CONTRACT

33290

THIS CONTRACT is made and entered, in duplicate, as of September 19, 2013 for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting held on September 10, 2013, by and between NOBEST INCORPORATED, a California corporation ("Contractor"), whose address is 7600 Acacia Avenue, Garden Grove, California 92844, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, pursuant to a "Notice Inviting Bids for 68th Street from West End to Paramount Boulevard in the City of Long Beach, California," dated July 13, 2013, and published by City, bids were received, publicly opened and declared on the date specified in said Notice; and

WHEREAS, the City Manager accepted the bid of Contractor; and

WHEREAS, the City Council authorized the City Manager to enter a contract with Contractor for the work described in Project Plans and Specifications No. R-6916;

NOW, THEREFORE, in consideration of the mutual terms and conditions herein, the parties agree as follows:

1. SCOPE OF WORK. Contractor shall furnish all necessary labor, supervision, tools, materials, supplies, appliances, equipment and transportation for the work described in "Project Plans and Specifications No. R-6916 for 68th Street from West End to Paramount Boulevard in the City of Long Beach, California," said work to be performed according to the Contract Documents identified below. However, this Contract is intended to provide to City complete and finished work and, to that end, Contractor shall do everything necessary to complete the work, whether or not specifically described in the Contract Documents.

2. PRICE AND PAYMENT.

A. City shall pay to Contractor the amount(s) for materials and

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work identified in Contractor's "Bid for 68th Street from West End to Paramount Boulevard in the City of Long Beach, California," attached hereto as Exhibit "A".

B. Contractor shall submit requests for progress payments and City will make payments in due course of payments in accordance with Section 9 of the Standard Specifications for Public Works Construction (latest edition).

3. CONTRACT DOCUMENTS.

A. The Contract Documents include: The Notice Inviting Bids, Project Specifications No. R-6916 (which may include by reference the Standard Specifications for Public Works Construction, latest edition, and any supplements thereto, collectively the "Standard Specifications"); the City of Long Beach Standard Plans; the California Code of Regulations; the various Uniform Codes applicable to trades; the prevailing wage rates; Instructions to Bidders; the Bid; the bid security; the City of Long Beach Disadvantaged, Minority and Women-Owned Business Enterprise Program; this Contract and all documents attached hereto or referenced herein including but not limited to insurance; Bond for Faithful Performance; Payment Bond; Notice to Proceed; Notice of Completion; any addenda or change orders issued in accordance with the Standard Specifications; any permits required and issued for the work; approved final design drawings and documents; and the Information Sheet. These Contract Documents are incorporated herein by the above reference and form a part of this Contract.

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Section 3.A. hereof, the "Greenbook"); 9) other reference specifications; 10) other reference plans; 11) the bid; and 12) the Notice Inviting Bids.

4. TIME FOR CONTRACT. Contractor shall commence work on a date to be specified in a written "Notice to Proceed" from City and shall complete all work within thirty (30) working days thereafter, subject to strikes, lockouts and events beyond the control of Contractor. Time is of the essence hereunder. City will suffer damage if the work is not completed within the time stated, but those damages would be difficult or impractical to determine. So, Contractor shall pay to City, as liquidated damages, the amount stated in the Contract Documents.

5. ACCEPTANCE OF WORK NOT TO CONSTITUTE A WAIVER. The acceptance of any work or the payment of any money by City shall not operate as a waiver of any provision of any Contract Document, of any power reserved to City, or of any right to damages or indemnity hereunder. The waiver of any breach or any default hereunder shall not be deemed a waiver of any other or subsequent breach or default.

6. WORKERS' COMPENSATION CERTIFICATION. Concurrently herewith, Contractor shall submit certification of Workers' Compensation coverage in accordance with California Labor Code Sections 1860 and 3700, a copy of which is attached hereto as Exhibit "B".

7. CLAIMS FOR EXTRA WORK. No claim shall be made at any time upon City by Contractor for and on account of any extra or additional work performed or materials furnished, unless such extra or additional work or materials shall have been expressly required by the City Manager and the quantities and price thereof shall have been first agreed upon, in writing, by the parties hereto.

8. CLAIMS. Contractor shall, upon completion of the work, deliver possession thereof to City ready for use and free and discharged from all claims for labor and materials in doing the work and shall assume and be responsible for, and shall protect, defend, indemnify and hold harmless City from and against any and all claims, demands, causes of action, liability, loss, costs or expenses for injuries to or death of

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persons, or damages to property, including property of City, which arises from or is connected with the performance of the work.

9. INSURANCE. Prior to commencement of work, and as a condition precedent to the effectiveness of this Contract, Contractor shall provide to City evidence of all insurance required in the Contract Documents.

In addition, Contractor shall complete and deliver to City the form ("Information Sheet") attached as Exhibit "C" and incorporated by reference, to comply with Labor Code Section 2810.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

County of Orange }

On 10/1/13 (Date) before me, Susan Pugh, Notary Public (Here Insert Name and Title of the Officer),

personally appeared Arturo Ayala (Name(s) of Signer(s)),

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

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

Witness my hand and official seal.

SUSAN PUGH
COMM. #1934229
Notary Public-California
ORANGE COUNTY
My Comm. Expires Apr 29, 2015

Place Notary Seal Above

Signature _____
Signature of Notary Public Susan Pugh

OPTIONAL

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

Description of Attached Document

Title or Type of Document: Labor and Material Bond

Document Date: 10/1/13 Number of Pages: One

Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer(s)

Signer's Name: Arturo Ayala
- ☐ Individual
- ☐ Corporate Officer — Title(s):
- ☐ Partner — ☐ Limited ☐ General
- ☑ Attorney in Fact
- ☐ Trustee

RIGHT THUMBPRINT OF SIGNER

Signer's Name:
- ☐ Individual
- ☐ Corporate Officer — Title(s):
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee

RIGHT THUMBPRINT OF SIGNER

MERCHANTS BONDING COMPANY™

Bond No. CAC711103

POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations duly organized under the laws of the State of Iowa (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint, individually,

Andrew Waterbury; Arturo Ayala; Daniel Huckabay; Dwight Reilly

of Orange and State of CA their true and lawful Attorney-in-Fact, with full power and authority hereby conferred in their name, place and stead, to sign, execute, acknowledge and deliver in their behalf as surety any and all bonds, undertakings, recognizances or other written obligations in the nature thereof, subject to the limitation that any such instrument shall not exceed the amount of:

TEN MILLION ($10,000,000.00) DOLLARS

and to bind the Companies thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the Companies, and all the acts of said Attorney-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following By-Laws adopted by the Board of Directors of the Merchants Bonding Company (Mutual) on April 23, 2011 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 24, 2011.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 27th day of February , 2012 .

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.

By Larry Taylor

President

STATE OF IOWA
COUNTY OF POLK ss.

On this 27th day of February , 2012, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument is the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.

NOTARIAL SEAL IOWA

MARANDA GREENWALT
Commission Number 770312
My Commission Expires
October 28, 2014

Maranda Greenwalt

Notary Public, Polk County, Iowa

STATE OF IOWA
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 1st day of October , 2013 .

MERCHANTS NATIONAL BONDING, INC. INCORPORATED

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED

William Warner Jr.