

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

CONTRACT

**31368**

THIS CONTRACT is made and entered, in duplicate, as of October 7, 2009 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 October 6, 2009, by and between ELITE BOBCAT SERVICE, INC., a California corporation ("Contractor"), whose address is 1320 E. 6<sup>th</sup> Street, Suite 100, Corona, California 92879, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, pursuant to a "Notice Inviting Bids for the Improvements of Spring Street between Clark Avenue and Claremore Avenue in the City of Long Beach, California," published by City, bids were received, publicly opened on August 26, 2009 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 Plans & Specifications No. R-6784;

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 "Plans & Specifications No. R-6784 for the Improvements of Spring Street between Clark Avenue and Claremore Avenue 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 work identified in Contractor's "Bid for the Improvements of Spring Street between

1 Clark Avenue and Claremore Avenue in the City of Long Beach, California,"  
2 attached hereto as Exhibit "A".

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

6 3. CONTRACT DOCUMENTS.

7 A. The Contract Documents include: The Notice Inviting Bids,  
8 Plans & Specifications No. R-6784 (which may include by reference the Standard  
9 Specifications for Public Works Construction, latest edition, and any supplements  
10 thereto, collectively the "Standard Specifications"); the City of Long Beach  
11 Standard Plans; Plans and Drawings No. C-5777 for this work; the California Code  
12 of Regulations; the various Uniform Codes applicable to trades; the prevailing  
13 wage rates; Instructions to Bidders; the Bid; the bid security; the City of Long  
14 Beach Disadvantaged, Minority and Women-Owned Business Enterprise Program;  
15 this Contract and all documents attached hereto or referenced herein including but  
16 not limited to insurance; Bond for Faithful Performance; Payment Bond; Notice to  
17 Proceed; Notice of Completion; any addenda or change orders issued in  
18 accordance with the Standard Specifications; any permits required and issued for  
19 the work; approved final design drawings and documents; and the Information  
20 Sheet. These Contract Documents are incorporated herein by the above  
21 reference and form a part of this Contract.

22 B. Notwithstanding Section 2-5.2 of the Standard Specifications,  
23 if any conflict or inconsistency exists or develops among or between Contract  
24 Documents, the following priority shall govern: 1) Change Orders; 2) this Contract;  
25 3) Permit(s) from other public agencies; 4) Plans & Specifications No. R-6784; 5)  
26 Addenda; 6) Plans and Drawings No. C-5777; 7) the City of Long Beach Standard  
27 Plans; 8) Standard Specifications; 9) other reference specifications; 10) other  
28 reference plans; 11) the bid; and 12) the Notice Inviting Bids.

1                   4.     TIME FOR CONTRACT. Contractor shall commence work on a date  
2 to be specified in a written "Notice to Proceed" from City and shall complete all work  
3 within One Hundred Twenty (120) working/calendar days thereafter, subject to strikes,  
4 lockouts and events beyond the control of Contractor. Time is of the essence hereunder.  
5 City will suffer damage if the work is not completed within the time stated, but those  
6 damages would be difficult or impractical to determine. So, Contractor shall pay to City,  
7 as liquidated damages, the amount stated in the Contract Documents.

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

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

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

22                   8.     CLAIMS. Contractor shall, upon completion of the work, deliver  
23 possession thereof to City ready for use and free and discharged from all claims for labor  
24 and materials in doing the work and shall assume and be responsible for, and shall  
25 protect, defend, indemnify and hold harmless City from and against any and all claims,  
26 demands, causes of action, liability, loss, costs or expenses for injuries to or death of  
27 persons, or damages to property, including property of City, which arises from or is  
28 connected with the performance of the work.

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

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

7           10.    WORK DAY. Contractor shall comply with Sections 1810 through  
8 1815 of the California Labor Code regarding hours of work. Contractor shall forfeit, as a  
9 penalty to City, the sum of Twenty-five Dollars (\$25) for each worker employed by  
10 Contractor or any subcontractor for each calendar day such worker is required or  
11 permitted to work more than eight (8) hours unless that worker receives compensation in  
12 accordance with Section 1815.

13           11.    PREVAILING WAGE RATES. Contractor is directed to the  
14 prevailing wage rates. Contractor shall forfeit, as a penalty to the City, Fifty Dollars (\$50)  
15 for each laborer, worker or mechanic employed for each calendar day, or portion thereof,  
16 that such laborer, worker or mechanic is paid less than the prevailing wage rates for any  
17 work done by Contractor, or any subcontractor, under this Contract.

18           12.    COORDINATION WITH GOVERNMENTAL REGULATIONS.

19           A.     If the work is terminated pursuant to an order of any Federal  
20 or State authority, Contractor shall accept as full and complete compensation  
21 under this Contract such amount of money as will equal the product of multiplying  
22 the Contract price stated herein by the percentage of work completed by  
23 Contractor as of the date of such termination, and for which Contractor has not  
24 been paid. If the work is so terminated, the City Engineer, after consultation with  
25 Contractor, shall determine the percentage of work completed and the  
26 determination of the City Engineer shall be final.

27           B.     If Contractor is prevented, in any manner, from strict  
28 compliance with the Plans and Specifications due to any Federal or State law, rule

1 or regulation, in addition to all other rights and remedies reserved to the parties  
2 City may by resolution of the City Council suspend performance hereunder until  
3 the cause of disability is removed, extend the time for performance, make changes  
4 in the character of the work or materials, or terminate this Contract without liability  
5 to either party.

6 13. NOTICES.

7 A. Any notice required hereunder shall be in writing and  
8 personally delivered or deposited in the U.S. Postal Service, first class, postage  
9 prepaid, to Contractor at the address first stated herein, and to the City at 333  
10 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager. Notice  
11 of change of address shall be given in the same manner as stated herein for other  
12 notices. Notice shall be deemed given on the date deposited in the mail or on the  
13 date personal delivery is made, whichever first occurs.

14 B. Except for stop notices and claims made under the Labor  
15 Code, City will notify Contractor when City receives any third party claims relating  
16 to this Contract in accordance with Section 9201 of the Public Contract Code.

17 14. BONDS. Contractor shall, simultaneously with the execution of this  
18 Contract, execute and deliver to City a good and sufficient corporate surety bond, in the  
19 form attached hereto and in the amount specified therein, conditioned upon the faithful  
20 performance of this Contract by Contractor, and a good and sufficient corporate surety  
21 bond, in the form attached hereto and in the amount specified therein, conditioned upon  
22 the payment of all labor and material claims incurred in connection with this Contract.

23 15. COVENANT AGAINST ASSIGNMENT. Neither this Contract nor  
24 any of the moneys that may become due Contractor hereunder may be assigned by  
25 Contractor without the written consent of City first had and obtained, nor will City  
26 recognize any subcontractor as such, and all persons engaged in the work of  
27 construction will be considered as independent contractors or agents of Contractor and  
28 will be held directly responsible to Contractor.

1                   16.    CERTIFIED PAYROLL RECORDS.

2                   A.    Contractor shall keep and shall cause each subcontractor  
3 performing any portion of the work under this Contract to keep an accurate payroll  
4 record, showing the name, address, social security number, work classification,  
5 straight time and overtime hours worked each day and week, and the actual per  
6 diem wages paid to each journeyman, apprentice, worker, or other employee  
7 employed by Contractor or subcontractor in connection with the work, all in  
8 accordance with Division 2, Part 7, Article 2 of the California Labor Code. Such  
9 payroll records for Contractor and all subcontractors shall be certified and shall be  
10 available for inspection at all reasonable hours at the principal office of Contractor  
11 pursuant to the provisions of Section 1776 of the Labor Code. Contractor's failure  
12 to furnish such records to City in the manner provided herein for notices shall  
13 entitle City to withhold the penalty prescribed by law from progress payments due  
14 to Contractor.

15                   B.    Upon completion of the work, Contractor shall submit to the  
16 City certified payroll records for Contractor and all subcontractors performing any  
17 portion of the work under this Contract. Certified payroll records for Contractor  
18 and all subcontractors shall be maintained during the course of the work and shall  
19 be kept by Contractor for up to three (3) years after completion of the work.

20                   C.    The foregoing is in addition to, and not in lieu of, any other  
21 requirements or obligations established and imposed by any department of the  
22 City with regard to submission and retention of certified payroll records for  
23 Contractor and subcontractors.

24                   17.    RESPONSIBILITY OF CONTRACTOR. Notwithstanding anything to  
25 the contrary in the Standard Specifications, Contractor shall have the responsibility, care  
26 and custody of the work. If any loss or damage occurs to the work that is not covered by  
27 collectible commercial insurance, excluding loss or damage caused by earthquake or  
28 flood or the negligence or willful misconduct of City, then Contractor shall immediately

1 make the City whole for any such loss or pay for any damage. If Contractor fails or  
2 refuses to make the City whole or pay, then City may do so and the cost and expense of  
3 doing so shall be deducted from the amount due Contractor from City hereunder.

4 18. CONTINUATION. Termination or expiration of this Contract shall not  
5 terminate the rights or liabilities of either party which rights or liabilities accrued or existed  
6 prior to termination or expiration of this Contract.

7 19. TAXES AND TAX REPORTING.

8 A. As required by federal and state law, City is obligated to report  
9 the payment of compensation to Contractor on Form 1099-Misc. and Contractor  
10 acknowledges that Contractor is not entitled to payment under this Contract until it  
11 has provided its Employer Identification Number to City. Contractor shall be solely  
12 responsible for payment of all federal and state taxes resulting from payments  
13 under this Contract.

14 B. Contractor shall cooperate with City in all matters relating to  
15 taxation and the collection of taxes, particularly with respect to the self-accrual of  
16 use tax. Contractor shall cooperate as follows: (i) for all leases and purchases of  
17 materials, equipment, supplies, or other tangible personal property totaling over  
18 \$100,000 shipped from outside California, a qualified Contractor shall complete  
19 and submit to the appropriate governmental entity the form in Appendix "A"  
20 attached hereto; and (ii) for construction contracts and subcontracts totaling  
21 \$5,000,000 or more, Contractor shall obtain a sub-permit from the California Board  
22 of Equalization for the Work site. "Qualified" means that the Contractor purchased  
23 at least \$500,000 in tangible personal property that was subject to sales or use tax  
24 in the previous calendar year.

25 C. In completing the form and obtaining the permit(s), Contractor  
26 shall use the address of the Work site as its business address and may use any  
27 address for its mailing address. Copies of the form and permit(s) shall also be  
28 delivered to the City Engineer. The form must be submitted and the permit(s)

1 obtained as soon as Contractor receives a Notice to Proceed. Contractor shall not  
2 order any materials or equipment over \$100,000 from vendors outside California  
3 until the form is submitted and the permit(s) obtained and, if Contractor does so, it  
4 shall be a material breach of this Contract. In addition, Contractor shall make all  
5 purchases from the Long Beach sales office of its vendors if those vendors have a  
6 Long Beach office and all purchases made by Contractor under this Contract  
7 which are subject to use tax of \$500,000 or more shall be allocated to the City of  
8 Long Beach. Contractor shall require the same form and permit(s) from its  
9 subcontractors.

10 D. Contractor shall not be entitled to and by signing this Contract  
11 waives any claim or damages for delay against City if Contractor does not timely  
12 submit these forms to the appropriate governmental entity. Contractor may  
13 contact the City Controller at (562) 570-6450 for assistance with the form.

14 20. ADVERTISING. Contractor shall not use the name of City, its  
15 officials or employees in any advertising or solicitation for business, nor as a reference,  
16 without the prior approval of the City Manager, City Engineer or designee.

17 21. AUDIT. If payment of any part of the consideration for this Contract  
18 is made with federal, state or county funds and a condition to the use of those funds by  
19 City is a requirement that City render an accounting or otherwise account for said funds,  
20 then City shall have the right at all reasonable times to examine, audit, inspect, review,  
21 extract information from, and copy all books, records, accounts and other information  
22 relating to this Contract.

23 22. NO PECULIAR RISK. Contractor acknowledges and agrees that the  
24 work to be performed hereunder does not constitute a peculiar risk of bodily harm and  
25 that no special precautions are required to perform said work.

26 23. THIRD PARTY BENEFICIARY. This Contract is intended by the  
27 parties to benefit themselves only and is not in any way intended or designed to or  
28 entered for the purpose of creating any benefit or right of any kind for any person or entity



1 that is not a party to this Contract.

2           24. SUBCONTRACTORS. Contractor agrees to and shall bind every  
3 subcontractor to the terms of this Contract; provided, however, that nothing herein shall  
4 create any obligation on the part of City to pay any subcontractor except in accordance  
5 with a court order in an action to foreclose a stop notice. Failure of Contractor to comply  
6 with this Section shall be deemed a material breach of this Contract. A list of  
7 subcontractor(s) submitted by Contractor in compliance with Public Contract Code  
8 Sections 4100 et seq. is attached hereto as Exhibit "D" and incorporated herein by this  
9 reference.

10           25. NO DUTY TO INSPECT. No language in this Contract shall create  
11 and City shall not have any duty to inspect, correct, warn of or investigate any condition  
12 arising from Contractor's work hereunder, or to insure compliance with laws, rules or  
13 regulations relating to said work. If City does inspect or investigate, the results thereof  
14 shall not be deemed compliance with or a waiver of any requirements of the Contract  
15 Documents.

16           26. GOVERNING LAW. This Contract shall be governed by and  
17 construed pursuant to the laws of the State of California (except those provisions of  
18 California law pertaining to conflicts of laws).

19           27. INTEGRATION. This Contract, including the Contract Documents  
20 identified in Section 3 hereof, constitutes the entire understanding between the parties  
21 and supersedes all other agreements, oral or written, with respect to the subject matter  
22 herein.

23           28. COSTS. If there is any legal proceeding between the parties to  
24 enforce or interpret this Contract or to protect or establish any rights or remedies  
25 hereunder, the prevailing party shall be entitled to its costs, including reasonable  
26 attorney's fees.

27           29. NONDISCRIMINATION. In connection with performance of this  
28 Contract and subject to federal laws, rules and regulations, Contractor shall not

1 discriminate in employment or in the performance of this Contract on the basis of race,  
2 religion, national origin, color, age, sex, sexual orientation, gender identity, AIDS, HIV  
3 status, handicap or disability. It is the policy of the City to encourage the participation of  
4 Disadvantaged, Minority and Women-Owned Business Enterprises, and the City  
5 encourages Contractor to use its best efforts to carry out this policy in the award of all  
6 subcontracts.

7           30. DEFAULT. Default shall include but not be limited to Contractor's  
8 failure to perform in accordance with the Plans and Specifications, failure to comply with  
9 any Contract Document, failure to pay any penalties, fines or charges assessed against  
10 Contractor by any public agency, failure to pay any charges or fees for services  
11 performed by the City, and if Contractor has substituted any security in lieu of retention,  
12 then default shall also include City's receipt of a stop notice. If default occurs and  
13 Contractor has substituted any security in lieu of retention, then in addition to City's other  
14 legal remedies, City shall have the right to draw on the security in accordance with Public  
15 Contract Code Section 22300 and without further notice to Contractor. If default occurs  
16 and Contractor has not substituted any security in lieu of retention, then City shall have  
17 all legal remedies available to it.

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OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

ELITE BOBCAT SERVICE, INC., a California corporation

SEPTEMBER 23, 2009

By   
President

JOSEPH NANCI  
Type or Print Name

SEPTEMBER 23, 2009

By   
Secretary

JOSEPH NANCI  
Type or Print Name

"Contractor"

CITY OF LONG BEACH, a municipal corporation

10.19, 2009

By   
Assistant City Manager  
City Manager

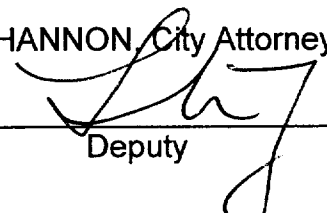
"City"

**EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.**

This Contract is approved as to form on 10/17,

2009.

ROBERT E. SHANNON, City Attorney

By   
Deputy

# EXHIBIT “A”

Contractor’s Bid

BIDDER'S NAME: Elite Bobcat Service, Inc.

**BID FOR THE  
IMPROVEMENTS OF SPRING STREET  
BETWEEN CLARK AVENUE AND CLAREMORE AVENUE  
IN THE CITY OF LONG BEACH, CALIFORNIA**

In accordance with the Notice Inviting Bids for the above titled Work in the City of Long Beach, California, a copy of which is attached hereto and is made a part hereof, to be opened on August 26, 2009, at 10:00 a.m., we propose to furnish all necessary labor, tools, materials, appliances and equipment for and perform all Work mentioned in said Notice Inviting Bids, in full compliance with Plans & Specifications No. R-6784 at the following prices:

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
1.	Adjust City Manhole Frame & Cover	29	Ea	305.-	8,845.-
2.	Adjust L.A.C.S.D. Manhole Frame & Cover	7	Ea	305.-	2,135.-
3.	Adjust Water Valve Box & Cover	46	Ea	265.-	12,190.-
4.	Reconstruct Water Valve Box & Cover	4	Ea	400.-	1,600.-
5.	Adjust Gas Valve Box & Cover	4	Ea	265.-	1,060.-
6.	Adjust Monitoring Well & Cover	1	Ea	330.-	330.-
7.	Replace Traffic Signal Pull Box	12	Ea	250.-	3,000.-
8.	Construct Type "C" Monument and Install Casting	4	Ea	565.-	2,260.-

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
9.	Do not Disturb Monument; Install Casting	1	Ea	505.-	505.-
10.	Do not Disturb Monument; Reset Casting	20	Ea	280.-	5,600.-
11.	Reset 6" Spike & Washer and provide Tie Sheet to Survey	18	Ea	200.-	3,600.-
12.	Survey Benchmark, Type 1	1	Ea	550.-	550.-
13.	Parkway Drain	5	Ea	2,500.-	12,500.-
14.	Curb Drain	9	Ea	200.-	1,800.-
15.	Concrete Removal	469	CY	104.-	48,776.-
16.	Bituminous Pavement Removal	790	CY	83.-	65,570.-
17.	(S) Cold Milling Asphalt Concrete Pavement	133,670	SY	1.45	193,821.50
18.	Unclassified Excavation	234	CY	77.-	18,018.-
19.	Root Pruning	564	LF	19.-	10,716.-
20.	Tree Pruning	47	Ea	240.-	11,280.-

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
21.	Crushed Miscellaneous Base	530	CY	57.-	30,210.-
22.	Asphalt Concrete Pavement	11,290	Ton	63.-	711,270.-
23.	Asphalt Rubber Hot Mix	15,053	Ton	75.-	1,128,975.-
24.	P.C.C. Curb, GB Type A1(8), Integral	1,700	LF	16.-	27,200.-
25.	P.C.C. Curb & Gutter, GB Type A2	6,312	LF	16.-	100,992.-
26.	P.C.C. Median Curb, GB Type A1	10	LF	65.-	650.-
27.	P.C.C. Sidewalk, 3" Thick	8,400	SF	3.-	25,200.-
28.	(S) Curb Ramp Detectable Warning Surface	600	SF	40.-	24,000.-
29.	P.C.C. Driveway Apron, 6" Thick	3,400	SF	5.-	17,000.-
30.	P.C.C. Cross Gutter, 8" Thick	10	SF	90.-	900.-
31.	P.C.C. Alley Approach, 6" Thick	950	SF	5.00	4,750.-

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
32.	P.C.C. Bus Stop Street Pad, 10" Thick	16,000	SF	5.-	80,000.-
33.	Permanent Roadway Signing	1	LS	9,000.-	9,000.-
34.	Pavement Markers, Markings, and Traffic Striping	1	LS	44,000.-	44,000.-
35.	(S) Loop Detectors	204	Ea	215.-	43,860.-
36.	Temporary Traffic Control Devices	1	LS	124,000.	124,000.-
37.	State Encroachment Permit Compliance at I-605 Freeway	1	LS	6,000.-	6,000.-
TOTAL AMOUNT BID					2,782,163.50

Where did your company first hear about this City of Long Beach Public Works' project?

Website

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**WORKERS' COMPENSATION CERTIFICATION**

In accordance with California Labor Code Sections 1860 and 3700, I certify that I am aware of the provisions of Section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with said provisions before commencing the performance of the Work of this contract.

Contractor's Name:

ELITE BOBCAT SERVICE, INC.

Signature of Contractor, or a corporate officer  
of Contractor, or a general partner of Contractor



Title: JOSEPH NANCI - PRESIDENT

Date: 9/23/09

**EXHIBIT "B"**

INFORMATION TO COMPLY WITH LABOR CODE SEC. 2810

To comply with Labor Code Sec. 2810, Contractor shall complete and submit this Information Sheet which shall be incorporated into and be a part of the Contract:

- 1) Workers' Compensation Insurance:
  - A. Policy Number: BB1091560
  - B. Name of Insurer (NOT Broker): SEABRIGHT INS CO
  - C. Address of Insurer: 1501 4TH AVENUE, SUITE 2600, SEATTLE, WA 98101-1664
  - D. Telephone Number of Insurer: 206-269-8500
  
- 2) For vehicles owned by Contractor and used in performing work under this Contract:
  - A. VIN (Vehicle Identification Number): NOT YET DETERMINED
  - B. Automobile Liability Insurance Policy Number: CM009164
  - C. Name of Insurer (NOT Broker): UNIGARD INS CO
  - D. Address of Insurer: 15805 NE 24TH STREET, BELLEVUE, WA 98008-2409
  - E. Telephone Number of Insurer: 800-777-1757
  
- 3) Address of Property used to house workers on this Contract, if any: NA
  
- 4) Estimated total number of workers to be employed on this Contract: 120
  
- 5) Estimated total wages to be paid those workers: \$256,495.00
  
- 6) Dates (or schedule) when those wages will be paid: PAID WEEKLY - DATES NOT YET DETERMINED  
(Describe schedule: For example, weekly or every other week or monthly)
  
- 7) Estimated total number of independent contractors to be used on this Contract: 5
  
- 8) Taxpayer's Identification Number: [REDACTED]

EXHIBIT "C"

# EXHIBIT “D”

List of Subcontractors:

LIST OF SUBCONTRACTORS

The Bidder shall set forth hereon, the name, location of the place of business, and telephone number of each subcontractor, including minority subcontractors, who will perform work or labor or render service to the Prime Contractor in or about the construction of the Work or improvement, or a subcontractor licensed by the state of California who, under subcontract to the Prime Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of ½ of 1 percent of the Prime Contractor's total bid or \$10,000 (whichever is greater).

Name And Address Of Subcontractor	Classification Or Type Of Work
Name <u>AAA</u>	<u>GRIND</u>
Address <u>400 E. 6<sup>TH</sup> ST</u>	Dollar amount of contract \$ <u>187,000.-</u>
City <u>CORONA</u>	DBE / MBE / WBE / Racial Origin _____ <small>(Circle one)</small>
Phone no. <u>951 736 7600</u>	License No. <u>267073</u> <u>20073</u>

Name <u>CPE</u>	<u>LOOPS</u>
Address <u>9316 MAPLE</u>	Dollar amount of contract \$ <u>42,840.-</u>
City <u>SO. ELMONT</u>	<u>DBE</u> / MBE / WBE / Racial Origin _____ <small>(Circle one)</small> <span style="float: right;">1.55%</span>
Phone no. <u>626 452 8658</u>	License No. <u>793907</u>

Name <u>SUPERIOR PAVING</u>	<u>STRIPING</u>
Address <u>14658 INDUSTRY CIR.</u>	Dollar amount of contract \$ <u>51,000.-</u>
City <u>LA MIRADA</u>	DBE / MBE / WBE / Racial Origin _____ <small>(Circle one)</small>
Phone no. <u>714-562-9100</u>	License No. <u>776306</u>

Name <u>TREE SMITH ENT.</u>	<u>TREE TRIMING</u>
Address <u>1551 N. MILLER ST.</u>	Dollar amount of contract \$ <u>21,385.-</u>
City <u>ANAHEIM</u>	<u>DBE</u> / MBE / WBE / Racial Origin _____ <small>(Circle one)</small> <span style="float: right;">1.00%</span>
Phone no. <u>714.996.6037</u>	License No. <u>902705</u>

ADKAN ENG.  
6820 AIRPORT DR  
RIVERSIDE  
951 688 0241

SURVEY  
\$ 23,750.-  
DBE 1.50%  
LIC# 62711

BOND FOR FAITHFUL PERFORMANCE

\* KNOW ALL MEN BY THESE PRESENTS: That we, ELITE BOBCAT SERVICE, INC., as PRINCIPAL, and  
located at \*\*, a corporation,  
incorporated under the laws of the State of MARYLAND, admitted as a surety in the State of  
California, and authorized to transact business in the State of California, as SURETY, are held and firmly bound  
unto the CITY OF LONG BEACH, CALIFORNIA, a municipal corporation, in the sum of TWO MILLION SEVEN HUNDRED  
EIGHTY-TWO THOUSAND ONE HUNDRED SIXTY-THREE DOLLARS AND FIFTY CENTS (\$2,782,163.50), lawful money of the United  
States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our respective  
heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

\* FIDELITY AND DEPOSIT COMPANY OF MARYLAND  
THE CONDITION OF THIS OBLIGATION IS SUCH THAT:  
\*\* C/O ZURICH 1400 AMERICAN LN., SCHAUMBURG, IL 60196  
WHEREAS, said Principal has been awarded and is about to enter the annexed contract (incorporated herein  
by this reference) with said City of Long Beach for the Improvements of Spring Street between Clark Avenue and  
Claremore Avenue and is required by said City to give this bond in connection with the execution of said  
contract;

NOW, THEREFORE, if said Principal shall well and truly keep and faithfully perform all of the covenants,  
conditions, agreements and obligations of said contract on said Principal's part to be kept, done and performed,  
at the times and in the manner specified therein, then this obligation shall be null and void, otherwise it  
shall be and remain in full force and effect;

PROVIDED, that any modifications, alterations or changes which may be made in said contract, or in the  
work to be done, or in the services to be rendered, or in any materials or articles to be furnished pursuant to  
said contract, or the giving by the City of any extension of time for the performance of said contract, or the  
giving of any other forbearance upon the part of either the City or the Principal to the other, shall not in any  
way release the Principal or the Surety, or either of them, or their respective heirs, administrators,  
executors, successors or assigns, from any liability arising hereunder, and notice to the Surety of any such  
modifications, alterations, changes, extensions or forbearances is hereby waived. No premature payment by said  
City to said Principal shall release or exonerate the Surety, unless the officer of said City ordering the  
payment shall have actual notice at the time the order is made that such payment is in fact premature, and then  
only to the extent that such payment shall result in actual loss to the Surety, but in no event in an amount  
more than the amount of such premature payment.

IN WITNESS WHEREOF, the above-named Principal and Surety have executed, or caused to be executed, this  
instrument with all of the formalities required by law on this 1ST day of OCTOBER, 2009.

ELITE BOBCAT SERVICE, INC.

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

Contractor

SURETY, admitted in California

By: [Signature]

By: [Signature]

Name: JOSEPH NANCE

Name: RICHARD A. COON

Title: PRESIDENT

Title: ATTORNEY-IN-FACT

Telephone: (818) 409-2800

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to form this 7<sup>th</sup> day  
of October, 2009.

Approved as to sufficiency this 1 day  
of October, 2009.

ROBERT E. SHANNON, City Attorney

By: [Signature]  
Deputy City Attorney

By: [Signature]  
City Manager / City Engineer

- NOTE: 1. Execution of the bond must be acknowledged by both PRINCIPAL and SURETY before a Notary Public and a Notary's certificate of acknowledgment must be attached.  
2. A corporation must execute the bond by 2 authorized officers or, if executed by a person not listed in Sec. 313, Calif. Corp. Code, then a certified copy of a resolution of its Board of Directors authorizing execution must be attached.

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

County of Orange }

On 10/01/09 before me, Lexie Sherwood, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Richard A. Coon  
Name(s) of Signer(s)



Place Notary Seal Above

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

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

Witness my hand and official seal.

Signature Lexie Sherwood  
Signature of Notary Public

## 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: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing: \_\_\_\_\_

**Power of Attorney  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by WILLIAM J. MILLS, Vice President, and ERIC D. BARNES, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint **Richard A. COON, Charles L. FLAKE, David L. CULBERTSON and Lexie SHERWOOD, all of Anaheim, California, EACH** its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: ~~any and all bonds and undertakings, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons.~~ This power of attorney revokes that issued on behalf of Richard A. COON, Charles L. FLAKE, David L. CULBERTSON, Matthew P. FLAKE, Lexie SHERWOOD, dated November 7, 2005.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 15th day of November, A.D. 2006.

ATTEST:

**FIDELITY AND DEPOSIT COMPANY OF MARYLAND**



*Eric D. Barnes*

*Eric D. Barnes* Assistant Secretary

*William J. Mills*

By: *William J. Mills* Vice President

State of Maryland }  
City of Baltimore } ss:

On this 15th day of November, A.D. 2006, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came WILLIAM J. MILLS, Vice President, and ERIC D. BARNES, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



*Constance A. Dunn*

*Constance A. Dunn* Notary Public  
My Commission Expires: July 14, 2011



**EXTRACT FROM BY-LAWS OF FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

“Article VI, Section 2. The Chairman of the Board, or the President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgements, decrees, mortgages and instruments in the nature of mortgages,...and to affix the seal of the Company thereto.”

**CERTIFICATE**

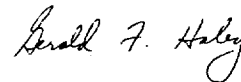
I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2, of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company,

this 1ST day of OCTOBER, 2009.



*Assistant Secretary*

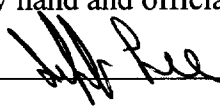
State of California  
County of Riverside

On October 1, 2009 before me, Jeff Lee, a notary public, personally appeared Joseph Nanci, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

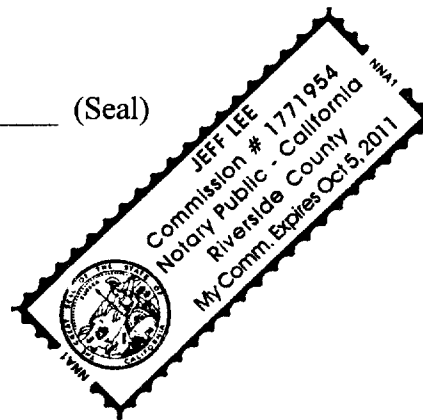
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing is true and correct.

Witness my hand and official seal.

Signature \_\_\_\_\_



(Seal)



LABOR AND MATERIAL BOND

KNOW ALL MEN BY THESE PRESENTS: That we, ELITE BOBCAT SERVICE, INC., as PRINCIPAL, and  
\* \_\_\_\_\_ located at \*\* \_\_\_\_\_ a  
corporation, incorporated under the laws of the State of MARYLAND, admitted as a surety in the  
State of California, and authorized to transact business in the State of California, as SURETY, are held and firmly  
bound unto the CITY OF LONG BEACH, a municipal corporation, in the sum of TWO MILLION SEVEN HUNDRED EIGHTY-TWO  
THOUSAND ONE HUNDRED SIXTY-THREE DOLLARS AND FIFTY CENTS (\$2,782,163.50), lawful money of the United States of  
America, for the payment of which sum, well and truly to be made, we bind ourselves, our respective heirs,  
administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

\* FIDELITY AND DEPOSIT COMPANY OF MARYLAND  
THE CONDITION OF THIS OBLIGATION IS SUCH THAT:  
\*\* C/O ZURICH 1400 AMERICAN LN., SCHAUMBURG, IL 60196  
WHEREAS, said Principal has been awarded and is about to enter the annexed contract (incorporated herein by  
this reference) with said City of Long Beach for the Improvements of Spring Street between Clark Avenue and  
Claremore Avenue and is required by law and by said City to give this bond in connection with the execution of said  
contract;

NOW, THEREFORE, if said Principal, as Contractor of said contract, or any subcontractor of said Principal,  
fails to pay for any materials, provisions, 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 Act, during the original term of said contract and any extensions thereof, and  
during the life of any guaranty required under the contract, or shall fail to pay for any materials, provisions,  
equipment, or other supplies, used in, upon, for or about the performance of the work to be done under any  
authorized modifications of said contract that may hereafter be made, or for any work or labor done of any kind, or  
for amounts due under the Unemployment Insurance Act, under said modification, said Surety will pay the same in an  
amount not exceeding the sum of money hereinabove specified and, in case suit is brought upon this bond, a  
reasonable attorney's fee, to be fixed by the court; otherwise this obligation shall be void;

PROVIDED, that any modifications, alterations or changes which may be made in said contract, or in any of  
the work or labor required to be done thereunder, or in any of the materials, provisions, equipment, or other  
supplies required to be furnished pursuant to said contract, or the giving by the City of any extension of time for  
the performance of said contract, or the giving of any other forbearance upon the part of either the City or the  
Principal to the other, shall not in any way release the Principal or Surety, or either of them, or their  
respective heirs, administrators, executors, successors or assigns, from any liability arising hereunder, and  
notice to the Surety of any such modifications, alterations, changes, extensions or forbearances is hereby waived.  
No premature payment by said City to said Principal shall release or exonerate the Surety, unless the officer of  
the City ordering the payment shall have actual notice at the time the order is made that the payment is in fact  
premature, and then only to the extent that such payment shall result in actual loss to the Surety, but in no event  
in an amount more than the amount of such premature payment.

This Bond shall inure to the benefit of any and all persons, companies and corporations entitled by law to  
file claims so as to give a right of action to them or their assigns in any suit brought upon this bond.

IN WITNESS WHEREOF, the above-named Principal and Surety have executed, or caused to be executed, this  
instrument with all of the formalities required by law on this 1ST day of OCTOBER, 2009.

ELITE BOBCAT SERVICE, INC.  
Contractor  
By: \_\_\_\_\_  
Name: JOSEPH NANCE  
Title: PRESIDENT  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

FIDELITY AND DEPOSIT COMPANY OF MARYLAND  
SURETY, admitted in California  
By: Richard A. Coon  
Name: RICHARD A. COON  
Title: ATTORNEY-IN-FACT  
Telephone: (818) 409-2800

Approved as to form this 7th day  
of October, 2009.  
ROBERT E. SHANNON, City Attorney  
By: \_\_\_\_\_  
Deputy City Attorney

Approved as to sufficiency this 1 day  
of October, 2009.  
By: \_\_\_\_\_  
City Manager/City Engineer

NOTE: 1. Execution of the bond must be acknowledged by both PRINCIPAL and SURETY before a Notary Public and a  
Notary's certificate of acknowledgment must be attached.  
2. A corporation must execute the bond by 2 authorized officers or, if executed by a person not listed  
in Sec. 313, Calif. Corp. Code, then a certified copy of a resolution of its Board of Directors  
authorizing execution must be attached.

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

County of Orange }

On 10/01/09  
Date

before me, Lexie Sherwood, Notary Public

Here Insert Name and Title of the Officer

personally appeared Richard A. Coon

Name(s) of Signer(s)



Place Notary Seal Above

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

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

Witness my hand and official seal.

Signature

*Lexie Sherwood*

Signature of Notary Public

## 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: \_\_\_\_\_

Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- Individual  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Attorney in Fact  
 Trustee  
 Guardian or Conservator  
 Other: \_\_\_\_\_

Signer Is Representing:  
\_\_\_\_\_  
\_\_\_\_\_

**RIGHT THUMBPRINT  
OF SIGNER**

Top of thumb here

Signer's Name: \_\_\_\_\_

- Individual  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Attorney in Fact  
 Trustee  
 Guardian or Conservator  
 Other: \_\_\_\_\_

Signer Is Representing:  
\_\_\_\_\_  
\_\_\_\_\_

**RIGHT THUMBPRINT  
OF SIGNER**

Top of thumb here

**Power of Attorney  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by WILLIAM J. MILLS, Vice President, and ERIC D. BARNES, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint **Richard A. COON, Charles L. FLAKE, David L. CULBERTSON and Lexie SHERWOOD, all of Anaheim, California, EACH** its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings**, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of Richard A. COON, Charles L. FLAKE, David L. CULBERTSON, Matthew P. FLAKE, Lexie SHERWOOD, dated November 7, 2005.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 15th day of November, A.D. 2006.

ATTEST:

**FIDELITY AND DEPOSIT COMPANY OF MARYLAND**



*Eric D. Barnes*

*Eric D. Barnes* Assistant Secretary

*William J. Mills*

By: *William J. Mills* Vice President

State of Maryland }  
City of Baltimore } ss:

On this 15th day of November, A.D. 2006, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came WILLIAM J. MILLS, Vice President, and ERIC D. BARNES, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



*Constance A. Dunn*

*Constance A. Dunn* Notary Public  
My Commission Expires: July 14, 2011

**EXTRACT FROM BY-LAWS OF FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

“Article VI, Section 2. The Chairman of the Board, or the President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgements, decrees, mortgages and instruments in the nature of mortgages,...and to affix the seal of the Company thereto.”

**CERTIFICATE**

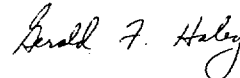
I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2, of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company,

this 1ST day of OCTOBER, 2009.



*Assistant Secretary*

State of California  
County of Riverside

On October 1, 2009 before me, Jeff Lee, a notary public, personally appeared Joseph Nanci, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

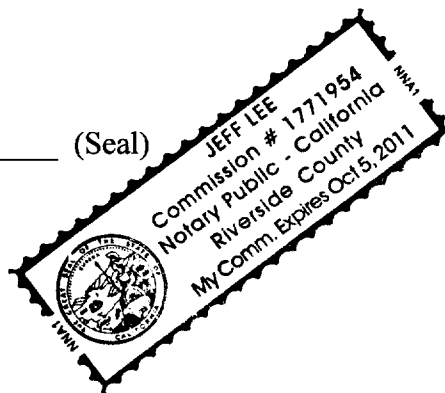
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing is true and correct.

Witness my hand and official seal.

Signature \_\_\_\_\_

*Jeff Lee*

(Seal)



APPENDIX "A"



BOE-400-DP (FRONT) REV 1. (10-01)  
**APPLICATION FOR  
 USE TAX DIRECT PAYMENT PERMIT**

STATE OF CALIFORNIA  
 BOARD OF EQUALIZATION

Please Type or Print Clearly. Read instructions on reverse before completing this form.

**SECTION I - BUSINESS INFORMATION**

NAME OF BUSINESS OR GOVERNMENTAL ENTITY	SALES/USE TAX PERMIT NUMBER
BUSINESS ADDRESS (street)	CONSUMER USE TAX ACCOUNT NUMBER
CITY, STATE, & ZIP CODE	If applicant is applying for either a sales/use tax permit or a consumer use tax account in addition to a use tax direct payment permit check here <input type="checkbox"/>
MAILING ADDRESS (street address or po box if different from business address)	
CITY, STATE, & ZIP CODE	NAME UNDER WHICH BUSINESS IS TO BE TRANSACTED IF DIFFERENT THAN ABOVE

**SECTION II - MULTIPLE BUSINESS LOCATIONS**

LIST BELOW THE BUSINESS AND MAILING ADDRESSES OF ALL LOCATIONS WHERE PROPERTY PURCHASED UNDER A USE TAX DIRECT PAYMENT CERTIFICATE WILL BE USED. IF ADDITIONAL SPACE IS NEEDED, ATTACH A SEPARATE SHEET

1. BUSINESS ADDRESS	4. BUSINESS ADDRESS
MAILING ADDRESS	MAILING ADDRESS
2. BUSINESS ADDRESS	5. BUSINESS ADDRESS
MAILING ADDRESS	MAILING ADDRESS
3. BUSINESS ADDRESS	6. BUSINESS ADDRESS
MAILING ADDRESS	MAILING ADDRESS

**SECTION III - CERTIFICATION STATEMENT**

I hereby certify that I qualify for a Use Tax Direct Payment Permit for the following reason: (Please check one of the following)

- I have purchased or leased for my own use tangible personal property subject to use tax at a cost of five hundred thousand dollars (\$500,000) or more in the aggregate, during the calendar year immediately preceding this application for the permit. I have attached a "Statement of Cash Flows" or other comparable financial statements acceptable to the Board for the calendar year immediately preceding the date of application and a separate statement attesting that the qualifying purchases were purchases that were subject to use tax.
- I am a county, city, city and county, or redevelopment agency.

I also agree to self-assess and pay directly to the Board of Equalization any use tax liability incurred pursuant to my use of a Use Tax Direct Payment Permit.

The above statements are hereby certified to be correct to the knowledge and belief of the undersigned, who is duly authorized to sign this application.

SIGNATURE	TITLE
NAME (typed or printed)	DATE

(See reverse side for general information and filing instructions)

**USE TAX DIRECT PAYMENT PERMIT  
(General Information and Filing Instructions)**

Revenue and Taxation Code Section 7051.3 authorizes the State Board of Equalization to issue a "Use Tax Direct Payment Permit" to qualified applicants. This permit allows purchasers and lessees of tangible personal property (other than lessees of motor vehicles the lease of which is subject to the terms of Section 7205.1 of the Sales and Use Tax Law) to self-assess and pay use taxes directly to the Board instead of to the vendor or lessor from whom the property is purchased or leased.

Permit holders will be provided with a use tax direct payment exemption certificate which they can issue to retailers and lessors when they purchase tangible personal property subject to use tax or make qualified leases of tangible personal property. Vendors who timely take the certificate in good faith from a permit holder are relieved of the duty to collect use taxes on the sales for which the certificate was issued. Permit holders who acquire property under a certificate must self-assess and report the use taxes directly to the Board on their tax returns, and allocate the local taxes to the county, city, city and county, or redevelopment agency in which the property is first used. Permit holders who fail to properly pay any use taxes that are due on property for which a certificate was given are subject to interest and penalties assessments in addition to their tax liability.

To qualify for a use tax direct payment permit, an applicant must meet the following conditions:

(1) The applicant must agree to self-assess and pay directly to the Board any use tax which is due on property for which a use tax direct payment exemption certificate was given; and

(2) The applicant must certify to the Board either of the following:

(A) The applicant has purchased or leased for its own use tangible personal property subject to use tax which cost five hundred thousand dollars (\$500,000) or more in the aggregate, during the calendar year immediately preceding the application for the permit; or

(B) The applicant is a county, city, city and county, or redevelopment agency.

Persons wishing to obtain a use tax direct payment permit must be pre-qualified and either hold a California seller's permit or a consumer use tax account.

Persons other than governmental entities who currently hold either a California seller's permit or a consumer use tax account must complete the application for a use tax direct payment permit, sign the certification statement attesting that they qualify for a permit under conditions of Part (2)(A) above, and submit a "Statement of Cash Flows" or other comparable financial statements acceptable to the board for the calendar year immediately preceding the date of application which discloses total purchases of property and equipment for own use and a separate statement under company letterhead certifying that five hundred thousand dollars (\$500,000) or more of such purchases were subject to use tax.

Persons other than governmental entities who are not required to hold a seller's permit and who do not currently hold a consumer use tax account must obtain a consumer use tax account and then complete the application for a use tax direct payment permit, sign the certification statement attesting that they qualify for a permit under the conditions of Part (2)(A) above and submit a "Statement of Cash Flows" or other comparable financial statements acceptable to the board for the calendar year immediately preceding the date of application which discloses total purchases of property and equipment for own use and a separate statement under company letterhead certifying that five hundred thousand dollars (\$500,000) or more of such purchases were subject to use tax.

Governmental entities who currently hold either a California seller's permit or a consumer use tax account, must complete the application for a use tax direct payment permit, sign the certification statement attesting that they qualify for a permit under the conditions of Part (2)(B) above, and submit an additional statement to that effect under official letterhead and signed by an authorized governmental representative.

Governmental entities who do not hold a California seller's permit or a consumer use tax account, must obtain a consumer use tax account and then complete the application for a use tax direct payment permit, sign the certification statement attesting that they qualify for a permit under the conditions of Part (2)(B) above, and submit an additional statement to that effect under official letterhead and signed by an authorized governmental representative.

The completed use tax direct payment application, certification statement, and qualifying documentation should be returned to the address shown below. Upon determination that the applicant qualifies, a use tax direct payment permit and exemption certificate will be mailed to the applicant.

If you would like additional information regarding the use tax direct payment permit or need assistance in completing this application, you can call (916) 324-2883, or write to the Board of Equalization, Public Information and Administration Section, MIC-44, PO Box 842879, Sacramento, CA 94279-0044.

## Use Tax Direct Payment Exemption Certificate

I hereby certify that I hold use tax direct payment permit No. \_\_\_\_\_ issued pursuant to California Sales and Use Tax Law Section 7051.3 and that I am authorized to report and pay directly to the State the applicable use tax with respect to the property described herein which I shall purchase from:

\_\_\_\_\_  
(Name of Vendor)

\_\_\_\_\_  
(Address of Vendor)

In the event that I fail to timely report and pay the applicable tax to the State, I understand and agree that in addition to the tax liability, I will be liable for applicable interest and the amount due may be subject to penalties.

Description of property to be purchased:  
\_\_\_\_\_  
\_\_\_\_\_

Purchaser: \_\_\_\_\_ Date certificate given: \_\_\_\_\_

Signature and Title of Purchaser or Authorized Agent: \_\_\_\_\_

### IMPORTANT NOTICE TO VENDORS

This exemption certificate when timely taken in good faith from a person who holds a use tax direct payment permit relieves a vendor from the requirement to collect and remit USE TAX on sales or leases of tangible personal property (other than leases of motor vehicles subject to the terms of Section 7205.1 of the Sales and Use Tax Law) to the person who issued the certificate. It does NOT relieve a vendor of any SALES TAX obligations. Generally, this certificate should be accepted only by out-of-state vendors or by lessors of tangible personal property other than motor vehicle lessors. Sellers can claim a deduction on their sales and use tax returns for any sales made under this certificate.

Vendors must retain a completed copy of this certificate in their files for a period of not less than four years to substantiate the exempt status of sales made under its authority.

This Exemption Certificate has been approved by the California State Board of Equalization.

Approved By: \_\_\_\_\_  
(Deputy Director, Sales and Use Tax Department)

Date: \_\_\_\_\_

Questions regarding this form should be directed to 800 400-7115, or write to the Board of Equalization, Audit Evaluation and Planning Section, MIC 40, P.O. Box 942879, Sacramento, Ca 94279-0040.

THIS FORM MAY BE REPRODUCED

## NOTICE TO INDIVIDUALS REGARDING INFORMATION FURNISHED TO THE BOARD OF EQUALIZATION

The Information Practices Act of 1977 and the Federal Privacy Act requires this agency to provide the following notice to individuals who are asked by the State Board of Equalization (Board) to supply information, including the disclosure of the individual's social security account number.

Individuals applying for permits, certificates, or licenses, or filing tax returns, statements, or other forms prescribed by this agency, are required to include their social security numbers for proper identification. [See Title 42 United States Code §405(c)(2)(C)(i)]. It is mandatory to furnish all the appropriate information requested by applications for registration, applications for permits or licenses, tax returns and other related data. Failure to provide all of the required information requested by an application for a permit or license could result in your not being issued a permit or license. In addition, the law provides penalties for failure to file a return, failure to furnish specific information required, failure to supply information required by law or regulations, or for furnishing fraudulent information.

Provisions contained in the following laws require persons meeting certain requirements to file applications for registration, applications for permits or licenses, and tax returns or reports in such form as prescribed by the State Board of Equalization: Alcoholic Beverage Tax, Sections 32001-32556; Childhood Lead Poisoning Prevention Fee, Sections 43001-43651, Health & Safety Code, Sections 105275-105310; Cigarette and Tobacco Products Tax, Sections 30001-30481; Diesel Fuel Tax, Sections 60001-60709; Emergency Telephone Users Surcharge, Sections 41001-41176; Energy Resources Surcharge, Sections 40001-40216; Hazardous Substances Tax, Sections 43001-43651; Integrated Waste Management Fee, Sections 45001-45984; International Fuel Tax Agreement, Sections 9401-9433; Motor Vehicle Fuel License Tax, Sections 7301-8405; Occupational Lead Poisoning Prevention Fee, Sections 43001-43651, Health & Safety Code, Sections 105175-105197; Oil Spill Response, Prevention, and Administration Fees, Sections 46001-46751, Government Code, Sections 8670.1-8670.53; Publicly Owned Property, Sections 1840-1841; Sales and Use Tax, Sections 6001-7279.6; State Assessed Property, Sections 721-868, 4876-4880, 5011-5014; Tax on Insurers, Sections 12001-13170; Timber Yield Tax, Sections 38101-38908; Tire Recycling Fee, Sections 55001-55381, Public Resources Code, Sections 42860-42895; Underground Storage Tank Maintenance Fee, Sections 50101-50161, Health & Safety Code, Sections 25280-25299.96; Use Fuel Tax, Sections 8601-9355.

The principal purpose for which the requested information will be used is to administer the laws identified in the preceding paragraph. This includes the determination and collection of the correct amount of tax. Information you furnish to the Board may be used for the purpose of collecting any outstanding tax liability.

As authorized by law, information requested by an application for a permit or license could be disclosed to other agencies, including, but not limited to, the proper officials of the following: 1) United States governmental agencies: U.S. Attorney's Office; Bureau of Alcohol, Tobacco and Firearms; Depts. of Agriculture, Defense, Justice; Federal Bureau of Investigation; General Accounting Office; Internal Revenue Service; the Interstate Commerce Commission; 2) State of California governmental agencies and officials: Air Resources Board; Dept. of Alcoholic Beverage Control; Auctioneer Commission; Employment Development Department; Energy Commission; Exposition and Fairs; Food & Agriculture; Board of Forestry; Forest Products Commission; Franchise Tax Board; Dept. of Health Services; Highway Patrol; Dept. of Housing & Community Development; California Parent Locator Service; 3) State agencies outside of California for tax enforcement purposes; and 4) city attorneys and city prosecutors; county district attorneys, sheriff departments.

As an individual, you have the right to access personal information about you in records maintained by the State Board of Equalization. Please contact your local Board office listed in the white pages of your telephone directory for assistance. If the local Board office is unable to provide the information sought, you may also contact the Disclosure Office in Sacramento by telephone at (916) 445-2918. The Board officials responsible for maintaining this information, who can be contacted by telephone at (916) 445-6464, are: Sales and Use Tax, Deputy Director, Sales and Use Tax Department, 450 N Street, MIC:43, Sacramento, CA 95814; Excise Taxes, Fuel Taxes and Environmental Fees, Deputy Director, Special Taxes Department, 450 N Street, MIC:31, Sacramento, CA 95814; Property Taxes, Deputy Director, Property Taxes Department, 450 N Street, MIC:63, Sacramento, CA 95814.

CALIFORNIA STATE BOARD OF EQUALIZATION  
**USE TAX DIRECT PAYMENT PERMIT**



ACCOUNT NUMBER

**DRAFT**

THIS PERMIT DOES NOT AUTHORIZE THE HOLDER TO ENGAGE IN ANY BUSINESS CONTRARY TO LAWS REGULATING THAT BUSINESS OR TO POSSESS OR OPERATE ANY ILLEGAL DEVICE.

IS HEREBY AUTHORIZED PURSUANT TO SALES AND USE TAX LAW SECTION 7051.3 TO SELF-ASSESS AND PAY USE TAX DIRECTLY TO THE STATE OF CALIFORNIA

THIS PERMIT IS NOT A SELLER'S PERMIT TO ENGAGE IN SALES OF TANGIBLE PERSONAL PROPERTY

THIS PERMIT IS VALID UNTIL REVOKED OR CANCELED BUT IS NOT TRANSFERABLE. IF YOU SELL YOUR BUSINESS, OR DROP OUT OF A PARTNERSHIP, NOTIFY US OR YOU COULD BE RESPONSIBLE FOR SALES AND USE TAXES OWED BY THE NEW OPERATOR OF THE BUSINESS.

BOE-442-DPLZ (1-98)

**NOTICE TO INDIVIDUALS REGARDING  
 INFORMATION FURNISHED TO THE BOARD OF EQUALIZATION**

The Information Practices Act of 1977 and the Federal Privacy Act requires this agency to provide the following notice to individuals who are asked by the State Board of Equalization (Board) to supply information, including the disclosure of the individual's social security account number.

Individuals applying for permits, certificates, or licenses, or filing tax returns, statements, or other forms prescribed by this agency, are required to include their social security numbers for proper identification. [See Title 42 United States Code Section 405(c)(2)(C)(i)]. It is mandatory to furnish all the appropriate information requested by applications for registration, applications for permits or licenses, tax returns and other related data. Failure to provide all of the required information requested by an application for a permit or license could result in your not being issued a permit or license. In addition, the law provides penalties for failure to file a return, failure to furnish specific information required, failure to supply information required by law or regulations, or for furnishing fraudulent information.

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The principal purpose for which the requested information will be used is to administer the laws identified in the preceding paragraph. This information is used for the determination and collection of the correct amount of tax. Information you furnish to the Board may be used for the purpose of collecting tax liability.

As authorized by law, information requested by an application for a permit or license could be disclosed to other agencies, including, but not limited to, the proper officials of the following: 1) United States governmental agencies: U.S. Attorney's Office; Bureau of Alcohol, Tobacco and Firearms; Depts. of Agriculture, Defense, Justice; Federal Bureau of Investigation; General Accounting Office; Internal Revenue Service; the Interstate Commerce Commission; 2) State of California governmental agencies and officials: Air Resources Board; Dept. of Alcoholic Beverage Control; Auctioneer Commission; Employment Development Department; Energy Commission; Exposition and Fairs; Food & Agriculture; Board of Forestry; Forest Products Commission; Franchise Tax Board; Dept. of Health Services; Highway Patrol; Dept. of Housing & Community Development; California Parent Locator Service; 3) State agencies outside of California for tax enforcement purposes; and 4) city attorneys and city prosecutors; county district attorneys, sheriff departments.

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\*All references are to the California Revenue and Taxation Code, unless otherwise indicated

**DEPARTMENT OF TRANSPORTATION**

Division of Local Assistance  
 1120 N STREET  
 P.O. BOX 942874, MS# 1  
 Sacramento, CA 94274-0001  
 TTY 711  
 (916) 654-3151  
 Fax (916) 653-7621



August 17, 2009

File : 07-LA-0-LBCH  
 ESPL-5108(094)  
 Spring St: Clark Ave to ECL

Mr. Mike Conway  
 Director of Public Works  
 City of Long Beach  
 333 West Ocean Boulevard, 9th Floor  
 Long Beach, CA 90802

Attn: Mr. Phillip Balmeo

Dear Mr. Conway:

Enclosed is your fully executed copy of Program Supplement Agreement No. 074-N to Administering Agency-State Agreement No. 07-5108R .

Sincerely,

RAY ZHANG, Chief  
 Office of Project Implementation - South  
 Division of Local Assistance

Enclosure

c: DLA AE Project Files  
 (07) DLAE - Kirk Cessna

PUBLIC WORKS ENGINEERING BUREAU			
Date			
	ACTION	INFO	FILE
REFERRED TO			
CONSTRUCTION			
DESIGN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
TRANS. ENG.			
TRANS. PLANNING			
PROJECT MGT.			
STORM WATER			

PROGRAM SUPPLEMENT NO. N074  
 to  
 ADMINISTERING AGENCY-STATE AGREEMENT  
 FOR FEDERAL-AID PROJECTS NO. 07-5108R

Date: July 14, 2009  
 Location: 07-LA-0-LBCH  
 Project Number: ESPL-5108(094)  
 E.A. Number: 07-933310

This Program Supplement hereby incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 10/12/07 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. RES-07-0097, approved by the Administering Agency on July 10, 2007 (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by State of any funds derived from sources noted below obligated to this project, the Administering Agency accepts and will comply with the Special covenants or Remarks set forth on the following pages.

**PROJECT LOCATION:**

Spring St: Clark Ave to ECL

**TYPE OF WORK:** Road Rehabilitation

**LENGTH:** 0 (MILES)

Estimated Cost	Federal Funds		Matching Funds		
	C230		LOCAL		OTHER
\$11,532,741.00		\$10,832,921.00	\$699,820.00	\$0.00	\$0.00

CITY OF LONG BEACH

STATE OF CALIFORNIA

Department of Transportation

By [Signature] Assistant City Manager

By [Signature]  
 Chief, Office of Project Implementation  
 Division of Local Assistance

Date 8.7.09 EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

Date 8/12/2009

Attest  
 Title City Manager

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer [Signature] Date 7/16/09 \$10,832,921.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT
268	2008	2660-603-890	2008-2009	20.30.010.810	F	228010	898-F	10,832,921.00

APPROVED AS TO FORM

August 3, 2009  
 ROBERT E. SHANNON, City Attorney

By [Signature]  
 LINDA TRANG  
 DEPUTY CITY ATTORNEY

**SPECIAL COVENANTS OR REMARKS**

1. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.
2. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days after the project contract award. A copy of the award package shall also be included with the submittal of the ADMINISTERING AGENCY's first invoice for the construction contract to:

Department of Transportation  
Division of Accounting  
Local Programs Accounting Branch, MS #33  
P. O. Box 942874  
Sacramento, CA 94274-0001

Failure to do so will cause a delay in the State processing invoices for the construction phase. Please refer to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

3. Any State and Federal funds that may have been encumbered for this project are only available for disbursement for a period of six (6) years and seven (7) years, respectively, from the start of the fiscal year(s) that those funds were appropriated within the State Budget Act. All project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested and is approved by the California Department of Finance per Government Code Section 16304. The exact date of each fund reversion will be reflected in the approved finance letter(s) issued for this project.

Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement that is not submitted to the Department on or before 60 days after that applicable fixed fund reversion date will not be paid from that fiscal year's encumbered funds because all of these unexpended funds will be irrevocably reverted by the Department's Division of Accounting on that date.

Pursuant to a directive from the State Controller's Office and the Department of Finance, the last date to submit invoices for reimbursed work in each fiscal year is May 15th in order for payment to be made out of those then current appropriations. Project work performed and invoiced after May 15th will be reimbursed only out of available funding that might be encumbered in the subsequent fiscal year, and then only when those funds are actually allocated and encumbered as authorized by the California Transportation Commission and the Department's Accounting Office.

4. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE



**SPECIAL COVENANTS OR REMARKS**

for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

5. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations, and invoice payments for any on-going or future federal-aid project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

6. The Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
7. As a condition for receiving federal-aid highway funds for the PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Excluded Parties List System (EPLS).
8. This project is financed, in whole or in part, with federal funds from the American Recovery and Reinvestment Act of 2009 (Recovery Act). ADMINISTERING AGENCY agrees:

**SPECIAL COVENANTS OR REMARKS**

- 1) Statutory provisions contained in Chapter 1 of Title 23 United States Code (U.S.C.) are applicable to all Recovery Act funded projects,
- 2) Costs incurred prior to the date of authorization are NOT eligible for reimbursement with federal Recovery Act funds,
- 3) Federal Prevailing Wage Rate requirements apply to all Recovery Act funded construction projects regardless of location (including projects on local roads and rural minor collectors, and Transportation Enhancement projects outside the highway right of way). ADMINISTERING AGENCY agrees to include the appropriate wage rate information in the contract and also include a contract provision that overrides the general applicability provisions in form FHWA-1273, Sections IV and V,
- 4) To expend and invoice for all Recovery Act funds prior to using other funds, and
- 5) To comply with the reporting requirements, terms and conditions set forth in Sections 1201 and 1512 of the Recovery Act and as designated by the STATE. Failure to comply will result in retentions from progress payments due ADMINISTERING AGENCY and/or other sanctions,
- 6) Recovery Act funds are available for liquidation only until September 30, 2015 when the remaining balance of Recovery Act funds will expire. ADMINISTERING AGENCY agrees to submit an invoice for the balance of project Recovery Act funds (if any) to the STATE prior to July 1, 2015.

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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RESOLUTION NO. RES-07-0097

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AUTHORIZING THE CITY MANAGER TO EXECUTE ALL MASTER AGREEMENTS, PROGRAM SUPPLEMENTAL AGREEMENTS, FUND EXCHANGE AGREEMENTS, FUND TRANSFER AGREEMENTS, AND ANY AMENDMENTS THERETO, WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION

WHEREAS, the California Department of Transportation ("Caltrans") is the administrator of state and federal funds that flow to cities; and

WHEREAS, acceptance and expenditure of state and federal funds generally requires the execution of a master agreement covering the City as a whole, as well as program and funding agreements specific to projects;

NOW, THEREFORE, the City Council of the City of Long Beach resolves as follows:

Section 1. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. The City is eligible to receive Federal and/or State funding for certain transportation projects through Caltrans.

Section 3. Master agreements, program supplemental agreements, fund exchange agreements and/or fund transfer agreements need to be executed with Caltrans before such funds can be claimed.

Section 4. The City Manager of the City of Long Beach is hereby authorized to execute these agreements and any amendments thereto.

///

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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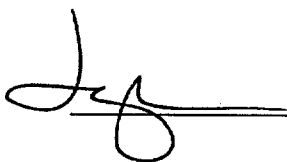
Section 5. This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of July 10, 2007 by the following vote:

Ayes: Councilmembers: B. Lowenthal, S. Lowenthal, DeLong,  
O'Donnell, Schipske, Andrews,  
Reyes Uranga, Gabelich, Lerch.

Noes: Councilmembers: None.

Absent: Councilmembers: None.

  
\_\_\_\_\_  
City Clerk