

**CITY OF OCEANSIDE
PUBLIC WORKS AGREEMENT**

PROJECT: 2025 Citywide Storm Drain Inspection and Cleaning Services

THIS AGREEMENT, dated May 21, 2022 for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY," and United Storm Water, Inc., hereinafter designated as "CONTRACTOR."

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **SCOPE OF WORK.** The project is more particularly described as follows: The CONTRACTOR shall furnish all labor, equipment, materials, tools, services and special skills required to perform the scope of work within the City of Oceanside. A more detailed Scope of Services for the project, as defined by the CONSULTANT (dated April 17, 2025), is attached hereto as Exhibit "A" and made a part hereof.
2. **INDEPENDENT CONTRACTOR.** CONTRACTOR'S relationship to the CITY shall be that of an independent contractor. CONTRACTOR shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless specifically authorized in writing by the CITY. CONTRACTOR shall be solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement, including the training of each employee regarding the rights and responsibilities of an employer and employee for any potential discrimination or harassment claim under state or federal law. CONTRACTOR shall report to the CITY any and all employees, agents, and consultants performing work in connection with this project, and all shall be subject to the approval of the CITY.
3. **WORKERS' COMPENSATION.** Pursuant to Labor Code section 1861, the CONTRACTOR hereby certifies that the CONTRACTOR is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and the CONTRACTOR will comply with such provisions, and provide certification of such compliance as a part of this Agreement.
4. **LABOR REQUIREMENTS.** CONTRACTOR certifies that it shall comply with the State Labor Code Requirements as set forth in Exhibit 1 attached hereto.

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Pursuant to State Labor Code requirements, CONTRACTOR shall comply with the General Prevailing Wage Determination Made by the Director of Industrial Relations as set forth in Exhibit 2 attached hereto ("State Prevailing Wages"). CONTRACTOR certifies that it is currently registered with the Department of Industrial Relations ("DIR") and qualified to perform public work pursuant to Labor Code Section 1725.5.

5. LIABILITY INSURANCE.

5.1. CONTRACTOR shall, throughout the duration of this Agreement maintain comprehensive general liability and property damage insurance, or commercial general liability insurance, covering all operations of CONTRACTOR, its agents and employees, performed in connection with this Agreement including but not limited to premises and automobile.

5.2. CONTRACTOR shall maintain liability insurance in the following minimum limits:

Comprehensive General Liability Insurance
(bodily injury and property damage)

Combined Single Limit Per Occurrence	\$ 2,000,000
General Aggregate	\$ 4,000,000*

Commercial General Liability Insurance
(bodily injury and property damage)

General limit per occurrence	\$ 2,000,000
General limit project specific aggregate	\$ 4,000,000

<u>Automobile Liability Insurance</u>	\$ 2,000,000
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*General aggregate per year, or part thereof, with respect to losses or other acts or omissions of CONTRACTOR under this Agreement.

5.3. If coverage is provided through a Commercial General Liability Insurance policy, a minimum of 50% of each of the aggregate limits shall remain available at all times. If over 50% of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by the CONTRACTOR to restore the required limits. The CONTRACTOR shall also notify the CITY promptly of all losses or claims over \$25,000 resulting from work performed under this contract, or any loss or claim against the CONTRACTOR resulting from any of the CONTRACTOR'S work.

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- 5.4 All insurance companies affording coverage to the CONTRACTOR for the purposes of this Section shall add the City of Oceanside as "additional insured" under the designated insurance policy for all work performed under this agreement. Insurance coverage provided to the City as additional insured shall be primary insurance and other insurance maintained by the City of Oceanside, its officers, agents, and employees shall be excess only and not contributing with insurance provided pursuant to this Section.
- 5.5 All insurance companies affording coverage to the CONTRACTOR pursuant to this agreement shall be insurance organizations admitted by the Insurance Commissioner of the State of California to transact business of insurance in the state or be rated as A-X or higher by A.M. Best.
- 5.6 CONTRACTOR shall provide thirty (30) days written notice to the CITY should any policy required by this Agreement be cancelled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 5.7 CONTRACTOR shall provide evidence of compliance with the insurance requirements listed above by providing, at minimum, a Certificate of Insurance and applicable endorsements, in a form satisfactory to the City Attorney, concurrently with the submittal of this Agreement.
- 5.8 CONTRACTOR shall provide a substitute Certificate of Insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CONTRACTOR to provide such a substitution and extend the policy expiration date shall be considered a default by CONTRACTOR and may subject the CONTRACTOR to a suspension or termination of work under the Agreement.
- 5.9 Maintenance of insurance by the CONTRACTOR as specified in this Agreement shall in no way be interpreted as relieving the CONTRACTOR of any responsibility whatsoever and the CONTRACTOR may carry, at its own expense, such additional insurance as it deems necessary.
- 5.10 CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that CITY is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.
6. **CONTRACT BONDS (for contracts exceeding \$25,000).** If the total contract price specified in Section 9 of this Agreement exceeds \$25,000, or if any amendment to this Agreement causes the total contract price to exceed \$25,000, before entering

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upon the performance of work, CONTRACTOR shall provide two good and sufficient bonds in the amounts listed below:

- Performance Bond in a sum not less than one hundred percent (100%) of the total contract price, to guarantee faithful and timely performance of all work, in a manner satisfactory to the CITY, and further to guarantee that all materials and workmanship will be free from original or developed defects
- Payment Bond that meets the requirements of California Civil Code section 9554, in a sum not less than one hundred percent (100%) of the total contract price, to satisfy claims of material suppliers, mechanics and laborers employed by CONTRACTOR on the work that is the subject of this Agreement

7. **CONTRACTOR'S INDEMNIFICATION OF CITY.** To the greatest extent allowed by law, CONTRACTOR shall indemnify and hold harmless the CITY and its officers, agents and employees against all claims for damages to persons or property arising out of CONTRACTOR's work, including the negligent acts, errors or omissions or wrongful acts or conduct of the CONTRACTOR, or its employees, agents, subcontractors, or others in connection with the execution of the work covered by this Agreement, except for those claims arising from the willful misconduct, sole negligence or active negligence of the CITY, its officers, agents, or employees. CONTRACTOR'S indemnification shall include any and all costs, expenses, attorneys' fees, expert fees and liability assessed against or incurred by the CITY, its officers, agents, or employees in defending against such claims or lawsuits, whether the same proceed to judgment or not. Further, CONTRACTOR at its own expense shall, upon written request by the CITY, defend any such suit or action brought against the CITY, its officers, agents, or employees resulting or arising from the conduct, tortious acts or omissions of the CONTRACTOR. CONTRACTOR'S indemnification of CITY shall not be limited by any prior or subsequent declaration by the CONTRACTOR.

8. **OWNERSHIP OF DOCUMENTS.** All plans and specifications, including details, computations and other documents, prepared or provided by the CONTRACTOR under this Agreement shall be the property of the CITY. CONTRACTOR shall provide all such documents in electronic, editable format upon request by the CITY. The CITY agrees to hold the CONTRACTOR free and harmless from any claim arising from any use, other than the purpose intended, of the plans and specifications and all preliminary sketches, schematics, preliminary plans, architectural perspective renderings, working drawings, including details, computation and other documents, prepared or provided by the CONTRACTOR. CONTRACTOR may retain a copy of all material produced under this Agreement for the purpose of documenting CONTRACTOR's participation in this project.

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9. **COMPENSATION.** CONTRACTOR'S compensation for all work performed in accordance with this Agreement. CONTRACTOR'S compensation for all work performed in accordance with this Agreement, for year one (1) shall not exceed the total contract price of \$385,550.00.

CONTRACTOR'S compensation for all work performed in accordance with this Agreement, for year two (2) shall not exceed the total contract price of \$386,297.00.

CONTRACTOR'S compensation for all work performed in accordance with this Agreement, for year three (3) shall not exceed the total contract price of \$387,067.00.

No work shall be performed by CONTRACTOR in excess of the total contract price without prior written approval of the CITY. CONTRACTOR shall obtain approval by the CITY prior to performing any work that results in incidental expenses to CITY.

10. **TIMING REQUIREMENTS.** Time is of the essence in the performance of work under this Agreement and the timing requirements shall be strictly adhered to unless otherwise modified in writing. All work shall be completed in its entirety within 85 working days (July 1 – October 31, annually) after the Notice to Proceed is issued. All work shall be completed in every detail to the satisfaction of the CITY.
11. **TERM OF AGREEMENT.** The term of this AGREEMENT shall be three (3) years or three (3) annual cleaning cycles beginning July 1, 2025, and ending June 30, 2028, unless terminated sooner as provided for in this AGREEMENT.
12. **ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between CITY and CONTRACTOR concerning the work to be performed for this project and supersedes all prior negotiations, representations, or agreements.
13. **INTERPRETATION OF THE AGREEMENT.** The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. The Agreement does not limit any other rights or remedies available to CITY.

The CONTRACTOR shall be responsible for complying with all local, state, and federal laws whether or not said laws are expressly stated or referred to herein.

Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision, and all other provisions, which are otherwise lawful, shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

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14. **AGREEMENT MODIFICATION.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto.
15. **TERMINATION OF AGREEMENT.** Upon five (5) days' written notice to the CONTRACTOR, the CITY may, without cause and without prejudice to any other of the CITY's rights or remedies, terminate this Agreement. Upon the service of a notice of termination, the CONTRACTOR shall discontinue the work in the manner, sequence, and at such times as directed by the CITY's project manager. The CONTRACTOR shall remain responsible for the quality and fitness of the work performed by the CONTRACTOR before termination of the Agreement. All requirements of the Agreement pertaining to work completed or to be completed as of the time of termination shall survive the termination, including without limitation all indemnities, warranties, requirements for preparation of record drawings and completion of any "punch list" items directed by the CITY's project manager.

If any portion of the work is terminated or abandoned by the CITY, then the CITY shall pay CONTRACTOR for any work completed up to and including the date of termination or abandonment of this Agreement. The CITY shall be required to compensate CONTRACTOR only for work performed in accordance with the Agreement up to and including the date of termination. Notwithstanding the foregoing, the CONTRACTOR shall not be entitled to recover any loss of anticipated profit or revenue or other economic loss arising out of or resulting from the termination, including without limitation any claim for anticipated profits on the work not performed or lost business opportunity.

16. **CLAIM RESOLUTION PROCESS.** A "claim" means a separate demand by the CONTRACTOR sent by registered or certified mail with return receipt requested, for (A) a time extension, including, without limitation, for relief from damages or penalties for delay assessed by the CITY; (B) payment of money or damages arising from work done by, or on behalf of, the CONTRACTOR pursuant to the contract for a public work and payment for which is not otherwise expressly provided or to which the CONTRACTOR is not otherwise entitled; or (C) payment of an amount that is disputed by the CITY. Claims shall be evaluated and resolved according to the requirements of California Public Contract Code section 9204, the text of which is set forth in Exhibit 3, attached hereto ("Claim Resolution Process").
17. **ADVANCED CLEAN FLEET REGULATION.** CONTRACTOR shall comply, and shall ensure all subcontractors comply, with all applicable requirements of the most current version of the California Air Resources Board ("CARB") regulations including, without limitation, all applicable terms of Title 13, California Code of Regulations Division 3, Chapter 9 and all pending amendments ("Regulation").

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Throughout the Agreement, and for three (3) years thereafter, Contractor shall make available for inspection and copying any and all documents or information associated with CONTRACTOR's and subcontractor's fleet including, without limitation, Certificates of Reported Compliance ("CRC"), fuel/refueling records, maintenance records, permissions records, and any other information the Contractor is required to produce, keep or maintain pursuant to the Regulation upon two (2) calendar days' notice from the CITY.

CONTRACTOR shall be solely liable for any and all costs associated with complying with the Regulation as well as for any and all penalties, fines, damages, or costs associated with any and all violations, or failures to comply with the Regulation.

CONTRACTOR shall defend, indemnify and hold harmless the CITY from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Regulation.

18. **SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONTRACTOR and the CITY.

IN WITNESS WHEREOF, the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Professional Contractor Services Agreement to be executed by setting hereunto their signatures on the dates set forth below.

United Storm Water, Inc.
By: Eduardo C. Perry Jr., President

By: Lydia Perry, Secretary/Treasurer
95-4742126
Employer ID No.

768583 (A, HAZ, C21, C27, C31, C42)
Contractor's License No. & Classification

1000012438
DIR Registration No.

CITY OF OCEANSIDE

By: _____
City Manager

APPROVED AS TO FORM:

Paul Hamilton, C. 1887
City Attorney

NOTARY ACKNOWLEDGMENTS OF CONTRACTOR MUST BE ATTACHED.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles

On May 5, 2025 before me, Lillian Valdivieso, Notary Public
(insert name and title of the officer)

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

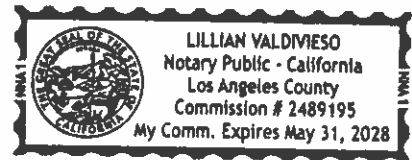
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Lillian Valdivieso

(Seal)



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles

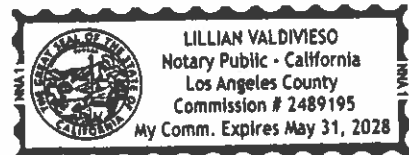
On May 5, 2025 before me, Lillian Valdivieso, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature *Lillian Valdivieso* (Seal)



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EXHIBIT 1: STATE LABOR CODE REQUIREMENTS

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Throughout Exhibit 1, the term "Labor Code" shall mean the "California Labor Code."

E1.1 Prevailing Wages

- a. Pursuant to Labor Code Section 1774, the CONTRACTOR, and any subcontractor under him, shall pay all workers employed on this project not less than the wages specified in the General Prevailing Wage Determination Made By The Director Of Industrial Relations in effect on the date of the invitation for bids for this project. The Prevailing Wage Determination is referred to on Exhibit 2. Additional copies of this Prevailing Wage Determination are on file with the Project Manager at the Engineering Division of the Development Services Department, 300 North Coast Highway, Oceanside, CA 92054, and shall be made available to any interested party on request.
- b. Pursuant to Labor Code Section 1775, the CONTRACTOR shall, as a penalty to the AGENCY, forfeit not more than fifty dollars (\$50.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed, for any public work done under the contract by him or her or by any subcontractor under him or her. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of the CONTRACTOR's mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages, or the previous record of the CONTRACTOR in meeting his or her prevailing wage obligations, or the CONTRACTOR's willful failure to pay the correct rate of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the CONTRACTOR had knowledge of his or her obligations under the Labor Code. The difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing rate shall be paid to each worker by the CONTRACTOR.
- c. To the extent that there is insufficient money due to a CONTRACTOR to cover penalties forfeited and amounts due, the AGENCY shall notify the Division of Labor Standards Enforcement of the violation. The Division of Labor Standards Enforcement, if necessary with the assistance of the AGENCY, may maintain an action in any court of competent jurisdiction to recover the penalties and the amounts due provided for herein. Such action shall be commenced not later than ninety (90) days after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof

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was performed, or not later than ninety (90) days after acceptance of the public work, whichever last occurs. No issue other than that of the liability of the CONTRACTOR for the penalties allegedly forfeited and amounts due shall be determined in the action, and the burden shall be upon the CONTRACTOR to establish that the penalties and amounts demanded in such action are not due.

- d. Out of any money withheld, recovered, or both, there shall first be paid the amount due each worker, and if insufficient funds are withheld, recovered, or both to pay each worker in full, the money shall be prorated among all workers.

E1.2 Legal Day's Work

- a. Pursuant to Labor Code Section 1810 et seq., eight (8) hours labor on this project shall constitute a legal day's work.
- b. Work performed by employees of CONTRACTORS in excess of eight (8) hours during any one (1) calendar day, and forty (40) hours during any one (1) calendar week, shall be permitted on this project only upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one half (1½) times the basic rate of pay, and upon prior written consent of the Engineer.
- c. The CONTRACTOR shall, as a penalty to the AGENCY, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the CONTRACTOR or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one (1) calendar day and forty (40) hours in any one (1) calendar week in violation of the Legal Day's Work requirements of Labor Code Section 1810 et seq.
- d. To the extent that there is insufficient money due to a CONTRACTOR to cover penalties forfeited and amounts due, the AGENCY shall notify the Division of Labor Standards Enforcement of such violation. In the case of a worker claiming the difference between the prevailing wage rate and the amount paid him, the AGENCY shall first give the notice mentioned in Section 1190.1 of the Code of Civil Procedure. The Division of Labor Standards Enforcement, if necessary with the assistance of the AGENCY, may maintain an action in any court of competent jurisdiction to recover the penalties and the amount due provided for herein. Such action shall be commenced not later than ninety (90) days after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or not later than ninety (90) days after acceptance of such public work, whichever last occurs. No issue other than that of the liability of the CONTRACTOR for the penalties allegedly forfeited and amounts due shall be determined in such action, and the burden shall be upon the CONTRACTOR to establish that the penalties and amounts demanded in such action are not due.

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- e. Out of any money withheld or recovered or both, there shall first be paid the amount due each worker and if insufficient funds are withheld or recovered or both to pay each worker in full the money shall be prorated among all such workers.

E1.3 Payroll Records

Pursuant to Labor Code Section 1776, the CONTRACTOR shall be responsible for compliance with the following requirements:

- a. The CONTRACTOR and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work.
- b. The payroll records enumerated under subdivision (a) above, shall be certified and shall be available for inspection at all reasonable hours at the principal office of the CONTRACTOR on the following basis:
 - (1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.
 - (2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the AGENCY, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.
 - (3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the AGENCY, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs or preparation by the Division of Labor Standards Enforcement, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the CONTRACTOR.
- c. Each CONTRACTOR shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within ten (10) days after receipt of a written request.

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- d. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the AGENCY, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the CONTRACTOR awarded the contract or performing the contract shall not be marked or obliterated.
- e. The CONTRACTOR shall inform the AGENCY of the location of the CONTRACTOR's principal office for the location of the records enumerated under subdivision (a), including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.

As of the date of this contract, the CONTRACTOR's principal office is that which is set forth on the Public Works Agreement.

- f. The Director of Industrial Relations shall adopt rules consistent with the California Public Records Act (California Government Code Section 6250 et seq.) and the Information Practice Act of 1977 (California Civil Code Section 1798 et seq.) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.
- g. Pursuant to Labor Code Section 1777, any CONTRACTOR, or subcontractor, or agent or representative thereof, doing public work who neglects to comply with any provision of the requirements of the Payroll Records section is guilty of a misdemeanor.

Additionally, any officer, agent, or representative of the AGENCY who willfully violates any provision of this article is guilty of a misdemeanor.

- h. In the event that the CONTRACTOR does not comply with the Payroll Record requirements stated above, the CONTRACTOR shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in which respects the CONTRACTOR must comply with the Payroll Requirements. Should noncompliance still be evident after the twenty (20) day period, the CONTRACTOR shall, as a penalty to the AGENCY, forfeit twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.

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E1.4 Travel and Subsistence Pay

- a. The CONTRACTOR shall be responsible for compliance with the requirements of Labor Code Section 1773.8.
- b. Pursuant to Labor Code Section 1773.8, each CONTRACTOR and any subcontractor under him, shall pay all workers employed on this project such travel and subsistence payments as are defined in the applicable collective bargaining agreements executed by the representative of any craft, classification or type of worker needed to perform this Contract.
- c. The CONTRACTOR shall be responsible for contacting the Department of Industrial Relations in order to obtain copies of all applicable collective bargaining agreements which have been filed at least thirty (30) days prior to the call for bids on this project.

E1.5 Apprentices

- a. Pursuant to Labor Code Section 1777.5, the CONTRACTOR shall be responsible for compliance with all requirements in this "Apprentices" section.
- b. Nothing in this section shall prevent the employment of properly registered apprentices upon public works.
- c. Every such apprentice shall be paid the standard wage to apprentices under the regulations of the craft or trade at which he or she is employed only at the work of the craft or trade to which he or she is registered.
- d. Only apprentices, as defined in Labor Code Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code are eligible to be employed on public works. 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.
- e. When the CONTRACTOR 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 of 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

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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 which shall include 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 shall be 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 (1) hour of apprentices work for every five (5) hours of labor performed by a journeyman. However, the minimum ratio for the Land Surveyor classification shall not be less than one (1) apprentice for each five (5) journeymen.

- f. 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 (1) apprentice for each five (5) journeymen in a craft or trade classification.
- g. The CONTRACTOR or subcontractor, if he or she is covered by this section, 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 such craft or trade in the state on all of his or her contracts on an annual average of one (1) hour of apprentice work for every five (5) 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 section shall 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 twenty (20) working days. Any work performed by a journeyman in excess of eight (8) hours per day or forty (40) hours per week, shall not be used to calculate the hourly ratio required by this section.

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- h. "Apprenticeable craft or trade," as used in the section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council. The joint apprenticeship committee shall have 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 any one (1) of the following conditions is met:
 - (1) Unemployment for the previous three (3) month period in the area that exceeds an average of fifteen percent (15%).
 - (2) The number of apprentices in training in such area exceeds a ratio of 1 to 5 (1:5).
 - (3) 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.
 - (4) Assignment of an apprentice to any work performed under a public works contract would create a condition which 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.
- i. When exemptions are granted to an organization which 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.
- j. The CONTRACTOR, 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 such 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.
- k. All decisions of the joint apprenticeship committee under this section are subject to the provisions of Labor Code Section 3081.

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- I. Pursuant to Labor Code Section 1777.7, in the event that a CONTRACTOR willfully fails to comply with the apprenticeship requirements of Labor Code Section 1777.5, such CONTRACTOR, both individually and in the name of the business entity under which the CONTRACTOR or subcontractor is doing business, shall:
 - (1) Be denied the right to bid on any public works contract for a period of one (1) year from the date the determination of noncompliance is made by the Administrator of Apprenticeship, and;
 - (2) Forfeit as a civil penalty in the sum of fifty dollars (\$50.00) for each calendar day of noncompliance. Notwithstanding the provision of Labor Code Section 1727, upon receipt of such a determination the AGENCY shall withhold from contract progress payments then due or to become due such sum.
- m. Any such determination shall be issued after a full investigation, a fair and impartial hearing, and reasonable notice thereof in accordance with reasonable rules and procedures prescribed by the California Apprenticeship Council.
- n. Any funds withheld by the AGENCY pursuant to this section shall be deposited in the AGENCY General Fund.
- o. The interpretation and enforcement of Labor Code Sections 1777.5 and 1777.7 shall be in accordance with the rules and procedures of the California Apprenticeship Council.

E1.6 Discrimination Prohibited

Pursuant to Labor Code Sections 1735 and 1777.6, the CONTRACTOR shall not discriminate in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation of such persons, except as provided in Labor Code Section 3077 and California Government Code Section 12940.

EXHIBIT 2

PROJECT:

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STATE PREVAILING WAGE RATES

GENERAL PREVAILING WAGE DETERMINATION

MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS

THAT IS IN EFFECT ON THE DATE THAT THE

INVITATION FOR BIDS IS FIRST PUBLISHED

Copies of this determination are available at www.dir.ca.gov/dlsr and are on file with the AGENCY staff, and shall be made available for the review of any interested party upon request.

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EXHIBIT 3: CLAIM RESOLUTION PROCESS California Public Contract Code § 9204

§ 9204. Legislative findings and declarations regarding timely and complete payment of contractors for public works projects; claims process

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3)

(A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county,

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including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d)

(1)

(A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is

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undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2)

(A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party

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shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on their own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45

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days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2027, deletes or extends that date.