

Santa Barbara County Flood Control and Water Conservation District

AGREEMENT

for the **LOWER MISSION CREEK FLOOD CONTROL PROJECT REACH 1B**

F.I.N. Project No. **SC8042**

Auditor - Controller Contract No. _____

THIS AGREEMENT is made by and between the **Santa Barbara County Flood Control and Water Conservation District**, a political subdivision of the State of California, hereinafter called **DISTRICT**, and Lash Construction Inc. hereinafter referred to as **CONTRACTOR**, for the completion of the work identified herein, on the following terms, conditions and provisions:

1. CONTRACT This agreement incorporates by reference all of the General and Special Provisions and Specifications provided by DISTRICT for the work identified above; and where consistent with this document, the proposal executed and submitted by the CONTRACTOR. CONTRACTOR acknowledges receipt of all such documents as were not already in Contractor's possession. Said incorporated documents, this agreement, any Notice to Contractors, the Bid Bond, the Faithful Performance Bond, and Payment Bond are referred to herein as the "Contract" or "Contract Documents". Copies of all said documents are on file in the DISTRICT office and have been and will be made available to the CONTRACTOR during the term of this Agreement.

2. WORK CONTRACTOR agrees, at his own proper cost and expense, to furnish all the work and all equipment and materials necessary to perform and complete the work described in the documents referred to above, in a good and workmanlike manner to the satisfaction of the Flood Control Engineer of said DISTRICT, all in strict accordance with the Plans and the Contract Documents provided.

3. EXCAVATIONS Before any pavement resurfacing, displacement or excavation of the ground that may be required by any performance under this Agreement, the CONTRACTOR shall obtain an inquiry identification number by calling Underground Service Alert (USA) 1 (800) 422-4133 or by such other means as may be required; shall conform to all requirements of Government Code Sections 4215 through 4217 regarding any such pavement resurfacing, displacement or excavation, including the payment of any fees required; and shall facilitate performance by the DISTRICT of any obligation required of the DISTRICT under said Sections. There shall be no performance under this Agreement by either party unless and until the provisions of such Sections are complied with and the Engineer is notified regarding the compliance.

4. ENGINEER The Engineer referred to in the Contract Documents is the Flood Control Engineer.

5. PAYMENT As full compensation for furnishing all labor, supervision, overhead, materials and equipment and for doing all the work completed and embraced in this Agreement and subject to adjustments and liquidated damages, if any, as provided in the Contract Documents, the base amount to be paid to the CONTRACTOR for satisfactory completion of all requirements of the Contractor under this Agreement is and shall be ~~\$3,264,003.80~~, to be paid as provided in the Contract Documents. The CONTRACTOR assumes and will provide against any and all loss or damage arising out of the nature of the work undertaken, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the DISTRICT, and assumes any and all expenses incurred by or in consequence of suspension or discontinuance of the work, for well and faithfully completing the work and the whole thereof, in the manner and to the requirements of the Contract and directions of the Engineer, hereunder. The DISTRICT will have the right to audit of Contractor's project records. Records must be made available in a form satisfactory to the Santa

Barbara County Auditor-controller. All invoices submitted for payment shall include Contract Number BC _____.

6. EXTRA WORK Extra work, materials, resolution of disputes, corrections, and/or changes to the specifications as are required for the proper completion of the work or the improvement contemplated may be effected or authorized and agreement made for compensation at the same rate per unit (or at a corresponding rate for work that is different from that provided for in the Contract Documents) by the Engineer, if compensation is in accordance with Section 20142 of the Public Contract Code:

- An amount not to exceed five thousand dollars (\$5,000) for contracts of fifty thousand dollars (\$50,000) or less.
- 10 percent for contracts over fifty thousand dollars (\$50,000) but not to exceed two hundred fifty thousand dollars (\$250,000). In no event shall any change exceed a net total addition of twenty-five thousand dollars (\$25,000).
- For contracts whose original cost exceeds two hundred fifty thousand dollars (\$250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars (\$25,000), plus 5 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars (\$250,000). In no event shall any change or alteration exceed two hundred ten thousand dollars (\$210,000).

Compensation in such equitable amount as is appropriate for the requirements of the DISTRICT may be authorized by resolution or minute order of the Board of Directors. The Engineer may agree upon appropriate additional time to be allowed as required for such extra work, materials, resolution or changes. In no event shall the District be liable for the cost of any extra work not approved in advance and in writing by the Flood Control Engineer.

7. COMPLIANCE WITH LAW, AMENDMENTS CONTRACTOR shall keep fully informed of all laws, ordinances and regulations which do or may affect the conduct of the work, the materials used therein or persons engaged or employed thereon and all such orders of bodies and tribunals having any jurisdiction over same. If it be found that the Special Provisions or Standard Specifications for the work conflict with any such law, ordinance or regulation, the CONTRACTOR shall immediately report same to the Engineer in writing. CONTRACTOR shall at all times observe and comply with and shall cause all agents and employees to observe and comply with all such laws, ordinances, regulations or decrees as the same now exists or may be hereafter amended and all superseding provisions thereof. CONTRACTOR acknowledges, particularly, the provisions of Sections [9100 through 9510](#), inclusive, of the Civil Code of California. CONTRACTOR shall protect and indemnify the Santa Barbara County Flood Control District, the Board of Directors, the Flood Control Engineer, and/or any officer, agent or employee of the DISTRICT against any claims or liability arising from or based on the violation of any such law, ordinance, regulation or decree whether by CONTRACTOR, or a subcontractor, agent or employee.

8. PAYMENTS NOT ACCEPTANCE No certificate given or payments made under this Contract shall be evidence of the performance of this Contract, either wholly or in part, against any claim upon CONTRACTOR. Final payment for the work performed under this Contract shall not be made until the lapse of thirty (30) days after the Notice of Completion of said work has been filed for record and no payment shall be construed to be acceptance of any defective work or improper materials. CONTRACTOR agrees that the payment for final quantities due under this Contract and the payment of amounts due for any work in accordance with any amendments of this Contract, shall release the County of Santa Barbara from any and all claims or liabilities on account of work performed under this Contract or any amendments thereof. In addition to guarantees required elsewhere, CONTRACTOR shall and does hereby guarantee all workmanship and material to be free of defects and fit for the purposes intended for a period of one year from and after both the date of acceptance of the work and the recordation of the Notice

of Completion by the DISTRICT, and CONTRACTOR shall repair or replace any or all work and material, together with any other portions of the work which may be displaced in so doing, that in the opinion of the Engineer, is or becomes defective during the period of said guarantee without expense whatsoever to the DISTRICT.

9. PREVAILING WAGE RATES Rates of wages, including overtime, holiday and Sunday rates provided for the work are subject to the effect of Executive Orders of the President of the United States No. 9240, dated September 9, 1942, and No. 9250, dated October 3, 1942, and to any modifications thereof and to any and all lawful orders of the President or any authorized Federal Officer or agency, insofar as the same may be applicable to this Contract. In accordance with the requirements of Labor Code section 1770, the Director of the Department of Industrial Relations has determined the general prevailing rate per diem or hourly wages for workers required to perform the subject work. A copy of the prevailing wage rate is on file at the office of the Santa Barbara County Flood Control and Water Conservation District, 130 East Victoria Street, Suite 200, Santa Barbara, California, and is available for inspection. CONTRACTOR, and any subcontractor under his or her direction, shall pay not less than the said prevailing rates to all laborers, workers and mechanics employed by the in the execution of the contract.

10. CONTRACT DOCUMENTS ACKNOWLEDGED CONTRACTOR hereby declares that he has read the "Contract Documents" pertaining to the work to be accomplished hereunder, has carefully examined the plans and detail drawings of the work to be performed and fully understands the intent and meaning of the same.

11. TIME FOR COMMENCEMENT, COMPLETION Time is of the essence in the execution of this Contract. The work to be done under this Agreement shall be completed within the Contract Period described in the Instructions to Bidders. As soon as practicable after the Contract has been executed by both the CONTRACTOR and the DISTRICT, a Notice to Proceed will be issued by the Engineer stating the starting date of the Contract time. The CONTRACTOR shall begin work within FIFTEEN (15) calendar days after receiving the Notice to Proceed, unless otherwise provided. Attention is directed to the provisions of the Contract documents pertaining to Liquidated Damages for failure to complete the work within the allowed time.

12. WORKERS' COMPENSATION INSURANCE CONTRACTOR certifies as to knowledge of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self insurance in accordance with the provisions of that Code. Contractor will comply with such provisions before commencing the performance of the work of this Contract.

13. PROGRESS PAYMENT NO WAIVER FOR DELAY Any progress payment made after the scheduled completion date will not constitute a waiver of any liquidated damages heretofore agreed upon as part of this Contract.

14. GUARANTEE BONDS Before any performance under this Agreement, the CONTRACTOR shall provide the security required by statute for the payment of all workers and suppliers, and security for faithful performance of all terms and conditions of this Agreement, in an amount and form approved by the DISTRICT. Both securities shall contain provisions which automatically increase amounts thereof and/or time of completion or both for all change orders, extensions and additions to the work provided pursuant to this Agreement.

15. NON DISCRIMINATION The CONTRACTOR acknowledges that this Agreement is subject to the provisions of Article XIII of Chapter 2 of the Santa Barbara County Code, and CITY OF SANTA BARBARA S.B.M.C. 9.126.020, providing against discrimination in employment. The CONTRACTOR agrees to perform all requirements of a contractor under the provisions of said Article and Code and to pay all costs occasioned to the DISTRICT by any noncompliance by the CONTRACTOR.

16. RECORDS, AUDIT, AND REVIEW. CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice.

17. DISPUTES Should any dispute arise which the parties are unable to resolve by negotiation respecting the interpretation, construction or meaning of any of the plans or specifications or provisions affecting the work or respecting the true value of any extra work or work omitted, the dispute shall be submitted to arbitration. Such arbitration shall be carried out in accordance with provisions of the Public Contract Code, any applicable provision of County ordinance, regulation or standard and in accordance with standards of the American Arbitration Association. Any resulting arbitration ruling or result shall be binding on the parties, unless there is a mutual written agreement to litigate the matter.

The Contractor's attention is directed to the provisions of Public Contract Code 20104 for resolutions of claims of \$375,000 or less. 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 subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.

18. SUBSTITUTION OF MATERIALS, SUBSTITUTION OF CONTRACTORS The Engineer is authorized to act on behalf of the awarding authority in any matters requiring consent, notice or hearing in order to substitute materials or equipment specified or to substitute subcontractors.

19. REGISTRATION. COUNTY hereby notifies CONTRACTOR that no contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code § 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code § 1771.1(a)]; no contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code § 1725.5; and this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

SANTA BARBARA COUNTY FLOOD CONTROL
& WATER CONSERVATION DISTRICT

CONTRACTOR

By: _____
Janet Wolf, Chair
Board of Directors

Date: _____

Lash Construction Inc.

P.O. Box 4640

Santa Barbara, CA 93140

By: _____

License No. 373001

ATTEST:
MONA MIYASATO, COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: _____
Deputy County Counsel

APPROVED AS TO FORM:
RAY AROMATORIO, ARM, AIC
RISK MANAGER

By: _____
Risk Manager

APPROVED AS TO ACCOUNTING
FORM:
ROBERT W GEIS, CPA
AUDITOR-CONTROLLER

By: _____
Deputy

APPROVED AS TO FORM:
SCOTT D. MCGOLPIN
PUBLIC WORKS DIRECTOR

By: _____
Public Works Director

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That the **SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT** of the State of California (hereinafter referred to as the **DISTRICT**) and Lash Construction Inc.

(hereinafter referred to as **PRINCIPAL**) have by written agreement entered into a contract identified as

LOWER MISSION CREEK FLOOD CONTROL PROJECT REACH 1B

(hereinafter referred to as the **CONTRACT**) and

That, pursuant to law and to said **CONTRACT**, and before entering upon the performance of said **CONTRACT**, the **PRINCIPAL** is required to file with the **DISTRICT** a good and sufficient bond to secure the payment of labor and materials claims.

NOW, THEREFORE, said **PRINCIPAL** and _____ as corporate surety (hereinafter referred to as **SURETY**), are held firmly bound unto the **DISTRICT** in the amount of \$ 3,264,003.80 (100% of Contract Amount), or the payment of which **PRINCIPAL** and **SURETY** bind themselves, their heirs, executors, administrators, successors and assigns both jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said **PRINCIPAL**, his or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named or referred to in Section [9100](#) of the California Civil code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld and paid over the Employment Development Department from the wages of employees of the contractor and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor as required by Division [4](#), Part [6](#), Title [3](#), Chapter [5](#) (commencing at Section [9550](#)) of the California Civil Code, or this bond, then said **SURETY** will pay for the same, in an amount not to exceed the amount hereinafter set forth.

This bond shall inure to the benefit of any and all persons, companies and corporations named or referred to in Section [9100](#) of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

And the said **SURETY**, for value received, hereby agrees that no change, extension of time, alteration or addition to the terms of the **CONTRACT**, or to the work to be performed thereunder, or the specifications accompanying the same, shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the **CONTRACT** or to the work or to the specifications.

In the event suit is brought upon this Bond by **DISTRICT** and judgment is recovered, **SURETY** shall pay all costs incurred by the **DISTRICT** in such suit, including a reasonable attorney's fee to be fixed by the court.

Death, illness, disability or disqualification of the **PRINCIPAL** shall not relieve **SURETY** of its obligations hereunder.

DATED: _____

Lash Construction Inc.
PRINCIPAL

SURETY

BY: _____

BY: _____
Attorneys-in-fact

Address

Agent for Service of Process

Address

NOTE: Signatures of those executing for Surety and Power of Attorney MUST have notarial acknowledgement in the format shown on page A31 of these Contract Documents.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That the **SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT** of the State of California (hereinafter referred to as the **DISTRICT**) and

Lash Construction Inc. (hereinafter referred to as **PRINCIPAL**) have by written agreement entered into a contract identified as

LOWER MISSION CREEK FLOOD CONTROL PROJECT REACH 1B

(hereinafter referred to as the **CONTRACT**) and

That, the **PRINCIPAL** is required under the terms and conditions of said **CONTRACT** to furnish a bond for the faithful performance of **CONTRACT**.

NOW, THEREFORE, said **PRINCIPAL** and _____ as corporate surety (hereinafter referred to as **SURETY**), are held firmly bound unto the **DISTRICT** in the amount of \$ 3,264,003.80 (100% of Contract Amount), for the payment of which **PRINCIPAL** and **SURETY** bind themselves, their heirs, executors, administrators, successors and assigns both jointly and severally.

THE CONDITION OF THIS OBLIGATION is such that if the **PRINCIPAL**, his heirs, executors, administrators, successors or assigns shall perform all of the covenants, conditions and agreements in the said **CONTRACT** and any alteration thereof made as therein provided, in his or their part, to be kept and performed at the time, and in the manner therein specified, and shall indemnify and save harmless **DISTRICT**, its officers, agents, and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force, virtue and effect.

And the said **SURETY** for value received, agrees that no change, extension of time, alteration or addition to the terms of the **CONTRACT** or to the work to be performed thereunder or the specifications accompanying the same shall affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or additions to the terms of the **CONTRACT** or to the work or to the specifications.

In the event suit is brought upon this bond by **DISTRICT** and judgment is recovered, **SURETY** shall pay all costs incurred by **DISTRICT** in such suit, including a reasonable attorney's fee to be fixed by the Court.

Death, illness, disability or disqualification of the **PRINCIPAL** shall not relieve **SURETY** of its obligations hereunder.

DATED: _____

Lash Construction Inc.
PRINCIPAL

SURETY

BY: _____

BY: _____
Attorneys-in-fact

Address

Agent for Service of Process

Address

NOTE: Signatures of those executing for Surety and Power of Attorney MUST have notarial acknowledgement in the format shown on page A31 of these Contract Documents.

WORKERS' COMPENSATION INSURANCE CERTIFICATE

The Contractor shall execute the following form as required by the California Labor Code, Sections 1860 and 1861:

I am 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 I will comply with such provisions before commencing the performance of the work of this contract.

Date _____

Contractor

By _____

Signature

Title

CERTIFICATE OF COMPLIANCE

TO: SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

FROM: _____

THIS IS TO CERTIFY THAT ALL REQUIREMENTS FOR INSURANCE OF SUBCONTRACTORS AS SPECIFIED IN THESE CONTRACT DOCUMENTS HAVE BEEN MET.

FIRM:

Lash Construction Inc.

BY: _____

TITLE: _____

DATED: _____

(Please return this completed form with your Bonds and Certificates of Insurance)

STATEMENT OF
UNLAWFUL DISCRIMINATION IN EMPLOYMENT PRACTICES
(SANTA BARBARA COUNTY CODE, SECTION 2-95)

The party contracting with the Santa Barbara County Flood Control and Water Conservation District agrees that it will not discriminate against any employee or applicant for employment in violation of any applicable State or Federal laws, rules or regulations which may now or hereafter specifically prohibit such discrimination on such grounds as race, religion, sex color, national origin, physical handicap when otherwise qualified, Vietnam era veteran/disabled, or ago. If it is determined by the Board of Directors upon recommendation of the Affirmative Action Officer and the County Counsel that during the life of this agreement any such unlawful discriminations have occurred, the County Board of Directors may forthwith terminate this agreement. Said party contracting with the District further agrees that whether or not the term of this agreement is still in existence at the time of final determination of such unlawful discrimination, that it will forthwith reimburse the District for any and all damages, costs and expenses incurred in connection with such unlawful discrimination, including but not limited to damages from loss of Federal or State grants, subventions or loans; costs of processing, investigating and reporting complaints of unlawful discrimination; additional costs of expenses incurred in completion of this agreement by another party if this agreement is terminated before completion; all costs of suit including reasonable attorney's fees incurred in collecting any such damages, costs and expenses; and interest at 7% on all such damages, costs and expenses from the date they are incurred to date of payment.

Employment practices shall include, but are not limited to employment, promotion, demotion, transfer, recruitment and advertising for recruitment, layoff or other termination, rates of pay, employee benefits and all other forms of compensation, selection for training and apprenticeship and probationary periods.

Said party contracting with the District further agrees to permit access at all reasonable times and places to all of its records of employment advertising, application forms, tests and all other pertinent employment data and records, to the Santa Barbara County Flood Control and Water Conservation District, its officers, employees and agents for the purpose of investigation to ascertain if any unlawful discrimination as described herein has occurred or is being practiced.

Failure to fully comply with any of the foregoing provisions relating to unlawful discrimination in employment practices shall be deemed to be a material breach of this agreement.

CITY OF SANTA BARBARA

CONTRACTOR'S NONDISCRIMINATORY EMPLOYMENT CERTIFICATE S.B.M.C. 9.126.020

A Certificate Generally

Consistent with a policy of nondiscrimination in employment on contracts of the City of Santa Barbara and in furtherance of the provisions of Section 1735 and 1777.6 of the California Labor Code a "contractor's obligation for nondiscriminatory employment certificate" as hereinafter set forth shall be attached and incorporated by reference as an indispensable and integral term of all bid specifications and contracts of the City for purchases, services, and the construction, repair, or improvement of public works.

B Contents of Certificate

The Contractor's obligation for nondiscriminatory employment is as follows:
In performing the work of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification. The Contractor will take positive action or ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification. Such action shall include but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause.

2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification.

3. The Contractor will send to each labor union or representative of workers, with which the Contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided by the City advising the said labor union or workers' representative of the Contractor's commitments under this provision, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor will permit access to the Contractor's records of employment, employment advertisements, application forms, and other pertinent data and records by the City, the Fair Employment Practices Commission, or any other appropriate agency of the State designated by the City for the purposes of investigation to ascertain compliance with the Contractor's Obligation for Nondiscriminatory Employment provisions of this contract, or Fair Employment Practices statute.

5. A finding of willful violation of the nondiscriminatory employment practices article of this contract or of the Fair Employment Practices Act shall be regarded by the City as a basis for determining that as to future contracts for which the Contractor may submit bids, the Contractor is a "disqualified bidder" for being "nonresponsible".

The City shall deem a finding of willful violation of the Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has investigated and determined that the Contractor has violated the Fair Employment Practices Act and has issued an order under Labor Code Section 1426 or obtained an injunction under Labor Code Section 1429.

Upon receipt of any such written notice, the City shall notify the Contractor that unless he or she demonstrates to the satisfaction of the City within a stated period that the violation has been corrected, he or she shall be declared a "disqualified bidder" until such time as the Contractor can demonstrate that he or she has implemented remedial measures, satisfactory to the City, to eliminate the discriminatory employment practices which constituted the violation found by the Fair Employment Practices Commission.

6. Upon receipt from any person of a complaint of alleged discrimination under any City contract, the City Administrator shall ascertain whether probable cause for such complaint exists. If probable cause for the complaint is found, the Administrator shall request the City Council to hold a public hearing to determine the existence of a discriminatory practice in violation of this contract.

In addition to any other remedy or action provided by law or the terms of this contract, the Contractor agrees that, should the City Council determine after a public hearing duly noticed to the Contractor that the Contractor has not complied with the nondiscriminatory employment practices provisions of this contract or has willfully violated such provisions, the City may, without liability of any kind, terminate, cancel, or suspend this contract, in whole or in part. In addition, upon such determination the Contractor shall, as a penalty to the City, forfeit a penalty of \$25.00 for each calendar day, or portion thereof, for each person who was denied employment as a result of such noncompliance. Such monies shall be recovered from the Contractor. The City may deduct any such penalties from any monies due the Contractor from the City.

7. The Contractor certifies to the City that he or she has met or will meet the following standards for positive compliance, which shall be evaluated in each case by the City:

a. The Contractor shall notify all supervisors and other personnel officers in writing of the content of the nondiscrimination provision and their responsibilities under it.

b. The Contractor shall notify all sources of employee referrals (including unions, employment agencies, advertisements, Department of Employment) of the content of the nondiscrimination provision.

c. The Contractor shall file a basic compliance report as required by the City. Willfully false statements made in such reports shall be punishable as provided by law. The compliance report shall also specify the sources of the work force and who has the responsibility for determining whom to hire, or whether or not to hire.

d. The Contractor shall notify the City of opposition to the nondiscrimination provision by individuals, firms or organizations during the period of this contract.

8. Nothing contained in this Contractor's Obligation for Nondiscriminatory Employment Certificate shall be construed in any manner to prevent the City from pursuing any other remedies that may be available at law.

9. The Contractor certifies to the City that the Contractor will comply with the following requirements with regard to all subcontractors and suppliers:

a. In the performance of the work under this contract, the Contractor will include the provisions of the foregoing paragraphs (1) through (8) in all subcontracts and in any supply contract to be performed within the State of California, so that such provisions will be equally binding upon each subcontractor and each supplier.

b. The Contractor will take such action with respect to any subcontract or purchase order as the City may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigations with a subcontractor or supplier as a result of such direction by the City, the Contractor may request the City to enter into such litigation to protect the interests of the City.

