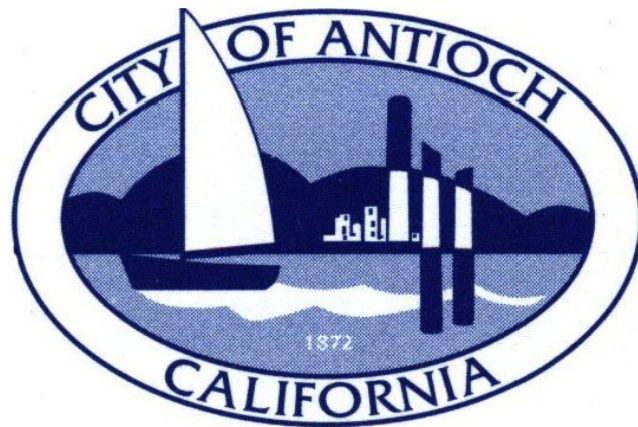


---

**CITY OF ANTIOCH**



**Prewett Park Community Facilities  
West Parking Lot AC Overlay  
Project No. PW #567-C3**

**INVITATION TO BID**

AUGUST 16, 2010

---

**Document 00000**

**TABLE OF CONTENTS**

<b>Document</b>	<b>Title</b>
00000	Table of Contents
00020	Invitation to Bid
00200	Instruction to Bidders
00300	Scope of Services
00400	Bid Document
00411	Bidder's Bond
00430	Subcontractors List
00511	Notice of Award
00516	Waiver and Release
00520	Contract Agreement
00610	Performance Bond
00620	Payment Bond

**Document 00020**

---

**INVITATION TO BID**

---

**WEST PARKING LOT AC OVERLAY  
FOR  
THE CITY OF ANTIOCH, CALIFORNIA  
PREWETT PARK COMMUNITY FACILITIES**

---

**NOTICE CALLING FOR BIDS:**

The City of Antioch, California, sometimes hereinafter referred to as “City, Owner or Purchaser”, will receive Bids at the Office of The City Clerk, Third and H Street, Antioch, CA 94531, until time of **2:00 p.m. Pacific Daylight Time, on Tuesday, August 31, 2010**, for all labor, equipment, material and supplies to place a 2” asphalt concrete (AC) overlay, in accordance with contract requirements, at the Prewett Park Community Facilities West Parking Area.

**BIDDING DOCUMENTS:**

Each bid must be in accordance with the bid documents, drawings and specifications on file at the City of Antioch, Third and “H” Streets, Antioch, California, 94531. The bid documents may be obtained from the City of Antioch, Purchasing Department, 1<sup>st</sup> floor Third and H Street, Antioch, CA 94531, telephone number (925) 779-6994, at no cost to bidder. The City of Antioch business hours are between 8:00 am to 4:00pm Monday through Thursday. Please note City offices are closed on Friday.

**BID CRITERIA:**

Owner will select the Bid from the lowest responsible responsive Bidder. **The successful Bidder will be determined using the lowest lump sum price with no exception to the bid specifications.** Owner reserves the right to reject any or all Bids and to waive any informality in any Bid received. Owner reserves the right at its sole discretion, to terminate the project process at any time.

**CITY’S RIGHTS:**

The City specifically reserves the right, in its sole discretion, to reject any or all Bids, to re-solicit Invitation to Bid, or to waive inconsequential defects in submitted Bids.

**Document 00200**

**INSTRUCTIONS TO BIDDERS**

**1. General Description of Work**

The City of Antioch is completing work on their newly constructed Community Center just west of Prewett Water Park located at 4702 Lone Tree Way in Antioch. At this time the City is requesting bids to furnish and install the top lift of asphalt on the western-most parking lot. The Contractor should be aware that the City is expecting a high quality product and plan to supply quality material, installed by a highly skilled team. It is the City's goal to end up with a parking lot that rides smoothly, drains effectively and has a smooth, consistent finish.

Please see the attached Plan C7 for a general description of the area to receive a top lift of asphalt. The specific limits will be marked in the field.

The project consists of thoroughly cleaning the designated area; tack oiling the entire lot and overlaying it with 2" of asphalt. The Contractor is to familiarize him/herself with the limits and job conditions. Bids are to be cost per ton of asphalt; and to include all labor, materials, equipment, mobilization and any other items or costs associated with overlaying the specified area with 2" of asphalt. All work must be performed at an "A" level of quality and in accordance with City of Antioch policies, codes and specifications as well as State of California specifications, unless otherwise approved or specified.

**2. Preparation and Submission of Bids**

The Bids shall be enclosed in a sealed envelope distinctly marked "SEALED BID, Prewett Park West Parking Lot AC Overlay". Bid shall bear the name, address, telephone number and e-mail address of the Bidder. Bids may be mailed or, during normal business hours, delivered in person or sent via courier to:

City of Antioch  
Office of the City Clerk  
P.O. Box 5007  
Third and H Street  
Antioch, CA 94531

**Bids shall be received by Owner no later than 2:00 p.m. Pacific Daylight Time, on Tuesday, August 31, 2010. City will reject all Bids received after the specified time and will return such Bids to Bidders, unopened.**

It is the sole responsibility of each Bidder to see that its Bid is delivered in proper form and prior to the stated closing time. If a Bid is mailed, the Bidder assumes all risk with regard to timely delivery.

The Bid shall show the full legal name and business address of the Bidder, including its street address if the street address differs from the mailing address, and shall be signed with the usual signature of the person or persons authorized to bind the Bidder, and shall be dated. Bids by partnerships shall list the full names and addresses of all partners. The name of each signatory shall be typed or otherwise clearly imprinted below each signature. Where requested by Owner, satisfactory evidence of the authority of any signatory on behalf of a Bidder shall be furnished.

Bids must be firm and remain valid for thirty (30) days after the stated closing time, or until a Purchase Order is fully executed by Owner, whichever is earlier.

Owner shall not be responsible for the reimbursement of any of the cost or expense incurred by any Bidder for or relating to the preparation of its Bid.

### **3. Content of Contractor's Bid**

The Contractor's Bid package shall contain:

- A. Document 00300 – Scope of Services – An equipment list, with a brief description of how the work will be completed, as specified, and the name of the asphalt supplier.
- B. Document 00400 – Bid Document
- C. Document 00411 – Bidders Bond

### **4. Contractor's Modification and Withdrawal of a Bid**

A contractor may, without prejudice to itself, modify or withdraw its Bid by facsimile or written request, provided that the request is received by Owner prior to the closing time at the place where the Bids are to be delivered and, provided further, that in case of a facsimile request, a written confirmation thereof over the authorized signature of the Contractor is postmarked prior to the closing time and received by Owner at the place where the Bids are to be delivered within three (3) days after the closing time.

### **5. Examination of the Bids**

Any Contractor planning to submit a Bid is responsible for informing itself with respect to all conditions that might in any way affect the cost or performance of the work.

Failure to do so will be at the sole risk of the Contractor and no relief can be given for errors or omissions by the Contractor.

## **6. Bid Opening**

Bids will be kept unopened until the time stated for opening of Bids. At such time the Bids will be made public. No responsibility shall attach to Owner, or any of its directors, officers, employees or representatives, for the premature opening of a Bid not properly addressed or identified. Lowest Bid opening does not guarantee award. Evaluation will be performed as noted in these Instructions to Bidders.

## **7. Certificates of Insurance**

The successful Contractor shall, within seven (7) days after the Contractor is notified that they have been determined to be successful Bidder, furnish Owner the certificate of insurance and all required insurance endorsements required by the Contract Agreement. The Contract Agreement will not be executed by City until satisfactory proof of insurance and endorsement has been provided.

## **8. Performance and Payment Bonds**

Contractor shall be required to submit the following Performance and Payment bonds to the City by 5:00 p.m. of the 7<sup>th</sup> Day following Notice of Award by City. Execution of Contract by City depends upon approval of Document 00610 (Performance Bond), and Document 00620 (Payment Bond). Documents 00610 and 00620 are to be executed by successful Contractor and surety, in the amount (one hundred percent of the Contract Price) set forth in Documents 00610 and 00620. Submit one (1) original of each.

City shall have the right to communicate directly with the Contractor's proposed performance bond surety, to confirm the performance bond. City may elect to extend the time to receive the faithful performance bond. Successful Contractor's failure to submit the bond required herein, in a proper and timely manner, entitles City to rescind its award.

Sureties must be satisfactory to the City. Corporate sureties on these bonds and bonds accompanying Bids must be duly licensed to do business in the State of California and must have an A.M. Best Company financial rating of A:VIII or better.

## **9. Correspondence, and Requests for Clarification**

Correspondence or communication related to the Invitation to Bid shall be directed to Michael Bechtholdt, Street Superintendent, City of Antioch, by e-mail, [mbechtholdt@ci.antioch.ca.us](mailto:mbechtholdt@ci.antioch.ca.us), or phone, (925) 779-6953.

**Questions and requests for clarification to the Invitation to Bid during the Bid period must be submitted by email or phone, and received at least seven (7) calendar days prior to the stated closing time. Responses to such requests will be provided by email. Responses to questions or clarifications of general application will be distributed to all listed Bidders.**

## **10. Bid Protest**

Any Bid protest must be submitted in writing to the Office of the City Clerk, Third and “H” Street, Antioch, CA 94531-5007, before 5:00 p.m. of the fifth (5th) calendar day following the date of bid opening.

- A.** The initial protest document must contain a complete statement of the basis for the protest.
- B.** The protest must refer to the specific portion of the Bid that forms the basis for the protest.
- C.** The protest must include the name, address and telephone number of the person representing the protesting party.
- D.** The protest must include all relevant, supporting documentation with the protest at the time of the filing.

The party filing the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other Bidders who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.

The procedure and time limits set forth in this paragraph are mandatory and are Bidder’s sole and exclusive remedy in the event of a Bid Protest. Bidder’s failure to comply with these procedures shall constitute a waiver of any right to further pursue the Bid protest, including filing a Government Code Claim or legal proceedings. A Bidder may not rely on a protest submitted by another Bidder, but must timely pursue its own protest.

**Document 00300**

**SCOPE OF SERVICES**

1. Contractor must have the project fully completed within (1) working day. The start time for this project can be as early as 6 AM.
2. The City will be responsible for preparing all conforms and vertical surfaces around the existing parking lot prior to the project date. The Contractor and City will schedule a job walk prior to the paving date.
3. At the bid opening the Contractor must supply an equipment list with a brief description of how the work will be completed as specified, and give name of asphalt supplier.
4. Material to be used: ½” fine asphalt (PG 6410). The compaction requirement is 95%. The Contractor to submit a mix design for approval within 7 days prior to start date.
5. All loose and unstable material must be removed from the specified area before paving is started. Any and all material removed from the parking lot prior to paving is to be properly disposed of by the Contractor at no additional cost to the City.
6. Contractor must supply and use a rubber tire roller, in addition to steel drum rollers.
7. A tack coat of SS1 shall be applied to the base lift of asphalt and edges of the existing surfaces before paving. A 60/40 mix will be used, unless otherwise approved. Contractor is required to provide a certificate of compliance for the tack oil mixture. Any overspray of tack oil onto concrete is to be completely removed by the Contractor. If the City is not happy with the removal, the Contractor will be required to replace the section of concrete. The City will mark the limits of the area(s) to be replaced. No payment will be made until all areas with overspray have been removed or replaced.
8. The City of Antioch will be responsible for notifying all customers and business owners within the general area.
9. The City of Antioch will post the project location and be responsible for any required traffic control signs. The City will also arrange for vehicles to be towed, if or when necessary. When the project is complete the City of Antioch will supply and install both permanent and temporary striping.
10. The Contractor must, at all times, allow access and egress for all customers of the Antioch Water Park.



- 11.** Finish lift of asphalt is to be free from all roller lines, “rock pockets” and ponding water in excess of ¼”. If these requirements are not met, the Contractor will be responsible for making any and all asphalt repairs. In addition to the asphalt repairs the Contractor may also be required to pay for a seal coat of the entire parking lot. No payment will be made until such time that the Contractor has complied with this requirement and the City has approved the finish product.
- 12.** Contractor must supply and show proof of all required insurance and payroll information, as specified in the bid packet.
- 13.** The City of Antioch has the option of taking compaction tests and/or core samples, if deemed necessary. The City is aware that the thickness of asphalt may vary due to the various existing job site conditions.
- 14.** Contractor is required to thoroughly clean the specified parking lot and any surrounding parking lot(s) and streets of any construction debris.
- 15.** The finished product must ride smoothly. The thickness of asphalt may vary in the effort to make sure that the parking lot rides smoothly and drains properly.
- 16.** The City of Antioch has estimated this project cost to be \$97,920. This is based on approximately 1088 tons of asphalt.
- 17.** Work must be completed between 9/27/2010 and 9/30/2010, with all paving completed in one day.

**Document 00400**

**BID DOCUMENT**

**1. BID**

In response to the Invitation to Bid Notification (Document 00020), and in accordance with the accompanying Instructions to Bidders (Document 00200), the undersigned, hereinafter sometimes called “Contractor”, hereby proposes to the City of Antioch, California, to provide all labor, equipment, material and supplies to place a 2” asphalt concrete (AC) overlay, all in strict accordance with contract specifications (Documents 00300, 00511, 00516, 00520, 00610, 00620) and Plan C7, at the Prewett Park Community Facilities West Parking Area; and any addenda thereto, including without limitation, all work therein described or implied as incidental to the procurement, manufacture and delivery of Goods and Services.

Contractor agrees that this Bid constitutes a firm offer to Owner that cannot be withdrawn for THIRTY (30) days after the date set for opening of Bids.

Contractor certifies that it has examined and is fully familiar with all of the provisions of the Invitation to Bid, including all referenced documents, specification sections, and any addenda thereto, and; that it has carefully checked all figures in this Bid; that it has carefully reviewed the accuracy of all statements in this Bid; and that it understands and agrees that Owner will not be responsible for any errors or omissions on the part of Contractor in preparing this Bid.

Contractor acknowledges receipt, understanding and full consideration of the following addenda to this Invitation to Bid:

Addenda No. _____	Dated: _____
Addenda No. _____	Dated: _____
Addenda No. _____	Dated: _____

**Please initial:** \_\_\_\_\_

In compliance with the above and in consideration of acceptance and processing of the Bid by the City of Antioch, the undersigned offers and agrees to provide all labor, equipment, supplies, material, mobilization and any other associated items to complete a 2” overlay on the existing Prewett Park West Parking Area, in accordance with Scope of Services and Plan C7, pursuant to Document 00520, complete and satisfactory to the City.

**Cost per Ton:** (\$ \_\_\_\_\_).

Contractor shall receive a bonus of 3% of the total contract amount if all the criteria of the above referenced specifications and general work description are met. The City of Antioch is to be responsible for making the final determination.

Contractor's Business Name \_\_\_\_\_

Contractor's Business Address \_\_\_\_\_

\_\_\_\_\_

Contractor's Business \_\_\_\_\_

Contractor is (please indicate):

An individual

A Corporation of the State of \_\_\_\_\_

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

(Signature)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Document 00411**

**BIDDER'S BOND**

KNOW ALL PERSONS BY THESE PRESENTS:

That \_\_\_\_\_, as Principal,  
and \_\_\_\_\_, as Surety, are held and firmly bound unto the City of Antioch, hereinafter called CITY, in the sum of \$ \_\_\_\_\_, being at least ten percent (10%) of the total amount of the bid, for the payment of which sum in lawful money of the United States of America to CITY we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the above obligation is such that, whereas the Principal has submitted said bid to CITY;

NOW, THEREFORE, if the Principal is awarded a Contract by CITY and, within the time and in the manner required by the Specifications enters into a written Contract with CITY and furnishes the requisite bond or bonds and insurance certificates, then this obligation shall become null and void, otherwise to remain in full force and effect.

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

Dated: \_\_\_\_\_, 20\_\_\_\_

TO BE CONSIDERED COMPLETE,  
BOTH THE PRINCIPAL AND  
SURETY MUST SIGN THIS  
BIDDER'S BOND. IN ADDITION,  
THE SURETY'S SIGNATURE MUST  
BE NOTARIZED AND A COPY OF  
THE SURETY'S POWER OF  
ATTORNEY MUST BE ATTACHED.

\_\_\_\_\_  
Principal

By:

\_\_\_\_\_  
Surety

By:

\_\_\_\_\_  
Address of Surety

**Document 00430**

**SUBCONTRACTORS LIST**

In compliance with the Subletting and Subcontracting Fair Practices Act, Sections 4100 through 4114 of the California Public Contract Code, and any amendments thereto, each Bidder shall provide the information requested below for each subcontractor who will perform work, labor or render service to Bidder in or about the construction of the Work in an amount in excess of one-half of one percent (greater than 0.5%) of the Bidder's Total Bid Price, and shall further set forth the portion of the Work which will be done by each subcontractor. Bidder shall list only one subcontractor for any one portion of the Work.

Pursuant to Public Contract Code Section 4104, the City has determined that it will not allow Bidders twenty-four (24) additional hours after the deadline for submission of bids to submit the information requested by the City about each subcontractor.

If the Bidder fails to specify a subcontractor for any portion of the Work to be performed under the Contract, it shall be deemed to have agreed to perform such portion itself, and shall not be permitted to subcontract that portion of the Work except under the conditions hereinafter set forth below.

Bidder submits the following information as to the subcontractors whom Bidder intends to employ if awarded the Contract.

Name of Subcontractor and Location of Mill or Shop	Description of Work: Reference to Contract Items	Subcontractor's License No.	Percent of Total Work

Name of Subcontractor and Location of Mill or Shop	Description of Work: Reference to Contract Items	Subcontractor's License No.	Percent of Total Work

(Bidder to attach additional sheets if necessary)

**END OF DOCUMENT**

**Document 00511**

**NOTICE OF AWARD**

DATE: \_\_\_\_\_

BIDDER'S NAME: \_\_\_\_\_

BIDDER'S ADDRESS: \_\_\_\_\_

PROJECT REFERENCE: City of Antioch, **Prewett Park Community Facilities,  
West Parking Lot AC Overlay**

Congratulations, the intent of this letter is to inform you that your bid for the above referenced Contract Agreement, which was submitted to the City of Antioch on March 10, 2010, has been considered and, based on a review by City staff, your firm has been determined to be the lowest responsible and responsive Bidder. Based on your Bid, the City has awarded the Contract to you for the City of Antioch, **Prewett Park Community Facilities, West Parking Lot AC Overlay**

The Contract Price of your contract is

\_\_\_\_\_ (\$ \_\_\_\_\_).

Before the City can execute this Contract Agreement and a Purchase Order can be issued to begin work on this project, you must deliver the following documents to the Office of the City Clerk at Third and H Street, Antioch, CA 94531, within the next seven (7) days (on or before 5:00 p.m. on \_\_\_\_\_, 2010). You must comply with the following conditions precedent within **seven (7)** calendar days of the date of this Notice of Award, that is, by \_\_\_\_\_, 2010.

1. You must deliver to the City three (3) duly completed and executed originals of Document 00520 Agreement, each copy of which must bear original signatures of authorized representatives of your firm on the signature page.
2. You must deliver to the City one (1) completed original of Document 00610, Performance Bond and one (1) completed original of Document 00620, Payment Bond, fully executed by an authorized representative of your firm and your surety, along with the properly completed notary page(s), in an amount equal to the Contract Price.
3. You must deliver to the City's Project Manager, all of the required Certificates of Insurance showing proof that all the required insurance certificates and endorsements to such policies have been acquired and properly completed as set forth under Document 00200, Instructions to Bidders, and more fully described in Document 00520, Contract Agreement.

Failure to comply with any of these conditions within the time specified above will entitle City to consider your Bid abandoned and to annul this Notice of Award.

Within seven (7) calendar days after you comply with the conditions of this Document 00511 – Notice of Award, the City will return to you one (1) fully signed copy of contract Document 00520 – Agreement, and related Contract documents, for your records.

City of Antioch, California

BY: \_\_\_\_\_  
Lonnie Karste, Project Manager



**Document 00516**

**WAIVER AND RELEASE**

FOR AND IN CONSIDERATION of receiving Contract No. \_\_\_\_\_,  
dated \_\_\_\_\_, 2010, between \_\_\_\_\_ and the City of  
Antioch, Contractor does hereby waive and release any right which now exists or which  
may hereafter exist against Owner, to claims or liens on the material or equipment  
provided or labor performed in connection with the referenced Purchase Order.

This waiver and release applies only with respect to work furnished on Invoice's  
\_\_\_\_\_, and will become effective upon receipt of payment of such  
invoice.

Contractor does hereby represent that all subcontractors, with respect to work furnished  
on Invoice's \_\_\_\_\_, have been paid or will be paid within  
10 days of receipt of Payment of such invoice.

BY \_\_\_\_\_  
(Contractor)

BY \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_, 2010  
(Date)

**Document 00520**

**AGREEMENT FOR SERVICES  
By and Between the  
CITY OF ANTIOCH, CALIFORNIA,  
And  
(INSERT CONTRACTOR’S NAME HERE)**

**PREAMBLE**

This agreement for the performance of services (“Agreement”) is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2010 by and between \_\_\_\_\_ at \_\_\_\_\_ (“Contractor”), and the CITY OF ANTIOCH, with its primary business address at Third and H Street, Antioch, California 94531 (“City”). City and Contractor may be referred to individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

**RECITALS**

- A. Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of City; and,
- B. The Parties have specified herein the terms and conditions under which such goods and services will be provided and paid for.

The Parties agree as follows:

**AGREEMENT PROVISIONS**

**1. ENGAGEMENT OF CONTRACTOR**

City hereby engages Contractor to perform services related to the provision and installation of goods as set forth in the Agreement. Contractor shall cause its employees to cooperate with all directions of the City’s Project Manager while at the Project. City shall pay for all such materials and services provided which are consistent with the terms of this Agreement.

**2. SCOPE OF SERVICES TO BE PROVIDED**

Contractor shall provide all labor, materials, equipment, mobilization and any other items or costs associated with overlaying the specified area with 2” of asphalt, in accordance with Document 00300, Scope of Services; at the Prewett Park Community Facilities West Parking Area.

### **3. COMMENCEMENT AND COMPLETION OF SERVICES**

- A.** Contractor shall begin providing the Services under the requirements of this Agreement upon receipt of an Executed Contract Agreement from City. Receipt of these documents shall be deemed to have occurred three (3) calendar days after it has been deposited in the regular United States mail. Contractor shall complete the Services within the time limits set forth in Document 00300, Scope of Services.
- B.** When City determines that Contractor has satisfactorily completed the Services, City shall give Contractor written Notice of Final Acceptance. Contractor may request this determination of completion be made when, in its opinion, the Services have been satisfactorily completed.

### **4. COMPENSATION AND COMPLETION OF SERVICES**

- A.** In consideration for Contractor's complete performance of the Services, City shall pay Contractor for all Services rendered and satisfactorily completed by Contractor: At the Cost per Ton of \$ \_\_\_\_\_.

### **5. TERM OF AGREEMENT**

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on September 27, 2010, the Effective Date of this Agreement, and obtain final completion on September 30, 2010. Final completion is defined as City's acceptance of the work as satisfactorily completed in accordance with Contract Documents.

### **6. NO ASSIGNMENT OF AGREEMENT/SUCCESSORS IN INTEREST**

This Agreement is a contract for goods and related installation services. City and Contractor bind themselves, their partners, successors, assigns, executors and administrators to all covenants of the Agreement. Except as otherwise set forth in this Agreement, no interest in this Agreement or any of the work provided for under this Agreement shall be assigned or transferred, either voluntarily or by operation of law, without the prior written approval of City. However, claims for money due to or to become due to Contractor from City under this Agreement may be assigned to a bank, trust company or other financial institutions, or to a trustee in bankruptcy, provided that written notice of any such assignment or transfer shall be first furnished to City. In case of the death of one or more members of Contractor's firm the surviving member or members shall complete the Services covered by this Agreement. Any such assignment shall not relieve Contractor from any of its obligations or liability under the terms of this Agreement.

### **7. NO THIRD PARTY BENEFICIARY**

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

## **8. SUBCONTRACTING**

None of the Services provided under this Agreement shall be performed by subcontractors unless such subcontractors are specifically identified by Contractor and pre-approved by City in writing.

## **9. CONTRACTOR IS AN INDEPENDENT CONTRACTOR**

It is expressly agreed that in performing the work required under this Agreement, Contractor is an independent contractor and Contractor and any person employed by or contracted with Contractor to furnish labor and/or material under this Agreement is not an agent nor employee of City. Contractor has full rights to manage its employees subject to the requirements of the law. Nothing herein shall be construed to make Contractor an agent or employee of City while providing services under this agreement.

## **10. PREVAILING WAGE**

Contractor shall pay to persons performing labor in and about Work provided for in Contract Documents an amount equal to or more than the general prevailing rate of per diem wages for (1) work of a similar character in the locality in which the Work is performed and (2) legal holiday and overtime work in said locality. The per diem wages shall be an amount equal to or more than the stipulated rates contained in a schedule that has been ascertained and determined by the Director of the State Department of Industrial Relations and City to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract. Contractor shall indemnify and defend City for any claim related to the failure to pay prevailing wages for work under this contract, including but not limited to any penalties.

## **11. QUALIFICATIONS OF CONTRACTOR – STANDARD OF WORKMANSHIP**

Contractor represents that its personnel are qualified to furnish services in the form of labor and materials of the type and quality which City requires and that Contractor agrees to perform all work in accordance with generally accepted business practices and performance standards of the industry. City expressly relies upon Contractor's representations regarding its skills and knowledge.

## **12. GUARANTY**

If within one year after the date of Final completion, or such longer period of time as may be prescribed by laws or regulations, or by the terms of this Agreement, any Work is found to be defective, Contractor shall promptly, without cost to City and in accordance with City's written instructions correct such defective Work. Contractor shall remove any defective Work rejected by City and replace it with Work that is not defective, and satisfactorily correct or remove and replace any damage to other Work or the work of others resulting therefrom. If Contractor fails to promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, City may have the defective Work corrected or the rejected

Work removed and replaced. Contractor shall pay for all claims, costs, losses and damages caused by or resulting from such removal and replacement. Where Contractor fails to correct defective Work, or defects are discovered outside the correction period, City shall have all rights and remedies granted by law.

Inspection of the Work shall not relieve Contractor of any of its obligations under this Agreement. Even though the Work required to be provided under this Agreement has been inspected, accepted, and estimated for payment, Contractor shall, at its own expense, replace or repair any such Work found to be defective or otherwise not to comply with the requirements of this Agreement up to the end of the guaranty period.

### **13. PERFORMANCE OF SERVICES**

Contractor shall perform all requested services in an efficient and expeditious manner and shall work closely with and be guided by City. Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it. Contractor will perform all Services in a safe manner and in accordance with all federal, state and local operation and safety regulations.

### **14. CORRECTION OF SERVICES**

Contractor agrees to correct any incomplete, inaccurate or defective work at no further costs to City.

### **15. NON-DISCRIMINATION**

Contractor warrants that it is an Equal Opportunity Employer and shall comply with applicable regulations governing equal employment opportunity. Neither Contractor nor any of its subcontractors shall discriminate in the employment of any person because of race, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment and Housing Act.

### **16. HOLD HARMLESS/INDEMNIFICATION**

- A.** Contractor shall, to the fullest extent permitted by law, indemnify, defend (with counsel acceptable to the CITY) and hold harmless CITY and its employees, officials, volunteers and agents (“Indemnified Parties”) from and against any and all losses, claims, damages, costs and liability arising out of any personal injury, loss of life, damage to property, or any violation of any federal, state or local law arising from Contractor’s performance of this agreement, including the performance of any subcontractor or subconsultant except the intentional misconduct of the City.
- B.** In the event that Contractor or any employee, agent, sub-consultant or subcontractor of Contractor providing services under this Agreement is determined by a court of

competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, sub-consultants or subcontractors as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

- C. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.
- D. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration, and that these provisions survive the termination of this Agreement.

## 17. INSURANCE REQUIREMENTS FOR CONTRACTORS

- A. Contractor shall procure and maintain for the duration of the agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, its agents, representatives, employees or subcontractors.
- B. Minimum Scope of Insurance  
Coverage shall be at least as broad as:
  - 1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01).
  - 2. Insurance Services Office Form Number CA 00 01 covering Automobile Liability, Code 1 (any auto).
  - 3. Workers' Compensation insurance as required by the State of California and Employers' Liability insurance.

- C. Minimum Limits of Insurance  
Contractor shall maintain limits no less than:

1. General Liability: (Including operations, products and completed operations.)	<b>\$2,000,000</b>	Per occurrence for bodily injury, personal injury and property damage.
2. Automobile Liability:	<b>\$1,000,000</b>	Per accident for bodily injury and property damage
3. Workers' Compensation:		As required by the State of California.
4. Employers' Liability:	<b>\$1,000,000</b>	Each accident, \$1,000,000 policy limit bodily injury by disease, \$1,000,000 each employee bodily injury by disease.

If the Contractor maintains higher limits than the minimums shown above, the City shall be entitled to coverage for the higher limits maintained by the Contractor.

**D. Deductibles and Self-Insured Retentions**

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

**E. Other Insurance Provisions**

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

1. The City, its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General Liability coverage shall be provided in the form of an Additional Insured endorsement (CG 20 10 11 85 or equivalent) to the Contractor's insurance policy, or as a separate owner's policy.
2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days prior written notice has been provided to the City.

**F. Waiver of Subrogation**

Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

**G. Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII unless otherwise acceptable to the City. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

**H. Verification of Coverage**

Contractor shall furnish the City with endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that Insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements. As an alternative to the City's forms, the Contractor's insurer may provide complete copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

**I. Subcontractors**

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

**18. AMENDMENTS**

It is mutually understood and agreed that no alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties and incorporated into this Agreement. Such changes, which are mutually agreed upon by City and Contractor, shall be incorporated in amendments to the Agreement.

**19. INTEGRATED DOCUMENT – TOTALITY OF AGREEMENT**

This Agreement embodies the agreement between City and Contractor and its terms and conditions. No other understanding, agreement, conversations, or otherwise, with any officer, agent or employee of City prior to execution of this Agreement shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement. Any such verbal agreement shall be considered as unofficial information and in no way binding upon City.

**20. SEVERABILITY**

If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement no so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

**21. NO IMPLIED WAIVER OF BREACH**

The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

**22. NOTICES**

All notices to the Parties shall unless otherwise requested in writing, be sent to City addressed as follows:



Michael Bechtholdt, Street Superintendent  
City of Antioch  
Third and H Street  
Antioch, CA 94531

And to Contractor addressed as follows:

Contractor's notice address:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

### **23. STATUTES AND LAW GOVERNING CONTRACT**

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California.

### **24. COMPLIANCE WITH LAWS**

Contractor shall comply with all applicable laws, ordinances, codes and regulations of the federal state and local governments.

### **25. LIQUIDATED DAMAGES**

It is mutually agreed by Contractor and City that, in event completion of the Services to be provided by the Contractor under this Agreement is delayed beyond the Completion Date, as noted in Document 00300, Scope of Services, City will suffer damages and will incur other costs and expenses of a nature and amount which is difficult or impractical to determine. The Parties agree that by way of ascertaining and fixing the amount of damages, costs and expenses, and not by way of penalty, Contractor shall pay to City the sum of one thousand dollars (**\$1,000**) per day in liquidated damages for each and every calendar day such delay in completion of said Services continues beyond the End Date for completion of services, as stated in Document 00300, Scope of services. In the event that said liquidated damages are not paid, Contractor agrees that City may deduct the amount of said unpaid damages from any money due or that may become due to Contractor under this Agreement.

### **26. MEDIATION**

Should any dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within 30 days of a request. The mediator shall be agreed to by the mediating Parties; in the absence of an agreement, the Parties shall each submit one name from mediators listed by either the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service.

The cost of mediation shall be borne equally by the Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation

process, once commenced by a meeting with the mediator, shall last until agreement is reached by the Parties but not more than 60 days, unless the maximum time is extended by the Parties.

## **27. LITIGATION**

Contractor shall testify at City's request if litigation is brought against City in connection with Contractor's services under this agreement. Unless the action is brought by Contractor, or is based upon Contractor's wrongdoing, City shall compensate Contractor for preparation for testimony, testimony, and travel at Contractor's standard hourly rates at the time of actual testimony.

## **28. VENUE**

In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the State courts of California in the County of Contra Costa or in the United States District Court for the Northern District of California.

## **29. CONFLICT OF INTEREST**

Contractor may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Contractor in a "conflict of interest" as that term is defined in the Political Reform Act, codified at California Government Code Section 812000 *et seq.*

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

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

## **30. TERMINATION OF AGREEMENT**

### **A. Termination Without Cause**

The City may terminate this Agreement without cause by giving the Contractor written notice ("Notice of Termination"), which clearly expresses the City's intent to terminate

the Agreement. Termination shall become effective twenty (20) calendar days from the date City mails such notice. After the City terminates the Agreement, Contractor shall discontinue further services immediately and City shall pay Contractor for all Services satisfactorily performed up to such date.

**B. Termination For Cause**

For purposes of this Agreement, the term “default” shall mean the failure of any Party to perform any material obligation in the time and manner provided by this Agreement. Termination shall become effective ten (10) calendar days from the date City mails such notice. Contractor shall stop work under the Contract immediately. In the event this Agreement is terminated for cause as set forth under section, City shall pay Contractor for all Services satisfactorily performed up to the date the Agreement is terminated. City may deduct from such payment the amount of actual damage, if any, sustained by City due to Contractor’s failure to perform the Services or for breach of the Agreement.

**C. Opportunity to Cure Default**

Upon receipt of a Notice of Termination by a Party arising from its default under this Agreement, the defaulting Party shall have five (5) days from the date of such notice to cure the default by making such payment or performing the required obligation. If the default is cured to the mutual satisfaction of the Parties, the Agreement shall remain in effect upon written acceptance of the cure by the City.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

**CITY:**

**CONTRACTOR:**

CITY OF ANTIOCH

[NAME OF CONTRACTOR]

\_\_\_\_\_  
[NAME, TITLE]

\_\_\_\_\_  
[NAME, TITLE]

Attest:

\_\_\_\_\_  
[NAME], City Clerk

Approved as to Form:

\_\_\_\_\_  
[NAME], City Attorney

**DOCUMENT 00610**

**PERFORMANCE BOND**

KNOW ALL PERSONS BY THESE PRESENTS, that

WHEREAS, the CITY OF ANTIOCH, (hereinafter referred to as “City”) has entered into a Contract with \_\_\_\_\_, (hereinafter referred to as “Principal”), for construction of the PREWETT PARK COMMUNITY FACILITIES, WEST PARKING LOT AC OVERLAY, (the “Contract”); and

WHEREAS, the Principal is required under the terms of the Contract to furnish a bond of faithful performance of the Contract.

NOW, THEREFORE, we, the undersigned Principal, and \_\_\_\_\_, as Surety, are held and firmly bound unto the City, in the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) lawful money of the United States, to be paid to the City or its successors and assigns; for which payment, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above-bound Principal, or its heirs, executors, administrators, successors, or assigns approved by the City, shall promptly and faithfully perform the covenants, conditions and agreements in the Contract during the original term and any extensions thereof as may be granted by the City, with or without notice to Surety, and during the period of any guarantees or warranties required under the Contract, and shall also promptly and faithfully perform all the covenants, conditions, and agreements of any alteration of the Contract made as therein provided, notice of which alterations to Surety being hereby waived, on Principal’s part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify, defend, protect, and hold harmless the City as stipulated in the Contract, then this obligation shall become and be null and void; otherwise it shall be and remain in full force and effect.

No extension of time, change, alteration, modification, or addition to the Contract, or of the work required thereunder, shall release or exonerate Surety on this bond or in any way affect the obligation of this bond; and Surety does hereby waive notice of any such extension of time, change, alteration, modification or addition.

Whenever Principal shall be and declared by the City to be in default under the Contract, Surety shall promptly remedy the default, or shall promptly do one of the following at City’s election:

1. Undertake through its agents or independent Contractors, reasonably acceptable to the City, to complete the Contract in accordance with its terms and conditions and to pay and

perform all obligations of Principal under the Contract, including without limitation, all obligations with respect to warranties, guarantees, and the payment of liquidated damages; or

2. Reimburse the City for all costs the City incurs in completing the Contract, and in correcting, repairing or replacing any defects in materials or workmanship and/or materials and workmanship which do not conform to the specifications in the Contract.

Surety’s obligations hereunder are independent of the obligations of any other surety for the performance of the Contract, and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing the City’s rights against the others.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the City or its successors or assigns.

In the event suit is brought upon this bond by the City, Surety shall pay reasonable attorney’s fees and costs incurred by the City in such suit.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and these presents duly executed by its undersigned representative, pursuant to authority of its governing body.

\_\_\_\_\_  
Principal

By \_\_\_\_\_

*Note:*

*To be executed by Principal  
and Surety with acknowledgment  
and notarial seal attached.*

By \_\_\_\_\_

\_\_\_\_\_  
Surety

\_\_\_\_\_  
Address

By \_\_\_\_\_

By \_\_\_\_\_

**DOCUMENT 00620**

**PAYMENT BOND**

KNOW ALL PERSONS BY THESE PRESENTS, that

WHEREAS, the CITY OF ANTIOCH, (hereinafter referred to as “City”) and \_\_\_\_\_, (hereinafter referred to as “Principal”) have entered into a Contract for the PREWETT PARK COMMUNITY FACILITIES, WEST PARKING LOT AC OVERLAY; and

WHEREAS, under the terms of said Contract, Principal is required to furnish a bond securing payment of the claims to which reference is made in Section 3248 of the Civil Code,

NOW, THEREFORE, we, the Principal, and \_\_\_\_\_ as Surety, are held and firmly bound unto the City in the penal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) lawful money of the United States, being not less than one hundred percent (100%) of the amount payable by the terms of the Contract, for the payment of which sum well and truly to be made we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such that if said Principal or any of its subcontractors fails to pay any of the persons named in Section 3181 of the Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the Contract, or for any amounts required to be deducted, withheld, and paid over the Employment Development Department from the wages of employees of the Principal or its subcontractors pursuant to Section 13020 of the Unemployment Insurance Code, with respect to such work and labor, the Surety will pay for the same and also will pay, in case suit is brought upon this bond, a reasonable attorney’s fee, to be fixed by the court.

This bond will insure to the benefit of any of the persons named in Section 3181 of the Civil Code so as to give a right of action to such persons or their assigns if any suit is brought upon this bond.

This bond is given to comply with Sections 3247 and 3248 of the Civil Code. The liability of the Principal and Surety hereunder is governed by the provisions of said Code, all acts amendatory thereof, and all other statutes referred to therein, including Section 3225 of the Civil Code.

The Surety hereby stipulates and 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 any way affect its obligation 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 WITNESS WHEREOF, the above-bound parties have executed this instrument under their seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, the name and corporate seal of each corporate body being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

\_\_\_\_\_  
Principal

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

Note:  
To be signed by Principal and Surety and acknowledgment and notarial seal attached.

\_\_\_\_\_  
Surety

\_\_\_\_\_  
Address

\_\_\_\_\_  
By  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

END OF DOCUMENT