

CONTRACT

**33536**

THIS CONTRACT is made and entered, in duplicate, as of October 8, 2014 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 7, 2014, by and between POWELL CONSTRUCTORS INC., a California corporation ("Contractor"), whose address is 8555 Banana Avenue, Fontana, California 92335, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, pursuant to a "Notice Inviting Bids for Beach Pedestrian Path Project in the City of Long Beach, California," dated September 3, 2014, 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-6914;

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-6914 for Beach Pedestrian Path Project 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

1 work identified in Contractor's "Bid for Beach Pedestrian Path Project in the City of  
2 Long Beach, California," 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 Project Specifications No. R-6914 (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; Project Plans No. C-5930 for this work; the California Code of  
12 Regulations; the various Uniform Codes applicable to trades; the prevailing wage  
13 rates; Instructions to Bidders; the Bid; the bid security; the City of Long Beach  
14 Disadvantaged, Minority and Women-Owned Business Enterprise Program; this  
15 Contract and all documents attached hereto or referenced herein including but not  
16 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) Permit(s) from other public  
25 agencies; 2) Change Orders; 3) this Contract (including any and all amendments  
26 hereto); 4) Addenda (which shall include written clarifications, corrections and  
27 changes to the bid documents and other types of written notices issued prior to bid  
28 opening; 5) Project Specifications; 6) Project Plans (including drawings); 7) the

1 City of Long Beach Standard Plans; 8) Standard Specifications (as identified in  
2 Section 3.A. hereof, the "Greenbook"); 9) other reference specifications; 10)  
3 other reference plans; 11) the bid; and 12) the Notice Inviting Bids.

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

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

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

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

25 8. CLAIMS. Contractor shall, upon completion of the work, deliver  
26 possession thereof to City ready for use and free and discharged from all claims for labor  
27 and materials in doing the work and shall assume and be responsible for, and shall  
28 protect, defend, indemnify and hold harmless City from and against any and all claims,

1 demands, causes of action, liability, loss, costs or expenses for injuries to or death of  
2 persons, or damages to property, including property of City, which arises from or is  
3 connected with the performance of the work.

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

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

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

16 11. PREVAILING WAGE RATES. Contractor is directed to the  
17 prevailing wage rates. Contractor shall forfeit, as a penalty to the City, Two Hundred  
18 Dollars (\$200) for each laborer, worker or mechanic employed for each calendar day, or  
19 portion thereof, that such laborer, worker or mechanic is paid less than the prevailing  
20 wage rates for any work done by Contractor, or any subcontractor, under this Contract.

21 12. COORDINATION WITH GOVERNMENTAL REGULATIONS.

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

determination of the City Engineer shall be final.

B. If Contractor is prevented, in any manner, from strict compliance with the Plans and Specifications due to any Federal or State law, rule or regulation, in addition to all other rights and remedies reserved to the parties City may by resolution of the City Council suspend performance hereunder until the cause of disability is removed, extend the time for performance, make changes in the character of the work or materials, or terminate this Contract without liability to either party.

13. NOTICES.

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

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

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

15. COVENANT AGAINST ASSIGNMENT. Neither this Contract nor any of the moneys that may become due Contractor hereunder may be assigned by Contractor without the written consent of City first had and obtained, nor will City

1 recognize any subcontractor as such, and all persons engaged in the work of  
2 construction will be considered as independent contractors or agents of Contractor and  
3 will be held directly responsible to Contractor.

4 16. CERTIFIED PAYROLL RECORDS.

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

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

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

27 17. RESPONSIBILITY OF CONTRACTOR. Notwithstanding anything to  
28 the contrary in the Standard Specifications, Contractor shall have the responsibility, care

1 and custody of the work. If any loss or damage occurs to the work that is not covered by  
2 collectible commercial insurance, excluding loss or damage caused by earthquake or  
3 flood or the negligence or willful misconduct of City, then Contractor shall immediately  
4 make the City whole for any such loss or pay for any damage. If Contractor fails or  
5 refuses to make the City whole or pay, then City may do so and the cost and expense of  
6 doing so shall be deducted from the amount due Contractor from City hereunder.

7 18. CONTINUATION. Termination or expiration of this Contract shall not  
8 terminate the rights or liabilities of either party which rights or liabilities accrued or existed  
9 prior to termination or expiration of this Contract.

10 19. TAXES AND TAX REPORTING.

11 A. As required by federal and state law, City is obligated to and  
12 will report the payment of compensation to Contractor on Form 1099-Misc.  
13 Contractor shall be solely responsible for payment of all federal and state taxes  
14 resulting from payments under this Contract. Contractor shall submit Contractor's  
15 Employer Identification Number (EIN), or Contractor's Social Security Number if  
16 Contractor does not have an EIN, in writing to City's Accounts Payable,  
17 Department of Financial Management. Contractor acknowledges and agrees that  
18 City has no obligation to pay Contractor until Contractor provides one of these  
19 numbers.

20 B. Contractor shall cooperate with City in all matters relating to  
21 taxation and the collection of taxes, particularly with respect to the self-accrual of  
22 use tax. Contractor shall cooperate as follows: (i) for all leases and purchases of  
23 materials, equipment, supplies, or other tangible personal property totaling over  
24 \$100,000 shipped from outside California, a qualified Contractor shall complete  
25 and submit to the appropriate governmental entity the form in Appendix "A"  
26 attached hereto; and (ii) for construction contracts and subcontracts totaling  
27 \$5,000,000 or more, Contractor shall obtain a sub-permit from the California Board  
28 of Equalization for the Work site. "Qualified" means that the Contractor purchased

1 at least \$500,000 in tangible personal property that was subject to sales or use tax  
2 in the previous calendar year.

3 C. Contractor shall create and operate a buying company, as  
4 defined in State of California Board of Equalization Regulation 1699, subpart (h),  
5 in City if Contractor will purchase over \$10,000 in tangible personal property  
6 subject to California sales and use tax.

7 D. In completing the form and obtaining the permit(s), Contractor  
8 shall use the address of the Work site as its business address and may use any  
9 address for its mailing address. Copies of the form and permit(s) shall also be  
10 delivered to the City Engineer. The form must be submitted and the permit(s)  
11 obtained as soon as Contractor receives a Notice to Proceed. Contractor shall not  
12 order any materials or equipment over \$100,000 from vendors outside California  
13 until the form is submitted and the permit(s) obtained and, if Contractor does so, it  
14 shall be a material breach of this Contract. In addition, Contractor shall make all  
15 purchases from the Long Beach sales office of its vendors if those vendors have a  
16 Long Beach office and all purchases made by Contractor under this Contract  
17 which are subject to use tax of \$500,000 or more shall be allocated to the City of  
18 Long Beach. Contractor shall require the same cooperation with City, with regards  
19 to subsections B, C and D under this section (including forms and permits), from  
20 its subcontractors and any other subcontractors who work directly or indirectly  
21 under the overall authority of this Contract.

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

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



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

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

10          23.   THIRD PARTY BENEFICIARY. This Contract is intended by the  
11 parties to benefit themselves only and is not in any way intended or designed to or  
12 entered for the purpose of creating any benefit or right of any kind for any person or entity  
13 that is not a party to this Contract.

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

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

28          26.   GOVERNING LAW. This Contract shall be governed by and

1 construed pursuant to the laws of the State of California (except those provisions of  
2 California law pertaining to conflicts of laws).

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

7 28. NONDISCRIMINATION. In connection with performance of this  
8 Contract and subject to federal laws, rules and regulations, Contractor shall not  
9 discriminate in employment or in the performance of this Contract on the basis of race,  
10 religion, national origin, color, age, sex, sexual orientation, gender identity, AIDS, HIV  
11 status, handicap or disability. It is the policy of the City to encourage the participation of  
12 Disadvantaged, Minority and Women-Owned Business Enterprises, and the City  
13 encourages Contractor to use its best efforts to carry out this policy in the award of all  
14 subcontracts.

15 29. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in  
16 accordance with the provisions of the Ordinance, this Contract is subject to the applicable  
17 provisions of the Equal Benefits Ordinance ("EBO"), section 2.73 et seq. of the Long  
18 Beach Municipal Code, as amended from time to time.

19 A. During the performance of this Contract, the Contractor  
20 certifies and represents that the Contractor will comply with the EBO. The  
21 Contractor agrees to post the following statement in conspicuous places at its  
22 place of business available to employees and applicants for employment:

23 "During the performance of a Contract with the City of Long Beach,  
24 the Contractor will provide equal benefits to employees with spouses and its  
25 employees with domestic partners. Additional information about the City of  
26 Long Beach's Equal Benefits Ordinance may be obtained from the City of  
27 Long Beach Business Services Division at 562-570-6200."

28 B. The failure of the Contractor to comply with the EBO will be

1 deemed to be a material breach of the Contract by the City.

2 C. If the Contractor fails to comply with the EBO, the City may  
3 cancel, terminate or suspend the Contract, in whole or in part, and monies due or  
4 to become due under the Contract may be retained by the City. The City may also  
5 pursue any and all other remedies at law or in equity for any breach.

6 D. Failure to comply with the EBO may be used as evidence  
7 against the Contractor in actions taken pursuant to the provisions of Long Beach  
8 Municipal Code 2.93 et seq., Contractor Responsibility.

9 E. If the City determines that the Contractor has set up or used  
10 its contracting entity for the purpose of evading the intent of the EBO, the City may  
11 terminate the Contract on behalf of the City. Violation of this provision may be  
12 used as evidence against the Contractor in actions taken pursuant to the  
13 provisions of Long Beach Municipal Code section 2.93 et seq., Contractor  
14 Responsibility.

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

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OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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

3 POWELL CONSTRUCTORS INC., a  
4 California corporation

5 October 16, 2014

By [Signature]  
6 Name Michael B. Powell  
7 Title President

8 October 16, 2014

By [Signature]  
9 Name Michael B. Powell  
10 Title Secretary

11 "Contractor"

12 CITY OF LONG BEACH, a municipal  
13 corporation

14 October 22, 2014

By [Signature] Assistant City Manager  
15 City Manager  
16 EXECUTED PURSUANT  
17 TO SECTION 301 OF  
18 THE CITY CHARTER.

19 "City"

20 This Contract is approved as to form on 10/21, 2014.

21 CHARLES PARKIN, City Attorney

22 By [Signature]  
23 Deputy

## ACKNOWLEDGMENT

State of California  
County of San Bernardino )

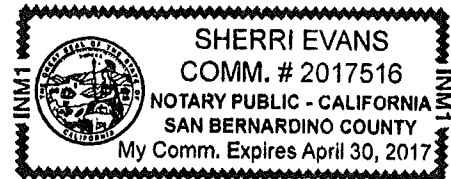
On October 16, 2014 before me, Sherri Evans, Notary Public  
(insert name and title of the officer)

personally appeared Michael B. Powell,  
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  (Seal)



## ACKNOWLEDGMENT

State of California  
County of San Bernardino )

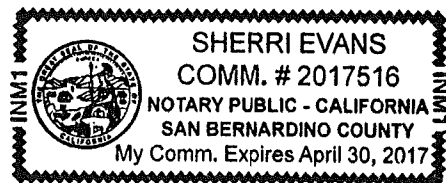
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who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by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



**MINUTES OF SPECIAL MEETING OF SHAREHOLDERS**

**OF**

**POWELL CONSTRUCTORS INC.**

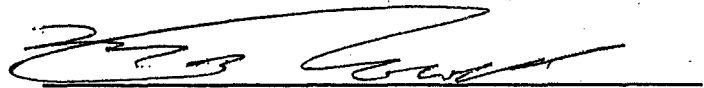
A Special Meeting of Shareholders of the Corporation was held at 4576 Gill Circle, La Verne, California 91750 on the 28th February 2013 at 8:45 o'clock this am.

All of the Shareholders being present, the meeting was called to order by the Chairman.

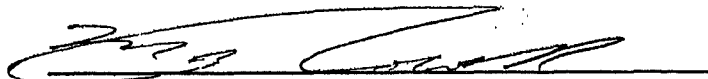
RESOLVED, In accordance with the Article of Incorporation and By Laws of Powell Constructors, Inc. Michael B. Powell is the President, Secretary and the Treasurer and is authorized to execute any and all instruments on behalf of the corporation.

There being no further business to come before the meeting, upon motion duly made, seconded and unanimously carried, the meeting was adjourned.

DATED: 28 February 2013



Michael B. Powell, Secretary



Michael B. Powell, Chairman

# EXHIBIT A

Awarded: Base Bid Plus Additive Items AA, BB, and CC



BIDDER'S NAME: Powell Constructors Inc

## BID TO THE CITY OF LONG BEACH BEACH PEDESTRIAN PATH

In accordance with the Notice Inviting Bids for this Work in the City of Long Beach, California, to be opened on September 03, 2014, at 11:00 a.m., we offer to furnish all necessary labor, tools, materials, appliances and equipment for and perform all Work mentioned in the Notice Inviting Bids, in full compliance with Plans & Specifications No. R-6914 at the **total lump sum amount** listed below.

We certify that we have examined the site and that the Bid is complete. By signing the Bid, we certify that the Contractor will not submit a claim based on failure to examine the site thoroughly.

TEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
1.	Mobilization (not to exceed 5% of total lump sum bid)	1	LS	LS	250,000.-
2.	Bonds/Insurance	1	LS	LS	140,000.-
3.	Demolition	1	LS	LS	400,000.-
4.	Grading & Drainage	1	LS	LS	605,000.-
5.	Concrete Bike Path, Separation Curb and Slabs	1	LS	LS	1,430,000.-
6.	Resin Paving	1	LS	LS	980,000.-
7.	6" Deep Compacted Base Pedestrian Pathway	1	LS	LS	280,000.-
8.	Concrete containment curbs Pedestrian Pathway	1	LS	LS	400,000.-
9.	Drainage Structure Station 28+73	1	EA	40,000.-	40,000.-
10.	Drainage Structure Station 33+43	1	EA	10,000.-	10,000.-
11.	Drainage Structure Station 36+43	1	EA	10,000.-	10,000.-
12.	Drainage Structure Station 43+18	1	EA	12,000.-	12,000.-
13.	Drainage Structure Station 68+92	1	EA	80,000.-	80,000.-
14.	Drainage Structure Station 96+97	1	EA	55,000.-	55,000.-
15.	Drainage Structure Station 103+40	1	EA	10,000.-	10,000.-

TEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
16.	Drainage Structure Station 112+41	1	EA	75,000.-	75,000.-
17.	Walls & Fences	1	LS	LS	300,000.-
18.	Irrigation	1	LS	LS	15,000.-
19.	Landscape	1	LS	LS	140,000.-
20.	Signage & Striping	1	LS	LS	70,000.-
21.	Electrical	1	LS	LS	4,000.-
22.	AC Paving & Compacted Base	1	LS	LS	40,000.-
23.	Furnish to City John Deere 3033 R	1	EA	35,000.-	35,000.-
24.	Furnish to City Sand Man TT Sand Sifting Equipment	2	EA	13,500.-	27,000.-
25.	SWPPP Implementation & Maintenance	1	LS	LS	30,000.-
26.	Class 'A' Field Office	1	LS	LS	9,000.-
27.	Protect Chapter 38 Monuments	1	LS	LS	5,000.-
28.	Precast Concrete Mile Markers	13	EA	2,900.-	37,700.-
29.	Miscellaneous Construction items not contained in line item categories	1	LS	LS	30,000.-

TOTAL AMOUNT BID 5,519,700.-

We understand that these lump sum quantities are given solely for the purpose of facilitating the comparison of Bids, and that the contractors' compensation will be based on a lump sum bid for all the work included in the contract documents, including plans, specification, addendas, regardless if the items of work or quantities are listed or not in the above schedule of values.

(Continued on Next Page)

The following information will be used for statistical analysis only.

Is the Bidder a Minority-Owned Business? No Which racial minority? No

Is the Bidder a Women-Owned Business? No

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

Planet Bids website

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## EXHIBIT B

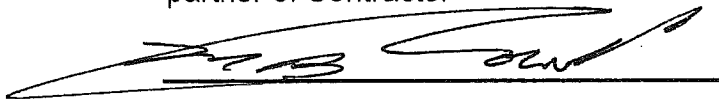
## WORKERS' COMPENSATION CERTIFICATION

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 worker's compensation or to undertake self-insurance in accordance with said provisions before commencing the performance of the Work of this contract.

Contractor's Name:

Powell Constructors Inc

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

A handwritten signature in black ink, appearing to read "J. B. Powell", is written over a horizontal line.

Title: President

Date: 9-3-14

## EXHIBIT C

## 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: A1CW44161407
- B. Name of Insurer (**NOT** Broker): Old Republic General Insurance
- C. Address of Insurer: 225 S. Lake Avenue, Pasadena, CA 91101
- D. Telephone Number of Insurer: (800) 830-6057

2) For vehicles owned by Contractor and used in performing work under this Contract:

- A. VIN (Vehicle Identification Number): Various Company Vehicles
- B. Automobile Liability Insurance Policy Number: A1CA44161411
- C. Name of Insurer (**NOT** Broker): Old Republic General Insurance
- D. Address of Insurer: 225 S. Lake Avenue, Pasadena, CA 91101
- E. Telephone Number of Insurer: (800) 830-6057

3) Address of Property used to house workers on this Contract, if any: N/A

4) Estimated total number of workers to be employed on this Contract: 20

5) Estimated total wages to be paid those workers: \$1,800,000

6) Dates (or schedule) when those wages will be paid: Weekly

(Describe schedule: For example, weekly or every other week or monthly)

7) Estimated total number of independent contractors to be used on this Contract:

N/A

8) Taxpayer's Identification Number: ██████████

## EXHIBIT D





### LIST OF SUBCONTRACTORS

In accordance with the requirements provided in the "Subletting and Subcontracting Fair Practices Act" Division 2 Part 1, Chapter 4 of the California Public Contract Code, the Bidder shall set forth hereon the name, the location of the place of business, and the California contractor license number of each subcontractor 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 one-half of 1 percent of the prime contractor's total bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater. The prime contractor shall set forth thereon the portion of the work (type and dollar value) that will be done by each subcontractor. The prime contractor shall list only one subcontractor for each portion as defined by the prime contractor in his or her bid. Information requested, other than the subcontractor's name, location of business, contractor license number and the portion of work that will be done by each subcontractor may be submitted by the prime contractor within 24 hours after the deadline for submission of bids.

Name	<u>Soil Stabilization Products Company</u>	Type of Work	<u>Resin Pavement Producer</u>
Address	<u>PO Box 2779</u>		
City	<u>Merced, CA 95344</u>	Dollar Value of Subcontract Purchase Order	<u>\$ 693,022.00</u>
Phone No.	<u>(203) 383-3296</u>		
License No.	<u>N/A - Supplier</u>		

Name	<u>Chrip Company</u>	Type of Work	<u>Signs &amp; Striping</u>
Address	<u>2280 South Lilac Avenue</u>		
City	<u>Bloomington, CA 92316</u>	Dollar Value of Subcontract	<u>\$ 79,026.00</u>
Phone No.	<u>(909) 746-0356</u>		
License No.	<u>374600</u>		

Name	<u>The Landscape Center</u>	Type of Work	<u>Relocate Palm Trees</u>
Address	<u>9505 Cleveland Avenue</u>		
City	<u>Riverside, CA 92503</u>	Dollar Value of Subcontract	<u>\$ 65,855.00</u>
Phone No.	<u>(951) 352-8383</u>		
License No.	<u>553561</u>		

Name	_____	Type of Work	_____
Address	_____		
City	_____	Dollar Value of Subcontract	<u>\$</u> _____
Phone No.	_____		
License No.	_____		

Name	_____	Type of Work	_____
Address	_____		
City	_____	Dollar Value of Subcontract	<u>\$</u> _____
Phone No.	_____		
License No.	_____		

# APPENDIX “A”

BOE-400-DP (FRONT) REV 2. (8-05)  
**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 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 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 *Application for Use Tax Direct Payment Permit*, 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 a *Use Tax Direct Payment 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 916-445-5167, or write to the Board of Equalization, Compliance Policy Unit, P.O. Box 942879, Sacramento, CA 94279-0040.

KNOW ALL MEN BY THESE PRESENTS: That we, POWELL CONSTRUCTORS INC., a California corporation, as PRINCIPAL, and Fidelity and Deposit Company of Maryland, located at Owing Mills, Maryland, 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 FIVE MILLION FIVE HUNDRED NINETEEN THOUSAND SEVEN HUNDRED DOLLARS (\$5,519,700), 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.

## THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

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 Beach Pedestrian Path Project 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 14th day of October, 2014.

Powell Constructors, Inc.  
Contractor

By: [Signature]

Name: Michael B. Powell

Title: President

By: [Signature]

Name: Michael B. Powell

Title: Secretary

Approved as to form this 21st day  
of October, 2014.

CHARLES PARKIN, City Attorney

By: [Signature]  
Deputy City Attorney

Fidelity and Deposit Company of Maryland  
SURETY, admitted in California

By: Michael Castaneda

Name: Michael Castaneda

Title: Attorney-in-Fact

Telephone: 213-270-0714

Approved as to sufficiency this 20 day  
of OCT, 2014.

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.

## ACKNOWLEDGMENT

State of California  
County of San Bernardino )

On October 16, 2014 before me, Sherri Evans, Notary Public  
(insert name and title of the officer)

personally appeared Michael B. Powell,  
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  (Seal)



## ACKNOWLEDGMENT

State of California  
County of San Bernardino )

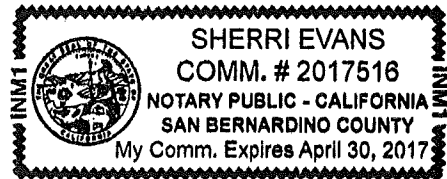
On October 16, 2014 before me, Sherri Evans, Notary Public  
(insert name and title of the officer)

personally appeared Michael B. Powell,  
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  
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paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



## ACKNOWLEDGMENT

State of California  
County of Orange

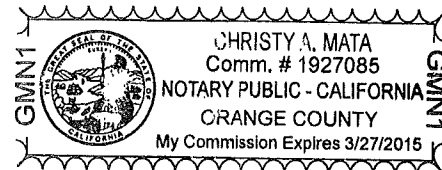
On October 14, 2014 before me, Christy A. Mata, Notary Public  
(insert name and title of the officer)

personally appeared Michael Castaneda  
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 [Signature] (Seal)





**ZURICH AMERICAN INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND  
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Maryland, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Maryland (herein collectively called the "Companies"), by **GEOFFREY DELISIO, Vice President**, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint **Lourdes LANDA, Mark ROSSKOPF, Adriana VALENZUELA and Michael CASTANEDA, 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 Companies, 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 ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said **ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND**, this 19th day of May, A.D. 2014.

ATTEST:

**ZURICH AMERICAN INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**



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

*Gerald F. Haley*  
Assistant Secretary  
Gerald F. Haley

*Geoffrey Delisio*

Vice President  
Geoffrey Delisio

State of Maryland  
City of Baltimore

On this 19th day of May, A.D. 2014, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **GEOFFREY DELISIO, Vice President, and GERALD F. HALEY, Assistant Secretary**, of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, depose and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

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, 2015



## EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

### CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and 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 Article V, Section 8, of the By-Laws of the Companies is still in force.

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 ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

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 COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and 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 seals of the said Companies, this 14th day of October, 2014.



*Thomas O. McClellan*

Thomas O. McClellan, Vice President

KNOW ALL MEN BY THESE PRESENTS: That we, POWELL CONSTRUCTORS INC., a California corporation, as PRINCIPAL, and Fidelity and Deposit Company of Maryland, located at Owing Mills, Maryland, 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 FIVE MILLION FIVE HUNDRED NINETEEN THOUSAND SEVEN HUNDRED DOLLARS (\$5,519,700), 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.

## THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

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 Beach Pedestrian Path Project 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 14th day of October, 2014.

Powell Constructors, Inc.

Contractor

By: [Signature]Name: Michael B. PowellTitle: PresidentBy: [Signature]Name: Michael B. PowellTitle: SecretaryApproved as to form this 21<sup>st</sup> day  
of October, 2014.

CHARLES PARKIN, City Attorney

By: [Signature]  
Deputy City Attorney

Fidelity and Deposit Company of Maryland

SURETY, admitted in California

By: Michael CastanedaName: Michael CastanedaTitle: Attorney-in-FactTelephone: 213-270-0714Approved as to sufficiency this 20 day  
of OCT., 2014.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.

## ACKNOWLEDGMENT

State of California  
County of San Bernardino )

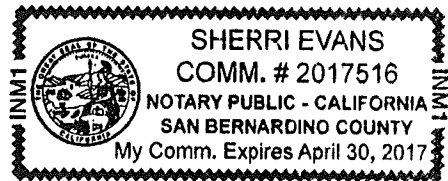
On October 16, 2014 before me, Sherri Evans, Notary Public  
(insert name and title of the officer)

personally appeared Michael B. Powell,  
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  (Seal)



## ACKNOWLEDGMENT

State of California  
County of San Bernardino )

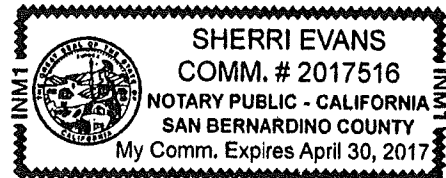
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(insert name and title of the officer)

personally appeared Michael B. Powell,  
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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  (Seal)



## ACKNOWLEDGMENT

State of California

County of Orange )

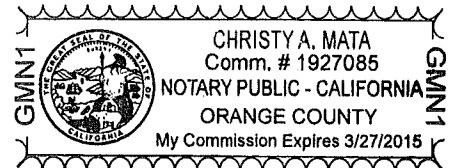
On October 14, 2014 before me, Christy A. Mata, Notary Public  
(insert name and title of the officer)

personally appeared Michael Castaneda,  
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 [Signature] (Seal)



**ZURICH AMERICAN INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND  
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Maryland, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Maryland (herein collectively called the "Companies"), by **GEOFFREY DELISIO, Vice President**, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint **Lourdes LANDA, Mark ROSSKOPF, Adriana VALENZUELA and Michael CASTANEDA, 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 Companies, 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 ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said **ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND**, this 19th day of May, A.D. 2014.

ATTEST:

**ZURICH AMERICAN INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**



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

*Gerald F. Haley*

*Assistant Secretary  
Gerald F. Haley*

*Geoffrey Delisio*

*Vice President  
Geoffrey Delisio*

State of Maryland  
City of Baltimore

On this 19th day of May, A.D. 2014, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **GEOFFREY DELISIO, Vice President, and GERALD F. HALEY, Assistant Secretary**, of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, depose and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

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, 2015



## EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

### CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and 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 Article V, Section 8, of the By-Laws of the Companies is still in force.

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 ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

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 COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and 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 seals of the said Companies, this 14th day of October, 20 14.



*Thomas O. McClellan*

Thomas O. McClellan, Vice President