of Pomona
505 South Garey Ave.
Pomona, California 91766

DESIGN-BUILD ENTITY:
KEMP BROS. CONSTRUCTION, INC.
10135 Geary Avenue
Santa Fe Springs, California 90670

Attn: _____

Attn: Greg Solaas
Chief Executive Officer

Any notice so given shall be considered received by the other party three (3) days after deposit in the U.S. Mail, first class postage prepaid, addressed to the party at the above address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

- L. The persons executing this Contract on behalf of their respective Parties represent and warrant that they have the authority to do so under law and from their respective Parties.

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties, on the day and year above written.

CITY OF POMONA

By: _____

Printed Name: _____

Title: _____

Dated: _____

DESIGN-BUILD ENTITY

By: _____
(Authorized Representative of Design-Build Entity)

Printed Name: **Greg Solaas**

Title: **Chief Executive Officer**
(Attach Acknowledgment for Authorized Representative of Design-Build Entity)

License No. 149816

Dated: _____

ATTEST:

City Clerk

City Attorney

END OF CONTRACT

ATTACHMENT 1

DESIGN PROFESSIONAL RATE SCHEDULE FOR EXTRA WORK

“Design-Build entity shall only apply mark-ups as allowed in the General Conditions for Overhead and Profit on design change directives.”

DESIGN PROFESSIONAL RATE SCHEDULE:

Sillman Wright's Rates are Attached hereto and incorporated by reference.

2021 Schedule of Hourly Rates

Principal Architect	\$220
Sr. Project Architect	\$200
Project Architect	\$190
Project Manager	\$180
Project Designer	\$170
Job Captain	\$150
Drafter / CAD / BIM	\$120

(CAD is Computer
Aided Design and BIM
is Building Information
Modeling)

Administrative	\$110
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Reimbursable expenses include, but are not limited to: reproduction, mileage, mailing, courier costs, and filing fees and will be invoiced at direct cost plus 15%.

PRODUCTION COSTS: B&W Color

CAD/Plotting:	\$.30	\$.75
11x14 or 11x17	\$.40	\$1.00
Quarter Sheet	\$.84	\$2.11
Half Sheet	\$1.69	\$4.22
Full Sheet	\$3.38	\$8.44

END OF DESIGN PROFESSIONAL RATE SCHEDULE FOR EXTRA WORK

ATTACHMENT 1

ATTACHMENT 2

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Pomona (hereinafter referred to as "City") has awarded to Kemp Bros. Construction, Inc., (hereinafter referred to as the "Design-Build Entity") an agreement for design and construction of the Water Resources Administration and Operations Facility and New "Historic Stable" Building – 575-8125-XXXXX-93135, (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Design-Build Entity is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Design-Build Entity is required by the Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of the Contract Documents.

NOW, THEREFORE, we, _____, the undersigned Design-Build Entity and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto City in the sum of _____ DOLLARS, (\$ _____), the sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Design-Build Entity, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one-year guarantee of all materials and workmanship; and shall indemnify and save harmless City, its officers and agents, as stipulated in the Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a condition precedent to the satisfactory completion of the Project, unless otherwise provided for in the Contract Documents, the guarantee obligation shall hold good for a period of two (2) years after the acceptance of the work by City, during which time if Design-Build Entity shall fail to make full, complete, and satisfactory repair and replacements and totally protect City from loss or damage resulting from or caused by defective materials or faulty workmanship the above obligation in penal sum thereof shall remain in full force and effect. However, anything in this paragraph to the contrary notwithstanding, the obligations of Surety hereunder shall continue so long as any obligation of Design-Build Entity remains. Nothing herein shall limit City's rights or the Design-Build Entity or Surety's obligations under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees including reasonable attorney's fees, incurred by City in enforcing such obligation.

Whenever Design-Build Entity shall be, and is declared by City to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at City's option:

1. Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or
2. Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and City, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Design-Build Entity by City under the Contract and any modification thereto, less any amount previously paid by City to the Design-Build Entity and any other set offs pursuant to the Contract Documents.
3. Permit City to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Design-Build Entity by City under the Contract and any modification thereto, less any amount previously paid by City to the Design-Build Entity and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that City may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Design-Build Entity.

Surety shall not utilize Design-Build Entity in completing the Project nor shall Surety accept a bid from Design-Build Entity for completion of the Project if City, when declaring the Design-Build Entity in default, notifies Surety of City's objection to Design-Build Entity's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract to be performed thereunder, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of Contract. including but not limited to the provisions of Sections 2819 and 2845 of the California Civil Code.

[Remainder of Page Left Intentionally Blank.]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

DESIGN-BUILD ENTITY/PRINCIPAL

Name

By _____

SURETY:

By: _____
Attorney-In-Fact

Signatures of those signing for the Design-Build Entity and Surety must be notarized and evidence of corporate authority attached.

The rate of premium on this bond is _____ per thousand. The total amount of premium charges, \$_____.
(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety) _____

(Name and Address of Agent or Representative for service of process in California, if different from above) _____

(Telephone number of Surety and Agent or Representative for service of process in California) _____

END OF PERFORMANCE BOND

ATTACHMENT 2

ATTACHMENT 3
LABOR AND MATERIAL (PAYMENT) BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Pomona (hereinafter referred to as "City ") has awarded to KEMP BROS.CONSTRUCTION, INC., (hereinafter referred to as the "Design-Build Entity") an agreement for design and construction of the Water Resources Administration and Operations Facility and New "Historic Stable" Building – 575-8125-XXXXX-93135, (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Design-Build Entity is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, Design-Build Entity is required to furnish a bond in connection with the contract described above; providing that if Design-Build Entity or any of its subcontractors shall fail to pay for any materials, provisions, provender, equipment, or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Design-Build Entity and its subcontractors with respect to such work or labor the Surety on this bond will pay for the same to the extent hereinafter set forth.

NOW THEREFORE, we, the Design-Build Entity and _____ as Surety, are held and firmly bound unto City in the penal sum of _____ Dollars (\$_____) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if Design-Build Entity, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Section 9100 of the Civil Code, fail to pay for any materials, provisions or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Section 18663 of the Revenue and Taxation Code, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by City in such suit, including reasonable attorneys' fees, court costs, expert witness fees and investigation expenses.

This bond shall inure to the benefit of any of the persons named in Section 9100 of the Civil Code so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition,

ATTACHMENT 3

alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between City and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 9100 of the Civil Code, and has not been paid the full amount of his claim.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract to be performed thereunder, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of Contract, including but not limited to the provisions of Sections 2819 and 2845 of the California Civil Code.

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Design-Build Entity and Surety above named, on the _____ day of _____ 20____ the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

(Corporate Seal of Design-Build Entity,
if corporation)

Design-Build Entity/Principal

By _____
(Signature of Design-Build Entity)

(Seal of Surety)

Surety

By _____
Attorney in Fact

Signatures of those signing for the Design-Build Entity and Surety must be notarized and evidence of corporate authority attached. A Power-of-Attorney authorizing the person signing on behalf of the Surety to do so must be attached hereto.

END OF LABOR AND MATERIAL (PAYMENT) BOND

ATTACHMENT 3

ATTACHMENT 4

ESCROW AGREEMENT FOR SECURITY – NOT USED

This Escrow Contract is made and entered into by and between the **CITY OF POMONA**, whose address is **505 South Garey Ave., Pomona, California 91766** (hereinafter called the "City") and **[INSERT DESIGN-BUILD ENTITY NAME]** whose address is **[INSERT ADDRESS]** (hereinafter called "the Design-Build Entity") and _____ whose address is **[INSERT ADDRESS]** (hereinafter called "Escrow Agent").

For the consideration hereinafter set forth, City, the Design-Build Entity, and Escrow Agent agree as follows:

(1) Pursuant to Section 22300 of the Public Contract Code of the State of California, the Design-Build Entity has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by City pursuant to the Construction Contract entered into between City and the Design-Build Entity for the **[INSERT PROJECT NAME]** Project in the amount of **[\$[INSERT AMOUNT]]** dated **[INSERT DATE]** (hereinafter referred to as the "Contract"). Alternatively, on written request of the Design-Build Entity, City shall make payments of the retention earnings directly to the Escrow Agent. When the Design-Build Entity deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify City within 10 days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between City and the Design-Build Entity. Securities shall be held in the name of City, and shall designate the Design-Build Entity as the beneficial owner.

(2) City shall make progress payments to the Design-Build Entity for those funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.

(3) When City makes payment of retention earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the Design-Build Entity until the time that the escrow created under this Escrow Contract is terminated. The Design-Build Entity may direct the investment of the payments into securities. All terms and conditions of this Escrow Contract and the rights and responsibilities of the parties shall be equally applicable and binding when City pays the Escrow Agent directly.

(4) The Design-Build Entity shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of City. These expenses and payment terms shall be determined by City, the Design-Build Entity and Escrow Agent.

(5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of the Design-Build Entity and shall be subject to withdrawal by the Design-Build Entity at any time and from time to time without notice to City.

(6) The Design-Build Entity shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written

ATTACHMENT 4

authorization from City to the Escrow Agent that City consents to the withdrawal of the amount sought to be withdrawn by the Design-Build Entity.

(7) City shall have a right to draw upon the securities in the event of default by the Design-Build Entity. Upon seven days' written notice to the Escrow Agent from City of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by City.

(8) Upon receipt of written notification from City certifying that the Contract is final and complete, and that the Design-Build Entity has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to the Design-Build Entity all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.

(9) Escrow Agent shall rely on the written notifications from City and the Design-Build Entity pursuant to Sections (5) to (8), inclusive, of this Escrow Contract and City and the Design-Build Entity shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

(10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of the Design-Build Entity in connection with the foregoing, and exemplars of their respective signatures are as follows:

ON BEHALF OF THE DESIGN-BUILD ENTITY:

By: _____

Name: _____

Its: _____

ON BEHALF OF CITY:

By: _____

Name: _____

Its: _____

ON BEHALF OF ESCROW AGENT:

By: _____

Name: _____

Its: _____

Address: _____

At the time the Escrow Account is opened, City and the Design-Build Entity shall deliver to the Escrow Agent a fully executed counterpart of this Escrow Contract.

IN WITNESS WHEREOF, the parties have executed this Escrow Contract by their proper officers on the date first set forth above.

ON BEHALF OF THE DESIGN-BUILD ENTITY:

By: _____

Name: _____

Its: _____

ON BEHALF OF CITY:

By: _____

Name: _____

Its: _____

END OF ESCROW AGREEMENT FOR SECURITY

ATTACHMENT 4

ATTACHMENT(S) 5a. and 5b.

- 5a.) Design-Build Entity's Proposed Design and Construction Schedule for Project Completion. (Attached hereto and incorporated by reference.)**
- 5b.) Design-Build Entity's Monthly Rate Schedule for Project General Conditions. (Attached hereto and incorporated by reference.)**

**END OF PROPOSED PROJECT DESIGN AND CONSTRUCTION SCHEDULE AND
MONTHLY RATE SCHEDULE FOR PROJECT GENERAL CONDITIONS**

ATTACHMENT 5

ATTACHMENT 6

INCLUSIONS and EXCLUSIONS TO THE SCOPE OF WORK OF THE DESIGN-BUILD ENTITY

PROJECT INCLUSIONS

Design & Construction of a new Warehouse Building
Design & Construction of a new Administration Building
Design & Construction of new Stable Building ("similar" in appearance to original stable)
Selective reclamation & re-use of exterior brick from the historic Stable Building
Demolition, site clearing & disposal of historic Stable building debris after brick salvage.
New Perimeter Site Wall
New Site Drainage, Wastewater Distribution and Infiltration Systems
New Parking Area with Lighting
Lobby Graphics
Building Signage
Site Wayfinding Signage
Site Landscaping / Hardscape
Asphalt Paving and Striping
Furniture, Fixtures and Equipment (FF&E) will be planned / coordinated by Architect and procured / installed by DBE. Total FF&E budget established as an allowance is \$318,321.00

PROJECT EXCLUSIONS

New or existing SCADA antenna to be relocated, installed and connected by Owner / Others
Street repairs at Hamilton and Monterey, except for DBE utility and curb cut tie-ins only.
Full road replacement at Hamilton and Monterey, eg. no curb to curb street repairs.
Any car or truck canopies on buildings or in parking areas
Any Solar Equipment or Photovoltaic Systems
Any Street Lights
Welding Shop improvements
Production Shop improvements
Distribution Shop improvements
Wastewater Shop improvements
Outside restrooms
Building demolition, asbestos or lead abatement except as specifically articulated above.
Contaminated soil testing, remediation or hauling
Management of any environmental conditions
Greywater capture, filtration, recycling, or irrigation systems

**END OF INCLUSIONS, EXCLUSIONS AND ADDITIVE ALTERNATE TO THE SCOPE OF
WORK OF THE DESIGN-BUILD ENTITY**

ATTACHMENT 6