

REQUEST FOR PROPOSALS

INSTALLATION OF NYLON NETTING BETWEEN SALT LAKE PARK BALL DIAMONDS #2 AND #3

Proposals Due by 10 a.m. on Wednesday, Oct. 8, 2008

Submit Proposals to:

City of Huntington Park
City Clerk
Re: Installation of Nylon Netting
6550 Miles Avenue
Huntington Park, CA 90255



City of Huntington Park
Department of Parks & Recreation

6550 Miles Avenue
Huntington Park, CA 90255
(323) 584-6216

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NOTICE INVITING BIDS

NOTICE IS HEREBY GIVEN, that the City Council of the City of Huntington Park, California, will receive sealed proposals until the hour of **10 a.m. on Wednesday, Oct. 8, 2008**, at the Office of the City Clerk for the "**Installation of Nylon Netting Between Salt Lake Park Ball Diamonds #2 and #3**" in the City of Huntington Park, California, in accordance with the plans and specifications under the proposal. Proposals shall be presented under sealed cover.

Bid deposits, faithful performance bond, labor and material bonds will be required as provided in said contract documents. Bids shall be submitted on official proposal forms.

All proposals shall include original and two copies of the proposal and be labeled "**Installation of Nylon Netting**" and mailed or delivered so as to be in the hands of the City Clerk at the City Clerk's Office in City Hall, 6550 Miles Avenue, at or before the hour stated, at which time all bids received shall be publicly opened, examined, and declared by the City Clerk. Bidders and the public are invited to be present at the declaration of said proposals.

All bids so received, examined, and declared will be referred by the City Clerk to the Director of Parks & Recreation, City Attorney, and City Manager for checking and report to the City Council at its regular meeting on **Monday, Oct. 20, 2008**.

Bidders are hereby notified that State labor standards apply to this contract. Furthermore, bidders are hereby notified that pursuant to Sections 1770 et seq. of the Labor Code of the State of California, the City Council of the City of Huntington Park, incorporates herein by reference the general prevailing rate of per diem wages as determined by the Director of Industrial Relations of the State of California which determinations are on file in the office of the City Clerk. Said wage rates are hereby incorporated in and made a part of these specifications. In accordance with the Labor Code, no workman employed upon work under contract to the City shall be paid less than the referenced prevailing wage rate. Any classification omitted herein shall be paid not less than the prevailing wage scale as established for similar work in the particular area, and all overtime shall be paid at the prevailing rate as established for the particular area. Sunday and Holiday time shall be paid at the wage rate determined by the Director of Industrial Relations.

The drawings, instructions to bidders, specifications, and official proposal forms to be used for bidding can be obtained only at the City of Huntington Park Department of Parks & Recreation, 3401 E. Florence Ave., Huntington Park, CA 90255. Plans and specifications will be mailed or e-mailed upon request.

No bid will be considered unless it is made on the official proposal forms furnished by the City and is made in accordance with the provisions of this notice, the instructions to bidders, and the contract specifications. Each bidder must be licensed in accordance with applicable State laws.

If an error is discovered prior to the time for opening of bids, which affects the validity of the bids process, and which would affect the jurisdiction of the City Council to accept the bids, then the bidders shall be notified and all bids shall be returned, unopened to the person who submitted the bids.

The City of Huntington Park reserves the right to reject any and all bids and to waive any informality or irregularity in the form or manner of any bid proposal or the bidding process.

Firm Name: _____

PROPOSAL

The undersigned hereby proposes and agrees to furnish all required labor, material, transportation, supplies, tools, and services for “Installation of Nylon Netting Between Salt Lake Park Ball Diamonds #2 and #3” in the City of Huntington Park, California in accordance with your Request for Proposals at the following prices:

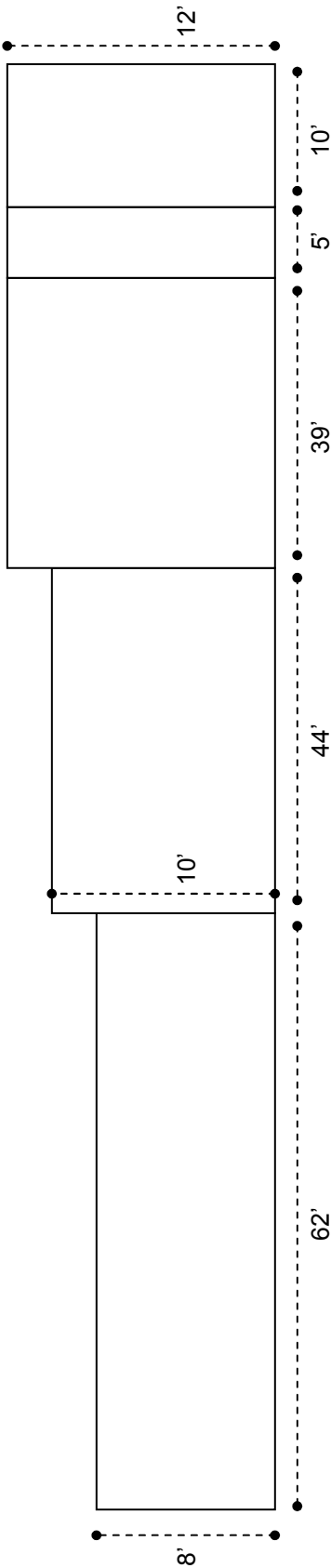
Item #	Description of Work	Qty	Unit Price	Total Price
1	5-inch galvanized pole x 30-feet long	7 EA	\$	\$
2	#36 nylon net panel - rope bound	5,800 SF	\$	\$
3	1/4-inch aircraft cable	450 FT	\$	\$
4	Install seven 5-inch galvanized poles in walkway area between fields #2 and #3. Four poles to be installed on south side of existing chain-link fence on field #2. Three poles to be installed on north side of existing chain-link fence on field #3. Include all necessary concrete work, equipment and materials in price. Poles to be placed 60-feet apart. Poles to be 25-feet out of ground upon installation. Install aircraft cable on top of poles to hang nylon netting. Install nylon netting from top of poles to top of existing chain link fence, tie into existing fence.	1 EA	\$	\$
5	Shipping and handling	1 EA	\$	\$
6	Other: _____		\$	\$
7	Tax		\$	\$
TOTAL PRICE:				\$

Total written in words: _____

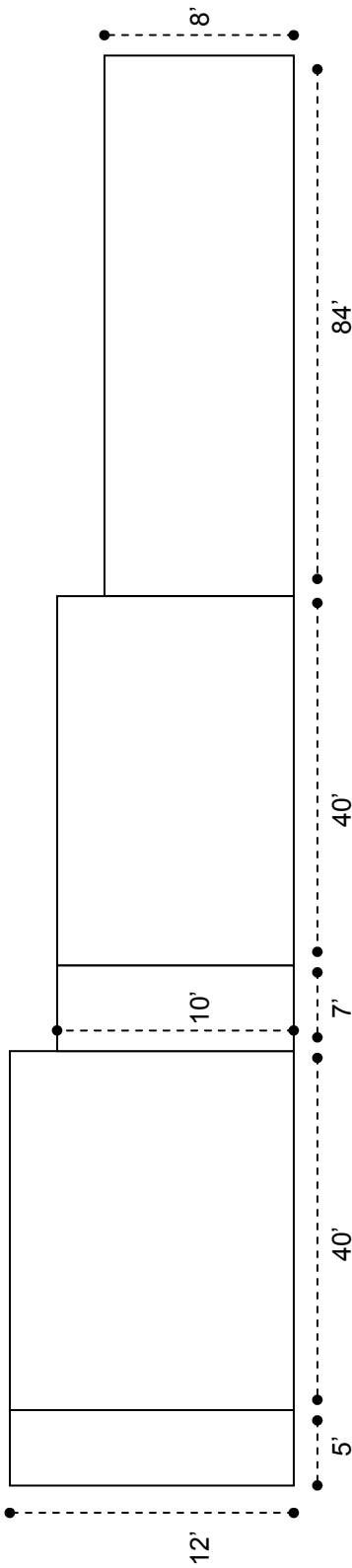
SITE SPECIFICATIONS

Existing Chain Link Fence

Field #2 (3rd Base Side Fence)



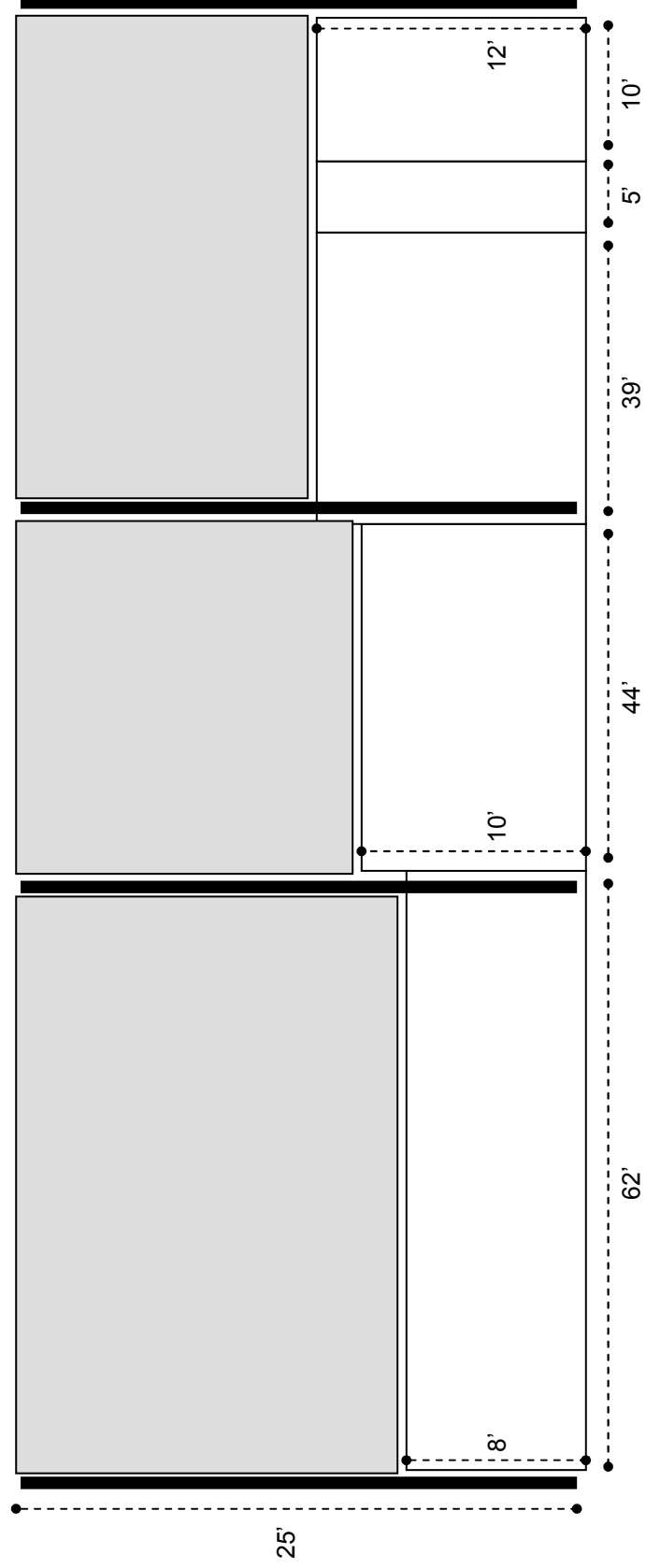
Field #3 (1st Base Side Fence)



SITE SPECIFICATIONS

Existing Chain Link Fence with Nylon Netting

Field #2 (3rd Base Side Fence)



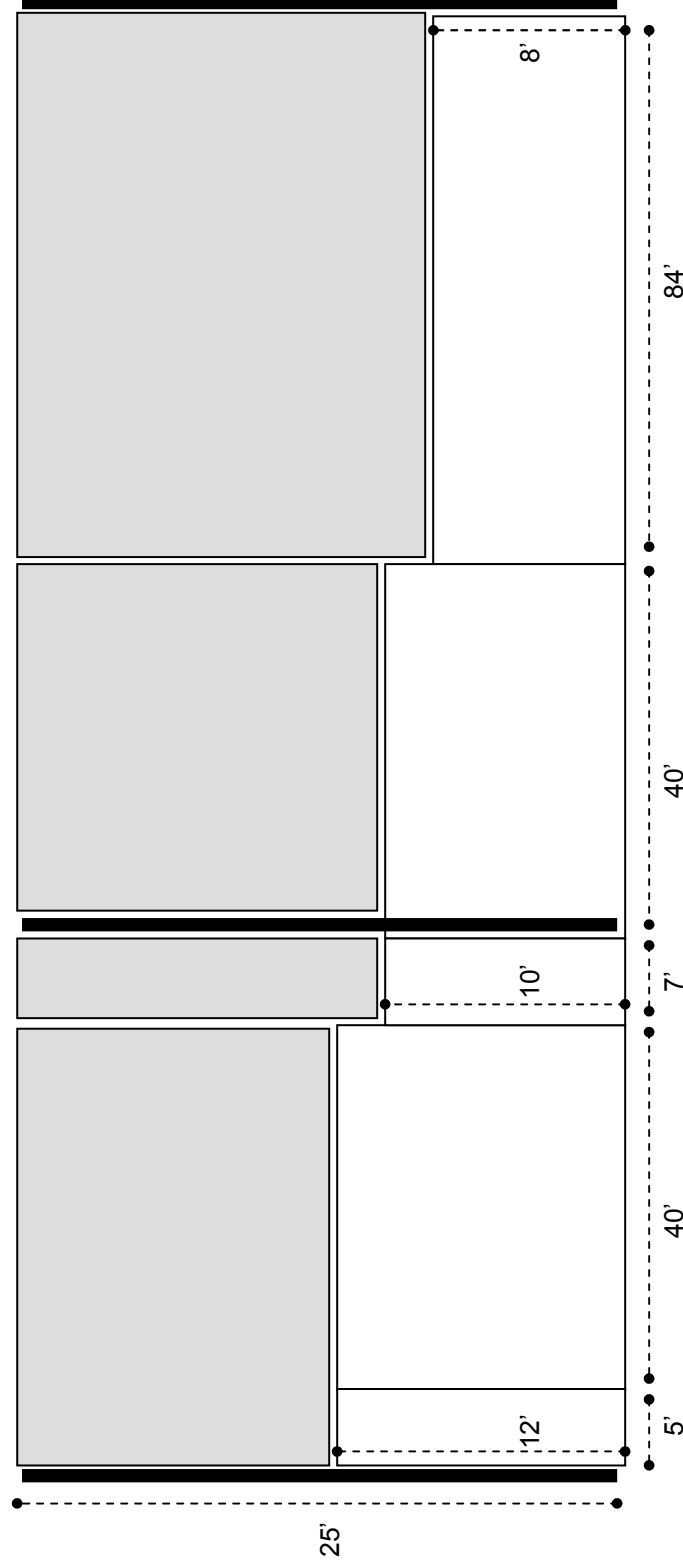
■ = 30' galvanized pole
(25-feet out of ground)

■ = #36 nylon net panel – rope bound

SITE SPECIFICATIONS

Existing Chain Link Fence with Nylon Netting

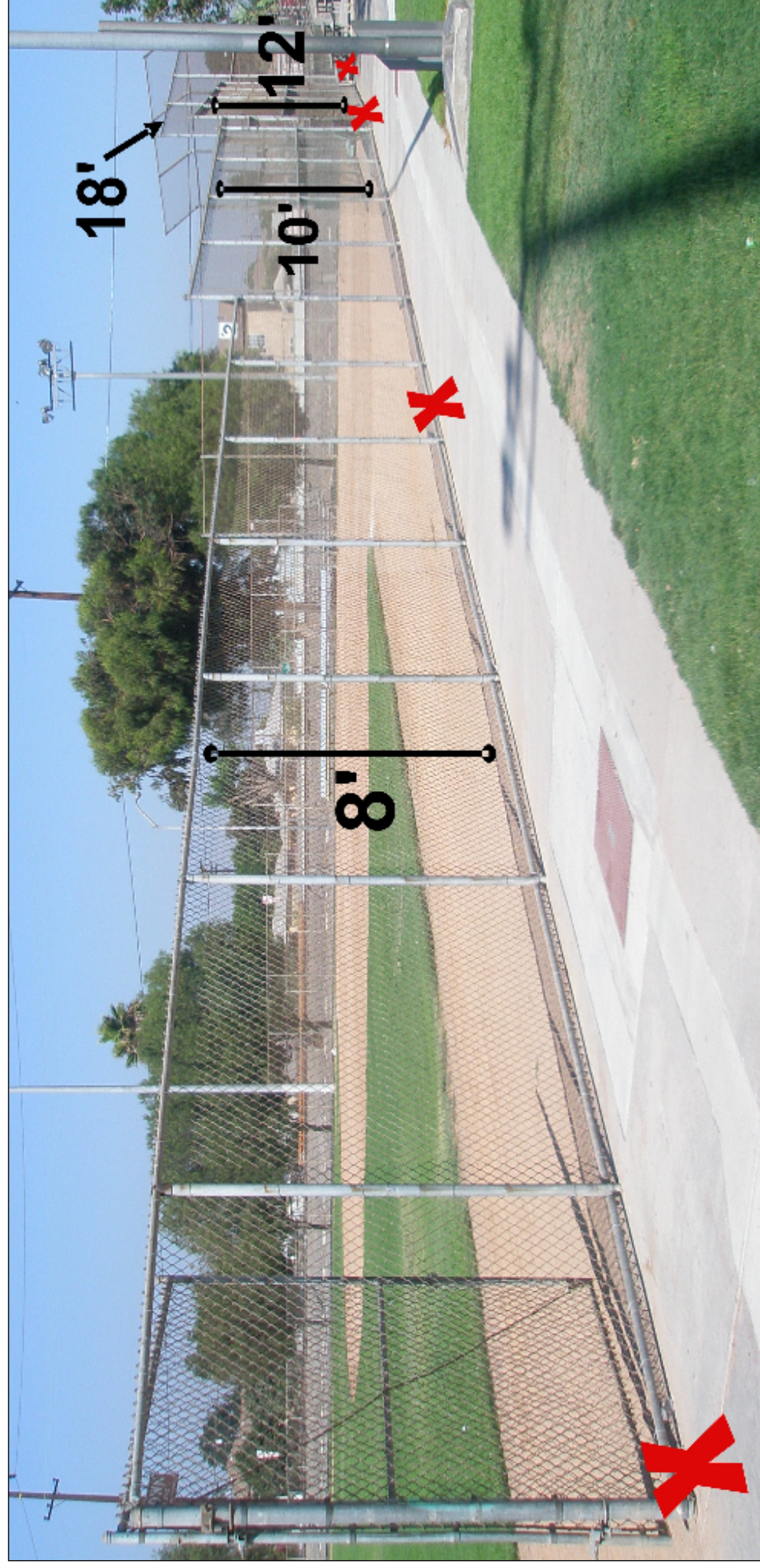
Field #3 (1st Base Side Fence)



■ = 30' galvanized pole
(25-feet out of ground)

■ = #36 nylon net panel – rope bound

Field #2 (3rd Base Side Fence)

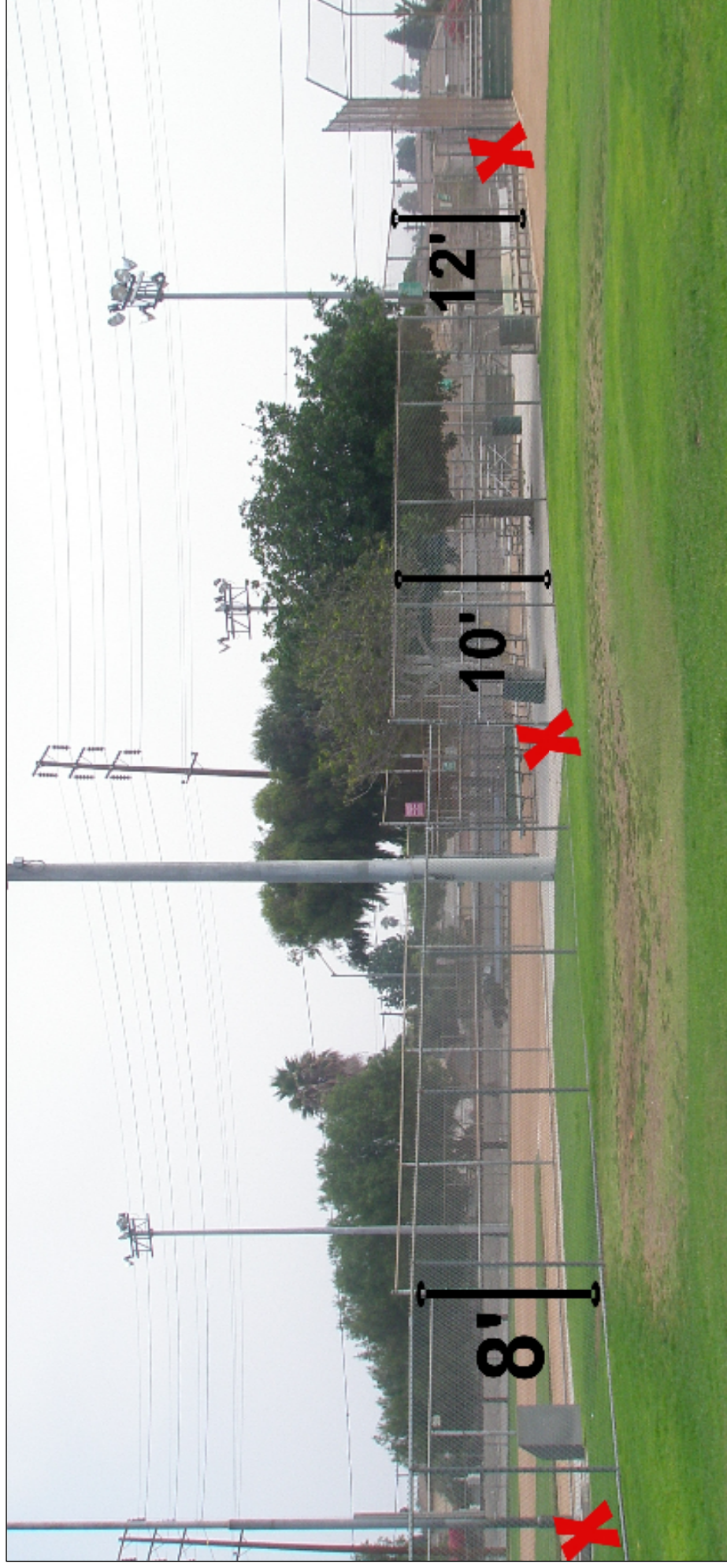


X = Location of pole installation. Pole to be 25-feet out of ground upon installation.

SITE SPECIFICATIONS

Nylon Netting Installation Location

Field #3 (1st Base Side Fence)



X = Location of pole installation. Pole to be 25-feet out of ground upon installation.
(NOTE: Poles to be installed on side opposite playing field)

Firm Name: _____

PROPOSAL

Enclosed find \$ _____ cash; or _____ a certified check; or \$ _____ a cashier's check No. _____ of the Bank; or bidder's bond for \$ _____ which is not less than ten percent (10%) of the aggregate amount of this bid payable to the City of Huntington Park, and which is given as guarantee that the undersigned will enter into the contract if awarded to the undersigned.

The undersigned further agrees that in case of default in executing the contract, with necessary bonds, within the required time, the cash proceeds of the check or bond accompanying this shall become the property of the City of Huntington Park, California.

The undersigned hereby certifies that he has received Addenda Nos. _____ and that his bid includes the cost of all additional work specified thereon.

The undersigned is licensed in accordance with the laws of the State of California. The undersigned is bound to all the conditions above (on this and the preceding pages) and certifies (or declares) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Bidder: _____ Print Name: _____

Firm Name: _____

Business Address: _____

City, state and zip code: _____

Telephone No. () _____, FAX No. () _____

Contractor's State of California License No. _____

License Type (Classification/Subcategory): _____

License Expiration Date: _____

Note: See Section "Instructions to Bidders" of the Specifications before signing.

Dated this _____ day of _____ 2008.

BID SHEET/ NON-COLLUSION AFFIDAVIT

INSTALLATION OF NYLON NETTING BETWEEN SALT LAKE PARK BALL DIAMONDS #2 & #3

STATE OF CALIFORNIA _____)
_____) SS
COUNTY OF _____)

_____ being first duly sworn deposes and says that he or she is
_____ (sole owner, a partner, president, etc.) of _____ the party
making the foregoing bid; that such bid is not made in the interest of, or on behalf of, any undisclosed
person, partnership, company, association, organization or corporation; that such bid is genuine and not
collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in
a false or sham bid, and has not directly or indirectly colluded, conspired, connived or agreed with any
bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding, that the bidder has not
in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix
the bid price of the bidder or of any other bidder, or to fix the overhead, profit, or cost element of the bid
price, or of that of any other bidder, or to secure any advantage against the public body awarding the
contract or anyone interested in the proposed contract, that all statements contained in the bid are true; and,
further, that the bidder has not, directly or indirectly, submitted his or her bid price, or any breakdown
thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay
any fee to any corporation, partnership, company association, organization, bid depository, or to any
member or agent thereof to effectuate a collusive or sham bid.

SIGNATURE OF BIDDER

Title

Subscribed and sworn to before me this _____ day of, _____, _____.

(Seal of Notary)

Signature of Notary

(Notary, please use this form)

THIS DOCUMENT TO BE EXECUTED BY BIDDER AND SUBMITTED

INSTALLATION OF NYLON NETTING BETWEEN SALT LAKE PARK BALL DIAMONDS #2 & #3

List of Subcontractors

The subcontractors listed below will perform work of labor or render service to the contractor on this project, or are subcontractors licensed by the State of California who will, under subcontract to the contractor, specially fabricate and install a portion of the work or improvement according to details contained in the Drawings and Specifications in an amount in excess of one-half of one percent (1/2 of 1%) of the contractor's total bid.

If a contractor, whose bid is accepted, wants to substitute any subcontractor in place of a subcontractor listed in its original bid, any changes shall be subject to City of Huntington Park approval and must comply with Public Contract Code Sections 4107 and 4107.5.

Name	Address	Work to Be Performed	Percent of Contract

Please use extra copies of this sheet if necessary to list all subcontractors who must be listed.

INSTALLATION OF NYLON NETTING BETWEEN SALT LAKE PARK BALL DIAMONDS #2 & #3

AGREEMENT

THIS AGREEMENT, (sometimes referred to in the Contract Documents as "Contract" or " Agreement") is entered into this _____ day of _____, _____, between the City of Huntington Park, whose address is 6550 Miles Avenue, Huntington Park, California 90255, (hereinafter referred to as "City"), and

_____ whose address is _____ (hereinafter referred to as "contractor").

RECITALS

1. City has invited bids relative to **“INSTALLATION OF NYLON NETTING BETWEEN SALT LAKE PARK BALL DIAMONDS #2 AND #3.”**
2. Contractor has submitted a proposal for the performance of the work above described and warranted to the City that it is possessed of the skills requisite in order to complete the said project.
3. The City has accepted the proposal submitted by the contractor and authorized the award of the Contract to the contractor.

NOW, THEREFORE, in consideration of performance by the parties of the covenants and conditions herein provided, City and contractor agree as follows:

1. The Contract Documents consist of Notice to Bidders, Information To Bidders, Proposal, Incorporation Statement, Licensed Contractor Declaration, Bid Security Forms for Bid Bond, Bid Sheet/Non-Collusion Affidavit, the Agreement, Labor and Material Payment Bond, Faithful Performance Bond, Warranty Bond, Drawings and Standard Drawings, Specifications that include General Provisions, Special Provisions and Standard Specifications, any and all State and City labor requirements, all addenda as prepared prior to date of bid opening setting forth any modifications or interpretations of any of said documents, and all supplemental agreements amending or extending the work contemplated and which may be required to complete the work in accordance with the terms and conditions thereof and all applicable state and local laws. All of the provisions of said Contract Documents are hereby incorporated in and made a part of this Agreement as truly as if fully set forth herein.
2. For and in consideration of the payments and other obligations undertaken by and to be performed by the City as set forth in the Contract Documents, the contractor agrees with the City to perform all work described as **“INSTALLATION OF NYLON NETTING BETWEEN SALT LAKE PARK BALL DIAMONDS #2 AND #3”** in accordance with the Drawings and Specifications, for which award of this Agreement is made, to furnish at his or her own cost and expense all tools, equipment, services, labor, and materials necessary therefore, and do everything required by the Contract Documents.

3. The City will pay and the contractor shall receive, except as modified, increased or decreased in accordance with the Contract Documents, the compensation set forth in the Bid Sheet for furnishing all said services and materials, obtaining all permits and licenses of a temporary nature, furnishing and removing all plant, temporary work or structures, tools and equipment, and doing all the work contemplated and embraced in this Agreement, and for faithfully completing the work and the whole thereof within the agreed upon time and in the manner shown and described in the Contract Documents and in accordance therewith, and for providing a warranty and guarantee for materials used and workmanship performed for a period of one (1) year after the recordation of the "Notice of Completion".
4. The City hereby promises and agrees with the said contractor to employ, and does hereby employ said contractor to provide the material and to do the work according to the terms and conditions and referred to, for the price aforesaid, and hereby contracts to pay the same at the time, in the manner, and upon the conditions set forth in the Contract Documents, and the parties for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained.
5. No work, services, material, or equipment shall be furnished under this Agreement unless or until a Notice to Proceed has been given to the contractor by the City. Notice shall be given within Five (5) working days from the date the City accepts the signed Agreement.
6. In the event that any action or proceeding is brought to enforce, construe or interpret any right created by this Agreement, the prevailing party shall be entitled to, in addition to any other relief granted by the court or other judicial body, its reasonable attorneys' fees, expenses and costs incurred in the action or proceeding.
7. The contractor agrees to indemnify, defend and hold harmless the City, its officers, officials, employees, agents and volunteers from all claims, liabilities, or damages of any type, including without limitation costs of suit and attorneys' fees, arising from death, injury to person, business or property caused by the contractor's, its subcontractor or their officers, officials, employees, or agents' performance of the obligations and/or work on the project. This requirement is separate from the obligation to obtain and maintain insurance and the failure to fulfill such insurance obligations shall not relieve contractor of the requirement to indemnify, defend and hold the City, its officers, officials, employees, agents and volunteers harmless.
8. No official, officer or employee of the City or members of their direct family shall have any interest, direct or indirect, in the contract or the proceeds thereof during his/her tenure with the City or for a period of one year thereafter. The contractor shall agree to indemnify, defend and hold harmless the City, its officials, officers, attorneys and employees from all claims, liabilities, lawsuits, actions, or damages of any type, including without limitation costs of suit and attorneys fees, arising out of any claims, proceedings, lawsuits or actions for injunctive or declaratory relief related to any alleged breach of this requirement, violation of Government Code Section 1090 et seq. or the Political Reform Act (Government Code Section 87100 et seq.).
9. Prevailing wages shall be paid. Copies of the prevailing rate of per diem wages are on file at City Clerk's Office and are available to any interested party on request.
10. City agrees to pay the Contractor the sum of \$_____dollars in a manner and at the times set forth in said specifications, and as modified by as built quantities and subsequent change order, if any.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF HUNTINGTON PARK

CONTRACTOR

Mayor

License No. _____

ATTEST:

ATTEST:

CITY CLERK

INSTALLATION OF NYLON NETTING BETWEEN SALT LAKE PARK BALL DIAMONDS #2 & #3

LABOR AND MATERIAL PAYMENT BOND

KNOW ALL BY THESE PRESENT:

WHEREAS, the City of Huntington Park, County of Los Angeles, State of California, has awarded to _____ hereinafter designated as the "Principal", a contract to perform all work described as **"INSTALLATION OF NYLON NETTING BETWEEN SALT LAKE PARK BALL DIAMONDS #2 AND #3"** together with appurtenances thereto on _____, 2008 and

WHEREAS, said Principal is required to furnish a bond in connection with said contract providing that if said Principal, or any of his or her or its subcontractors, shall fail to pay for any materials, provisions, provender, or other supplies or equipment used in, upon, or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, the Surety of this bond will pay the same to the extent hereinafter set forth;

NOW, THEREFORE, we _____, as Principal, and _____ as Surety, are held and firmly bound unto the City of Huntington Park, Huntington Park, California, hereinafter called the "City", in the penal sum of one hundred percent (100%) of the Principal's bid, dollars (\$ _____), lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors or assigns, jointly, severally, and firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT if the Principal, his or her or its heirs, executors, administrators, successors, or assigns, jointly, severally and firmly shall fail to pay for any materials, provisions, provender, or other supplies or equipment used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or fails to pay any of the persons filing stop notices or any amounts due under the California Unemployment Insurance Code with respect to work or labor performed under the Agreement, or any amounts required to be deducted, withheld and paid over to the Employment Development Department from the wages of employees of the Principal pursuant to Section 13020 et seq. of the California Unemployment Insurance Code, then said Surety will pay the same in or to an amount not exceeding the amount hereinabove set forth.

FURTHER, the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or modification of the Contract Documents or of the work to be performed there under shall in any way affect its obligations on this bond and it does hereby waive notice of such change, extension of time, alteration, or modification of the Contract Documents or of work to be performed there under.

Notices, papers, and other documents required by Part 2, Title 14, Chapter 2 of California Code of Civil Procedure, or by any other law, regulation, or requirement of the contract may be served upon Principal at this address: _____, and upon Surety at this address: _____.

In the event that any action or proceeding is brought to enforce, construe or interpret any right created by this Labor and Material Payment Bond, the prevailing party in such action or proceeding shall be entitled to, in addition to any other relief granted by the court or other judicial body, its reasonable attorneys' fees, expenses and costs incurred in the action or proceeding.

IN WITNESS WHEREOF, three (3) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety herein named, under penalty or perjury, on the _____ day of _____, _____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

Principal

By _____

Surety _____

By _____

(Attach Acknowledgment for Surety)

INSTALLATION OF NYLON NETTING BETWEEN SALT LAKE PARK BALL DIAMONDS #2 & #3

PERFORMANCE BOND

KNOW ALL BY THESE PRESENT:

WHEREAS, the City of Huntington Park, County of Los Angeles, State of California, has awarded to _____, hereinafter designated as the "Principal", a contract to perform all work described as **"INSTALLATION OF NYLON NETTING BETWEEN SALT LAKE PARK BALL DIAMONDS #2 AND #3"** together with appurtenances thereto on _____, 2008; and

WHEREAS, said Principal is required under the terms of said contract to furnish a bond for the faithful performance of said contract;

NOW, THEREFORE, we _____ as Principal, and _____ as Surety, are held and firmly bound unto the City of Huntington Park, Huntington Park, California, hereinafter called the "City", in the penal sum of one hundred percent (100%) of bid _____ dollars (\$ _____) lawful money of the United States of America, for payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors or assigns, jointly, severally and firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH that, if the Principal, his or her or its heirs, executors, administrators, successors, or assigns, jointly, severally and firmly shall in all things stand to, and abide by, and well and truly keep and perform all the undertakings, terms, covenants, conditions and agreements in the said contract and any alteration thereof, made as therein provided, all within the time and in the manner therein designated and in all prospects according to their true intent and meaning, then this obligation shall become null and void; otherwise, it shall be and remain in full force, effect and virtue.

FURTHER, the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or modification of the Contract Documents or of the work to be performed there under, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or modification of the Contract Documents or of work to be performed there under.

Notices, papers and other documents required by Part 2, Title 14, Chapter 2 of the California Code of Civil Procedure, or by any other law, regulation, or requirement of this contract may be served upon the Principal at this address:

(Name of Principal Address of Principal)

and for Surety of this address:

(Name of Surety Address of Surety)

In the event that any action or proceeding is brought to enforce, construe or interpret any right created by this Performance Bond, the prevailing party in such action or proceeding shall be entitled to, in addition to any other relief granted by the court or other judicial body, its reasonable attorneys' fees, expenses and costs incurred in the action or proceeding.

IN WITNESS WHEREOF, three (3) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety herein named on the _____ day of _____, _____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

Principal

By _____

Surety _____

By _____

(Attach Acknowledgment for Surety)

INSTALLATION OF NYLON NETTING BETWEEN SALT LAKE PARK BALL DIAMONDS #2 & #3

WARRANTY BOND

KNOW ALL BY THESE PRESENT:

WHEREAS, the City of Huntington Park, County of Los Angeles, State of California, has awarded to _____, hereinafter designated as the "Principal", a contract to perform all work described as **"INSTALLATION OF NYLON NETTING BETWEEN SALT LAKE PARK BALL DIAMONDS #2 AND #3"**: together with appurtenances thereto on _____, 2008; and

WHEREAS, said Principal is required under the terms of said contract to furnish a bond for the guarantee of materials used and workmanship performed for a period of one (1) year after the recordation of the "Notice of Completion";

NOW, THEREFORE, we _____ as Principal, and _____ as Surety, are held and firmly bound unto the City of Huntington Park, Huntington Park, California, hereinafter called the "City", in the penal sum of ten percent (10%) of bid, _____ dollars (\$ _____), lawful money of the United States of America, for payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors or assigns, jointly, severally and firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH that, if the Principal, his or her or its heirs, executors, administrators, successors, or assigns, jointly, severally and firmly shall for a period of one (1) year from the date of recordation of the "Notice of Completion" repair or replace, at the discretion of the Agency, any and all defective or deficient materials or workmanship used, supplied, or provided by the Principal in performance of said contract, and otherwise well and truly keep and perform all the undertakings, terms, covenants, conditions, and agreements as to any and all guarantees and warranties required by said contract and any alteration thereof, made as therein provided, all within the time and in the manner therein designated and in all prospects according to their true intent and meaning, then this obligation shall become null and void, otherwise it shall be and remain in full force, effect and virtue.

FURTHER, the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or modification of the Contract Documents or of the work to be performed there under, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or modification to the Contract Documents or of work to be performed there under.

Notices, papers and other documents required by Part 2, Title 14, Chapter 2 of the California Code of Civil Procedure, or by any other law, regulation, or requirement of this contract may be served upon the Principal at this address:

_____, and
for Surety of this address:

_____.
In the event that any action or proceeding is brought to enforce, construe or interpret any right created by this Warranty Bond, the prevailing party in such action or proceeding shall be entitled to, in addition to any other relief granted by the court or other judicial body, its reasonable attorneys' fees, expenses and costs incurred in the action or proceeding.

IN WITNESS WHEREOF, three (3) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety herein named on the _____ day of _____, _____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

Principal

By _____

Surety _____

By _____

(Attach Acknowledgment for Surety)

NOTICE TO PROCEED

TO: (CONTRACTOR)

FROM: Director of Parks & Recreation, City of Huntington Park

Notice is hereby given that you are authorized and directed to precede with the following project in accordance with the contract documents:

INSTALLATION OF NYLON NETTING BETWEEN SALT LAKE PARK BALL DIAMONDS #2 & #3

City of Huntington Park, California

These documents have been received and are on file with the City Clerk of Huntington Park:

DOCUMENT

The Agreement Fully Executed		()
Material and Labor Bond	2-4	()
Faithful Performance Bond	2-4	()
Workman's Compensation Certifications	7-4	()
Workman's Compensation Insurance Certificate	7-4	()
Liability Insurance Certificate	7-3	()
Construction Schedule	6-1	()
Contractor's Representative Designation	7-6	()

Under the terms of the contract, work is to start within **10** working days after this date and is to be completed within **45** working days.

In case all the work called for under the contract in all parts and requirements is not completed within the above mentioned working days, the Contractor shall pay to the City as liquidated damages the sum of \$750.00 per consecutive calendar day for each and every consecutive calendar day's delay in finishing the work in excess of the above mentioned working days from the date of issuance of this Notice to Proceed, unless an extension of time is granted by the City as provided in certain circumstances by the specifications.

Date: _____

Josette Espinosa, Director of Parks & Recreation

* Applicable subsections of Standard Specifications for Public Works Construction.

**CITY OF HUNTINGTON PARK
STATE OF CALIFORNIA**

SPECIAL PROVISIONS AND CONDITIONS

FOR

INSTALLATION OF NYLON NETTING BETWEEN SALT LAKE PARK BALL DIAMONDS #2 & #3

1. INSTRUCTIONS TO BIDDERS:

a. Examination of plans, Specifications, Special Provisions and Site of Work. The bidder shall examine carefully the site of, the proposal, and the plans and specifications for the work contemplated. It will be assumed that the bidder has investigated and is satisfied with the conditions to be encountered as to the character, quality, and quantities of work to be performed and materials to be furnished and as to the requirements of the specifications. It is mutually agreed that submission of a proposal shall be prima facie evidence that the bidder has made such examinations and is so satisfied. The plans for the work will show conditions as they are supposed or believed by the Director of Parks & Recreation to exist, but is not intended nor is to be inferred that the conditions as shown thereon constitute a representation by the Agency or its officers that such conditions are actually existent. Neither the Agency nor any of its officers shall be liable for any loss sustained by the Contractor as a result of any variance between conditions as shown on the plans and actual conditions revealed during progress of the work or otherwise. The Contractor is to assume all risks as to natural conditions and contingencies attending the work.

b. Contractors' Pre-start Representations. The contractor represents that he or she has familiarized himself or herself with the work, the locality and with all local conditions including federal, state and local laws, ordinances, rules and regulations that may in any manner affect performance of the work, and represents that he or she has correlated his or her efforts and observations with the requirements of the Contract Documents and assumes full responsibility for having familiarized himself or herself with the nature and extent of the Contract Documents.

The contractor shall carefully study and compare the Contract Documents; check and verify pertinent figures shown thereon, and verify all applicable field measurements prior to commencing work. He or she shall at once report in writing to the Engineer any conflict, error or discrepancy that he or she may discover. The contractor shall be responsible for exercising reasonable care and skill in reviewing the Contract Documents to determine whether there is any conflict, error or discrepancy therein, and shall be responsible for notifying the Engineer of any conflict, error or discrepancy. No claim for additional compensation shall be made by the contractor for extra work created by conflicts, errors or discrepancies in the Contract Documents that the contractor should have discovered prior to submitting his or her bid.

No information derived from inspection of records or investigations or compilations of same made by the City will in any way relieve the contractor from his or her obligations under the Contract Documents nor entitle the contractor to any additional compensation. The contractor will not and agrees not to make a claim against the City based upon ignorance or misunderstanding of any condition of the work site or of the requirements set forth in the Contract Documents.

The contractor represents that it possesses a license of the applicable classification at the time the Contract is awarded.

c. Sub-Surface Data. If the City or its consultants have made investigations of subsurface conditions in areas where the work is to be performed, such investigations shall be deemed made only for the purpose of study and design. Where such investigations have been made, the contractor may inspect the records pertaining to such investigations subject to and upon the conditions hereinafter set forth. The inspection of the records shall be made in the office of the Director of Parks & Recreation at 3401 East Florence Avenue, Huntington Park, California 90255. It is the contractor's sole responsibility to determine whether such investigations exist and the City makes no affirmative or negative representation concerning the existence of such investigations.

The records of any such investigations are solely for the convenience of the contractor. It is expressly understood and agreed that the City, the Director of Parks & Recreation, their agents consultants or any employees assume no responsibility whatsoever with respect to the sufficiency or accuracy of any investigations; the records thereof; and of the interpretations set forth therein. No warranty or guarantee is expressed or implied that the conditions indicated by any such investigations or records are representative of those existing in the project area. The contractor agrees to make such independent investigations and examination as necessary to be satisfied of the conditions to be encountered in the performance of the work.

The contractor represents that he or she has studied the Plans and Specifications and all surveys and investigation reports of sub-surface and latent physical conditions and has made such additional surveys and investigations as necessary for the performance of the work at the contract price in accordance with the requirements of the Contract Documents, and that he or she has correlated the results of all such data with the requirements of the Contract Documents. No claim of any kind shall be made or allowed for any error, omission or claimed error or omission in whole or in part, of any geotechnical exploration or any other report or data furnished or not furnished by the City.

d. Discovery of Unusual Conditions. The contractor shall promptly, and before the following conditions are disturbed, notify the City in writing of any:

- (1) Material that the contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code that is required to be removed to a Class I, Class II or Class III disposal site in accordance with provisions of existing law.
- (2) Subsurface or latent physical conditions at the site differing from those indicated.
- (3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.

The City shall promptly investigate the conditions, and if it finds that the conditions so materially differ, or do involve hazardous waste, and cause a decrease or increase in the contractor's cost of, or the time required for, performance of any part of the work, the City shall issue a change order under the procedures set forth in the Contract Documents.

In the event that a dispute arises between the City and the contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the contractor's cost of, or time required for, performance of any part of the work, the contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the Contract. The contractor shall retain any and all rights provided either by contract or by law that pertain to the resolution of disputes and protests between the contracting parties.

e. Proposal Substitutions. Any and all requests for substitutions of "an equal" item and all supporting materials shall be submitted to the City Clerk at least forty-eight (48) hours prior to the bid opening.

f. Interpretation of Plans. If any person contemplating submitting a bid for the proposed contract is in doubt as to the true meaning of any part of the Contract Documents, or finds discrepancies in, or omissions from, these Documents, he or she may submit to the Director of Parks & Recreation a written request for an interpretation or correction thereof. Any interpretation or correction of the Contract Documents shall be made only by addendum and provided to each person receiving a set of such documents. The Engineer will only be responsible for explanations or interpretations of the Contract Documents as requested pursuant to and provided for by this paragraph. Any omissions from these Contract Documents not called to the attention of the Engineer shall not affect the validity of the bid process or the contract eventually awarded.

g. Proposal Forms. All proposals must be made upon blank forms to be obtained as set forth in the Notice Inviting Bids. If the bid is made by an individual, it must be signed by the full name of the bidder, whose address must be given; if it is made by a co-partnership, it must be signed with the partnership name by a member of the partnership, and the name and full address of each member must be given; and if it is made by corporation or association, and in the case of a corporation, the corporate seal should be attached to such signature.

h. Proposals. Blank spaces in the proposal must be properly filled in and the phraseology of the proposal form must not be changed. Any unauthorized conditions, limitations, or provisos attached may render it unacceptable and cause its rejection. Alterations by erasure or interlineations must be explained or noted in the proposal over the signature of the bidder. Bidders are invited to be present at the opening of proposals. A corporation submitting a proposal may be required, before the contract is fully awarded, to furnish a certificate as to its corporate existence and satisfactory evidence as to the authority of the officer or officers authorized to execute the contract on behalf of the corporation.

i. Bidder's Guarantee. Each bid is to be presented under sealed cover and shall be accompanied by cash, a certified or cashier's check payable to the Agency or bidder's bond, as guarantee that the bidder if successful, will within ten (10) days after receiving notice of award of the contract, enter into a valid contract with the Agency for the work at the prices stated in his bid. Bidder's bond shall be made payable to the Agency and executed as surety by some corporation authorized to issue surety bonds in the State of California. Unless otherwise provided in these Special Provisions or the Notice Inviting Bids, the amount of said guarantee shall be not less than ten percent (10%) of the total amount bid, based upon the quantities set forth in said Notice Inviting Bids or in the Proposal. This guarantee will be forfeited should the lowest responsible bidder to whom the contract is awarded fail to enter into the contract. If the City of Huntington Park subsequently awards a contract to the next lowest responsible bidder, the amount of the lowest responsible bidder's guarantee shall be applied to the difference between the lowest responsible bidder's bid and the next lowest responsible bidder's bid and the surplus, if any, shall be returned to the lowest responsible bidder.

j. List of Subcontractors. When required by law, each bidder shall list the subcontractors to be engaged on the work, as set forth in Subsection 2-3 of the Standard Specifications. If a contractor whose bid is accepted wants to substitute any subcontractor in place of a subcontractor listed in its original bid, any changes shall be subject to City of Huntington Park approval and must comply with Public Contract Code Sections 4107 and 4107.5.

k. Withdrawal of Proposals. A bidder may withdraw his bid at any time prior to the time fixed in the public notice for the opening of bids by filing with the Awarding Body, its clerk or secretary, a written request for the withdrawal of the bid. The bidder or his duly authorized representative shall execute the request. The withdrawal of a bid shall not prejudice the right of the bidder to file a new bid within the time limit.

l. Non-Discrimination. Pursuant to Section 1735 of the California Labor Code, the bidder shall not discriminate in the employment of persons for the work as described in these Contract Documents because of race, religious creed, color, nation of origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. If the bidder is found to be in violation of this Section on this work, the bidder shall be subject to all penalties imposed in Part 7, Chapter 1 of the California Labor Code.

m. Immigration Reform and Control Act. The successful bidder will be required to comply with all requirements of the Immigration Reform and Control Act of 1986 ("Act"). The successful bidder agrees to defend, indemnify and hold the City of Huntington Park harmless from any penalties imposed as a result of non-compliance with the Act.

n. Clayton and Cartwright Acts. By submitting a bid, the bidder offers and agrees that if the bid is accepted, it will assign to the City of Huntington Park all rights, titles, and interest in and to all causes of action it may have under § 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2 commencing with § 16700) of Part 2 of Division 7 of the Business and Professions Code, arising from purchases of goods, materials or services by the bidder for sale to the City of Huntington Park pursuant to the bid. Such assignment shall be made and become effective at the time the City of Huntington Park tenders final payment to the bidder.

o. Disqualification of Bidders and Proposals. More than one proposal from any individual, firm or co-partnership, corporation or association, under the same or different names, will not be considered. Reasonable grounds for believing that any bidder is interested in more than one proposal for the work contemplated will cause the rejection of all proposals in which such bidder is believed to be interested. Contract will be awarded only to responsible bidders capable of performing the class of work contemplated. Proposals in which the prices obviously are unbalanced may be rejected. Except for persons, firms, partnerships or corporations that are subcontractors and not bidders, no person, firm, partnership or corporation shall be allowed to make or file, or be interested in more than one bid for the same work, unless alternate bids are called for. A person, firm or corporation who has submitted a sub proposal to a bidder, or who has quoted prices or materials to a bidder, is not thereby disqualified from submitting a sub proposal or quoting prices to other bidders.

p. Competency of Bidders. Bidders must be capable of performing the various items of work bid upon. They may be, and where so required by the Special provisions shall be, required to furnish a statement covering experience on similar work, a list of machinery, plant and other equipment available for the proposed work, and a financial statement, including a complete statement of bidder's financial ability and experience in performing public works generally and similar works in particular. Such statement shall be verified under oath by the bidder in the manner in which pleading in civil action are verified.

q. Contractor's License. Each bidder shall be licensed as a Contractor in accordance with the Provisions of Chapter 9 of Division 3 of the Business and Professions Code at the time submitting his bid. The signature in the Bid Proposal shall clearly show the bidder's name, address, telephone number, valid State of California Contracting license number, expiration date, and proper license class to perform the work under contract. Any bid submitted which does not show the above information may be considered an incomplete bid and rejected as such.

r. Addenda or Bulletins. Any addenda or bulletins issued during the time of bidding which form a part of the specifications shall be covered in the bid and shall be made a part of the contract.

s. Approximate estimate of quantities. The quantities given in the Notice Inviting Bids, Proposal, and contract form are approximate only, being given as a basis for the comparison of bids, and the Agency does

not expressly or by implication agree that the actual amount of work will correspond therewith, and reserves the right to increase or decrease the amount of any class or portion of the work, or to omit portions of the work as may be deemed necessary or advisable by the Director of Parks & Recreation not expressly or by implication agree that the actual amount of work will correspond therewith, and reserves the right to increase or decrease the amount of any class or portion of the work, or to omit portions of the work as may be deemed necessary or advisable by the Director of Parks & Recreation.

2. AWARD AND EXECUTION OF CONTRACT:

a. Acceptance or Rejection. The contract will be awarded to the lowest responsible bidder, except (1): if the Awarding Body deems acceptance of the lowest responsible bid is not for the best interest of the Agency, it may reject all bids and proceed by day's labor or advertise for other bids, or (2): if the awarding body deems the advertising or award of a contract, the acceptance of any bid or the acceptance of any further bids after the rejection of all submitted bids is not in or for the best interest of the Agency, the work may be done by day's labor under the direction of the Agency.

The award of the contract, if it be awarded, will be made within thirty five (35) days after the opening of the proposals to the lowest responsible and qualified bidder whose proposal complies with all the prescribed requirements, but until an award is made, the right will be reserved to reject any or all bids and to waive technical errors or discrepancies if to do so is deemed to best serve the interest of the City. In no event will an award be made until all necessary investigations are made as to the responsibility and qualifications of the bidder whom it is proposed to make such an award.

The Awarding Body shall be, and is hereby constituted, the exclusive judge as to the responsibility of a bidder, and in ascertaining that fact the Awarding Body will take into consideration the business integrity, financial resources, facilities for performing the work, and experience in similar public works operation of the various bidders.

b. Bonds. The successful bidder will be required to furnish a labor and material payment bond in an amount equal to one hundred percent (100%) of the contract price, a faithful performance bond in an amount equal to one hundred percent (100%) of the contract price and a warranty bond in an amount equal to ten percent (10%) of the contract price in identical forms to the attached bonds. The bidder is required to give written notice of the bonding requirements to potential and actual subcontractors and the bidder's attention is directed at Section 4108 of the California Public Contract Code. Any subcontractor bonds shall be secured from a surety company satisfactory to the City.

c. Return of Proposal Guarantees. As soon as the bid prices have been compared, the Agency will return the proposal guarantees accompanying such proposals, that, in the judgment of the Awarding Body, are not to be considered in making the Award. The bidder's security of the second and the third lowest responsible bidders will be withheld until the contract has been awarded and finally executed and the successful bidder has furnished all bonds required by the contract. All other proposal guarantees will be held only until the contract has been awarded and will be returned to the unsuccessful bidders within (10) days thereafter. After satisfactory successful bidder has executed contract and furnished all bonds required, his proposal guarantee will be returned. If the proposal guarantee is in the form of a bidder's bond, it will be returned only upon written request by the bidder.

d. Execution of Contract. The contract shall be signed by the successful bidder and returned together with the performance and material and labor bonds within ten (10) days after receiving notice of the award of the contract, or as required in any resolution of intention of the Agency, or as required by any Act under which the work is to be done.

e. **Failure to Execute Contract.** Failure of the successful bidder to execute a contract and furnish acceptable bonds as provided herein within the ten day period, or according to the Act under which the work is to be done, shall be just cause for the annulment of the award, and the bidder's proposal shall be forfeited, not as a penalty, but as liquidated damages. If the Awarding Body deems it is for the best interest of the Agency, it may, on the refusal or failure of the successful bidder to execute the contract or furnish the required bonds, award the contract to the second lowest responsible bidder. If the second lowest responsible bidder fails or refuses to execute the contract, the Awarding Body may likewise award it to the third lowest responsible bidder. On the failure or refusal of the second or third lowest bidder, to whom a contract is so awarded, to execute the contract or to furnish the required bonds, his proposal guarantee likewise shall be forfeited to the Agency not as a penalty, but as liquidated damages.

3. **DOCUMENTS:**

a. **Liability Insurance.** The Contractor shall furnish the Agency evidence of Liability Insurance in accordance with Subsection 7-3 of the Standard Specifications, except that where Agency, its officers and employees are mentioned therein, they shall include the Engineer and his consultants, and each of their officers, agents and employees.

b. **To be Furnished by the Contractor to the City Clerk.** The Contractor shall furnish the following documents to the City Clerk:

Liability Insurance Policy or Certificate per Subsection 7-3 of the Standard Specifications and as specified hereinbefore.

Contract Bonds per Subsection 2-4 of the Standard Specifications.

Workmen's Compensation Certification and Certificates of Insurance per Subsection 7-4 of the Standard Specifications.

c. **To be furnished by the Contractor to the Director of Parks & Recreation.** The Contractor shall furnish the following documents to the Director of Parks & Recreation:

A construction schedule per Subsection 6-1 of the Standard Specifications and as specified hereinbefore.

The Contractor's Representative designation per Subsection 7-6 of the Standard Specification.

4. **CONTRACT PAYMENT.**

a. Payment for all work bid at a price per unit of measurement will be based upon the actual quantities of work as measured upon completion. The items bid on a "Lump sum" basis shall result in a complete structure, operating plant, or system in satisfactory working conditions in respect to the functional purpose of the installation and no extra compensation will be allowed for anything omitted but fairly implied. Full compensation for additional materials and labor, whether or not shown on the drawings or specified, which are necessary to complete all of the work, will be considered as included in the prices paid for the work, and additional compensation will be allowed therefore.

b. Whenever it is specified that the Contractor is to do work or furnish materials of any class for which no price is fixed in the Proposal, it shall be understood that he is to do such work or furnish such materials without extra charge or allowance or direct payment of any kind. The cost of doing such work or furnishing such materials is to be included in the price bid for such other items of work.

c. No payment will be made to the Contractor for any materials on hand which are furnished but not incorporated in the work.

d. The Contractor shall submit a written demand for payment to the Director of Parks & Recreation, not more than once each month and when all work has been completed, for the quantity and value of the work performed. Payment will be made in accordance with Section 9-3 of the Standard Specifications, after approval by the Director of Parks & Recreation and submission of the aforementioned demand to the City Council at its next regular meeting, such meetings being held on the first and third Monday night of each month. The Contractor shall deliver such written demand to the Director of Parks & Recreation not later than 5 o'clock p.m. of the third Monday preceding the regular meeting of the City Council for which said demand is to be presented.

e. Ten percent (10%) of all amounts will be retained by the City for sixty (60) calendar days from the date of final acceptance of the work.

f. Substitution of Security. As a substitute for retention often percent (10%) from each progress payment to the contractor, the contractor may, on his or her request and at his or her expense, deposit securities approved as eligible for deposit and in an amount equivalent to the amount retained by the City of Huntington Park, with a state or federally-chartered bank in California as the escrow agent ("escrow agent") or the City of Huntington Park. Securities eligible for deposit shall be bank or savings and loan certificates of deposit, or such securities as are set forth in Government Code Section 16430 and which are approved by the City of Huntington Park.

Upon the deposit of such securities, the City of Huntington Park shall pay the retained sum to the contractor and, upon satisfactory completion of all work required to be performed, shall return the deposited securities to the contractor.

Alternatively, the contractor may request that the City of Huntington Park make payment of retentions earned directly to the escrow agent established by the contractor, at his or her expense as provided under Section 22300 of the Public Contract Code. At the expense of the contractor, the contractor may direct the investment of the payments into securities and the contractor shall receive the interest earned on the investment upon the same terms provided for in Section 22300 of the Public Contract Code for securities deposited by the contractor. Upon satisfactory completion of the contract, the contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the City of Huntington Park pursuant to Section 22300 of the Public Contract Code.

The contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

Any contractor who elects to receive interest on moneys withheld in retention by the City of Huntington Park shall, at the request of any subcontractor performing more than five percent of the contractor's total bid, make that option available to the subcontractor regarding any moneys withheld in retention by the contractor from the subcontractor. If the contractor elects to receive interest on any moneys withheld in retention by the City of Huntington Park, then the subcontractor shall receive the identical rate of interest received by the contractor on any retention moneys withheld from the subcontractor by the contractor, less any actual prorated costs associated with administering and calculating that interest. In the event that the interest rate is a fluctuating rate, the rate for the subcontractor shall be determined by calculating the interest rate paid during the time that retentions were withheld from the subcontractor. If the contractor elects to substitute securities in lieu of retention, then, by mutual consent of the contractor and subcontractor, the subcontractor may substitute securities in exchange for the release of moneys held in retention by the contractor.

The contractor shall pay each subcontractor, not later than seven days after receipt of escrow moneys, the amount owed to each subcontractor from the moneys plus the respective amount of interest earned, net of costs attributed to the retention held from each subcontractor, on the amount of retention withheld to insure performance of the subcontractor.

Requests for substitution of retentions or payment of retentions earned to an escrow agent must be made in writing and delivered to the Director of Parks & Recreation prior to the issuance of a notice to proceed and are subject to the approval of the City of Huntington Park.

The amount of retention shall remain at ten percent (10%) for the entire duration of the contract and reduction in retention percentage will not be allowed. Payment of the retention shall be governed by Section 7107 of the Public Contract Code.

g. No such progress payment of estimate shall be required to be made when the total number of working days is 30 or less, or when in the judgment of the Director of Parks & Recreation the work is not proceeding in accordance with provisions of the contract or when the value of the work amounts to less than Five Hundred Dollars (\$500). No such estimate or payment shall be construed to be an acceptance of any defective work or improper materials.

h. Final Payment. The Director of Parks & Recreation, after the completion of the project, shall make a final determination of the amount of work done hereunder, and the value of such work, and the City shall pay the entire sum so found to be due after deducting there from all previous payments and all amounts to be kept and all amounts to be retained under the provisions of the Contract Documents. The prior partial payments and estimates shall be subject to correction in the final estimate and payment.

In processing the final payment estimate, the Director of Parks & Recreation will invite the contractor to review and discuss said final estimate during the seven (7) calendars day period following acceptance of the work by the City.

It is mutually agreed between the parties to the Contract that no certificate given or payment made under the Contract, except the final certificate or final payment, shall be conclusive evidence of the performance of the Contract, either wholly or in part, and no payment shall be construed to be an acceptance of any defective work or improper materials.

Any retention to be released shall be released to the contractor sixty (60) days after the date of completion as the term is defined by Section 7107(c) of the Public Contract Code.

In the event of a dispute between the contractor and the City, the City shall withhold from final payment to the contractor an amount not to exceed 150 percent of the disputed amount.

5. Changes in Work

a. Changes Initiated by the City. The City may at any time order additions, deletions or revisions in the general scope of the work without invalidating the Contract Documents and without notice to the sureties.

The City may order minor changes or alterations in the work not involving extra cost or an extension of time, and not inconsistent with the overall intent of the Contract Documents. Such changes may be ordered by a field order. Before proceeding with the change of work described in a field order, the Director of Parks & Recreation will submit a field order to the contractor for approval and signature. By signing the field

order, the contractor agrees that he or she shall not be entitled to any additional compensation or extension of time for the work identified in the field order.

Changes not covered by a field order will be authorized by a change order. A change order is a written order, issued by the City to the contractor, signed by the Director of Parks & Recreation, authorizing an addition, deletion or revision in the work, or an adjustment in the value of one or more of the respective bid items, or the contract time.

Upon the receipt of a change order, the contractor shall immediately proceed with the work described therein. All such work shall be performed in accordance with applicable requirements of the Contract Documents.

Except as agreed upon by the parties or as provided herein, Section 3-3.2.1 of the Standard Specifications shall govern the payment of costs for work performed pursuant to change orders.

Except as otherwise provided, the contractor shall be entitled to a mark-up (consisting of reasonable profit and overhead costs) of a maximum amount not to exceed ten (10) percent of the first Five Thousand Dollars (\$5,000.00) for five (5) percent on any amount in excess of Five Thousand Dollars (\$5,000.00) for any work performed pursuant to a change order, even if the work is performed by a subcontractor. Such mark-up shall be the sole monetary compensation to which the contractor shall be entitled above the actual cost for performing such work.

If the contractor and City are unable to agree upon any adjustments in the contract price and/or time pursuant to a change order, the City and the contractor shall try to resolve any difference respecting same. The contractor shall proceed with the work called for by the change order notwithstanding any dispute as to the price and/or time adjustments.

Within fifteen (15) days after the issuance of a change order in which either the price or time or both have not been mutually agreed upon in writing, the contractor shall submit a written proposal to the Director of Parks & Recreation that shall include all reasonable cost data and time extension justification to enable the Director to adequately analyze the proposal. If the contractor cannot reasonably meet this deadline, the Director, in his/her sole discretion, may extend the time to resubmit the proposal. Failure of the contractor to comply in the time constraints imposed herein shall preclude the contractor from recovering any additional changes in price or time unless the Director, within his/her sole discretion, excuses the contractor's delay and permits the proposal to be processed and considered by the City. The Director shall issue its finding on any price or time adjustment request within thirty (30) days from receipt of the written proposal except as provided in this subsection.

The contractor waives any claim for damages or addition time arising from changes or revisions to the Contract Documents.

b. Changed Conditions Caused by Acts of God. The City shall not hold the contractor responsible for the cost of repairing or restoring damage to the work if the damages have been determined to have been proximately caused by an "Act of God" and are in excess of five (5) percent of the contracted amount provided that the work damaged was accepted by the Engineer and built in accordance with the Contract Documents and applicable building standards. Per Section 7105 of the Public Contract Code, an "Act of God" shall be defined as an earthquake in excess of 3.5 on the Richter scale or a tidal wave.

c. Disputed Work. Any and all disputes or claims arising out of changes in work for the project or relating to the Contract Documents that are not disposed of by agreement or are not governed by Subsection 7-20 of these Specifications, shall be decided by the Director of Parks & Recreation in writing as set forth

above. The decision of the Director shall be final and conclusive on the contractor unless, within fifteen (15) days from the receipt of such decision, the contractor submits to the City a written claim for review of the decision made by the Director. The City shall review all decisions within a reasonable time. The contractor and Director shall be afforded an opportunity to be heard and to offer evidence with respect to each claim. The City shall render its decision promptly and in writing and the decision shall be final and conclusive.

Except for the filing of a claim as provided for herein or otherwise governed by Subsection 7 -20 of these General Provisions, the contractor understands and agrees that no other procedures for submission of a claim or request for either increasing its contract price or time shall apply. Time is of the essence and failure of the contractor to satisfy any deadline for filing as provided for herein shall preclude the contractor from later recovering on a claim or request from the City in any legal proceeding.

6. DEFINITION OF TERMS AND ABBREVIATIONS:

In addition or amendatory to those shown in the Standard Specifications, or State Standard Specifications, and wherever in these specifications, or in any documents or instruments where these specifications govern, the following terms or pronouns in place of them are used, the intent and meaning shall be interpreted as follows:

AGENCY:	The City of Huntington Park, California, also hereinafter called "City".
AWARDING BODY:	City Council of the City of Huntington Park, California.
BIDDER:	Any individual, co-partnership, association or corporation submitting a Proposal for the work contemplated, acting directly or through a duly Authorized representative.
BOARD:	The City Council of the City of Huntington Park, California.
CITY CLERK:	The City Clerk of the City of Huntington Park, California.
DIRECTOR OF PARKS & REC.:	The Director of Parks & Recreation of the City of Huntington Park, California.

7. SCOPE OF WORK:

a. General. The Contractor shall keep at the work site a copy of the Plans and Specifications, to which the Director of Parks & Recreation shall have access at all times.

The Plans and Specifications shall govern the Work. Anything in the Specifications and not on the Plans, or on the Plans and not in the Specifications, shall be as though shown or mentioned in both.

While it is believed that much of the information pertaining to conditions which may affect the cost of the Work will be shown on the plans or indicated in the Specifications, the Agency does not warrant the completeness or accuracy of such information.

The Contractor shall, upon discovering any error or omission in the Plans or Specifications, immediately call it to the attention of the Director of Parks & Recreation.

b. Precedence of Contract Documents. If there is a conflict between Contract Documents, the highest in precedence shall control, the precedence shall be:

1. Permits from other agencies as may be required by law.
2. Special Provisions.
3. Plans.
4. Standard Plans.

5. Standard Specifications.
6. Reference Specifications.

Change orders and approved revisions to Plans and Specifications will take precedence over Items 2 through 6 above. Detailed plans shall have precedence over general plans.

c. Description of Work

The work to be done, in general, consists of furnishing all materials, labor and equipment to complete all the work in accordance with the accompanying plans and these specifications, which include the following Bid items.

d. Plans The following listed plan is attached herewith and forms a part of these specifications: Sheet 5.

e. Commencement of Work The Contractor, within five (5) calendar days of the date of the executed contract shall furnish Director of Parks & Recreation with proof that all materials have been ordered and delivery date for materials is established for said project. When all documents as specified by these specifications have been submitted and approved by the City Attorney and the Director will issue the "Notice to Proceed". Work shall not commence until the "Notice to Proceed" has been issued.

f. Antitrust Claims

The contractor's attention is directed to the following provisions of California Government Code Sections 4552, 4553 and 4554, which shall be applicable to the contractor and his or her subcontractors:

In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials by the contractor or subcontractor pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the City tenders final payment to the contractor, without further acknowledgment by the parties.

If the City receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the City any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the City as part of the bid price, less the expenses incurred in obtaining that portion of the recovery .

Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action.

g. Employment of Apprentices

Every apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he or she is employed, and shall be employed only at the work of the craft or trade to which he or she is registered.

Only apprentices who are in training under apprenticeship standards and written apprentice agreements under Chapter 4 (commencing with Labor Code Section 3070) of Division 3 are eligible to be employed on the project. The employment and training of each apprentice shall be in accordance with the apprenticeship standards and apprentice agreements under which he or she is training.

When the contractor, to whom the contract is awarded by City, or any subcontractor under him or her, in performing any of the work under the contract or subcontract, employs workers in any apprenticeable craft or trade, the contractor and subcontractor shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the site of the public work for a certificate approving the contractor or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval as established by the joint apprenticeship committee or committees shall be subject to the approval of the Administrator of Apprenticeship. The joint apprenticeship committee or committees, subsequent to approving the subject contractor or subcontractor, shall arrange for the dispatch of apprentices to the contractor or subcontractor in order to comply with this section. Every contractor and subcontractor shall submit contract award information to the applicable joint apprenticeship committee that includes an estimate of journeyman hours to be performed under the contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. There is an affirmative duty upon the joint apprenticeship committee or committees administering the apprenticeship standards of the craft or trade in the area of the site of the public work to ensure equal employment and affirmative action in apprenticeship for women and minorities. Contractors or subcontractors shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen who shall be employed in the craft or trade on the public work may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice's work for every five hours of labor performed by a journeyman. However, the minimum ratio for the land surveyor classification shall not be less than one apprentice for each five journeymen.

Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the joint apprenticeship committee, is employed at the job site and shall be computed on the basis of the hours worked during the day by journeymen so employed, except for the land surveyor classification. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the job site. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a joint apprenticeship committee, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

The contractor or subcontractor, if he or she is covered by this Subsection, upon the issuance of the approval certificate, or if he or she has been previously approved in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by the contractor that he or she employs apprentices in the craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by a journeyman or, in the land surveyor classification, one apprentice for each five journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the contractor from the 1-to-5 hourly ratio as set forth in this section. This Subsection does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor, when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000) or 20 working days. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the hourly ratio required by this Subsection.

"Apprenticeable craft or trade", as used in this Subsection, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. The joint apprenticeship committee has the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting a contractor from the 1-to-5 ratio set forth in this section when it finds that anyone of the following conditions is met:

- (a) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.
- (b) The number of apprentices in training in the area exceeds a ratio of 1 to 5.
- (c) There is a showing that the apprenticeable craft or trade is replacing at least one thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.
- (d) Assignment of an apprentice to any work performed under this contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a Journeyman.

When exemptions are granted to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

A contractor to whom the contract is awarded, or any subcontractor under him or her, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade and who is not contributing to a fund or funds to administer and conduct the apprenticeship program in any craft or trade in the area of the site of the public work, to which fund or funds other contractors in the area of the site of the public work are contributing, shall contribute to the fund or funds in each craft or trade in which he or she employs journeymen or apprentices on the public work in the same amount or upon the same basis and in the same manner as the other contractors do, but, where the trust fund administrators are unable to accept the funds, contractors not signatory to the trust agreement shall pay a like amount to the California Apprenticeship Council. The contractor or subcontractor may add the amount of the contributions in computing his or her bid for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in Labor Code Section 227.

8. DISPUTES

a. Dispute Resolution

1. If, pursuant to court order, the City prohibits the contractor from performing all or any portion of the work, the delay will be considered a delay within the meaning of Subsection 6-6 unless the Contract is terminated as hereinafter provided, in which event compensation payable to the contractor shall be determined in accordance with the termination provisions.

2. If, pursuant to any court order (other than an order to show cause), the City is prohibited from requiring the contractor to perform all or any portion of the work, the City may, if it so elects, eliminate the enjoined work pursuant to Section 3 of the Standard Specifications. The City may suspend the work in accordance with Subsection 6-3 or terminate the work pursuant to Subsection 6-5 of the Standard Specifications.

3. If the final judgment in the action prohibits the City from requiring the contractor to perform all or any portion of the work, the City may, within its sole discretion, either suspend or eliminate the enjoined work or terminate the Contract.

4. Termination of the Contract for any reason and the compensation payable to the contractor in the event of termination shall be governed by the following:

(a) The Director of Parks & Recreation will issue the contractor a written notice specifying that the Contract is to be terminated. Upon receipt of said written notice and, except as otherwise directed in writing by the Engineer, the contractor shall:

(1) Stop all work under the Contract except that work specifically directed to be completed prior to acceptance.

(2) Perform work the Director of Parks & Recreation deems necessary to secure the project for termination.

(3) Remove equipment and plant from the site of the work.

(4) Take such action as is necessary to protect materials from damage.

(5) Notify all subcontractors and suppliers that the Contract is being terminated and that their contracts or orders are not to be further performed unless otherwise authorized in writing by the Director of Parks & Recreation.

(6) Provide the Director of Parks & Recreation with an inventory list of all materials previously produced, purchased or ordered from suppliers for use in the work and not yet used in the work including their storage location, and such other information as the Director of Parks & Recreation may request.

(7) Dispose of materials not yet used in the work as directed by the Director of Parks & Recreation. It shall be the contractor's responsibility to provide the City with good title to an materials purchased for which partial payment has been made as provided in Subsection 9-3.2.1 of the General Provisions, and with bills of sale or other documents of title for such materials.

(b) The total compensation to be paid to the contractor shall be determined by the Director of Parks & Recreation on the basis of the following:

(1) The reasonable cost to the contractor for all work performed under the Contract, including mobilization, demobilization and work done to secure the project for termination. Reasonable cost will include a reasonable allowance for project overhead and general administrative overhead not to exceed a total of seven (7) percent of direct costs of all such work.

When in the opinion of the Director of Parks & Recreation, the cost of a contract item of work is excessively high due to costs incurred to remedy or replace defective or rejected work, the reasonable cost to be allowed will be the estimated reasonable cost of performing such work in compliance with the requirements of the Contract Documents, with any project overhead and general administrative overhead based upon such cost, and the excessive actual cost shall be disallowed.

(2) A reasonable allowance for profit on the cost of the work performed as determined under subsection (a) provided the contractor establishes to the satisfaction of the Director of Parks & Recreation that it is reasonable that he would have made a profit had the Contract been completed and provided further that the profit allowed shall in no event exceed four (4) percent of said cost.

(3) The reasonable cost to the contractor of handling material returned to the vendor, delivered to the City or otherwise disposed of as directed by the Director of Parks & Recreation.

(4) A reasonable allowance for the contractor's administrative costs in determining the amount payable due to the termination of the Contract.

All records of the contractor and his or her subcontractors necessary to determine compensation in accordance with the provisions of this Subsection shall be open to inspection or audit by the City at all times after issuance of the notice that the Contract is to be terminated and for a period of three years and such records shall be retained for that period.

After acceptance of the work by the Director of Parks & Recreation, the Director may make payments on the basis of interim estimates pending issuance of the final estimate when, in his or her opinion, the amount thus paid together with all amounts previously paid or allowed will not result in total compensation in excess of that to which the contractor will be entitled. All payments, including payment upon the final estimate shall be subject to deduction for prior payments and amounts, if any, to be kept or retained under the provisions of the Contract.

The provisions of this Subsection shall be included in all subcontracts.

b. Dispute Resolution for Claims of \$375,000 or Less. Section 20104 et. seq. of the California Public Contract Code prescribes a process utilizing informal conferences, non-binding judicially supervised mediation, and judicial arbitration to resolve disputes on construction claims of \$375,000 or less.

"Claim" means a separate demand by the contractor for (A) a time extension, (B) payment of money or damages arising from work done by or on behalf of the contractor pursuant to the Contract Documents and payment of which he or she is not otherwise entitled to, or (C) an amount, the payment of which is disputed by the City.

The following requirements apply to all claims that are \$375,000 or less.

- (1) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subsection is intended to extend the time limit or supersede notice requirements otherwise provided by Contract Documents for the filing of claims.
- (2)
 - (a) For claims of less than fifty thousand dollars (\$50,000), the City shall respond in writing to any written claim within 45 days of receipt of the claim, or may, if appropriate, request in writing within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the City may have against the contractor.
 - (b) If additional information is thereafter required, it shall be requested and provided pursuant to this subsection upon mutual agreement of the City and the contractor.
 - (c) The City's written response to the claim shall be submitted to the contractor within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the contractor in producing the additional information or requested documentation, whichever is greater.
- (3)
 - (a) For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the City shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing within 30 days of receipt of the claim, any additional

documentation supporting the claim or relating to defenses or claims the City may have against the contractor.

(b) If additional information is thereafter required, it shall be requested and provided pursuant to this subsection upon mutual agreement of the City and the contractor.

(c) The City's written response to the claim, as further documented, shall be submitted to the contractor within 30 days after receipt of the further documentation or within a period of time no greater than that taken by the contractor in producing the additional information or requested documentation, whichever the greater.

(d) If the claimant disputes the City's written response, or the City fails to respond within the time prescribed, the claimant may so notify the City, in writing, either within 15 days of receipt of the City's response or within 15 days of the City's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the City shall schedule a meet and confer conference within 30 days to attempt to settle the dispute.

(e) If the claim or any portion remains in dispute following the meet and confer conference, the claimant may file a claim pursuant to Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Provision 3.6 of Title 1 of the Government Code). For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits his or her written claim pursuant to subdivision (a) until the time the claim is denied, including any period of time utilized by the meet and confer conference.

(4) The following procedures are established for all civil actions filed to resolve claims subject to this subsection:

(a) Within 60 days, but no earlier than 30 days, following the filing of responsive pleadings, the court shall submit the matter to non-binding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless the time requirement is extended upon a good cause showing the court or by stipulation of both parties. If the parties fail to agree to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

(b) If the matter remains in dispute after the mediation, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of the Code. The Civil Discovery Act of 1986 shall apply to any proceeding brought under this subsection consistent with the rules pertaining to judicial arbitration.

(c) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for the purposes of this subsection shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division.

(d) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does

not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorneys' fees of the other party arising after the trial de novo.

- (5) If any lawsuit is filed under Public Contract Code Section 20104.4, the losing party shall pay interest at the legal rate on any arbitration award or judgment against it. The interest shall begin accruing on the date the action is filed.
- (6) The City shall pay money as to any portion of a claim which is undisputed except as otherwise provided by the Contract Documents.

9. Prosecution, Progress and Completion of Work

a. Time of completion. The Contractor shall complete the work outlined in these specifications within the time frame set forth in the "Notice to Proceed".

b. Notice of Completion. The contractor will certify in writing to City, prior to final payment, that the entire project is complete and request that the City issue a Notice of Completion. Within five (5) days thereafter, the City and the contractor shall make a final inspection of the project. If the City does not consider the project complete, it will notify the contractor in writing giving its reasons and the contractor shall perform such work as necessary to satisfy the City's demands. Once this work is performed, the contractor shall again certify in writing to the City that the entire project is complete and request a Notice of Completion be issued. An inspection shall then promptly be made and the City shall notify the contractor in writing whether the work is complete or whether additional work needs to be done. These procedures shall be repeatedly followed until the project is accepted as complete by the City.

When the City determines the project is complete, it will prepare and record a Notice of Completion.

The City's determination of the date of completion and other items under this Subsection shall be final.

The City shall have the right to exclude the contractor from the project site after the date of completion, but the City shall allow the contractor reasonable access to perform warranty work.

c. Construction Schedule. The contractor shall submit to the Director of Parks & Recreation a critical path method construction schedule in a chart from (hereinafter referred to as the "Construction Schedule"), within five (5) working days after issuance of Notice to Proceed, and within five (5) working days of the Engineer's written request at any other time. No progress payments will be made for any work until a satisfactory Construction Schedule has been submitted to the Engineer.

The contractor shall strictly adhere to the Construction Schedule during the course of the contract and shall immediately notify the Engineer if it falls more than two (2) days behind schedule.

d. Prosecution of Work. The contractor shall conduct his or her operations in order to have under construction no greater amount of work than he or she can reasonably and properly prosecute. Prior to starting any phase of work, the contractor shall have sufficient materials and labor on hand to prosecute the work to its completion.

e. Delays and Extensions of Time. The Contractor shall be entitled to an extension of the contract time without the assessment of liquidated damages when delays in the completion of work are extended by change order or caused by Acts of God, public enemies, fire, flood, epidemics, quarantine, restrictions, strikes, shortages of materials, trade embargoes and severe weather or delays of subcontractors due to such causes, as applicable, or delays caused solely by the act or omission of the City. It shall be the responsibility

of the contractor to notify the Director of Parks & Recreation in writing within five (5) days prior to any such delay, if reasonably possible, and submit evidence as required by the Director to substantiate the claim of entitlement to additional time.

The term "severe weather" shall be construed to mean only such weather that in the judgment of the Engineer prevents work or makes performance of the work difficult or hazardous either during the weather's occurrence or as aftermath.

No extension of time will be granted for delay caused by shortage of materials unless the contractor furnishes the Director of Parks & Recreation with documentary proof that he/she has diligently made reasonable and timely efforts to obtain such materials from all known sources.

No time extension will be granted for delays that do not affect the critical path on the Construction Schedule.

Unless otherwise agreed in writing, an adjustment to the contract time by reason of a change order shall be agreed to at the time the change order is issued and accepted by the contractor. Disagreements as to the adjustment of time shall be governed by Subsections 3-2.1 and 3-5. If such procedures are not followed, the Contractor forever relinquishes and waives the right to an adjustment in time and there shall be no such adjustments or entitlement to adjustment.

f. Extensions of Time. In the event it is deemed appropriate by the City to extend the time for completion of the work, any such extension shall not release any guarantee for the work required by the Contract Documents, nor shall any such extension of time relieve or release the sureties on the bonds executed pursuant to the Specifications. In executing such bonds, the sureties shall be deemed to have expressly agreed to any such extensions of time.

The amount of time allowed by an extension of time shall be limited to the period of the delay giving rise to the same as determined by the City. Notwithstanding any dispute that may occur in connection with a claim for adjustment in contract time, the contractor shall promptly proceed with all work.

g. Payment for Delays to Contractor. Notwithstanding any other terms and conditions of the Contract Documents, the City shall have no obligation whatsoever to increase the contract price or extend the time for delays.

Unless compensation and/or mark up is agreed upon by the City, the contractor agrees that no payment of compensation of any kind shall be made to the contractor for damages or increased overhead costs caused by any delays in the progress of the Contract, whether such delays are avoidable or unavoidable or caused by any act or omission of the City or its agents. Any accepted delay claim shall be fully compensated for by an extension of time to complete the performance of the work.

This subsection shall not apply to unreasonable delays caused solely by the City. If an unreasonable delay is caused solely by the City, the contractor shall be entitled to a change order that 1) extends the time for completion of the contract by the amount of delay caused by the City, 2) compensates the contractor for the actual costs caused by the delay and 3) pays the contractor a mark-up for any additional work as set forth in paragraph 3-2.1 of these General Provisions.

h. Working Hours. All work shall be performed on normal workdays, (excluding Saturday, Sunday and holidays observed by the City) between the hours of 7:00 a.m. and 3:30 p.m. unless prior written approval has been granted to the contractor by the Director of Parks & Recreation at least 48 hours in advance to perform work on excepted days and at excepted times.

i. **Completion and Acceptance.** A formal inspection of the project by the contractor and the City will be held prior to the final completion date. The contractor shall give the City five (5) days advance notice in writing to request this inspection. A punch list of any discrepancies will be prepared by the Director of Parks & Recreation and promptly provided to the contractor.

Project completion shall be defined as the date that the punch list is completed to the Director of Parks & Recreation's satisfaction.

j. **Liquidated Damages.** The work required by the contract Documents must be completed within the time set forth in the Contract, unless adjusted by terms of the Contract Documents. Unless authorized, any other delay shall deprive the City from timely and reasonable use of the project.

Accordingly, the contractor acknowledges that he or she understands, has ascertained and agrees that he or she shall pay to the City, as liquidated damages, and not as a penalty or forfeiture, the amounts herein set forth for the failure of the contractor to complete the entire work within the time specified.

Liquidated damages in the amount of \$750 per calendar day is hereby mutually agreed between the City and the contractor as a reasonable amount to be assessed against the contractor by the City for each day beyond the completion date specified by the Contract Documents for the contractor to satisfactorily complete all work as defined in Subsection 6-8 of the Specifications.

The contract time shall be extended without assessment of liquidated damages only in accordance with an extension agreed upon by the parties or permitted in writing by the Engineer or allowed by the Contract Documents. Payments made by the City after the scheduled completion date do not constitute a waiver of liquidated damages. The required completion term for the purpose of computing liquidated damages shall be 60 working days from the date of the Notice to Proceed, unless extended pursuant to excusable reasons for a delay as provided for in the Contract Documents. Therefore, for every calendar day the work is not completed after 60 working days, plus the time permitted for excusable delays, the contractor shall be assessed \$750 per calendar day for each day of delay.

In the event the contractor shall become liable for liquidated damages under this Section, the City shall, in addition to all other remedies provided by law, direct the Engineer to withhold any and all retained percentages of payments, subject to the requirements of the California Public Contract and Government Codes, which would otherwise be or become due the contractor until the liability of the contractor under this Subsection has been finally determined. The City shall have the right to use and apply retentions or substituted securities, in whole or in part, to reimburse the City for all liquidated damages due or to become due to the City. Any remaining balance of such retentions or substituted securities shall be paid to the contractor only after discharge in full of all liability incurred by the contractor under this Subsection. If the retentions are insufficient to discharge all such liabilities of the contractor, the contractor and sureties shall remain liable to the City until all such liabilities are satisfied in full.