



Agenda Date: 03/25/2014

Agenda Item: 3.6

STAFF REPORT

Date: Tuesday, March 25, 2014
To: Bryan H. Montgomery, City Manager
From: Kevin Rohani, Public Works Director/City Engineer
SUBJECT: Award of Contract with TerraDan Construction, Inc., J.W. Backhoe & Construction, Inc. and Duran & Venables, Inc. for On-Call Services for Maintenance and Repair of City Facilities

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Background and Analysis

The City of Oakley doesn't currently have sufficient in-house resources to be able to address the on-going maintenance needs of the public infrastructure and facilities in the community. Outside contractors have been used to supplement City staff to perform maintenance activities. The various types of public works maintenance activities that the City needs for outside contractor resources generally are: street repair and pothole patching, crack filling of streets, storm drain culvert repair and rehabilitation, ditch cleaning, brush removal from open ditches and drainage basins, striping of streets and parking lots, guard rail repair and replacement, concrete repair for curbs, gutters, and sidewalks.

It has been very time consuming and not sustainable to solicit bids, execute and administer contracts for each individual maintenance service. Staff has investigated the concept of having On-Call Maintenance Service Agreements that would provide the City with a wide range of maintenance services under one contract. With this approach, staff can supplement in-house resources with outside contractors to expeditiously and professionally provide these services to the community.

Staff has selected the construction companies of: TerraDan Construction Inc., J.W.Backhoe & Construction Inc. and Duran & Venables Inc. to be a part of the team of contractor resources that would be utilized by staff in providing public works maintenance for the community. These firms each have a unique expertise, have worked in the past for the City of Oakley and have performed very well and in a very professional manner. Staff will use these firms as needed to address various maintenance service needs in accordance with the unit prices that are proposed and agreed upon by the contractors and the City.

Staff recommends that the Council approve agreements for the remainder of Fiscal Year 2013/14 and all of Fiscal Year 2014/15 for a not to exceed payment amount of \$30,000.00 for TerraDan Construction Inc.; and \$30,000.00 for J.W. Backhoe & Construction, Inc.; and \$100,000.00 for Duran and Venables, Inc.; and

to authorize the City Manager to extend the agreements through Fiscal Year 2015/16 under the same terms, at the City Manager's discretion.

Fiscal Impact

Approval of the resolution will authorize the City Manager to execute the On-Call Services Agreements with a spending limit of \$30,000.00 each for TerraDan Construction, Inc. and J.W. Backhoe & Construction, Inc.; and \$100,000.00 for Duran and Venables, Inc.; for the remainder of Fiscal Year 2013/14 combined with Fiscal Year 2014/15. Funding will be from various capital and roadway maintenance funds.

Recommendation

Staff recommends that the City Council adopt the resolutions approving the On-Call Services Agreements with the three contractors for a not to exceed payment limit of \$160,000.00 total for Fiscal Year 2013/14 combined with Fiscal Year 2014/15 and authorizing the City Manager to execute the agreements.

Attachments

1. Draft On-Call Services Agreements
2. Resolutions

**SHORT FORM
ON-CALL SERVICES AGREEMENT BETWEEN
THE CITY OF OAKLEY AND TERRADAN CONSTRUCTION, INC.**

THIS ON-CALL SERVICES AGREEMENT for Maintenance and Repair of City Facilities is entered into by and between the City of Oakley, a municipal corporation in the State of California (hereinafter referred to as "City") and TerraDan Construction, Inc., a California Corporation, (hereinafter referred to as "Contractor") effective as of March 26, 2014 ("Effective Date").

Section I **SERVICES.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City, maintenance and repair services on an on-call basis at the rates specified in the Compensation Schedule attached hereto and incorporated herein as Exhibit A. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the date first noted above and shall continue until June 30, 2015. At the discretion of the City Manager, the term may be extended to June 30, 2016 if Contractor is satisfactorily performing requested services.
- 1.2 **Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the general geographical area of the City. Contractor shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Contractor's profession.
- 1.3 **Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Contractor's obligations hereunder.

Section 2 **COMPENSATION.** City hereby agrees to pay Contractor a sum not to exceed the amount of THIRTY THOUSAND DOLLARS (\$30,000.00) for the

remainder of Fiscal Year 2013/2014 and through the end of Fiscal Year 2014/2015. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. These payments shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit invoices to City each month for services provided.

Contractor and City acknowledge and agree that compensation paid by City to Contractor under this Agreement is based upon Contractor's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Contractor. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Contractor and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

- 2.1 **Invoices.** Contractor shall submit invoices, not more often than once per month during the term of this Agreement. Invoices shall be on Contractor's Letterhead (or formal invoice form) and contain the following information:
 - The beginning and ending dates of the billing period;
 - A description of services for which payment is requested;
 - Amount due;
 - The Contractor's signature.
- 2.2 **Payment of Taxes.** Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.3 **Payment upon Termination.** In the event that the City or Contractor terminates this Agreement pursuant to Section 8, the City shall compensate the Contractor for all amounts due for work satisfactorily completed as of the date of written notice of termination.
- 2.4 **Authorization to Perform Services.** The Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3 PREVAILING WAGE REQUIREMENTS. All workers engaged in fulfilling this contract must be paid by the Contractor not less than the general prevailing rate of per diem wages as required by California Labor Code Sec. 1771. Copies of the prevailing wage rates are on file at City Hall. The contractor

shall comply with the requirements of Labor Code Sec. 1781 relating to maintaining and making available for inspection certified payroll records. Failure to comply with the Labor Code requirements subject the Contractor to fines and the City will enforce the prevailing wage requirements, Labor Code Sec. 1775 and 1813.

Section 4 FACILITIES AND EQUIPMENT. Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement.

Section 5 RECYCLING REQUIREMENTS. Contractor agrees to comply with all City recycling requirements, and as set forth in the Oakley Municipal Code, including, but not limited to:

- 5.1 Construction and Demolition.** Contractor must contact a customer service representative (CSR) at Oakley Disposal Service, Inc. to arrange for service for any and all construction and demolition work to be performed as part of this project unless Contractor has been approved by the City as a "self-hauler" as defined in Oakley Municipal Code §4.20.308. The CSR will ask if the drop box contains recycle material and will direct the Contractor to drop the construction and demolition debris, including dirt and cement, to a permitted processing facility. The Contractor must indicate on their order form, by checking the applicable box, that they need documentation to comply with the Oakley Municipal Code. This documentation must be provided to the City within ten (10) days of receipt of said documentation by Contractor.
- 5.2 Commercial Self-Haul.** Business self-haul materials are accepted at various Oakley Disposal Service, Inc. local facilities for recycling and include, but are not limited to, wood, inerts, metals, tires, greenwaste, plastics, cardboard, mattresses, foam padding, propane tanks, e-waste and appliances. Contractor agrees to drop any and all business self-haul materials at a site designated on the website www.cccounty.us/depart/cd/recycle/.
- 5.3 Road Maintenance and Construction Projects.** Contractor agrees to recycle greenwaste, asphalt, concrete and metal from any and all road maintenance and construction projects at Oakley Disposal Service, Inc. designated locations.
- 5.4 Office Recyclables.** If Contractor has an office, temporary office, or trailer within the City of Oakley, Contractor agrees to recycle all paper, cardboard, bottles, cans, and toner cartridges at Oakley Disposal Service, Inc. designated locations.

- 5.5 Special Waste Materials.** Contractor shall dispose of inert materials, including, but not limited to, concrete, asphalt and rubber, at Oakley Disposal Service, Inc. designated locations. Shingles and wood waste shall be diverted to the Recycling Center and Transfer Station (RCTS) located at 3700 Loveridge Road, Pittsburg, CA 94565. Scrap metal shall be dropped off at a large-scale scrap metal recycle facility operating within Contra Costa County which may be found at www.cccrecycle.org.
- 5.6 Universal Waste.** Contractor shall dispose of batteries, mercury containing devices and lamps, and certain consumer electronics at a recycling center designated by Oakley Disposal Service, Inc.

Section 6 INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor and its agents, representatives, employees, and subcontractors. Contractor shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Contractor's bid. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Verification of the required insurance is attached hereto and incorporated herein as Exhibit B.

- 6.1 Variation.** The City may approve a variation in the foregoing insurance requirements, upon a determination that the coverages, scope, limits, and forms of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.
- 6.2 Notice of Reduction in Coverage.** In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than five calendar days after Contractor is notified of the change in coverage.
- 6.3 Remedies.** In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or

policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 7 INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES

- 7.1. Contractor shall, to the fullest extent permitted by law, indemnify, defend (with counsel acceptable to the City) and hold harmless City, and its employees, officials, volunteers and agents ("Indemnified Parties") from and against any and all losses, claims, damages, costs and liability arising out of any personal injury, loss of life, damage to property, or any violation of any federal, state, or municipal law or ordinance, arising out of the performance of this Agreement by Contractor, its officers, employees, agents, volunteers, subcontractors or sub-Contractors, excepting only liability arising from the sole negligence, active negligence or intentional misconduct of City.
- 7.2. In the event that Contractor or any employee, agent, sub-Contractor or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, sub-Contractors or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.
- 7.3. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This

indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.

- 7.4. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration, and that these provisions survive the termination of this Agreement.

Section 8 STATUS OF CONTRACTOR.

- 8.1 **Independent Contractor.** At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement, Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.
- 8.2 **Contractor, Not Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 9 LEGAL REQUIREMENTS.

- 9.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 9.2 **Compliance with Applicable Laws.** Contractor and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 9.3 **Other Governmental Regulations.** To the extent that this

Agreement may be funded by fiscal assistance from another governmental entity, Contractor and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

9.4 Licenses and Permits. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City.

9.5 Nondiscrimination and Equal Opportunity. Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

Contractor shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 10 TERMINATION AND MODIFICATION.

10.1 Termination. City may cancel this Agreement at any time and without cause upon written notification to Contractor.

Contractor may cancel this Agreement upon 30 days written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination.

- 10.2 Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 10.3 Assignment and Subcontracting.** City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 10.4 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.
- 10.5 Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City may immediately terminate the Agreement.

Section 11 KEEPING AND STATUS OF RECORDS.

- 11.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Contractor hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Contractor agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.
- 11.2 Contractor's Books and Records.** Contractor shall maintain any

and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement,

- 11.3 Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

Section 12 MISCELLANEOUS PROVISIONS.

- 12.1 Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Contra Costa or in the United States District Court for the Northern District of California.
- 12.2 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 12.3 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 12.4 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 12.5 Use of Recycled Products.** Contractor shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

12.6 Conflict of Interest. Contractor may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

Contractor shall not employ any official of City in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

Contractor hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Contractor was an employee, agent, appointee, or official of City in the previous twelve months, Contractor warrants that it did not participate in any manner in the forming of this Agreement. Contractor understands that, if this Agreement is made in violation of Government Code §1090 et. Seq., the entire Agreement is void and Contractor will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Contractor will be required to reimburse the City for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

12.7 Inconsistent Terms. If the terms or provisions of this Agreement conflict with or are inconsistent with any term or provision of any attachment or Exhibit attached hereto, then the terms and provisions of this Agreement shall prevail.

12.8 Solicitation. Contractor agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

12.9 Contract Administration. This Agreement shall be administered by the City Engineer ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

12.10 Notices.

Any written notice to Contractor shall be sent to:

TerraDan Construction, Inc.
Attn: Tommy Sizemore
596 Myrtle Beach Drive
Brentwood, CA 94513

Any written notice to City shall be sent to:

City of Oakley
Attn: Kevin Rohani
3231 Main St.
Oakley, CA 94561

12.11 Integration. This Agreement, including the attached exhibits, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, and agreements, either written or oral.

12.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

12.13 Authorized Signature. Each person and party signing this Agreement warrants that he/she has the authority to execute this Agreement on behalf of the principal and that the party will be bound by such signature.

The parties have executed this Agreement as of the Effective Date.

CITY:
City of Oakley, a municipal corporation
In the State of California

CONTRACTOR:
TerraDan Construction, Inc., a
California Corporation

By: _____
Bryan H. Montgomery, City Manager

By: _____
Tommy Sizemore, Owner

Attest:

Libby Vreonis, City Clerk

Approved as to Form:

Derek P. Cole, City Attorney

EXHIBIT A

Compensation Schedule

TerraDan Construction, Inc.
Equipment - Labor - Erosion Control Rates
City of Oakley
February 27, 2014

<u>EQUIPMENT</u>	<u>Rate</u>
* <u>DIRT WORKING EQUIPMENT</u>	
E1	1.25CY Loader & Scraper Box (Skip Loader) \$74.70 per hour
E2	1/2 CY Loader & Scraper Box (Skip Loader) \$74.40 per hour
E4	Extendo-Backhoe/Loader \$81.60 per hour
E5	Compactor 825 Size & Width \$127.20 per hour
E6	WC-17 Compactor \$90.00 per hour
E7	820 Vib-Sheeps Foot/Compactor \$60.00 per hour
E8	CA-15 Vib-Sheeps Foot/Compactor \$67.20 per hour
E9	Bob Cat \$67.20 per hour
E10	Tractor with Disker /Mower \$96.00 per hour
E11	Excavator \$96.00 per hour
E12	Skidsteer (Mustang) \$96.00 per hour
E14	40" Compactor \$98.40 per hour
E15	66" Compactor \$127.20 per hour
E16	24" Ram-Ex Compactor \$93.60 per hour
E17	Toro Walk behind \$74.40 per hour
E18	Water wagon \$36.00 per hour
* <u>TRUCKS</u>	
E50	Pick-Up Truck 1/2 or 3/4 Ton with Standard Tools \$18.00 per hour
E51	2 Axle Dump Truck 5 to Includes Driver \$108.00 per hour
E52	Water Truck Includes Driver \$102.00 per hour
E53	Sweeper Includes Driver \$102.00 per hour
	Lennar Rate \$108.00 per hour
	Unimin Rate \$120.00 per hour
	MRC Rate (Prevailing Wage) \$150.00 per hour
	Pauls Corp \$108.00 per hour
E54	Spray Rig with sprayer Includes Driver \$97.20 per hour
E55	Fuel surcharge 15% Sweeper, all Dump Trucks, Transfer
* <u>TRAILERS</u>	
E70	1 Ton Trailer \$21.60 per hour
E71	15 Ton Trailer \$30.00 per hour
* <u>DEMO / ASPHALT EQUIPMENT</u>	
E80	Concrete / Asphalt Saw \$56.40 per hour
E82	185 / 190#s Air Compressor - Hammer - Hose \$51.60 per hour
E83	90# Jackhammer air or electric \$14.40 per hour
E86	Vibra Plate \$21.60 per hour
E87	
E88	Paving Machine \$150.00 per hour
E89	Cut Off Saw \$30.00 per hour
E90	Jumping jack wacker \$32.40 per hour
* <u>ROLLERS - RENTALS</u>	
E100	3 - 5 Ton 48" Vib Roller \$67.20 per hour
E101	3- 5 Ton Sheep Foot Roller \$78.00 per hour
E102	
E103	
E105	

* PUMPS		
E110	2" Electric Submersible Pump	\$30.00 per hour
E111	2 1/2" Electric Submersible Pump	\$30.00 per hour
E112	1" / 1 1/2" Gas Pump	\$15.00 per hour
E113	2" Gas Pump	\$21.00 per hour
E114	3" Gas Pump	\$30.00 per hour
E115	1 1/2" / 2" / 2 1/2" / 3" Discharge Hose per 50 ft	\$15.00 per day

* TRENCHERS		
E130	Track Trencher 3.5' Deep	\$60.00 per hour
E131	Ditch Witch 3500 Deutz 4x4 5' Deep - Tractor	\$60.00 per hour

* MISCELLANEOUS EQUIPMENT		
E200	Chain Saw	\$15.00 per hour
E201	Gas Generator	\$15.00 per hour
E202	Weed eater	\$15.00 per hour
E203	Blower	\$15.00 per hour
E204	Pressure Washer	\$21.60 per hour
E205	Jumping Jack Compactor (Rammer)	\$32.40 per hour
E207	Compaction Wheel	\$21.60 per hour
E208	Cut Off Saw	\$15.00 per hour

LABOR

* LABOR REGULAR		LABOR OVERTIME
L1	Foreman	\$66.00 per hour
L2	Operator	\$60.00 per hour
L3	Driver	\$54.00 per hour
L4	Laborer	\$48.00 per hour
L5	Grade Setter	\$84.00 per hour
L6	Superintendent	\$108.00 per hour

* OTHER		
R1	Transfer Truck and Driver	\$120.00 per hour
R2	Semi End Dump Truck and Driver	\$120.00 per hour
R3	Ten Wheel Dump Truck and Driver	\$108.00 per hour
R4	Import/Export - TerraDan Equipment	\$180.00 to \$300.00

- * Rock 3/4" - Charge by ton
- * Rock 2 1/2" - Charge by ton
- * Class 2 Aggregate Base
- * 1/2" Asphalt

MARKET RATE

MATERIAL

* MATERIAL		
M1	\$1.32 LF	Straw Wattles 25' Roll
M2	\$0.78 LF	Silt Fence 100' Silt Fence 100' with stakes
M3	\$180.00 Per Roll	Coco Mat 7.75" Coco Mat 7.75 x 120
M4	\$114.00 Each	Straw Blankets Straw Blankets (Mat) 7.75 x 120
M5	\$16.80 Each	Straw Bales Straw Bales
M6	\$151.20 Per Roll	Visqueen 6 mil Visqueen 6 mil supply (plastic)
M7		
M8	\$510.00 Per Roll	Filter Fabric 6' x 360' (2160 sq ft)
M9	\$96.00 Each	Drain Inlet Filter Drain Inlet Filter Bags supply only
M10	\$132.00 Each	Curb Inlet Filter Curb Inlet Filter Bags supply only
M11	\$14.40 Bundel	12" wood stakes
M12	\$13.20 Each	Silt Sifter - Nylo Silt Sifter -Nylon Bags - Yellow
M13	\$26.40 Each	Silt Sifter - Nylo Silt Sifter -Nylon Bags - Green
M14	\$50.40 Each	Silt Sifter Tubes Silt Sifter Tubes (Snake Bags)
M15	\$12.00 Per Bag	80lb Bag of Con 80lb Bags of Concrete
M16	\$44.40 Per Roll	Orange Fence 1 Orange Fence 100" (safety fence)
M17	\$42.00 Box	(U-Pins) - Mesh Mesh Staples 100 count
M18		
M19	\$7.20 Each	48" x 3/4" Metal 48" x 3/4" Metal Stakes

M20			
M21			
M22	\$66.00	Per 5 Gallor	AC Tack Oil AC TACK OIL
M23	\$180.00	Per Gallon	Round-Up Round - Up
M24	\$180.00	Per Gallon	Pre-emergent Pre-emergent
M25	\$2.40	Each	Sand Bags
M26	\$72.00	Per Roll	Rope (1/4" x 100')
M27			
M28	\$1.44	LF	PVC Pipe 4"
M29	\$5.16	Each	PVC Tee 4"
M30	\$5.10	Each	PVC 90 4"
M31	\$9.24	Each	PVC "Y" 4"
M32	\$5.52	Each	PVC Down spout Adapters 4"
M33	\$11.04	Each	PVC cap 4"
M34	\$11.88	Each	PVC drain grate 6"
M35	\$11.40	Each	PVC duble speed basin 6"
M36	\$13.56	Each	PVC single speed basin 6"

Exhibit B

Insurance Requirements

Specific Insurance Requirements and Required Policy Limits

PROFESSIONAL SERVICES CONTRACTS:

Consultant shall procure and maintain for the duration of its contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the consultant, his agents, representatives, employees or subcontractors.

Minimum scope of coverage

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability insurance.

Minimum limits of insurance

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately for this project/location or the general aggregate limit shall be twice the required occurrence limit (e.g. \$2,000,000).
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

Other insurance provisions

The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of work or operations as performed by or on behalf of consultant; or automobiles owned, leased, hired or borrowed by the consultant.
2. For any claims related to this project, the consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by

the City, its officers, officials, employees and volunteers shall be in excess of the consultant's insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by either party, unless thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

Waiver of Subrogation

The Workers' Compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses paid under the terms of this policy which arises from the work performed by the named insured for the City.

Deductibles and Self-Insurance Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers, or the consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved in writing by the City.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to the City's requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

Subcontractors

Consultants shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

**SHORT FORM
ON-CALL SERVICES AGREEMENT BETWEEN
THE CITY OF OAKLEY AND JW BACKHOE & CONSTRUCTION, INC.**

THIS ON-CALL SERVICES AGREEMENT for Maintenance and Repair of City Facilities is entered into by and between the City of Oakley, a municipal corporation in the State of California (hereinafter referred to as "City") and JW Backhoe & Construction, Inc., a California Corporation, (hereinafter referred to as "Contractor") effective as of March 26, 2014 ("Effective Date").

Section 1 **SERVICES.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City, maintenance and repair services on an on-call basis at the rates specified in the Compensation Schedule attached hereto and incorporated herein as Exhibit A. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the date first noted above and shall continue until June 30, 2015. At the discretion of the City Manager, the term may be extended to June 30, 2016 if Contractor is satisfactorily performing requested services.
- 1.2 **Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the general geographical area of the City. Contractor shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Contractor's profession.
- 1.3 **Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Contractor's obligations hereunder.

Section 2 **COMPENSATION.** City hereby agrees to pay Contractor a sum not to exceed the amount of THIRTY THOUSAND DOLLARS (\$30,000.00) for the

remainder of Fiscal Year 2013/2014 and through the end of Fiscal Year 2014/2015. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. These payments shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit invoices to City each month for services provided.

Contractor and City acknowledge and agree that compensation paid by City to Contractor under this Agreement is based upon Contractor's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Contractor. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Contractor and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Contractor shall submit invoices, not more often than once per month during the term of this Agreement. Invoices shall be on Contractor's Letterhead (or formal invoice form) and contain the following information:

- The beginning and ending dates of the billing period;
- A description of services for which payment is requested;
- Amount due;
- The Contractor's signature.

2.2 Payment of Taxes. Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

2.3 Payment upon Termination. In the event that the City or Contractor terminates this Agreement pursuant to Section 8, the City shall compensate the Contractor for all amounts due for work satisfactorily completed as of the date of written notice of termination.

2.4 Authorization to Perform Services. The Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3 PREVAILING WAGE REQUIREMENTS. All workers engaged in fulfilling this contract must be paid by the Contractor not less than the general prevailing rate of per diem wages as required by California Labor Code Sec. 1771. Copies of the prevailing wage rates are on file at City Hall. The contractor

shall comply with the requirements of Labor Code Sec. 1781 relating to maintaining and making available for inspection certified payroll records. Failure to comply with the Labor Code requirements subject the Contractor to fines and the City will enforce the prevailing wage requirements, Labor Code Sec. 1775 and 1813.

Section 4 FACILITIES AND EQUIPMENT. Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement.

Section 5 RECYCLING REQUIREMENTS. Contractor agrees to comply with all City recycling requirements, and as set forth in the Oakley Municipal Code, including, but not limited to:

- 5.1 Construction and Demolition.** Contractor must contact a customer service representative (CSR) at Oakley Disposal Service, Inc. to arrange for service for any and all construction and demolition work to be performed as part of this project unless Contractor has been approved by the City as a "self-hauler" as defined in Oakley Municipal Code §4.20.308. The CSR will ask if the drop box contains recycle material and will direct the Contractor to drop the construction and demolition debris, including dirt and cement, to a permitted processing facility. The Contractor must indicate on their order form, by checking the applicable box, that they need documentation to comply with the Oakley Municipal Code. This documentation must be provided to the City within ten (10) days of receipt of said documentation by Contractor.
- 5.2 Commercial Self-Haul.** Business self-haul materials are accepted at various Oakley Disposal Service, Inc. local facilities for recycling and include, but are not limited to, wood, inerts, metals, tires, greenwaste, plastics, cardboard, mattresses, foam padding, propane tanks, e-waste and appliances. Contractor agrees to drop any and all business self-haul materials at a site designated on the website www.cccounty.us/depart/cd/recycle/.
- 5.3 Road Maintenance and Construction Projects.** Contractor agrees to recycle greenwaste, asphalt, concrete and metal from any and all road maintenance and construction projects at Oakley Disposal Service, Inc. designated locations.
- 5.4 Office Recyclables.** If Contractor has an office, temporary office, or trailer within the City of Oakley, Contractor agrees to recycle all paper, cardboard, bottles, cans, and toner cartridges at Oakley Disposal Service, Inc. designated locations.

- 5.5 Special Waste Materials.** Contractor shall dispose of inert materials, including, but not limited to, concrete, asphalt and rubber, at Oakley Disposal Service, Inc. designated locations. Shingles and wood waste shall be diverted to the Recycling Center and Transfer Station (RCTS) located at 3700 Loveridge Road, Pittsburg, CA 94565. Scrap metal shall be dropped off at a large-scale scrap metal recycle facility operating within Contra Costa County which may be found at www.cccrecycle.org.
- 5.6 Universal Waste.** Contractor shall dispose of batteries, mercury containing devices and lamps, and certain consumer electronics at a recycling center designated by Oakley Disposal Service, Inc.

Section 6 INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor and its agents, representatives, employees, and subcontractors. Contractor shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Contractor's bid. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Verification of the required insurance is attached hereto and incorporated herein as Exhibit B.

- 6.1 Variation.** The City may approve a variation in the foregoing insurance requirements, upon a determination that the coverages, scope, limits, and forms of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.
- 6.2 Notice of Reduction in Coverage.** In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than five calendar days after Contractor is notified of the change in coverage.
- 6.3 Remedies.** In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or

policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 7 INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES

- 7.1. Contractor shall, to the fullest extent permitted by law, indemnify, defend (with counsel acceptable to the City) and hold harmless City, and its employees, officials, volunteers and agents ("Indemnified Parties") from and against any and all losses, claims, damages, costs and liability arising out of any personal injury, loss of life, damage to property, or any violation of any federal, state, or municipal law or ordinance, arising out of the performance of this Agreement by Contractor, its officers, employees, agents, volunteers, subcontractors or sub-Contractors, excepting only liability arising from the sole negligence, active negligence or intentional misconduct of City.
- 7.2. In the event that Contractor or any employee, agent, sub-Contractor or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, sub-Contractors or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.
- 7.3. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This

indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.

- 7.4. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration, and that these provisions survive the termination of this Agreement.

Section 8 STATUS OF CONTRACTOR.

- 8.1 **Independent Contractor.** At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement, Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

- 8.2 **Contractor, Not Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 9 LEGAL REQUIREMENTS.

- 9.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 9.2 **Compliance with Applicable Laws.** Contractor and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 9.3 **Other Governmental Regulations.** To the extent that this

Agreement may be funded by fiscal assistance from another governmental entity, Contractor and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

9.4 Licenses and Permits. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City.

9.5 Nondiscrimination and Equal Opportunity. Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

Contractor shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 10 TERMINATION AND MODIFICATION.

10.1 Termination. City may cancel this Agreement at any time and without cause upon written notification to Contractor.

Contractor may cancel this Agreement upon 30 days written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination.

- 10.2 Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 10.3 Assignment and Subcontracting.** City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 10.4 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.
- 10.5 Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City may immediately terminate the Agreement.

Section 11 KEEPING AND STATUS OF RECORDS.

- 11.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Contractor hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Contractor agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.
- 11.2 Contractor's Books and Records.** Contractor shall maintain any

and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement,

- 11.3 Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

Section 12 MISCELLANEOUS PROVISIONS.

- 12.1 Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Contra Costa or in the United States District Court for the Northern District of California.
- 12.2 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 12.3 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 12.4 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 12.5 Use of Recycled Products.** Contractor shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

12.6 Conflict of Interest. Contractor may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

Contractor shall not employ any official of City in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

Contractor hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Contractor was an employee, agent, appointee, or official of City in the previous twelve months, Contractor warrants that it did not participate in any manner in the forming of this Agreement. Contractor understands that, if this Agreement is made in violation of Government Code §1090 et. Seq., the entire Agreement is void and Contractor will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Contractor will be required to reimburse the City for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

12.7 Inconsistent Terms. If the terms or provisions of this Agreement conflict with or are inconsistent with any term or provision of any attachment or Exhibit attached hereto, then the terms and provisions of this Agreement shall prevail.

12.8 Solicitation. Contractor agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

12.9 Contract Administration. This Agreement shall be administered by the City Engineer ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

12.10 Notices.

Any written notice to Contractor shall be sent to:

JW Backhoe & Construction, Inc.
Attn: Jim Williamson
P. O. Box 722
Knightsen, CA 94548

Any written notice to City shall be sent to:

City of Oakley
Attn: Kevin Rohani
3231 Main St.
Oakley, CA 94561

12.11 Integration. This Agreement, including the attached exhibits, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, and agreements, either written or oral.

12.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

12.13 Authorized Signature. Each person and party signing this Agreement warrants that he/she has the authority to execute this Agreement on behalf of the principal and that the party will be bound by such signature.

The parties have executed this Agreement as of the Effective Date.

CITY:
City of Oakley, a municipal corporation
In the State of California

CONTRACTOR:
JW Backhoe & Construction, Inc.,
a California Corporation

By: _____
Bryan H. Montgomery, City Manager

By: _____
Jim Williamson, Owner

Attest:

Libby Vreonis, City Clerk

Approved as to Form:

Derek P. Cole, City Attorney

EXHIBIT A

Compensation Schedule

JW Backhoe & Construction, Inc.
PO Box 722
Knightsen, CA 94548
(925) 516-1266

July 2014

Office 925-516-1266
Cell 925-980-8243 Jim
Cell 925-595-4176 Bobby
Fax 925-516-6566
Home 925-634-7905

City of Oakley:

Following is our current labor and equipment schedule per hour:

CLASSIFICATION:

Labor	\$ 61.95
Operator	70.35
Foremen	79.80
Teamster	55.65

EQUIPMENT:

Backhoe	\$ 63.00
Loader 938	147.00
Excavator 330	189.00
Air Compressor W/tools	50.40
Wacker	26.25
3" Pump	39.90
Roller	47.25
Oil-Pot	31.50
Steel Plate	a day 84.00

TRUCKS:(prices are bare, except as indicated)

5 yard dump	\$ 57.75
10Wheel Dump	84.00
Pick-up	33.60
Arrow Board	a day 97.00
Cones & Signs (Traffic Control)	12.60

Exhibit B

Insurance Requirements

Specific Insurance Requirements and Required Policy Limits

PROFESSIONAL SERVICES CONTRACTS:

Consultant shall procure and maintain for the duration of its contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the consultant, his agents, representatives, employees or subcontractors.

Minimum scope of coverage

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability insurance.

Minimum limits of insurance

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately for this project/location or the general aggregate limit shall be twice the required occurrence limit (e.g. \$2,000,000).
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

Other insurance provisions

The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of work or operations as performed by or on behalf of consultant; or automobiles owned, leased, hired or borrowed by the consultant.
2. For any claims related to this project, the consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by

the City, its officers, officials, employees and volunteers shall be in excess of the consultant's insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by either party, unless thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

Waiver of Subrogation

The Workers' Compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses paid under the terms of this policy which arises from the work performed by the named insured for the City.

Deductibles and Self-Insurance Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers, or the consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved in writing by the City.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to the City's requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

Subcontractors

Consultants shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.



CERTIFICATE OF LIABILITY INSURANCE

JWBAC-1

OP ID: DK

DATE (MM/DD/YYYY)

02/28/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER DLS Insurance Services PO Box 505 Knightsen, CA 94548 Richard Stockman	CONTACT NAME: Diane Stockman	FAX (A/C, No): 925-281-5742	
	PHONE (A/C, No, Ext): 925-513-9080	E-MAIL ADDRESS: diane@dlsins.com	
INSURED JW Backhoe & Const., Inc. Tammy PO Box 722 Knightsen, CA 94548	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Allied Insurance Company		42579
	INSURER B: Admiral Insurance Company		003026
	INSURER C: SCIF		35076
	INSURER D:		
INSURER E:			
INSURER F:			

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	GENERAL LIABILITY	X	FEI-ECC-10351-01	10/01/2013	10/01/2014	EACH OCCURRENCE	\$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 50,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person)	\$ Excluded
	GEN'L AGGREGATE LIMIT APPLIES PER:					PERSONAL & ADV INJURY	\$ 1,000,000
	<input checked="" type="checkbox"/> POLICY	<input type="checkbox"/> PRO-JECT				GENERAL AGGREGATE	\$ 2,000,000
	<input type="checkbox"/> LOC					PRODUCTS - COMP/OP AGG	\$ 2,000,000
							\$
A	AUTOMOBILE LIABILITY		7855331024	10/01/2013	10/01/2014	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO					BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident)	\$
	<input checked="" type="checkbox"/> HIRED AUTOS	<input checked="" type="checkbox"/> NON-OWNED AUTOS				PROPERTY DAMAGE (PER ACCIDENT)	\$
							\$
	UMBRELLA LIAB					EACH OCCURRENCE	\$
	EXCESS LIAB					AGGREGATE	\$
	DED	RETENTION \$					\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		9088902-14	02/12/2014	02/12/2015	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N					
	If yes, describe under DESCRIPTION OF OPERATIONS below	N/A				E.L. EACH ACCIDENT	\$ 1,000,000
						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
						E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
A	Prop. Leased/Rented		7855331024	10/01/2013	10/01/2014	Equipment	200,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

The City of Oakley, its officers, officials, employees & volunteers are named as additional insured as respects to General Liability Subject to 10 days notice of cancellation due to non payment of premium.

CERTIFICATE HOLDER

CITY OF OAKLEY

City of Oakley
3231 Main Street
Oakley, CA 9451

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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NOTEPAD

INSURED'S NAME JW Backhoe & Const., Inc.

JWBAC-1
OP ID: DKPAGE 2
Date 02/28/2014

12-13 term
General Liability
Automatic Additional Insured Owner, Lessee or Contractors
form ECC-319-0712
Automatic Waiver of Subrogation
form ECC-320-0712
Blanket Primary and Non-Contributory Endorsement
form ECC-548-0712

Auto

Auto Endorsement form AC0101 0310 Blanket AI

Contractors Rented Equipment

Maximum coverage \$10,000 for rented equipment
form IM 7012

All apply when required by written contract

**SHORT FORM
ON-CALL SERVICES AGREEMENT BETWEEN
THE CITY OF OAKLEY AND DURAN & VENABLES, INC.**

THIS ON-CALL SERVICES AGREEMENT for Maintenance and Repair of City Facilities is entered into by and between the City of Oakley, a municipal corporation in the State of California (hereinafter referred to as "City") and Duran & Venables, Inc., a California Corporation, (hereinafter referred to as "Contractor") effective as of March 26, 2014 ("Effective Date").

Section I **SERVICES.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City, maintenance and repair services on an on-call basis at the rates specified in the Compensation Schedule attached hereto and incorporated herein as Exhibit A. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1** **Term of Services.** The term of this Agreement shall begin on the date first noted above and shall continue until June 30, 2015. At the discretion of the City Manager, the term may be extended to June 30, 2016 if Contractor is satisfactorily performing requested services.
- 1.2** **Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the general geographical area of the City. Contractor shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Contractor's profession.
- 1.3** **Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4** **Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Contractor's obligations hereunder.

Section 2 **COMPENSATION.** City hereby agrees to pay Contractor a sum not to exceed the amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)

remainder of Fiscal Year 2013/2014 and through the end of Fiscal Year 2014/2015. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. These payments shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit invoices to City each month for services provided.

Contractor and City acknowledge and agree that compensation paid by City to Contractor under this Agreement is based upon Contractor's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Contractor. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Contractor and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Contractor shall submit invoices, not more often than once per month during the term of this Agreement. Invoices shall be on Contractor's Letterhead (or formal invoice form) and contain the following information:

- The beginning and ending dates of the billing period;
- A description of services for which payment is requested;
- Amount due;
- The Contractor's signature.

2.2 Payment of Taxes. Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

2.3 Payment upon Termination. In the event that the City or Contractor terminates this Agreement pursuant to Section 8, the City shall compensate the Contractor for all amounts due for work satisfactorily completed as of the date of written notice of termination.

2.4 Authorization to Perform Services. The Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3 PREVAILING WAGE REQUIREMENTS. All workers engaged in fulfilling this contract must be paid by the Contractor not less than the general prevailing rate of per diem wages as required by California Labor Code Sec. 1771. Copies of the prevailing wage rates are on file at City Hall. The contractor

shall comply with the requirements of Labor Code Sec. 1781 relating to maintaining and making available for inspection certified payroll records. Failure to comply with the Labor Code requirements subject the Contractor to fines and the City will enforce the prevailing wage requirements, Labor Code Sec. 1775 and 1813.

Section 4 FACILITIES AND EQUIPMENT. Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement.

Section 5 RECYCLING REQUIREMENTS. Contractor agrees to comply with all City recycling requirements, and as set forth in the Oakley Municipal Code, including, but not limited to:

- 5.1 Construction and Demolition.** Contractor must contact a customer service representative (CSR) at Oakley Disposal Service, Inc. to arrange for service for any and all construction and demolition work to be performed as part of this project unless Contractor has been approved by the City as a "self-hauler" as defined in Oakley Municipal Code §4.20.308. The CSR will ask if the drop box contains recycle material and will direct the Contractor to drop the construction and demolition debris, including dirt and cement, to a permitted processing facility. The Contractor must indicate on their order form, by checking the applicable box, that they need documentation to comply with the Oakley Municipal Code. This documentation must be provided to the City within ten (10) days of receipt of said documentation by Contractor.
- 5.2 Commercial Self-Haul.** Business self-haul materials are accepted at various Oakley Disposal Service, Inc. local facilities for recycling and include, but are not limited to, wood, inerts, metals, tires, greenwaste, plastics, cardboard, mattresses, foam padding, propane tanks, e-waste and appliances. Contractor agrees to drop any and all business self-haul materials at a site designated on the website www.cccounty.us/depart/cd/recycle/.
- 5.3 Road Maintenance and Construction Projects.** Contractor agrees to recycle greenwaste, asphalt, concrete and metal from any and all road maintenance and construction projects at Oakley Disposal Service, Inc. designated locations.
- 5.4 Office Recyclables.** If Contractor has an office, temporary office, or trailer within the City of Oakley, Contractor agrees to recycle all paper, cardboard, bottles, cans, and toner cartridges at Oakley Disposal Service, Inc. designated locations.

- 5.5 Special Waste Materials.** Contractor shall dispose of inert materials, including, but not limited to, concrete, asphalt and rubber, at Oakley Disposal Service, Inc. designated locations. Shingles and wood waste shall be diverted to the Recycling Center and Transfer Station (RCTS) located at 3700 Loveridge Road, Pittsburg, CA 94565. Scrap metal shall be dropped off at a large-scale scrap metal recycle facility operating within Contra Costa County which may be found at www.ccrecycle.org.
- 5.6 Universal Waste.** Contractor shall dispose of batteries, mercury containing devices and lamps, and certain consumer electronics at a recycling center designated by Oakley Disposal Service, Inc.

Section 6 INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor and its agents, representatives, employees, and subcontractors. Contractor shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Contractor's bid. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Verification of the required insurance is attached hereto and incorporated herein as Exhibit B.

- 6.1 Variation.** The City may approve a variation in the foregoing insurance requirements, upon a determination that the coverages, scope, limits, and forms of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.
- 6.2 Notice of Reduction in Coverage.** In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than five calendar days after Contractor is notified of the change in coverage.
- 6.3 Remedies.** In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or

policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 7 INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES

- 7.1. Contractor shall, to the fullest extent permitted by law, indemnify, defend (with counsel acceptable to the City) and hold harmless City, and its employees, officials, volunteers and agents ("Indemnified Parties") from and against any and all losses, claims, damages, costs and liability arising out of any personal injury, loss of life, damage to property, or any violation of any federal, state, or municipal law or ordinance, arising out of the performance of this Agreement by Contractor, its officers, employees, agents, volunteers, subcontractors or sub-Contractors, excepting only liability arising from the sole negligence, active negligence or intentional misconduct of City.
- 7.2. In the event that Contractor or any employee, agent, sub-Contractor or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, sub-Contractors or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.
- 7.3. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This

indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.

- 7.4. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration, and that these provisions survive the termination of this Agreement.

Section 8 STATUS OF CONTRACTOR.

- 8.1 **Independent Contractor.** At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement, Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

- 8.2 **Contractor, Not Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 9 LEGAL REQUIREMENTS.

- 9.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 9.2 **Compliance with Applicable Laws.** Contractor and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 9.3 **Other Governmental Regulations.** To the extent that this

Agreement may be funded by fiscal assistance from another governmental entity, Contractor and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

9.4 Licenses and Permits. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City.

9.5 Nondiscrimination and Equal Opportunity. Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

Contractor shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 10 TERMINATION AND MODIFICATION.

10.1 Termination. City may cancel this Agreement at any time and without cause upon written notification to Contractor.

Contractor may cancel this Agreement upon 30 days written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination.

- 10.2 Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 10.3 Assignment and Subcontracting.** City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 10.4 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.
- 10.5 Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City may immediately terminate the Agreement.

Section 11 KEEPING AND STATUS OF RECORDS.

- 11.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Contractor hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Contractor agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.
- 11.2 Contractor's Books and Records.** Contractor shall maintain any

and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement,

- 11.3 Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

Section 12 MISCELLANEOUS PROVISIONS.

- 12.1 Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Contra Costa or in the United States District Court for the Northern District of California.
- 12.2 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 12.3 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 12.4 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 12.5 Use of Recycled Products.** Contractor shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

12.6 Conflict of Interest. Contractor may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

Contractor shall not employ any official of City in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

Contractor hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Contractor was an employee, agent, appointee, or official of City in the previous twelve months, Contractor warrants that it did not participate in any manner in the forming of this Agreement. Contractor understands that, if this Agreement is made in violation of Government Code §1090 et. Seq., the entire Agreement is void and Contractor will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Contractor will be required to reimburse the City for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

12.7 Inconsistent Terms. If the terms or provisions of this Agreement conflict with or are inconsistent with any term or provision of any attachment or Exhibit attached hereto, then the terms and provisions of this Agreement shall prevail.

12.8 Solicitation. Contractor agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

12.9 Contract Administration. This Agreement shall be administered by the City Engineer ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

12.10 Notices.

Any written notice to Contractor shall be sent to:

Duran & Venables, Inc.
Attn: Danny Duran
748 South Hillview Drive
Milpitas, CA 95035

Any written notice to City shall be sent to:

City of Oakley
Attn: Kevin Rohani
3231 Main St.
Oakley, CA 94561

12.11 Integration. This Agreement, including the attached exhibits, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, and agreements, either written or oral.

12.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

12.13 Authorized Signature. Each person and party signing this Agreement warrants that he/she has the authority to execute this Agreement on behalf of the principal and that the party will be bound by such signature.

The parties have executed this Agreement as of the Effective Date.

CITY:
City of Oakley, a municipal corporation
In the State of California

CONTRACTOR:
Duran & Venables, Inc.,
a California Corporation

By: _____
Bryan H. Montgomery, City Manager

By: _____

Attest:

Libby Vreonis, City Clerk

Approved as to Form:

Derek P. Cole, City Attorney

EXHIBIT A

Compensation Schedule



**DURAN &
VENABLES**

GENERAL ENGINEERING CONTRACTORS

Since 1979

**Proposal for On-Call Public Works Maintenance
services for the City of Oakley**

March 5, 2014

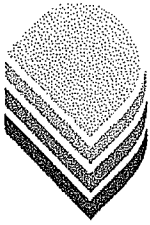
City of Oakley
3231 Main Street
Oakley, CA
Attn: Kevin Rohani

Scope 1: Asphalt Paving and Related Repairs/Patching			
ITEM	DESCRIPTION	QUANTITY	UNIT PRICE
1	Crack Fill - 1 Shift: Supply crew and material per day	1 day	\$6,040
3	Pothole Patching 700 SF 2.5" AC : Price includes prep and cleaning of various side potholes. Also to apply tack oil and hot mix asphalt per SF	SF	11.89
4	Asphalt Paving, Sawcut, Remove and Replace: Supply crew to sawcut and remove various locations of failed asphalt. Place back 4" of new asphalt per SF	SF	\$6.65
5	Remove existing surface and haul off material. Subgrade and compact area and place 4" of new baserock and place 2" of new asphalt for pathway	SF	\$11.03
6	Prep and apply (2) coats overkote sealer approx 5,000 SF	SF	\$0.50
7	Apply (2) coats of overkote sealer approx 5,000+ SF	SF	\$0.87
Scope 2: Concrete Work			
ITEM	DESCRIPTION	QUANTITY	UNIT PRICE
1	Grind various areas of concrete that are humped up to avoid trip hazards at walks and driveways	LF	\$23.70
2	Curb & Gutter: Supply Crew to demo and remove curb and gutter and replace on native soil. Includes base rock and dump fees. Resteel #4 city standard.	LF	\$54.00
3	Remove sidewalk base, place 4" of new base rock, place 4" new PCC walk with broom finish. Resteel #4 city standard. Based on minimum of 16 SF	SQFT	\$44.25
4	Subgrade and rock for new slab. Place 4" of AB and 4" of PCC based on approx 32 SF	SQFT	\$143.00
5	Place new retaining wall 3' to 5' high	LF	\$160

DURAN & VENABLES, INCORPORATED

748 South Hillview Drive, Milpitas, CA 95036 | T 408-934-7300 | F 408-934-7310 | www.duran-venables.com

7500 West Lane, Suite 109, Stockton, CA 95210 | T 209-337-0009 | F 408-934-7310 | CA LIC.# 375068-A



DURAN & VENABLES

GENERAL ENGINEERING CONTRACTORS

Since 1979

Scope 3: Tractor and Backhoe Work

ITEM	DESCRIPTION	QUANTITY	UNIT PRICE
1	Provide brush mower and crew to remove and offhaul brush & weeds per day. Includes 1- 10 yard dump.	DAY	\$4,366

Scope 4: Striping

ITEM	DESCRIPTION	QUANTITY	UNIT PRICE
	PAINT		
1	ADA Stall, including striping sign and wheel stop	LS	\$592.25
2	4" line	LF	\$0.28
3	6" line	LF	\$0.41
4	12" line	LF	\$1.18
5	Double Yellow	LF	\$0.60
6	8" or 12" Stencils per word	EA	\$5.92
7	Arrows	EA	\$31.98

Scope 5: Guard Rail based on 200 LF

ITEM	DESCRIPTION	QUANTITY	UNIT PRICE
	PAINT		
1	Standard Caltrans guardrail only on standard wood posts installed (200 ft minimum). Includes (2) max end anchor assemblies and traffic control (1 day)	LF	86.50

DURAN & VENABLES, INCORPORATED

748 South Hillview Drive, Milpitas, CA 95035 | T 408-934-7300 | F 408-934-7310 | www.duran-venables.com

7500 West Lane, Suite 109, Stockton, CA 95210 | T 209-337-0009 | F 408-934-7310 | CA LIC.# 375068-A

Exhibit B

Insurance Requirements

Specific Insurance Requirements and Required Policy Limits

PROFESSIONAL SERVICES CONTRACTS:

Consultant shall procure and maintain for the duration of its contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the consultant, his agents, representatives, employees or subcontractors.

Minimum scope of coverage

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability insurance.

Minimum limits of insurance

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately for this project/location or the general aggregate limit shall be twice the required occurrence limit (e.g. \$2,000,000).
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

Other insurance provisions

The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of work or operations as performed by or on behalf of consultant; or automobiles owned, leased, hired or borrowed by the consultant.
2. For any claims related to this project, the consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by

the City, its officers, officials, employees and volunteers shall be in excess of the consultant's insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by either party, unless thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

Waiver of Subrogation

The Workers' Compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses paid under the terms of this policy which arises from the work performed by the named insured for the City.

Deductibles and Self-Insurance Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers, or the consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved in writing by the City.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to the City's requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

Subcontractors

Consultants shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/14/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MARSH USA, INC. ATTN: RAFFLES - FAX 248-945-5650 ONE TOWNE SQUARE, SUITE 1100 SOUTHFIELD, MI 48076 00442-00442-RAF-13/14	CONTACT NAME: _____ PHONE (A/C, No, Ext): _____ FAX (A/C, No): _____ E-MAIL ADDRESS: _____													
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Zurich American Insurance Company</td> <td>16535</td> </tr> <tr> <td>INSURER B : XL Specialty Insurance Company</td> <td>37885</td> </tr> <tr> <td>INSURER C : Illinois Union Insurance Co</td> <td>27960</td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Zurich American Insurance Company	16535	INSURER B : XL Specialty Insurance Company	37885	INSURER C : Illinois Union Insurance Co	27960	INSURER D :		INSURER E :		INSURER F :
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INSURED DURAN & VENABLES, INC. 748 S. HILLVIEW DRIVE MILPITAS, CA 95035														

COVERAGES **CERTIFICATE NUMBER:** CHI-004871439-01 **REVISION NUMBER:** 3

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC			GLO5470920-01	04/01/2013	04/01/2014	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			BAP5470921-01	04/01/2013	04/01/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			US00065085L113A	04/01/2013	04/01/2014	EACH OCCURRENCE \$ 12,000,000 AGGREGATE \$ 12,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			WC5470919-01	04/01/2013	04/01/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	CONTRACTORS POLLUTION LIABILITY/SIR \$25,000			CPY G27061515 001	08/01/2012	08/01/2014	Per Pollution Condition 1,000,000 Aggregate/All Pollution Cond. 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
WORKERS' COMPENSATION DOES NOT APPLY TO MONOPOLISTIC STATES (ND, OH, WA AND WY), PUERTO RICO OR THE VIRGIN ISLANDS. WAIVER OF SUBROGATION APPLIES WORKERS' COMPENSATION IN FAVOR OF THE CITY OF OAKLEY, ITS OFFICERS, OFFICIALS, EMPLOYEES AND VOLUNTEERS WHERE REQUIRED BY WRITTEN CONTRACT. INSURANCE IS PRIMARY AND NON-CONTRIBUTORY ON GENERAL LIABILITY WHERE REQUIRED BY WRITTEN CONTRACT. THE CITY OF OAKLEY, ITS OFFICERS, OFFICIALS, EMPLOYEES AND VOLUNTEERS ARE NAMED AS ADDITIONAL INSURED FOR GENERAL & AUTO LIABILITY ONLY, BUT ONLY AS RESPECTS TO LIABILITY ARISING FROM THE OPERATIONS OF THE INSURED AND WHERE REQUIRED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER

CANCELLATION

City of Oakley 3231 MAIN STREET Oakley, CA 94561	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh USA Inc. John C Hurley
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RESOLUTION NO. XX-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING AN ON-CALL SERVICES AGREEMENT WITH TERRADAN CONSTRUCTION, INC. FOR MAINTENANCE AND REPAIR SERVICES TO CITY FACILITIES AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT

WHEREAS, the City of Oakley Public Works and Engineering Department frequently seeks repair, modification and maintenance services for City owned facilities such as streets, waterlines, storm drain basins, etc; and

WHEREAS, the need for this type of service has greatly increased over the past several years primarily due to deferred maintenance and the large number of subdivisions being accepted for maintenance; and

WHEREAS, TerraDan Construction, Inc. has performed these services competently at different times for the City; and

WHEREAS, the award of the agreement is exempt from competitive bidding under Section 3.6.010 of the Oakley Municipal Code paragraph 8) which provides an exception for competitive bidding "*For maintenance and repair of buildings and facilities*".

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley that the On-Call Services agreement with TerraDan Construction, Inc. for repair and maintenance services for the remainder of Fiscal Year 2013/14 combined with Fiscal Year 2014/15 for an amount not to exceed \$30,000.00 is hereby approved and the City Manager is authorized to execute said agreement.

BE IT FURTHER RESOLVED AND ORDERED, if at the end of the term the services have been performed satisfactorily the City Manager has the discretion to approve an extension of the agreement to June 30, 2016 under the same terms as the original agreement.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 25th of March, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Randy Pope, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

RESOLUTION NO. XX-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING AN ON-CALL SERVICES AGREEMENT WITH JW BACKHOE & CONSTRUCTION, INC. FOR MAINTENANCE AND REPAIR SERVICES TO CITY FACILITIES AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT

WHEREAS, the City of Oakley Public Works and Engineering Department frequently seeks repair, modification and maintenance services for City owned facilities such as streets, waterlines, storm drain basins, etc; and

WHEREAS, the need for this type of service has greatly increased over the past several years primarily due deferred maintenance and to the large number of subdivisions being accepted for maintenance; and

WHEREAS, JW Backhoe & Construction, Inc. has performed these services competently at different times for the City; and

WHEREAS, the award of the agreement is exempt from competitive bidding under Section 3.6.010 of the Oakley Municipal Code paragraph 8) which provides an exception for competitive bidding "*For maintenance and repair of buildings and facilities*".

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley that the On-Call Services agreement with JW Backhoe & Construction, Inc. for repair and maintenance services for the remainder of Fiscal Year 2013/14 combined with Fiscal Year 2014/15 for an amount not to exceed \$30,000.00 is hereby approved and the City Manager is authorized to execute said agreement.

BE IT FURTHER RESOLVED AND ORDERED, if at the end of the term the services have been performed satisfactorily the City Manager has the discretion to approve an extension of the agreement to June 30, 2016 under the same terms as the original agreement.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 25th of March, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Randy Pope, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

RESOLUTION NO. XX-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING AN ON-CALL SERVICES AGREEMENT WITH DURAN & VENABLES, INC. FOR MAINTENANCE AND REPAIR SERVICES TO CITY FACILITIES AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT

WHEREAS, the City of Oakley Public Works and Engineering Department frequently seeks repair, modification and maintenance services for City owned facilities such as streets, waterlines, storm drain basins, etc; and

WHEREAS, the need for this type of service has greatly increased over the past several years primarily due to deferred maintenance and the large number of subdivisions being accepted for maintenance; and

WHEREAS, Duran & Venables, Inc. has performed these services competently at different times nearby; and

WHEREAS, the award of the agreement is exempt from competitive bidding under Section 3.6.010 of the Oakley Municipal Code paragraph 8) which provides an exception for competitive bidding "*For maintenance and repair of buildings and facilities*".

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley that the On-Call Services agreement with Duran & Venables, Inc. for repair and maintenance services for the remainder of Fiscal Year 2013/14 combined with Fiscal Year 2014/15 for an amount not to exceed \$100,000.00 is hereby approved and the City Manager is authorized to execute said agreement.

BE IT FURTHER RESOLVED AND ORDERED, if at the end of the term the services have been performed satisfactorily the City Manager has the discretion to approve an extension of the agreement to June 30, 2016 under the same terms as the original agreement.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 25th of March, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Randy Pope, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date